JANUARY 5, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Roan Plateau –Rifle Chamber of Commerce - Letter of Endorsement
Ed stated he had received a letter from them requesting the County's endorsement on their response. Discussion was held and decided to visit this issue once again after the Board had opportunity to review the contents of their letter. The Board noted that they will have their own response as well.
Payroll Discussion and Salary Increases – Jesse presented to the Board the time and expense involved in implementing salary increases at the first day of January 2004. He suggested that the salary increases start on the 17th of January and be included in the February 27th paycheck. The justification for this was based on the change accomplished last October when the time sheets were changed and the pay was changed to a standard 160 hour pay period in order not to have employees project their pay, then later having to make adjustments for time not worked, MSL or PDO. The current payroll runs from December 21 to January 17. The question comes down to salary increases. If we exercise the payroll increases we will need to do two payrolls. Jesse prefers to avoid this hassle and begin salary increases on January 18, 2004. This will need to be told to those non-exempt employees. It wouldn't affect exempt employees.
Commissioner Houpt and Commissioner McCown would like the pay increases to be retro-active to the first of the year if that is not too complicated, otherwise, proceed to have them be in effect January 18, 2004.
The Board decided to ask Judy Osman and Patsy Hernandez to calculate some costs and come up with a few scenarios before the Board made a decision on how to handle the increases.
COUNTY MANAGER UPDATE – ED GREEN
a. Bulk Fuel Purchase – Mike VanderPol
Tim Arnett and Mike VanderPol presented the recommended award to Western Petroleum for the acquisition of bulk motor fuel for an estimated cost of $77,602.00. Due to the unstable prices of fuel, prices will fluctuate throughout the year. The fore mentioned price is not inclusive of credit card costs or fuel rate increases. $140,000 was budgeted for motor fuels in 2004.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the Bulk Fuel Purchase to Western Petroleum for a not to exceed cost of $77,602.00. Motion carried.

Potential Storage – Chairman Martin mentioned a conversation with someone on Four Mile and asked Marvin if he would be interested in storing anything, equipment, sand, etc. It is enclosed.
The medical trailers were discussed as a possibility.

Ambulance Licensing 2004 – Dale Hancock
Dale presented the license renewals for Carbondale, New Castle, Silt, and Grand valley. The Rifle application has not yet been submitted. This is a process where the paramedic takes on the responsibility to inspect all of the ambulances with the exception of the Rifle ambulances so that then falls to a Carbondale paramedic to inspect. For whatever reason there has not been a smooth handoff with that final process and asked that the Chairman be authorized to sign off on all of the aforementioned licenses and the Clerk to attest to that and further ask that the Rifle Fire Protection District be authorized by the Board to operate on an extension of their 2003 license for a week with the Chair authorized to sign the licenses in the interim. Dale is certain he will have the completed packets in a couple of days.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

b. ***Resolution Concerning Distribution of Receipts from the National Forest Reserves – Jesse Smith***

The County is in receipt of $446,203.63 in National Forest Reserve Funds and Colorado Revised Statutes Section 30-29-101 directs the disposition of those receipts. The Board will direct 95% of the receipts received ($423,893.45) to Road and Bridge Fund and the School Districts whose boundaries fall within Garfield County will receive 5% of the receipts for a total of ($22,310.18). The amounts will be calculated by the Treasurer pursuant to C.R. S. Section 30-29-101(3) in recognition of average daily pupil allowance.

RE-1 and RE-2 are the benefactor of these National Forest Reserves. Commissioner Houpt wanted to have a discussion on how this split has been historically been done.

Commissioner McCown – the Road and Bridge has borne the brunt of the impact of the timber hauling and has been the major recipient of the majority of the funds.

Commissioner Houpt would like to look at this closer next year. Commissioner McCown doesn't see it any differently and the oil and gas impacts may be greater next year.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Resolution; motion carried.

Rifle City Council Joint Meeting- January 14, 2004

Mayor and Acting City Manager of Rifle asked the Commissioners to meet on January 14 at 6:00 p.m. an hour before their regular meeting. Discussion topics include Oil and Gas Impact, Fairgrounds, Taughenbaugh replacement and Whiteriver annexation. The discussion will primarily be on the Fairgrounds and Taughenbaugh building.

Commissioner Houpt wanted to see if they could schedule this on a night when the Planning Commission doesn't meet. Don reminded the Board that part of the legal staff is obligated to be at the Planning Commission meeting as well. The consensus of the Board was to proceed with the meeting on January 14, 2004 in Rifle at the City Hall.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario gave the following updates:

Whiteriver Road – The City of Rifle is more than happy to absorb that from the enforcement side and enforce those traffic infractions on this stretch of road. Lou supports this fully.

Report – Lou stated he was compiling a year-end report for the Board that will include some of the projects we've taken on and some of the changes within the department including some statistics. This will be ready for the next time we meet.

Speed Limits on CR 100 – Regarding the traffic infraction on CR 100, it was dismissed. The attorney's argument was that statutorily the setting of the various speed limits on this County Road 100 was not done by the Commissioners. If we want to deviate from the State limits then this needs to be changed by the Commissioners as the legal authority; the BOCC would have to approve any change in the limits. Lou would like to have the speed limit set from Highway 82 at Catherine's Store to Carbondale on CR 100 at 35 mpr. If the limits are too low, then people speed up. This would be a reduction of speed which is now 45 mpr into the Town of Carbondale.

Lou has been handling enforcement on that road and the deputies have been issuing tickets, however, Lou is interested in setting this at 35 mpr. The State's limits were set at 45 mpr and that is too high. Lou spoke to some of the residents and they didn't see an issue of 35 mpr.

The Board requested a written proposal and asked Lou to check with the Road and Bridge.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. ***Executive Session***: Legal Advice – Department of Social Services and Building and Planning; Litigation Update – Contract Negotiations – Valley View Hospital and Healthy Beginnings and the Airport Contract. Carbondale De-Annexation, Mayo and Personnel issue with staff at CSEU.

Those requested to be present included: Don, Carolyn, Catalina, Mark Bean, Lynn Renick or representatives from Social Services, the Board, and Mildred.

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

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

Direction to staff:

Commissioner Houpt made a motion that counsel redrafts the indemnification clause for the Contract with Valley View Hospital to limit the indemnification liability to insurance coverage and utilize language that creates liability on asserted claims rather than found cause. Commissioner McCown seconded; motion carried

COMMISSIONER REPORT

Commissioner Houpt – the EnCana tour may be changed as there is another meeting she wants to attend with Big Country C & D on Wednesday and will attend if EnCana can reschedule the tour.

Commissioner McCown – Meeting at 9 a.m. Tuesday with Road & Bridge and engineering regarding the airport road moving the template up the hill. 1:30 EnCana Tour Wednesday, a Grass Mesa tour; had a meeting 1:00 p.m. Friday with elected officials from the area with exception of Al White on the continuing on-going saga how oil and gas are reporting their production from a tax standpoint; they are going to get the State Auditor involved as well in the process; a meeting is planned with Mary Huddleston and see why there is such a disparity between what the gas companies actually report as being the cost of those facilities at a well head and what is the Assessor allowed to tax, possibility a $100,000 per well. This is ongoing and it was strictly an information session. Jack Taylor, Gregg Rippy and Ron Teck were there and they have a good idea of what's going on. This will not replace the various counties pursuing their individual claims; this will parallel with that local effort. Each county needs to take care of their own boundaries when our County may have 2500 wells and Moffat may only have 200. So it's not going to be proportionally even, however this will give us more teeth and a stronger argument. Our Assessor will move forward on that as well; Shawn and Shannon will be looking at this for Garfield County.

Chairman Martin – Community Correction Screening – 9 a.m.; Kiwanis club at Parachute at 7:00 a.m.; 8:30 a.m. tomorrow Senator Campbell will be in town at Rosie's for an update on everything; Community Corrections at noon on Thursday; Ed Finke new engineer with CDOT meeting with Randy and he on the 13th on the sound barrier policy question at the Ranch at Roaring Fork. Ed Frinke from Grand Junction is the replacement for Owen Leonard.

Commissioner Houpt – there is a big debate with residents on this issue at the Ranch at Roaring Fork.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to Sign the Amended Plan Plat of Lot A of the Dixon Subdivision. Applicant: Divide Creek Land and Cattle Company – Fred Jarman
f. Authorize the Chairman to Sign the Resolution for a Special Use Permit for an ADU. Applicant: Jacee Johnson – Fred Jarman
g. Authorize the Chairman to Sign the Resolution for a Text Amendment to the Zoning Resolution of 1978, amending Section 5.05.03(8) and adding Sections 5.05.03(9) and 5.03.028 Regarding Fencing Regulations: Applicants: Tim Thulson, RR Trust and the Board of County Commissioners – Fred Jarman
h. Authorize the Chairman to Sign the Resolution and Conditional Use Permit for a School in the A/R/RD Zone District. Applicant: Bill Evans/Emily Griffith Center – Fred Jarman
i. Authorize the Chairman to Sign the Resolution for the Text Amendment to the Los Amigos PUD Amending the Phasing Schedule. Applicant: Elk Springs, LLC – Fred Jarman
j. Authorize the Chairman to Sign a Resolution Concerned with the Amendment of Resolution No.2002-32 Concerned with the Garfield County Building Code – Mark Bean
k. Authorize the Chairman to Sign a Resolution Concerned with the Approval of a Special Use Permit Application by Western Slope Recycling, Inc. – Mark Bean
l. Authorize the Chairman to Sign a Resolution Concerned with the Approval of a Conditional Use Permit Application for a Boarding and Rooming House by Stan and Carole Rachesky – Mark Bean
m. Authorize the Chairman to Sign a Resolution Concerned with Amendment of Section 05.06.07(16) Church Signs of the Garfield County Zoning Resolution of 1978, as amended – Mark Bean
n. Authorize the Chairman to Sign the 1) Acknowledgement of Partial Satisfaction of the Subdivision Improvements Agreement and 2) the Reduction Certificate Number 3 for the Blue Creek Ranch Subdivision. Applicant: Blue Creek Land Holdings, LLC. – Fred Jarman

o. CDOT Aeronautical Grants – Brian Condie

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items except b, c, and k; carried.
Item k – Commissioner Houpt – discussion as to adding a Condition No. 9 that specifically addresses the kinds of recyclable material and she would like to add " including but not limited to commingled, office pack, newspapers and cardboard that is brought to the facility by municipalities."
Commissioner McCown - The key is the last of that sentence – they're not excluded anything as long as it is brought in by municipalities. They stated on the record that they will accept recyclables but they will not go out and buy them.
It was suggested to finish the discussion after Mark was here in the afternoon.
Commissioner McCown – from a legal question can we make this change without opening the public hearing? It was not in my motion. What is written in the motion in the Resolution?
Postponed until later this afternoon. The Minutes will be reviewed before the continued discussion.

Energy Impact Program Discussion - Tim Sarmo indicated that prioritization is no longer a part of the criteria for deciding who will receive Energy Impact funds for their projects. If the Board has a pet project then that could be noted but the committee is looking at them on an individual basis. Commissioner McCown – without discussion and voting you won't have the feel of the local people and the prioritization was a valid part; so this is a wasted effort and he said he will abstain from voting as a matter of principle. Ed talked to Tim after we had sent the letter out. He didn't mind us sending him the prioritization but Larry is right they have changed their process.
Commissioner Houpt – wanted to make sure we did send in our priorities anyway.
REGULAR AGENDA RANKING OF ENERGY IMPACT GRANTS – ED GREEN
GARFIELD SCHOOL DISTRICT RE-2

- Renovations to ventilation and temperature control systems at Rifle High School.
- Total Cost - $1,700,000
- Grant Request - $300,000

Discussion:

- Ranking – Number 3

CITY OF RIFLE

- Downtown Main Street Enhancement on Railroad Avenue

Darrell Meisner and Judy Billman, City Council Member

~ Reconstruction of Roadway
~ ADA Ramps
~ Traffic Signal Upgrades
~ Striping and Signage

- Total Cost - $600,000
- Grand Request - $300,000

Discussion: Judy made a statement about why they need this money for Railroad Avenue. Reconstruction of this street is necessary because it is very heavily traveled; it is State Highway 13 as well. Underneath the street a lot of the water and sewer lines runs and over the years they have been reconstructing those lines. During the time of reconstruction of the Railroad Avenue they want to do some reconstructing of those lines. We are behind on the ADA ramps as well.
Darrell Meisner, Chief of Police Rifle Colorado – some ramps are available. On 3rd street some have been done and have added some but resources are becoming scarce.
Judy – our traffic signals are getting impossible to turn; these are 1900 signals. In several places they are requiring left hand turn signals. The improvements are limited to Railroad between 3rd and 9th street.

- Ranking – Number 2

PARACHUTE BRANCH LIBRARY

- Parachute Branch Library Expansion

~ 2000 sq. ft. addition will double size
~ Over-framing of flat roof
~ Drive-up book drop

- Total Cost - $392,115
- Grant Request - $200,000

Discussion:

- Ranking – Number 1

Commissioner Houpt suggested we still send our letter with our priorities and voice our displeasure about the change in procedures.
Commissioner McCown abstained from voting.

PUBLIC HEARINGS
TRANSFER OF OWNERSHIP OF LIQUOR LICENSE – NEPAL RESTAURANT – MILDRED ALSDORF
Chairman Martin swore in the speakers.
Mildred submitted the proof of publication on the 23rd of December and stated the transfer of ownership was for Kakshapati Bindeshor and Lohani S. Sarita, partners.
The owners were not present and Mildred asked if the Board wanted to proceed or continue the hearing until next week.
Chairman Martin admitted Exhibit A – Proof of Publication into the record.
Mildred explained that the person applying for this has been the general manager and there is no change except for the ownership. She stated she has no concerns about the transfer, but for them to come before the Board would be good.

Commissioner McCown requested to continue this hearing until next meeting January 12th at 10:15 a.m. and Mildred to contact them to be present.
Continued Discussion on Salary Increases – Effective Date
Patsy Hernandez and Judy Osman were present.
Payroll Costs to have retro-active pay increases beginning January 1, 2004 were submitted in several scenarios and each one explained as to the staff time and cost to the County.
Patsy submitted a spreadsheet showing the cost of doing two payrolls to accommodate the increases effective January 1, 2004. The least amount of staff time, which is critical with closing out the 2003 year and getting all the employees on the Insurance Plan, would be to hold off giving salary increases until January 17 and making them payable in the February paycheck.
A great deal of discussion occurred and trying to figure out the best method to proceed. Patsy suggested letting the employees know that beginning in January 2005 raises will be effective in February check.
Direction:
The consensus of the Board was that salary increase needs to be fair to all employees – exempt and non-exempt.
Commissioner McCown and Chairman Martin agreed that holding off the increases until January 18 would be the better method.
Commissioner Houpt voiced concern that the employees were just getting used to the new payroll plan and this will be difficult to understand. It seems like this is late in making this decision and this should have made this in December when we were talking about the budget. She also expressed concern that the KVS system would not make these changes and/or calculations and that their system forces you to do it by hand. Patsy explained that this is why we are getting a new system.
Direction:
A memo will be emailed to the department heads and they should explain this to their employees.
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A "SHOOTING RANGE FACILITY". APPLICANT: #10 ENTERPRISES, LLC. D/B/A/ HIGH LONESOME LODGE – FRED JARMAN
Fred Jarman, Catalina Cruz, Buzz Cox, Ranch Director and Maintenance Director, Gene Reed was present.
Chairman Martin swore in the speakers.
The County Attorney reviewed the noticing requirements. Gene wrote a letter and has a copy as an Exhibit included in the application materials on BLM letterhead. October 22, 2003 Gene met with the BLM representatives on site and they had no objections. However, the notice was to advise the landowners the date and time of the public hearing. There was prior notice and there was no objections to the plan.
Discussion was held by the Board and a decision was made that the notification was adequate and advised the Commissioners they were entitled to proceed with the hearing. Fred presented the following Exhibits:

Exhibit A – skipped as their were no mailings; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff Memorandum and Exhibit G – Email correspondence with the NRA and Staff dated 12-30-03.

Fred stated the request is for a SUP for a shooting range facility located northwest of DeBeque, Colorado on a 1.5 acre ranch property containing 13,000 acres off County Road 200 (North Dry Fork Road). The surrounding zoning is Ranch Land and Public Lands (BLM).

The property is known as the High Lonesome Lodge and the applicant requests to operate an outdoor shooting range of approximately 1.5 acres of the ranch. The range would provide an area where clients of the ranch intending to hunt on the property could become familiar with and practice with their field guns prior to a hunt as well as address the safety issues necessary for hunting. The applicant also indicates that there may be other interest groups which the facility might serve such as the Colorado Division of Wildlife for their hunter-safety courses. The facility would then serve as a training facility on certain occasions by appointment only. The range would be located 100-feet of County Road 200.

The shooting range would consist of a mobile 5-stand shooting platform for the sporting clay range, a 300-yard site-in range for rifles, and a log structure for storage.

Fred noted that the Lodge is defined as a resort in the Zoning Resolution. He further reviewed the applicable regulations in the Zoning Resolution, the general SUP requirements and staff findings on those and other specifics related to a shooting range.

Recommendation:

Staff recommends the Board of County Commissioners Approve the special use permit request for a shooting range facility on the property known as the High Lonesome Lodge with the following conditions:

1. The applicant shall install permanent signage along CR 200 intended to inform oncoming motorists traveling in both directions that they are approaching and will be driving by a shooting range.
2. Any lighting installed at the shooting range facility shall be directed downward and inward.
3. The applicant shall provide a copy of an executed contract to the Building and Planning Department which shows that sanitation service has been obtained for the site prior to the issuance of a special use permit.
4. No alcoholic beverages shall be allowed on the shooting range site at any time. This requirement shall be posted on permanent signs at the shooting range facility. If someone appears to be intoxicated, they shall be removed immediately from the range.
5. The property boundaries of the adjoining BLM land shall be posted to alert any public on the BLM land that they are nearing private property containing a shooting range facility.
6. The applicant shall follow the applicable recommendations regarding outdoor ranges as provided in the NRA "Range Source Book."
7. The Applicant shall install 6-foot (4"x 4") posts (from grade) that can hold 2' x 2' red flags which are used by the range every time the range is "in use" as an extra notification to motorists. The flags may be taken down once the activities of the range are completed for the day.

Fred noted that the time element involved in getting the Range Source Book prohibited a copy to be available for the Board's review.

Commissioner Houpt – 100 feet from the road seems short and asked if there was a norm.

Fred stated the one in Basalt was reviewed but the one in South Canyon he wasn't sure.

Commissioner Houpt – the first condition speaks of a safety issue and wondered if the sign is enough of a safety warning?

Fred stated there were no standards but given the remote location and the fact that only these folks use this road and the flags are an added safety factor.

Commissioner McCown – the line of fire is not 100 foot from the road; they are shooting away from the road and didn't feel this is dangerous.

Applicant: Gene explained the diagram. The County Road goes in front of the range and explained a shot only carries 300 yards. None of the shot goes on the BLM land and put this in the safest place possible. They will put a berm up as well as signs. They will fence the entire area so cows do not get into the area. He elaborated on the safety factors including a staff member as a guide will accompany those shooting. It will be a very professional site and is to be used for guests. When DOW comes, they will do a shotgun test; a youth hunt every year is done with DOW and it will be locked unless accompanied by a staff member. The property will be signed private property and no admittance.

Commissioner McCown asked if birds were to be included. Sporting clays usually have to do with quail, etc.
Buzz – they do have a commercial hunting license and they can release birds; he currently releases about 5000 per season. A huge safety issue and once they are on the range they can determine if they are safe. The big game hunter rifles will be tested for sites.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit request for a Shooting Range Facility for the High Lonesome owned by #10 Enterprises, LLC on County Road 200, DeBeque, CO with the Conditions 1-7 as recommended by staff; motion carried.
A brochure was presented as an additional Exhibit.

Item K - Waste Material Handling at Lacy Park
Commissioner Houpt read through the minutes and agreed that the Resolution accurate and states the issues she was concerned about.
Commissioner McCown made a motion to approve the Special Use Permit and authorize the Chairman to Sign a Resolution Concerned with the Approval of a Special Use Permit Application by Western Slope Recycling, Inc. Commissioner Houpt seconded; motion carried.

Chamber of Commerce – Rifle - Endorsement for Roan Plateau
Mark stated that staff encourages the Board to maintain their own position. A decision was made to wait until the Chamber comes before the Board to state their position.

REGULAR AGENDA
RELEASE TO CONTRACT #2 – OLSSON – BRIAN CONDIE
Brain Condie and Engineer Peter Olsson were present.
Brian explained the contract saying in included architectural, engineering and/or planning consultant services with the associated fees, regarding the expansion of the aircraft parking apron by approximately 16, s.y. AIP Project No. 3-08-0048-13.
Olsson will complete an evaluation of alternatives through contacts with local authorities and review of previous projects, field investigations and a practical design approach.
The compensation and time for payment was reviewed for the Engineer for basic services as Task 1. - $9,737 – Conceptual Design; Task 2. – $24,815 – Preliminary Design; Task 3. $13,959.06 – Final Design; Task 4. $12,123 – Bidding; and Task 5. $44,560.67 – Construction Inspection. The fees are not exceeded without prior approval of Sponsor. The Engineer shall submit monthly statements for salaries and other expenses and for reimbursable expenses incurred. The total fee design is $60,635.00 and the Total Fee Construction is $44,560.67 for a grand total of $105,195.68.
Authorization of the Board Chairman to sign the Release to Contract #2 was requested contingent upon receiving the funds from the Federal government so that we can get this contract out as soon as possible.
Carolyn stated that she did check on the cost analysis issues for Federal grants and items that the County Manager was discussing have to do with Federal contracts, this is a Federal grant.
Commissioner McCown noted that the salary for 5 weeks for $39,000 plus $5500 in overhead was the attention getter under Table 5 for inspection; a little over $7,000 a week for an inspector. He also questioned the hours of the engineer at 294 hours.
Brian qualified that the engineer will be on the job 24 hours a day but will check into it for the Board.
Carolyn noted that Task 5 included drawings and not just on-site inspections. Release to contract on page 6 and 7 was referenced. It should have been called construction services.
Brian – Olsson will take the test results and qualify it for the State – page 7.
No. 13 on page 7 starting with “recommending payment ….exhaustive inspections ….
Carolyn clarified that the inspectors are not guaranteeing the contractors work. The liability goes with the contractor. The BOCC signed a similar document last time with the engineer.
Commissioner Houpt referenced No. 17 and the FAA would be involved.
We have the performance bond and the process is included.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Release to Contract #2 with Olsson and the Board of County Commissioners as presented; motion carried.

PROFESSIONAL SERVICE CONTRACT – OLSSON – BRIAN CONDIE

Brian submitted a plan showing the development and to accomplish this, Olsson can have it completed in about 6-weeks. Brian presented the contract for professional services with Olsson. The is to update Airport Minimum Standards consisting of update existing and prepare additional minimum standards for the Garfield County Regional Airport giving general guidance for administration and operation of Airport facilities and establishing standards for service and tenant relationships. The not to exceed $5,000 will cover a review of and recommendations for change in all existing administrative regulations governing the Airport, and a set of draft and final administrative regulations dealing with private hangar development at the Airport, including proposed minimum standards for no-commercial aeronautical activity at the Airport. Minimum standards are intended to become the fundamental policy document for the Airport. By providing a firm administrative policy, they give the Airport a basis for consistent, unbiased relationships with users, tenants, commercial operators and the general public. Minimum standards provide a stable foundation for Airport management and administration.

The project will be completed within three calendar months of the notice to proceed (April 15, 2004) and ten bound copies of the Update to the Airport Minimum Standards and a Microsoft Word file of the document will be delivered to the Airport Manager.

Looking at the drawing, Brian explained that the west side is for the smaller aircraft hangars. Commissioner McCown wants to see a plan for consistency in building materials for these hangars. This is critical in pricing and expense to the users.

Brian said this document will set the standards and the users will have to meet these requirements. The design standards will be presented to the Board, the users, and wants this to coincide with the set up of the hangars. Carolyn pointed out the language in the contract and explained the blanks and in paragraph 9 the last three lines would only be responsible for negligence. And in paragraph 11 Carolyn included $1 million per claim and $5 million minimum.

Commissioner McCown felt on the insurance requirements for a $5,000 contract that a $10,000,000 policy seemed high and he didn't have a problem with the contractor's suggestions of lowering it. Brian noted the marketing is not included and how we target the larger aircraft will be followed up after the minimum standards are complete.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to approve the contract for professional services with Olsson and Associates filling in the blank on page 3 on the compensation portion as alluded to by the County Attorney, on the indemnification portion on paragraph 9 changing the indemnification to performance results of the contractor, not just anything that might happen, lack of performance ….Carolyn requested some wiggle room to word it correctly ….Commissioner McCown agreed, and then the professional liability limits that the contractor has suggested and lowering the figure to $3 million from $10 million, (they have $3 and $5 in place) changing it to their limits and authority for the Chair to sign the contract after Carolyn has made the adjustments. Motion carried.

Olsson will be coming and explaining about the ALP standards on the 19th of January. All the work will be completed by December 2004 and Carolyn prepared a letter agreement with Olsson and Associates pending a date until January 19, 2004.

Snowplowing at the Airport – the huge snow blower was used in the latest snow storm. During the storm Brian stated they accommodated the aircraft and never closed. He worked 22 hours and plowed 3-times. Dave from the Fairgrounds used the smaller snowplow.

Dale made an agreement that the vacant position with the new assistant at the Fairgrounds that he would assist at the Airport.

Commissioner McCown made a motion that the Chair be authorized to sign the letter of agreement to extend the date to the 19th of January. Commissioner Houpt seconded; motion carried.

FACILITIES WORK SESSION AND DIRECTION – REPLACEMENT OF TAUGHENBAUGH BUILDING

Randy Withee, Tim Arnett, Lynn Renick, Chuck Brenner, Ray Combest, and Dale Hancock were present.

Taughenbaugh building: It was built in the 80's during the Oil Shale growth and we purchased it. Last year CTSI did a safety audit and determined some issues of safely were out of compliance and the County affected an agreement to replace this building in 2005. Some of the hearing units failed this last year and omitted some CO and that has prompted thinking perhaps we should accelerate the replacement in 2004. Some preliminary figures were submitted for discussion.
Randy – 4200 sq feet per floor for 3 floors; the Rifle Courts – 16, Chuck came up 80' by 80' for three floors. Requirement of Rifle 35' – 3 story building.
Chuck – the square footage was just to look at land requirements.
Randy – Rifle has a parking space requirement 1 space for every 300 sq. ft. Need 64 parking spaces to make it work making the footprint 135x365 feet. There is 125 x 640 available with the set back requirements. A plan was submitted showing the present location of the Court space and former Lift-up building. There is a requirement of either 70' or 100' set back.
The concern is that this size of building would place them right by the courts and would have to move the building and relocate the courts prior to building the new facility. Jim Bradford was fairly sure that everything could be handled by the Glenwood Springs Courts. Ray Combest did not have any concerns.
Randy – this building would meet the needs of the County; Ed talked to the Mayor and Acting City Manager and they re interested in locating the police department there but the City would have to grant a variance for 4 floors in order to do this.
Discussion continued reflecting on whether or not this was a good location to build a building that would be too small with the projected population increase in the County. The Airport property was also discussed and whether or not Social Services could relocate there with some form of transportation provided for those without access.
Commissioner Houpt – if we're going to building a new building we should spend some time projecting numbers.
Chuck hasn't looked at the largest building for the site. The Taughenbaugh is not an efficient design as it was build for commoditizing. We need to look at numbers.
Chuck – we started from scratch and we had those perimeter walls and had to squeeze the tenants in.
Lynn – currently the first floor of the Taughenbaugh there are two staff members where United Way and Mountain Valley, the space temporarily is used for therapy and foster care review. To date they are seeing a doubling of numbers as high as 50 to 60 clients per day walk-ins.
Ed - 1400 square feet is currently being used for Extension that will be moved to the Arena.
Chuck – we could put a full basement under the new building for storage facilities. This drives up the cost of the building. The water table is 19-feet below grade and this gives us some room for a full basement. This drives up the cost of building the building however.
Commissioner McCown – the courts would have the first floor and social services on the top floor for security.
Chuck commented that you would probably need two elevators.
Randy – begin with the dollar amounts – the building itself inclusive of all the grading and just the building envelope would be $90 per square foot.
Chairman Martin said that furnishings or how to adapt the existing furniture needs to be thrown into the discussion. The Courts' cost would be on the County since they do not have any funds. Perhaps talk about a long-term lease or in-kind donation.
Lynn was requested to project the number of clients that need to sit down with a staff person. What percentage could work at the central location? The support functions that do not see clients consists of only 2 people that would have day to day face to face contact. A location at the Airport property would not be feasible. A lot of clients walk to Taughenbaugh from the central part of Rifle. Some were able to come to Glenwood and others were seen at the Henry Building.
Commissioner Houpt – before we commit, she was not completely happy with Herman Miller and cubicles might not be the best. They do need private space to discuss issues with clients.
Commissioner McCown did not favor hard walls because every time you grow you have to knock a wall down whereas with moveable furnishings you can expand as needed.
Lynn – added that the clients that Social Services see in this building are seen in family interview rooms and clients would not be taken into cubicles. The interview concept here would need to be the same in Rifle. Security and the confidentially of files are absolute.
Scheduling Security: Randy – the schedule to start this would be late fall and referenced the time frame to go through City planning and zoning, City Council, etc.

Chairman Martin noted that the County is exempt from the City of Rifle and are above their rules and we can have an agreement that we're putting a building together.
Commissioner McCown – the City will request the Statute and then move forward. That discussion occurred when we were talking about the Lift-up building not meeting the set back.
Ed agreed that the City reiterated that concern a few weeks ago.
Commissioner McCown so if we want to move forward with the savings and spend it in court, we can do.
Randy – just to give an idea, by late fall you'd be looking at the application and winter construction. We need to start now to have it in place by the first quarter of 2005.
Chuck acknowledged it was a tight schedule but a workable one.
Ray Combest – Probation was sitting in for Sylvia Olson who was coming down from Meeker, and wondered if some of the furnishings in the Courts would be reusable. Ray will report back to Sylvia. He reminded the Board that Probation and the Courts are separate although they do work together.
Commissioner McCown agreed that some of the benches and other items could be reused. However, expanding the Courts you would still need additional furniture.
Budget:
Ed gave a recap of the projected year end of the budget for capital fund is $7.3 million. We have established as our minimum of $1. million dollar reserve in that and of course we have the $1.25 million that we have to set aside for the runway project which will being in 2005. That gets us down to $5.05 million of that $7.3 million. If you look at this $3.1 million dollar budget I think by you get a total figured out you're looking more like $3.5 million and maybe even higher. Randy projected around $4 million especially if we're considered a larger building. Ed said you can probably expect $500,000 in the sale of Taughenbaugh; you can probably expect $1 million from DOLA in terms of grant funding so that means you are going to have a hit of about $2 to $2.5 million on that $5 million that's left. What's left over is roughly a couple of million dollars in flexibility after all is said and done.
Chairman Martin reiterated you'd have a building that's paid for and not financed.
Ed – the other issue is that you must go through with the retro-fit of the Events Center and get Extension out there regardless of whether we have additional DOLA funds or not. The reason is that you would not have room for them – they need 1400 square feet.
Commissioner Houpt – if we don't an extra 1400 square feet then we're looking at a building that's not big enough for this County.
Ed - the premise has always been to relocate CSU Extension and 4H to where their work is and where it's appropriate.
The Events Center: At present the Board has designated $100,000 coming out of the Lottery Fund and you have the entire amount available for that in the Lottery Fund budget.
Commissioner Houpt – there are other things we should be spend those funds on.
Ed – understands there are other priorities but if you need it, you've got it.
Commissioner McCown – speaking of priorities, we're not sure what the City of Rifle would need and if they want to move and if they want to participate in the construction; or if they want to lease space.
Ed – his impression from the City of Rifle was that they would want it as a condominium type of arrangement where they would actually own their space. They may even want the basement.
Dale – cautioned about multiple ownership on buildings based on what we're going to be confronting in the immediate future with respect to the Fairgrounds and the existing site where the Road and Bridge is due to old reverted clauses on how many acres and what facilities.
Commissioner McCown – not seeing the bottom floor being owned by the City of Rifle.
Ed – another question, do you want the City to be a part of this.
Chairman Martin – there is that possibility but we could also use the bottom floor and go for an exemption or qualify as a Partnership with the City and use this as an incentive to get it done sooner.
Commissioner McCown – sees us going with a bigger footprint and did not see Garfield County building a 4-story building in Rifle.
Direction was to proceed.
Commissioner McCown wants to look at a bigger footprint, maybe 80 x 120.
Randy – the direction we'll take from here would be to proceed on work at the site in Rifle and then use Chuck Brenner at this time to help with the process to get organized and meet with all the different agencies.
Chairman Martin – it would be with a professional services contract.
Clarification was to have that 80 x 120 with an optional basement for storage or finish out for other offices.

Commissioner Houpt requested projected numbers too to make sure the 80 x 120 makes sense and we're absolutely on a piece of property that we need to be on for what's going to happen.
Chuck – one of my first projections would be show a building that size, calculate what the parking is and do a layout so the Board can see how it fits the site and then take a look and decide whether you like it or not.
Jesse – in looking at the 80 x 120, isn't another side of this to really have some discussions with Public health with DSS and the Courts and look at what 5 and 10 year projections are for the need
Chuck – another option is that we look at the 80 x 120 but maybe we determine right now that an 80 x 100 is enough but design the building so it can be expanded.
Commissioner McCown – we're going to end up looking at the Airport land as that's the only property we own in Rifle is where we're talking about building this and you're talking about the population in Garfield County doubling by 2025. That site is not going to handle that volume not only for the County's needs but Social Services.
The Taughenbaugh building site on about 2 acres and under existing codes you wouldn't be able to get 3000 square feet.
Randy – the other question would be to throw this out, what does this do for Lift-up.
Chairman Martin – didn't think we should worry about it, put them in the Quonset hut where they are and relocate the fence.
Ed thought Commissioner Houpt raises a good point that land may be so valuable that it might make sense to help Lift-up relocate to another place.
Chairman Martin wants to be very candid with the City of Rifle folks and ask them if they're in or out. Other possibilities were explored such as a long term lease and/or have them pay a proportional share of the cost of the building.
Meeting with City of Rifle on the 14th - ask that question.
Lynn – added that SS is very concerned about the population growth down valley. The Airport area might work for them assuming that the Henry Building will still be maintained and the transportation issue they might be able to make it work. Her concern is to build a building that they would soon be cramped in.
Commissioner McCown – that's the reason he keeps bringing up the Airport land because he doesn't want us to utilize a piece of property and building a building that won't accommodate growth. The Courts are going to need to expand and you already have the Court facility there, we've got a less than appealing Lift-up building there and it can go away and allow the Court expansion and rebuild Social Services needs at the Airport where it can expand. The two aren't mixed. It makes more sense rather than trying to dump everything into one pot and hope your soup turns out.
Commissioner Houpt - the Lift up area relocates, that opens up a lot of land for expansion.
Chairman Martin – no because of your set backs and you have to build within a certain envelope and your building is still 100 foot from there.
Chuck – asked what if by next Monday he showed the 80 x 100 and then also a plan that maximize the site to see what would be the maximum size building and parking he could get on the land. He'll do two plans – one is the 80 x 120 but the other is to maximize it and see what the maximum size building we can fit on that property.
Commissioner McCown – we do have the ability to scoot that fence over next to the interior but wasn't sure the City of Rifle would give access off Whiteriver. So we'd have to allow room for access and semi-trailers are the question. They'll have to have access to come in off of 18th and then back into that facility.
Commissioner Houpt – if the Quonset hut is going to work on long term because it'll be more expensive for us to build a building somewhere else, we'll have to look at that.
Commissioner McCown – the cost of the building would be less to build somewhere else, no elevators.

The Columbine property is available but pricy. This is an open building and all on one floor.
The Board is committed to getting it done; schedule the review under Ed's time at 8:15 a.m. January 12.

ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion

Attest: Chairman of the Board

JANUARY 12, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 12, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

RESOLUTION CONCERNED WITH PROCLAIMING JANUARY 12, 2004, MILDRED ALSDORF DAY
Today is Mildred's birthday and Chairman Martin read a Proclamation to Mildred:
The Clerk & Recorder staff, Assessor Shannon Hurst and Cheryl Page were present.

WHEREAS, Mildred Alsdorf has served the citizens of Garfield County for 33 years; 24 years as the County Clerk and Recorder; and

WHEREAS, Mildred Alsdorf is an active member of Good Shepherd Lutheran Church; and

WHEREAS, Mildred Alsdorf, as a longtime member of the Eagles Auxiliary, has headed numerous fund drives to benefit many worthy organizations; and

WHEREAS, Mildred Alsdorf, as a Worthy Matron of Eastern Star Erika Chapter, serves the community and keeps alive a long standing institution; and

WHEREAS, Mildred Alsdorf has participated on statewide County Clerk Committees and served as President of the County Clerk Association; and

WHEREAS, Mildred Alsdorf was deemed the "godmother of Garfield County" by Russell George, former Speaker of the House for the State of Colorado; and

WHEREAS, Mildred Alsdorf has been instrumental in developing a program called "Kids Voting USA" in the Parachute schools; and

WHEREAS, the BOCC desires to recognize Mildred Alsdorf for the years she has dedicated to public service to the citizens of Garfield County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GARFIELD, STATE OF COLORADO THAT JANUARY 12, 2004 IS HEREBY DECLARED MILDRED ALSDORF DAY.

A cake was presented as well.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
COUNTY MANAGER UPDATE – ED GREEN

a. ***Facilities Layout – Old Rifle Road and Bridge Shop Area – Chuck Brenner***

Chuck Brenner, Tim Arnett and Randy Russell were present.
The largest building that could be built on the lot is 120 X 80. A test plan was submitted and discussed. 11,400 square foot or 44200 feet of area; otherwise $960,000 for 28,400 square feet if we can use the 120 x 180.
Commissioner Houpt favors building a larger building in order to accommodate the future expansion of the needs of the area.

Ed suggested that the Board needs to decide if they have an obligation to assist the Lift-Up because that has always been the premise.
Commissioner Houpt felt we can help Lift-Up in other ways and didn't feel we should leave those quansi huts and then build a smaller building would be necessary.
The footprint presented last week was 80 x 80.
Commissioner McCown still voiced the fact that he didn't feel this was the best site for a building of this size especially due to the parking constraints. He feels the Airport Center site is the best suited; built it and they will come.
Ed reminded the Board there was a meeting with Rifle City Council this Wednesday evening where a discussion could be continued getting their feedback. An analysis of the future needs for Social Services has not been completed to date.
Chairman Martin stated this argument could go on and on and the space needs for the various entities to be housed in the building should be evaluated.
Commissioner Houpt also requested some feedback from the entities to be served

b. Out of State Travel – Training for Kraig Kuberry

The out of state travel request is for continuing education to keep the SWANA Certification. An estimate cost of $1670.00 was presented.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the travel request for Kraig Kuberry for $1670.00; Motion carried.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. Executive Session: Litigation Update – Andrietta; America Soda Litigation; Development of a Contract for County Property just discussed; Contract for Oil and Gas Auditing

Jesse, Ed Board, Don, Carolyn and Mildred were to remain for the session.
Oil and Gas – to retain an expert for auditing with the Assessor's Office – direction from the Board on how to retain someone to 24-640.E – regarding negotiations
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action: *Architectural Contract for facilities design in Rifle* – Don stated there is a Contract in place at the present time and for the present the Board will retain Chuck Brenner under his present contract; he is doing the baseline work for conceptual design only at this point. When we arrive at final design we will go out to bid.
Oil and Gas Expert – direction to staff is for Don to contact Mr. John Savage and set up the perimeters of that contract for an expert to assist the Assessor's Office for Oil and Gas development and once the perimeters are set, come back to the Board.

COMMISSIONER REPORT

Commissioner Houpt – Big Country RCD Annual Meeting and Steve Anthony was honored for all the work that he has done both locally and regionally on noxious weeds; Steve received a 10-year award for service to the RCD. RFTA meeting and noted that the Glenwood Springs Recycling Center opens at 10 a.m. tomorrow and the site will be at the old County Road and Bridge site – it is fenced in. The funding source is being budgeting through their landfill. Meeting Tues with Bill Evans to see the Emily Griffith facility after the opening of the Recycle Center. Human Services Commission Meeting is on Wednesday; Rifle City Council Wednesday evening at 6:00 p.m.; Jim Spehar in town on Thursday as a Candidate for Congress; Northwest COG making a presentation at City of Glenwood Springs Council on Thursday and CCI on Friday.
Commissioner McCown – City Council 8:45 PM on Wednesday and another meeting at 7:00 PM so he will not be present.
Chairman Martin – Transportation issues with the staff in-house on January 14th at 10 am to discuss the direction but make no decision – deals with everything from the 20/30 plan to what has been scheduled for studies and what we want to get out of it and what we will use the information for; direction we're taking for Mass Transit.
Ed Green - Healthy Beginning Transition Meeting here at 7:30 A.M. on the 14th and meeting with Matt Sturgis and Lee Leavenworth to talk about Annexation of White River prior to the meeting with Rifle in the evening.

Shannon Hurst, Assessor presented the Abstract to Commissioner McCown. $25 million for Oil and Gas personal property. Discussion was held regarding the Abstract.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Special Use Permit for an Accessory Dwelling Unit for Parcels 1 and 2 for Donald Zeigler – Fred Jarman
f. Authorize the Chairman to sign the Amended Final Plat of Lot A of the Dixon Subdivision – Fred Jarman
g. Authorize the Chairman to sign a new Declaration of Master Deed Restriction & Agreement Concerning the Sale, Occupancy, and Resale of property in Blue Creek Ranch Subdivision – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – g excluding b as there were no wire transfers to be considered; motion carried.

REGULAR AGENDA
PUBLIC MEETINGS
COLORADO DEPARTMENT OF TRANSPORTATION PRESENTATION

Ed Fink, Region Director, Karen Rhode resident engineer, Jim Noll Traffic Coordinator out of Grand Junction; Weldon Allen, Maintenance; Charles Myer, Traffic, Tammy Smith Environmental and Dave Miller Planner and Adam Padilla presented the Annual County Meetings review for CDOT. He said the estimated Revenues for Funding Year 2004 were $795,228,080.00. This includes State Funds of $450,979,164.00; Local Funds for match and reimbursements of $14,515,144.00; Federal Highway Administration Funds of $303,979,085 and other funds for Transit & FTA, Aeronautic Fund and FAA, and Highway Safety Funds including MOST & LEAF totaling $25,755,687.00.

They are not projecting any funds from Senate Bill 97-001 for this year and it depends upon the economy as to when that may be back in the pot.

The HUTF funds are still at 60/40. The HUTF restricted $9.5 if for the CSP for safety programs and it keeps growing for inter-department growth so off the top will keep growing and it will mean less for the CDT funds. For 2006 there will be no funds unless Congress lowers it. CDT is losing interest of this money each year.

The sound barrier off TREX was included in the original project and there are no dollars actually set aside for these. They were within the job description.

The program allocations are:

Statewide Programs	$487,612,334
Regional Programs	$202,823,000
Strategic 28 Projects	$104,793,746
Statewide Tolling Enterprise	$ 314,060

The Transportation Planning Region 3 includes 30,000 square miles, 14 counties and over 50 municipalities. There are 4,524 lane miles of state highway with the Region. There are 485 full time employees. Region 3 has 591 bridges, eleven mountain passes, and seven tunnels within its system. There are 11 rest areas within Region 3. Region 3 operates and maintains 9 of these rest areas. Two others are locally operated. All but one rest area within Region 3 are within the I-70 corridor.

In the Intermountain TPR, the current STIP includes SH 82 Intersection a M.P. 3.7
I-70 EBY Creek Road (round-a-about) (payback) and SH 24.
bottom of Tennessee Pass. The Intermountain TRP includes Garfield, Eagle, Summit, Lake and Pitkin Counties.

The constrained 20-year Plan 2001 – 2020 Projects includes:

1. SG 82 Midland Extension
2. SH DOWD Jct. to Minturn
3. SH 24 Eagle-Lake County Line (North)
4. I-70 West Vail Frontage Road

5. I-70 Pedestrian Overpass and
6. SH 24 Eagle-Lake County Line (South)

Karen reflected on how this budget affects this area and that would be the Hwy 82 Intersection and basically there are no funds for it – it has become a lower priority until the project becomes available. The Airport alignment is one but the project is another. Larry Thompson was looking at going around the Airport using the alignment between Holy Cross and Dr. Jackson's property. Since there's nothing definite, therefore CDOT postponed the project indefinitely at this point.

Chairman Martin stated the City hasn't made a decision as to whether or not the Airport will stay in place or not.

Councilman Bruce Christensen stated the City has hopes of money being available to have the Airport a reality.

Jim Noll presented the Traffic Program in a separate document. Traffic speed limits are established under Statutes. He addressed how signs are decided to be appropriate for State Highways. The document also addresses access permits.

Weldon Allen presented a document on patrols. Guard rails were a multi-task project with the Independence Task Force funds and guard rails were included. Chairman Martin thanked CDOT for the cooperation on the potential flood barriers and for the cooperative effort of storage at Canyon Creek. Weldon mentioned that Garfield County is the only County not participating in the noxious weed program and would hate to lose this program in their maintenance section. Weldon stated that the County refused to sign the contract.

Chairman Martin requested a follow through because they thought we were participating. Weldon stated it was some of the indemnification issues in the State contract.

Commissioner McCown remembered the indemnification issues that would strangle the County were there any problem. This contract would put the blame on the County. $20,000 would not even pay the attorney fees. Weldon understands the problem and complimented the County on their noxious weed program. The language has been the stalemate and the State will not negotiate the language barrier.

Karen addressed the project from Parachute to Rifle. They will try to fix the bumps in the Parachute area on I-70. They haven't found a reasonable cost to fix those issues. Weldon responded there are some areas that are 100-foot deep soil problems. The Interchange at CR 114 is in Karen's area and construction is scheduled for 2005 with additional accesses. Dave referenced the stip for FY 2005 stating no projects were added or deleted. Some may be pushed out. Where they were getting $28 million and now are only getting $5 million. A 4-team meeting will be held in Grand Junction and requested the Commissioners to let them know if there are any concerns. They are working on the long-range planning scheduled for February 4 that the Intermountain TRP has planned to prioritize the projects.

PUBLIC HEARINGS:

TRANSFER OF OWNERSHIP OF LIQUOR LICENSE – NAPAL RESTAURANT – MILDRED ALSDORF

Mildred, Kakshapati Bindeshor and Lohani S. Sarita were present.

This was continued from the last meeting in order to notify the partners in the new ownership to be present to meet with the Commissioners.

Mildred explained last week that these two individuals had been working at the Napal Restaurant and there were no other significant changes other that the transfer of ownership. Permanent residence cards were admitted as part of the record in another Exhibit.

Kakshapati explained the hours of operations and staff has been trained in alcohol service. They do not have many minors at the restaurant. They have been operating since 1999.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the transfer of ownership of the liquor license for the Napal Restaurant as presented; motion carried.

Mildred explained they wanted a Temporary Permit to operate as Napal Restaurant until the permanent license is received.

DISCUSSION OF THE 9TH SUPPLEMENT TO THE 2003 APPROVED BUDGET – JESSE SMITH

Chairman Martin determined that Jesse had the proof of publication necessary for the public hearing.

Chairman Martin swore in the speakers.

Jesse Smith presented the supplemental and explained that this includes changes to Garfield County employees and new employees since December 8, 2003. There will probably be one more supplemental in

the 2003 budget. In Exhibit B the supplemental includes reallocation of budget items between line items and providing budget for new recording and projection equipment and to increase the travel budget; also payments to Rural Resort. The total impact was a decrease in Fund Balance of $7,302 however, the impact on110 Fund Balance is an increase of $7,423 and in the Capital Fund the impact on Fund Balance is a decrease of $12,552.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 9th Supplement to the 2003 and the appropriate of funds for the approved budget as presented by Jesse Smith; motion carried.

CITIZENS NOT ON THE AGENDA
WAYBE POLLARD - CR 233 – TO ACCESS THE EXEMPTION LOTS
Commissioner McCown responded saying, where it turns into Anderson Ranch and the road is not on the property line is why it is rendered un-surfaceable unless he can render an agreement with Tie Bar. There are people that wanted to make that work. The County will need a full blown survey which would cost $250,000 and therefore have decided to leave it as is. This was brought to the Commissioners before and decided the same thing several years ago when it was a different Board.
The Commissioners were not aware of whether or not the County Attorney responded.
CONSIDER AN AMENDED FINAL PLAT OF TRACTS 7, 8, 9 AND 10 OF THE ANTLERS ORCHARD DEVELOPMENT COMPANY'S PLAT NO. 1. APPLICANTS: WAYNE POLLARD AND VICTOR GANZI – FRED JARMAN
Fred Jarman, Carolyn Dahlgren, Wayne Pollard and Nick Goluba were present.
Carolyn determined that the public hearing noticing requirements were met and timely and that the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Fred presented the following exhibits into the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Memorandum; Exhibit H – Pump Report from Syracuse Drilling & Pump Company dated 11/26/2003; and Exhibit I – Letter from Road and Bridge Department dated 1/07/04.
Chairman Martin entered Exhibits A – I into the record.
This is a review of an amended plat in the location of Tracts 7, 8, 9, and 10 of the Antlers Orchard Development Company's Plat No. 1 within the A.R.RD zone district. The applicant is requesting approval from the Board of County Commissioners to amend the lot lines between these tracts as well as the neighboring and recently approved Parcel 4 of the Pollard Exemption. The property is located at the southeast corner of the intersection of County Road 233and 229 a few miles northwest of the Town of Silt in the Silt Mesa area.
The intent of this application is to reduce the sizes of the four existing Antlers Orchard Development (AOD) Tracts from their present sizes of 10, 10, 15, and 16 acres down to smaller lots that range from 3. to 4.3 acres. Lastly, the applicant intends to merge the old portion of ADO tracts not included in the Amended Tracts with parcel 4 of the Pollard Exemption recently approved by the Board. The applicant asserts the reason this amended plat is sought is to "create more desirable and salable subdivision" than the existing APD tract configuration.
Recommendation:
The Applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve the amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Prior to the Board's signature on this final amended plat, the Applicant shall convey Parcels 1, 2, and 3 of the Pollard Exemption to an entity or person so that Parcel 4 may exist as its own parcel which can then be merged with the remainder of Tracts 7, 8, 9, and 10 via a lot line adjustment to reflect the lot configuration in this amended plat.

3. The Applicant shall include a plat note on the final amended plat that states "The owners of Tracts 7, 8, 9, and 10 of the Antlers Orchard Development Company's Amended Plat No. 1 shall understand that any requested changes to the building envelopes delineated on such lots shall require an amended plat approval by the Board of County Commissioners."
4. The Applicant shall obtain driveway permits for the connection of the access easement to CR 233 and CR 229 prior to the signing of the amended plat by the Board of County Commissioners.
5. Because the water rights for the McPherson Well are split between Parcel 4 of the Pollard Exemption (a 75% share) and to the 4 amended AOD Tracts (a 25% share), the Applicant shall obtain 2 new well permits that govern the uses allocated to the McPherson Well from the Division of water resources. As such, the Applicant shall provide two permits: 1) one permit for the 75% share allocated to Parcel 4 of the Pollard Exemption and 2) one permit for the 25% augmented by the West Divide contract for 1.76 acre-feet to the 4 newly amended AOD Tracts (a 25% share). These permits shall be presented to the Building and Planning department prior to the signing of the final amended plat.
6. The Applicant shall follow the recommendations of the County Road and Bridge Department as outlined in their letter dated January 7, 2004 and included here:
    a. The Applicant shall design the grade of Lone Pinon Lane to be on the same level as County Roads 229 and 233 for 40 ft away from these roads.
    b. The road type and surface shall comply with Section 9:35 of the Subdivision Regulations of 1984, as amended so that the design meets that of a "semi-primitive" road.
    c. Fences shall be located just outside of the county right-of-way.
    d. All debris shall be cleaned up on CR 233 for line of sight requirements.
7. The Applicant shall include a plat note on the final plat stating the following: "The mineral rights associated with this property (also known as Tracts 7, 8, 9, and 10 of the Amended Antlers Orchard Development Company's Plat No. 1) have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s)."
8. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, than signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

Applicant:
Wayne Pollard and Nick Goluba presented for the applicant.
Nick Goluba stated that Fred noted the change in Condition 4 – parcel 4 is the one that will stay with the ranch and Condition No. 6 – Craig stated that it was a rushed and they only need to get the driveway permit and the actual width of the road.
Carolyn suggested to keep Exhibit I and changes made to be part of the motion.
Fred examined the Exhibit I – 40'wide and it should only be a graveled road. Everything in Exhibit I is fine.
Nick – already has Condition 4 and questioned Exhibit I and didn't feel it needs to be included.
Commissioner Houpt noted that in the motion they can be very specific.
Commissioner McCown noted this was standard boiler plate language and the reason for the road cut
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the plat amendment request for Tracts 7, 8, 9, and 10 of the Antlers Orchard Development Company's Plat No. 1 with conditions addressing No. 6 in the referral to Exhibit I that the roadway through the said committed plat would meet the conditions as to the surface of the roadway and would be a 40' in width. Motion carried.
Commissioner McCown the record will show there wasn't a problem with Parcel 4.

CONSIDER A REQUEST FOR A PRELIMINARY PLAN AND PLANNED UNIT DEVELOPMENT FOR THE RANCH AT COULTER CREEK. APPLICANT: SNOWMASS LAND COMPANY – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Martha Cochran, John Sarpa, Larry Green and Planner Tim Malloy were present.

Carolyn determined that the noticing requirements for a public hearing were met and timely and advised the Board they were entitled to proceed. Both of the hearings for Preliminary Plan and PUD will be handled as one hearing.
Chairman Martin swore in the speakers.
Fred presented the following exhibits into the Record: Exhibit A – Mail Receipts and Posting; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Garfield County Subdivision Regulations of 1984, as amended; Exhibit F – Staff Memorandum;
Exhibit G – Application; Exhibit H – Letter from the Garfield County Sheriff's Department dated 12/01/03; Exhibit I – Letter from Carbondale and Rural Fire Protection District dated 12/03/03; Exhibit J - Memo from Steve Anthony dated 11/25/03; Exhibit K – Staff Memo to the BOCC dated 5/19/03; Exhibit L – Letter from Road and Bridge Department dated 12/03/03; and Exhibit M – Informative Brochure from the BLM regarding Fisher Creek Special Management Area.
Chairman Martin entered Exhibits A – M into the record.
The only reason this is brought before the Board is to request that the road within the project be private and not public. This was an explicit condition No. 7 of the hearing last May. He pointed the Board to Page 7 of the staff report under PUD Review Standards stating private internal streets may be permitted, provided that adequate access for police and fire protection is maintained.
PUD Rezoning Request
This is a request to subdivide approximately 479 acres into 26 single family residential lots and rezone the property to PUD. The property is located west of the intersection of CR 115 and Cattle Creek Road – CR 113 – in the Missouri Heights area.
The background on this was that the Board recently reviewed the subject application in the form of a preliminary plan for the Ranch at Coulter Creek Subdivision as it was originally proposed last summer (2003). The Board approved the preliminary pan on June 2, 2003 and is memorialized in Resoltuion 2003-41.
The project was originally intended to be a private gated development where the internal roads within the project would be private roads managed by the homeowners association rather than be public roads dedicated to the public as required pursuant to Section 9:34 of the Subdivision Regulations of 1984 as amended. This requirement was disclosed to the applicant during sketch plan review as well as made an explicit condition of approval in Resolution 2003-41 which granted approval of the proposal. However, due to an apparent oversight on the part of the applicant, this request was never explored during the preliminary plan process.
From a regulatory perspective in odder to vary this subdivision requirement the applicant would need to submit a Planned Unit Development (PUD) application to the county, thereby pursuing the appropriate avenue allowing the Board to make a decision as to whether private or public roads are appropriate for this development. Based on this, the applicant submitted a PUD application for the sole purpose of requesting the Board to allow the internal roads within the Ranch at Coulter Creek to be private rather than public. In Condition No. 7 of Resolution 2003-41 the roads were required to be dedicated to the public; therefore under current regulatory procedure regarding amending resolutions of approval granted by the Board, an applicant has no other recourse other than resubmitting the entire preliminary plan.
Staff focused on the private/public nature of the internal road system and the fact that the proposed preliminary plan is exactly as that which received approval by the Board in June, 2003. Staff's review is on the road issue and whether or not the applicant has satisfied the PUD requirements in the Zoning Resolution of 1978, as amended. Fred went on to explained why the applicant is seeking approval for private roads.
Page 4 under open space states the applicant will support open space and how PUD's support this concept. Exhibit M provides what the open space provides.
This is a PUD and the applicant has to address all the sections in the PUD requirements and pointed out page 8.
Fred stated that in the original Resolution all those Conditions would apply and these Conditions are added.
Tim Malloy – The fact that the roads were public created some problems in terms of our plans for how the roads were going to function and how the gate would work. A few points on why they are requested private roads is when they started out on the process they were trying to do as low a density as possible and still have it make sense financially. As part of that they took a lot of care in designing the roads and the lots in terms of their relationship to each other and were very careful about visibility of the lots from the roads and

spent a lot of time looking at how this development would fit in with the neighborhood and created a very high value for lots so they could do the fewest number of lots. Part of that strategy was to have the roads be private and gain associated value with the privacy and gated road. The roads being private they feel is not a precedent matter or problematic feature of this project as much as the roads are already defacto by virtue of the terrain and surrounding ownership. BLM abuts us along the south and west boundaries and basically where the property drops in from the north. In addition the terrain is pretty deep and rocky below this developable area between it and the surrounding CR 113 and CR 121 and the only place to get access if from the north on CR 115.
Tim continued the reasons for have these roads private and gated, essentially to add value.
John Sarpa – very important for the conservation issues and important to have these roads unused. It is a very important component of this project. Having public roads coming into the development had the real potential impact on the entire conservation aspect of this area.
Tim Malloy addressed the two issues raised by Fred Jarman - comments on housing types – and the public access issue, these were discussed at the P & Z and the section of the code is more of an urban standard and it is pretty rural and feel in order to be comparable to the neighbors they didn't look at multi family dwellings, only including single family units to minimize the impacts. For those reasons they didn't feel this was a good situation. If you look at the brochure it talks about the wildlife habitat that's on the property and there are two control access points and there are also two access points, one is the access that comes south from CR 115 and accesses the Cemetery and there's another access that is further to the west. He said he has heard from others that there's been too much access to this problem from having the gates taken out involuntarily, etc. Condition No. 3 on page 10 – we agree in spirit as to what is being discussed here and this condition has to do with us providing adequate legal access via some legal methodology for emergency service and in the condition asked the applicant obtain a letter and stating that codes and keys have been provided to those agencies.
Larry Green - understanding the concern for the staff and they would prefer to have a blanket dedication letter in a separate document called a Deed of Easement granting an easement for access to the Garfield Sheriff and to the Carbondale Rural and Fire who would want to have access and then suggested to go further and do what we did in the case of Aspen Glen and brought the language, where in the certification of dedication when the streets were dedicated to the Homeowner's Association that they were subject to the right of all emergency vehicles to make use of such streets and roads and all reasonable circumstances, so they will do both things; they will do the plat dedication and a separate instrument to Sheriff and to Carbondale Fire – this would make sure the easement is in favor of everybody and asked not to have to have approval of all those entities.
Chairman Martin – gave an example that you have to have the maintenance vehicles for the Communication Authority which is a separate entity to get to their tower site on BLM property.
Larry said this will be identified in a separate agreement.
Carolyn reiterated that Condition No. 3 be amended somewhat.
Exhibit N –Certification of Dedication and Ownership - plat language from Aspen Glen was admitted.
Staff Recommendation: State recommends the Board of County Commissioners approve the proposed Preliminary Plan and PUD request for the Ranch at Coulter Creek subject to conditions of approval.

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

2. All conditions of approval contained in Resolution No. 2003-41 as approved by the Board of County Commissioners (***except that condition #7 therein shall be eliminated***) shall also be conditions of approval for this application and will be included in a new resolution that shall be superseded and replaced in full by a new resolution containing these conditions listed herein.

3. The Applicant shall provide a Deed of Easement dedicating a perpetual access easement over and across all roads within the subdivision allowing unfettered access for all applicable emergency services personnel. These easements shall be shown on the final plat. As part of the final plat submittal to the county, the applicant shall obtain a letter signed by the applicable emergency services agencies indicating an agreement to the terms of the easement agreement and that proper access codes and keys have been provided to those agencies.

4. Resolution No. 2003-3 of the Carbondale and Rural Fire District, which conditionally approved annexation of a portion of the Ranch, requires that the developer grant the District an access and utility easement for the radio antenna site. This easement was intended to run from the public roads to the antenna site. The applicant shall provide the Carbondale and Rural Fire Protection District a perpetual non-exclusive easement from County Road 115 to the antenna site. The applicant shall provide the language of such an easement to the District in order to be negotiated and approved by the District prior to approval of the final plat. This easement would allow access by Fire district personnel, contractors, or subcontractors to the antenna site for all uses of the antenna site, including installation and maintenance.

5. The water system described in the engineering report (Attachment 12) refers to the previously proposed water system and does not match the current master utility drawings. The current drawings contain a note "see McLaughlin Rincon drawings for details of pump station and storage tank installation". Since the McLaughlin Rincon drawings are not included in the submittal, the applicant shall provide the Carbondale and Rural Fire Protection District with the referred to "McLaughlin Rincon drawings" for review and approval prior to final plat approval.

6. The Applicant shall incorporate the recommended changes to the Declaration of Protective Covenants proposed by Lisa Tasker and Dawn Keating regarding the Harrington's penstemon as included in their memo to Tim Malloy dated October 23, 2003. Accordingly, The Applicant shall provide the County Vegetation Manager with a map of the occurrences of Harrington's penstemon in 2004. These changes the covenants are included below:

   a) <u>Page 5, 6. General Requirements, b. Site Location:</u>
   ...the Architectural Committee shall exercise its judgment to attempt to preserve the natural characteristics of each Lot, including trees, vegetation, *particularly the Harrington's penstemon,* and the natural setting.

   b) <u>Page 9, 8. b. Defensible Space:</u>
   (ix) When implementing a plan to reduce flammable material around structures, survey the area to be treated for the Harrington's penstemon and avoid removing or trampling it.

   c) <u>Page 12, 12. Domestic Animals:</u>
   ...horses may be kept in a stable and a small corral upon any Lot *so long as the corral is not in a location that the Harrington's penstemon has been mapped. If the penstemon has been found, the location of the corral shall be altered in order to seek to avoid the penstemon.*

   d) <u>Page 13, 3. Underground Utility Lines:</u>
   All water, electrical and telephone lines, within the Subdivision, shall be buried underground *beneath Subdivision roads and driveways or in such other locations that shall seek to avoid the Harrington's penstemon,* and shall not be carried on overhead poles...

   e) <u>Pages 14 – 15, 7. Individual Sewage Disposal Systems:</u>
   Each ISDS shall be designed and located to minimize tree removal, *seek to avoid the Harrington's penstemon,* and changes to the natural contours of the land.

   f) <u>Page 15, 8. Trees and other Significant Plants:</u>
   All construction ...shall seek to *avoid the Harrington's penstemon,* minimize the removal, and maximize the preservation, of trees…

g) <u>Page 15 - 17. Additional Restrictions on Lots:</u>
Add 10. ***Construction Management****. In order to protect the Harrington's penstemon and other native vegetation, all construction activity, storage of materials, fill and debris, parking of vehicles and equipment shall occur within the building envelope.*

7. The Applicant shall refer the application to the Bureau of Land Management for comments with a follow up phone call prior to the meeting before the Board of County Commissioners hearing.

8. The Applicant shall provide the most current brochure regarding the Fisher Creek Special Management Area to future lot purchasers as part of the closing documentation.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request for the PUD for the Ranch at Coulter Creek amending Condition No. 3 to also include the adoption of the language of the Aspen Glen Subdivision regarding access for all emergency entities and deleting the first clause of the last sentence.
Chairman Martin voiced his opposition to gated community; access needs to be open. This is giving enclave that will give us headaches in the future and those other boards that follow us; I think we're falling in the footsteps of Beaver Creek in Eagle County and we're shutting down access to just about everywhere and have gated communities which I'm opposed to. Public access on the roadways we've addressed before, private property and private property rights are protected by this Board as well as the laws but I think access on public roadways need to be maintained and help open by all developments.
Commission Houpt – because this is so focused on preserving the land and the wildlife and the conservation easement is so huge I see this as different issue than your other typical gated development and for that reason she thanked them for this development.
Chairman Martin – it still limits the access to only a select few and understands the market is there and you need to have an exclusive market and this will be trophy homes to wealthy people and they will have access and use of open space that will be limited to only them unless they invite other people and that's what he is opposed to; however finances and development dictate what you can market; he is just philosophically opposed to closing access for a limited number of people and creating a class system.
Vote: McCown aye; Martin – Nay – Houpt - aye

Preliminary Plan
This is a request to subdivide approximately 479 acres into 26 single family residential lots. The subject parcel is one of two parcels that have been known as the Laurence Ranch. The North Parcel, undeveloped, consists of approximately 1,300 acres and is located just east of the Consolidated Reservoir. The South Parcel, the subject of this application contains approximately 479 acres. The Aspen Valley Land Trust (AVLT) purchased the South Parcel and entered into an agreement so sell the South Parcel to the Snowmass Land Company provided they would 1) develop the property under a cluster approach with small number (26) residential lots, and 2) place a conservation easement over the balance of the property. The 26 lots will comprise of approximately 155.6 acres of the approximately 479 acres. The remainder of the Ranch will be common open space for the use of the lot owners and will be permanently preserved under the provisions of a conservation easement to be held by AVLT. The common open space will continue to be ranched.

Staff continues to maintain that the Applicant has not demonstrated a legal and adequate source of water pursuant to Section 4:91 (a) of the Subdivision Regulations, since the Division of Water Resources cannot determine if there is "material injury to decreed water rights", which will be determined upon approval of the Augmentation Plan.
Items 2 and 3 have been addressed and in staff's opinion are not longer issues.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Preliminary Plan for the Ranch at Coulter Creek.
Martin – nay; McCown – aye; Houpt – aye.

PUBLIC MEETING
CONSIDERATION OF BUILDING AND ZONING VIOLATION AND REQUEST FOR LEGAL ACTION FOR RANDALL MORLEY – STEVE HACKETT
Steve Hackett, Andy Swaller, Mark Bean and Randall Morley 1234 CR 106 – Sutank in Carbondale were present.
Last 4 years – Mr. Morley took out a building permit to remodel a house. Steve presented the alleged code violation stating his findings are:

1) Illegal dwelling in shed on property line attached to house;
2) Illegal structures (chicken coop) on property line fence – violation of set back requirements;
3) Expired building permit; and
4) Failure to comply with inspection schedule and requested engineering documentation.

The review found that Building Permit 7721 expired January 22, 2003 and no response to the December 2, 2002 citation for building in the setback; this was recited February 13, 2003.
Steve reviewed the documentation in the file and the partial list of items that will be considered during application for a new permit on this property as: the original application for Permit 7721 contained false information – it was applied for as a "home addition with a deck" – the building being added onto is a garage, not a dwelling, and is not legal to occupy as a dwelling. Also is appears as though alterations were done on the job site to "engineered" drawings that were not approved by the engineer of record.
Additionally there have been numerous complaints from the surrounding neighbor concerning illegal occupancy of camper vehicles, construction with the property setbacks, illegal occupancy of out buildings as dwellings, and damage being done to neighboring property line fences as well as to irrigation ditches and the flow of irrigation water.
Steve submitted photographs showing the property and alleged violations. Letters from David Lawson, Mark Kisker and Ken White were included in the alleged violation.
These letters and phone calls and personal visits to the office have been on-going and Steve would like to give his neighbors some relief of the problems.
Suggested Findings and requests:
Steve stated his recommendations are to refer to the County Attorney for abatement action concerning illegal dwelling and setback violations.
Schedule to renew the building permit to finish the house under construction or remove it within 18 months.
Randy – the shed that appears to be a dwelling but there's nothing of a permanent status, a bed and assorted items are in the shed. He stated he has had numerous personal problems from a week after closing and from the neighbors he can see the complaints from a building permit. All the violations he'd be happy to take care of – he is not dwelling in the shed and would like to have the opportunity to complete the structure.
Commissioner Houpt asked if he could store these items somewhere else.
Steve stated he has a lot of materials stored in the shed and does construction and stores related materials. He has propane stove and last summer he did stay there.
Steve – typically – a dwelling with a kitchen and stove denotes a dwelling; the other fact is that he put a window in the shed that faces into the neighbors. So the structure contains a stove, kitchen, bed and window. The window is illegal – if it had been built prior to 1972 and the rule is that you can't put a window in a non-conforming structure and it needs to go. It is built in the 10' setback. Steve is still researching the shed as to a pre existing condition; even an office is not permitted; a shed is where you store tools but not where you have an office.
Steve the placement of the shed inside the 10 foot yard set back makes it illegal and if it were there prior to 1972 you can't improve it – it's a shed.
Commissioner McCown asked how Randy feels about being financially able to complete the structure within 18 months.
Randy Morley stated he felt he could – the shed is a large structure and felt it was built in 1953 – when he was remodeling, he found evidence that it was build in 1953. He will apply for whatever the Board wants him to.

Steve asked that Mr. Morley renew his permit and that he give us what they need in order to be able to give that to him which is a report from a Colorado registered design professional that says to us that the work that he has done so far meets current uniform building, mechanical and electric codes. We asked Mr. Morley to do that last April and it has not been done.
Carolyn – would this be a renewal of a building permit?
Steve said it would be a renewal of permit.
Randy – the request for engineering, there was, the upstairs on the house portion that was on the blue prints had a door going out on the deck and it was too small to meet the required size of a door and it would have to be an egress window so it wouldn't be an illegal access to the deck. So he put a door in and had to change the roof configuration to make it larger and when Tim, the building inspector came out, he mentioned to Tim that it wasn't on the plan but had had an engineer look at it and did submit drawings and the engineer did send a letter saying the roof structure was conforming to his required drawings and was fine with him. Randy had him send a letter again last week.
Mark – we have to get your authority to go to refer this to the County Attorney or to be able to renew the permit.
Carolyn – there is an illegal dwelling – requires some more investigation.
Mark – we are asking that the Board make a motion authorizing the attorney's office to pursue legal action if necessary and to be deemed by the County Attorney.
Mr. Morley claimed that he did not know the window was illegal.
Commissioner McCown so moved; Commissioner Houpt seconded; Motion carried.

ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

JANUARY 19, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 19, 2003 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Nancy Limbach – DNN – for funding he can't be their custody from 18 to 21; however, the boy wants to come home. She referenced "A Beautiful Mind" in order to demonstrate her point. She and her husband are concerned about have a Dependency and Neglect Notice. There is a State Law in place but it can be up to the County.
Don advised the Board that this needs to be discussed in Executive Session.
Chairman Martin stated the Board will look into this issue.
COUNTY MANAGER UPDATE – ED GREEN
Request approval of Motor Pool Procedures – Mike VanderPol and Carolyn Dahlgren
Mike VanderPol submitted the draft Motor Pool Procedures for discussion. Ed, Mike and Carolyn have been working on these since last summer. This includes Motor Pool Management Classifications and Assigns County Vehicles in the County Fleet; General Use of Vehicles for County Business; Refueling; Motor Pool Vehicle Check-out and Return Procedures; Preventive Maintenance Procedures for County Vehicles; Traffic Violations; Definition of an Accident; and Accident Procedures.
Carolyn stated that this is a regulation decision by this Board and it means that each and every change would come to the Board or this can be delegated to the Motor Pool Supervisor, County Manager and/or someone to review these.
Commissioner Houpt requested clarification on the refueling policy on page 5; after working hours – who to call. This was clarified to mean you return a car at the fuel level you received the car original.
The specific policy changes – page 3 – I - and the question is any department wishes to adjust these, do you want to review each department's regulations and who do you want to be in charge of bringing those issues?
Commissioner Houpt – as long as they are consistent with the policy we adopted its okay; only the variations.
The second is on page 4 and 5 – par L – insurance coverage – two issues – are you going to require County employees to add the County coverage and at what level $300/$100? It's most unusually to have $600,000.
Commissioner McCown – some insurance firms are reluctant to add County coverage
Commissioner Houpt – expressed concern about the hardship this would create as well.
The Board decided No on having to add County coverage and was in agreement to have employees have the minimum coverage of $300,000 - $100,000
US Amendment – drug and alcohol in case of an accident – the 4th Amendment is likely to be imposed in an accident – hospital, death, towed vehicle. National wide 1-800 – company that does random drug and alcohol testing with sites all over the nation. This is not related to fault but is dependent on the other factors. A law enforcement officer does not review an accident for fault, rather for violation.
Chairman Martin – 2 page 2 – vehicles – auction, trade-in and would like to add the policy that a gift can be made such as to other governmental entities or sell at a reduced price.
Carolyn – noted the Procurement Manual will need to be changed.
Sheriff Lou Vallario– ride along from the community – page 4 – Sheriff's Motor Pool – it's covered there and his polices would need to included. These would be governmentally blessed volunteers and would be covered.
Don – on the 1-800 that is covered by CDL, he clarified it would include regular drivers.

Commissioner Houpt – suggested to change para 3 with the notion to allow changes to the policy as long as they do not change the original policy we approved because major change recommendations would come through Ed.
Carolyn asked the Board if they were approving the drug and alcohol testing.
Commissioner McCown stated the first thing we need to do is to adopt the policies and procedures that would be changed with this document and then adopt the Resolution that would changes we discussed enacting the policy and procedures in this regulation.
Carolyn asked that if the Board wishes that the name be changed to Vehicles rather than to Motor Pool and there were some very specific things as to personal insurance on personal vehicles whether or not there's going to be a minimum coverage, and whether or not there's going to be additional insurance requirement.
Commissioner McCown – for the purpose of discussion, the $300/100 should be the minimum coverage and we should not force county employees to list the County or commit the county to additional insurance on their personal vehicles because some companies will refuse to do that.
Commissioner Houpt was fine with that.
Carolyn clarified that the County Manager will be the administrator, not anybody below and Mr. Martin sale of vehicle's issue on page 2 –
Commissioner Houpt- that's fine.
Commissioner Houpt – page 5 – the refueling of rental cars needs to be in there.
Carolyn – and are you approving a policy regarding drug and alcohol testing specifically?
Commissioner McCown – it's all inclusive.
Chairman Martin – agreed.
Carolyn – CAPP does cover any private insurance, private vehicles at all.
Don – wanted to make sure the Board was aware that you will not be named as an additional insured on private vehicles and CAPP will not provide you with coverage so if there's a claim of injury during County activity, it will be a general fund claim.
Chairman Martin – I understand.
Commissioner Houpt – one change – the Procedure for a Vehicle that's Broken Down – Emergency Call List and information we have on additional services like the AAA Service.
The Sheriff has an actual separate set of additional policies which we can bring to the Board later on the ride-along program.
Lou stated he does these and they will be brought in.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Vehicle Policies and Procedures with the changes; motion carried.
Commissioner Houpt made a motion to approve the Resolution revoking appendix D of the Financial Management Guide and Adopting Garfield County Motor Pool Policies and Procedure Manual and the Chair be authorized to sign. Commissioner McCown seconded. Commissioner Houpt thanked Carolyn, Ed, and Mike for the work they have done in preparation of these policies and procedures; motion carried.

Consider a Resolution to establish the Garfield County Energy Advisory Board – Doug Dennison

Doug submitted a couple of letters in favor of this Board, he also noted he had some recommended changes; Doug informed the Board of those changes, stated with whom he has met that included the municipalities and the Grand Valley Citizens Alliance.
Doug submitted the letter from the Western Oil and Gas and a copy of the Memo from Rick Griebling and stated that both entities had representatives here today.
Commissioner Houpt – noted that it is important to have the stakes holders really want to create a forum and it serves a particular need but the Oil and Gas Forum has a historical attachment. The GCEAB is new and brings the citizens to the table without having it led by the Oil and Gas Commission or the State – this should be an opportunity to have all the stakeholders available to discuss all the issues involving the County.
Chairman Martin – referenced a letter from Lisa Bracken, a private citizen.
Commissioner McCown – rather than creating a new level of bureaucracy, it is a subdivision of the oil and gas forum for whatever might come up.
Doug – there is a perception that the form is basis toward the industry.
Commissioner McCown – if the industry doesn't by in, then it will be clearly a perception of the industry against them. You can't make anybody come to the table.

Commissioner Houpt – my hope is that everyone would come to the table; it's an opportunity for all stakeholders to work out issues before it becomes involved in bureaucracy. This is a new opportunity to come together to resolve issues and don't believe it would be successful to wrap it in with an already formed entity.
Chairman Martin expressed the possibility of Doug being burned out by attending so many meetings. Doug was requested to express his opinion and he stated it is hope that this group would take some of the pressure off of him because presently he has to go to multiple meetings but at the same time he also recognizes that this will take some time.
The composition of the Board, the fact that this group would not be a rule making board rather a forum where folks get informed and work out their issues but not to tell the industry they need to change and reference made to the proposed Resolution to create the board were discussed.
Commissioner Houpt disagreed. Doug has been working on this alone – this allows Doug to have other resources involved in coming to terms with what Best Management Practices mean.
Chairman Martin – this document doesn't have what we want – this is the first draft – some people have some expectations we can't do.
Commissioner McCown – Board make up and you look at how's it's perceived – one vote – and this could be perceived as this group could conceptually adopt regulations for the County to regulate surface negotiations and this is something we can't do.
Commissioner Houpt – the citizens group members are aware of the Oil and Gas Regulations – this group wants to see oil and gas extraction work and this helps us create the opportunity to address the issues brought forward by the citizens – we have everyone together.
Chairman Martin – referenced No. 9 saying we would be delegating the Commissioner's authority.
Doug – this needs to be changed – this would be input only.
Public Input
Cher Rollins, EnCana, commented that she knows how hard Doug works. She reiterated that EnCana is making every effort to work with the surface owners – Doug's point in bringing this up to a forum would be another avenue to bring the two to the table; but it must be drafted in order to entice Oil and Gas staff at the table. She would like to have a roundtable type setting. As to representatives serving on the board, she would like to see a Commissioner, industry representative from COGCC, citizens and especially one from Grand Valley Citizens Alliance, and one from the municipalities. She favored keeping it small would greatly benefit discussions; otherwise it wouldn't be totally effective to work on specific issues. EnCana has the largest amount of new wells in 2004 and are in the area that most needs communication. We need something where we have effective communication.
Commissioner Houpt – the citizens want a seat on the rule making boards; therefore this could be a place.
State Representative – Brian Mackey – Oil and Gas Representative – Brian mentioned in his letter the good communication and thanked the Board for Doug coming on board.
This EAB – Oil and Gas Forum – he was the representative several years out of Grand Junction before Rick Griebling. Some of the perceptions of the Oil and Gas Forum is his fault – he tried to bring information forward to the citizens – informative agenda – had to bring in individuals familiar with the various aspects – it has never been designed to be basis of decisions, but to open it up to all persons.
Commissioner Houpt – the fact is that the Oil and Gas Commission was created to promote industry in the State of Colorado; it's not our charge and therefore we can bring a neutral perspective to the table.
Commissioner McCown – at the current Oil and Gas Commission meetings, we have representatives from the industry to present information – it was perceived by the citizens – now we bring in State individuals that put on presentations giving the same information the industry did saying the same thing and giving the same information. Therefore Doug and Commissioner McCown have been most committed to find credible people to come forward to present the information.
Commissioner Houpt – recognizes the hard work they've done but reiterated that it is sponsored by the Oil and Gas Industry.
Rich Griebling – we must balance the public safety, health and welfare and by having a County Commissioner Chair our Oil and Gas Northwest Forum meeting, he feels meet this balance. Same concern about Doug's resources – they have a high interest in staff's inspecting wells and enforcement with regulatory matters – the concern is to delegate this to multiple people – he would prefer to have a sub committee or a working committee in conjunction, perhaps more representation on the Oil and Gas Northwest Forum.

Chairman Martin – it is important to continue working together on this one and to make Rich gets this information back as well as the composition and functions of the Energy Advisory Board.
Rich said the Commission asked them to on this and that was to devote our resources to the Northwest Forum but try to work and include you all and have you guys at the table as much as possible.
Commissioner Houpt stated the Advisory Board could report at the Forum and have that dialogue at that time as well.
Rich stated if it's greater frequency of meetings, they can even do a Northwest Forum once a month or every other month. If there's some need that would need more involvement and we could change the format of the meeting as well.
Steve Stojak, current president of the Western Slope COG Chapter out of Grand Junction and works for Williams as District Manager out of the Parachute office; Dave Seezark, current vice president of West Slope COG and principal environmental specialists for Williams out of Parachute presented.
Steve – provided the Commissioners with a letter dated 1-15-04; they solicited input from other companies as well. Western Slope COG represents not only Williams but there are other operators in this County – Calpine, Tom Brown, Inc., Presco/Evergreen, and EnCana as well. So this could affect other companies not just EnCana or Williams. They tried to put together something that represented all their interests. Basically they made 5 recommendations on the Energy Advisory Board.

No.1 – consistent with the COGGC – that the Northwest Forum be the main venue of communication between Garfield County, the operators, the COGGC and the citizens. He reassured Commissioner Houpt that going back five years, they've had a lot of citizens show up at those meeting and they outnumbered industry by 5 – 1 at times. As industry activity has increased and now we have more industry reps come to those meetings. Many items addressed in the Energy Advisory Board deals with Best Practices and Williams and EnCana make an effort to show what Best Practices we use out there to avoid conflicts or minimize impacts so he thinks we do share these. The COGGC has their annual awards recognizing Best Practices; therefore this venue should continue in communicating and recognizing Best Practices.
No. 2 – recommended that Doug Dennison be appointed one of the Chairpersons of the Northwest Colorado Gas Forum. Doug is already involved in setting up the agenda, makes presentations at each forum and having two county reps would definitely give balance to the citizens of this County.
No. 3 – we're recommended that the Energy Advisory Board be an offshoot committee of the Oil and Gas Forum. There's different conflicts in different areas and every private landowner we deal with has differing needs so he feels like if you make one encompassing board, and then spread Best Practices to everyone, it may not work here in a specific area. 90% of our landowners own their minerals and he gets more calls from people wanting to drill on their land than not wanting to drill on their land. You need to address the specific conflicts not here and there.
No. 4 – in recommending Item 5 was giving CCI, right now CCI which Garfield County is a member of right now participates in rule making and there has been rule making over the last few years that has benefited both oil and gas and the citizens out here recently – compressor and noise and health, safety and welfare issues. So he thinks we should continue to go through CCI.
No. 5 – we're recommending that the EAB group that reports to the Northwest Forum be a smaller group composed the areas where there are conflicts, recommending a citizen rep, Garfield County oil and gas Auditor, and COGGC rep. The way the Energy Advisory Board was proposed in that draft Resolution there were a lot of people involved in that and understands that you want to have the stakeholders there, but his experience with large groups like that are too had to be productive; if you keep is small with a citizen rep there, it's much more productive. We're not opposed to this group but would like it to be an offshoot of the Northwest Forum and it be a smaller working group.
Dave Seezark – dittoed Steve's comments and thanked Doug for the good work he's doing as the oil and gas auditor. He's been a liaison between industry and the community. This EAB is a good idea and needs more work. The Northwest Oil and Gas Forum has been very successful and has evolved in time and will continue to evolve. Garfield County has a lot more power than realized. Dave said he sees it as a neutral forum because of that, because of the county's involvement. It can be continually tweaked and the Commissioners are huge stakeholders in the forum and could become a larger stakeholder if necessary. He likes the idea of forming committees based on need, based on specific conflicts that arise. You can form a committee and even call it a Resolution Board if you want to resolve specific

conflicts. Most committees can be made up of people that are involved directly with that conflict. He also recommended keeping the committee on an “as needed basis” and for it to be a small group.
Commissioner McCown – Doug is doing that now.
Steve – this would be a more formalized approach.
Commissioner Houpt agreed that is an interesting offshoot of the EAB but would still be hesitant to narrow the scope of the membership down because she believes that the whole creation of this concept was brought forward because of issues that were specific but also issues that had common threads throughout the County. So the issues she sees being discussed by the EAB would be both general and specific. And then they could create the subcommittees that work with individual issues if that’s the direction they wanted to go. She is very uncomfortable today because a whole list of stakeholders who would be involved with the EAB and somehow not everybody knew that this was even going to be a controversial issue and we have just a very small representation here to discuss the pros or cons of putting this advisory board together. For that reason if this is the way we’re going to come up with the direction of the EAB by taking advice from the stakeholders, she thought we need to schedule another meeting to have CBCA, the municipalities, the Battlement Mesa Oil and Gas Committee, school districts, Cattlemen’s Association and everyone here to be able to get their input on how they believe and you believe on the issues the EAB would be addressing could be best served. The entire group could decide it makes more sense to have smaller subcommittees.
Chairman Martin noted this is what is proposed in the Resolution – it creates those and is based upon the Wyoming approach and that is to have specialized groups to go out to specialized areas or specific areas where they are assigned. That’s one of the functions. We can explore that and that’s why we need to continue the process. He proposed this meeting to be a one-item agenda and continue the discussion and the work and to see what the participation is going to be of those who wish to participate. Get them in if they are going to do so. We either polarize or find a way to compromise and the way to communicate and that’s what we’re after.
Steve - Most of those groups are at the Northwest Oil and Gas Forum so why not bring it up in the Forum that we’re proposing a subcommittee or separate board.
Commissioner Houpt – this just draws it away from the original concept of Garfield County creating an Environmental Advisory Board (corrected to Energy Advisory Board) also this creates a decision before a decision has been made. We haven’t decided to make it a part of the Oil and Gas Forum. We need to keep it in this venue until that decision’s been made. This shouldn’t be a scary concept rather an exciting one because this opens that opportunity to have some productive discussions. She recognized that it doesn’t have any teeth attached to it, but when you bring people to the table and you find those common threads, you’re going to make more progress than if you don’t participate.
Steve suggested holding the meeting down valley where the activity is located; perhaps in Rifle.
Commissioner Houpt recognized that this would be an agenda item and would probably be held in Glenwood Springs. She also suggested an evening meeting.
Kathy Hall – Colorado Oil and Gas Commission, Western Slope – as Commissioners the way this is written you are really setting yourself up for expectations without teeth to do anything and suggested possibly rewording it. Anytime you set yourself up for expectations there will be total land changes and the way it’s written it says there will be total land use changes, total legislative changes and it can’t happen that way. They need to look at how’s it’s written and suggested working on it before it’s taken to the public. It’s never bad to have people together to visit and talk about specific issues; but it needs to be localized, it’s water that’s an issue, if it’s land use, Doug does a marvelous job and they really appreciate him as he works hard to be a good liaison but again it’s setting up you as Commissioners for failure.
She is speaking up as an 8-year County Commissioner and knows you can’t set yourself up for failure. She alluded to what Commissioner McCown stated and Chairman Martin agreed.
Chairman Martin – again referenced Lisa Bracken’s letter.
Commissioner Houpt – hasn’t had opportunity read the entire letter – agrees with it and noted Lisa states it is a great opportunity – it will be in the record – thanked Doug for a fair and impartial position. She does support the EAB and believes it would be a better atmosphere of informed and balanced and proactive involvement between the citizens, government and the industry. This really sums up her position on the EAB. This will be part of the record as an Exhibit.
Workshop Discussion –
Doug suggested evenings are more convenient for getting people together.

Commissioner Houpt made the recommendation that we have Doug put together a Worksession with stakeholders that have been listed to put discuss the Energy Advisory Board and setting up a meeting in Rifle.
Hold a meeting, all sit in the same room and hash it out as a workshop, then as that is done, bring it back to see if we can design something for adoption.
Cher Long – suggested if they wanted to hire a professional facilitator the Oil and Gas industry would pay for that.
Chairman Martin – or it could a volunteer.
Don was asked to provide as a legal advisor at the workshop on this topic. Any workshop on this topic is still a meeting of the County Commissioners and if you're not going to schedule it today it will have to schedule at a regular meeting or a special meeting. The next meeting will not be until February 2, 2004.
Commissioner McCown – stated that he would not be available from the 13th – 27th of February.
Doug was directed to find a date, contact the municipalities on when they meet – find a place and the Board can set a date on Feb.2 at the regular Commissioner's meeting.

a. Annual Vehicle Replacement – Marvin Stephens

Tim Arnett and Marvin Stephens presented the recommended Board action that included to procure three (3) Ford Explorers from Western Slope Ford at a cost of $74,667.00 for the Sheriff's Department; (1) extended van from Two Rivers Chevrolet at a cost of $21,562.00 for the Sheriff's Department; (2) Toyota Hybrid cars from Bighorn Toyota at a cost of $38,150.00 to be additional motor pool vehicles; and (1) F-150 4 x 4 Ford pickup from Glenwood springs Ford at a cost of $18,031.00 and (1) diesel F550 4 x 4 dump truck with plow at a cost of $45,895.00. The F-150 will be a replacement for Building and Planning and the F-550 will be for the Road and Bridge Department.
The Sheriff department female hit several deer and it was fairly serious.
Jesse stated we have lost 4 vehicles during the past month. Three vehicles were totaled.
Commissioner Houpt clarified the bidding process.
Tim justified the process and Chairman Martin further clarified that all bids have specifications and a lot is how much the dealer will shave his profit.
Tim – in September they will sit down with the Sheriff on some specific specifications he may want to update.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the purchase of (3) Ford Explorers from Western Slope Ford at a cost of $74,667.00 for the Sheriff's Department; (1) extended van from Two Rivers Chevrolet at a cost of $21,562.00 for the Sheriff's Department; (2) Toyota Hybrid cars from Bighorn Toyota at a cost of $38,150.00 to be additional motor pool vehicles; and (1) F-150 4 x 4 Ford pickup from Glenwood springs Ford at a cost of $18,031.00 and (1) diesel F550 4 x 4 dump truck with plow at a cost of $45,895.00. Motion carried.

b. Discuss Purchase or Lease of Voting Equipment – Jesse Smith

Mildred Alsdorf and Jesse Smith presented.
Jesse stated they had previously discussed with the Board of the need for the Clerk and Recorder's Office to purchase a new scanner for the upcoming elections. We had budgeted $40,000 under capital; now that we've received updated information as to the type of scanner we need and the price, that price has increased from $40,000 to $60,000 and we have two options: we can purchase the scanner at $60,000 or we can lease it for three years at $21,700 per year. The deli mina is that the Attorney General's office has not come out yet with their recommendations as to types of voting equipment they're going to standardized for the State, so we are not now anticipating getting any information from them until mid to late summer. Jesse recommended going ahead and purchasing it at $60,000 out of capital and if we were to lease it, it would be leased out of the general fund. That we purchase it with the understanding that we might well need to do something different in the future but we can probably make use the scanner in other areas if it's not acceptable or consistent with what the Attorney General recommendations would be. Jesse explained that it can probably be used in GIS and mapping arena as well as general County scanning. Mildred added that it is equipment for her in-house scanning of ballots on election night and thinks she will be using this for several years. The Secretary of State not the AG will certify our DRE's in the precincts – they will look at the types of equipment we will need in the precincts for voting and counting.
Commissioner Houpt asked if those will be compatible with this machine and Mildred feels confident that if we purchase this machine we'll be using it for several years.

Don – Jesse comments are entirely accurate as long as the Board recognizes the risk; he supports purchase as well because in reviewing the contract that being proposed for lease of this equipment, there will need some negotiation on the content of that lease agreement and manufacturer and can't guarantee we would procure a year to year lease.
Commissioner Houpt – wanted to feel comfortable that we were not going to purchase a piece of equipment and discover in 6-months it will not be needed.
Mildred said she cannot use the equipment she has now another year.
Chairman Martin – we have to purchase something new.
Commissioner McCown – has no reservations at all replacing the equipment you have, but he just wants to verify this would be able to be used if the State didn't certify.
Mildred – Mesa County, Arapahoe and other larger county have this type of equipment and it is fine.
Don – in the discussions that the County Attorney's association had with the Secretary of State and the HOVA Administrator, they told us directly not to purchase equipment because they haven't certified anything; however, recognizing what they say, Mildred has a real dilemma in her office and she has to have some equipment and unless we could achieve an annual lease that would allow us to walk at the end of the year when we will finally get certifications, there's no physical advantage.
Commissioner Houpt questioned if this equipment needed to purchase right now or could we wait until the State makes a decision.
Don – we have to have it for the upcoming election; it's mandatory, we have to have something.
Mildred – we have an August election and she cannot wait to get this – they are going to providing this equipment all over the United States and we have to have the order in to ensure delivery. She once again clarified that this is for her in-house scanning of ballots and the State will certify the type of equipment used in the precincts.
A motion was made by Commissioner Houpt approve the purchase of the voting equipment, the ES&S 650 Model not to exceed $60,000. Commissioner McCown seconded as long as this is a single source of supply. Mildred – this is the one for the type of ballots I use, there are other vendors out there, but they do not have the same kind of equipment for the ballot I use. Chairman Martin – we'll call that a single source and as an emergency to get this in for lead time. Motion carried.

RFTA Intergovernmental Agreement – Don DeFord

Don DeFord, Dan Blankenship, Heather Copp, CEO for RFTA and Jackie Whitsit was present for the discussion.
Don drafted the IGA and Renee Black, attorney for RFTA approved. This is an IGA concerning a trails planning grant to RFTA on the railroad corridor. The County contributed $25,000 to help fund the Grand Hogback service in both 2003 and 2004 and also made a contribution of $30,000 for Rio Grande Trail development in 2004.
Heather Copp – this agreement is fine with us. The trail plan initially in place was clarified – RFTA is implementing that as best we can as they go along the corridor and the Board has recently taken action on how the corridor would be developed as to whether it would be on the rail bed or off the rail bed. In the plan, none of it is on the rail bed or off the rail bed, but they have agreed to let us put the trail on the rail bed in areas where there's a pinch point or we are tying to avoid a wetland mitigation issue and also if there's a cost differential between doing it off and on is 30% of more. This is the way they're preceding with that plan. It is a 3-foot driving path, so its 6-foot total.
Commissioner Houpt- questioned on last page paragraph J, time of payment. There's a paren where upon delivery - we're just providing them the $30,000 and they're keeping track of it – why have we not crossed out the paren.
Heather address this, the way it's currently written it says that you would only remit the $30,000 upon delivery of the plan and RFTA had agreed to that because they understood this was something this Board wanted to be included.
Commissioner Houpt said she didn't support that particular option.
Heather's preference is to get the money upfront because then that would help their cash flow; however her understanding was that the County wanted to see the plan first.
Discussion on this clause in parenthesis continued.
Don – clarified the only timing is to complete this plan by the end of the year.
Jesse asked for a letter requesting the money be received by the 31st of January in order to satisfy the auditors.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the IGA concerning the trails planning grant to RFTA between Roaring Fork Transportation Authority and Garfield County and authorize the Chair to sign with the correction of removing the paren out in J. Motion carried.

c. Lower Valley Trails Group Contract – Randy Russell

Randy presented the proposed contract for services agreement with the Lower Valley Trails Group (LOVA) in the amount of $30,000.

Randy stated there wasn't a specific proposal before the Board for the $30,000 because this wasn't a specific project but suggested scope of services they would do for the $30,000.

Commissioner Houpt – would like a date certain and suggested this be paid in January of 2004.

Randy suggested LOVA could provide a letter of request for January 31.

Don – in the scope of services they define a time of payment; the contract is set up for a scope of services.

Ed – would pay upon completion

Par 3A - Don needs to define the scope of services and when they request payment of the $30,000 we pay.

Don – if this is the way the Board wants to go, then he needs a motion to authorize the signature of the Chair on the Contract with an altered scope of services.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt the contract for 2004 made by between Garfield County Commissioners of Garfield County and the Lower Valley Trails Group with the changes recommended by Don on the change of the terms of payment not to exceed $30,000; motion carried.

Regional Traffic Patterns Study IGA – Randy Russell

Randy – this is a current blessing on a previously approved document. Randy stated that the City of Rifle has contributed $1,000 for the Origin and Destination Study of Regional Traffic Patterns to Garfield County. He submitted the Contract for Services to be performed by RRC Associates, Charlier Associates and Healthy Mountain Communities, Inc. The purpose of this study is to build a framework for County transportation planning efforts. It surveys our employers and where they think their workforce will have to come from in the next 20 years and applies that to commutes and pressures on our highways. It updates a study done 5 years back, so it establishes a trend line and serves multiple users with important commuting information about costs and volume and the integration of the regional economy.

Funding for this study consists of $30,000 from Garfield County, $30,000 total from Pitkin County/Aspen/Snowmass Village; $1,000 from Rifle for a total of $61,000. The contract with the consultants if for $55,000 leaving us some cushion and wiggle room.

Randy did not hear anything further on the Aspen on their $30,000. Martin confirmed they did approve it.

The question is do we accept Rifle's $1,000 and confirm a previously affixed signature by the Chairman on the document.

Don formulated the action the Board needs to take is to accept the money from Rifle without execution of the IGA, to authorize the Chair to sign the IGA now with Pitkin County and to confirm that the previously signed agreement on the origin of destination.

Commissioner Houpt so moved. Commissioner McCown – seconded; Rifle didn't sign because they didn't want o have to pay their attorney $1,000 to review the complete IGA. Motion carried.

The official signed document was not returned from Pitkin County.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update

Personnel in County Attorney's office and legal advice on the 10:15 a.m. item with RFTA and the Library covered under Section 23-6402(b).

Ed, Jesse, Mildred, Don, the Board and Carolyn were to be present.

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

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

COMMISSIONER REPORT

Commissioner Houpt – remember today is Martin Luther King Day and all his accomplishments; Thursday City of Glenwood – decided to join Northwest COG – makes sense if we can join both Northwest COG and the Associated Governments – Tom Stowe – Eagle fees are twice what GARCO would be – he supported the fact and tripled in grants – put on a later agenda to join as a County; RS2477 on Friday, next meeting, invite Russell George to gain his perspective on the issue and educate ourselves that will ultimate result in ; tour with EnCana on Grass Mesa, Rural Resort on Thursday, and Friday in Denver CCI.

Commissioner McCown – last week met w

with County Fire chiefs – adoption of the Building and Fire Codes; meeting in Rifle on Thursday.

Chairman Martin – Sound barriers – one in Garfield County is the first – direction on Transportation; met with Emergency – it was a disaster – grants - ; Denver CCI last Friday – new legislation and met numerous people from Garfield County to see their entries at the Stock Show – a very positive feeling – a lot of people still involved in agricultural.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to Sign the Agreement with Insurance Information Exchange for MVR reports – Mike VanderPol
f. Authorize the Chairman to Sign the Agreement with Wright Express – Mike VanderPol
g. Authorize the Chairman to Sign the Resolution and Final Plat for the Maves Exemption from the Definition of Subdivision. Applicant: David Maves – Fred Jarman
h. Authorize the Chairman to Sign the Acknowledgement of Partial Satisfaction No. 2 of the Subdivision Improvements Agreement for Aspen Glen Filing 4 (Sundance). Applicant: Aspen Glen Golf Company – Fred Jarman
i. Authorize the Chairman to Sign the Special Use permit for Dalbo, Inc. applicant: Dalbo, Inc. – Fred Jarman
j. Authorize the Chairman to Sign a Renewal of Purchase of Services Agreement with Sullivan, Green, Seavy, LLC and the Norris Dullea Company for the State Model Land Use Codes for 2004– Mark Bean

Remove b, and c – f; and remove i for discussion.

Remove – item e and f were requested to remove and allow Mike and Marvin to leave.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – j - removing b, c, f, and i - ; carried.

Item f – Carolyn hasn't reviewed Item f. The card would allow employees to use this at many gasoline stations and the company essentially acts as a broker. Road and Bridge has informed Carolyn that there was only a $40 set up fee and then a $2 per card per month charge for this brokerage service and each card can be detailed so that card by card you can decide whether or not to include such services such as repair, maintenance, towing so that not all vehicles would necessarily need those services. Carolyn needs to review this contract and ask Mike VanderPol to come back.

Item i – Dalbo – Commissioner Houpt requested that the Planning staff be present as there was a complaint received from a residence living in Battlement Mesa on Stone Quarry Road that Dalbo was blocking the right hand of the road on several occasions while filing their water trucks.

Don suggested that the conditions for the Special Use Permit be reviewed and this issue brought back during the course of the afternoon; it probably is traffic but will bring it back.

Continued Executive Session

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

Don clarified this was to discuss with the Board under the provisions of Section 204-6-402(4)(b) litigation –Crystal Market Place and Carbondale and your potential involvement in that case; Crowley Litigation and the Lift-up Building. Under Section 24-6-402 (e) contracts and other direction from the Board concerning initiation of discussion with RFTA on the RFTA Contract, inquiry from the Board regarding the need for legal advice on the Road's Exemption discussion, there's pending Land Use Issues for pipelines, the CARE contract and the contents of that agreement.

Carolyn, Don, Ed, Jesse, Board, and Mildred were requested to be present.

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Brian Mackey reminded the Commissioners that the Oil and Gas Commission hearing is being held out here on February 9, 2004 and all of the Oil and Gas Commissioners will be attending that as well. This starts at 3:30 p.m.

REGULAR AGENDA

Human Services Commission

a. Recognition of Infant Care Capacity Contract Awards

Monies have been set aside to provide financial assistance to create and maintain infant care in licensed child care centers serving the residents of Garfield County. The individual contracts are under $10,000 and include an opportunity for centers to request assistance for specific needs including equipment or minor renovations required for licensing infant slots. The contracts are:

Our School – Glenwood Springs -	$2,948.00
Blue Lake Preschool – Carbondale	4,500.00
Yampah/Mtn Boces Teen Program – Glenwood	5,538.00
CMC Even Start – Glenwood/Rifle	7,000.00
Summit Preschool – Rifle	8,000.00
Total	$27,986.00

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the awards as presented; motion carried.

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

Board of Health

Healthy Beginnings

Wanda Berryman – addressed the Annual Community Health Plan and Progress Report portion noting prenatal report pages 8 - 10 – this deals with the goal of the goal for low birth weight. They are already low but still trying to lower it and also improve entry into the program during the first trimester. Also getting their enrollees into the WIC program. Compared to the State they are real low; The State is 8.9%; Garfieldield is 5.9% for private care; Healthy Beginnings is a 5.4% and the Target is 5%. They are very proud of their percentages.

Good news – they did 40 subsidized tubal ligations last year.

Community Health Plan for 2004

Mary Meisner submitted plan and progress report for the goal of control of communicable Disease.

The plan outlines the way they plan to go in the year and includes measurable goals and objectives and how they can evaluate those. She explained these various goals to the Board, the strategies and activities to bring about the desired result and the time frame involved. She reported of a 6-day old referred from Rifle to the EPSD clinician and how they were able to very quickly have the child seen at the clinic and later underwent open heart surgery; the child is coming home tomorrow.

For employees, due to the deduction for the annual physical from $325 to $125, Mary encouraged that blood work be done by Channel 9 program – it costs $30.00. There are about 20 booths. This is coming up in July.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the renewal contract for $9,781.00 for the Immunization Program in exchange for the promise of the Contractor to continue to perform the work identified in the Original Contract for the renewal term of one year, ending December 31, 2004; motion carried.

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

Immunization Program Contract CDPHE

Mary stated this contract is for $9,781.00 to perform the work identified in the Original Contract ending December 31, 2004.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the contract for the Immunization Program Contract CDPHE for $9,781.00. Motion carried.

Approval of December 2003 Disbursements for Social Services

Lynn stated this is in the amount of $71,222.76.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve those disbursements; motion carried.

Board of Social Services

A motion was made by Commisisoner McCown and seconded by Commissioner Houpt to go into the Board of Social Services; motion carried.

d. CORE Services

Wendy O'Leary, Child and Family Services Manager, submitted a proposal to the State for a County-Designed Core Services Program that provides specialized 'Adolescent' Mediation Training to caseworks, as well as to mental health, probation and YouthZone workers. The Department has accepted the monies in the amount of $20,565, which is an 80-20% funded program

e. Allocation Update

Lynn stated that at the February Board of Social Services meeting, they will plan to provide a quarterly update on the Department's current financial position in relation to the state allocations and/or contracts. Two areas of specific concern are Child Welfare and regular Administration.

f. Audit Review Update

The department is now scheduled for an IVE Child Welfare Program Review/Audit towards the end of January and a Single Entry Point Annual Certification Review Site Visit on February 5 and 6. The Single Entry Point Draft Report of the Financial Compliance Review has not yet arrived.

g. Program Reports

Lynn submitted the program reports in the packets for the Board's review. She noted they were still concerned regarding the number of placements and monitoring closely. Next month, she will have a financial quarterly report for the board. She is currently concerned about the projections for both Child Welfare and County Administration. She was in Denver last week attending many meetings on CBMS (Colorado Benefit Management System) – the computer system is still a concern as to how and when it will be implemented. She will be working closely with the IT Department.

Lynn updated the Workman Compensation (2) cases still open for the public record for those who had to go to the hospital for the exposure problem at Taughenbaugh.

Update on the State Conversion

The date is still set for April 24, 2004 and we have 48 hours and if there's anything wrong, the State only has a plan for 48 hours and after that we have to come up with a County Contingency Plan in terms if there's any huge breakdowns in that computer system. The information Lynn received last week is there's good and some not so positive happening with the data pass test and where they are at, but the State is almost convinced they can go up in April.

The Legacy System they are under now will be turned off so then we're on our own. The question asked last week was if they would be able to go back to the Food Stamp coupons and the answer was absolutely no. They are stuck with the EBT credit card system. Lynn will be meeting with her staff to review the County Contingency Plan. Her department is where they need to be with the State. They predict the error rates are at 7%.

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

As the Board of County Commissioner Board

Consideration and Approval of Placement Contracts

Lynn stated these will be over $10,000 for 4 children who have entered out-of-home care. Also, for the Board's information, due to fiscal concerns and the setting of priorities in the TANF (Works) Program, the Department is not renewing a contract for services with RE-1 School Districts Family Resource Center. Also, The Department is not renewing the Intensive Case Management services with Colorado Mountain College but will be maintaining the collaboration with the Wo/Men in Transition Program including the Link Program in the amount of $4500. These referrals have significantly increased due to the changing needs of our clients.

A motion was made by Commissioner McCown and seconded by Commissioner McCown to approve the contracts as follows: Loving Homes - $22,706.65; Hand-Up Homes - $14,545.25; Emily Griffith - $15,096.40; and another for Emily Griffith - $15,096.40. Motion carried.

PUBLIC MEETINGS
DISCUSSION REGARDING MEMBERSHIP IN RFTA – JACQUE WHITSITT
Don DeFord, Jacque Whitsitt, Chair of the RFTA Board, Heather Copp CFO, and Dan Blankenship Director CEO were present.
Dan reviewed the memo.
The purpose of the meeting today with the Board of County Commissioners is to explore the willingness to enable Garfield County voters or some segment thereof to determine whether they wish the County to become a member of RFTA in 2004. Ultimately, an amended IGA would need to be crafted that would detail all of the terms and conditions under which Garfield County's admission to RFTA would be predicated. Then, the amended IGA would need to be submitted by Garfield County for two public hearings before the issue could be placed on the ballot in November 2004.
Additionally, Dan said sort of becoming a member of RFTA there are other funding mechanisms and contractual arrangements that could be explored that would help to provide more stable sources of revenue for transit and trails. The objective for RFTA is to develop better communication, coordination, and cooperation with Garfield County around transit and trail issues.
RFTA has been encouraged by the growth in demand for the Grand Hogback transit service. The total ridership in 2002 was 19,358 while for the full year in 2003 was 44,167 and from April through December there was a 71% increase in ridership. Therefore in order to achieve the congestion reducing results that are desired for the West I-70 related traffic, more resources will be required. To this end, achievement of the goal will be easier if there are more communities participating in the effort.
Jacque Whitsitt thanked the Commissioners for giving them some time this morning and secondly on behalf of all of us, thank you for the financial help you have been giving us both on the Hogback Route and the Trail. Those of us on the RFTA Board and in our own communities know it's been like getting blood out of a turnip the last few years to find any extra money and that you basically have to borrow money for Peter to pay Paul, so we thank Peter, whoever that was.
Chairman Martin – keep gambling. Does that give you a clue?
Jacque introduced everyone at the table and said they wanted to have a discussion with the Board to get some honest feedback as to how you feel about the thought of putting a vote for your voters, hopefully in November, to see if the citizens of Garfield County would be interested in joining RFTA. I think that's the gist of it. As you know, you can't keep pulling money out of the General Fund, none of us can and about the only way that we're going to able to keep services going adequately in all parts of this region is for folks, the individual citizens to decide if they want to pitch in and help pay for it. I think you're also aware that this the Hogback service itself is being subsidized at about $350,000 approximately and I think we want to keep that going, we know it was very, very important to Glenwood Springs to in order to even sign the IGA that we have service to Rifle but it's basically killing us, so we definitely help on that and I think at this point I will turn it over to Dan for a few comments. We assume you have read the memo that we gave you so we're going to steer clear of the history, you know what it is and get right to the point.
Chairman Martin – all right.
Dan Blankenship – thank you again for letting us be here this morning. And again the reason we're here again this morning is to get some indication of your interest in working with us to craft an amendment to the RFTA IGA that would allow this issue to be presented to your voters in 2004. Ideally we'd like to see the entire County come into RFTA but for a number of reasons, maybe there's only a portion of RFTA that would really make sense at this time, or a portion of Garfield County that would make sense at this time to become a member of RFTA. The process is really fairly straightforward but it's one that needs to be undertaken fairly soon in order to meet the deadline of having a ballot question in November 2004. We need to kind of work out the particulars, the conditions upon which Garfield County would want to be a member of RFTA and in which the other jurisdictions that represent RFTA would allow Garfield County to come in, tax rates, vehicle registration fee, what Garfield County expects in turn and those kinds of things. And that process in and of itself could take several months; we could craft an amendment, give it to Don DeFord, he could work with staff or with the Commissioners to see whether or not that met your requirements, what kinds of changes you'd like to see made, with the goal of having that agreement available to submit to public hearings and we require two public hearings that the Commissioners would have to hold before it could be placed on the ballot. Mildred knows all the timeframes that are involved to get something on the November Ballot and we have to kind of be there by the latter part of July or August in terms of notice and those kinds of things. So that's kind of the basics. And I'll let you ask any questions you might have at this point in time.

Heather – I think the key point we wanted to outline was the time frame and we were looking at really needing to, if you're interested, start working with staff or you directly on looking at that IGA; we need to have a number of public hearings related to the IGA and that's kind of the first step you said, dealing with the campaign issues and those types of things. We're really like to have that discussion going on as soon as possible if you're interested in any way, shape or form whether a part or all of the County and also we need to talk to those jurisdictions within the County that might be interested also. So we're kind of also at the point where we need to move forward or we're not going to make the November timeframe. I did want to mention there's going to be a citizens advisory committee meeting on Thursday night in Silt, I think it's at the Fire Station, is that correct?, where RFTA's not really doing a presentation but they're getting together with the citizens to discuss the Rifle/Silt/New Castle I-70 Corridor as it relates to RFTA and the services that are being provided there also.
Commissioner McCown – just one question and it's fairly diluted related to the Hogback Routs and that amounts to about $7.32 per rider per dollar contribution, isn't that pretty standard throughout the rest of your system too? The last time Dan was here may a time or two before, about $8.00 for every dollar was the subsidy rate that he alluded to, so I see this isn't too far off what the other subsidize rates are throughout your system..
Heather – as far that's concern, that's correct. We're getting, every year that we get additional riders, we're up to 44,000 riders in 2003, which is remarkable, it's a ways past what we were expecting which was about 32,000 for 2003, we're over 44,000, so the ridership is definitely exceeded where we thought it would be and the subsidy of course, is we think about right as far as the fare versus the total. The issue is the fact that people are not in the district are receiving that subsidy, so there not in the RTA and so other members of the RTA are paying for that service that they are getting. I did want to mention the EOTC, which is the Elected Officials Transportation Commission, which is made up of the upper valleys; we going to have to cut service to Rifle this year as part of our budget cut and they actually stepped in and provided additional $40,000 to keep that service going this year above and beyond the allocation for the valley service and so and one of the things they really wanted us to look at was that subsidy issue that the communities that are currently within the RTA are actually paying for an area that is not in the RTA and they would at least like to see the ability for us to ask that question of the voters and say "are you interested" in this or not. If not, then we can make some decisions on the Board and maybe Jacque can speak about that, where the Board is at on this. But, we're kind of in the state of limbo not knowing whether they want to join or not and how satisfied they are with the service and what services they would like to see, cause right now we can't even look at expansion of services without any more dollars because of the $350,000 that we're taking out of our budget right now to run that service.
Commissioner McCown – you know that when you're coming before us, what we can represent here is the unincorporated portions of Garfield County. Should our neighbors in Rifle, Silt and New Castle not elect to be participants and this moves forward to a ballot issue, it would only be for those people in the unincorporated portion of Garfield County.
Heather – we recognize that and we recognize that we need to go to the communities but we are also looking forward for some direction because we're like to start surveys in the next couple of months to really see where that – you know we need to have that survey based on to see where we can actually be successful and we'd like to go into those surveys knowing kind of where you guys stand from a County perspective on that.
Chairman Martin - yeah and that's based upon the new sales tax that would have to be raised within the unincorporated area. There's one other little clarification and we always seem to miss that and that we provide service to our guests through RFTA and there's tremendous amount of rides allowed, I think 8,000 rides out of Aspen alone that are guest rides that are free. And I think that is subsidized by the ski industry but they receive that benefit as well, it's not just that the employees or the folks that live in Garfield County use it, it's the guests that we also have. That's an important factor too that we seem to forget.
Commissioner Houpt – Well, I think that's why it's so important that you look at sales tax because they're here spending money and helping subsidize the public transportation that we have in place. I don't think there's anyone who can argue that RFTA isn't providing incredible service when you look at the number 44,000 riders in 2003, that's remarkable. We had a meeting with Rifle the other night and this just came up because they were talking about a bus stop by Wal-Mart. And I threw out a question that I guess was a little blunter than I expected it to be, but it was basically the question of how far are you willing to go to keep bus service in Rifle. And so it's on their radar screen and I think they're really talking about that; they

appreciate the service that Rifle provides. I think it's time for us to have a ballot question that we take to the voters.
Jacque – Tresi, may I ask who you asked this question of, was it – and the reaction.
Commissioner Houpt – City Council and the reaction was positive. They have a new – I got all these calls the next day, what's going on?
Chairman Martin – the response was how much does it costs us and how much are we contributing. The answer was zero; they said that's a great deal, they love it.
Commissioner Houpt – well, it's a new City Council and there were some members who were surprised that Rifle was not a part of the RFTA membership. And so I think you have people in Rifle who are very receptive to a presentation and the notion of – my sense was the notion of becoming involved. I believe its absolutely time for us to be involved both in terms of getting a tax question on the ballot and becoming – meeting to discuss the IGA and how we need to rework that to make that happen and the vehicle registration fee. My big question still is, where we draw that line, we're looking a service almost completely across Garfield County so I would be hesitant not to take that question to the entire County.
Chairman Martin – I think that's where it needs to go; its either the County and I think some of the Statutes said, provide the direction say include the entire County, it's an entire unincorporated County Question, the cities wish to participate then that will be another ballot question for them.
Commissioner Houpt – well yeah, and that's the question whether the entire County votes for other people paying, of course another county paying, but you know I think we've gotten to the point where RFTA has grown far enough west that it makes more sense to include the entire County on a ballot question.
Chairman Martin – Yelp.
Jacque, I have a question and it may just be ignorance, but I wasn't aware that the unincorporated people in the unincorporated county could be separated out on a vote or if it was Garfield County vote that the people in towns –
Chairman Martin – as I understand it, it would only be the people in unincorporated area and that's what we went back to Dan and I's discussion was for many years it seems like, is there enough tax base in sales tax dollars that are generated in the unincorporated areas to provide the necessary wherewithal to provide that service – I don't think there is because he's got to have the municipalities, what collects and lives off the sales tax which we don't ….
Commissioner McCown – it's where people in Garfield County spends their money is in the towns. We have very few businesses in unincorporated Garfield County.
Dan Blankenship – I think what makes sense for Garfield County to be a part of RFTA, even though at this point its maybe a little difficult for us to get out the precise numbers of what would be available to us in terms of sales tax or albeit vehicle registration fees in the unincorporated part of the County, that's some work that we would need to do, I think that the amount based on estimates that we've had in the past which may or may not have been accurate is probably higher than what the county is currently providing through the general fund draft. So that would be a plus to us because anything more in needed and greatly appreciated. The second thing is there's a lot of planning for commercial and residential development in the county so it would be good to hold a conversation about those issues as it relates to transit in the future. And the third reason, maybe one of the most important reasons, I think and this is just my impression, but I think the communities in the I-70 Corridor and perhaps throughout the County look to the County to more or less give its approval to this sort of thing. If the County is a part of this organization, I think that our task of bringing in those other jurisdictions in would probably be easier than if the County said, this doesn't make sense to us, we don't want to be a part of this. So there's a symbol tic reason for the County being involved.
Chairman Martin – and a very practical one – general fund dollars that is, are under constant attack; there is not extra general fund dollars. The only way that RFTA and Garfield County – there's two ways, one is, which is to contract, which is again general fund dollars the other one is to have an entire tax on the entire county and that revenue source is based on sales tax, which allows us to go ahead and have service. If we don't have a revenue source I don't know how we belong to RFTA simply because of dollars and sense.
Dan – and that's the primary reason that other communities haven't joined RFTA, it's important for both on the Rural Transportation Authority, you're Basalts, your Carbondale's, even your Glenwood Springs communities were getting to the point where they felt that pressure on the general fund and said let's let the voters decide this and if they're for it, then they've provide the funding mechanism and so that's the way they went.

Heather – added - one of the commitments you made this year that was large was the Trail and keep in mind that RFTA is not just the transit agency but also the Trail Network on the Rio Grande and so I think from standpoint of having a voice at the table and being part of that larger project from Aspen down to Glenwood would also be in the County's best interest too, to have a voice at that table.
Chairman Martin – separate source of funds though, one happens to be Lottery Fund which we get based on the population of the County and the dollars that were generated. It does not come out of general fund. Therefore we have some flexibility to do that and venture out into that, but that is also governed by how much we receive in other projects. So again that's not an attack on general fund dollars so we're able to do that easily. But we have to have that other funding source go to transportation which we do not have.
Commissioner Houpt – we need to do trails as well so we can be a part of the discussion and increase the amount that we can actually give towards that project. I think you for your patience actually over the years, I think you've created some incredible bus routes and opportunities for people in Garfield County and I would like to make a motion – are we ready for that?
Chairman Martin- for a motion?
Commissioner Houpt – well, I'd like to make a motion that we
Chairman Martin – we haven't even called on anyone in the audience if they any discussion, do we have anyone in the audience that would like to give input on this discussion?
Commissioner Houpt – this is a public meeting
Dan – we didn't try to –
Ed – does RFTA envision an entrance fee as was characterized in earlier years that would come out of our general fund, I presume?
Dan Blankenship – I can really say there weren't any entrance fees for the other communities, they were contributing to RFTA previously from their general funds and at the time RTA was formed they started making their contributions through dedicated sales taxes, so we wouldn't be looking for something over and above that a buy in type.
Heather – like an athletic club sort of thing?
Commissioner McCown – even though you may be looking for that, isn't that a possibility that is clearly voted on by the existing board?
Heather – well, I've been on the RFTA for almost eight years, part of the time as non-voting, non-funding and I've never heard anything like ever discussed.
Commissioner McCown – if you will read the IGA that is a possibility.
Chairman Martin – it is.
Dan – I think there is tremendous flexibility in that Intergovernmental Agreement and there are things envisioned in there that are probably never going to happen, but if there was such a clause or a requirement on the part of the board, then it would be addressed in this IGA and you folks could even negotiate it out for you if you decline to put this thing on the ballot, so you have a lot of tools at your disposal to make that the agreement is exactly what you want.
Ed – my next question, can there be clear separation between bus and rail?
Dan – in the Intergovernmental Agreement, because this was an issue when RFTA was born initially, there were a lot of concerns about it, it was a back door for rail, so there is a requirement that any construction of a rail system within the jurisdiction, less we submit it to a vote and the people that live in the area where the rail would probably go.
Heather added – I think we've done a Corridor Investment Study for that project, and rail's not envisioned anywhere in the next between now and 2030 – there's no funding for it, there's no overall consensus for it, the locally preferred alternative is a bus-rapid transit system that run the existing highway structure.
Chairman Martin – the other question being of course, Dan, is on the budget, and Heather's very familiar with this one – when the sales tax falls short, where does the extra money come from and isn't that pledges from the general fund dollars of the members? Where does that come from?
Dan – to this point in time there have not been any additional contributions from any specific jurisdiction that's a member of RTA, when we run into a shortfall, a situation, we've had some discussions about perhaps approaching Eagle County because they're contribution to RFTA is less after we formed than before we were formed, but to this point in time when we've had a shortfall, we've gone to the elected officials transportation district which is a consortium of three governments that administer about a $14 million dollar fund for transit in the upper valley and to this point in time once again, they have generally helped us out because they understand the importance of these services, they largely benefit the upper valley, it's in their best interest to keep them going, and we understand when difficult economic times this

is not something they intend to do forever but in the short term they've been willing to help us, not only in terms of operations but they've been investing in capital improvements.
Heather – and if I might also be brutal honest, we are handling, the RFTA Board handles their finances just like all local governments do, which is sales taxes go down, and you start cutting away at what you have to cut away at and it's a joint decision – and I think you have attended enough RFTA meetings and so has Tresi to see that you know the playground is pretty fair on the deal, governments are kind of split down valley up valley as much as I hate to say that and people have a different understanding down valley than they do up valley and so people, we cut fairly. This year in order to deal with our shortfalls we did numerous things – internally no raises for the employees, those types of things, but also we're looking at service reduction and we were planning on making those reductions and when they were cut across the board all the way from Rifle to Aspen and that's when the elected officials came in after telling us they were not going to fund any operating costs, well, we didn't – we were going to cut service up here. So when you start looking at it from a regional perspective and the entire region, we've been very equitable when we've talked about increases or decreases in the service and I think the board works very efficiently from that standpoint. I think this would give you another voice at the table to have that regional view, which we kind of feel is lacking down at this end of the valley because the County's not part of it.
Chairman Martin – as members, but
Dan – you do attend the meetings
Chairman Martin – yes we do contribute in one way or another
Heather – not as a voting member
Chairman Martin – but to answer the question, again, back to the Intergovernmental Agreement that is there, on shortfalls of sales tax, dollars, etc. there is a provision to allow the assessment back to the members to meet a shortfall. I do believe it's in there.
Dan – I do believe there is something in there in the RFTA agreement related to the purchase of the right of way and maybe operating costs but there is certainly nothing from my knowledge in the IGA that would enable us to impose an assessment on the jurisdictions – there's nothing to keep us from coming and asking – there's nothing to stop you from saying no.
Commissioner Houpt – and I believe what we're giving direction to, if we approve this today, is for staff to start negotiating with RFTA on the IGA and going through the IGA with a fine tooth comb and preparing for the opportunity to put it on the ballot in November, so all of the IGA discussion will take place in future meetings and we will having hearings on that as well so with that in mind I want to make a motion that we support putting a tax question on the ballot in November to support RFTA and allowing Garfield County to become a member of RFTA and that we direct legal staff to start working with RFTA on the IGA.
Commissioner McCown – point of clarity, does your motion include all of Garfield County?
Commissioner Houpt – all of Garfield County.
Commissioner McCown – second.
Chairman Martin – all right. Discussion. This would include Garfield County in the entire tax question.
Commissioner Houpt – uh huh.
Chairman Martin – I think we've got two questions there and one ballot question – number one is to join RFTA and the other one is to propose it a tax question, needs to be two different questions.
Commissioner McCown – maybe negotiation will bring that to light, but I don't see one happening without the other.
Chairman Martin – just to make sure
Commissioner McCown – I do not see us becoming a participant without a funding mechanism.
Commissioner Houpt – no and my motion is to have us move forward in allowing that to come into place, it also, I guess, if we're including everything, I'd like the discussion on the vehicle registration to be a part of that discussion as well. Would you mind that as a second?
Commissioner McCown – no
Chairman Martin – you would amend that second?
Commissioner McCown – yes I did.
Chairman Martin – it is already in the Roaring Fork Valley and the City of Glenwood Springs and Carbondale that it's already being collected,
Commissioner McCown – again a point of clarity that this would only be unincorporated Garfield County as the interpretation of the County.
Chairman Martin – discussions for clarity and to try to form the question to allow it to be on the ballot, is what we're after.

Commissioner McCown – at times there is confusion from our us being in unincorporated areas when it's issues they are County citizens, but in this type, they are immune from this because they live in a city and I just want to make sure we're on the same page and not including those in the towns if we do not have the authority.
Commissioner Houpt – they are County citizens but as I understand it from Don, it will just be unincorporated Garfield County that's impacted by the question.
Don – that's correct, they are in their own political subdivisions that have their own ability to negotiate an agreement with RFTA and they will need to do that.
Chairman Martin – and I think we did say that we look forward on working on a question to allow the citizens to vote, taking that tax question to them, so.
Commissioner Houpt – my motion included that.
Chairman Martin – I know, just clarifying our position. Call for the question – Houpt – aye; McCown – aye; Martin – and aye. So it is unanimous.
Jacque and Dan complimented the County and also Mildred for getting the MV RFTA tax on board.
DISCUSSION REGARDING THE LIBRARY – DON DEFORD
Jaci Spuhler, Library Board Members John Stroud, Paula Bush John Steele, Tom Lamone, Menda and Cheryl Currier, Tom Stuver and Don DeFord were present for the discussion
Jaci Spuhler, Director of the Garfield County Public Library System submitted a letter to Commissioner Chairman John Martin regarding the Parachute Library remodel. She addressed a complaint he had received from D & D Builders noting that this has been addressed by Library Attorney Tom Stuver. The issue hinged on the architect, not on the purchasing policy. She stated that the purchasing policy is within the state regulations and all submittals for this project will be judged on their merits.
State Energy Impact funds are being sought but have not been awarded.
The Library operations are governed by its own policies and State Statutes noting that under C. R. S. 24-90-109, the Board of Trustees (appointed by the County Commissioners) has specific powers and duties. Jaci outlined these in her letter. The Garfield County Public Library System maintains its own procurement policy and administers its own contracts. Therefore, using the County's Contract Administrator and County Procurement Policy is unnecessary at this point.
Don – concern was that it indicated the application of one of the Library policy and whether or not the Procurement – and brought this to the Board – one a letter from Tom and the Procurement – response from Jaci on that.
Board is to review and asked the matter be on the agenda and discussed.
Tom Stuver referenced his response – they are divorced from many areas of the political arena and has always been governed that the appointment of the members and approval of the annual budget represents the balance of power. Recognizing that responsibility there doesn't mean there could be an expansion and in some areas the Library has accepted County services and has recognized good working relationships.
The discussion by Don and Tom Stuver was the recognization to maybe do service to both of our boards by adopting policies that would interface with both operations, share and review that documentation to see if there is good reason for departing from the other board's practices or good reason for adopting the other board's practices to make it a consistent operation. As to the Procurement Policy – this was never submitted to the Library and not liable on the Library. If you apply your Procurement Policy out there then every book has been purchased illegally.
Chairman Martin – we can save in purchasing and it was open to the Library at a meeting of the Library Board, we did not dictate they had to be under ours but stated it was to be for a savings for them.
Jaci thought it was only for Sandy's for office supplies.
Chairman Martin – clarified it was even for snow removal and there has been a couple of conservations and it has been suggested that this is a very good way of saving money.
Tom Stuver – The Contract Administration stated after the Procurement Policy adoption in 2001, a copy of it was to be provided to all affected agencies and it was intended to imply that part of the Resolution was policy and as far as he knows this was never submitted to the Library as something was governing it so in that respect practice is inconsistent with the suggestion that the Procurement Policy is binding upon the Library. Secondly, applying would be inconsistent with the expressed provisions of the state statute that indicates the Library has exclusive control over its expenditures once you've made the appropriation. If you are implying that the Procurement Policy was over the Library for the last 3 years, then every book acquisition would be run through your purchasing officer – it's never been suggested. It's a lot different to suggest the Library use the Procurement Policy rather that suggesting it was bound by the practice and the

apparent perception what the County Purchasing Contracting Officer in conversing with the potential bidder on the Library project was the impression left with that bidder that the Library was bound by the Procurement Policy and it was inappropriate for the Library to have submitted it's bid package or given information to that bidder that was inconsistent with your Procurement Policy. This may have aggravated any problems with this bidder rather simply referring the bidder back to the board which has invited the bids. Unspoken at this point, a clear error was made by the Library's architect in communicating the position of the Library Board to that bidder.
Commissioner Houpt – this was probably unintentional and probably thought you were supposed to be working under our system. It is an offer we would make to you; this Board recognizes that the Library has the statutory direction to choose which way you want to go with your process.
Jaci – I do think the lack of the Purchasing Contractor – he didn't disabuse the contractor of the notion that perhaps the contractor should be talking to Jaci and the Library Board rather than the County. That's where some of the issues were exacerbated.
Commissioner McCown – in the Statutes that Tom quoted that you feel gives the Library Board the authority and the clear severance to act on its own, do you think that it gives the same severance and gives the County protection should civil action occur against the Library and the Library Board that the County would be excluded from that legal action?
Tom Stuver – the short answer – yes. The lengthy answer is that doesn't stop someone to sue the County, it also especially if the County has insinuated itself into the process. If we keep the lines carefully drawn then the chance that the County would be involved is minimized, because there's a clear focus on responsibilities. When we shade in on others responsibilities, you expand the possibility that the County might be named in some suit. He reminded the Commissioners that each of the Library buildings is owned by the Library Board, not by the County. There's a distinct difference as authorized by statute that this Board will be holding title to its own assets and management.
Commissioner McCown – relayed that they have encounter problems in the past as that liability from any Board that we appoint transfers over to us.
Tom – nothing in case law where that transfer is made. Because you have those two limited functions – appropriating and approval of the budget. In appointing members of the Board if they go out and do wrong then it can be said that you should have known when you appointed them on the Board that they had to propensity to do or somehow negligently appropriate.
Don – reserved in addressing terms of liability but gave some good examples: several years ago a similar board where the Commissioners appointed the members and we were involved in litigation with that board and we made the argument of separation of authority and powers and the case was resolved before the Board ever ruled on that issue, but Tom's point is well taken. Legally there is a separation but it doesn't stop plaintiff's counsel from bring the County into the case and we would be have to defend. Similar circumstances you see with elected officials in the County where you approve budgets and funding but you do not become involved in the day to day operations of their offices. And to the extent they agreed to be bound by the Procurement Code or Personnel Policy, they are bound, otherwise they are not.
Chairman Martin – do have the Library's best interest in mind and save every penny we can so we can use it on the Library. We want the expansion to take place, want to make sure we're not held up in some litigation that would take that money we could use for expansion of the Library and use it in court.
Jaci – no doubt that this is the Board's intention.
Ed – the reason for the letter was the concern we had with guidance provided to vendors. Mr. Stuver's response to that vendor attached State Statute 8:18.101 which is precisely a concern we expressed in our January 9th letter. The point is that you don't have the guidance that emanates from Statute 8:18 in your purchasing policy so he at least asked that they take a look at your purchasing policy and make sure that it flanges up with State Statute.
Chairman Martin – that was one of the intents to go ahead and put you under the Purchasing Policy so that you were covered under all of those provisions. That is our protective role was at that time and expressed that through the letter and hope to work together to get the rough edge taken care of.
Jaci stated that one of her goals for this year happens to be looking at our operational policies and that suggestion will be taken immediately and they will be looking at our purchasing policy.
Chairman Martin – the other thing it not to have duplication of efforts and if we're able to help each other, the offer is there.

Jaci – the Library Board has retained their own Personnel Policy and the only policy that the Library Board that they have officially signed is the alcohol policy. It's up to the Library Board to look at your Purchasing policy and also the Personnel Policy and decide whether or not we would be better off to retain our own.
Commissioner McCown – your folks are currently under our insurance.
Jaci – yes.
John Steele – as far as the whole process we really meant to take advantage of your Procurement Policy and this was the main reason to have Chuck Brenner in the project so that certainly has been our intention at this point and time. As far as the Board's discussion with the process, our in-depth discussion is how we're going to get you to give us the $200,000 for this Library project.
Paula – reiterated they want to work closely with the Board of County Commissioners and really appreciate the quarter cent and are putting it to good use and reminded them of the Library Board meetings and would like to see a Commissioner to come and keep them updated on the happenings in the County. They are looking forward to getting their salary scales, these haven't been received yet.
Chairman Martin – those will be disturbed out to everyone as soon as they are available.
Jesse – had a question – he did not think they were going to be participating in our salary merit/matrix because you had already laid out what salary increases your people were going to get. Is this wrong?
Jaci – no, not in the merit/matrix but we do follow the scale itself of where you have placed people in the ranges and we look at that and that's what we agreed, part of the problem is that this year we had about 75% of our staff that had a job descriptions reclassification.
Jesse commented that was his understanding and did not factor them into any of the salary calculation; he took what they gave him as to what they would have so your performance ratings for example were not factored in as that would affect the rest of the county.
Jaci – all she needs is the figures and they'll be ready to go.
John Steele – we'll have the schedule put together next month for the meetings, but we do the road trips in the summer; we have six facilities, we take one every month meeting in Carbondale to Parachute.

Later in the Agenda
Rhodes Exemption – Mr. Stuver represents them and they are not available. The actual exemption plat granted to the roads and the other is the general transfer of property to the City of Rifle. The roads are not available.
Tom Stuver stated the Rhodes were out of town.
Don requested that the first item – the roads be continued until the Rhodes are back in town.
The Transfer of Property to the City Don said he would like to move forward.
Tom Stuver didn't have a problem with it.
REGULAR AGENDA
PUBLIC HEARINGS: CONSIDER AMENDING OR ADDING SECTIONS 2.02.431.3.02.03, 3.907.03, 3.08/03, 5.03.15 AND 9.03.01 OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED TO ADDRESS PIPELINES. APPLICANT: BOARD OF COUNTY COMMISSIONERS
Mark Bean and Don DeFord were present.
Don reviewed the public hearing notices and publication and noted for the record they were timely and in order and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Mark Bean submitted the following Exhibits: Exhibit A – Mail return Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Project Information and Staff Comments; Exhibit F – Memo to Mark Bean from Doug Dennison, dated 12/4/03; Exhibit G – Comments from the Colorado Oil and Gas Association submitted 12/10/03; Exhibit H – Comments from EnCana Gathering Services (USA) Inc. dated 12/10/03 and Exhibit I – Comments from EnCana Gathering Services (USA) Inc. dated 1/14/04.
Chairman Martin admitted Exhibit A – I into the record.
Mark reviewed his staff report stating the Board of County Commissioners is proposing to amend the Zoning Resolution to clarify and create new regulations dealing with the permitting of pipelines. One of the issues that need to be established is the definition of a pipeline, which is proposed to be the following:

2.02.431 Pipeline: Any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas, other petroleum derivatives or other liquid matter, ten

(10) inches in diameter or larger, which creates a hoop stress of twenty-percent (20%) or more at their specified maximum yield strength.

In addition to defining a pipeline, the land use, "pipeline" needs to be added to Sections 3.02.03, 3.07.03 and 3.08.03. These changes would add "pipeline" as a Special Use to the A/R/RD, C/L and C/G zone district.

Other changes to the regulations need to occur that deal with the performance standards and process timing contained in Section 5.03.07 and 5.03.08. A pipeline is not included as an industrial use in Section 5.03.07 of the Zoning Resolution and as a result, a pipeline is not subject to meeting the industrial performances standards. Additional or new standards need to be developed specifically for pipelines that deal with the following issues:

1. County Roads
2. Location
3. Site Specific Construction Practices
4. Water and Hydrostatic Testing
5. Watershed and Ditch Crossing approvals
6. Emergency Response
7. Site Specific Reclamation

Present County regulations require an applicant to have all other local, state and federal permits in place at the time of application. BLM has expressed a desire to parallel the County and Federal permitting processes, which would also help to expedite the overall permitting process. Section 9.02.01 and 9.03.01(1) need to be modified as well to basically state that supporting information, plans, letter of approval from other agencies or previously mentioned permits shall be submitted to satisfy the listed Conditional Uses in the Supplementary Regulations and prior to issuing the CUP, copies of all other approved permits will be placed in the file.

C. Staff Comments: As mentioned previously, representatives from the BLM have contacted staff regarding their interest in a parallel permitting process that would incorporate their Environmental Assessment process with the County's Special Use Permit process. It would allow an applicant to meet the permit requirements of the County and other agencies in a condensed timeframe. The length of time to permit a pipeline through the County's process has been an issue. The suggested changes to Sections 9.02.01 and 9.03.01 would allow for the parallel permitting process to occur.

Staff concurs with Doug Dennison in the assessment that the proposed regulations will increase the workload of the staff substantially, given the number of 10" or larger lines that are being built by EnCana presently. Maybe there is a different minimum line size that will accomplish the same thing. It has never been a major issue having the various gathering lines (as we used to view them) not go through a permitting process with the County. Part of the argument is that there is no more impact in construction from a 2-6 inch line than a larger 24 inch line. It appears that it takes more effort to install a 24 inch line than the smaller lines. Another possible solution is to define pipelines based upon the number of wells connected to the line.

CCI and COGA, along with the COGCC have developed some proposed revisions to the COGCC rules and regulations to deal with pipelines. The 1100 series of the rules and regulations is presently titled, Flowline Regulations. This new series will be titled Flowline & Gathering Line (Pipeline) Regulations in the proposed rule changes. In addition to the changes to the 1100 series, there is a new definition for a "gathering line" being added that states the following:

"Gathering line" shall mean a pipeline which transports natural gas beyond leasehold gas metering equipment to a compressor facility, processing plant or interstate pipeline connection.

The 1100 series requires the operator of a gathering line subject to the Office of Pipeline Safety, U.S. Department of Transportation to notify the COGCC 30 days in advance of construction by filing a plan of construction. The local government, over which the gathering line traverses, will also receive a copy of the plan, but there is no time by which it has to be received. The construction plan has to cover the general design, construction schedule and route, including a map showing all crossings of public by-ways and natural and manmade watercourses. The rest of the proposed regulation deals with pipeline material, design to prevent failure, cover depths on agricultural land, cover requirements for geologic, economic or other uncontrollable condition, excavation, backfill and reclamation, and pressure testing. There are separate sections for operations, maintenance and repair and abandonment.

After reviewing the comments and proposed regulations from CCI and COGCC, there is one issue that is very clear. Neither the proposed COGCC rule changes nor the U.S. DOT Pipeline Safety regulations have been adopted and may not be adopted in the forms proposed, once they go through their respective hearing process. Neither of these governmental entities has any regulatory authority over "gathering lines" at this time. The proposed COGCC regulations address a number of issues that concern the County regarding pipeline safety, but appear to be more guidelines than regulations. Some staff comments regarding the regulations would be:

a. 1101 a. – The proposed plan is to be submitted to the local government jurisdiction traversed by such pipeline, but it doe not provide a timeline for that submittal, i.e., "within the same 30 day period….."
b. 1101 d. (2) – An above ground pipeline is allowed by this regulation, this has been an issue in the County.
c. 1101 e. – "Reasonable efforts" to run pipelines parallel to crop irrigation rows on flood irrigated land is all that's required. Pipelines should not be allowed affect a surface owner's irrigation system, without the approval and acceptance by the surface property owner.
d. 1102 e. – An emergency response plan is to be submitted to the COGCC and the local government, but there is no timeline. Suggest that it be submitted to both entities at least 30 days in advance of the pipeline becoming operational.
e. 1103 – Any abandoned pipeline needs to have the abandonment certified and copies sent to COGCC and the local government within 30 days of abandonment.

At this time, Garfield County has regulations that require all pipelines to go through a Special or Conditional Use permit process, regardless of the size of the pipeline. The County's present regulations do not define a pipeline and the supplementary regulations require a pipeline operator to address issues that are irrelevant. Adopting the proposed regulation will at least define for the public, industry, elected and appointed officials what the County defines as a pipeline and establish the specific criteria for the review of a pipeline application.

RECOMMENDATION

The Planning Commission recommended APPROV AL of the following additions or amendments to the Garfield County Zoning Resolution of 1978, as amended:

2.02.431 Pipeline: Any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas, other petroleum derivatives or other liquid matter, ten (10) inches in diameter or larger which creates a hoop stress of twenty percent (20%) or more at their specified minimum yield strength. Pipelines regulated, licensed or permitted under federal regulations as interstate transmission lines shall be exempt from regulation under this Chapter.

3.02.03 Use, special: add “pipeline”
3.07.03 Use, special: add “pipeline”
3.08.03 Use, special: add “pipeline”

5.03.15 Pipelines: In addition to the requirements in Section 5.03, all pipelines shall be subject to the provisions of this zoning code and address the following:

(1) County Roads: All road cut permits to be issued for a pipeline need to be identified and permits issued prior to the issuance of a Special Use permit. Any encroachments in public right-of-way shall be shown on the application and approved by the Board of County Commissioners.

(2) Location: All surface use agreements with affected property owners will be included in the application, with a list of property ownership, including property without an agreement. The location of pipelines may be modified, where the companies do not have negotiated agreements with the landowners as to location and reclamation.

(3) Site Specific Construction Practices. Identify the times of operation, construction methods to minimize environmental impacts, noise levels, and approval of staging and storage areas and require traffic mitigation strategies. The County may impose conditions of approval related to these matters, including the limiting of days and hours of activity.

(4) Water and Hydrostatic Testing. Documentation proving the legal and adequate supply of water for the hydrostatic testing of the lines. The point(s) of discharge and the water quality of the discharge.

(5) Watershed and Ditch Crossing approvals. All ditches crossed by a pipeline shall be identified and approval from the ditch company included in the application. Any permits for watershed protection shall be approved prior to final approval of any Special Use permit.

(6) Emergency Response: Include in any application an emergency response plan, which must be approved prior to final approval of any Special Use permit. Included in the emergency response plan will be wildfire mitigation plan.

(7) Site Specific Reclamation. Included in the application will be a reclamation plan, to be reviewed and approved by the County Vegetation Management office consistent with County vegetation plan requirements.

9.02.01 Supporting information, plans, letters of approval from responsible agencies or other local, state and federal permit applications shall be submitted with the application and other information to satisfy requirements listed Conditional Uses in the Supplementary Regulations. Prior to issuing the Conditional Use permit, copies of all other approved permits will be placed in the file

9.03.01 (1) Supporting information, plans, letters of approval from responsible agencies or other local, state and federal permit applications shall be submitted with the application and other information to satisfy requirements listed Special Uses in the Supplementary Regulations. Prior to issuing the Special Use permit, copies of all other approved permits will be placed in the file.

Chairman Martin - a conduit is a pipeline not as it is as a “pipeline”.
Commissioner Houpt – CCI has not made any recommendations.
Mark - CCI and the Roundtable are still working on a proposal; there’s not proposal that’s been presented to the Colorado Oil and Gas Conservation Commission at this point, the earlier it might be reviewed right now appears to be April, if it’s presented to the Commission in February for consideration.
Public Comment:
Ken Wonstolen – Colorado Oil and Gas Association - reviewed his written comments that were submitted to the Planning Commission and the current version of the proposal that CCI and COGA are still discussing. Ken did talk to Mr. Bledsoe last week and his understanding is that other counties are generating some interest in this proposal and has sent materials out to these other Counties. From COGO standpoint, Ken has received no negative feedback on the proposal nor asked the Board to formerly endorse it, but plans to do it from their perspective at the February 4th meeting. They would be prepared once CCI has its position to go forward fairly quickly. This has to be in by February 19th to be on the docket for the

April hearing. Ken said they have concerns about the local process that's based on special use review which is the discretional land use process; in general they find that these kinds of discretional processes at local government levels troublesome because they involve the ultimate yes and no decision and often lead to political problems. In the last couple of weeks we have another Town on the Front Range which has denied drilling permits and happened to be next to the Town of Frederick and essentially they have the same ordinance that the Court of Appeals were overturned but nevertheless the political pressures were such that the elected officials felt they had to go down the path of litigation. COGO's recommendation on whether it's drilling permits or something like this would be to look more towards a site plan review process that is largely conducted at the planning level that may include a Notice to Proceed at the end of the process which would entail submission to you of construction plans, schedules, processes of public by-ways, water courses, etc. And that's why the very first section that we have in the COGO proposal that CCI has distributed 11-01 Installation and Reclamation, we have a noticed provision for at least four major projects and play off what the Feds are up to on this, notified the Oil and Gas Commission of advance construction in filing a plan of construction which would also be provided to the local governmental jurisdictions that are crossed by the pipeline covering design construction schedule and route, a map crossing the public by-ways and natural man-made water courses and the notion we had there was to make sure that local governments received 30-day notice in advance and could be the basis for a site plan review. The concerns of local governments can and will be addressed by this pending State rule making and also by the Federal rule making which is still pending and has recently had the comment date extended so that process is moving in general like the federal processes generally move. Our basic recommendation is that you defer adoption of a rule until we have the State rule and Federal Rule in place and the opportunity to identify if those rules leave any holes the Commissioners feel must be filled at the local level.
Gathering lines – they do not believe the definition. Flow lines to a production facility to a Recommended Process 80 that gets in all professional comments – there isn't a simple line to draw. The general concern is to try and stay away from SUP and stick with some kind of review. In Boulder County, they drilled 62 wells and required the Planning Department within a valid period of time and included a call it out of process. This takes it out of the Political review and places it in the hands of those qualified individuals to make the decision.
Every landowner has given permission in a separate document to the Oil and Gas Commission to be on their property.
Public Input was provided by:
Cheryl Chandler – changed her vote at the Planning Commission to a no making it a 4-3 no vote.
Trevor Boris – read the written comments included on the report.
Jimmy Smith, Jeff Reale from the oil and gas industry, Brian Mackey– State Oil and Gas Commission all gave input into the discussion.
Commissioner McCown – could not think of another industry that does self-reporting and self-regulating. Jimmy Smith agreed this is a concern and who is doing the pipeline; the standards of each. He suggested that a submittal form be included and the best policeman is the one who can best determine the operation.
Don – if the Board directs staff to redraft then he asked to focus on the definition of a pipeline. In any rewrite of this he would like to look at the term conduit as the board suggested. The other part of the discussion beginning with transporting, it talks about natural gas and asked if the Board wants to limit this strictly to natural gas or with any gas.
Commissioner Houpt – natural or more hazardous materials instead of other liquid.
Don suggested Gas, petroleum derivatives or other liquid matter. Don also asked the Board to talk about water being transported because it has been a contentious issue and outside of the oil and gas industry, the transport of water in a conduit maybe come an issue that this board will need to address
Chairman Martin – there was an issue in Carbondale about suspended solids within a liquid slurry; this would be included in a liquid matter.
Commissioner McCown – suggested leaving the public hearing open and continuing to a date certain of March 1, 2004. He made this in the form of a motion. Commissioner Houpt seconded; motion carried.
CONSIDER ZONE DISTRICT TEXT AMENDMENT ADDING SECTION 1.09, DEANNEXATION OR DISCONNECTION OF PROPERTY FROM A MUNICIPALITY. APPLICANT: BOARD OF COUNTY COMMISSIONERS
Mark Bean, Don DeFord and were present.
Don reviewed the public hearing notifications and determined they were timely and in order and advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers. A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations as amended; and Exhibit C -
This is being reviewed in another county and staff recognized that Garfield County has no way of regulating this. Staff at the Board's direction developed some language.
Mark reviewed the project information and staff report stating that the Board of County Commissioners is proposing to add Section 1.09 to the Garfield County Zoning Resolution of 1978, as amended. This section would identify the process to be used by the Board to establish the applicable zone district to a piece of property denied or disconnected from a municipality as a result of court action arising from 31-12-603, CRS. proceedings or other action that results in property being disconnected from a municipality.
Recommendation:
The Planning Commission recommended approval of the application for a zone district text amendment to add the Garfield County Zoning Resolution of 1978 as amended with the following:
1.9 Deannexation or Disconnection of Property from a Municipality
Deannexed property, not subject to Section 31-12-603, C. R. S., other statutory actions or Intergovernmental Agreements with municipalities or other counties limiting the applicability of this rule, shall revert to the County zoning in effect at the time of the original annexation of the property. If the property in question was annexed to a municipality prior to the County enacting a zoning resolution affecting the land, the zoning will revert to the same zoning in effect on the majority of the adjacent County properties. The County zone district designation will be effective on the date of deannexation or disconnection from the municipality. Any other zone district designation proposed by the Board of County Commissioners or the property owner of the deannexed or disconnected property shall be subject to the procedures for changing the zone district designation of a property contained in Section 10.00 of the Garfield County Zoning Resolution of 1978, as amended.
Don commented on the proposal saying and amplifying what Mark said, the 600 series in dealing with statutory cities does continue under statutory mandate on rezoning; the 700 series dealing with statutory towns contains no reference to the zoning that will result if there's a disconnection or deannexation. There are a few counties around the state that have dealt with this issue. What Mark has proposed to you in many respects is similar to the approach that Weld County took on this issue. Don also pointed out that while obviously there's a current issue that brought to this staff's attention, there are a number of statutory towns in the County and it's an issue that this could arise as to any of them which should be addressed. If the annexation occurred under the 700 series property would be left unclassified altogether.
Commissioner Houpt asked if this would only cover statutory cities and towns in Garfield County. The language in here made her wonder but this would probably be a legal decision.
Don hesitated to comment because there is so little guidance on this issue but the first sentence of the proposal is designed to describe some circumstances where the issue would be addressed if there's an IGA if it's under the 600 series. All other disconnection should be dealt with by this Statute. The only one we're aware of right now is the 700 series. But for instance if a Home Rule City didn't have anyway of dealing with disconnection and if it were to occur by court order, court didn't address it, it would fall under thi
Michael Hassig – Mayor of Carbondale – speaking to the specifics contained in the staff recommendation, he endorsed this proposal which establishes zoning as either the adjacent county parcel or zoning in place prior to the annexation. The only comment beyond that which is a recommendation, over the last several years he has seen an increased and encouraging level of cooperation and engagement of the county and other various municipalities and has been very encouraging. In the spirit of that engagement by and large I think that deannexations if they occur at all, in adversarial circumstances. If a situation is not adversarial for deannexation, then he would expect that those could be negotiated. Using the courts as a mechanism seems to presume a certain adversarial relationship and given that the State statute specifically references the suitable of the use of these parcels for agricultural uses, the request of the County would be to consider adding to Section 1.09, a sentence stating "any other zone district designation proposed by the Board of County Commissioner or property owner, shall be subject to procedures for changing the zone district designation", and he added "however, such application may not be made for the period of 6 years as referenced in the State statute."
Art Gross – Attorney representing Crystal Development - the Statute 700 series has specific information about how the property can be used once it is disconnected. He advocated that this Board look at that and adopt that and at least go back and review that what restrictions and there is a period as Michael pointed out. But he suggested the Board look at the restrictions and consider those.

Don – the 6-years is in the 700 series and it's unique to the 700 series and there are circumstances under which is it does not apply. Reflecting back on what he said earlier, this came about under an application under the 700 series but it's designed to apply in all circumstances where you're in agreement or a statue does not otherwise specify what the zoning should be. Don reiterated his recommendation would be not adopt that 6-year verbatim but use it as factor when you consider whether or property should be rezoned.
Commissioner Houpt – her concern in not using it, is that there could be a trend starting in our county and she would hate to see issues of applications being brought under the deannexation opportunity to the courts because developers can't resolve their issues with the communities. She was favoring putting the 6-years in there.
Chairman Martin – if it's overriding the Statue, it's a takings limiting the use of the land by your regulations but not regulated by State Statute. The goal is to put something in place for a framework; when this doesn't happen and it fails we have something to fall back on. We want follow all the State Statutes that is our goal.
Don emphasized that the 600 series are exceptions to the application to this rule; this rule clearly applies to the 700 series; it may apply in other circumstances. When property is deannexed under this regulation it will automatically revert to what it was prior to the time of annexation and it will stay that way unless the property owner comes to the Board for rezoning request under Section 10. To sustain a request for rezoning under that Section, it must meet the same requirements of any other request for zone change, which means they have to show that either it was originally zoned in error, that there has been a change in circumstances that justifies changing the zoning, or that the Comprehensive Plan itself envisions a different zone district. If the Statue provides, it cannot be altered from the non-commercial status rate for a period of 6-years absent some circumstances. This means that if the landowner is coming to the Commissioners asking to change what used to be county zoning to a commercial zone, they have to demonstrate that they meet the exceptions in the Statute, it's the same type of finding and if they can't demonstrate that, the Board is not justified in granting the zone change then.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Zone District Text Amendment to add to Garfield County Zoning Regulations of 1978 as amended, the following section - 1.09 as read into the record by Mark Bean; motion carried.

CONSIDER A SPECIAL USE PERMIT FOR A PIPELINE LOCATED BETWEEN RIFLE AND PARACHUTE ALONG THE I-70 COORIDOR. APPLICANT: ENCANA GATHERING SERVICE (USA) INC.
Mark Bean, Don DeFord, Jimmy Smith, Jeff Reale and Trevor Boris were present.
Don reviewed the noticing requirements for a public hearing and determined they were timely and in order and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Mark submitted the following Exhibits: Exhibit A – Mail return Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Project Information and Staff Comments; Exhibit F – EnCana Gathering Services (USA), Inc. CUP application; and Exhibit G – Memo from Steve Anthony, Garfield County Weed Management, dated January 6, 2004.
Chairman Martin entered Exhibits A – G into the record.
Mark reviewed his project information and staff comments saying the applicants consist of W. F. Clough, KN Energy, Inc., CDOT, Union Pacific Railroad Company, BLM, Michael J. and Betty Mosby, Commonwealth Title Company of Garfield County, Inc., Gary Lee and Lyle Lean Mahaffey, Velma Weinreis, Stanford R. Dere, Beverly Jensen, Puckett Land Company, Deanna Walker, Conoco Phillips Co., Exxon/Mobil, PSC of Colorado, Williams Production RMT CO., and America Soda, L. L. P all represented by EnCana Gathering Services (USA), Inc.
The location of the gathering line will cross portions of Section 13-6, 20, 21, 23, 29, 30 in T6S, R94W and portions of Sections 5, 25, 32-36, T7S, R95W and portions of Sections 1-2, T7S, R96W and being along the I-70 corridor between Rifle and Parachute.
The pipeline continues from the end of a recently completed pipeline that ended west of Rifle and will continue along the north side of the I-70 corridor to the Parachute area.

EnCana Gathering Services (USA) has applied for a Special and Conditional Use Permit to install a 24" natural gas pipeline that will transport natural gas from many natural gas wells in the Mamm Creek and Grass Mesa area and transport the gas to a processing facility in the Parachute area. The line will be approximately 80,000 feet or 15.2 miles in length. The pipeline starts at a compressor site west of Rifle and traverses private and public property to another site northwest of Parachute, up the Parachute Creek drainage on the American Soda property. The pipeline in question has been built and the permitting process is a result of an agreement with the County to file for a permit, even thought the applicant did not understand that the pipeline was subject to County land use regulations.

The pipeline will cross both public and private lands and the portion of the corridor crossing BLM land is subject of an Environmental Assessment conducted by BLM. A right of way permit was granted by the Bureau. Other sections of the pipeline were located in the I-70 corridor and subject to approval to CDOT. The applicant has negotiated easements with all private land owners that the gathering line wills transverse.

Recommendation:

Staff recommends that the Board approve the EnCana Gathering Services (USA) Inc. SUP for the installation of a 24" natural gas pipeline, subject to the following conditions:

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless specifically altered by the Board.
2. Prior to the issuance of the actual Special Use Permit, the applicant shall provide a written commitment to inspect, monitor, and be responsible for the management of any of Garfield County's Noxious Weeds that may emerge on private lands that are disturbed by the pipeline. Further, that the applicant respond to any complaints by landowners regarding pipeline noxious weeds in a timely manner. Additionally, the applicant cooperates with the Colorado Department of Transportation in developing a weed management plan for any noxious weed infestations that occur on the pipeline with CDOT's rights-of-way).
3. If hay or straw is used in the revegetation, the applicant must use Colorado Department of Agriculture certified weed-free straw or hay.
4. Prior to issuance of the conditional/special use permit, the applicant post a revegetation security for the parts of the pipeline that is not on Colorado Department of Transportation right of way or on Bureau of Land Management property. The total required will total $62,440. This may be in the form of a letter of credit, if deemed appropriate by the County Attorney's Office, or the funds may be deposited with the County Treasurer. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Weed Management Plan. It is the responsibility of the applicant to contact the County, upon successful revegetation establishment, to request an inspection for bond release consideration.

Jimmy Smith – the engineering standards were complied with completely and all specifications have been following. In regard to the revegetation, the plan they presented were acceptable.

Jeff Reale – the fact that they have a statewide bond in place is sufficient to address any Reclamation issues. There were no requests for reclamation on private property that was out of the question.

Commissioner Houpt supported the local bond due to a discussion in the roundtable and the question came up as to what would happen if enough claims came up for lack of bond to address the issues.

Jimmy Smith – the right of way specifies the seed mix and also applies to CDOT and BLM as far as losing their right of way. Steve Anthony agreed with the procedures established. Reclamation starts in the spring. He met with Mike Gratis, CDOT made comments saying the CDOT right of way is the best reclaimed he's ever seen.

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

A motion was made by Commissioner Houpt recommended we approve the EnCana Gathering Services special use permit for installation for a 24" natural gas pipeline subject to the conditions presented by staff. Chairman Martin asked if this included the bond itself. Commissioner Houpt – it does. Commissioner McCown seconded. Commissioner Houpt read something EnCana presented on the first page of their application for the record which I thought it was unfortunate but, EnCana Gathering Services Inc. is filing this application under protest with a full reservation of its rights to challenge the applicable of the Garfield County Zoning Resolution to Pipelines. By filing this

application EnCana Gathering Services USA, Inc. is not waiving any of its rights to challenge the zoning resolution as currently enacted or as amended." I do hope we'll move forward together though on these regulations. Motion carried.

Unique Request and Letter Submitted – Pipeline - Lindauer

Jimmy Smith – requested to comment – we have individual landowners that have come to us in the form of a written letter to put that portion of the pipeline in now prior to any other permitting requirements, the simple reason is he wants grass to grow this spring, he's missed two years of not having any grass and Jimmy presented the Commissioners with this letter and said he was really asking which direction we would go not, assuming that under the previous meeting this morning that we would submit for special use permit on that pipeline but with the timing of the process could we in fact meet his goal of putting that portion only of the pipeline in place.

Mark responded that this is a dilemma because you must have other permits in place. He suggested they could consider the parallel permitting process for this particular process.

Don – at the present time they have to meet the current regulations.

Jimmy Smith – presented a copy of this letter.

Mark – suggested that you make a separate application so we're just dealing with that where they is no federal land or regulations.

Jimmy – no, because BLM is involved.

Mark – the application is only for that portion by Lindauer.

Jeff Reale – we can discuss this with BLM – find a way to make this all work.

Mark will participate in the discussion with BLM.

PUBLIC MEETINGS

CONSIDER A DISCUSSION OF ISSUES RELATED TO THE RHODES EXEMPTION PLAT – FRED JARMAN AND DON DEFORD

Fred Jarman and Don DeFord were present.

Don DeFord requested this public meeting be rescheduled as the Rhodes are out of town.

A memo was given to the Board on this issue earlier. Staff is seeking direction that can be conveyed on this issue to the City of Rifle.

Don stated there were two topics: 1) involves the previous exemption granted to the Rhodes, there are some platting issues that need to be before the Board's attention and get direction; 2) involves the Rhodes and the City of Rifle. In May the Rhodes transferred a parcel of ground to the city of Rifle to be used for a park. They transferred the property by a deed in lieu of condemnation and that's important because in doing that the Rhodes met a specific statutory exemption for the subdivision. That transfer while less than 35 acres was still a lawful split of property. However, Don said there is also a statutory requirement that when a governmental, a political subdivision of the state acquires property as it is relevant here for park purposes, before the acquisition it is supposed to be submitted to the County Planning Commission at which time the Planning Commission can render an opinion either recommending approval or denial of that transfer. If the Planning Commission recommends approval in that process, then the transaction goes forward as proposed. If the Planning Commission recommends denial of the acquisition, that recommendation, with the basis goes back to the municipality or other political subdivision for the governing body of that political subdivision to consider that position. At the end of the day, they can override the Planning Commission and go forward with the transfer. In this case, Rifle neglected to submit this acquisition to the Planning Commission and Don informed Lee Leavenworth who initially said they didn't have a problem going through the Planning Commissioner; later Lee changed his mind and stated it might be more expeditious for the City of Rifle to go forward with the annexation. Therefore, Lee said they will start the annexation process forthwith by the end of this month. Given that position, Don said it seems pointless to have them submit it to the Planning Commission.

Don recommended that the Board simply respond to Rifle and not require statutory submittal to the Planning Commission if you initiate annexation within 30 days of today's date.

Commissioner McCown so moved that in the form of a motion. Commissioner Houpt seconded; Commissioner McCown noted that the parcel to be conveyed needs to show up on a plat. Fred noted for the record that the plat the board was looking at was the one approved on the last day in office as Commissioner Stowe in 2003 and does not reflect the subsequent act of transferring or creating the park parcel. Commissioner McCown asked if the parcel to be conveyed showing up on a plat, would this be a condition of annexation from the City of Rifle and if we made it a condition of annexation, would it clear

up the need for a corrected plat. Don said no, we would still need a corrected plat because we have an exemption plat filed that's inaccurate so they need to correct that. Motion carried.
Don added that the plat in front of the Board is the one recorded with Mildred and is set out as an exemption plat. Originally, we wanted to bring it to the Board's attention because you signed that plat and it's simply inaccurate as recorded. The real estate records should reflect the proper exemption plat with a properly described parcel on it even though an annexation plat will show the parcel. What's wrong with this plat is that it inaccurately portrays Parcel 3 and also has an inaccurate legal description for that parcel – these both need to be corrected.
The road issue will come back to this Board at a later time when the Rhodes can be present.
Dalbo Issue on the Consent Agenda
Commissioner Houpt received a complaint on the business practices and she will direct the problem to the Battlement Mesa Management Office and the Sheriff to address this issue.
New Building and Planning Senior Planner
Mark announced that a new senior planner has been hired and will start on Feb 23rd; his name is Jim Hardcastle from Cedar Rapids, Iowa.
WORKSESSION – AIRPORT LAYOUT PLAN UPDATE – BRAIN CONDIE
Peter Olsson with Olsson Associates and Brian Condie were present.
Brian Condie submitted the Update on the Airport Layout and stated in the Task Summary that the update currently being completed for the County Airport has indicated the need for additional studies beyond the scope of the Update. The Update recommends that the airport be upgraded to accommodate Aircraft Design Category (ARC) D-III with a desired runway length of 8,000 feet. The Update found that the maximum runway length that could be accommodated was 7,350 feet. It also concluded that regarding the runway profile to meet ARC D-III may preclude aircraft in approach categories C and D from using the Instrument Landing System (ILS) approach. Both of these results are unsatisfactory to Garfield County, the sponsor, since they indicate that the upgrade may not satisfactorily accommodate the very aircraft, approach categories C and D it is desired to accommodate.
Summary: Runway realignment will meet FAA standards for an ARC D-III runway profile. An 8,000 feet runway is possible using declared distances, however the FAA at this time is only considering a 7,300 feet runway with associated 1,000 feet safety areas off each end. The Airport growth for 2003 includes fuel sales of 922,471 gallons, 15% higher than 2002, additional requests for lease able land, and larger aircraft frequenting the airport.
Brian also reported that the Topographic Survey is 100% complete. The Geotechnical Investigation is essentially complete and all field investigation and laboratory testing have been completed. A draft report has been received.
In Task 3 – Communications, Navigation and Surveillance – the meetings with FAA AETCC and FAA Airways Facilities in Denver and Seattle recommend an immediate course of action to establish a GCO until the FAA RCAG is relocated. Estimated time to completion is 9 months. Estimated installation cost is $8,000 annual operating cost is $3,000. Additional course of action is to send a letter to our congressional delegation supporting the FAA-requested action to relocate the FCGA from Aspen to the Garfield County Regional Airport.
Navigation – Brian stated that they met with the FAA ARTCC in Longmont on August 25, 2003 and had a follow up meeting January 9, 2004. They discussed means to improve IRF airspace capacity for the airport and the air traffic control sector as they relate to various instrument approach procedures for runway 08/26. A detailed TERPS analysis has been completed and a draft report submitted. Olsson had a meeting with the Rocky Mountain Region Flight Procedures Office to review the report with them.
Surveillance (STMP) (non-federal) – Garfield County Regional Airport is not likely to be excluded from the STMP program. An example of the demand on this system occurred on January 3, 2004 when there were over 4,000 requests in the first minuet for slots into the mountain airports. We recommend pilot education on system operations, controller education on Garfield County Regional Airport, possible home based aircraft early registration, and a CGO to improve capacity.
Task 4 – Analysis of Alternatives to Upgrade Runway 8/26 to ARC D-III Standards – Preliminary cost comparisons of the alternatives have been prepared and a preferred alternative has received preliminary approval from the FAA, State and County Staff. A copy of the alternative analysis summary is included.
Task 5 – Building Area Layout Plan Development – A building area layout plan was developed and established. The building plan recognizes different types of operations. A development and minimum

standards guide document is recommended to accompany this plan. A copy of the building area layout plan was submitted to the Board in the report.
Task 6 – Update All Airport Layout Plan Drawings – Olsson Associates has incorporated the existing Airport Layout Plan drawings into an AutoCAD database. Olsson Associates has verified the accuracy of these drawings and updated them to comply with various sources of information such as available aerial photography and survey data being generated under Task 1. Airport layout parameters are being developed in conjunction with Task 4. CADD work forming the basis for these drawings is nearing completion.
Task 7 – Narrative Report – The narrative report sections addressing all tasks are nearing completion.
Task 8 – Public Participation – An Airport User Meeting is scheduled for Monday, January 26th and the BOCC meeting is scheduled for Monday, January 19, 2004.
Additional Topics

- New FAA/State Funding Guidelines
  - FAA to Provide 95%
  - County/State to provide 5%
  - FAA entitlement funds must match FAA discretionary funds
- Revised CIP for ARC D-III Upgrade
- Ramp Expansion Project on Hold

Peter Olsson presented a video of the update and explained the proposed runway changes.
Construction would be in four segments. For 1B the estimated cost for 7,300 would be $19.9 million and for 3A - $17.2 million.
Peter asked the consensus of the Board – 3A is the direction of the Board.
The FAA doesn't want to do more than $5 million a year and therefore they have stretched it out to 2008.
SALARY EQUITY – ED GREEN
Judy Osman and Ed Green presented two apparent salary equity issues for Linda Morcom and Donna Hale.
The recommendation is to raise Linda to $16.88 per hour effective January 20 and that the performance/market increases be figured on that base. A pay grade 3 to a pay grade 4.
The recommendation is to raise Donna Hale to the 12.5% range of pay grade 5 which is a range of $17.14 per hour.
Both are doing exceptional jobs. Linda was suggested to be at pay grade 4 and Donna to pay grade 5 due to additional duties – Donna's been performing as a Resource Specialist versus a Resource Generalist since April of last year.
Some monies are still available that have not been disbursed as part of the 4% pot.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the reclassification of Linda Morcom to an Executive Secretary pay grade 4 which will change her hourly rate to $16.27; motion carried.
A motion was made by Commissioner Houpt for Donna Hale as a Human Resource Specialist making her pay grade 5 which will make her hourly rate $17.14. Motion carried.
Personnel Issue
Executive Session as the Board of Social Services to discuss a matter that the Board must keep confidential under Title 19 of the Child Protection Code.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into the Board of Social Services and then go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of the Board of Social Services and out of Executive Session; motion carried.
ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to as the Board of County Commissioners to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

JANUARY 26, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The Special meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 26, 2004 with Chairman John Martin and Commissioner Tresi Houpt present and Larry McCown via telephone. Also present was County Attorney Don DeFord and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 9:00 A.M.

LIQUOR LICENSE RENEWAL – TOLKIEN TAVERN
Mildred presented the liquor license renewal and stated it was lost on her desk due to the remodeling. The renewal date was January 17, 2004 and therefore she requested this special meeting. There hasn't been any problems. This is for special parties out at Battlement Mesa. This is a Tavern License so he doesn't have to have food or anything like that. There's no change in management or ownership.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the renewal liquor license for the Tolkien Tavern. Chairman Martin inquired if this was a public hearing and notice required or just a renewal.
Mildred said it was just a renewal and usually places these renewals on the Consent Agenda. Motion carried.

LIBRARY REQUEST – LINE ITEM ON WAGES
Chairman Martin stated the Library made a request to the Accounting Office to take $80,000 out of their capital fund and transfer it to their wage line item so that they can go ahead and increase the pay to their staff members. 4% was already put into their budget for their requested line item on wages. This is above and beyond. The question is do we agenda this item for public discussion or get some of the facts to decide if we even need to discuss it in public or just allow the staff to have direction from the Board.
Commissioner Houpt – this is their budget and she hasn't had an opportunity to read the Resolution that's before us. Commissioner McCown said he didn't even have a copy of the Resolution.
Commissioner Houpt – because Larry doesn't have a copy of the Resolution she said she thinks this needs to come to the next Board meeting.
Chairman Martin added that the Board of County Commissioners have the exclusive duty of budgetary items over all budget within the County – that's all elected officials, all agencies and boards and commissions that are appointed by the Board or have a budgetary item from the County. He has already asked the staff to research this and put it on the agenda as requested and contact the Library Board and tell them we will be discussing it.
Don DeFord – Larry, just so you know, the Resolution that Commissioner Houpt referred to is a copy of the 2004 Budget approval Resolution that has actually been signed at this point and it's the best he could do at this late date to respond. We will include a signed copy in your packet.
Chairman Martin – we need to agenda it because the Library Board is looking at it and it raises the pay ranges from 2% to 30% with the average raise of 14.5% to their folks.
Don – the question I have and neither Jesse or Ed are present at this meeting, my concern is whether or not the Library expected the staff of the County to do something on their request before next Monday. Don was not aware of what was going on with this request.
Commissioner Houpt – this is the first she has heard about this request. However, we've talked a lot in the past couple of weeks or so about the fact that we handed over that quarter cent tax and it's their duty to determine what it is they want to do with that and that makes them very unique over the other departments. So I think that'll be part of the public discussion.
Chairman Martin – that's definitely part of the discussion, because the Resolution we have in front of us separates that particular issue line item for all, except for wages. Wages are adopted by what is being presented by each department. And then to go ahead and remove $80,000 from the capital fund to put it into another fund, is very questionable to increase the wages that have been approved by the Resolution, so I think we need that discussion.
Commissioner McCown – wouldn't this require a budget amendment.

Chairman Martin – to me it would. That question needs to come before the Board; it is right now in contingency not in wages.
Commissioner Houpt – Don, would it have any label indications on this.
Don – there are and that's why he handed out the Resolution. If you want to go ahead and discuss it a little bit, he would do so.
Commissioner Houpt – I would rather not, just trying to figure out if it needed to be an agenda item.
Don – from my perspective it does, only because the staff, mostly County Departments, is in a difficult position of having Commissioners give them one set of directions and the Library Board another and so this needs to be brought to the table. He asked that this be scheduled at 10:15 as a Commissioner item and asked if he should notify Tom Stuver so that he can get the word to Jaci's Board.
Chairman Martin – yes, the Board needs to be informed of that.

RFTA MEMBERSHIP

Don said he was not asking any directions, just an information issue on RFTA, noting he has talked to each one during the course of the last week about this, but John has asked that the issue be brought back for public discussion and with that request, he would schedule this for 10:15 as well. And he asked for some direction if he should contact Renee Black, the attorney for RFTA and simply tell her we will be discussing this issue or not.
Commissioner Houpt – absolutely and I still don't understand why it's being discussed. My motion was very clear, the second was very clear and I'm not quite sure what we need to discuss at this point.
Chairman Martin – I think for clarification of what it was because reading the testimony that was taken by the record, there are definitely two different trains of thought and questioning, so just for clarification so we're all on the same page because I read it totally differently from what I read in the newspapers and I want to make sure we are going in the right direction in telling people the truth of what we are standing for and what direction we're going.
Commissioner Houpt – well John, what I read in the Aspen Daily was not my motion; that was your quote.
Chairman Martin – and that is exactly why I said we need clarification because that was my understanding of what the motion was. If I'm incorrect, then I'll need to make my adjustments.
Don – Okay, I will list a RFTA discussion of status for 10:15 a.m. on Monday February 2 and contact Renee Black unless I hear anyone else say they don't want me to do that.
Commissioner Houpt – no, I think if we're talking about RFTA she should be there.

ADJOURN

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

FEBRUARY 2, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 2, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

Floyd Demoz was present for the reading of the Proclamation of Memorial for his deceased father, Adolph Diemoz:

RESOLUTION NO. 2004 – 13

A RESOLUTION CONCERNED WITH PROCLAIMING FEBRUARY 2, 2004,
A MEMORIAL DAY FOR ADOLPH DIEMOZ

WHEREAS, Adolph Diemoz was born on June 28, 1908 to immigrants from Italy and lived his 95 years as a resident of Garfield County, Colorado as a cowboy, rancher, civic leader, and building contractor; and

WHEREAS, Adolph Diemoz by Executive Order of Governor John A. Love on January 29, 1963 was appointed to serve as a member of the Board of County Commissioners, District 1 for Garfield County; and

WHEREAS, Adolph Diemoz stepped forward as a citizen and accepted the appointment to fulfill his civic duty to the citizens of Garfield County as County Commissioner, serving 1963 and 1964 in that position with elected Commissioners Pete Mattivi and Lowell Noren; and

WHEREAS, Adolph Diemoz as County Commissioner established a District Planning Commission pursuant to the provisions of Chapter 106-2-18 by Resolution on October 8, 1963 and by Resolution on November 23, 1964 did authorize the two-story addition to the 1935 County Hospital known as Valley View Hospital; and

WHEREAS, Adolph Diemoz was a pioneer in the building trades and greatly contributed to the development of Garfield County by building some historical landmarks, Sunlight Mountain Resort base building, Springs Theatre, Rocky Mountain School Blacksmith Shop, as well as remodels, renovations, and additions to the Hot Springs Lodge and Hotel Colorado; and

WHEREAS, Adolph Diemoz is remembered for his generosity, good nature, friendly smile, love for western dance, abundant love for horses, good food and wine.

NOW, THEREFORE, BE IT RESOVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GARFIELD, STATE OF COLORADO THAT FEBRUARY 2, 2004 IS HEREBY DECLARED A MEMORIAL DAY FOR ADOLPH DIEMOZ.

Dated this 2nd day of February, A.D. 2004.

ATTEST: BOARD OF COUNTY COMMISSIONERS

OF GARFIELD COUNTY, COLORADO

By: _____

_____

Clerk of the Board Chairman

Upon duly motion made and seconded, the foregoing Proclamation was adopted by the following vote:

Commissioner Chairman John Martin	Aye	Nay	Absent
Commissioner Tresi Houpt	Aye	Nay	Absent
Commissioner Larry McCown	Aye	Nay	Absent

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

John Hoffman, Carbondale Trails Committee, said they have been working with the Colorado Historical Society to get a grant for habilitating the Sutank Bridge and thanked the Board for their contribution and supplying funds and Road and Bridge work. This morning he needs the signature for a 20-year covenant and commitment of the bridge giving them $89,100 from the State Historical Fund to match $1,000 from the Town of Carbondale, $300 from the Carbondale Trails Committee and $29,000 worth of work from Garfield County. Garfield County will own the Bridge forever.

Commissioner McCown wasn't sure the County could place a covenant on County-owned property. Chairman Martin stated this would need to be reviewed, make a decision on and get back to them.

John submitted a draft of the West Elk Scenic Loop By-Way Crested Butte to Carbondale trail study. Proper presentation will be given at a later time.

Don asked the Board if they wanted it re-agenda; the timeline is 60 days. The date was set for March 1, 2004 at 8:30 a.m.

COUNTY MANAGER UPDATE – ED GREEN

Proposed 2004 Engineering and Environment Services for West Garfield County Landfill – Marvin Stephens

Tim Arnett, Marvin Stephens, and Mike VanderPol presented the Professional Service Agreement renewal with the Consulting firm of Northwest Colorado Consultants, Inc. for the not to exceed price of $33,900.00 to provide engineering and environmental tasks at the West Garfield County Landfill. They submitted a proposed activity list and cost estimate summary for each Task.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the renewal with award the agreement Consulting firm of Northwest Colorado Consultants, Inc. for the not to exceed price of $33,900.00; motion carried.

Request for Chairman to sign Division Order from Williams

Ed stated this is their usual letter and the County receives $25.00 royalty.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Williams Exploration and Production orders as submitted; motion carried.

Road Scholar Awards – Marvin Stephens

Marvin Stephens presented the awards to: T.J. Dice, Gaile Steckel and Cleve Kingen who has completed an extension training program in improving their knowledge and expertise in building and maintaining roads.

General Agreement with Rifle Correctional Facility – Marvin Stephens

Ed stated on an annual basis we have affected an agreement with them for offender assistance at the Landfill primarily. The agreement has been beneficial for both them and us and once again we want to continue the relationship. The proposed agreement was submitted in the packet and it is exactly the same as last year with one notable exception and that provision is 3e which allows for the agreement to be self perpetuating until it's terminated by either party with 30-day notice. Since the agreement involves no exchange of funds, there's no TABOR violation by including that provision, so he recommended that the Chair be authorized to sign. Marvin added that it really helps on our labor force out there; we couldn't do our job without all their help. This is beneficial to Garfield County and to them. Commissioner McCown said this is good training for them when they get out of the facility and the Department of Corrections speaks highly of the program. Marvin said it's a group of people that have to go through a lot of screening before they ever reach this point. They are within 6 months to 1 year of being paroled into society and it gives them on the job training and something they can do when they reenter society. The staff feels very comfortable and they do not tolerate anything out there. Don advised the Chair that there are two issues with this agreement from a legal perspective; one is ongoing and it's not likely to change because it is a State contract and said the issue of concern is the indemnification concerning injury to the people we are utilizing. They fall into another world, they are not employees of the County, they're not volunteers, so if they are injured they do not fall under workman's compensation or medical insurance and yet we are required to compensate them and the State for injuries if they occur during the course of their employment. In the past we have not been able to come up with a solution to this problem; the State similarly has a problem and we have to give them credit too. These people are working under our supervision and for our benefit and so the State is naturally reluctant to accept responsibility for injuries that occur in those circumstances. In the past the Board has accepted this provision but needed to advise the Board it is still there. Lastly, in terms of the new provision that Ed just mentioned, normally such a provision is a violation of your purchasing code, however, in this case because it is a government entity, your code makes specific exception and allows the Board to accept this type of provision.

Commissioner Houpt asked if the State were to agree to cover the people working for us, would they have the ability to do that, the policy to cover these guys. Don said he has been told in the past that they do not have that ability; they might be able to purchase a "stand alone medical insurance" for these individuals, but that was something the Board did not want last year to explore and the State is very reluctant to do it. Commissioner Houpt referenced that there are numerous agreements like this around Colorado and wondered what other counties are doing. Don said other counties have accepted it, the statutes of representation that the Attorney General's made to Don when he inquired about this in the past. Commissioner Houpt said so they're accepting it but are they putting in any contingent coverage in case of injury. Don said he could not answer that as he has not actually talked to other counties that have these types of agreements. Commissioner Houpt would really like to look into that but she doesn't want that to hold this up but thinks that's going to be an on-going problem and it wouldn't be unusual for someone to get injured. Marvin said the director at the Rifle Correctional Facility has told us that if we need to get an ambulance or physically take them into the hospital, to give them a call and they will show up there and take responsibility. They have their own insurance is the way Marvin understood it, but is not understanding what Don is saying. Kraig said they have their own insurance and we were directed if it's an emergency to take them to the hospital and they would take over from there. Don said it gets into a non-insurance circumstance and the problem is not what they actually do and emphasized that; it's not a problem on the ground, it's a problem in the language in the agreement. Chairman Martin said this works quite well and he was very pleased with what they were doing and how they were being supervised and how the transportation was working out. Marvin said he has people that have been to a class on supervising and try to keep two or three people there that supervise all the time. This is a requirement of using the labor force.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the agreement with the Rifle Correctional Center regarding the inmate labor that we use. All three Commissioners sign this particular form. Motion carried.

Annual update to the Highway User's Tax Fund – Rob Hykys

Roy Hykys, GIS Analyst, Garfield County IT Department presented the 2003 Summary of Revisions: Highway User's Tax Fund (HUTF). Marvin Stephens noted the County is not responsible to do maintenance on the overpass in New Castle. The Board requested this be checked on because he didn't believe this was correct. Chairman Martin will follow up with the ITPR.

The report shows 748.74 Total HUTF Eligible – Center Lane Miles; 1564.86 HUTF Eligible – Lane Miles; 209.92 of HUTF Ineligible – Center Lane Miles and 273.55 HUTF Ineligible – Lane Miles

Rob stated that this is the method the state uses to divide up the gas tax. He reviewed the report pointing out the specific issues that he felt needed discussion. Rob spent 6-weeks developing this report and the GIS layer is now "in synch" with CDOT's HUTF database with the addition of 250+ Battlement Mesa street segments not mapped in the 2002 GPS project. What this means is that our GIS layer holds one line segment for every line describing it in CDOT's tables. It also means that CDOT will begin using our GIS layer in their database. This makes Garfield County the third municipal or county government within the State of Colorado to submit its report entirely in digital format.

Don asked if this needed to be submitted to the State. A signature sheet was submitted for the Board's signature. Don called attention to the Resolution recently approved by the Board on permitting for County Rights of Way, as part of that the Board specifically adopted a Bridge and Road Restriction Map and then incorporated that as the County road map deferring action on designation of a County primary and secondary system until June. What you do today is it submitted from Don's position strictly as HUTF Reimbursement Resolution and unless the Board takes specific action otherwise, it does not change the map that this Board adopted as the County Road Map.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the HUTF report. The Board recognized Rob for the outstanding report submitted; the graphics were superb. Motion carried.

Glenwood Springs downtown parking changes

Ed Green reported that Glenwood Springs City Council voted to implement the second phase of the downtown parking plan. In this second phase, the parking lots on the corner of 7th Street and Colorado Avenue are recommended to be changed from all-day parking to 2-hour parking. The purpose is to create new customer parking closer to the downtown retail and restaurant district and create additional spaces for people doing business at the Garfield County Courthouse. Because the lot is jointly owned by City and County in an undivided one-half interest to both parties, the City cannot implement this change unless

Garfield County is in agreement. Ed added that the City is offering staff to work with the County employees to assist them in finding parking and commuting alternatives that will work for them.
135 employee cars by employees coming to work. There are 65 spot behind the jail and the Courthouse, the lot the City referenced is joint-owned. However, if you eliminate the 47 spots requested, it will put a hardship for the County employees.
Chairman Martin suggested more discussions with the City but at the present time he doesn't support it. Correspondence from Ed to the City was authorized in order to advise Council that further discussion with them would be necessary.
A motion was made by Commisisoner McCown and seconded by Commissioner Houpt to table this until additional discussions were held with the City; motion carried.

Out of State Travel – Accreditation test for Brian Condie

Ed submitted the out of State travel request form for Brian to obtain the AAAE Accreditation completing a 2-year employment objective. This is budgeted.
Dale will be taking the new members on a tour of the old correctional facilities in Canon City. On this particular item everything but the
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of state travel request in the amount of $2,316; motion carried.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update on CR 121 Issue; Legal Advice Code Enforcement; Legal Advice Access Code, and Interaction with the Bankruptcy issue with Sander's Ranch

Don referenced Section 24-6-402 (4)(b) specific cases are the Lofton Case, the Roberts Case, and the Lawrence Case and the latter more commonly known as County Road 121 Litigation. And under the same provisions, Don needs to provide the Board with advice and receive direction concerning litigation on Code Enforcement and provide the Board with direction and advice under subsection (c) regarding application of the State and County Access
Code.
Carolyn added if the Board wanted to talk about the interaction between the Federal Bankruptcy Code and the County PUD processing regulations as they apply to Sander's Ranch/Bair Chase. Don stated this would also fall under attorney/client advice under subsection (c) as well. On all matters those needed are the Board, Ed, Jesse, Carolyn, Mildred and Don for the Executive Session. For the Access Code – representatives from the Road and Bridge Department and the Engineer's Department. Code Enforcement Issues – representatives of the Building and Planning Department who are present; on-going litigation CR 121 – Road and Bridge Director. Bair Chase/Sanders Ranch – Mark Bean.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Direction:
A motion was made by Commissioner McCown to authorize up to $5000 for the center line survey of CR 121. Commissioner Houpt seconded; motion carried.

Discussion regarding County Attorney Staffing – Vacancy of Catalina Cruz

Don informed the Board that he has a Legal representation position vacant in his department. Don wanted to make sure the Board wanted to continue the operation of the legal representation to Social Services before they went further into the hiring to fill the vacancy. The primary benefit to the Board and to Don's is that this position will do the child support enforcement but also code enforcement. The transition process took some time but at the present time, Don recommended that if the Board wants to pursue code enforcement, then this position needs to be kept as original outlined. Otherwise Don does not have staff to devote to code enforcement.
Commissioner Houpt asked if Don would be looking for the type of training necessary to be effective. Don stated the position would be funded at approximately $55,000 salary plus benefits.
Lynn Renick – with child support contracts are refunded at 66%.
Don – the focus will be on the position doing child support enforcement and code enforcement.
Chairman Martin – the purpose of having this position in-house was to have reports when needed and not having to wait for an outside source to submit those. 200 to 300 cases of the 2100 cases for child support go to court and felt it is very important to have these legal services in house.

Commissioner Houpt stated if we do hire someone, she wanted to see full-time work to keep them busy. If they do have time to do Code Enforcement, then she would support a full-time position. The direction was for Don to move forward.

COMMISSIONER REPORT

Commissioner Houpt – Emily Griffith Center visit last Friday and she is impressed with the program they have put together; Ag Day was last week and talked about Conservation Easements, West Nile; Humanitarian Awards tonight; CCI Committee Meetings – Discussion on RS 2477; she mentioned that Doug has set up the Energy Advisory on the 10th from 6 – 8 p.m. in Rifle for the continuation of discussion; and at Rifle - Mayor's Meeting at 6:00 p.m.

Commissioner McCown – Conference on Monday; Com Board on Wednesday; Cattlemen's on Saturday; and Fire Commission on Thursday – tentative date and may be changed.

Chairman Martin – Communication Monday 26th rep from McInnis office; identify theft in Garfield County – theorist; transportation staff; Colorado River District phone conference; Sweetwater – firehouse; Criminal Justice Review at 9:00 a.m. Courthouse; CCI Roundtable and Steering Committees meetings.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the 2004 Human Services Grants
    a. Colorado West Counseling Services - $30,000;
    b. Cooper Avenue Social Center - $3,000; hold funds in abeyance until they reorganize
    c. Catholic Charities - - $10,000;
    d. Chipeta Council - $1,000;
    e. Roaring Fork Family Resource Centers - $3,000;
    f. Sopris Therapy Services - $5,000;
    g. Youth Zone - $18,500;
    h. Food Bank of the Rockies - $2,000.00;
    i. Colorado West Recovery Center - $25,000;
    j. Mountain Family Health Center – 12,000;
    k. Planned Parenthood of the Rocky Mountains - $2,500;
    l. Mountain Valley Developmental Services, Inc. - $33,000;
    m. Literacy Outreach - $11,000;
    n. Columbine Homemakers for Independent Living, Inc. - $5,500;
    o. Computers for Kids Foundation - $1,000;
    p. Family Visitors Program - $22,000;
    q. Lift-Up - $10,000;
    r. Roaring Fork Hospice - $2,500;
    s. Colorado Mountain College Senior Nutrition Program - $8,000;
    t. Colorado Mountain College Senior and Disabled Transportation Program – The Traveler - $27,000
    u. Colorado Mountain College – High Country Retired and Senior Volunteer Program (RSVP) - $18,000;
    v. Legal Services Inc. - $14,825; and
    w. Aspen Valley Community Foundation - $1,000.
f. Authorize the Chairman to sign the Resolution for the Planned Unit Development and Preliminary Plan for the Ranch at Coulter Creek Subdivision. Applicant: SLC-Lawrence, LLC – Fred Jarman
g. Authorize the Chairman to sign the Special use Permit for an Accessory Dwelling Unit. Applicant: Jacee Johnson – Fred Jarman
h. Authorize the Chairman to sign a contract with Mountain Cross Engineering, Inc. for recurring or as needed engineering services – Mark Bean
i. Authorize the Chairman to sign a Resolution of Approval for a Zone District Text Amendment, adding Section 1.09, Deannexation or disconnection of property from a municipality.
j. Authorize the Chairman to sign a Resolution of Approval for a Special use Permit for a pipeline for EnCana Gathering Services (USA), Inc.

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

REGULAR AGENDA

CLARIFICATION OF BOCC POSITION REGARDING PARTICIPATION WITH RFTA

The verbatim on all of the discussion was submitted for review by the Board.

Heather Copp, Renee Black and Dan Blankenship were present.

Chairman Martin requested this meeting clarifying on the direction the Board was going to take hoping to get away from the original agreement that started RFTA and the Holding Authority. We had an original IGA and he thought we had gone beyond that and request and also discussed that we couldn't join until we have a funding source.

Commissioner Houpt clarified her motion – the motion was that we support putting a tax question on the Ballot in November to support RFTA and allowing Garfield County to become a member of RFTA and we direct legal staff to start working with RFTA on the IGA, so all of the questions about what we agree to on the IGA will come as part of meetings that our legal department has with RFTA. The motion was very specific, we also talked about the fact that Larry mentioned he didn't membership happening without the tax questions, or vice versa. This was all part of the motion and Commissioner Houpt said she was confused about what Chairman Martin's confusion is.

Chairman Martin – you start out with a vote of the citizens that the tax question needed to be on the November Ballot, we've already said a year ago that we would work with that. But you continued in that same vein saying that to work with RFTA on an IGA is contingent on the vote, in other words, what you're saying is we need a vote on both of those questions in your motion is the way he intreprested it because it's a continued sentence. We must have a Ballot question we can put on the Ballot for a funding source and to work with RFTA on an IGA. If there are two subjects, then we need to split it off and have two different motions.

Commissioner Houpt contended that it is very clear. She emphasized the work "and we direct legal staff" to start working with RFTA on the IGA. That separates that action from putting the tax question on the ballot in November.

Don – clarified his understanding of what he's been told to do - given the structure that he will be dealing with under the Rule Transportation Act and with the existing Rule Transportation Authority in this Valley, is that there will be in fact one ballot question. One ballot question and encompassed in that Ballot question will be both joiner in the RFTA and the imposition of a sales tax as part of that agreement. Don knows of no other way to become part of a Rural Transportation Authority absent entering into an IGA for that purpose. And the way RFTA is currently structured, their current agreements require that vote and indeed the statutes itself may require it. That structure meets the concerns that he heard from the Board at the last meeting; that is you cannot become part of the Rural Transportation Authority without a funding source, i.e. the sales tax and one doesn't work without the other so we wouldn't be facing the same situation we did the Open Space where we could approve formation of the district but then at the same time have a disapproval for the funding source. Don said his understanding is that he would be negotiating an agreement that would do both in one vote.

Chairman Martin – we may be able to work outside the original IGA with RFTA and that's what he heard that we can go ahead and look at the best alternatives and not just what it is now. Perhaps we can come up with a better inclusion in the IGA. The other one was that we won't go forward with a signature of that until the vote of the people that says we do dedicate a new sales tax to fund RFTA for these purposes.

Don – the way the Rural Transportation Authority exists right now is that the first step has to be an executed agreement and then essentially it's a Referendum that goes to the voters to approve that signature.

Renee – by approving the tax they are also approved the IGA which would be available for them to look at and the way the IGA with the original members was written it was based on the Commissioner's or the municipalities signing it and saying if the vote is positive, then we go on but not requiring you to make any commitment if the vote fails.

Don – until there's an agreement by this Board as to the contents of an IGA with RFTA there won't be a vote. Once that agreement, if and when, that agreement of this Board and RFTA to the same agreement is achieved, then it's that agreement that goes to a vote. It's a 2-step process. First the Board has to approve it and then the voters have to approve it. If both happen, then we'd become part of RFTA.

Commission Houpt stated this is my motion and is why it's important that the legal staff does start working on the IGA with RFTA with the intent of taking it to the vote in November.

Don – conversely, if the Commissioners never approve it an agreement, there's never a vote.

Chairman Martin – what's the best approach so we can do it at this time and thought your motion was a time-oriented because it's November before we can even get there and actually into the next year before it would even go into place. He was looking at a better way of looking at it, either through a contract or and IGA, or contract for services and putting that out there saying do we wish to go ahead.
Commissioner Houpt – it takes a while to get an IGA in place and to get ready for a Ballot question and will need the amount of time we have between now and November to adequately prepare for this.
Chairman Martin – since 1996 that IGA has been out there and Garfield County just said no we can't agree to that for these reasons and that hasn't changed yet, that's why we need a new IGA to allow us to go ahead and put out that question sooner.
Don will be working with RFTA and we can iron out what disagreements we may have.
Dan – wanted to see if he's understanding correctly because Chairman Martin may be thinking RFHRA IGA and not the RFTA IGA because RFTA then RFHRA was disbanded with all its assets and functions were absorbed by the Roaring Fork Transportation Authority, so there was a new IGA that was created in IGA in 2000 that addresses all of the issues related to the Rural Transportation Authority that was created by the voters in November.
Chairman Martin – there are ties back to it in reference back to trails, to rail, and other things that are overall encompassing. We're trying to get a bus system together and think that's what we need to talk about and not the other one. We'll work with you on the question; we'd put that to the citizens and hopefully they'll speak.
Dan – there is a safeguard in the IGA that prohibits any kind of rail system to be constructed in the region without a vote of the people, and looking at RFTA's financing and the cost of the BRT project, a huge stretch for RFTA, the likelihood of there being some type of passenger rail service in the Roaring Fork Valley in the near future is pretty small.
Don advised the Board that they have the authority to run their own mass transportation system independently of RFTA if you chose to do that, you have the authority to impose a sales tax for that purpose if you choose to do that, but that was not what he understood to be his direction to be. He understood his direction to be to negotiate an agreement to join RFTA.
Commissioner Houpt agreed.
Chairman Martin – is it better to join RFTA or to look at other options?
Commissioner Houpt – what we're looking at now is joining RFTA and working on the IGA with them so that we can get this on the ballot in November. The voters will let us know if they want us to open our own business but why do it when RFTA's in place.
Commissioner McCown – what we're looking at is the two legal counsels get together and typically draft an IGA that suits this Board and then we decide if we want to go to an election or not. And what Commissioner Houpt's motion authorized was the beginning of that negotiation – no more, no less.
Commissioner Houpt – that is step one and it also says that we do support putting it a tax question on the ballot so in theory we support unless there's a huge breakdown on the IGA negotiation.
Commissioner McCown and that would be what type of encumbrances might be involved.
Don – go forward with Renee to have a draft IGA before the Board.

DIRECTION TO STAFF CONCERNING BUDGET – LIBRARY BOARD – JESSE SMITH
John Steele, Jaci Sphuler, and Tom Stuver were present.
Jesse Smith submitted a memorandum regarding the 2004 salary budget process. He prepared Option 1 and Option 2 to demonstrate the request of the Library for salary increases. Option 1 is a total salary adjustment of 15% compared to Option 1 at 11%. He further explained in the Budget Adoption Resolution, that wages are budgeted by line item and no expenditure by any officer, employee, department, agency or official shall exceed the amounts set forth for appropriation under the provisions of the Budget unless authorized by the Board of County Commissioners. Any expenditure line item for budgeting requires a supplemental budget. As part of the adoption of the budget for fiscal year 2004 the BOCC specifically determines that whenever a vacancy occurs in a staff position for any department that is funded through the budget adopted here, all amounts that would otherwise be paid to a person occupying that position shall accrue to the appropriate fund contingency line item and shall not be credited to the wage and salary line item for the department o which that position is allocated.
Jesse included in the packet for the Board a memo from Jaci dated June 25, 003 recommendations for a 2% increase and some a 3% increase, the estimated budget hit for 2004 is $113,085.29 over this year's budget.

That would cut the anticipated capital fund accrual by half. Jaci had submitted a spreadsheet documenting these recommendations for Jesse's information.
The Library Board directed Jesse to make their salary effective January 1, 2004.
Jaci - budget process and implementation. Historically, the budget began in June – Human Resources and Jaci met and reclassification of some positions. This was brought to the Library Board and they had to decide if they wanted to do this or on capital accrual. Their feeling was to have staff paid appropriately was essential. They decided to accept Judy Osman's evaluations and looked at various scenarios – they looked at the various positions. They plugged this into their pay scale and using the 2003 plus 4% they felt they could do it. The amount came to $833,000. This would take a chunk of funds and meant strategic planning because payroll items went up. There focus is on service and what they provide to the public.
Jesse – what Jaci originally submitted was based on a market study that was 2-years old. We do not make salary adjustments on ranges rather on market. The salary ranges – the market study is used and this is what Jesse based his on – the current market survey. The market survey was based on the job description; the new ranges are based on the market study.
Don – the library receives county funds – they have a designed sales tax fund – under the County Attorney's power act, the Board of Commissioners approves their budget. Capital, operating and a separate line for personnel and did so for every department; elected officials follow within that amount for operating in capital free to spend, but on personnel it is a line item budget and every department must come before the Board to move money from operating to personnel.
Jesse used the salaries in effect December 1, 2003 and told how he determined those. A county salary pool of 4% was placed in contingency, took memo from Library to get different kinds of increases, estimated the impact above the 4% and placed that additional amount into contingency, then the BOCC approves or BOCC does not approved. He used the market study based on two things: ranges and grades – do not stay on the same grade – several were reclassified from one grade to another – up or down. The Library staff is considered County employees and to treat them differently would create a huge morale problem. The reclassification was based on changed job descriptions and regarded responsibilities and duties. What is the market paying based on job duty. The supply and demand changes the – the grades and ranges change – some went up and some went down. The pay is driven by the market.
Paula Bush – in good faith put together a budget, turned it in, salaries based on market salary – today is the first she's heard, how can they put together a budget before they have all the information. Their goal is to have all their staff paid for the job they are doing; her request is to be given the information so they can get their work done.
John Steele – this has been a 2-year increase – this has been going on for 24 months; a two-year cycle.
Jesse reminded Paula when the budget instructions were given he specifically said do not put any salary numbers in because we're doing a new market study. He reiterated this in personnel meetings.
Jaci – had to project payroll projections so she put in the 2003 salaries with a 4% increase to at least determine what was left over. Jesse did make it clear; 70% of her staff was reclassified.
Tom Stuver – there are Statutes that differential the Library. In this instance, the Library has the power to employ and have exclusive control of funds, including all assets of the library fund. He feels this is stronger than what other county employees had in managing employees. The clearer the lines are in the Library board, the less likely the county would be involved in any law suits. Library employees are not really county employees. Several years ago, the Library determined their own policies. They are looking at a 15% increase, and it certainly affords the library room to reach the level of compensation they promised employees. If you're going to make adjustments the better way would have been to submit for a 15% and let the Library do their range. The BOCC fixes the budget but the Library should be able to make adjustments to salaries as they see fit. In some respects, the system, is asking the Board to serve the system.
Chairman Martin – has done this for 3 years – the Library has approved for 2 years. This is what they have been followed. Last year the Library followed everything.
Jaci – this year they were looking at the reclassifications.
Chairman Martin –we are holding to the policy and are asking Jaci to make a budgetary request as a supplemental.
Paula – submitted the salary on the old market study – willing to go back and redo with the new market study.
Jesse – reiterated that the market study is looking at the job description.

Tom Stuver – sounds like we have some raw data and the Library and Library Board would like to see the raw study as it relates to Library employees. They need to look at the data and it's them who can relate the subjectivity and then come to the BOCC.
Chairman Martin – summarized what needs to be done.
Commissioner Houpt – get the raw data to the Library
Tom Stuver – all pertinent information as it relates to Library employees.
Jesse Smith will give them the raw data for the Library employees.
Tom Stuver – if there's more information he wants to see it to determine what Jesse used to arrive at the current market values.
Ed – 14% compared to the 4%. We have been on this for 5 years and raised the salaries.
Jaci – recognized that the Library is doing catch –up and being part of this process has helped the Library.
Jesse – the Library should avoid giving any kind of salary information out to employees before the budget is approved.
Tom Stuver - Jaci's problem is procedural
Commissioner McCown – asked if she would still be looking to our HR division for guidance and assistance in market studies and things of that nature or are you going to remain independent of that as well.
Jaci said she would like to still follow the County pay grade scale.
Commissioner McCown – but not submit a personnel budget.
Jaci – this would be up to the Library Board.
Commissioner McCown – having the best of both worlds will not work.
John Steele – wanted to make a point in closing, the thing that this did starting over two years ago, the whole reclassification process substantially changed the direction that your Library's are going in your County. To get these people so that we have employees with bachelors' degrees making as much as you're paying Sonic kids on roller skates to deliver hamburgers changed the way that your overall Library will look in the future. It removed a lot of concepts of bigger buildings and to pay someone for what they're actually doing, so it will be a bigger focus than ever before for the Board.

APPROVAL OF THE 1ST SUPPLEMENT TO THE 2004 APPROVED BUDGET – JESSE SMITH

The public notification was submitted and approved as in order.
Chairman Martin swore in the speakers.
Jesse submitted the 1st supplement with the salaries including the 4% performance and market survey.
Mildred asked about promotions – the Board stated they would probably be able to do that.
Jesse – the one exception is the Library – what is built in their area is 15% not 4%. The library has their own contingency.
A motion was made to close the public hearing by Commissioner Houpt and seconded by Commissioner McCown; motion carried.

Commissioner McCown moved to approve the Resolution approving the first supplement to the 2004 approved budget and authorized the Chair to sign. It was noted that the performance ratings be removed prior to release. Motion carried.

DISCUSSION OF (COMMUNITY SERVICES BLOCK GRANT) CSBG – WANDA BERRYMAN

County Attorney Don DeFord and Wandy Berryman were present.
Wandy Berryman presented the public notification in the Glenwood Independent to the County Attorney and stated it was a requirement to have a public hearing for the application. Don DeFord determined the notification was timely; he advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Wanda stated the application is due February 9, 2004 and in the past Healthy Beginnings has been a recipient of the Community Services Block Grant since 1997. This year they have a different focus; in the past it has gone for general operating expenses; this year Wanda said she will be writing the application to support the Nurse Case Manager positions and therefore this money would then stay under Public Health after the merger. This is the Board's discretion as to how they want this money to be used. This is for the 2004 – 2005 budget year. This year is it more, it's based on the 2002 census and as Garfield County's numbers have increased, the grant has increased from $37,898 last year and this year it will be receiving a little over $40,000.
Commissioner McCown liked the way Wanda has this set up so it will stay with Public Health after the merger occurs.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner Houpt that we approve the Block Grant as presented. Commissioner McCown seconded; motion carried.

PUBLIC HEARINGS
CONSIDER A PRELIMINARY PLAN APPLICATION FOR THE CALLICOTTE RANCH SUBDIVISION. APPLICANT: ROCKY MOUNTAIN MANSIONS III, LLC. – FRED JARMAN
Fred Jarman, Ron Liston from Land Design Partnership, Bob Zancanella, Steve Anthony, Garrett Brant, Roger Neil and Carolyn Dahlgren were present.
Carolyn determined that the public hearing noticing requirements were met and timely and that the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Fred presented the following exhibits into the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Staff Memorandum dated 2-2-04; Exhibit G – Application; Exhibit H –Letter from the Colorado State Forest service to the B & P dated 8-18-03; Exhibit I Letter from the Colorado Geologic Survey to B & P dated 9-11-03; Exhibit J - Letter from the County Vegetation Director to B & P dated 9-30-03; Exhibit K – Letter from the County Vegetation Director to the Applicant dated 8-12-02; Exhibit L – Letter from the Carbondale & Rural Fire Protection District to B & P dated 9-15-03; Exhibit M – Letter from the Division of Water Resources to the B & P dated 9-10-03; Exhibit N – Corrected Site Plan provided by the applicant dated 9-24-03; Exhibit O – Letter from Michael Erion Resource Engineering dated 10-08-03; Exhibit P – Invoice from Roaring Fork Vegetation Management Co. dated 10-08-03; Exhibit Q – Letter from the Road and Bridge Department dated 10-08-03; Exhibit R – Minutes from the Planning Commission meeting on 12-10-03; Exhibit S – Newly drafted Protective Covenants; Exhibit T – Letter from Land Design Partnership to the Planning Department dated 11-21-03; Exhibit U – Letter from Bill Johnson to BOCC dated 10-08-03; Exhibit V – Email from Ron Liston to Planning Department dated 11-12-03; Exhibit W – ISDS Management Plan; Exhibit X – New Drawings submitted by Applicant dated 11-12-03; Exhibit Y – New drainage plan submitted by the applicant; Exhibit Z – Letter from Resource Engineering dated 12-04-03; Exhibit AA – Minutes from the Planning Commissioner meeting on 10-08-03; Exhibit BB – Letter from Andrea Lewin Wendel; Exhibit CC – Petition to Garfield County on the Callicotte Ranch Subdivision; Exhibit DD – Letter from the Colorado Division of Wildlife; Exhibit EE – Letter from Resource Engineering dated 1-16-04; Exhibit FF – Letter from Land Design Partnership dated 1-26-04; Exhibit GG – Memo from County Engineer dated 1-28-04; and Exhibit HH – Letter from Steve Anthony dated 1-30-04.
Chairman Martin entered Exhibits A – HH into the record.
This is a Preliminary Plan review of the Callicotte Ranch Subdivision located off CR 103 about 3 miles northeast of Carbondale. The old Callicotte homestead has been demolished. The only remnants of ranch operations at the site are two wells. At the northeastern end of the property is an area that at one time was a landfill. This area has been graded in accordance with Colorado Department of Health guidelines to cover all trash deposits and water quality monitoring wells have been drilled down gradient from the fill areas. The applicant is proposing to subdivide the 173 acres into a total of 28 residential lots resulting in density of one dwelling unit per 6.17 acres.
Regarding CR 103, the applicant addressed the neighbor's complaints about the "blind hill" by proposing to reduce the hill by five feet for an estimated cost of $54,130.
Fred continued to review the specific project issues that were included in the staff report submitted to the Board. He also reviewed the site plan issues that were changed mainly due to the impact on the Pattison property; the water tank location; wildfire plan, the blind hill, CGS issue for Lot 28, Wildlife Concerns; Drainage concerns; Weed Vegetation Management; Steep Slopes (Lots 25-28) and Landfill on Tract A.
Fred suggested a $20,000 security in the SIA for 2 years as a separate component to manage this; the spread of weeds could be significant and would consist as a separate component in the SIA.
Recommendations:

1. That all representations made by the applicant in the application and as testimony provided at the public hearings before the Planning Commission and the Board of County Commissioners, shall be considered conditions of approval, unless specifically altered by the Board of County Commissioners.
2. All development activity shall comply with the recommendations of the Colorado Department of Public Health and Environment (Solid Waste Division) requiring that no development occur on the site (aka "Tract A"), repair and maintenance of the CAP occurs, and a "no build area" of 100 feet is established around the landfill. This "no build area" shall be depicted on the final plat.
3. The Applicant shall be required to obtain access permits from the County Road and Bridge Department for the proposed three access points onto CR 103. These permits shall be included within the final plat submittal provided to the Building and Planning Department.
4. At present, the proposed design for the driving surface of Road E narrows the width of the road width to two 8 foot lanes for the looped portion. The Applicant shall redesign this portion of Road E to be maintained as two 12 foot lanes with 4 foot shoulders throughout the entirety including the loop portion.
5. In accordance with the recommendations from HP Geotech, all of the steep road cut and fills (i.e. 2:1 slopes) shall be protected from erosion through placement of rip-rap, vegetative cover, or other means. The plans shall specify the slope protection.
6. Regarding weed management in the project's common areas, the covenants shall assign responsibility for weed management along roadsides and in common areas to the Homeowners Association. Further, the covenants shall describe how weed management shall occur on individual lots and be managed by each individual lot owner.
7. The Applicant shall provide a map or information (prior to final plat) that quantifies the area, in terms of acres, to be disturbed and subsequently reseeded on road cut and utility disturbances. This information will help determine the amount of security that will be held for revegetation.
8. The Applicant shall provide the security in the form of a separate letter of credit (amount determined by the County Vegetation Director) to Garfield County until vegetation has been successfully reestablished according to the County's adopted Reclamation Standards. The release of the security shall not occur until a formal opinion has been rendered by the County Vegetation Director as to the level of successful revegetation. This requirement shall be incorporated within the Subdivision Improvements Agreement (SIA).
9. The Applicant shall provide a Soil Management Plan to the Vegetation Director for approval as part of the final plat submittal. This plan shall include 1) provisions for salvaging on-site topsoil, 2) a timetable for eliminating topsoil and/or aggregate piles, 3) a plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more.
10. The Applicant shall be required, as a component in the Subdivision Improvements Agreement (SIA), to provide a letter of credit to be held by Garfield County in a amount determined by County Vegetation Director to insure that the weed infestation as described and documented by the County Vegetation Director in (Exhibit J) is being managed according to best management practices adopted by Garfield County.
11. RMM Well No.1 B was constructed as a monitoring well under permit No.241 009 and has been tested for both water quantity and water quality. The yield of the well is adequate to demonstrate adequate physical water supply and the water quality data indicates that the water is of acceptable quality for a public water system. It is proposed to construct at least one additional well at 50% build out of the subdivision to provide supplemental capacity and mechanical redundancy. Construction of this well shall be included in the SIA for any final plat which cumulatively approves 15 or more lots within the subdivision. The existing well must be re-permitted as a fee well prior to any final plat.
12. The final water system design shall include provision for fire protection and low pressure potable water service in the event of a power failure or pump failure. This would include appropriate valving, by-pass pipeline, dedicated fire hydrant from storage tank, and/or back up generator. The water system must be reviewed by Resource Engineering and approved by the Colorado Department of Public Health of Environment prior to any final plat approval.
13. The Applicant shall provide well permits for the wells that are to be drilled to provide water to the subdivision as contemplated in the Basalt Water Conservancy District contract as part of the final plat documents. In addition, and prior to the signing of the final plat, all physical water supplies shall demonstrate the following:
    a) That a four (4) hour pump test be performed on the well to be used;
    b) A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
    c) The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;

d) A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;
e) An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
f) If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;
g) The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

14. The Subdivision Improvements Agreement (SIA) as well as the protective covenants shall provide that the irrigation water rights / ditch shares currently assigned to the property are conveyed to and owned by the Homeowners' Association. All related easements shall be shown on the final plat.
15. The Applicant shall provide an appropriate ISDS Operation and Maintenance Plan in the covenants which provide more detail than proposed in the preliminary plan submittal documents. This information shall be submitted with the final plat documents to be reviewed by Resource Engineering at the time of final plat.
16. The fill slope for Road A from Station 27 + 00 to Station 30 + 50 infringes upon an existing drainage channel. A design detail for the proposed erosion control boulders shall be included in the drawings such that an engineered design rather than a contractor design will be utilized for this critical protection of the slope. This design detail shall be submitted with the final plat documents to be reviewed by Resource Engineering at the time of final plat.
17. The Applicant shall pay the appropriate impact fee to the Carbondale and Rural Fire Protection District at the time of final plat and prior to recordation of the final plat.
18. The Applicant shall be required to pay the Traffic Impact Fee to Garfield County to be calculated at the time of final plat and paid appropriately prior to recordation of the final plat.
19. The Applicant shall be required to pay the School Site Acquisition Fees, pursuant to Section 8:81 of the subdivision regulations of 1984, as amended, to be calculated at final plat and paid to Garfield County prior to recordation of the final plat.
20. The applicant shall include the following notes on the final plat as well as place them in the protective covenants:
    a. *One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owners' property boundaries.*
    b. *No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
    c. *All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
    d. *No further divisions of land within the Subdivision will be allowed.*
    e. *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*
    f. *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
    g. *All recommendations made by HP Geotech in the "Preliminary Geotechnical Study" prepared on April 19, 2002 shall be followed. Site specific studies for individual lot development shall be*

conducted by a registered professional engineer within the State of Colorado. These studies shall address drainage and grading, Individual Sewage Treatment System design, foundation design, and an under drain system design if necessary. These studies and or/ plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.

h. All lots within the subdivision are at low risk of both regional and localized sinkhole subsidence pursuant to the opinion of the Colorado Geologic Survey.

i. All residences over 3,600 square feet in size shall have automatic fire sprinklers installed. Installation of the sprinkler systems shall be in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes. Water services to the lots should be designed to provide adequate sprinklers flows with a minimum of three sprinkler heads operating.

j. All roadways within the development shall be dedicated to the public and constructed to standards consistent with Section 9:00 of the Subdivision regulations of 1984, as amended; repair and maintenance shall be the responsibility of the Homeowners Association of the subdivision.

k. Irrigation from the potable water system is limited to 2,500 square feet per lot.

l. Accessory Dwelling Units (ADU) are prohibited in the Callicotte Ranch Subdivision.

m. The mineral rights associated with this property (also known as Lots 1 – 28 of the Callicotte Ranch Subdivision) have been severed and are not intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).

21. The Applicant shall delineate drainage easements on the final plat for the sedimentation pond on Lot 8 and the major drainage channel on Lots 23 through 27.
22. The protective covenants shall include language that indicates Accessory Dwelling Units (ADU) are prohibited in the Callicotte Ranch Subdivision.
23. The water system must be approved by the Colorado Department of Public Health of Environment prior to any final plat approval.
24. While it appears the "new" emergency access road appears adequate, the road shall be constructed with a compacted base and a gravel surface. A typical pavement section for the emergency access road shall be included in the final design. There are also several references in the drawings to Road E that are incorrect since Road E no longer exists. These shall be addressed in the final plat documents.
25. The Fire Mitigation Plan included as Exhibit T in the application, shall be considered explicit conditions of approval in its entirety and the full plan shall be included in the protective covenants. The Applicant shall describe all applicable site design elements required from the plan on the final plat.
26. All lot owners shall be provided with information in the protective covenants which shall serve as a reminder to land owners as to how they can reduce wildlife / people conflicts and ultimately understand how to live with wildlife present in rural Garfield County.
27. Lot owners shall be restricted from erecting perimeter fences around the boundaries of lots. This will allow free movement of wildlife to, from, and between properties and will serve to help minimize wildlife caught in fences. Lot owners shall only be allowed to construct fences within the building envelopes that are recommended by the Division of Wildlife. Further, these fenced areas should be constructed prior to a C.O. is issued.
28. The Applicant should incorporate the following items in the protective covenants:
    a) Dogs should not be allowed to roam and homeowners should also be advised that dogs chasing wildlife is illegal and can lead to legal action. The Colorado Division of Wildlife will issue fines for dogs harassing or chasing wildlife. If a dog is observed chasing or harassing wildlife it may be shot. No more than one dog per household with a kennel restriction; furthermore an electric fence should not be considered a kennel. Dogs that are not kenneled must be leashed at all times. Proof of kennel construction should be required before a Certificate of Occupancy is issued. No dogs allowed by construction workers during the development process.
    b) Bear/human conflicts have the potential to be a reoccurring problem in this area and it is paramount that certain measures be taken to minimize these conflicts:
        - All homeowner have and use an approved bear-proof container for storing all trash/garbage. Trash compactors inside the house can help eliminate bulk and odors, which will further reduce potential problems;

- Bird feeders (including hummingbird feeders) can be used but do not mount humming bird feeders on windows or the siding of the house. Seed feeders should be strung up at least 10' from the ground with a seed catchment to discourage other wildlife foraging
- Pets should be fed indoors, and pet food or food containers should not be left outside;
- Horse feed should also be stored in a bear proof container and locked; a job box with a padlock can adequately prevent bears from breaking into horse feed containers;
- BBQs should also be securely housed in the garage or cleaned with a bleach solution when not in use due to the fact that leftover food and grease are an overwhelming bear attractant;
- Round door knobs on the outside of doors rather than lever-type can limit bear access into houses as well as installing a cooling system rather than leaving windows open, as this is the main way bears access homes in the summer. Storm shutters that can be closed and locked when the house is not being used can also discourage bears from entering vacant houses;
- Under current state laws, the Division of Wildlife is not liable for damage to real or personal property by bears.
- For homeowners keeping horses on their property, fencing haystacks with 8' mesh fence for wildlife proofing at the homeowners expense is recommended.
- Eliminating plantings of any berry, fruit, or nut producing plants or shrubs will also discourage bears and other wildlife from feeding on expensive landscaping. Homeowners also need to be aware that the Division of Wildlife is not liable for any damage to landscaping by deer, elk, or bear.
- Maintaining as much of the native mountain shrub communities inside the building envelopes is encouraged to continue to provide the highest value to existing wildlife.

c) Due to the fact that wildlife does travel through the area, all fencing should be eliminated. If absolutely necessary, homeowners need to adhere to wildlife friendly fencing consistent with the Colorado Division of Wildlife approved fences. For wire fencing, a maximum height of 48" with no more than 4 strands and a 12" kickspace between the top two strands is sufficient. Rail fencing should be held to a maximum height of 42" with at least 18" between two of the rails. Mesh fencing is strongly discouraged, as it significantly impairs wildlife movement.

Fred noted for clarification on Conditions No. 26 - 27 – 28 saying these were not part of the conditions proposed to the Planning Commission.

Commissioner McCown on the proposal of the leveling of the blind hill, was property acquisition considered or do we have enough right of way to do a 5' cut and still stay within the confines of the County right of way.

Michael Erion didn't know if it was looked at in coming up with the 54 to 71 because Randy looked at those numbers, but when we out there it was very tight and it was an item that was identified as well. We were looking at where the fences were located and they were variables some 60' and some 70' to 80' feet but we weren't sure that the county owned the right of way from fence to fence out there. So right of way could be an issue, one side is the applicant but the other side could be an issue.

Applicant: Ron Liston highlighted on some comments by Fred including the water tank and the exibit showing the cross section. The landscaping and berminig were showed to take away the visibility to the neighbors. Pointed out in the NWA site or the project, they pulled them away from the neighbors; Engineering elements have been modified and in compliance; the 103 road, corrected the staff plan, on site they clarified that the owner did not approve the 5' on the road adjustment and his position is he will write the check but will not do the actual work. He added that the hill top and the entrances are not site distance; it's just going over the hill top as well. This can be very complicated and his client said he would write the check. One of the neighbors asked about stronger language on lighting; he suggested no security lighting, but they put in some security and are willing to put in stronger language than the County has a recommendation; Planning & Zoning removed the ADU – the condition P & Z called for was a limitation for no AUD and there will never be an AUD requested. DOW – no problem looked at the wildlife and they are fine with the vast majority of those recommended conditions. Fred has a more defined language and may go approved fencing by the DOW. Conditions No. 27 and No. 28 – they refer to fencing before a Certificate of Occupancy and finds that real awkward and their covenants require they review every fencing to be consistent with the covenants; also paragraph (a) of 28 requires that the dog kennel be in place and requested those referencing Certificate of Occupancy and finds these two items awkward to carry forward

and implement in a practical way and requested those references to CO be removed. In the sentence in No. 27, just prior to the statement regarding CO, it reads "lot owners shall only be allowed to construct fences within the building envelopes that are recommended by the Division of Wildlife. Fred clarified that – it means fencing designs approved by the Division of Wildlife, not the building envelope. Then under No. 28, paragraph (b) sub bullet point number 6, they basically agree to what it's saying, this sentence is telling you to do things that make if difficult for the bears to get in and don't do things that make it easy like leaving your windows wide open; Ron finds this awkward to tell people that should keep their windows closed and install a cooling system. He would like to modify that and make people aware that an open window is potentially an invitation to a bear and they need to be aware of that, but not to suggest they have to have a cooling system and leave their windows closed. Otherwise they are in agreement for the conditions. The weed management letter adds the dollar amount and they are okay with that as well.
Public Input:
Davis Farrar – Western Slope Consulting presented slides showing the sight distance on CR 103 and he represents the adjoining property owners known as the Crystal Springs Concerned Citizens. They have over 100 signatures and a lot of concerns over the project. The applicant met with the landowners and staff has done a great job of working with staff; they are happy with the language on the water tank; okay with the Fire plan; Wildlife impacts – DOW recommendations are good including the one dog per lot; retention of irrigation – impacts on Missouri Heights issues – wants to keep the irrigation – southerly access – Pattison would have been impacted over the vehicle trips; relocation of boundary line – fences – those have been resolved; weed management – County is on top of that issue; reduction of ADU is a significant issue. Comments by staff recommended the ADU's are restricted in the Covenants and prefer it as a final plat notation. The ADU is an issue of density and as a key project the density would be above what the comp plan allows. Improvement to CR 103 – slides were presented – showed slides of the blind hill - county has a hazardous issue they need to address. They want this addressed in associated with the project. Would like to have a commitment from the County that the dollars would be used on the blind hill. The 6 and/or 9 acres per housing unit is unclear. The adjoining property owners support the County looking at the issue for density of the properties in the area. A question about landfill and disclosure to the potential landowners. A landfill is more that just a landfill, it was the old dump site for Carbondale and you could throw away with anything, car batteries included, noting potential leaching into the wells and the question is what kind of disclosures need to be made. In closing, the applicants have been responsive to the neighbors but emphasized the adjacent landowners have made an investment in their property and would like to emphasis they have big problems and want to make sure the developers follow through.
Commissioner McCown inquired as to who monitors those landfill issues; who has the ultimate responsibility of the post-closure oversight.
Davis said the State was the agency was overseeing.
Bob Zancanella - CTL Thompson did disclosure report and they did both test pits and a test drill and nothing showed up anywhere. The state didn't require any additional testing beyond that.
Chairman Martin – the question of liability in the future would probably belong to the homeowners association who would have ultimate space on that.
Bob Zancanella – on the water supply, the complete testing will go on their water for the subdivision. The State was the regulating agency and issued a letter approving the status of the landfill. There's no continued monitoring.
Garrett Brandt, Attorney – we have as part of our covenants 7.12 "monitoring wells" and it says the association shall cause the water level, E 12 which is a component of the new water system to be measured and we'll put in not less than quarterly so four times per year they are going to get water samples from our monitoring wells and make sure our levels are good too and that's certainly more than the state requires which is only once a year.
Commissioner Houpt asked if they were disclosing that the Landfill was in the area.
Ron – the landfill is shown on the plat and it is in a no-build area zone and there is a consideration of location of the wells. Tom's point is that by State's requirements, the community water system, as an ongoing basis they go for the full report on the quality of the water.
Commissioner McCown – it depends upon how many residents you serve as to how often you have to test.
Chairman Martin – because of the HOA's taking over after the build-out, and the developer is gone, etc. they take on responsibility. Would it be acceptable at this present time that the HOA's couldn't disband without approval of the BOCC just for the future problem that they may walk away from, where they throw up their hands and say we disband our HOA, etc.

Garrett Brandt, Attorney – in that instance, then the entire community water system would revert to the individual landowners and it would be in their best interest for their property values and their own health to continue monitoring and if there was some issue with it being contaminated, they're certainly going to go out of their way to secure a clear water supply.
Chairman Martin – qualified why he said that was because the plat note that Ron has mentioned and you don't sell but maybe two or three lots; then the developers' learn of a possible contamination and decides to abandon and walk away from the property.
Ron Liston – even if sometime in the future we identify something coming out of the existing wells, there are methodologies for treating the water and cleaning it up. We have a couple of Options - we have additional well sites approved and then the treatment levels. It's a normal procedure to establish a well replacement etc. and maintenance funds are part of the association as well and would be there to help them in that circumstance.
Chairman Martin – to the overall consumption of water is high water from the wells is 50% and non-augmentation plan.
Tom Zancanella – the wells have to augmented and they are, there is an augmentation plan in place and both on site ponds and Basalt water are on hand if the wells go dry. During the irrigation system, it's the leases from the Park Ditch.
Chairman Martin asked if they were using the irrigation water as part of the augmentation plan.
Bob Zancanella – yes. All of the water comes from the wells for the domestic water system. The replacement water is provided
Phyllis Smilack – resident north of the proposed development – repeated herself as to what she said from the P & Z meeting with respect to the blind hill. When they came over the hill one time, they killed two black cows on the hill. Luckily it was not a car full of kids and it's totally a situation of no visibility. She feels that the BOCC are beholden to make the fee appropriated to this road be useful to the road to protect human life.
Chi Chi Jacobson – about the dump site, she feels there is quite a bit of liability here because according to real estate law if the seller is supposed to disclose this dump site in a disclosure document to make a potential buyer aware. So if the buyer chose to purchase with previous knowledge, the developer has less liability down the road and like the foundation problem on the Terraces in Glenwood spring, so if a disclosure is made prior to the potential buyer, then it is less likely that the developer would be liability. She thinks it would be better for the County Commissioners to make sure the developer and make sure it's in the seller's disclosure to make the buyer aware. The dump currently is not a static system it's dynamic, for instance just a few days ago there is a case in Denver where there's a creek and junk oozing out of the Creek and they discovered about a 60 years ago there was a garbage dump so even thought this dump has been closed 20-30 years you never know that down the road something – it's not a static system and the environmental agency is closing this creek in Denver.
Commissioner Houpt – there are going to be requirements that the HOA has around the testing of the water in the wells and assumes it will be disclosures in real estate documents.
Ron Liston thought Chi Chi was talking about real estate sales documents.
Commissioner Houpt noted it has been mentioned several times the mention of the landfill won't be in documents that the purchasers will see and thinks it is very important that it is mentioned because she assumes it is not a lined dump and agrees over time it could be problems.
Ron – the plat has the area shown as the area of the landfill. Not aware of sale documents.
Phyllis Smilack – as the northern neighbor of the dump and they bought in 1979, we know that for a fact it was continued to be used as a dump illegally; it was private property but there was no
ability to stop people from coming in the middle of the night and dumping washing machines and car batteries etc.
Karen Salamida –a bordering property owner and she is concerned about the density and the water situation. Their home is in front of the Park Ditch and that is a big concern because it has been running just a trickle since the droughts have been going on. The average size of all the surrounding properties there is one home for 33 acres; this at 1 for 9 acres is more density that what the average is at present. She submitted the petitions of over 100 signatures; the petition stated "we the undersigned, Garfield County residents, in the area that will be directly impacted by the proposed Callicotte Ranch Subdivision strongly approval of this project at a density greater than greater than one dwelling unit per 9 acres or a maximum density of 19 single family lots one 173 acres. The density of 19 dwelling units is higher than the surrounding density of one dwelling unit per 38 acres but is more compatible with the rural agricultural

residential character of the neighborhood that the proposed 28 lot subdivision. 19 dwelling units will reduce impacts from traffic, water consumption, wildlife, wildfire, dogs, cats, septic systems and change to rural character. The undersigned request that any County approvals of the Callicotte Ranch Subdivision not exceed 19 dwelling units inclusive of accessory dwelling units.
Chairman Martin noted that this is part of the public record in Exhibit CC.
Karen submitted additional signatures.
Chairman Martin entered the additional signatures as amended Exhibit CC and entered it as Exhibit II.
Commissioner Houpt asked for clarification on the average 6.28 acres and just heard the average density of 1 to 33 acres.
Fred Pattison – 1923 CR 103 - this was for surrounding property owners adjacent to this property. He has the property where they've changed the southerly access point. His concerns are the water and density. They showed other subdivision in that area where the density was higher but to put this one at that density is going to continue the density all through there; it will connect all those subdivision and the density through out the entire area. The water and the landfill are of major concern. His family has owned that Callicotte property for several generations and is very familiar with the area that the landfill was on. It was never irrigated and there was never water and gravity pulling it down through to the different water tables, etc. The impact of the development and the terrain, watering it, etc. is going to impact it greatly. One of the wells being proposed is in the bottom lands below the dump site. That whole property sits basically on a knoll and there are no replenishments from higher up. As far as augmented from Basalt, he believes water from Ruedi goes into the Roaring Fork River and he wasn't sure what that was going to do for the property up there.
Commissioner Houpt said the Board has heard several concerns about water but the State engineer shows no material injury and asked Fred to speak to the water issue.
Fred – As far as the proposed water system, this County uses the Division of Water Resources as our water expert and this proposal was sent to them. In this case the State Engineer is saying from what's being proposed there isn't an injury to these water rights. Originally the proposal carried 46 units when you include the ADU units but since those have been removed the State Engineer hasn't gone back and adjusted their EQR's and so that now have 47 EQR's for only 28 units. So it appears there is enough water now; as to injury below surface to other folks as the result of development, he couldn't say.
Michael Erion – Resource Engineering – two issues: one is legal and physical water supply. From a legal they have a water court approved plan for augmentation that provides them with a legal supply; they have a supply from the wells, from the legal they are looking at legal injury to other water rights; they're covered by Basalt Water Conservancy District contract which covers them against any downstream water rights call and they also have on-site ponds which protects them against local water right call between them and the Roaring Fork River. The other component – the physical water supply – they have drilled one well out of the proposed two wells they will need for their supply; this well has shown to be a good producer very minimal drawdown when stressed in a pumping test and they meet the requirements as far as proving a legal and physical water supply for their potable system.
Commissioner Houpt – can we measure what kind of impact those wells could have on adjacent property.
Michael – there are engineering tests or pumping test where you have monitoring or observation wells where you also look at the drawdown on wells in the area and you can then predict where the drawdown might be
Chairman Martin – you also need to declare how many livestock that you're going to be watering as well because there are some lots will allow horses. This is part of the augmentation plan.
Tom Zancanella – probably the key issue here is that historically water was imported from the Park Ditch onto this property and what we have done in this case is we've tied that water to the property and that water has to continue to be imported. On the average over the last 20 years about 423 acre feet have been imported into the valley or in the area. Of that amount for 56 EQR's we were talking about using about 33 acre feet which 85% would return back to the same aquifer as the leach fields, etc. The key issue and what he has done on so many of the Missouri Heights is that he's tied the water to the land so that they can't take it off. Now what happens is, if you take the 400 acre feet and sell that off somewhere else, now you've created a huge impact but the impact of this system relative to what's being imported is 10%.
Chairman Martin – the livestock is in a condition that you have to identify how many head of livestock that you have going in there as well as the wells. Permit No. 01CR182.
Fred Pattison – he tried to use some irrigation; actually they had a gentlemen who was running the water down there and he was watching it and from the very upper access point near that area down to top of the

hill where the road problem is, over a 3-week period the water never reached that point. If they're going to fill ponds off that kind of water supply he didn't know how they'd do it.
Tom Z. – The augmentation plan identifies 15 livestock units.
Physically getting the water, Ron said Fred is looking at the conditions of the property and it has not been well irrigated or well handled for a number of years and Tom pointed out that tying the water to the land – it's there and it needs to be managed better than in the past. Physically, the water is there to do everything we're talking about and all the engineers recognize that.
Commissioner McCown – in the amount of storage that's been approved in your augmentation plan, it's irreverent of how to get it there, the fact is that its there and it has to be there to keep that augmentation plan current. If you have to line a pond then that's what you have to do to make it work. If you have an augmentation plan it has to work or you can't proceed.
Tom the ponds will be full part of the time.
Commissioner Houpt asked Steve if he looked at the West Nile issue and whether they should use those donuts for standing water.
Steve – no.
Ron – there will be flow into the ponds but later on in the year when the ditch is of he's thrown donuts into other ponds with standing water.
Debbie – Hawk Ridge Homeowners Association – in June 2002 she was presented with a list of watering dates and due to a typographical error she unfortunately watered on the wrong date and was attacked by neighbors, physically almost. We were in a standoff situation and it was very unpleasant; later she was in touch with the HOA president who has tired to implement a plan whereby when our ditch run out which it did on June 12 and June 18 for the past two years, we were supposed to turn in our water meters readings and it became very obvious that water was an issue and also that our covenants by law can't be enforce and its up to a neighborly good human being paying taxes not driving too fast on your roads and just wanting to participate as a good neighbor, that's the only way we can get people to turn in our water reader meters and she said she is sitting here laughing about wells and water because she actually lived it for two years and knows how scary it is when they ran out of water but when it comes to water, it comes to a push or shove deal. She loves all the legal language but it's coming out of the skies or whoever you want to believe, the ozone layer, global warning, we're really at the mercy and comical to say we have lots of water. Last year they were putting out coffee cans out hoping to catch a little precipitation off our roofs. She is a visual artist and bought her property and loves the elk and eagles and hopes the density will not increase that much.
Chairman Martin – as they say, whiskey's for drinking, water is worth fighting over. This is the Wild West and a lot of us have lived through that and we haul water to our places when our wells either go dry or the ditches go dry – it is a concern we have.
Ann Ware – adjacent landowner – they would like to see it closer to one dwelling per 9 acres as this is a precedent for other large farm parcels that are going to be subdivided in the near future. This is a concern for the future and would like it scaled back so that not every developer thinks that just because one got 6 acres per dwelling, he can as well.
Fred Jarman asked Ron to explain the process on tying the irrigation water right, other than the decree, to the land.
Garrett – the water rights will actually be deeded to the HOA from the developer and in the covenants it mandates the Association is to apply those irrigation ditch rights to the common open space tracts throughout the property, so it's the homeowners responsibility and their ownership of the water that will tie it to the land and it that they can't sell it off because it's a community asset at that point.
Fred – question for Davis on the ADU's is well taken and that's actually in a requested plat note as a condition of approval, it's 20L. We agree with you that covenants are one thing, plat notes are certainly another thing, and so more people will recognize it on a final plat.
Garrett - The lighting issue has not been put in the covenants and wanted Davis to sign off on it before putting it in the covenants.
Chairman Martin – asked about the Park Ditch Company and number of shares; is this an organized Ditch Company and registered with the State of Colorado or is it like some of the ditches in Silt where it's just a bunch of folks that dug the ditch and they claim rights to it through their decree and then they don't have any real share control.
Garrett – the Park Ditch Company is a real ditch company and they do have shares in it and will tie to the HOA.
Commissioner McCown – 200,000 gal tank for fire protection or water storage?

Ron – a large part of that is for fire protection.
Commissioner McCown – there's a movement to adopt the new building code and also a new fire code. Part of the adoption of that fire code would require everything sprinkled. The sprinkling requires far less water storage and would you see a revamping of this process should the adopting of the fire code being adopted in the next couple of year? Also, would you see this necessary for domestic use?
Roger Neil – for cost of the tanks it probably behoove them to keep the tanks at a larger size.
Commissioner McCown – are there adjacent subdivisions in the area or do the larger property owners in the area have access to a similar sized water tank.
Ron – the closest tank is Hawk Ridge and is a much smaller tank.
Carolyn – questions from the Planning Commission meeting 1) was paragraph 20, the plat note M and apropos of notice issues – M said we need a plat note saying that the minerals rights have been severed. That is not correct is it?
Garrett – That is not correct and the mineral rights are with the property.
Carolyn – Paragraphs 8 and 10 – paragraph 10 does require a separate letter of credit and that should reference Exhibit HH as well as Exhibit J – HH is where Steve has referenced the dollar amount needed for the 3 year, two times per year weed application for the weed infestation problem. Paragraph 8 is the regular, if you will, revegetate LOC and it now says a separate letter of credit. Actually, Mr. Martin, we have done SIA both ways with a separate letter of credit and a folded letter of credit for all the other SIA improvements. No. 10 does need to be a separate one as it has different time lines.
Ron – our understanding would be that both are talked about in the SIA but there's a letter of credit that would cover the basic improvements and vegetation would be part of that first letter of credit because it's part of the total construction process. We can see the value for the administration of the county to have a separate letter of credit for the weed management and that's acceptable.
Carolyn – No. 10 also references HH and 8 we take out separate and fund a letter of credit. The reason for the two letters is they have different time lines.
Discussion was held as to whether one or two letters of credit would be needed.
Ron agreed with Commissioner McCown that one letter with specific amounts tied to certain things would be the preferred direction.
Carolyn added a lot of this depends upon what the lender will allow.
Fred – you can wrap everything into one letter of credit – question is will the banks let them do it.
Ron – we agree to provide the security one way or another.
Commissioner Houpt this would be fine either way.
Commissioner McCown – mitigation of blind hill – would the developer, given the fact the sole property owner on the west side of the road, would they be willing to ensure the County to have adequate right of way to make improvements to that hill so we don't have to get into a situation where we're acquiring property adversely to make the improvement.
Ron – yes, we'll make that commitment that we'll probably make in the form of a construction easement; – yes they agree to for whatever it takes. As long as it doesn't affect the open space tract we're right at 2 acres – if they give a deeded right of way may infringe on the requirement for open space. Therefore okay just as long as we don't get into any complication on the 2-acre requirement. In looking at it, it's at the right of the north entrance, there's an open space tract and they would have to be careful if they gave a deeded ROW it might squeeze in on the 2-acre and are aware of it and handle it properly. We could do a permanent easement to deal with that.
Commissioner McCown – must move the line if it's open space.
Mark – it is required to be 2-acres.
Ron – just be aware of that you're cooperating with us if we take care of that.
Commissioner Houpt – with the building envelopes was wildlife mitigation discussed.
Fred – no from the report that DOW provided they references that given the lot sizes and that's the point behind the fencing allowing building envelopes – you have wildlife friendly fencing allowing the migration patterns but DOW didn't provide us any mapping as to where it was at.
Commissioner McCown – on No. 27 – aren't we mandating fences; on the CO where the fencing has to be in place before a CO is issued; what if a person doesn't want any fencing? It doesn't read that it's optional.
Fred agreed the language was difficult and cumbersome.
Commissioner McCown will strike the last sentence in No. 27 if he makes the motion.
Ron Liston – you're raising a point; basically they have no problem restricting perimeter fencing of the lots and someone doing a privacy fence around they house is fine, except there's 6 lots that may

accommodating livestock because they have large irrigation pastures. As they approach the covenants they are basically limiting perimeter fencing except for those lots that are irrigated and at some time may accommodate a horse or two. Therefore he wants to be careful and not blanket everything. It comes to this application of water.
McCown – Colorado is a fence out state, what about the entire perimeter of the development in terms of fencing.
Ron – that is not a big concern but if we need to be able to fence out the livestock, it's the same type of question.
Commissioner McCown – that's my point – if the neighbor decides to run cattle and the perimeter of this development is not fenced, it's going to be over this entire development.
Ron – the concern is for the blanket statement that the only place you can put a fence is in the building envelope and that's not appropriate in this subdivision.
Commissioner McCown – the Conditions in our boiler plate is that we are a Right to Farm State and that does entail the fencing out of livestock.
Chairman Martin – other places that have nice subdivisions and golf courses are next to ranches that allow open range and they do cross the boundary line not knowing where the line of the ground is.
Ron – no problem, internally with minimizing fencing within the project but the perimeter of the subdivision he always looked at as being able to fence out and the few that we have with some livestock all meeting the criteria of the DOW.
Discussion about ADU – those were in the covenants prior to the revision. Ron said the ADU's will be removed.
Carolyn – there are a number of things that need to be changed in the covenants and that will be a part of the final plat review. Counsel for the applicant has stated he is waiting to do all the changes at one time.
Commissioner McCown – asked Carolyn if he struck protective covenants and entered final plat would that cover our bases? No. 22 – striking protective covenants and inserting final plat instead.
Carolyn – it actually can go in both places, we have a plat note 20L that already requires it. It should be in both places – protective covenants and in the plat notes.
Commissioner McCown strike that entire M regarding mineral rights as they are with the land.
Carolyn – earlier it had been brought up that the language made it sound like the DOW got to define the building envelopes; the sentence before that concerns you, "lot owners shall only be allowed to construct fences within the building envelopes" …. Which fences shall be of the type recommended by the Division of Wildlife perhaps?
Ron – commented on considering the CO on the dog kennel in No. 28- a similar thing – a specific offense.
Commissioner McCown – if I make the motion, I'm going to strike that last sentence, so it will answer your dog kennels. It shows up in No. 28.
Davis – if you strike the language of the kennel, "proof of construction would be required before a CO is issued, what would be the enforcement mechanism for that? There may be other ways to do that but that's the intent of the staff to make sure it happens just beyond the covenants of the Association.
Commissioner McCown – who's to say if you have a dog you have to have a kennel? Leases are allowed.
Commissioner Houpt – we need some type of accountability.
Commissioner McCown – there's nothing to say that your house can't be your kennel. It is at our house.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner to approve the Preliminary Plan for the Callicotte Ranch Subdivision and of the Planning Commission recommendations nothing on page 20 that negates any change, Number 10 on page 21 with the changes to refer to Exhibit HH and J as discussed with counsel; on page 24 the deletion of item M which would refer to the mineral interest would be completed deleted; No. 27 – the correction "lot owners shall be allowed to construct fences within the building envelopes which fences are recommended by Division of Wildlife striking the last sentence of that; No. 28 paragraph a – striking the next to last sentence in that paragraph starting with "Proof" ending with "issued"; I don't want to apply a number to it, but I think It's in the boiler plat again where "all testimony and representation by the applicant which would include the property being made available to allow for the construction of the road to negate the blind hill scenario would be included.
Discussion on the motion before a second.

[Commissioner Houpt asked for a couple more- I think the concern about disclosure of the existence of closed landfill is important in the regular monitoring and that could go where it talks about a no built area in No. 2 – needs to be continually monitored and it should be a no action item.]
[Commissioner McCown – these are a part of their water system they are going to be required to be monitored because they're serving more than 28 people and that's a trigger for a community water system, so they will have to be monitored quarterly and possibly monthly for bacteria and probably once a year for nitrates, nitrites; quarterly for some others.]
[Commissioner Houpt – then it's probably important to know the existence of the landfill so they know what to test for as well – other things may show up as well that you typically wouldn't test for].
Chairman Martin – we're discussing the motion and if you wish to go ahead and make some additions to the recommendation.
Commissioner Houpt –that was my intent.
Carolyn - you are talking about two different things.
Commissioner Houpt – the landfill monitoring.
Carolyn – so perhaps if you're asking for a friendly amendment that could made as part of that. Chairman Martin – to continue the landfill monitoring wells and have a yearly report to the Homeowners Association.
Commissioner McCown – that's where I'm going, who is this going to be turned into?
Commissioner Houpt – the monitoring reports for the water will go to the Homeowners.
Commissioner McCown – the potable water report will actually go to the Health Department but on the closure of the landfill/dump has already been deemed significant and there are no on-going reports required by the Department of Health.
Commissioner Houpt – as a point of clarification, it's a no action item. There was a point made that there could be irrigation on this area that hadn't been there and that could change a lot of issues in terms of what happens. Just because they aren't monitoring it anymore doesn't mean that the garbage isn't there anymore. It still exists on that piece of property and if there is irrigation on this piece of property I think it's important to monitor that and see if there's any change occurring to the local water table and wells. Maybe you can detect that through the monitoring of the water wells and could accept that as long as the Homeowners Association specifically knows to whoever is monitoring those wells, that there is a closed landfill in order to test for the right properties.
Commissioner McCown – the HOA will either have to hire someone who has a level D license approved by the State of Colorado to monitor those wells. And they will by law have to report any violations to the testing entity if they use a lab in Grand Junction either a state lab or a private lab – send copies of those to the State if they're drinking water and if they're abnormal amounts of any of those entities, they are flagged.
Commissioner Houpt – okay. Would they test for the same properties in both?
Commissioner McCown – whatever is deemed hazardous for human consumption when they're testing for potable water. If there's a change; they have a baseline now that's been determined in the initial testing of this well. If over a period of a year or two years there is a change in that baseline data and some of the identified contaminants were raised that would be the flag that would cause the State to know there were problems with the well. They would have to develop some type of a treatment process, reverse osmosis to ensure the water to be safe.
Chairman Martin – I realize your other concern is that it may leach onto the other neighbor's wells but at that point we are also relying on the plat note and also the sales noting there was a City dump and it needs to be clarified that it was a dump and not a landfill. He agreed that it hadn't been irrigated for many years and that's why there are so many weeds. You're recharging the ground water and it may leach into some else's field but then that's office the reason they have the office of State Water Engineer and if there's someone damaged, they need to bring it to them. And if property notification and identification has been done, we know who will be at fault on liability – that will be the Homeowners Association. That's why home buyers need to do their research before purchasing a lot or a home.
Commissioner McCown – on No. 2 – page 20 this will be shown on tract A as a no built area, if it were depicted on the final plat a no build area- former dump.
Commissioner Houpt said she is looking for something that will detect any future leaching with the change of treatment of the piece of property. This piece of property is going to be irrigated where it hasn't been in years, then she wouldn't have this concern, but this is an unlined dump and we don't know what's in there.
Chairman Martin – would putting two monitoring wells around the perimeter of the landfill/no built area be a recommendation you'd like to see on the friendly amendment in that area.

Commissioner McCown – down gradient from what? From the landfill or what. I thought we were worrying about it migrating off this property. It's got to go all the way down to this corner to migrate off the property.
Fred pointed out the location of the wells.
Commissioner McCown – so let's do annual monitoring of those. Is 5 years enough once the irrigation practices start? A time limit was suggested because one would think that if they were going to saturate that ground and if it's going to leach it would do it in a five-year period. That no - built area doesn't have to be irrigated; water could be diverted around it.
Commissioner Houpt – why don't we compromise and make it an 8 year period.
Commissioner McCown how about annually for 5 years and bi annually after 5 years to 10 years and included this in No. 2 on page 20 – that test from the monitoring wells that are surrounding the existing no build area baseline data has been available, that once the project is approved testing would be on an annual basis for the first 5 years and bi annually for the next 5 years and if no noted change would cease after 10 years.
Commissioner Houpt suggested to leave it annually for 10 years as it makes it clean and you don't wonder which years you skip and if no change then they can skip the testing.
Commissioner McCown agreed. And as a point of clarity, these tests go to CEPHE and the HOA.
Commissioner Houpt seconded the motion.
Chairman Martin noted we have a motion and a second with all the clarifications, debate, etc.
Chairman Martin noted that it's always been his concern about the water and augmentation plans. Someday paper water is not going to exist and we're all going to be in trouble and hope we can get away from paper water somewhere and live within our means.
Motion carried.

CONSIDER AN EXEMPTION FROM THE DEFINITIO OF SUBDIVISION AND REQUEST FOR A FLOOD PLAIN SPECIAL USE PERMIT. APPLICANT: DOANE H. DEANE – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Ron Liston, Roger Neil, and Buck Deane were present.
Carolyn determined that the public hearing noticing requirements were met and timely and that the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Fred presented the following exhibits into the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Memorandum; Exhibit H –Memo from the County Vegetation Management Director dated 1/27/04; and Exhibit I – .Well Permit with Extension, Division of Water Resources; Exhibit J – Email from the County Road and Bridge Department dated 1/2804; Exhibit K – Memo from Carbondale Planning Director dated 1/28-04; Exhibit L - Memo from the Town of Carbondale Public Works dated 1/27/04 and Exhibit M – Letter with signatures from neighbors who share the Rose Lane: Barry Hansel, Judith S. Detweiler, Jan David, Robert L. Richardson, Lorrine Richardson, Norma Roach, Samuel D. Roach and Myrna Orosz; Exhibit N – letter from JC Cerise dated 1-7-04.
Chairman Martin entered Exhibits A –N into the record.
This is a request for an exemption from the definition of subdivision and floodplain special use permit for a site of 77.8 acres located off CR 100 – Catherine's Store Road
The applicant requests approval to subdivide the 77.8 acre property into a total of four lots; two lots containing 10.4 acres, one lot 11.2 acres and the forth lot 45.8 acres. The property is located approximately one mile east of Carbondale on the north side of CR 100 and south and adjacent to the Roaring Fork River. A larger portion of this property is located in the floodplain. Fred noted the difference between the floodway and the flood fringe. The floodway is closest to the moving water; the flood fringe is the furthest away and defines it as the portion outside and it can be developed with proper mitigation. The County has allowed development in the flood fringe as long as they require the foundation is one foot above the flood fringe. They can add fill in order to reach those elevations and must be proved to the B & P department. This is ISDS and has proposed this will be mound systems for two lots. They can meet all the requirements for a SUP. The density is in line with the Comprehensive plan and Fred provided the language that deals with this issue: Water Service – ultimately it says if you can't hook into a main central system, you've got to be able to provide mitigation that works. And in staff's opinion what is being proposed does work. The Town of Carbondale did look into this and Mark Chain commented that this is above their oil field and

these three will not impact their oil field, they have a system that's treated, they did remark that they would like see the subdivisions not so reliant on ISDS so close to them. Water and serving the new lots, the property has a current well that served the residents since 1945, they're proposing to drill a well that will serve lots 2, 3, and 4 and they indicate it's in the Roaring Fork Basis and the typical comp test would apply in this case to proving the well. This is a private road easement and exempt from driveway permits.
Recommendations:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant shall have 120 days to present a plat to the Commissioners for signature from the date of conditional approval of the exemption. Failure to submit required information to the county by this date without a request for an extension shall automatically dissolve any approval granted by the Board of County Commissioners.
3. The Applicant shall pay the impact fees to the Carbondale and Rural Fire Protection District at $417 per lot at the time of final plat. Proof of this payment shall be submitted to the Building and Planning Department prior to the Board's signature of the Final Plat
4. When substantial construction is complete, the Applicant or future owner of the property shall submit a floodplain elevation certificate to Garfield County Building and Planning Department to verify construction of the first finished floor is at least 1-foot above the 100-year floodplain prior to final inspection approval and the issuance of a Certificate of Occupancy.
5. The Applicant shall accurately delineate the two wetlands that fall primarily on Lots 2 and 3 on the Final Plat and shall provide an approval (prior to final plat) from the Army Corps of Engineers indicating the proposed access road to be expanded from 12' to 30' will not affect this wetland and can be properly mitigated.
6. While the Applicant has mapped and inventoried the property with the focus on wetland delineation, the Applicant shall provide a report that addresses 1) noxious weeds on the property and 2) a weed management plan for any inventoried noxious weeds, and 3) future weed management for the common elements within the subdivision which might include, but are not limited to, roads, utility easements, and common open space. This information shall be provided to the County Vegetation Management Director for approval then submitted to the Planning Department prior to final plat.
7. Regarding weed management after the sale of lots, the Applicant shall incorporate language in the "Declaration of Private Roadway Easement and Maintenance Obligations" that addresses the legal responsibilities of property owners to manage noxious weeds according to the Colorado Noxious Weed Act and the Garfield County Weed Management Plan. This language shall be provided to the County Vegetation Management Director for approval then submitted to the Planning Department prior to final plat.
8. The Applicant shall be required to conduct a well pump test for the existing well serving Lot 1and the well to serve Lots 1 - 4 that demonstrates all of the following points as applicable:
    a. That a four (4) hour pump test be performed on the well to be used;
    b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
    c. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
    d. A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;
    e. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
    f. If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;
    g. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.
    h. For water supplies based on the use of cistern, the tank shall be a minimum of 1000 gallons.
9. That the following plat notes shall appear on the Final Plat:
    a) No further divisions by exemption from the rules of Subdivision will be allowed.
    b) No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations

promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

d) Foundations and Individual Sewage Disposal Systems shall be engineered by a Professional Registered Engineer within the State of Colorado.

e) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

f) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.

g) One (1) dog will be allowed for each residential unit within a subdivision and the dog shall be required to be confined within the owner's property boundaries.

h) That all manufactured homes or those to be substantially improved to be placed within Zone A on a community's FEMA or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. A manufactured home should be elevated a minimum of one (1) foot above the base flood level and anchored to the elevated foundation.

i) Proper erosion and sediment control measures shall be taken during any site construction disturbance which shall include enclosing the construction envelopes with silt fencing and hay bale check dams.

j) The following uses and activities are prohibited in the Flood Fringe/Flood Prone Areas:
    a. The development, use, fill, construction, substantial improvement or alteration on or above any portion of the Flood Fringe or Flood Prone Areas which alone, or cumulatively with other activities, would cause or result in the danger of substantial solid debris being carried downstream by floodwaters;
    b. The storage or processing of materials that in times of flooding are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life;
    c. The disposal of garbage or other solid waste materials; and
    d. Any obstruction, which would adversely affect the efficiency of or restrict the flow capacity of a designated floodplain so as to cause foreseeable damage to others.

k) The access road serving Lots 1 - 4 shall have a minimum unobstructed width of 20 feet, a vertical clearance of 13’6”shall be required, and the road shall be of a design capable of supporting the imposed load of the emergency apparatus and shall be of an all-weather design.

l) Defensible space should be created around all structures built on Lots 1 - 4 to prevent the spread of wildfire to the structures.

m) All Individual Sewage Disposal Systems proposed for Lots 2 – 4 shall be located in the respective ISDS enveloped as delineated on this final plat and shall be engineered by a Professional Registered Engineer within the State of Colorado in accordance to the Guidelines on Individual Sewage Disposal Systems as adopted by the Colorado State Board of Health.

n) Due to the construction of buildings within the flood plain an alternative ISDS design such as a mountable sand filter system will be required to elevate the leeching area above the ground water elevation, flood water elevation, and be prepared in accordance to the Guidelines on Individual Sewage Disposal Systems as adopted by the Colorado State Board of Health. Dosing pumps shall be integrated into each design to ensure that wastewater can be pumped up to the proposed absorption area.

o) No development may occur in nor affect the delineated wetlands as shown on the final plat unless otherwise approved by the Army Corps of Engineers.

Commissioner Houpt – outside of the system, who addresses the concerns about the roads that the neighbor's had?

Fred – this is an arrangement between the parties who are party to those easements and cost shared by these individuals since this is not a County maintained road, it's not under County jurisdiction. Referred to Exhibit M and this was deferred to Road and Bridge and they suggest chip and seal on that road.

Chairman Martin – the applicant needs to address it because he says he's going ahead and modify it with a cost share or at least an agreement in place.

Commissioner Houpt clarified that the Board received a letter about the road that it will be impacted by this subdivision – Rose Lane and the R & B report stated it was outside the system.

Bobby Branham – District 1 – Rose Lane is not but is outside the system of county maintained roads of where those properties would access because they're a secondary road of that Deane and it's his understand that this is what they are going to be accessing off of – which is a private road. Rose Lane is a maintained County road.

Commissioner McCown – point of clarity – is Rose Lane is the road that will be accessed for this subdivision?

Bobby – yes it will because this is where it ties into 100 Road and then it turns into a private road, the Rose Lane extension and part of that is across Mr. Deane's property and is currently serving another subdivision. From the extension where it begins we do not do maintenance.

Ron addressed the questions raised - on the wetland; the linear is a ditch lateral and is very tiny. Gary Beach with Beach Environmental, said where that lateral comes underneath the road, number one there is an extension of culvert pipe that goes outside the roadway then there's some splitting of that lateral so until we go out and actually survey the wetland these wetlands are mapped by visual mapping on the plans he had; when we prepare the plat we'll survey the wetlands staking he did and bring those into play, he said if in fact the wetlands extend down close enough to the road to where we impact the wetland by that road expansion, he said the amount of impact is so minimal we'd probably do it under Nationwide Permit No. 3 with the Corp which is a notification, he notifies them of it and they don't even respond. This raises the question of the one language in Condition No. 5 we're calling for specific approval and now we're caught in a Catch 22 where we notify the Corp but they don't respond and yet Ron would not have the approval from them. The maintenance issue: first of all from Mr. Deane's driveway onto the east over to the Day Subdivision there's an existing easement or roadway and we are expanding that easement and have a common road maintenance agreement in the application, what has come to light actually since more carefully reviewing the original easement, when we come to you with the final plat, our attorney will probably actually encumber those, the Day property owners as well to participate directly. The original and current agreement just prepared that these three property owners plus the four are going to maintain that, we have the right to do that, but we also may have the right to tie those other people to it. If not they are already bound to maintain their 12 foot of the road as is. The extension of Rose Lane which is a short stretch to the south from that point out and his understand is that there is no formal document.

Buck Deane said he has an agreement with the Day Subdivision that they would maintain that extension and insure it and put in some speed bumps etc.

Ron – but the other stretch out, we can't force the other folks that are out there now to participate because they're not signed on to anything; the extension. Rose Lane Extension comes to Buck's door.

Commissioner Houpt – are you reading this to mean the Rose Lane Extension or Rose Lane.

The applicant agrees to the Conditions.

Carolyn asked in paragraph 8 – there is the reference for the need for a well sharing agreement and it actually says lot 1 to 4 but should this be lots 2 and 4. Yes, agreed. There is a draft well sharing agreement.

Ron – we'll provide that at the final plat and the easements will be shown on the plat.

Carolyn – Paragraph 7 talks about weed management and requires that you add weed management to the declaration of private roadway easement and maintenance obligations or a separate document. If go back to

your lawyer and tell them to turn this into a weed maintenance they may say you can't by way of an easement.
Commissioner McCown – doesn't this apply only to the weeds on the private road on the easement that these entities will be using.
Carolyn – misunderstood it.
Fred clarified that No. 6 addresses Carolyn's concerns.
Commissioner McCown – and no change on No. 7.
Jean Chelster – last one on Rose Lane before his property starts. There is a portion of Rose Lane that belongs to the county but is not maintained; the top end is maintained for the bus route where it is paved chip and seal but from there, there's another quarter of a mile that is not maintained.
Bobby clarified where the Rose Lane extension it is a private road. From the corner of Rose Lane and Daisy where the Rose Lane Extension begins is a private road.
Chairman Martin – that gives us questions to research as roads come up.
Fred – also whether in the letter on M do they mean Rose Lane to be the entire thing out without the extension – it's unclear.
Chairman Martin – Rose Lane is in segments.
Mark Bean – his understand is Jack Sharp tracks is what Rose Lane and Daisy Lane came from are all un-subdivided areas and any maintenance on the roads would be based upon the historical maintenance of that area because he doesn't believe there's any dedication of those roadways or accepted by the County.
Commissioner McCown – asked Bobby if he had a project list for that road this year? Was something done on it last year?
Bobby – no.
Commissioner McCown – in our latest and greatest inventory, it shows Route 340 taking off of CR 100 is .5 2/10 in length.
Bobby – that's about right.
Commissioner McCown – that's all that's included in CR 340.
Ron Liston – Buck pointed out that the Rose Way extension was dedicated to the County but the County specified they would not maintain it.
Commissioner McCown – it's a public road and not a County Road.
Ron – this stretch of what we're calling the Rose Lane Extension is maintained by the surrounding property owners without a formal document that they have all signed.
Commissioner McCown – this is common in Subdivisions today, they are public roads but they are not taken in as part of the County Road system.
Ron – requested No. 5 "shall provide an approval prior to final plat from the Army Corp of Engineers, even if we have the approval, according to Gary they may not issue a report of approval. Conceivable we could file another level of permit.
Mark – provide a copy of the application and submit it to the Corp.
Fred – so we can remove the term "approve."
Commissioner McCown – they'll respond if they don't like it. In this whole process and in looking at the map, are there any alterations to the normal flow of the river, any berming, diversion that would cause the river to take a different course through this property that would impact property below this?
Ron – you are looking at a pasture.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.

Exemption

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Exemption from the definition of a subdivision for the Doane Deane property with the staff recommendations 1 – 9 with corrections as noted, regarding the Corp permitting process and the well lots serving lots 2 and 4.

Floodplain

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Floodplain Special Use Permit with the same recommendations and conditions.
Motion carried.

PUBLIC MEETINGS:

CONSIDER A REQUEST FOR A ONE-YEAR EXTENSION FOR THE PRELIMINARY PLAN APPROVAL FOR THE SATTERFIELD SUBDIVISION. APPLICANTS: JERRY AND MARY SATTERFIELD – FRED JARMAN

Barb Burwell with Stuver and Lemoine, PC; Fred Jarman and Carolyn Dahlgren were present.

Mark stated that the Board approved the Preliminary Plan request for the Satterfield Subdivision (a two-lot subdivision) on February 18, 2003 with conditions. That approval is valid for one year and is set to expire on February 18, 2004. The applicants are requesting a 1-year extension so that they have additional time to obtain a letter of "no material injury" from the State Engineer of the Division of Water Resources.

Staff recommends the 1-year extension be granted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the one-year until Feb 18, 2005. Motion Carried.

CONSIDER A REQUEST TO SIGN AN AGREEMENT TO SURRENDER AND ISSUE CERTIFICATES OF OCCUPANCY FROM CERISE RANCH LLC (WINTERGREEN HOMES LLC.) AND STEVE AND ROBIN HUMBLE – MARK BEAN

Mark Bean and Don DeFord were present.

Don submitted the proposed Agreement for installation of a temporary sewer line as well as an agreement that involves the County that involves surrender and then re-issuance of Certificates of Occupancy. This is a three party agreement between the Commissioners and the Cerise Ranch LLC and the Humbles who are one of the property owners. Summary: there is now a central sewer system being installed in the Cerise Ranch. The timing is awkward and especially for the Humble property – they've been issued a building permit and the home is essentially complete. The problem is that we've been waiting to get sewer hooked up to it. In order to accommodate this it will be necessary to hook their property to an existing ISTS on another lot given time to complete the central sewer system to their property. When the central system is to the Humble property ready to be hooked and is hooked up, then the connection to the ISTS will be severed and they'll be served by central sewer. This is designed to allow the Humbles to get their CO and move into their home.

Jeff - Lot 66 is not occupied and we're willing to let them use that system until we get the main line installed which should happen the first part of March.

Mark submitted the agreement to surrender and issue certificates of occupancy.

Don – with that the Chair should be authorized to sign the agreement to surrender and issue Certificates of Occupancy. Commissioner Houpt- so moved; Commissioner McCown seconded; will the ISDS on Lot 66 go away once the commercial sewer is in the area?

Don – yes it will go away. The ISTS system agreement provides that it will be shut down, removed or made in-operateable and both lots will go to the central system. Motion carried.

Continue the Executive Session – Bair Chase/ Sander's Ranch

Commissioner McCown made a motion to go into Executive Session to get legal advice. Don – under 24-6-402(4)(b) we need to provide you legal advice regarding the upcoming item on Bair Chase issue. Commissioner seconded; motion carried. Mark Bean was requested to stay.

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

CONSIDER A REQUEST TO EXTEND THE VALIDITY OF THE SANDERS RANCH PUD FOR 120 DAYS. APPLICANT: LINESVEST/BAIR CHASE LLC. – MARK BEAN

Mark Bean, Don DeFord, Mark Gould and Jim Wells were present.

Mark received a letter from Todd B.Wehner, Manager referencing the above applicant stating that due to the Chapter 11 Bankruptcy filings, it has become necessary to request another extension of the review of the Sanders Ranch Planned Unit Development Amendment filing and the Bair Chase Preliminary Plan filing submitted to the Garfield County Planning Office on May 6, 2003. The extension they would like would be to amend the scheduled hearing to June 9, 2004 or thereafter.

The applicant recognized that the BOCC granted a 120 day extension in September of 2003, moving the hearing date to February 11, 2004.

Discussion:

This has been extended and this is above and beyond the call and is at the discretion of the Board. One extension was done in 2002 and the Board extended it until February 11, 2004 and now this extension.

Jim Wells, development manager – they were deficient Access permits had expired in December 2003 and never got the Roaring Fork Sanitation documents amended to include the Sander's Ranch property. The reason those two items didn't get completed was due to the inability of Linesvest to get what they call

“Debtor in possession financing” accomplished. This has been a great difficulty in getting this financing. The phone call was received on Friday to proceed with these consultants and the financing is there and they can move forward and hire the experts to complete these documents with the access permits as well as the Roaring Fork Water well permit. The rest of our application is substantially complete or complete to move forward with the hearing. If they go forward without these two items we know they would receive a denial. They are asking for the 120 day extension; it deals with the water court and the Colorado Department of Transportation so it’s just a matter of time that it would take them to complete these applications.
Mark Gould – one of the creditors in Austin, Texas and on behalf of the other credits, we would appreciate the extension. The creditors getting their money back is over and above what the value of the land would be.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to extend the date to June 9, 2004 for the submittal of the Preliminary Plan and the PUD amendment; motion carried.
ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

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FEBRUARY 9, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 9, 2004 with Chairman John Martin and Commissioner Tresi Houpt present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Commissioner Larry McCown was absent.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

Release of Road Bond – Marvin Stephens

Marvin Stephens submitted a memo to the Board regarding Mesa Hydrocarbons, Inc. stating they have satisfactorily performed the terms of the road use permit/overweight permit and recommended release of their surety and bonding company from all obligations provided pursuant to the permit.

Don verified that Hydrocarbons, Inc. the terms were met.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the road bond for Mesa Hydrocarbons, Inc. as submitted; motion carried.

Facilities Layout for DSS/Public Health/Courts – Randy Withee & Chuck Brenner

Ed, Randy and Chuck presented the property location Pro's and Con's; Space Forecast Summary; Space Forecast Calculations; Space Assumptions; Cost Estimates; and Client Customer Survey for both the Rifle property and the Airport.

Chuck discussed the space summary showing the difference between a 3-story building at the Rifle location and the 1-story location at the Airport. Space Assumptions were forecasted over the next 20-years and used in the analysis. Finally, the cost estimates were presented for:

Airport location – 1-story building for Department of Social Services/Public Health only -=2,564,000
Rifle location – 3-story building for Department of Social Services/Public Health/Court = $3,445,000
Rifle location – 1 story building for Court only - $1,045,000

The Client/Customer Survey indicated that 83% of DSS client/customers had their own car and 95% traveled by car –own or someone brought them.

The Client/Customer Survey indicated that 76% of Public Health client/customers traveled by car.

A letter from the City of Rifle stated that they felt the needed facilities for the Court, Health Department, Social Services, Cooperative Extension and the Sheriff should be located within the current corporate boundaries of the City.

Ed noted the cost difference in building the new building in the City of Rifle was $600,000 difference than at the Airport. He also noted that the Rifle space is limited on any expansion whereas the Airport site is not.

Randy went through the submitted Space Utilization Report. At the present time the Social Services clients are 50-50 but Randy did a scenario in the 5, 10 and 20 years case there's a shift in location for services. The Courts need to be within the City limits and there was a scenario submitted with a separate building for the Courts. Randy highlighted the cost factor between the two sites. The one-story building at the Airport site would not require an elevator, as well as the use of a smaller crane and general construction costs reduced.

Commissioner Houpt – looking at the build-out and assuming that Social Services needs additional space now, some of the clients have shifted now; she would expect that this planning would be for a 60-40 split now for Rifle.

Randy stated that he included 60% in the square footage in 5 years. Options A & C gives you the 20-year projections.

Lynn Renick commented on the information she looked at as to population growth and she and Randy worked together on the submittal of the space allocation summary. Lynn verified that records can be stored off-site and they are currently using a different location. They are working on CD's and digital imagining. They have to abide by the State Archive requirements and are basically going on the audit requirements.

Mildred clarified that some records are required to be kept forever and you can use CD's but they are not sure how long CD's will be good. It is amazing how many county records have to be kept forever.

Commissioner Houpt reiterated her feelings for having this building located in Rifle.

Commissioner McCown – the site at Rifle is driven by the footprint but we did they take into account the size of the iron.

Randy stated they just did a footprint of the square footage.
Commissioner McCown – asked if the Courts needed immediate expansion at the current location.
Chuck got the impression the Courts were not in need of immediate space. There are some negatives but they are getting by. They don't see a second courtroom now but when you get to the 20-years they will. Some work would need to be done to the Courts.
Commissioner McCown reiterated they could continue to operate if the additional building was added on.
Chuck felt the building was salvageable and space could be added on. The building is not that old. Some modifications to the courtroom should be made. The 3-story building in Rifle could be built closer to the Railroad Avenue that the staging would be on the east side of the existing court building and there would be a traffic flow through problem but the courts could remain open during that period; it would be awkward. The building also could be built east of the existing court building pushing it back further and then when the new court building is completed, the old would come down and parking would be in front of the new building.
Chairman Martin asked a question on the annexation issue if the new building was built at the Airport site, what was the IGA agreement with the city of Rifle to annex that piece of property.
Don addressed the property is actually subject to annexation right now when there's appropriate contiguity. He discussed this briefly with one of the attorney's for Rifle and his understanding is right now Rifle doesn't have a particular interest in annexing that property. But under the IGA after we did the initial construction of the Road and Bridge facility that triggered the requirement in the IGA that may the property subject to annexation at the request of the City of Rifle. This would not include the airport property per se only the property we acquired across the road. Rifle has the stem in place through the 10 foot utility easement that runs from the City limits to the road that accesses the County Airport. They are very close to contiguity right now if they wish to proceed. Law enforcement would be difficult due to the time of driving to the Airport site.
Ed stated that Lift-up has not had good luck in relocating and the City of Rifle has expressed concerns about some of the choices they have made.
Chairman Martin – Lift up turned down a facility in the heart of downtown Rifle.
Ed – they have asked if we could hold it as a place marker but they understand if we have to proceed.
Chairman Martin – if we had to turn down Lift Up, what would happen to the Quansi Hut and the other facilities, parking facilities that we have to the east, all of that would be under construction staging and that particular building would disappear.
Chuck agreed.
Ed commented on one problem with putting the building to the east is that we still haven't completed the remediation of the gas tanks.
Randy stated they were doing another EFR assessment and then it would be waiting on the State for further direction. If it's a parking lot it would be fine. 15' to 20' down is where the remediation would need to be made.
Chairman Martin – annexation issue at the Airport needed additional discussion if the Courts were to move to the Airport site; otherwise it would not.
Ed – at the Airport site you can do a design build.
Commissioner McCown – need more numbers and asked for a cost saving on a narrower building, there's nothing to preclude the building from being in an L shape; there's unlimited possibilities when you have a blueprint that doesn't restrict construction with a building less than 100 foot width.
Randy commented on the cost savings for a building 100 x 120 would be at $1.5 million.
Commissioner Houpt – a whole lot more plays into the costs beside money need to be taken into consideration such as human costs and noted the City of Rifle wanting this to be in town, they see it as a benefit in Rifle, to benefit their economy, their businesses, etc. The questionnaires generated that a number of people walk. If you take an office business and move it to where a large portion of the population would need a vehicle, moving it to an industrial remote location that doesn't fit the public she agrees with the City of Rifle Council. A lot of variables enter into this discussion. She sees a lot of negatives at the Airport site and sees this site being able to support the airport. Services belong in core areas and especially when you are serving those with limited resources.
Commissioner McCown – question on logistics. Sounds like public health is on the first floor and everyone would be passing through – he sees a logistics problem with all three – Social Services, Department of Health and the Courts – this is not the best environment. Security transporting the prisoners would require a second elevator.

Chairman Martin noted there are more issues to iron out and the Board is in no way ready to make a decision. There are additional informational items needed in the scenarios.
Lynn made a comment of the Court and Social Services and personal – the Courts have an authority position and the Social Services located in the same building could be a public perception – Social Services initiate a case. To have a separation of those entities would be better.
Direction was provided by the Board.
Chairman Martin suggested the Board formulate their questions and give those to Ed to get some answers.
Randy reminded the Board of the DOLA application. Ed stated a cost estimate needs to be done by April 1, 2004.

COUNTY SHERIFF UPDATE – LOU VALLARIO

a. 2003 Year End Report

Lou submitted the report in a Memorandum and briefly outlined the major points. He does not relate success with crime prevention and noted for the record that there were no significant changes in crime.
Search and Rescue is great and it has been improved over the past year. They are trying to improve the service by additional training for the volunteer.
Animal Control is going well and the Animal Control officer is doing a great job. Expansion in this area is the general concept of the citizens. They haven't had a year yet to do a full evaluation; the public feels it is successful.
Accident Review for Employees – Chairman Martin asked if an evaluation could be developed.
Lou said that most of the damage is from deer and elk but when you're on the road all the time, it's a cost of business, but they could do an accident review.
Chairman Martin is trying to lower the cost of insurance.
Jesse's understanding is that the District Attorney is considering withdrawing for TRIDENT. Lou said this would not affect the law enforcement at all from the operational standpoint.

b. County Road 100 Speed Limit

Lou completed the survey and made the following recommendation that a 35 MPH speed limit be established for the entire length of County Road 100 from Highway 82 at Catherine's Store to the City limits of Carbondale with 2-exceptions:

1. That a 15 MPH *advisory* sign be placed at both entrances into the area of the curve and bridge over the Roaring Fork River, and
2. That a speed reduction zone from 35 MPH to 25 MPH be created prior to the City limits of Carbondale, allowing adequate time for traffic to slow prior to entering their business district.

Lou interpreted that the Board of County Commissioners are the "local authority" as described in CRS 42-4-1102 and as such would be the entity to take action on his recommendation if they so desire.
Don – based on Lou's recommendation and the work he's done, he suggested the Board accept the recommendation made by the Sheriff in setting the speed limit on CR 100.
Marvin is in agreement with Lou's assessments.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt that the Chair be authorized to sign a Resolution creating a 35 mpr speed limit incorporating the conditions of the Sheriff's letter in that Resolution with the advisory sign marking at the curve and the 25 mpr reduction coming into the City limits of Carbondale.
The Board directed Road and Bridge to put up the new speed signs.
Don – State law requires we stay within the State's Model Code requirements for posting signs as to distance. Motion carried.

c. DETOX Funding

Lou reported on the Detox funding saying his biggest concern is for law enforcement coming into contract with these individuals and having very limited ability to do something with them but yet the liability is there because once contract has been made with them and determined they are a danger to themselves or others, you just can't turn away from them. Colorado West wants to present this as clearly a community problems which it is but lean on law enforcement for an expectation to support that and Lou found that Glenwood Springs has used DETOX and put someone in for about 22 times in the last two year, less than one a month and Lou hasn't put someone in more than 6 times this year. From the law enforcement perspective, is it deemed being used heavily by law enforcement – no. Is it being heavily used by other members of the community he didn't know. With respect to requested funding and supportive funding, Lou doesn't believe the County uses the DETOX facility as often as once thought; he doesn't want to bring

them into the jail and he also doesn't want those officers out there with someone they don[t know what to do with.
DETOX didn't apply for a Human Services grant this year.
Lou stated that DETOX is requesting $25,129; they gave a population of 19,345 which would be the unincorporated portion.
Ed said if all the entities do not pay, then they may not continue the service.
Lou – Last year we agreed for those who wouldn't provide the funding for those communities that they would still charge them back on an as needed bases. They have eliminated this and all the participating agencies that they didn't want to subsidize the facility. It's either pay for the service or you don't get the service.
Lou didn't know how this would affect law enforcement if DETOX went away.
Commissioner McCown said this is not a holding facility; they can be admitted and walk out. It becomes a jail issue for Glenwood Springs police.
Lou noted that safety is a concern and when that becomes an issue, you have no choice but to put them behind bars.
Commissioner Houpt was concerned that DETOX was not coming into to talk to the Board.
Lou favors a liquor tax that they have proposed. A lot of State funds are going somewhere for alcohol rehabilitation programs.

Sheriff's Payroll Issue
Lou submitted a breakdown on the potential pay grades of some on his employees.
Jesse couldn't do it due to the line item per name; in the budget they approved at a specific rate but noted there are upgrades in the contingency item.
Commissioner Houpt said the Board is seeing this from several other departments.
A motion was made by Commissioner Houpt to approve the budget amendment to allow these hourly adjustments for the Sheriff with the appropriate adjustment to the Clerk II position; for Jesse take action and bring it back to the Board. Commissioner McCown seconded; motion carried.

COUNTY ATTORNEY UPDATE – DON DEFORD

Discussion re: Proposed Municipal Prisoner Agreement

The Detention Facility Services Draft Agreement was submitted. Don explained that Lou was requesting changes eliminating the daily charge of $15.00 per day and in most other respects, the contract remains the same. After the municipal offender is sentenced, then cost of care would be implemented.
A motion was made by Commissioner Houpt to authorize the County Attorney's office to tender original documents to each of the municipalities in the County and bring them back to the board of execution.
Commissioner McCown discussed the option of a Rifle prisoner being escorted by a Sheriff's deputy if he was in the area and coming to Glenwood; this would be a courtesy extended. Commissioner McCown seconded; motion carried.

a. Consideration of IGA for the Establishment of an I-70 Central Mountain Transportation Corridor Coalition

Don DeFord submitted a memorandum January 20, 2004 and it is similar to the one he submitted last year. There is a funding requirement on behalf of the IGA. If the Board is satisfied then he recommended that the Board move forward.
Commissioner Houpt – a new idea from Rural Resort and wondered if it wouldn't be appropriate for Rural Resort to absorb this into their infrastructure for a more solid form for creating activities for this.
Chairman Martin – the 14th of 15th will be when the coalition will be getting together.
Commissioner Houpt interjected that she thought this was going to be the final IGA this Board sees. It might be premature to sign the IGA.
Discussion was held.
Chairman Martin - The coalition has made a decision of a 6-lane on I-70. The IGA puts forward and since 1996 they have put together what the alternatives should be from the mayor of Denver clear down.
Commissioner McCown made a motion to authorize the Chair to sign the IGA.
Commissioner Houpt said she thinks this is premature to sign this.
Don asked to clarify the motion if Commissioner McCown was referring in the motion to the IGA in the form of it drafted January 20, 2004. Yes for the establishment of an Intermountain Transportation Corridor Coalition.

Commissioner Houpt asked for the wording to be added that is based on the final decision of the coalition as to whether they are moving forward with the IGA. Commissioner McCown didn't have a problem. Commission Houpt – seconded; motion carried.

Consideration of Conditions for Roland Park Driveway Application CR 320

Don DeFord, Marvin Stephens, Attorney Ronald Wilson representing the applicant, Wayne Rudd, and Roland Parker project engineer for Rudd LLC were present.

Don submitted correspondence that Marvin sent to Mr. Parker and is the genesis of the discussion today. Resolution No. 81-113 was referenced for the driveway access permit application for Rudd, LLC in care of Roland Parker. Marvin noted in his response to the request that he would recommend additional conditions for the benefit of the safety of the traveling public. He said he would recommend that the Board require the application to include engineering plans for redesign and upgrade of the extension of County Road 320. This permits presented a unique situation as this is for a commercial driveway permit

Attorney – Circumstances of being here were requested Thursday and only seeing the letter today, no formal presentation. Parker received a letter last September and Ron noted this has been delayed and they need direction. All he can add is that the property is zoned for commercial use and the City of Rifle is in favor of the use but need a permit from the County. Ron looked at the Resolution and questioned the application form and the Resolution notes 30' and asked if the Resolution 81-113 had been amended. He stated that the applicant doesn't have any problems in building the driveway to the standards the County requires but it is just the fact they need the permission to be able to build on so they can proceed with the development of the property.

Don said that comment is on timing. There was a request last year for a permit and came to his attention last week. This letter was sent out as quickly as possible and would not have a full board until March therefore wanted to get this in front of the Board today.

Wayne Rudd – if the Board requires him to do this, there should be a cost recovery – this is only a 2-acre site.

Commissioner McCown – City of Rifle has annexed the property and neglected to annex the roadway. That would be his suggestion, and if Rifle is so interested, they have the ability to annex the roads, they have elected not to annex the road. 6 acres of 46 acres being served. Rudd owns 9 usable acres and has future development purposes.

Commissioner Houpt – the cost recovery makes sense.

Commissioner McCown – didn't want to grant an access permit with you folks designing a road and then CDOT with their plans for a round about. He said he didn't want the applicant to get surprised at the 3rd hour either.

Chairman Martin – the 20% or greater change constitutes a tremendous burden on you to redesign and to upgrade to the standard that CDOT determines is needed.

Commissioner McCown – any activity coming out of a commercial development is going to increase the use of that road by 20% and will trigger that activity. Therefore the Board didn't want them surprised when the request for a roundabout is made by CDOT.

Don – if the City of Rifle believes you are required to improve their road, if there is road in the City and Don said on the Assessor's map it appears there is; but if they disclaim any interest, then Don would assume that's the end of the discussion.

Chairman Martin – this still brings us to the CDOT permit, review process so that's a real stickler right now.

Roland Parker – so you want us to go to CDOT and put in an application with CDOT.

Chairman Martin – yes because you're not going to get there, you will get partially there, but you're not going to have a full access. CDOT can go ahead and deny access or whatever, take the appropriate action there that they deem necessary. We want to work together; it is a bureaucracy we know that, it's very difficult for you Wayne.

Wayne – it's sure taken a long time to find out.

Commissioner McCown - the improvements the County would ask would be minuscule compared to what CDOT has for it. Once you know where you're going to stand with CDOT probably the turn lanes and transition lanes will run almost to the access permit you're going to ask the County for.

Wayne – do you have any idea of what kinds, you say improvements are minuscule, that you're going to be asking – any thought on what they may include.

Commissioner McCown – no but it would depend on the extent of improvement that CDOT requires.

Chairman Martin – and that could be the roundabout which they are looking at, at that particular intersection because you're changing the use of that road more than the 20%, therefore falling under their improvement guidelines. That's the big problem you have.
Commissioner McCown - This is as much for your protection as ours in this case.
Roland Parker – certainly we understand; we're not trying to make it difficult. We will proceed so I guess the purpose today was more information sharing than anything.
Don – not completely, under the Resolution, Access Resolution, Marvin was required to consult with the Board and he made some recommendations to the Board and he's really looking for firm direction from the Board. If you concur with his recommendations and if you do, number one, I think by motion need to indicate that those should be included as permit requirements and in particular in regard to CDOT under the State Access Code you need to designate the private applicant as the permittee if that's your desire.
Chairman Martin – to the CDOT.
Don – for the State.
Commissioner McCown and that is mind and I would make that motion.
Commissioner Houpt – second.
Motion carried.

Executive Session: 4 Litigation items and Update; Legal Advice

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

COMMISSIONER REPORT

Commissioner Houpt – Thursday, Roundtable at CCI Oil and Gas Pipelines – made decision to meet before regulating pipelines – goes beyond the March date to discuss and suggested to postpone the County's discussion; RS277 – writing down specific concerns on the RS2477; oil and gas forum; Tuesday Energy Board proposal in Rifle.
Commissioner McCown – Northwest Oil Form today 3:30 – Fairground Buffalo – Tuesday leaving for South vacation
Chairman Martin – Criminal Justice review for Community Corrections – meets every Tuesday and urged the Commissioners to attend; CCI Steering Committees; Mayor's Meeting;
Community Corrections on noon on Thursday, 2-12-04.

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 concerned with the Approval of a Preliminary Plan for the Ironbridge (formerly "Rose Ranch") PUD – Mark Bean
f. Authorize the Chairman to Sign a Resolution concerned with the Approval of a Planned Unit Development ("PUD") Modification for the Ironbridge (formerly "Rose Ranch") PUD – Mark Bean
g. Liquor License Renewals (2) – Trappers Lake – Mildred Alsdorf

Mildred stated there have not been any problems.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a - g with the removal of b and c; carried.

REGULAR AGENDA

PUBLIC HEARINGS

CONSIDER AN AMENDMENT TO SECTION 8:10 OF THE GARFIELD COUNTY SUBDIVISION REGULATIONS, DEFINING EXEMPTIONS FROM THE DEFINITION OF SUBDIVISION FOR "SEPARATE INTERESTS". APPLICANTS: BOARD OF COUNTY COMMISSIONERS

Mark Bean and Don DeFord were present.
Don reviewed the notification and advised the Board it met the Statutory requirement, it was timely and adequate. The Board was entitled to proceed.
Chairman Martin swore in the speakers.

Mark submitted the following exhibits into the record: Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978, as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Project Information and Staff Comments; Exhibit E – Comments from Jerry Hartert presented at the 1-14-04 Planning Commission meeting; Exhibit F – Letter with attachments from Roland Parker, dated 1-19-04; Exhibit G – memo from Jerry Hartert, dated 1-26-04; Exhibit H – Memo from Jerry Hartert, dated 2-4-04; Exhibit I – Letter from Barbara C. Burwell dated 2-4-04; and Exhibit J – Garfield County Subdivision Regulations of 1984 as amended.
Chairman Martin entered Exhibits A – J into the record.
Mark presented his staff report and reviewed the following:
DESCRIPTION OF THE PROPOSAL - Based on a need to better define "separate interests, or interests in common", the following changes to Section 8.10 of Subdivision Regulations were proposed to the Planning Commission.

8:10 APPLICABILITY
The Board of County Commissioners has the discretionary power to exempt a division of land from the definition of subdivision and, thereby, from the procedure in these Regulations, provided the Board of County Commissioners determines that such exemption will not impair or defeat the stated purpose of the Subdivision Regulations nor be detrimental to the general public welfare. The Board has determined that ***the following divisions of land are exempt from these regulations:***

(1) *leases, easements and other similar interests in Garfield County owned property*
(2) *land for oil and gas facilities* ***accessory to a pipeline, telecommunication site or a facility subject to Public Utilities Commission authority.***
(3) *An accessory dwelling unit or two family dwelling that are subject to leasehold interest only and complying with the requirements of the Garfield County Zoning Resolution*
(4) ***Multiple land uses subject to leasehold interests only, on a single piece of property and are allowed as a Use by Right in the Garfield County Zoning Resolution and have been subject to a public hearing as a Special Use pursuant to Section 9.03 of the Garfield County Zoning Resolution of 1978, as amended.***
(5) ***An apartment building with six (6) units or less on an existing, legally created lot and is a Use by Right in the zone district it located or has been approved as a Special or Conditional Use pursuant to the applicable procedures in the zoning resolution.***

MAJOR ISSUES AND CONCERNS

A. Statutory Issues: Colorado Revised Statutes 30-28-101(10) defines a subdivision as follows:

(10) (a) "Subdivision" or "subdivided land" means any parcel of land in the state which is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land when previously subdivided was accompanied by a filing which complied with the provisions of this part 1 with substantially the same density, ***or which is divided into two or more parcels, separate interests, or interests in common****, unless exempted under paragraph (b), (c), or (d) of this subsection (10). As used in this section, "interests" includes any and all interests in the surface of land but excludes any and all subsurface interests.*

(b) The terms "subdivision" and "subdivided land", as defined in paragraph (a) of this subsection (10), shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners.

(c) Unless the method of disposition is adopted for the purpose of evading this part 1, the terms "subdivision" and "subdivided land", as defined in paragraph (a) of this subsection (10), shall not apply to any division of land:

(I) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;

(II) Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the board of county commissioners of the county in which the property is situated is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this part 1 prior to entry of the court order; and, if the board does not file an appropriate pleading within twenty days after receipt of such notice by the court, then such action may proceed before the court;

(III) Which is created by a lien, mortgage, deed of trust, or any other security instrument;

(IV) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;

(V) Which creates cemetery lots;

(VI) Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;

(VII) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this subsection (10) as only one interest;

(VIII) Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than thirty-five acres in land area, only one interest in said land shall be allowed. If the resulting parcel is greater than thirty-five acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph (VIII).

(IX) Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this article and any applicable county regulations, the land which he is to acquire pursuant to the contract;

(X) Which creates a cluster development pursuant to part 4 of this article.

(d) The board of county commissioners may, pursuant to rules and regulations or resolution, exempt from this definition of the terms "subdivision" and "subdivided land" any division of land if the board of county commissioners determines that such division is not within the purposes of this part 1.

The bold, underlined section of 10(a) in the definition of subdivision is area of inconsistency to staff. Separate interests would include leases of space in or on an industrial or commercial building or tract of land, in addition to apartments. It has been an informal practice of the staff to say that any lease over a year in length would necessitate a person to submit a subdivision application for any use exceeding that length of time. While this interpretation has not created any known conflicts, questions about the applicability of this definition have come up in the process of rewriting the land use codes. Additionally, there is no process available to enforce such an interpretation, since the County does not review lease agreements.

B. Subdivision Regulations: At this time the County Subdivision Regulations exempt from the definition of subdivision from any additional procedure, "leases, easements and other similar interests in Garfield County owned property, land for oil and gas facilities, and an accessory dwelling unit or two family dwelling that are subject to leasehold interest only and complying with the requirements of the Garfield County Zoning Resolution." Tracts of land that were at least 35

acres in size on January 1, 1973, may qualify for additional splits after going through a public meeting process with the Board. The Board has the authority to exempt other divisions and interests in land from the definition of subdivision pursuant to CRS § 30-28-101 (10)(d), but it will take an amendment to the regulations, such as the suggested language, to create any additional exemptions.

Due to recent requests for multiple special uses on a lot and stated intentions by another property owner to build a number of buildings on a commercially zoned piece of property, with further subletting of the space in each building, staff has had to re-evaluate the interpretation of the definition of subdivision. These land use requests are technically subdivisions of land that have not been exempted from the definition and by definition would have to go through a subdivision process. As noted previously, this type of development has not been required to go through a subdivision review process due to an informal interpretation that leases of less than one year in length were not considered a "separate interest" in land. These and other new development activities and inquiries by potential land developers, has resulted in staff reevaluating the internal interpretation and determining that we cannot justify saying that a lease of any length of time is not a "separate interest".

The subdivision review process is intended to review a proposed land split to ensure that subsequent land owners have legal access, a legal and adequate water supply, adequate sewage disposal, along with other site adequacy review parameters. Additionally, the proposed subdivision is reviewed to determine whether or not there are impacts to the neighborhood and area in which the proposed subdivision is located. The building permit process does not review the legality or adequacy of the water supply or the site impacts such as impervious surface drainage impacts to water quality or adjoining properties. As a part of a building permit an applicant is required to have a properly designed sewage disposal system and verification that the property owner has the appropriate access permits.

Access permits for property accessing a State Highway could result in the County having to pay for improvements to a State/County road intersection. This would be due to the Colorado Highway Access Code requirements that put the burden on the County to make improvements to the intersection if development causes a 20% increase in the traffic at the intersection. The building permit process does not allow the County to request proportionate contributions from developing properties. A land use permit or subdivision review process would provide that ability to the County.

A Special Use permit review would address all of these issues, but not require a property owner to go through the more lengthy full subdivision review process. The commercial park designation, which requires a Special Use permit, would address the issues of concern for commercially zoned properties.

It is staff's position that a small number of apartments, not to exceed six (6) can have the issues of water, sewer, drainage and impervious surfaces addressed as a part of the building permit review process. A single lot, with a limited number of dwellings is in many ways similar to a large house on the same lot in terms of issues dealt with as a part of the building permit approval process. Larger sites with multiple buildings are more difficult to deal with based on the cumulative impacts of all of the buildings on a single piece of property. These issues would be dealt with in the subdivision review process.

I. C. <u>Planning Commission Meeting</u>: At the Planning Commission meeting, Jerry Hartert submitted some suggested changes to the proposed amendments to Section 8:10. (See Exhibit E) As a part of their motion to approve, the Planning Commission recommended that the following language suggested by Mr. Hartert be added to the proposed amendment to Section 8:10:

(6) Multiple land uses subject to written leasehold interests only (both current and future leasehold interests) on a single lot which are allowed as Uses by Right, or approved as Special

Uses or Conditional Uses under the Garfield County Zoning Resolution, and which multiple land uses exist on a single lot or within a Building or Buildings fro which a Building Permit has been issued under the provisions of the Garfield County Zoning Resolution, previous to the effective dated of this Amendment to the Garfield County Subdivision Regulation.

D. Zoning: The Zoning Resolution creates a conflict with the proposed subdivision regulation text change. Section 2.02.52 defines Use, and the definition of principal use, which states the following:

> *2.02.52 Use:*
> *(1) Use, principal: the purpose or function of which a lot, structure or building is intended, designed or constructed, or the activity which is carried on within said lot, structure or building; a noncommercial lot is restricted to one (1) principal use;*

This definition allows a commercially zoned property to have more than one principal use on a lot. This definition was originally amended to allow a commercial property owner to have more than one use on a property, without having to go through a special use permit process for a commercial park, which is defined as follows:

> *2.02.405 Commercial Park: A structure or a group of structures whose use shall be limited by special use permit to specified uses involving sales or services and otherwise permitted by right, conditional use or special use within the zone district in which the structure of group of structures is to be located.*

This use is only allowed by Special Use permit in a number of zone districts, including the C/L and C/G zone districts. By going through the Special Use permit process, the proposed language to amend the subdivision regulations would work. In addition to the proposed amendments to Section 8:10 of the subdivision regulations, it will be necessary to amend Section 2.02.52 of the zoning resolution needs to be amended to delete the last portion of the definition that states: " a noncommercial lot is restricted to one (1) principal use;".

Mr. Hartert in his suggested language changes to Section 8:10 also suggested and the Planning Commission agreed to the addition of the following sentence to the previously proposed amended language for Section 2.02.52:

"Provided that there may be multiple principal uses on or in a lot, structure or building within any Commercial or Industrial Zone District."

Both of the proposed zone district language changes will have to be considered as a part of another public hearing, since the public notice was only for the Subdivision Regulations.

E. Other Comments: There were additional comments made to the Planning Commission that were not incorporated into their recommendation. Wayne Rudd and Roland Parker suggested that the County exempt any leasehold interest 20 years or less in length. (See Exhibit F) Mitch Huer verbally supported that proposal. Mr. Parker submitted a copy of the definition of subdivision from Adams County, which exempts leasehold interests with a "base period less than 25 years". (See attached letter)

Jerry Hartert submitted two additional memos with suggestions regarding the leasehold interests. The first memo suggested that the Building Official could issue a permit per the provisions of Section 9.01.01 of the Zoning resolution. (See Exhibit G) Staff notes that Section 9.01.01 explains the process that the Building Official follows in processing a building, Conditional or Special Use permit. It is not a separate process that allows for additional conditions of approval.

The second memo goes to the issue noted previously by Wayne Rudd, Roland Parker and Mitch Huer, which suggests that the County exempt leasehold interests of 20 years or less from the

definition of subdivision. (See Exhibit H) He notes that Pitkin County formally exempts leasehold interests of 20 years from the definition of subdivision and that other surrounding Counties do not regulate leasehold interests.

Barb Burwell submitted a similar suggestion to Mr. Hartert's comments. (See Exhibit I) She notes that leases are a contract between two parties for a definite period of time, not a transfer of real estate for perpetuity. The creation of a leasehold interest does not transfer ownership responsibilities. Finally, that a person can still build a number of buildings on a piece of property and not lease them out and not have any of the suggested issues reviewed as a part of the building permit process. The requirement of a Special Use permit would be an unnecessary and undue burden on the County and individuals owning property. She agrees that some exemption needs to be stated and suggests that any lease with a "base period of less than 25 years", maintaining the responsibility for building and zoning code compliance, would be appropriate.

Staff notes that a review of all of the surrounding county regulations, with the exception of Pitkin County, include the same definition of subdivision that Garfield County uses in our regulations. The other county staff is taking a hands off approach to the issue. Staff suggests that they are in the same position as Garfield County, in that they have no formal language exempting leasehold interests from the definition of subdivision and could be challenged on the validity of their internal practices. It is still staff's position, that some formal exemption from the definition of subdivision needs to be addressed in the regulations, regardless of whether it is the proposed language or other language that exempts leasehold interests of X # of years. Additionally, any change in the language should also address apartments, since they are also addressed as a part of the previously noted definition of subdivision.

Mark relateD the staff recommendations.

RECOMMENDATION

The Planning Commission recommended **APPROVAL** of the proposed subdivision regulation text amendments as proposed by staff. Specifically, the following section is recommended to read as follows:

8:10 APPLICABILITY

The Board of County Commissioners has the discretionary power to exempt a division of land from the definition of subdivision and, thereby, from the procedure in these Regulations, provided the Board of County Commissioners determines that such exemption will not impair or defeat the stated purpose of the Subdivision Regulations nor be detrimental to the general public welfare. The Board has determined that **the following divisions of land are exempt from these regulations:**

(1) leases, easements and other similar interests in Garfield County owned property

(2) land for oil and gas facilities **accessory to a pipeline, telecommunication site or a facility subject to Public Utilities Commission authority.**

(3) An accessory dwelling unit or two family dwelling that are subject to leasehold interest only and complying with the requirements of the Garfield County Zoning Resolution

(4) Multiple land uses subject to leasehold interests only, on a single piece of property and are allowed as a Use by Right in the Garfield County Zoning Resolution and have been subject to a public hearing as a Special Use pursuant to Section 9.03 of the Garfield County Zoning Resolution of 1978, as amended.

(5) An apartment building with six (6) units or less on an existing, legally created lot and is a Use by Right in the zone district it located or has been approved as a Special or Conditional Use pursuant to the applicable procedures in the zoning resolution.

(6) Multiple land uses subject to written leasehold interests only (both current and future leasehold interests) on a single lot which are allowed as Uses by Right, or approved as Special Uses or Conditional Uses under the Garfield County Zoning Resolution, and which multiple land uses exist on a single lot or within a Building or Buildings for which a Building Permit has been issued under the provisions of the

Garfield County Zoning Resolution, previous to the effective dated of this Amendment to the Garfield County Subdivision Regulation.

Mark requested the Board take some action as to how they Building and Planning was going to deal with this leasehold interest. This is an issue they need to provide to the consultants working on the overall code rewrite, but there's been enough inquiries about this issue that it needed attention by the Board.

Commissioner McCown asked if, in the code rewrite, would it include a process that will allow an administrative review and change in a Special Use Permit whereas now there are not capabilities for an amended SUP application and it would have to come back before this Board or to the Planning commission for a Special Use Permit hearing. In the future, under the rewrite, are we writing in an administrative change?

Mark said there is a procedure that is being proposed that is an administrative review process, exactly what will and won't be included in that is subject to discussion.

Commissioner McCown said a special use permit that would allow a particular use may not trigger the 20% increase in traffic that would increase the road improvement whereas that individuals' ability to sublease that particular property without any type of administrative review would put a lot of heat on the staff to allow.

Don commented, in terms of the existing Subdivision Regulations, the Board has already addressed lease hold interest to a limited degree. You currently give a blanket exemption for all leasehold interests in County owned property and has particular reference to the Airport; the Board also exempts leasehold interest for Accessory Dwelling Units, and lastly for Oil and Gas Facilities there is an exemption for those properties and includes leasehold interests.

Public Input:

John Martin – 3502 CR 108 – recently purchased the Mid-Continent Load Out – doing leasing inside and outside – some leases would be long term and some short term – need a way to attract new people, short term leases require too much time – wants up to a 20-year leases. Feel they have good access to the road and a good relationship with RFTA to get to the site.

Don Sullivan – real estate – 30 years – not clear – is the Board suggesting a subdivision process to lease property inside and outside?

Mark that's what the definition requires.

Don – if you build an apartment – not sure of the State and there are no apartments built in this County – limited business – how are you going to address different sizes. If someone wants to lease and then wants to lease more to how to address; he reiterated that he sees loss of jobs since the 9-11 and this is hardest in the real estate market.

Passing this amended will slow business down; add a cost and time element factor wise and then your leases are gone. We need a way to lease; this will slow down the business in this County. One of the laws, the Environmental Assessment (EIA) passed and slowed down things considerably but personally it costs this country a great deal of money.

Dave Rippy – Alpine Court clarified that it exempts personal property.

Mark explained for clarification for Dave the issue – the issue is the definition of subdivision says, that we should be requiring you and your properties to go through the subdivision process to create your separate leasehold interests. This is something that has not been ever addressed; it's an issue that starting to come up more and more now and by the definition itself we're supposing to be requiring that. We're saying to the Board if you want to go as we have been in the past and exempt certain leasehold interests, we'd like the Board to include that language so it's very specific as opposed to just ignoring it.

Mitch Huer – what's the exemption on the Airport?

Don DeFord – read it verbatim "the Board has determined that leases, easements, and other similar interest in Garfield County owned property….. are exempt from subdivision." All leases at the Airport are exempt. Staff is asking the Board to have something firm and you may not be any different.

Mitch – he agrees with the exemption and for them do the same for the public as the County did for the Airport.

Commissioner Houpt responded to the difference between County owned and privately owned property. When the Board increases activity at the Airport, we know that the County is going to be responsible for road upgrades to handle that type of growth. When a private property owner greatly impacts a road, there are something we have in place that allows us to plan for that impact; exemptions don't allow that and that's part of the rationale in the existing language.

Mitch Huer – maybe there's a way with the building permit process that we could identify some of those issues and just tag those onto the building process.
Don Sullivan – if you change the use or anything on your property, lets say it's already existing, if you change it, isn't it a fact then you come under the new subdivision proposition. It isn't clear and cut otherwise if you're grandfathered in right now on your uses but if you change that use at all aren't you them back under the subdivision process?
Mark – that's a possibility, it isn't clear and we didn't do a good job of defining that issue, but potentially yes.
Chairman Martin – agreed, potentially yes; change of use.
Mark Gould – there's three (3) things that we ought to break this down to and that is: 1) new properties; 2) properties that want to expand in square footage; and 3) existing properties that want to, say need a building permit to move a wall because somebody needed 1500 square feet instead of 1,000 sq. feet but it was within the existing square footage of the building. Taking Number 3 – if you're a banker, you have a building that's been here fore 10 years, has a 20–year note on it and all of a sudden, you lose a tenant. Big tenant, at the CMC turnoff, now what you're saying to the banker is that the banker ought to take on the risk of Mark has to go into the subdivision process to get a leaser in the door and this can take months. This is an existing building, existing square footage, no change in traffic, but we know that it's pretty simple what it requires to have a building permit. So think through we're the guys that are paying 3 times the taxes as residential; we already have a very severe impact to our businesses that we have to incur and on top of that, you're saying to the people that have been here for a number of years, hey, we're going to change the rules and require you to go back to ground zero and start over again. And, in the meantime, you can't lease it because you've just lost your lease and now you have x number of square feet you want to lease and two people want to change their chemistry of how much, what it looks like with a couple of extra doors, not changing square footage. And we're saying, start at square one and can't lease it when someone wants to lease it and you have to go through red tape which doesn't have a time commitment to it. We know that some take longer than others to get the subdivision improvement process. And you're asking the bankers out there to feel good about loaning us money when you've just added a risk which is open ended on an existing piece of property that they loaned money on thinking that there was a certain set of rules. He is not in favor of the regulation in any of the three cases, but if you're going to increase the square footage or you're going to start out with a new piece of property at least you'd know what the rules are. Most of the people in the audience here have existing pieces of property and they have loans on those properties and they need to be able to make those payments.
David Harris – in reading the staff report, did Mark recommend the addition of the language that was approved by the Planning Commission that Jerry Hartert had said.
Mark confirmed that to be correct.
David Harris said he wanted to support that; it's very important. The time element really fixes a lot of this, if you can exempt properties with the leaseholds of something less than 20 or 25 years, all of this smaller type of problems that arise from this will certainly be mitigated; he asked that you also include that in your changes.
Pat Fitzgerald – in looking at what you're considering, it's important to understand the process when someone looks at a piece of vacant commercial land that is in the county and feels that the existing rules that kick in when you're looking at that property already are giving you the protection that you need; you look at the property and say, it's zoned commercial but can I get to sewer. It's zoned commercial but do I have a problem with CDOT. Mark mentioned CDOT talking about if you're increasing traffic 20% they want you to do something about it. He is bothered by the fact that at the Statehouse they've blown all the money that they used to give to CDOT, so CDOT is making it our problem with what they should be solving themselves and would love to see you stand up to them. By the time you take into consideration the State sanitation requirements, the County building process – this stuff really takes care of itself and if you're going to go down this road, rather than doing what you're talking about, I think you need to tell the Planning Commission, let's back and revisit everything that's vacant that is zoned commercial and analysis if it should be commercial; otherwise as Mark Gould says, you're already in such a tough situation, there's not enough commercial property, and there's a high demand for it, you really need to take a different tract and for once maybe you should do what Pitkin County is doing although it bothers him to say that.
Barbara Burwell, attorney with Stuver and LeMoine – her pitch is for making the exemption be for a period of years, leases less than a period of year. In reality the creation of a leaseholder interest really doesn't do the same thing as a subdivision, you still have one owner on the property and you can deal with them on

drainage issues, access issues and in terms of the lessee you're required to provide water and you're not going to be able to lease your property unless there's an adequate source of water to the lessee. In terms of the access issues and CDOT issues, those issues are the same whether one property owner is just developing his property for himself and is going to increase traffic or whether you're subdividing – you still have the risk of the same amount of traffic being generated and I think the best way to address that is really thought the building permit process when you're looking at the amount of space that's going to be built. The last issue would be that she would be concerned that using a special use permit process that the County would end up micro managing the leasing of property and as some others have talked about, what do you do if one tenant goes out and another tenant goes in – same square footage but more traffic or more water. Those are the kinds of issues she didn't think the County really wants to be in the business of managing because it will end up taking all their time. Therefore she would go for the exemption with a period of years.

Cody Grimmel – this 20% increase in traffic bothers him as much as anybody, but at the rate the county is growing, they should already have a plan for this accelerated growth. If they're falling behind on that, what can you do about it. And like Mark Gould said, moving a wall and changing a lease and having to go through the subdivision process is not the way to go. You're end up micro-managing like Barbara just said.

Chairman Martin explained on the 20% in reference to on use in the State of Colorado, they've put the burden to the County today if you're going to approve these, you need to have some kind of solution, your program; they are enforcing their rule at 20%; we need to address it when we address our subdivision and any other kind of land use – that's the burden we as the citizens have now because we're impacting the State highway system.

Cody said that takes a pretty good sized project to increase traffic that much.

Chairman Martin said we've had to enforce that before on some developments saying you have to mitigate this impact, either improve the road, secure right of way, etc. This isn't new; we've doing it for year. It's just now come to the forefront and the County has to prepare for it. We have a full staff working on the transportation, road problems trying to upgrade and it's planning for the future as well.

Commissioner McCown said there are circumstances and earlier this morning we discussed where there's a relatively used or limited use of a County Road that has commercial problem adjacent to it. With the development of that commercial property in whatever respect, is clearly going to cause a 20% increase because of the existing non-use of that road. Virtually anything is going to increase a 20% increase and would trigger that action. So there are areas that have commercial property that are in areas of not a lot of activity at the present time that as soon as a commercial use, depending upon what it is, is proposed and developed will trigger that action. And that buck has to stop somewhere.

Bill Mallory – CR 154 agrees with Mr. Gould that if we need to clarify the situation, change the By-Laws of the Planning and Zoning and perhaps go along with Pitkin County and have the time limit of the subdivision be up to at least 15 years.

Roland Parker – a real estate broker – the State subdivision laws are primarily directed towards property ownership and leasehold interest can be dealt with as other counties have by putting time limits on the length of the leases either 20 or 25 years and urged the Board to go in that directions.

Tim Thulson – question - if the BOCC is to adopt the recommendation, which I believe is Hartert's recommendation, would staff be following that up with an amendment to the principal use of zoning regulations.

Mark – yes.

Lee Rudd, Carbondale – this all comes down to issue of traffic and any building permit you issue anywhere creates more traffic. Take Cattle Creek intersection is an example. If you issue residential building permit up Cattle Creek, it's more traffic and does think we should put the burden just on the commercial properties. Also, any of the commercial properties when we pay property tax, some of that money is ear tagged possibly for road maintenance. All those commercial properties in the County are right next to Hwy 82, any commercial property I own you guys have to maintain 300 liner foot of County Road, so your getting a windfall; you have very little expense maintaining the roads from my commercial property. I think maybe there's some left-over money there where you could pay the State a little bit. But, my point, is any permit you issue increases traffic so you ought to spread the burden everywhere, not just a few properties.

Floyd Demoz – 214 Center Drive – wasn't aware of this until about 15 minutes before it started, are we almost to the point where the State has made us do it, we have some laws into effect, those laws have been in effect for how long, Mark?

Mark – the statutory requirements we're talking about here have been in place since the early 90's.

Floyd – it seems like there's a lot of uncommon sense things in this; what have other counties done? Others have had to find that this is a very strange law, there maybe reasons for it but are there unintended consequences that came out because of it.
Mark – not sure what the discussions were but there are two counties we know of that have actually exempted it. The other counties may have site review processes that are different than ours, but the ones he researched have the exact same definition. We've had discussions both internally with staff as well as legal staff and we're concerned with the language in the statute, as it is written right now, that we need to clarify what is or isn't going to subject to subdivision review process, that is a leasehold interest or a separate and we feel that a separate interest includes leasehold interests too.
Floyd – so really it's the State statutory requirement that's pushing it plus maybe as Mark said, which I hadn't even thought of is well we can get some money for improvement of roads possibly. Hypothetical situation, let's just say that we have a building and we're just building it and we haven't even subdivided the inside spaces yet. So we don't have anybody leasing it out but we're going to do it. That's what I did on my building and I'm going to do another and say I did the same things so it's wide open on the inside. I plan what I think is going to happen on the inside but you never know. In the building that I have at one time, Garfield County was in there with a tremendous amount of people. Then they left and went with a small amount. It turned out a church came in and was only used on one day of the week. Does that mean if I went from all those people to the church it was okay but if I went back from the church to Garfield County with numerous people, then again I'm in trouble again. The other thing, I've had an engineering firm that started out with a little space, expanded into the second and the third and the forth and things change inside a building so it seems to me this is a law with a great amount of consternation and there must be some common sense that can put this together so it really isn't hurting people. But would it not be true that I could not build a building unless it was defined in leaseable space.
Mark – as it is written now, the answer is yes.
Floyd – well then that is totally – there's no common sense to that. So think about that.
Tom Zancanella – 805 Cooper – the water and the waste water end of it is totally regulated now; you permit for diversions basically so if you exceed your diversions the state engineer comes out and says you're out of priority and you're done. So whether you're a residential user or a commercial user, it's addressed and regulated in that fashion. With the waste water you have a bottom end limit which you've talked about for the leases where you say okay if it's 2000 gallons or less we're going to just totally ignore or permit it out of the County; if you're over 2000, whether you're a ground water discharge or whether you're a surface water discharge you're regulated; if you exceed the permit amount again, you're back into a permitting process so that's totally covered, so neither one of those are issues from either an engineering or probably from a legal perspective. I have a real problem, I don't understand relative to the proposal from an engineering kind of standpoint how we do this in the future; it relates most to the existing properties when you say they're exempt as far as what's out there now or what they were in theory permitted for, we really need to address that or it's going to be a total confusion.
Wayne Rudd – I'd like to say that I've participated with a couple other people who've pulled about a dozens of counties in Colorado and no one else has gone where this County is proposing to go and I think you'll make a big mess for us property owners – you just need to exempt leases less than 25 years and leave it at.
Glenn Ault – Westbank Road – Star Western Real Estate – a big concern about this; has quite a few commercial properties and a big concern about this as an example would be you go to build a building and you go in and the building is zoned for a particular use and there's certain uses that you define that you can use that building and you may have tenants that come into that that are different sizes and you may have to change as time goes on by different uses and zone and you don't change the design so I don't understand why you need to do all that other. This is sure going to make it tough for a lot of people and I won't own very much commercial property if I have to go through that process all the time. It's tough anyway and you work it like this to keep everything ahead and I understand if you enlarge the building or if you're going to change the use that you probably need to do that, but when you have a 10,000 sq. ft building and uses change all the time, as long as it's in that zone, he doesn't understand the need for the going through the lease change.
Ron Liston – the real issue is traffic impacts but looking ahead, a lot of people are concerned about existing conditions, but looking ahead he will have to be dealing with the future conditions or changes so we go through a special use permit on a land use then there's some sort of relatively minor change to that land use, exactly when do we have to go back and re-process the SUP and I can see it becoming an extremely

cumbersome process. Every time we do a change in a lese that you're back into this SUP process which is far better than a subdivision process but I still see it becoming a tremendous burden on commercial properties. As Tom pointed out to you a lot of the major impacts are already dealt with and we're trying to deal with the traffic impact situation. And that is a very difficult challenge and in my opinion at some stage it requires that the County step up and to deal with some portion of that impact because as Wayne pointed out everybody, a house, a small commercial lease, they all have an impact on the traffic and at what stage are you going to require that person to step up and participate on an issue that may come up later with the State even if they don't have a 20% impact themselves. At some stage it seems like you need to wrap this back strictly to traffic impact and on the minor scale, the County may have to step up and deal with that on a broader scale sort of way. You start with the fact that your zoned property commercially, you presume that there's some level of impact responsibility coming back to the County and the public. On a large scale, if you've got a user that's has a tremendous impact then that maybe a different story and maybe there's a cut off point where a user at the building permit stage is assessed if they are going to have a significant traffic impact, maybe they do have to fall back and do a SUP process or have a specific impact fee sort of structure for them. He appreciates the staff turning to the SUP process as one way to deal with this but I think it will become extremely cumbersome as we try to apply it in the future.
Wayne Rudd – Asked Ron Liston his wild guess to through this process every time we have to do it, every time we do a change in number of tenants or add more square footage onto a building?
Ron – a simple, something that is as simple as could be, you're probably, if you're getting any professional assistance to go through it, you're probably still $1500 to $2500 on a limited basis. If you get anything that's involved and you have to do some analysis, some studies, traffic impact analysis, etc, then you can easily spend $10,000 and more.
Commissioner Houpt – what would trigger them to go back once you already have an existing building in place?
Mark B– that's not an issue we dealt with clearly and that's one that needs to be discussed if you're going in this direction.
Commissioner McCown – right now its any change of use.
Mark B– technically, it's any change of use.
Mark Gould – the subdivision process takes about a year doesn't it?
Mark B. – if someone had to go through the subdivision process it takes about a year but that's not what we're talking about. We're talking about a SUP and that generally takes 60 to 120 days.
Don Sullivan – Don have you read that law that subdivision law and could you tell me what you thought if you did read it? Because I read it and honestly I couldn't understand it.
Don D– it's confusing but as it applies here and what has troubled the staff including myself is that term "separate interests" and Mark and I did some time with other government attorneys and planners around the State to make sure that what we read into that "leasehold interest" that we were on base and all agreed that term "separate interest" included leases and the problem that has created for us as staff is informally for many years, staff has taken the position that if it's an unrecorded document or less than a year, we simply won't apply that term. Well, we have no authority for that whatsoever and so in leaves in limbo people who are out there today with leases if they want and this is what Mark is facing – he had an actual request come to him as the legality of a multiple lease property. Well he can't say, and I can't say that it's exempt from subdivision unless the Board says that and that's why we're here is to see if the Board will give us direction that we all know what it means.
Don Sullivan – you must wonder why apartments are and haven't been built in the County in all these years and one of the reasons is probably that law. I read the thing and when I got through reading it I wasn't sure what its meaning was. He didn't think anyone else could get that meaning clarified.
Don D. our limited experience in this County with apartment buildings is that it makes a very complex process to do what is frankly what is usually not a very difficult project.
Don S. it's very expensive.
Don D and it doesn't have a great deal of certainty to it either.
Dave Rippy – asked Mark to clarify – existing properties in their current configuration are exempt or existing properties are exempt regardless of the future configuration and whether they add on or not.
Mark B. – the way it's written right now Dave it, it says current configurations are exempt but I don't think it's subject to the issue that we've been discussing here about if you were to change configuration. It's unclear in any case, exterior or interior to be very candid. That's an issue if the Board chooses to go this direction that we need to be defining better than we have.

Dave Rippy – A SUP process is entirely discretions with the Board sitting in front of us, is that correct?
Mark B. – the public hearing process is required and it is an issue that the Board can deny an application.
Dave Rippy – to me that's a problem because if you're meeting the underlying zoning and you still have the authority and the ability to deny even if you're meeting the existing zoning, that's an inherit conflict. Additionally, I agree with everyone else in that you're just opening a can or worms here; I don't see the upside benefit of it other than the traffic and I know that's a concern of yours but haven't heard any overwhelming justification in this for just not exempting leaseholds and I don't understand the rationale in 20 years or 90 years or whatever. A lease is a lease and a subdivision is a subdivision.
Don addressed this and said it goes to the reason the statute was changed in the 90's to add this separate interest language. The experience in the State was that there were a few location where a very long term lease, 99 year leases – were being utilized to avoid the subdivision process and that's really why this provision came into being. It was not originally intended to deal with your standard commercial lease.
Ron Liston – wanted to clarify for the audience so they are up to speed on this and where the staff is recommending a SUP procedure, but everybody's talking about changes; it's not just a change of the physical, an actual change of the use itself, even if the square footage stayed the same would require you to reprocess another SUP, if it had a new lease, a new use with a whole different traffic impact, potentially you'd have to go through the SUP process again.
Mark – this might be something that would be open to dispute but it's potential the language as it is written right now.
Wayne Rudd – In these State regulations are easements excluded or is that a subdivision also?
Don DeFord – that's one we've discussed also; it is a separate interest.
Wayne – Because what I will do is quit doing leases and I'll do easements or license people to use my building – either one of those will skirt what you're doing and I'll be okay again and that's going to be my procedure as soon as you say leases are subdivision – I'll do easements and I will do licenses.
Don D. – easements are probably a separate interest; licenses probably not.
Mark Gould – two points: 1) on the change in the existing use, we talk about the dollars being anywhere from $1500 to $10,000; my existing lease that I have is $6,000 a month, if it took four months that $24,000 on top of the fees that we'd pay to get it done; 2) add a little to what Floyd said and sort of a reminder, when you guys built this building, you built it in a way so that it could be modified at a later date. Essentially you put shells up and then you decide where the inside partitions should be. So what Floyd and reiterated, if a private person built this building, they would build this building as a shell and they would start to lease it and as the market demanded, I need 5,000 feet or 1,000 feet that's the time when the market is telling you what to do – you do not build this building with this many square feet and decide you think you know better than the market place what is needed here. So what you're suggesting is every time someone put this building up, they would have to come in after they picked their tenant and come to you with a special use and inform you what needed to be done to subdivide the portions of space and then we'll wait for the next tenant to come in. So you have a minimum of 60 to 120 days Courthouse Plaza – modified – shell up – then designing. If a private purpose and then after you get through that process you can start the building permit. As we know the building permit is another 22-day process. Just think through the delays when someone wants to come in here and lease a piece of property and we as property owners don't know that they need. This is incredible what the County is contemplating here.
John Martin – CR 108 - the letters written by Jerry Hartert were written on our behalf and Wayne's to help clarify this issue.
Don DeFord – commented and invited further public common on this one issue that's a concern and that is when we talk about exempting current leases; what I envision is exempting written leases, but wanted to see if this is a problem.
Chairman Martin – meaning there maybe a handshake out there and nothing written.
Don – right.
Bill Slattery – CR 154 – my property when up 17 ½% - that's a real blow; last year I did not charge my tenants more because it was a rough year. What do I do this year?
Chairman Martin – 55% of the property in Garfield County has to account for commercial property and brings in the taxes and when that happens and you get less and less or more and more residential it's going to drive the cost of residential tax assessment down and this year is was 6.91% so to make up the difference, commercial had to pick up that difference. You're going to increase and residential going to go down. We don't know where we'll be next year. There are a couple of amendments out there that dictate this to us – called Gallagher and Tabor.

Bill Slattery – we need to pass it along to our tenants whatever comes at us.
Commissioner McCown – asked for input from commercial property owners – we're not doing this to be obstructive – there are some legitimate concerns. If you come before us with a SUP for an RV recreational/storage whatever and you got a 4-acre parcel that's fenced adjacent to a highway and you get a better offer from Northwest Freight and that becomes a drop terminal for all their pups as they're going over the mountain. Can you see the difference in use there or do you see that as a lease, is a lease, is a lease?
David Rippy – If it's within the underlying zoning, a lease is a lease is a lease.
Commissioner McCown – but if you were a neighbor adjacent to that property and as you know commercial does butt up to residential here, would you feel the same way about that from an impact standpoint if all of the sudden there were trips coming in there dropping a pup every hours on the hours, 24 -7, would you feel the same way – hey, this is what I went to the public hearing on when they were going to do a SUP and store a few boats and RV Campers out here.
David Rippy – if I bought that piece of property, if I was a residential owner and bought that prior, if that zoning was there prior to me buying, that's my tough luck, I should have researched it.
Commissioner McCown – so anything that's commercial zoning is buyer beware if you buy next to it.
David Rippy – yes.
Mark Gould – just think of the issues you have right now with the oil and gas leases. What we're saying is this is the exact same thing. This is an underlying right – when we purchase this piece of property, we purchased it with zoning. And we may have changed the zoning, but the point is that gives us a set of rights and what you're thinking of doing is having a taking. Because we may have put RV's on there for the near term because the market wouldn't support another use, but the bottom line is that we shouldn't be committed to a use, we should be committed to a zoning. Because that zoning, we went into this commission and we got a specific set of zoning and what we depend on as business people is the zoning, not necessarily what the use is at this given minute, it's the zoning because we know we have options and you're thinking of doing a taking. If you follow your logic, then we could say we can't let oil and gas in because they guy forgot to contemplate that oil and gas could be there – we know we're having that argument today. The bottom line is, property rights are something that is dependent on when we put our money on the line and we're investors putting our money on the line.
Commissioner McCown – and so that homeowner that buys the A/R/RD and the individual that comes in and buys a parcel next to them and comes in for a zoning change to commercial, that's a different issue. Okay.
Mark Gould – that's a different issue because you're changing the use and we cannot – we changing to zoning, exactly. And we're talking about being able to depend on the zoning that we have now. Once we want to change the zoning, then we have to come in front of you and that's a different story.
Commissioner McCown – and in the zoning there are certain uses by rights – do you think we should vary from those uses by rights or just those uses by rights?
Mark Gould – there always should be a special case where we can come in and argue before you for that special case, but once again, you have the ability to say no because it's not an underlying zoning and we didn't depend on that.
Commissioner McCown – that is my initial questions; what is going to trigger case when you have to come in and argument for special rights – when you come in for a SUP to store boat trailers and RV's and the next day you lease it to Northwest Freight and it becomes a truck terminal, to me that triggers that – it doesn't for you because it's an increased value and it's a bigger lease. But to me that triggers that difference.
Gould – if you change the use, you need to come back.
Mark Gould – if it took a Special Use to get the use in the first place and you change a use; you should go back in for a SUP.
Commissioner McCown – very good, that's what I was wanting.
Attorney John Scheck – Don's point is the point we ought to focus on is the reason the statute was changed was to deal with guys that were going with 99 year leases. They had a piece of ground and they did 99 here and 99 there and defacto they've got a Subdivision and that's what the Legislature tackled but they used real broad language to cover the whole shooting match but nobody's been upset with the exemption process of extending it 25 years or other kinds of variables and this is what you need to think about. Going back to your Northwest Transport, if you don't have a flexibility and move those kinds of uses within a general commercial zoning district you're creating guys, with the exemption process guys who are already there

have got have the leverage or that tenant and the guys who don't and right east of Rifle is exactly that, they change that whole area some years ago to commercial general and residential people have no don't do that but you changed it but everybody expects in that commercial general zone district that anything's that allowable is a permitted use, it's a use by right and so, Scott Burleson has gone the freight yard there but somebody else could pick it up but in this rule he couldn't pick it up because Burleson is already grandfathered and you move it to Mr. X and he's got to go through the process and the brain damage there and he can never make it work so all of the sudden he follows up the market in a really profound way. What you need to concern yourself with if it's traffic, it think about something at the building permit state to deal with that as far as is there a traffic fee impact that ought to be imposed to everybody regardless if they're a resident or a commercial building and if that's the issue then lay it out for everybody to deal with but the pick and chose and the pick on this rule, it just doesn't work, it doesn't help as much as it hurts. And I think the exemption for time is the key to deal with a lot of this stuff because I don't it has been a big problem up till now and it hasn't been a real big problem with the State or they would be grinding on you 10-years ago to pass that ordinance, or that regulation. And it hasn't and it's just a matter of getting it straightened out, that's cool but let's not just go crazy as far as the restrictions and forget about what zoning's about and overlay these other things give us the rights to take pieces of things that really aren't helpful but otherwise mess up the market.
Commissioner Houpt – I understand you're argument and I can also say that if we went with that type of regulation it would be very difficult to change the underlying zoning because then there would be huge potential for impacting neighbors. You're right, you've purchased commercial property and you have an expectation that you'll be able to use that for your commercial uses, but we've seen a lot of proposals this year for zone changes that are really pretty borderline and if they weren't low impact businesses, I don't think they would have been supported and there's no guarantee then with that type of regulation that it would it would remain a low impact business. So it would be very difficult for this county to change zoning.
Commissioner McCown – in the recommendations of approval from the Planning Commission there's no date, no 20-year, no window in there, and asked Mark to enlighten him as this seems to be the trigger that makes this thing work.
Mark – there was a discussion about just creating an exempting leasehold interest of 20-years or less from that, the Planning Commission chose to go with the recommendation that was discussed as the staff report identifying the impacts that would be reviewed as part of the Special Use Permit process. But they did accept and this is maybe where we need to go if we're going to this direction is to define at what level changes in existing leasehold interests would be subject to some kind of review or not. It was brought up, it wasn't brought up as often or as adamantly as it has been in these discussions; a lot of the correspondence that you see here actually came after the Planning commission considered this so they didn't have the correspondence that you've seen. The only thing they saw was the recommendation, the first memo from Mr. Hartert – they did not see the two memos nor some of the other communications they came in.
Commissioner McCown – Don, number 4 – under 8:10 in the Recommendations of P & Z, that is exempting all SUPs for all practical purposes, isn't it?
Mark – saying that if they have been subject to a SUP, they would exempt from the exempt from the subdivision, in other words, by going through the SUP process you would be exempting them from the Subdivision requirements of the language of the Statute and our definition of our subdivision regulations requirement they go through subdivision too.
Commissioner McCown – we know recently we've had some of these surfaces where a site plan varied on a SUP, ex. For an aggregate, a pit; that would be exempt now; they could build that extra building and wouldn't have to come back if their site plan doesn't fit what was approved initially then basically they can do whatever they want to on that piece of property now. Unless the complete change of use of the SUP.
Mark – the example would be we have a situation in one aggregate operation where they were approved for multiple uses including batch plants for both asphalt and concrete, but the permit requires that technically be under the owners name by creating the separate interest situation, they would be exempt from having to go back through the subdivision process or arguable an additional SUP process to have other leasers within their operating their batch plant operations.
Don – in a similar way the example that Mark's talking about, when we have a site plan under a SUP also, yes you approve what's in front of you, the uses and the location, but when there is an alteration of the location of a facility, even if the use stays the same, we require that the SUP come back here.
Commissioner McCown – so that's like building onto a building.

Don – yes.
Commissioner McCown –so then it's not exempt.
Don – the more difficult ones are the ones that don't require a SUP, they're the uses by right; they would have to go through a new process under this proposal.
Mark – The language that was recommended by the Planning Commission is 3 issues, one we glossed over; 1st basically saying that if you go through SUP process, i.e. commercial park, then you do not have to go through the Subdivision review process; No. 6 – which goes to the issue of previous or existing leasehold interests either within a building or on the property itself, was intended to basically exempt those from the subdivision review process and arguably the SUP process. Now the issue of changing and moving some of those around, expanding a non-conforming use, which is essentially what you're doing there, that's the issue that we have not addressed here. The one other to bring back to the table, because this is still definitely still a part of this discussion is, and this is a lot clearer here, is the definition of subdivision means any parcel that's used for condominiums, apartments, or other multiple dwelling units. So right now, anybody with an apartment use even thought it's a use by right in the underlying zoning, is subject to a subdivision review process unless it is basically two or less (an accessory dwelling unit or 2-family dwelling). That's where we're at – we got two issues on the table we're talking about, obviously the majority of discussion here is focused on the commercial land or industrial types of interests, but the apartments are still there too, so I don't want to lose track of that discussion too.
David Harris – back to Larry's comment, because property is utilized in one particular way, with a use by right for instance with the storage and then there was an additional use or an expanded use, if that expanded use is a use by right, to me, it's a taking to have to go and review the SUP process to put that use in there that's a use by right. That's the real difficulty that I have with this. Special use where they're un-permitted uses that need to be addressed, that's very understandable, but basically what we're talking about here is the legislative intent and Mr. DeFord pointed out was to keep people from circumventing the subdivision process with these 99 year leases. You can fix that by putting the time limit on exempting leases for 20-years or whatever. That takes care of that right away. After that as long as it's a use by right, I don't think it should be dealt with on Special uses and then an apartment thing needs to be addressed in a separate way and a very detailed manner so that it doesn't just keep housing from being built that could be affordable housing for people as well.
Ron Liston – re-emphasized something that was mentioned earlier but need to keep in mind – by the way recommended in a sense it wipes out the concept of use by right out of commercial zoning. Essentially everything ends up having to go through a SUP and to me as a planner that creates a philosophical incorrectness is that you had a process and the concept behind commercial zoning particularly and now you're coming back and we need your reaction to is, but clearly a challenge that you have – you're wiping out the concept of zoning by taking away saying this zone district particularly under existing ground that's zoned commercially no longer has a use by right, because SUP give you the right to deny a use, you have to have cause, but still it does wipe away that concept of Special Use and then again, the challenge is what constitutes a change under a SUP as I perceive it pretty much any meaningful change, particularly a change of use requires, if you change the use, the SUP is gone. You have to come in and get a new one.
Commissioner McCown – one comment – I'm not comfortable with the recommendations of P&Z and don't know if we need to send it back with some guidance or if we need to take that action, but not comfortable with these recommendations.
Commissioner Houpt – it sounds like they didn't have the same discussion that we're having today; and I'm not particularly comfortable making a decision either way because we've received more information the audience than I've had on this.
Commissioner McCown – it's ultimately our decision to make and I'm not uncomfortable making the decision; I'm uncomfortable with their recommendations.
Commissioner Houpt – I would like to make a motion because this is a big change that we send it back to P & Z and have them look at all of the information that has come to light since they've reviewed it.
Chairman Martin – noted we're still in public session and the possibility of sending it back with this new information and see if they would hold another hearing, that does not help our staff in the direction they're trying to seek here but maybe it's the best.
Commissioner McCown – seconded the motion for discussion.
Commissioner Houpt – the reason I'd like to do that is because I also think that it would be helpful for staff to look at what additional requirements could be added to the building permit process, what makes more sense in terms of administrative action versus Special use in these leasehold situations.

Commissioner McCown – what was missing a P & Z that was here today. The discussion on the commercial aspect of this?
Mark – the discussion of the need for a question of the validity of going through the SUP process versus just exempting for a certain period of time, there was some discussion of that but not as much of that discussion, there were not as many people, unfortunately the Planning Commission meetings to not require public notice; it was not as well attended as this meeting was.
The decision was made that the Planning Commission would hear this on March 10th and it would be set for further discussion on March 15, 2004 at 1:15 p.m. Motion carried.

PUBLIC MEETING

DISCUSSION OF VALUECHECK CONTRACT FOR APPRAISAL OF COMMERCIAL PROPERTIES – SHANNON HURST

Shannon Hurst presented the ValueCheck Contract for a not to exceed price of $78,000.00. This will allow the contractor to provide the "scope of services" as defined in Exhibit A summarized as including reviewing new commercial sales, gathering rental rates and other pertinent data from available sources (newspapers, Internet, sales brochures), watching for local and national real estate related trends, and keeping apprised of recommendations from the Division of Property Taxation, Colorado Department of Local Affairs. This detailed information will be input into the Garfield County Assessor's software package using a remote access program.
Since Shannon has been here, Commercial Property has no data base and after a couple of years we can be doing this ourselves. This company did the commercial reviews last year and feels they should continue it for a few more years. They will be prepared for protests and court hearings. The long range plan is for employees to be able to do the commercial appraisals.
Rifle and Parachute evaluations of commercial properties is suffering.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chairman to sign the contract with ValueCheck in the amount of $78,000.00 for 2004; motion carried.

PUBLIC COMMENTS FROM THOSE NOT ON THE AGENDA

Roan Plateau

Dean Moffatt, 901 Blake - an Architect and resident of Garfield County was the spokesperson for the group who presented a letter thanking the Board – "we the undersigned businesses send this letter to thank the Board for your vision to provide for an even-handed management plan for the Roan Plateau." Dean went on to explain the group held a press conference was held at noon in front of the Garfield County Courthouse with the media involved and presented a lot of material to them. We're talking economics today and he is speaking today for quite a few of the architects in the County. Architects depend upon a sustainable economy, a balanced economy and above all a healthy economy. They deal with those folks who are looking for an attractive and desirable place to live or visit, be it residential, commercial, or institutional. A boom and bust energy economy damages not only our stable economy but the environment on which it is based. Gas development will slowly ruin Garfield County not overnight like oil shale did but by slow degradation as in the San Juan basin and south eastern Colorado. Western Garfield County is already a sacrifice zone to the National Energy Policy. Our farmland, our valleys, our river basins will never ever be the same again. The roads, the wellheads, the evaporation ponds, the pipeline scars will take decades to repair. We won't see it at all. It is up to the Garfield County Commissioners, the City and Town Councils of Garfield County and the citizens to save the Roan Plateau; it is the jewel of our economy, it is what we stand for and it is a symbol, it is a virgin. Yes there are a few roads here and there but for the most part it's pristine wilderness and it's not just a flat old table top, there is a variety of beautiful land there. The federal agencies seem to have been squashed, the state agencies seems to have been compromised; we're down to us. The Roan isn't in their backyard, it's our front yard. He recalled to the Board Glenwood Canyon. The state had begun to destroy it; the section you drive from Glenwood to No Name is what it would be like for the next 12.4 miles until you're out of the canyon. That was the road that was under construction. The people here felt powerless but over the course of a few months, a couple of years, the value, and economic value of Glenwood Canyon became apparent to all of us. We stood up, we here in Garfield County became one voice. As you remember we were not one voice, the City liked the Canyon, the Garfield County Commissioners had signed off on it, but it took an awakening of the people to realize what we were about to lose. We went to Washington D.C. and we won. Look what we got. The highway was stopped, redesigned, all of the multi-use things were conceived; look at the jewel we have; look at this economic engine we have, rafting, hiking, biking, people come from all over to see Glenwood Canyon. We

fill our motels, etc. The canyon is a huge solid chunk of our economy; the Roan is also a huge solid chunk of our economy. Let's not see it destroyed; let's go to Washington again if we have to.
Duke Cox - Escalante Home Builders – echoed the comments made by Dean Moffat. He pointed a statistic that he felt if very relevant and it not usually found in the valley. The area of the Roan Plateau that we wish to protect for the benefit of the local economy and for the benefit of the local people who's lifestyles for many years have been based around that beautiful treasure we call the high country. It comprises about 40,000 acres. The Piceance Basin, gas field, comprises 13,500,000 acres. We're asking for you to take the lead in protecting something that the people of Garfield County have cherished for generations and will continue to cherish for generations if we protect it. If we don't protect it, it will adversely affect every single resident in western Garfield County for many decades. He asked the Board to consider, when you make decision on this development on the Roan Plateau to consider the balance that is in your hands, the balance between those who are adversely affected by the development versus those who provide by it, and if you do so, I think you'll see that the right decision is to protect the Roan Plateau for our children and our grandchildren for all those generations to come.
Chairman Martin – as you know the final decision is made by the Congress of the United States.
Commissioner Houpt – and we will be having Public Hearings when the report does come out so everyone will more opportunity to make comments.
Duke Cox – understands the dynamics of this decision making process but as Dean pointed out, it is going to take if there is anything that will save the Roan Plateau, it will have to be a broad based level of support on the part of the local people because the larger governmental agencies seem to have already lined up in favor of energy development. That's the battle we are going to be fighting over the next few months and know that this Board's support is absolutely essential to any success that we can achieve in terms of protecting this valuable resource.
Rio Blanco and Garfield County are both involved.
Chairman Martin – we know it's a very valuable resource and that it's on everyone's mind and when the craft comes out we will share it; this Board will get the draft the same time as everyone else and we will have our meetings and then make our recommendations back to the BLM and we are a contributing agency. We'll also deal with Rio Blanco County who's in the same position and then we'll see what alternatives come out of it and what's recommended.

EnCana Request – Frost Law – Don called attention to the letter addressed to the Board addressed January 31, 2004 by EnCana for exemption from the Frost law. Don suggested this could be scheduled for a regular meeting. A report and recommendation from Road and Bridge will be needed as well. This will be scheduled for the first meeting in March under Don's time.

PUBLIC HEARINGS

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT (ADU). APPLICANTS: ROBERT AND STELLA RAMUS – FRED JARMAN

Fred Jarman, Robert Taylor, Contractor and Robert and Stella Ramus and Carolyn Dahlgren were present.
Carolyn Dahlgren reviewed the notification and advised the Board it was timely and adequate.
Challenge to noticing.
Linda Dixon, POA for Muriel Dutton - her mother owns parcel 35 and 44 and she has power of attorney to act on her behalf. Linda's name is on the tax notice and her notice that she received was January 6 and someone has written 1-13 and then a second date stamped January 20. She requested the date returned.
Carolyn clarified that Muriel Dutton – delivered on January 6 to 4852 CR 306. Linda – no mine is PO 58, New Castle. Carolyn said having checked with the Assessor apparently this was the address on the Assessor's records. Linda has a notice on the taxes that they come to her and has received notices on the taxes previously. Carolyn found another notice that says Muriel Dutton, PO Box 58, New Castle and that was delivered on the 14th and mailed on January 5, 2004. Carolyn determined they were double noticed and stated that the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits into the record: Exhibit A – Proof of Mail Receipts and Posting; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application Materials; Exhibit F - Staff Memorandum; Exhibit G – Memo from County Road and Bridge Department dated 1-20-04; Exhibit H – Letter to BOCC from "concerned and watchful taxpayers" from John Martin and Exhibit I – Letter from John and Dorothy Nauroth.

Chairman Martin entered Exhibits A – I into the record.
Fred summarized his project information and staff comments. The subject property is located off County Road 306 in Parachute. The applicant requests approval to designate an existing dwelling unit on the subject property as an Accessory Dwelling Unit (ADU) so that it may be accessory to a new modular dwelling unit to be placed on the property as the primary dwelling unit. The subject property consists of approximately 41 acres and is improved with an existing modular residence, 3 shed buildings and a trailer.
Recommendation:
Staff recommends that the Board approve the Special Use Permit for an Accessory Dwelling Unit for Robert and Stella Ramus subject to the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. Only leasehold interests in the ADU shall be allowed. The unit may not be sold separately.
3. The existing (52.5' x 11.4') trailer shown on the site plan shall not be used in any form as a dwelling unit on the property.
4. Additions and/or modifications to the structure are not allowed. Pursuant to Section 7:05 of the Zoning Resolution, the structure may be replaced provided it meets the requirements of the Building code Resolution of the County and not exceed 1,500 square feet in size.

Steve Hackett has viewed the property and is investigating this as a violation. All the buildings listed on the site plan are listed and at this time Steve doesn't see this as a violation. There's only one mobile home unit; the other trailer is only used for storage.
Fred – the 11x52 trailer under Condition 3 it prohibits use as a dwelling unit.
Robert used this trailer as a workshop – it is being torn down this spring by his grandson. The huge amount of snow prohibits him from moving his storage out of the trailer at this time. He is a 63 year old Native American and is fed up with being referred to as Hispanic. He resents the treatment he's given by his neighbors. He has tried to be friends with the neighbors but it has not worked. Stella Ramus expressed her opinion about the lies of the Nauroth's.
Public Input
Linda Nixon representing Muriel Dutton – protests the application. She asked the Board to give consideration on the traffic suggesting many families are or have been living there in these dwellings and they have not remedied the situation of water. They intent to continue the process. She is familiar with dry wells. It appears that the well on the data appears to be the same as the current well. Sanitation system: a system is no better than the water and asked if the Commissioners were going to investigate the septic systems through a review process. ADU: this is non-conforming and as this process continues, the County is responsible for these "storage units" further drawing on the water. Traffic concerns were noted by Linda. She made it public that her family does not opposed the Ramus's fact of wanting to take care of the grandmother – they believe this application is not in the best interest for the health, safety and welfare of the County.
Bob Ramus – once again noted that he is not Hispanic and reminded everyone that being American means obeying the laws and that's what facilities good neighborhood. Dorothy Nauroth has water rights on the ditch.
Robert Taylor testified that the Ramus's have purchased a new manufactured modular home and want to use the existing mobile home on the property for use by the family. The cisterns are in and the wells have been running and tested.
Commissioner McCown – the ditch that was alluded to and on the site drawing it shows the ditch but there's no plat notes that indicate an easement or ditch access.
Mr. Taylor said there was a ditch they will be putting a new culvert in to cross their property.
Commissioner McCown – Ms. Dixon stated that people walk up that ditch to check their source of water and the only way understanding Colorado law is if there is an easement granting access across there and wondered if in fact there is an easement along that ditch.
Bob Ramus – thinks there is; they're only allowed 3 feet inside the ditch and he doesn't care if they go to check their ditches; he's never stopped them.
Commissioner McCown – clarified that was not the reason he was asking, historically that's how things operate here and wanted to make sure.
Bob Ramus – everybody goes and checks on the ditch.
Dixon, mentioned the Nauroth's legal right of way to be on this easement.

Linda Dixon – for the record, Bob said he has no objection but after the Sheriff informed you but the Sheriff was called on Linda's mother and he had to be informed of the law. And as she understands the State Water Engineer can confirm that when you have water rights you are allowed to walk up the ditch to the source of your water rights.
Bob stated he has a copy of the title work.
Stella – Linda's mother is above us and her sister is below us and they're the ones that have the water rights running through. They're the ones that can come up.
Chairman Martin – usually anyone on the ditch can come up and check their water source.
Stella – but not the mother that lives on the other side because she doesn't any water.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Special Use Permit request for an Accessory Dwelling Unit for a property located at 5647 County Road 306 with following conditions submitted by staff and Recommendations No. 3 suggest that the trailer not be used as a dwelling unit, I would replace that with the wording that it will be torn down within the calendar year 2004; motion carried.

PUBLIC MEETINGS:

CONSIDER AN AMENDED PLAT REQUEST TO THE FINAL PLAT FOR LOT 15 OF TRACT D AND H OF CANYON CREEK ESTATES. APPLICANTS: MICHAEL AND LARA FERGEN – FRED JARMAN

Fred Jarman, Michael Fergen and Carolyn Dahlgren were present.
(17,859 square feet) to their lot from an adjacent parcel owned by Sills Investment. The purpose of this transfer is to better accommodate the placement of a new septic system on Lot 15. The newly adjusted Lot 15 would then contain approximately 9.62 acres.
Recommendation:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. That Sills Investments (owner of the adjacent property transferring the .41 acres to the Fergens) complete and file a Boundary Line Adjustment application with the Planning Department.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to amend the final plat for Lot 15 of Canyon Creek Estates. Motion carried.

Ramus - Maintenance on Ditches

Commissioner McCown asked legal counsel if there was common law that granted you access to ditches? The scenario of the individual below has a right to the water than runs through there; the individual above has no need to be on that property. But if that ditch were to become plugged or silt shut through that portion of property the water couldn't get to the lower, do they have the right to go in there with equipment and clean it out – it will take more than 3 foot of access on the side of it.
Fred – a plat may be silent on a delineated easement.
Carolyn – there might actually be a written agreement on the easement – the contractor in the Ramus stated he had the title work.
Chairman Martin – it's under the Taylor Grazing Act under the water and access; it's along the same lines as the RS2477.
Commissioner McCown – but what can you do, what level of maintenance you can do on it.
Chairman Martin – anything necessary to keep it in tact.
Carolyn – but they could actually have a written easement that we would never see that says exactly that kind of language.

Oil and Gas Pipeline Regulations

Don received communication from David Burnbarger, County Attorney for Gunnison County concerning the development of pipeline regulations and wanted the Board to be aware of it.
Commissioner Houpt – this came out of the meeting with CCI on Thursday and CCI initiated this. What he's asking for is information from every county that has anything on this concept.
Chairman Martin – we will sit down in a roundtable and actually look at what's being reviewed and how it's being reviewed and then make recommendations along with the industry and COGO on what needs to be done statewide. To develop a set of rules for the Oil and Gas Commission.
Commissioner Houpt said it's two-fold: one is for County level and one is for the State level.
Chairman Martin – there's some things they don't recognize under land use that need to be and the industry as well as COGO say we need to regulate or review and we're going to identify what they are.
Commissioner McCown – one of those is emergency response and emergency management and they want nothing to do with that. But when we impose a rule, such as the Fire Ban, they're exempt from it.
Chairman Martin – the other one was Frost Laws on our County Roads and that was the access issue even though they're going on public lands they have to cross areas we've put Frost laws and those are some of the issues we need to put out so they understand why we do them or if someone else needs to do them. The Board is aware of the meeting on 2-11-04 in Denver.

Executive Session

Don requested an Executive Session to provide the Board with legal advice concerning the Status of our Insurance with Healthy Beginning Program.
A motion made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session. Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

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FEBRUARY 17, 2004
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 Tuesday, February 17, 2004 with Chairman John Martin and Commissioners Tresi Houpt present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Commissioner Larry McCown was absent.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:11 A.M. due to the Joint City County Meeting held earlier.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

a. Revised Scope of Work Olsson & Associates – Dale Hancock

Peter Olsson and Dale Hancock submitted the scope of work and services showing the deleted sections in line with the previous discussions with Olsson and the Board; the estimated Apron Expansion Engineering Cost Breakdown amounting to a total of $65,215.08 (24.75%) of the ECC. Discussion was held.

At the January 12th meeting, it was mentioned that this was a 2-phase project as it is a large capital project. On the 16th of January Brian met with the FAA who said the rules will change this year; discretion funds will be continued every year. If we begin work on the apron, we'd be in a bad sport for the runway. Decision by staff is to downsize the apron project.

Carolyn said the release to contract No. 2 to reflect the change in the scope of the project. The BOCC approved the Release to Contract No. 2 however, the original was never signed. The Contract was submitted for Chair's signature. The Amendment to release Contract No. 2, Carolyn has drafted and Peter has reviewed; this shows the changes. The BOCC has also seen the amendment and Carolyn asked for the Chair's signature. Red highlights shows where the changes were made. Ed explained the fund balance due to the list of capital projects in the last few years. Peter explained that the FAA changed their rules. Basically they had told us that for your entitlement money could be rolled together and all used this one year and they confirmed that when Brian went to the meeting and two days later Peter had a meeting with the FAA and they said you can't do this anymore. If you use money from next year and we want to give you discretion money next year but you've already used that money up, we're not going to give you all the big dollars. So the FAA said all you can use this year is what you have this year which is right about $200,000. So we shrank the project from a $600,000 construction project and what we're going to design is a $300,000 project in total 2 parts. One part will fit the $200,000 and there's another expansion of that if we are able to come up with another $100,000. The $333,000 represents the EA and the apron expansion per Dale and those are both federally funded projects. The $133,000 comes from last year's money and it's already obligated. The discretionary money and State apportionment – there's a lot of different pots of money and basically Garfield County gets $150,000 every year guaranteed; that the entitlement money and then the FAA is giving the County extra funding out of the other pots that they have to do the runway project; however they don't want to give the County extra money out of those pots to expand your apron. The problem we're facing is that Brian needs additional apron out there and there's hardly any money to do that at all. So what we're doing is a tiny piece this year and he's not going to be able to expand it for another 4 – 5 years because all the money will have to go to the runway. He will have to live with what he has for the apron. Peter has told the FAA that they are a freeway without on and off ramps. The FAA is not fighting. Peter said the reason he's here today is to justify his engineering fees because the engineering piece goes out of proportion when you scale the construction back so much; the things the FAA makes us do and so the smaller the project the larger portion of that goes to engineering and it's not good use. It will average out over the years. Once project sizes get up to a million or more the engineering is back in proportion. But while we're working with these tiny projects, it's difficult to keep the engineering within reason.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to sign the Amendments to Contract No. 1 to the Release to Contract No. 2 as presented; motion carried.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. ***Consideration of a Confidentiality Agreement with RRC Associates for Origin-destination study – Carolyn Dahlgren and Mark Bean***

Mark, Carolyn and Randy Russell submitted the memorandum in connection with Randy Russell and the supplemental Confidentiality Agreement to the current contract with RRC Associations regarding the Traffic Patterns Origin and Destination Study.

As part of the study, Garfield County had agreed to obtain from the Department of Labor and Employment what is known as ES202 Data, a set of data on disk that contains employer information by S.I.C. Codes on the number of employees, addresses, etc. This information is utilized to determine who to send surveys to, and how many surveys to send. This information is considered confidential and such information about the specific firms may not be released to the public. The State of Colorado only releases that information on a selective basis, and through a Contract that passes the confidentiality requirements and responsibilities on to the recipients (Garfield County) in this case. These liability and potential fines are attached to misuse of that information. Garfield County intends to release that information to RRC Associates as consultants for the Study.

THE DOLA sent over a contract and was reviewed, the document allow us to transfer the ownership of the ES202 Data. The liability of the County addressed by Carolyn. The importance of this data is to obtain the addresses of employees and groups of employers. They will be looking at those people who are on the streets making deliveries and security companies as well. The nature of the study does not include the release of names.

Randy had a fax of the document signed by RRC.

Carolyn said there are certain liabilities that the State puts on the County when we enter into this licensing agreement and we're not passing on any ownership interests, this is simply the right to use; this is proprietor information of the Department of Labor and Employment as an agent of the Federal Department of Labor so in reviewing the document, the last paragraph says that should the County be fined, that cost would be passed to the contractor. She doesn't expect RCC Associates is going to improperly use this data.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the Purchase of Service Contract Confidentially Agreement between the Board of County Commissioners of Garfield County and RRC Associates and authorize the Chair to sign. Randy has asked RCC to send us the original signature page. Hold for John to sign once the original is here. Motion carried.

COUNTY ATTORNEY – DON DEFORD

Don listed the items he wanted to discuss in public; they are not on the agenda.

1) ***Contract with VOTEC***

Mildred has discussed this with you previously and he is seeking authorization for a Contract.

2) ***Contract with ESS for an Optical Scanner***

Mildred has also discussed this with the board and we need authority of the Chair.

3) ***Authority on the execution of the Insurance with Healthy Beginnings***

Commissioner Houpt noted that she has a problem of adding things to the agenda; however these items are of great concern and agreed to go forward with it. It's not bad for the public to have justification for why we adjust an agenda.

Don explained that the Healthy Beginnings Insurance came up last week and Denise Young was having some difficulty negotiating with Marshall McClellan obtaining insurance for this program. We did not anticipate the problems and though this could be addressed last week. During the course of the week we obtained a quote for insurance that we believe is adequate but need final authority of the Board to do this. This was not known until Thursday.

On the two contracts for Mildred which she had discussed with you in the past, actually he anticipated doing those on the first of March but particularly in regard to the ESS Contract, Mildred informed me if we move forward quickly on those items it would be great assistance to here and the Board doesn't meet for two weeks.

VOTEC Contract **-** it anticipates a new voter registration system and other significant software purposes for the Clerk's office. We estimate that this contract for the first year will be for an amount not to exceed 30,000. Mildred has explained the necessity for this to the Board in the past; she's talked to Jesse about necessary budget amendments. This may be less than $30,000 but we need to calculate a per active voter fee. Mildred stated this was a lease and it will be per active voters. Don has reviewed the contract and there are some technical changes he will be seeking and will need to negotiate some terms of the terms with the Company. He said he was comfortable with this contract that the changes will not be significant enough to

defeat our ability to enter into the agreement and asked that the Chair be authorized to sign this agreement once Mildred and Don have approved the form of the agreement.
Discussion
Mildred clarified that this will be a straight lease. Don said the agreement is in the nature of a license, because it is a software that's being provided and training. It is a straight lease and not a lease-purchase because VOTEC is one of the vendors that's in the state that's doing the voter registration system. With HAVA the Secretary of State has to by January 2006 have a definite voter registration system for the entire state. Mildred said she needs to lease something in the meantime and that's why it's a straight lease. You cannot buy their software. Don qualified this as being the same with all software you don't really purchase it; you get a license to use it.
Chairman Martin said which is going to add to the problem that they are going to have open registration go to anyplace within the County and vote and that software is supposed to take of the identification and notify the other precincts that they've already voted.
Mildred said this is down the road.
Chairman Martin – this in on the front burner in the State Legislature right now and we need to be prepared and this software will help us get there.
Commissioner Houpt made a motion to allow our attorney to move forward with the review and approval of the leasing contract with VOTEC and authority for the Chair to sign. Chairman Martin stepped down as Chair to second the motion; motion carried.
Optical Scanner – with ES&S for purchase of an optical scanner and is an outright purchase with a not to exceed price of $50,000, originally we anticipated $60,000 but Mildred negotiated a price break. This is a piece of equipment we need now and in the future; the company will provide documentation that this has been approved by the Secretary of State's office and we need the equipment almost immediately.
Commissioner Houpt clarified that the purchase was because we were fairly confident that this will be compatible to what will be forthcoming for 2006. Mildred said this equipment will always be used and can use it as a counting device for absentee and early voting. We don't know what will happen with what the State wants in the precincts; nothing has been decided and we haven't received the money yet from Congress. Some people in the Legislature are trying to do a Bill quickly before we have that arranged. This equipment will hold me until we see what they want to do.
Don said he still needs to work on this Contract for the Optical Scanner; there are a few more difficulties with this agreement than with the VOTEC agreement. Don wants to make sure the IT department has a heads up on the integration of this system. With the optical scanner agreement if this were anything other than one payment, one time purchase he would have a great deal of difficulty with one provision that requires us to pay and then litigate whether there's compliance with the contract. However, in this case it is one piece of equipment and one time purchase we still have control over that. This will not interfere with warranty.
Mildred said she has a line item for maintenance but the 1st year for ES&S we do no pay for the maintenance.
Don said the initial purchase price will include an additional year of maintenance; it's the obligation to pay beyond that that creates an issue.
Commissioner Houpt made a motion that we allow our attorney to work with Ms. Alsdorf on the purchase agreement for the ES&S Optical Scanner not to exceed $50,000 and to authorize the Chair to sign the final contract as presented. Chairman Martin stepped down as Chair to second the motion; motion carried.
HB Insurance – Denise has had problems negotiating on this project and has a quote at the $5,500 level. Ed said the annual price is around $25,800 and $5,000 is the maximum we'd have to pay to get out of the contract. The $25,800 is the same as last year. This is the liability insurance for the nursing staff. Our liability risk has been dramatically reduced as the result of our Midwives now working for Hospital.
Don framed the motion saying we need a motion to authorize the Chair to execute the insurance agreement to provide liability insurance for Healthy Beginnings County staff. Commissioner Houpt so moved; Chairman Martin stepped down as Chair to second; motion carried.

Executive Session: Litigation Update; Legal Advice Under 24-06-402(4)(b) to provide the Board with legal advice concerning the status of the DDA litigation and also application of your frost law to the new permitting system in the County. On the latter item when you come out of Executive Session Don anticipates asking the Board for a public position regarding a request from EnCana. Under the same Section and subsection (e) Don needs initial direction from the Board on Contract negotiation with the City of Glenwood and the School District. Jeff, Randy, Marvin, Jesse and Carolyn attend the latter two items.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to go into an Executive Session to discuss the aforementioned items and invite the people as listed by Mr. DeFord to join us; motion carried.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to come out of Executive Session; motion carried.
Don added an additional item under the previously sited subsection to provide legal advice concerning the modification of a Service Plan in the Consolidated Metro District in the Battlement Mesa Area. Commissioner Houpt added this to the motion. Chairman Martin seconded; motion carried.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to come out of Executive Session; motion carried.
Action
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair refer the correspondence of January 30, 2004 from EnCana asking for relief from the frost law to the Garfield County Road and Bridge Supervisor under Section 6.3.1 of your Road Use Regulations and further authorize the Chair to sign a letter to EnCana informing them that you have taken this action. Motion carried.
COMMISSIONER REPORT
Commissioner Houpt – Northwest COG will come talk to the Board on March 15 at the regular meeting; they gave a good presentation to the City of Glenwood Springs. This was scheduled for the 10:15 time frame; Building Code Seminar on 2/19/04; attended the RFTA Board meeting last week and they invited us to sit at the table as a non-member and she would like to attend these meetings. Chairman Martin has some serious concerns about the RFTA agenda but he has done that for years. Looking at their budget and listening to their reports and behind the scenes, they can't answer one question and that is what is their indebtedness and what's the obligation of Garfield County when we join and if this indebtedness is in the millions of dollars, which it is, that's going to be a real hard sell for me. Commissioner Houpt – the meeting the other day was geared around that and getting to a good analysis of what needed to happen throughout the region in the next several years; a real productive discussion and they will put together projections specifically to bring to negotiations so that you have more information to work with as part of the process. Commissioner Martin said are running at 4% over on operations and making deferred capital purchases for every year and they're driving themselves deeper in debt and that type of a management program. We have spent 7 years getting out of that type of a program and turning around and he doesn't want to enter into it again. They need to make some major changes; we can discuss that with them. Commissioner Houpt – this was discussed and having Heather Copp has been very good because she's been able to identify the budgetary concerns and has been very direct on direction to the Board. Ed asked if they were willing to adjust service levels up valley, that's the issue and if they don't deal with that they're in deep trouble. Chairman Martin said in the discussion they're not looking at increasing the service up valley even if we join simply because they can't and that's some of the things that need to be brought out. We need to have an increase in service even breaking it down to a contract service that they don't even make a profit on, they don't even break even, and they're losing money on contract services. Commissioner Houpt – talking about the events that have happened and the contracts with private companies, the consensus was that they needed to make money on those endeavors and they haven't approached it that way in the past. She said she does see some healthy change going on. On another topic, she noticed a piece of property in Rifle that might be worthwhile for us to open it back up to the direction John was going and revisit the possibility of new property for the new services building (relocating Taughenbaugh). Jesse said a trade of property is not even an option we've explored.
Commissioner McCown – Absent
Chairman Martin – Transportation staff met and some action were taken and that is an understanding within this staff meeting that all decision need to come to the Board of County Commissioners, there needs to be at least two members of the Board that agree before the action staff moves forward; that's an understanding and direction for staff. To go forward and pinpoint the needs of transportation and also the firm direction of the Board to the staff to accomplish the action items. He suggested the Board take action at the meeting to be held on March 8, 2004. Also the CCI workshop on Home Rule Workshop came to the same conclusion in 63 counties; only 1 County thought it was worthwhile and that was Pitkin because they get to vote on every change of their charter. Steering Committees CCI - Health and Human Services – taking the citizen's advisory group and turning them into a review group with the powers of testimony, evidence gathering, making recommendations in the civil that could lead to making criminal charges in

neglect and abuse. Sweetwater meeting with the citizens on the community development – Tues. 10 am – a continued discussion of a fire station on community property at Sweetwater; we have come up with another alternative that should be considered. We have promised them some money if possible to meet our requirements and that's with an IGA with the community. We have two buildings on the ground and they are in the way at the Airport and also with Road and Bridge and they've been there for 4 or 5 years and they are going to waste. They were free to us; we took them down from the CB track. He would like to offer the plans and the possibility of that money erecting those buildings to make one building to meet their requirements on community property with an IGA that says we're able to stage limited staging of Road and Bridge materials and equipment when necessary on that site and give them the building and the $10,000. Ed said they are 25 x 40 metal building. Originally we had thought about putting Weed and Pest in one of those buildings but that issue has gone away with the building of the Road and Bridge Facility. We had thought about putting a fire truck in the other one on the Airport and that's not an issue now that we have the big fire station. Commissioner Tresi reminded everyone that we were looking for buildings to put those trailers in. Ed agreed that is a possibility. Chairman Martin said access is one of the possibilities we had and the fire stations are taking that into consideration especially the one at Four Mile, which is heated and has lots of space. They also run their ambulance service out of there. Through that advisory council we are trying to get those placed, one in Rifle and one in Glenwood Springs in their fire districts. Ed recalled that Community Corrections tore down those buildings and in doing so some of the parts are missing so basically there is only one building. Chairman Martin said we have parts for it and it can be expanded. If that works out and a plan identified with the original building, present that to this group instead of doing an $80,000 bake sale. Ed said there is no objection to this strategy from Road and Bridge and the Airport.
Sweetwater Community Club – Chairman Martin said they have a president, vice president, treasurer and secretary and they have a non-profit status. They were also given the school property; RE-1 originally owned it and they deeded it to this community group as a community building to be used for community activities, meetings, etc. plus the 2-acre property to go with it. Don asked then for direction to County Attorney to draft a contract with the Sweetwater Community Club, the County's obligation to be to provide the two buildings that we obtained from the CB tract and $10,000 in return for which we would be given the right to use their property for stating for our Road and Bridge. Commissioner Houpt asked Ed if we are going to find another solution for these trailers we were given. Ed said he's not aware of another solution at the present time, they could be, the problem is you have to put one in Glenwood and one in Rifle – and only one credible building out of all those pieces/parts.
Chairman Martin said we've given that task to the safety committee and that is one of their action items to go ahead and work with that issue because all the parties that would use that trailer is the safety council members; they all own buildings and they all have access where we are only the storing facility and not the ability to use it. Ed said he would follow up with them at the next meeting with the safety council.
Chairman Martin – they were putting this together in their brand new fire stations either in Silt, Glenwood Springs at Four Mile or their brand new station in Glenwood to store those trailers as well as work with the hospitals to see how that would work. They are trailers and need a motorized to move them around. Ed – the middle part of the building is an insignificant of the expense, it's the pad and the utilities cost money. The other building we got from CB Track is the long one that's at Road & Bridge being used for Search and Rescue. The structure was free, it cost us $70,000 to get it usable.
Continuing with the report, Chairman Martin – meeting Thursday, 2/19/04 8:00 am., 2nd floor at the City of Glenwood Springs – Transportation ITPR pre-meeting with all the consultants and municipalities to take this on the 27th in Eagle. Getting a majority or stakeholders present to vote priorities is where we have always failed. Joe Krackum was hired to do this. We took Joe's report and agreed it was the way we wanted to proceed.
Sweetwater Community Club – Commissioner Houpt said will agree to John working on this; think we need to make sure we're in the loop for the shelter need and it would be nice for the fire district to be involved. The contact person for the Sweetwater Fire Station is Adrian Brink, present operator of the resort.

Ed made the Board aware that some staff would be at the CCMA winter conference Thursday and Friday – Ed, Dale Jesse, Chairman Martin – Hotel Colorado.
Parking Issues
Ed expressed concern with respect to City/County meeting because he wrote a letter to them with respect to this parking issue and it was very clear they didn't read or acknowledge that letter. This letter was hand delivered to Mike Copp by Chairman Martin. Jesse said that the City grossly underestimated the amount of

vehicles that park on an 8-hour basis at the MOC lot. That lot will not and cannot hold that many vehicles and if they keep taking 8-hour parking away, there's going to be a serious problem on employees and will result in employees parking on the street moving their cars consistently. Commissioner Houpt noted that that's what people in this building do. There's a lot of space at the far end of the City Hall not being used with signs on it designated for City vehicles. Roughly 50 spots. Chairman Martin suggested doing a layout, proving our point that it's really unnecessary to change the lot and if we do convert it then make the lot at Pitkin for employees. Chairman Martin said the response from the Board will be a thank you but the answer is no on the parking lot.

Continued report – Chairman Martin announced that at the CCI there was an election for a representative for public lands for Westerns United States; Colorado has 6 seats and Betsy Hale resigned as Commissioner at Montrose going to private life in Colorado Springs. John was selected to represent Colorado on the Western Interstate Region in reference to public lands. He will be leaving on 26th for Washington, D.C and will be back the 29th.

Parking Issue

Don asked if there was any decision to correspond with the City at the JCC this morning. Commissioner Houpt clarified that this will be on the March 1st agenda along with the members give us. Chairman Martin wanted Mark and Dale to report on the number of spaces that are empty behind City Hall and the Jail; also the recommendation to change the Pitkin lot to 2-hours.

CONSENT AGENDA

a. Approve Bills
a. Wire Transfers
b. Inter-fund Transfers
c. Changes to Prior Warrant Lists – Dated February 9 Modification
d. Liquor License Renewal for Glenwood Tramway – Mildred Alsdorf
e. Authorize the Chairman to sign the Resolution and Special use Permit for a Shooting Range Facility for #10 Enterprises, LLC. also known as the "High Lonesome Lodge". – Fred Jarman
f. Authorize the Chairman to sign an Agreement for recurring or as needed engineering services for Resource Engineering, Inc. – Mark Bean
g. Authorize the Chairman to sign Amended Final Plat of the Amended Tracts 29 and 37 Antlers Orchard Development Company Plat no. 1. Applicants: Thomas & Cecelia LaFrenz and Marc Jeffrey – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to adopt the Consent Agenda Items except b and c as presented; carried.

REGULAR AGENDA

HUMAN SERVICES COMMISSION

GARFIELD COUNTY LEGAL SERVICES AND CATHOLIC CHARITIES – CHERYL PAGE AND TOM ZIEMAN

Immigrations – Tom Zieman

Cheryl Page and Tom Zieman presented the annual report to the board.

Tom reported on Catholic Charities saying the total served in 2003 overall was 254 and Garfield County residents were 89.

The *local issues* – there are still the local office that practice immigration law illegally. One operating here in Glenwood Springs has stopped this practice. There is at least one more in Carbondale. Tom said they will be meeting with this office soon to encourage them to discontinue this service or possible investigation by the State Supreme Court.

National Issues – There is a great deal of interest in President Bush's proposal. Many local immigrants misunderstood this as a new law. The Senate will launch a new bill, which will incorporate much of the President's proposal. Senator Daschle and Senator Hagel have submitted this as Senate Bill 2010. If passed it should be quite helpful to many undocumented immigrants. A legalization of workers. Tom has an e-mail comparing Bush's comments to the Senate Bill.

Human Services Commission

Cheryl Hurst Page – Legal Services – as of Tuesday and Thursday they will merge the agencies for Roaring Fork Legal Services and Garfield Legal Services. Garfield Legal Services has been active here for 22 years. The strength Roaring Fork has is the two attorneys; Garfield has administration skills and data. Statically, Cheryl reported that 1,000 clients were served, most of those are family and domestic related issues; 128 attended the do-it-yourself divorce classes and 124 attended the Tuesday night bar. This is held on the 3rd

Tuesday alternating Glenwood and Rifle. Available to all the public. She added that they are grateful for the new office space and the windows are a real treat and the space is more workable. With the merger they are hopeful the County will still commit space to the agency. One full-time attorney and one full time support manager will be housed in each of the offices. The problems encountered in the last year made it a rough transition; they are in the process of hiring a new director it will be a manager/attorney position in the future. She thanked the Board for their support. Chairman Martin remarked that this is a very valuable service to the community.

BOARD OF HEALTH

HEALTHY BEGINNINGS POWER POINT – TRANSITION

Wanda handed out the printed power point.

Merger Update – there were two transition teams and accomplished a smooth merger. The 1st team was comprised of individuals from Garfield County, Mountain Family Health and Valley View Hospital. Others involved are David Adamson – Mountain Family Health, Larry Dupper, Ross Peterson, and Karen Knudson of Valley View Hospital. Now they are meeting monthly and Ed has recorded the minutes and kept us on track. Credit was given to Ed for his endeavors.

Transition Team #2 – December 2003

What will happen after the transition takes places: Wanda, David, Karen, and Crystal Rooney, MD. Will be working to resolve things like quality assurance, establish mutual policies, and training for providers and staff. The Key and flow chart showing how the clients will go through Mountain Family were explained. This is a simple process and Wanda summarized it. After the merger the processes will take place in two places. A distinction has yet to be made as to which clients will see the physician or the mid-wives. All high risk clients will see the physician. The midwife will see all patients in the hospital. They'll come through the RN; Wanda and she will oversee the entire process. Policies and Procedures will help. Public Health nurses will be able to provide more education but no connection with the management. After delivery the case managers will be involved and will probably do home visits and follow post partum.

Program Evaluation: - they received a grant from the Schuss Charitable Trust. The goals of the evaluation are to develop tools that will evaluate the effectiveness of the case managers; describe the population serviced including their risk factors and outcomes to help focus resources; and demonstrate efforts to stakeholders and potential funders; and improve efficiency in meeting State Prenatal Plus report requirements. The target date is still June 1, 2004. The party plan will be soon after. She thanked Garfield County for all their help in getting this merger accomplished.

Ed – Mark has completed a flow chart in every work process. The advisory board will meet in two weeks to dissolve the non-profit entity.

Wanda said for the first time they have had to turn women away. They have 40 new women who need appointments every week and another 140 to see every other week. Some risk assessment can be done over the telephone.

Social Services

Approval of January 2004 Disbursements - EBT (Electronic Benefit Transfers)

The month of January 2004 payment totals were $65,860.82 and Lynn requested these be approved.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the month of January 2004 payment totals in the amount of $65,860.82; motion carried.

AAA (Area Agency on Aging) Caregiver and Senior Services Notice of Award 2004

Lynn presented the Notification of Grant Award (a revenue generating grant) totaling $76,214 for Caregiver Services and Senior Services for the regional program serving Garfield, Routt, Moffat and Rio Blanco Counties). This is third year of the Caregiver and Senior Services programs.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the Contract for Caregiver Services and Senior Services for the regional program in the amount of $76,214 for Garfield County, Routt County, Moffat County and Rio Blanco County; carried.

Consideration and Approval of Placement Contracts

Lynn presented four placement contracts:

Child Y527368 - $23,935.44 at Ariel Clinical Services #251-04

Child Y540788 - $23,935.44 at Ariel Clinical Services #252-04

Child Y098023 - $24,314.76 at Ariel Clinical Services #253-04

Child N565733 - $22,253.66 at Brinton Group Home #254-04

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the following placement contracts: Y527368 - $23,935.44 at Ariel Clinical Services #251-

04; Y540788 - $23,935.44 at Ariel Clinical Services #252-04; Y098023 - $24,314.76 at Ariel Clinical Services #253-04; and N565733 - $22,253.66 at Brinton Group Home #254-04; motion carried.

Re-Organization and CBMS Update

For the Board's information, Lynn stated a few direct reporting changes are being made within the Department. She handed out the packet and briefly outlined the major changes.

Position Reclassification Request

Lynn submitted a handout that explained the major changes and requested to reclassify two positions – the Business Manager's position to a Grade Pay 7 and the Secretary/Receptionist to Clerk II. DDS manager I to a DSS manager III. The secretary/receptionist must make determinations as to what program they need to go to; determinations on the CBMS. Based on expanded job responsibilities – for all three it's just about $10,000. Diane Watkins – a finite manager whose duties cross into all departments. Jesse noted there are two positions in the contingency and Lynn stated they will not be filled. Janice George will be leaving after 35 years and Lynn is planning on putting her as a CBMS manager and into a consulting and will not be filling this position.

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the new positions Business Manager's position to a Grade Pay 7 and the Secretary/Receptionist to (2) Clerk II. DDS manager I to a DSS manager III.

Chairman Martin informed Lynn she needed to stay within her budget and work closely with Ed Green. Motion carried.

Western Slope Directors Meeting

Lynn informed the Board that they will be hosting a Western Slope meeting of Social Services Directors in the BOCC room on February 20th. Representatives from the State will be present to address issues on funding and program gaps related to Substance Abuse services.

Quarterly Financial Presentation

Lynn submitted the financial outlook in chart form for discussion with the Board. She requested to discuss the present current over expenditure projects related to state allocations and/or contracts at the six-month point. Child Welfare and Administration. For Child Welfare on what they are currently expending – Child Welfare over around $200,000 and doesn't include the RTC, Residential Dental – big concern – after 6 months 71% of the allocation. Lynn's had conservation with Mental Health and other youth service agencies to inform them where they are at possibly shortening stays; looking at placements; emanate risks, and court placements. They are looking at where they can use TANF; it depends on the works allocation. The works participants are down to 73 and last year they were at 130. In the works allocation, in July the State makes an adjustments but none in Child Welfare or County Administration. Lynn will be looking at and advised the Board a legal battle at the State, Emily Griffith appealed the medical rate and is more than if filtered through our warrants, successfully appealed and we may see another $20,000 hit and the State is saying they will go through the RTC from last year. Lynn discussed this with Emily Griffith – the state was supposed to pick it up and not come back to the county.

For County administration, anticipate just under $80,000; last year $60,000 under and bailed out for 100% of it – this does not include CBS and overtime. It's not unusual to be in the red for administration. OF the Child Care they are looking at methodology and it depends upon what factors and could see a fairly significant increase or reduction.

Chairman Martin – it will up to this board to determine the cuts in the programs. EPP funding is going away – other people are working on this. Adult Protection is an unfunded mandate. There will be some challenges.

Lynn – Single Entry Point – continually monitoring and continue to look at issues.

Child Welfare – rather not look at staff cuts. This is not the only alternative.

Ed – a quarter million dollar problem.

On the Audit – Lynn has not heard and the last word was to do an exit interview in January.

he Job's recommendation spanned some interested email. The JBC is possibly going to eliminate their audit staff.

Chairman Martin – the audit will be done and the Social Services will be billed. Some hard decisions will need to be made due to the economy. Prioritizing will be essential.

Commissioner Houpt wants Lynn to continue to work on how she can manipulate the TANF funds. Lynn – a lot of youth need out of home placement and has directed Diane Watkins to look at the emanate risk factors. Chairman Martin said the State is looking at cutting another $300,000. Commissioner Houpt does not want to cut programs; you'll pay more later unless you provide services. She would like the Board to

try and balance. Ed said the safety net is the general fund. There is a limited amount of funds. Jesse said they need to look at the entire budget and determine priorities and other things may need to fall off. The newspaper report of $24,000,000 from the oil and gas industry is not true. This is not a windfall we can count on.

Ed mentioned that Road and Bridge cannot move money from the mill levy. Jesse said that everyone is feeling this crunch; the County needs to have a Worksession for people coming in for outside money, simply say no and keep the Social Services programs. This would be strategic planning for the BOCC. Lynn summarized that the allocations seem to be flattening out and the entire department is feeling the changes in the County.

BOARD OF SOCIAL SERVICES

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to go into the Board of Social Services; carried.

Audit/Review Update

The Single Entry Point program completed a two day site and case review conducted by Health Care Policy and Financing on February 5 & 6. This was a 'hold harmless' review due to all of the major program additions and changes that have occurred within the last 12-month period of time. An exit interview was held with staff present. The reviewers outlined areas of strength and identified a few specific items that need attention or improvement.

On February 17 and 18, the Colorado Department of Human Services Child Welfare Division is conducting a Title IVE audit on a random sample of cases.

Program Reports

Lynn submitted the regular monthly program reports for the Board's review.

Commissioner Houpt made a motion to ratify the money transfers as the Board of Social Services. Chairman Martin stepped down as Chair to second; motion carried

A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to come out of the Board of Social Services; carried.

PUBLIC MEETINGS

UPDATE ON KID'S VOTING – DICK DORAN

Dick gave the update and invited Garfield County to join the organization. The purpose is to education our youth about voting responsibilities hopefully providing the trickle up effect. Mildred Alsdorf and Dick conduct Kids Voting in all precincts. Kids register to vote within the same deadlines as all adult voters; the kids vote in the precincts and it combines students, schools, parents and the community. This is a unique program. Kid's Voting in is Hispanic as well as English – Parachute has been doing this for 4 years. Re1 and Re2 have approved the program and expanding from 900 students to 9,000 and to 27 precincts. At this point, he's creating awareness, fund raising, and getting volunteers. He is not requesting funds – he needs to determine the financial support necessary. In every community he is attending all council meetings, meeting with various groups and the Chambers of Commerce. So far he's had great success. He and Mildred were on the radio last Friday with Mary Suma.

The current County sponsors are the Glenwood Post/Independent, Alpine Bank, Wells Fargo Bank, City Market and he has commitments from several major corporations. There is a great deal of community participation in in-kind services, volunteers and funds. This is an easy sale.

Dave Clark and Bob Elmore have three students from the high school involved in Computers for Kids. Chairman Martin suggested for Dick to go to 4-H, Nori Pierce and Pat McCarty at the Extension Office at Taughenbaugh.

Carbondale at Step Stone – Computers for Kids – Bill Lamone and advocacy group. These two groups go hand in hand with what's he's doing. He's also been to the Kiwanis, Elks – Rifle and Glenwood Springs and to the Rotary Club informing them of the Kid's Voting.

TREASURER'S SEMI-ANNUAL REPORT AND PUBLIC TRUSTEE ANNUAL REPORT – GEORGIA CHAMBERLAIN

Georgia, Jean and Bob were present.

Georgia submitted the semi-annual financial statement and under CRS 230-25-111 the Board will need to direct Georgia to publish in the local newspaper.

The School acquisition funds are in the report. The Board notifies them annually of what they have in funds. A Power Point Presentation was given. Georgia called attention to the Revenue from the Treasurer's Office - $1,276,243.81. The tax collection report of 2002 taxes collected in 2003 was $51,043,792.12 or 99.78%. The 2003 Sales Tax 1% collected was $6,066,839.89.

The Public Trustee Income Report was: Release Activity - $108,255.00; Foreclosure Activity - $25,946.95; Bank Interest $3,5537.72; Release Postage $73.65; and Total Income - $137,813.32.
$31,000 for oil and gas generated from a mill levy tax. Rental of County Lands starts at $79,000 and ended with $89,000. TIF – DDA - $146,000 in and waiting on a court order as to how this is distributed.
The Board also wanted the sales tax pie chart into the newspaper to show the public where the money goes. Georgia will have a discussion with the paper before printing.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to accept the Treasurer's Semi-annual financial report and Public Trustee annual report and direct the Treasurer to publish the report in the local Glenwood Post Independent; motion carried.
Bob and Georgia made a presentation on the Public Trustee side of the Treasurer's office. $38,000 all fee based income. He submitted pie charts and informational charts. 4800 releases in 2002 and 7800 in 2003.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to accept the Public Trustee's report; motion carried.

Mark will be requested to set this next item as a workshop within the BOCC agenda.

NEXT GENERATION HOMESTEAD HOUSES AT BLUE CREEK RANCH – STEVE NOVY

Andy Swaller, Building and Planning Building Inspector and Steve Novy, Architect, thanked the Commissioners for making this project possible by working with the developers of Blue Creek Ranch to make affordable lots available to non-profits and individuals. Today he is requesting a waiver of building permit fees for the Next Generation Zero Energy Homes Project we will be building at Blue Creek Ranch.
Steve reported the project is moving along very well. The project is an affordable housing prototype for the mountain communities and consists of two homes. These high performance homes will be built to show the value of using the best current building technologies for affordable housing. There are two homes being built in Blue Creek Ranch. Blue Creek Ranch does their own design reviews.
Andy confirmed these were only the building permit.
There will be a large education component to this project in order to teach others the techniques.
The waiver of fees will greatly assist them in meeting their goals with a very tight budget.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to support the request on the Next Generation Homestead project and waive the building permit fees of $1,762.70 per house at Blue Creek; Chairman Martin requested notice that these building fees were waived and show an in kind contributions from the County. Commissioner Houpt also stated she has reservations because there are quite a few people building homes and paying the building permit fees are hard for them to do. Not having a policy in place is a future problem and we need to have this otherwise we'll be bombarded with requests. Steve said he'd be glad to come back with the policies. Steve said the deed restricted housing is number one and the waiver of fees can be put in for a public/private venture. Commissioner Houpt made the motion and supports it because of the type of project; it shows that people can build a home and stay within their budget by reducing their energy costs. Motion carried.

PUBLIC HEARINGS:

DISCUSSION OF THE 10TH SUPPLEMENT TO THE 2003 APPROVED BUDGET – JESSE SMITH

Jesse Smith and Carolyn Dahlgren were present.
Chairman Martin swore in the speakers.
Carolyn reviewed the proof of publication required for the public hearing and advised the Board the notice was timely and adequate and they could proceed.
This was an attempt to go through and balance all line items in the various budgets.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to close the public hearing; carried.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to approve the 10th Supplement to the 2003 approved budget and the Chair authorized to sign the Resolution; carried.

DISCUSSION OF THE 2ND SUPPLEMENT TO THE 2004 APPROVED BUDGET – JESSE SMITH

Carolyn Dahlgren reviewed the proof of publication required for the public hearing and advised the Board the notice was timely and adequate and they could proceed.
Chairman Martin swore in the speakers.
Georgia – Exhibit A – Personnel – noted that it doesn't include any changes that will affect her employees and stated there will be changes submitted to the Board at later dates.

Jesse stated that par forms come in daily and this one is outdated already. Those changes are not included in this supplement.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to close the public hearing; carried.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to accept the Resolution concerned with the 2nd amendment to the 2004 approved budget; carried.

New Planner
Jim Hardcastle, new senior planner was introduced.

CONSIDER A SPECIAL USE PERMIT (SUP) REQUEST FOR A "COMMERCIAL PARK" FOR A PROPERTY LOCATED ADJACENT TO AND SOUTH OF THE TOWN OF SILT. APPLICANT: MCFEE INVESTMENT CO,, LTD – REPRESENTED BY RON LISTON, LAND DESIGN PARTNERSHIP AND FRED JARMAN
Don DeFord, Fred Jarman, Mark Bean and Ron Liston were present.
Don DeFord verified the notification process, determined it was adequate and timely and the Board was entitled to proceed.
Exhibit A - Proof of Mailings; Exhibit B – Proof of Notification; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Subdivision Regulation; and Exhibit E – Garfield County Comprehensive Plan of 2000.
Chairman Martin admitted Exhibits A – E into the record.
Chairman Martin swore in the speakers.
The discussion and decision on multi leases was discussed last week and the Board sent it back to the Planning Commission.
Fred gave the report saying the Valley Farms Commercial Park Special Use proposal includes permitting two additional uses (Murr Welding & Design and Sturgeon Electric Contractor) to the site's existing agricultural operations for Valley Farms as Special Uses in the A/I zone district. In effect, the applicant wishes to have a SUP for "fabrication" and "contractor storage/staging area" to accommodate these businesses in addition to the Valley Farms operation. The application was submitted because the Garfield County Zoning Officer issued a zoning violation citation to the property owner for having two additional businesses (other than his own) on the property which are allowed in the zoning code only as special uses and not uses by right.
Because this arrangement would mean the owner of the property (McFee Investment Co. LTD) would lease two separate portions of the 14 acre property to these two additional businesses, the question of whether or not subdivision action is required needs to be addressed pursuant to the state's definition of subdivision in the statutes.
The Board, on December 15, 2003, directed Staff to schedule a public hearing on this request only after a discussion and decision had been made on the larger questions of multiple leases/interests on a property which may or may not require a subdivision action.

The request of the multiple leases/separate interests is a central and inherent component of the Sup request for the Commercial Park proposal, Staff and the Applicant believe a review of the proposal prior to a decision on the larger question of multiple leases/separate interests is premature and should occur after the Board has made a decision on the larger issue.

Staff and the Applicant therefore request that the Board open and continue the public hearing for the SUP request for the Commercial Park to April 5th, 2004 in order for this to occur in a logical manner.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to continue the hearing for Valley Farms Commercial Park until April 5, 2004; motion carried.
ADJOURN
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

MARCH 1, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Letter from Al Maggard – resignation – respond with a letter of acknowledgement to Al for his dedication and years of service – certificate for outstanding service. Ed will prepare.

COUNTY MANAGER UPDATE – ED GREEN

a. Purchase Tiltbed Tri-Axle Trailer – Marvin Stephens

Tim Arnett and Marvin Stephens presented the recommended award to Hanson Equipment for a Trailmax at a cost of $21,950.00. Marvin said the budgeted amount was for $27,000. These purchases relate to the capital plan in the Road and Bridge funds.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the purchase of a 2004 TRD-54-T TrailMax Trailer from Hanson Equipment in a not to exceed cost of $21,950.00; motion carried.

b. Purchase Pickup for Road and Bridge – Marvin Stephens

Tim Arnett and Marvin Stephens presented the recommended Board action for the purchase of the Pickup saying the Glenwood Springs Ford F-250 Pickup at $20,380.00 was the best bid and the budgeted amount was $27,000.00. This is a replace vehicle.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to award the bid to Glenwood Springs Ford for a 2004 ¾ ton Ford Super Cab 4 x 4 long wheel base in an amount not to exceed $20,380.00; motion carried.

c. Purchase Self-propelled Broom – Marvin Stephens

Tim Arnett and Marvin Stephens presented the recommended Board action regarding the self-propelled broom. The only responsive bid was from Macdonald Equipment Company out of Commerce City for a Rosco RB-48 self-propelled broom at a cost of $30,910.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to Macdonald Equipment Company out of Commerce City for a Rosco RB-48 self-propelled broom for a not to exceed cost of $30,910.00; motion carried.

d. Purchase 20-yard Bottom Dump Trailer for Road and Bridge – Marvin Stephens

Arnett and Marvin Stephens presented the recommended Board action regarding the purchase of a 20-yard Bottom Dump Trailer; this will give us two. Two bids were received and the lowest bid was from Wagner Equipment for $29,465.00.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to Wagner Equipment for a 2004 Load King Bottom Dump Trailer at a cost of $29,465.00; motion Carried.

e. Field Signs on CR 336 and Yield Sign on CR 320 & CR 309 – Jake Mall

a. County Road 336

Jake justified the request to replace the yield sign on the east end of CR 335, Jenkins Cutoff, at the intersection of CR 331, Dry Hollow Road with a stop sign. This is a Y intersection and the visibility to the north on CR 331 is limited. The increase in the volume in traffic, especially the traffic turning north on CR 331 without stopping has caused some near miss accidents. The main volume of traffic using this intersection on CR 331 is large trucks associated with the drilling industry. Therefore, the Road and Bridge Department feels that a stop sign would better serve this Intersection.

Jake submitted two letters received from concerned individuals – Dean Filiss of Divide Creek Builders, Inc. and John M. Cullen.

Commissioner McCown suggested they pre-sign the road and not just slap up a stop sign.

- ***County Road 320 and County Road 309***

In addition the Road and Bridge Department is also requesting permission to replace the yield sign on CR 320, Rifle Rulison Road, at the intersection of CR 309, Rulison Parachute Road. CR 309 at this intersection is a down hill grade and would not be a good location for a stop sign. With the increase in traffic using both roads there have been some near miss accidents and requests to stop the traffic on CR 320. CR 320 is the haul route for the drilling industry and a stop sign at this intersection would not create problems for large vehicles having to stop and start as there is a minimal grade at this point.
Jake presented maps to the Board to illustrate the intersections and justify the requests.
Jake said the daily traffic count in 2002 for CR 336, Jenkins Cutoff, was 252 vehicles. The traffic in 2002 for CR 331, Dry Hollow, was 235 vehicles. Since 2002 the drilling has increased from 2 to 3 rigs to as many as 8 at one time and is projected to increase in the coming months.
The daily traffic count in 2002 for the intersection at CR 320, Rifle Rulison Road and CR 309, Rulison Parachute Road, was approximately 400 vehicles.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to replace the yield sign on the east end of CR 335, Jenkins Cutoff, at the intersection of CR 331, Dry Hollow Road with a stop sign and to replace the yield sign on CR 320, Rifle Rulison Road, at the intersection of CR 309, Rulison Parachute Road and authorize the Chair to sign the Resolution. Motion carried.

f. ***Contract with Colorado West Broadcasting (Bikes to Mics/County Fair) – Dale Hancock***

Dale said Colorado West Broadcasting (C.W.B.I.) will organize, produce and sponsor a "Bikes to Mics" event that includes a motorcycle rally by a local organization and a concert at the Garfield County Fair on Saturday, August 14, 2004. CWBI will sell sponsorships to reduce production expenses for the event which sponsorships shall be considered as gross income. The proceeds realized from the event will benefit the Garfield County FFA and 4H. The Garfield County Fair fund will receive 25% of the net profit, after the distribution of funds to the above referenced youth groups. CWBI will return a previously received deposit of $22,500 following the recovery of actual expenses associated with the production of the concert that includes stage and sound equipment expenses. CWBI further guarantees the return of this security deposition and settling of all accounts within sixty days following the event.
Carolyn Dahlgren worked with Dale to ensure the Contract was inclusive of the County's requirements.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the purchase of services agreement with Colorado West Broadcasting and authorize the Chair to sign the Agreement; motion carried.

g. Energy Advisory Board Citizen Representative Selection Process – Doug Dennison

Doug gave the report from the continued public hearing on the Energy Advisory Board. As of Thursday Doug had received about a dozen.
8-24-00
Chairman Martin stated the Board will review the applications and make the appointments the same as they do for the other Advisory Boards. The goal is to have these people in place in order to discuss this at an April 1st continued meeting to discuss this further.
Don reminded that these appointments are within the open meeting acts and should be held at a regular meeting. Tentatively this will be on the agenda for the next meeting.

h. Continuance of Discussion for Facilities Location for DSS/Public Health/Courts – Randy Withee

Randy submitted the cost summary for the facility housing DSS/Public Health/Courts as follows:
Rifle site housing DSS/Public Health/Courts:
Current – 3-story building 80 x 90, 22,800 sf., no basement = $3,077,000
In 20-years – 3 story building, 95 x 120, 34,200 sf., no basement = $4,478,000
Airport Property housing DSS/Public Health only:
Current – 1 story building 100 x 120, 12,000 sf. = $1,611,000
In 20-years – 1 story building, 100 x 200, 20,000 sf. = 2,189,000
Cost differential by building the DDS/Public Health facility at the Airport property = $1,466,000 current;
Cost differential by building the DDS/Public Health facility at the Airport = $2,289,000 in 20-years.
[Adjustment at the Airport Facility by $894,282 to provide for construction of a new court facility at the Railroad Avenue site – net cost difference between Railroad Avenue and Airport options is $1,395,000].
Rifle Site

Randy further explained that the building size for “current” at the Rifle site covers the space requirements of 5 years as shown in the space utilization report; the building size for “in 20 years” covers the maximum building size allowable on the property.

Airport Site

The building size for “current” covers the space requirements of 5 years; the building size for “in 20 years” covers the space requirement needs beyond the space utilization report.

Randy submitted Engineers Estimate for both facilities for both the current and the 20 year capacity of space.

Discussion:

Randy said they completed dollar estimates for the future replacement of the Court at the Railroad Avenue, however, the Board has said the Courts to not need a new building at this time, only some improvements and a possible addition meeting the needs of the courts for 20-years.

Randy showed the Board the conceptual layout draft at the Airport and the Rifle Railroad site.

At the Railroad site, the Courts were designed for the first floor in order to eliminate the need for a second elevator. The new layout shows two court rooms for the Rifle court.

The courts have also requested an additional two room; the Sheriff has requested a room for his department as well.

Ed informed the Board that these costs do not include the furnishings.

Discussion with Chuck Brenner on remodeling and adding on for the Courts was a range of $360,000.

Commissioner Houpt noticed the cost per square foot for the 3-story building compared to the single story at the Airport. Randy stated this was due numerous factors such as steps, plumbing allowances; usable space was lessened, etc.

Dale presented the Board with a matrix that idenfities the properties. Ever since December when the discussion took place regarding replacing the Taughenbaugh Building and the newspapers published an article, the article stimulated interest of the Real Estate Market. Four properties were submitted that Dale reviewed. Those costs were $275,000 to $1,500,000 for properties available: Buzick - frontage road west of Silt; westerly city limits at CR 245; Star properties – around Grand River and the other is adjacent to the Fireside Restaurant. The 9-acres looked good at first; the property is located right pass Hwy 13 (across the street from the former Burger Works). Some of the concerns were no survey available, geotechnical review needed, would require a lot of fill, and the main concern is the ground water, CDOT access, space limitations, excavation would be necessary, relocate the power line, etc.

Commissioner McCown said this property has been offered by Rifle numerous times in other attempted trade agreements for property but it has never has been that appealing to anyone involved. It’s been vacant for a long time. A property swap would be acceptable to Rifle. The Taughenbaugh Building is valuable land.

Commissioner McCown said he contacted Deb Stewart at the CMC Senior Center and had conservation with her while looking at another possibility. Deb projected what she would be able to do for us with the Traveler and it is fairly clear that CMC is actively pursing property at the Airport site per the Board of Directors. We would be asked to purchase a van and for what would be considered ½ time service, Deb would charge us $29,600 per year for transportation from 10 am to 3 pm. This would be a contract service. We would have to purchase a van. This would include the DSS for the 10 to 15 people that would be needing transportation per the survey. If there are more needing transportation the van transport would be available.

Ed said if you look at the activity along the Airport road it will soon become a major part of the City of Rifle.

Commissioner Houpt noted that the Rifle City Council wants to keep these core services in the main town. There are a lot of industrial uses at the Airport. The difference between the costs at the two locations does not show we are financially irresponsible.

Commissioner McCown said this is not just a City of Rifle facility, Rifle has not stepped up and offered property to the County to keep this facility in their main part of town. This is a facility that serves Western Garfield County and we would be financially irresponsible to build a 3-story building with limited expansion possibilities. If you look at the 40-acres, directly south is a 1200 planned residential subdivision. It’s not all industrial and once the Airport Road is improved from the West Mann to Rifle will be the preferred route. This is going to be a very acceptable, safe road. There’s a lot of planned development in that area, both residential and commercial.

Commissioner Houpt said Rifle is concerned about the extensive power lines on the Airport property.

Commissioner McCown said the power lines were looked at when we were planning to build a Community Correction facility there and there was no problem with magnetic fields.
Commissioner Houpt said she would like to see the reports.
Dale added that these studies were done in late 1998.
Ed commented that anything under the power lines would be parking and any building would be 100 feet from the power lines.
Randy needs to submit something for the Energy Impact Grants. Dale said the available funds from the Energy Impact funds will be short due to some changes at the State.
Randy stated that by building on the Airport property since it is owned by the County we will go through the County Building processes versus the City of Rifle and that will save about 3-months.
Commissioner McCown said there is a 1.3 miles difference from the Taughenbaugh to the Airport.
Commissioner Houpt expressed that she was frustrated that the services would be so far from downtown Rifle, she was not pleased at the direction the Board was going and stated that she felt this was a huge mistake. She stated that she was going to make a motion although she didn't think we were ready to decide today but feels there seems to be an urgency to get this moving.
A motion was made by Commissioner Houpt that we approve the site at the current Railroad site in Rifle for a new County building to house the Department of Social Services, Public Health and the Courts and that we put our sites on a 10-year build out for that building between 10 and 20 LB.
Commissioner McCown said he would second that solely for discussion. He said he has made his point in previous discussion and doesn't feel this is the building location; it has size restrictions, it is much more costly because that would be a 3-story building, I think the mere point that was discussed that the Department of Health is going to be on the second floor should a contaminated individual come in, go through the bottom floor, that entire bottom floor could possibly have to be evacuated and de-contaminated – it is just not a good design, it is not good use and said he thinks we can utilize our dollars much better by building the health and social services at the Airport, working on our transportation plan to get those who need service, service, remodel the existing courts so it can stay open so there's no disruptive process during the courts and remove the Lift Up building out of the way and utilize that area for parking. If the City of Rifle has a need for space for their facility and Lift Up does not want the Quansi Huts, we can transfer that property to the City of Rifle.
Commissioner Houpt, as we looked at what our role is as a County government services is the number one charge that we have and by making our services as accessible as possible I think is critical and what we will end up with, if we remodel the courts, build out by the Airport which is 4 miles out of town, we still will have the Henry Building offices so if somebody shows up at the wrong building they're suddenly in the position of traveling long distances, potentially without the transportation ability to make that work for them. I think we need to find a more central solution in Rifle for serving western Garfield County. I think that the Railroad option is the more central solution; I don't see any problem with multiple stories and I think that an architect can help work through the public health issues. I've heard so many times people say well why move out of the City and create sprawl, why not build up instead of out on a one-story building and I think we need to be sensitive to that planning issues as well. I think it makes more sense to have all of the services closer together and this will brining all those services closer to the Henry building and it's just that I want to look at not what's going to best in 20-years but what's best for the population now. And as far as accessible goes, I truly that the Rifle location is what's best for the folks that we're working with now. And so I would support that location.
Chairman Martin said he finds himself in the middle and that's why he's tried to find the magic solution of going north to the 9 acres but it becomes very costly. Larry's offered a good solution in working with CMC with transportation, I did the mileage as well going from Taughenbaugh to downtown circulating both the north side and south side and also went to the Airport and checked that particular area out. Also looked at what the future plans of Rifle area and it's not just industrial in one area, it's also residential and that is on the books as well as the designs that are happening for safety both from the Silt side coming over the Mesa and back and that's why we put that interchange in there. Also tried to see how many people would be inconvenience and it's going to be about the same no matter where we go. Looked at the dollars and it's a tough one as the dollars do work out pretty much the same. But I'll tell you for future expansion since my 9-acre parcel didn't work out. He said he looked at numerous other places and generated a lot of information. Looked at least 10 different locations including the UMPTRA site, old and new. Had numerous conservations from actually at the end of the bridge down at the City owned property where the old Railroad Station used to be and tried to put that together, but the future of that is already sewed up – the

City of Rifle's going to convert that and utilizing that property. It comes down to the present site that we have Lift-up and the Court system, it's just too confining to build on, so I have to find a different site. I've worked every angle I could in reference to the Court, even trying to relocate the Court within the City, but even that has a cost because we have to move that building to get what we really need for the next 20-year and programming is a headache.
Commissioner Houpt said she was just curious with how you come up with the conclusion that the Railroad site is too confining when it's been shown to us that we can meet the needs up to 20-years which is a huge amount of time. Who knows what's going to be going on in Rifle at that point. The space argument is not valid.
Chairman Martin - in looking at the building and the program of that particular building of the health department, social services department as well as reprogramming this building and trying to work that into the scenario so we can get the majority of the folks that need to be where they need to be and that's on the west end versus the east end, and tried to build that into my scenario as to the size of the building, the operations of the building as well as looking at the court system and looking at the expansion of the court, looking at a new judge coming down there and new procedures, looking at the District Attorney's office, looking at a few other things that are going to have to happen in the future.
Commissioner Houpt – our staff has shown that this can happen at that site. Everything that the Courts have projected has been met, all the space requirements have been met, the parking issues have been met and so I just don't think the space constraint is valid. If there are other arguments find.
Chairman Martin – he even threw in Mr. Powell and the Lift-Up operation in trying to relocate that and working with the City of Rifle and they do not want that within their particular area. Lift Up takes care of many people in that area from food to clothing to housing to bus fares to mental health to just human contract and that's a valuable resource that I can't throw out the window either.
Commissioner Houpt said she didn't thing anyone was throwing it out the window.
Chairman Martin – Unfortunately, I can't find a place to put it in the City of Rifle. The Airport has potential; even looked at tearing down the Taughenbaugh and redoing that but we have parking problem. Doesn't have the answer yet.
Call for the question.
All those in favor of building upon the present Railroad Avenue site; Houpt aye; McCown – nay and Martin - nay
Randy said April 1st is coming and what we're looking out is DOLA's out and we'll be looking at putting the application together.
Commissioner Houpt – why don't you look at Courts on the Taughenbaugh property and DSS and Public Health on the present site.
Commissioner McCown made a motion that we utilize the Airport facility for DSS and Public Health, leaving the Courts where they are, two separate buildings. Chairman Martin seconded.
Commissioner Houpt said we've had this conservation and she is very opposed to moving it out to the Airport when the next 5-years we're going to see a lot of oil and gas traffic, a lot of road construction, a lot of industrial activity and I think it's a real burden to ask people to maneuver thought that for their services. And it could be more than 5-years that we see that. So, I'm opposed to that location. I also haven't seen the study on the health issue concerning the overhead power lines that are on that property.
Don asked for clarification if Commissioner McCown's motion include direction to staff to do anything relative to the Court facility or leave it as it sits today.
Commissioner McCown – leave it as it sits today and it would be looked at as far as remodeling and enlarging in the future. Our first need is the Taughenbaugh issue because of our insurance problems.
Chairman Martin – we experience quite a scare this year in February, it's cost us a lot of money to get that done, I have to agree that this is not the perfect location, but I also see that the area from the Taughenbaugh to the Airport is not the official haul route for all the industrial drilling rigs, etc., they are coming around the other way, either at the bottom or Mamm Creek. Commissioner McCown has offered a solution and feels it is worth looking into with that service contract that's going to cost us a lot of money that we haven't looked into this scenario either, and we'll have to look into that one. But we do have to move in reference to money; we're still in a bind and he said he has talked to part of the staff to see if it would or would not work. It's not the best solution that they said we could come up with, but it's one that they would have to consider.
In favor – McCown - aye and Martin - aye Opposed – Houpt – nay – I think you're making a huge mistake.

Ed asked for direction of the Board to pursue consummation of an agreement with CMC. If the Board decides this, we have to get that second bus.
Commissioner McCown – given the construction schedule, there will not be a need for that bus this year; proposed that we wait on the bus because the building will not ready until 2005. However, continue the discussion regarding the transportation issue.
Chairman Martin said he would like some information from Mr. Powell as too his plans for Lift-Up.
Commissioner Houpt – Commissioner McCown's motion did not this, but the conversation has always been to include the Courts so I would like to see that back on the agenda for next week.
Commissioner McCown – and I think that could be on the agenda but the Courts needs are not as critical as our Taughenbaugh needs and why in our grant process we address this first. The Courts – we build a building and they have don't have any furniture to put in it, and then we're back to same scenario as buying a bus this year and letting it sit. We need to stay in touch with the Court on their needs and be able to move forward when their needs are driven.
Commissioner Houpt asked Randy if we could put that in the grant proposal for the Courts.
Randy said he would include it in the grant just to ensure that we'd get more money.
Commissioner McCown – we're asking for a million.
Randy – correct.
Commissioner Houpt – so why not include it and ask for more?
Chairman Martin – in the grant if we do that then it says we're going to build that facility on that site.
Commissioner McCown – then you're committed to go forward with that money and maybe not have the money to build the Taughenbaugh site. We still have the ability given the numbers Randy is talking about to do the Courts remodel out of capital funds. I don't want the two building clouding the grant issue.
Commissioner Houpt – our staff has already said we have money to do both, so if we get the grant for both structures, we've been told that we have adequate funding to do the Courts and to do the DSS and Public Health and that's been the discussion throughout this, so she didn't know why we would leave this out of the grant application.
Commissioner McCown – I don't want that as part of the grant application; we have enough money to do both; the million dollars goes to the DSS/Public Health Facility – the remodel of the Courts at Railroad will be done out of capital.
Randy said all you can ask for is up $1,000,000.
Commissioner McCown – you're pushing it asking for $1,000,000.
Ed said a million is all he's ever heard of.
Commissioner McCown isn't too comfortable of getting that million, perhaps more like $600,000 to $800,000.
Ed said the other thing to remember is that this might be an opportunity to link with the City of Rifle and build a joint police station/Court facility on that location.
Chairman Martin – well then you'd going to have to get the cooperation of the County Court working with the Municipal Court and this has historically been a problem. In some parts of the State this is successful.
Dale appreciated John mentioning this because when you try mixing State Judicial with Municipal Court operations you're inviting a whole bunch of time.
The possibility of sharing was mentioned; then refuted because they don't like to do that either.
Commissioner McCown – that would possibly work; you could completely segerate it if you were building a new building; if you're looking a remodel of the Court facility and if Lift Up finds a new location and we have no pressing need for the Quansi Hut area, that could be given to the City of Rifle to build their court facility and police station.
Lift-Up is looking – Mike Powell has asked the County to hold the Rifle Road and Bridge shop property; a decision was made by the Board to give them a May 1st deadline.

i. Conceptual Floor Plan of Office Area in Riding Arena – Randy Withee

Randy presented the conceptual plan for the office area that adjoins the main arena at the Fairgrounds saying basically the plan provides for an 1,850 sf. large meeting room; concession kitchen; office area to house SCU Extension; restrooms, storage, Arena Office, etc. for an estimated cost of $475,000; the engineer's estimate summary was included.
The Board authorized $300,000 and they would also go to DOLA for funds. DOLA funds would not be available until August. Discussion was around the need to phase the construction; do the utility improvements including the lift station and the floor and wait until we know if we have funds coming in. This would be done out of Conservation Trust Funds – how much is up to the Board. $54,000 was

designated out of Capital for the build-out of Lift –Up and there are no further needs for this money so that would be available.
Commissioner McCown –in looking at the engineer's estimate, if we were to do a phasing of construction, there's $15,000 for the slab, is the $86,000 the lift station and everthing else to get the plumbing roughed in and be ready to pour the slab.
Randy – correct; but it might be less than the $86,000 – it doesn't include fixtures.
Commissioners McCown for the $100,000 we're committing, we can get the plumbing in place, the lift station in place and the slab poured.
Commissioner Houpt asked if we really wanted to do this without having the other funds in place because it could sit there for a few years if DOLA doesn't come through with the money.
Commissioner McCown – it wouldn't hurt anything to sit there for a few years. It would be used for meetings, etc. The slab on that would be handy for the Fair with the barbeque things and the several pancake breakfasts.
Commissioner Houpt is opposed to spending $100,000 for a slab that we don't know we can't build on for several years because of the money issue. We are going to be pretty tight with funds and to commit to something like this before getting the money is a huge issue.
Ed said we need to put CSU Extension some place.
Commissioner Houpt offered the suggestion of the Henry Building upstairs.
Commissioner McCown mentioned ADA.
Ed said we have asked CSU if they would be interested in using that space and they have not been receptive at all.
Commissioner Houpt still opposed because we have not commitment of funds from DOLA.
Commissioner McCown wants to move forward with the possibility of using the $100,000 allocated to this project and if we don't get our grant this time, go back for a grant in the future, and then the $100,000 can be shown as our portion of the in-kind contribution when we start looking at the next grant as well. It's not like we're losing money, or credit for that money. That would still be the County's proportionate share that we put into the slab if we decide to do this later in the year.
Dale said he would like to be able to come back to the Conservation Trust Fund Grant for this project; there's been a lot of at GOCO but one of the identified objectives is environment education and he had written a grant application two years ago where he asked for the finish of this because there was to be environment education within the structure; they dismissed it, but now the door is open to go back at COGO with additional grant opportunities.
A motion was made by Commissioner McCown with the authorization to move forward in an amount not to exceed $100,000 in the completion of the lift station, underground plumbing and slab on grade. Chairman Martin seconded for discussion and said his point is that we need to move forward and spend some money and continue the process even though it's slow, we need to invest in our building and our capital needs. Commissioner Houpt said her point is that we have some really good plans here but it doesn't make sense to begin a project without knowing you have the funds in place to complete it and thinks it would be a great asset to that Riding Arena to get it completed sometime, we need to figure our whether the money is available or not. We're seeing money be reallocated throughout the State and wants to make sure before we start a project we have the money in place. Ed said we have the money in the Conservation Trust fund to do the entire project now. We have the money in capital to do the project now. The Board has not committed that money at this time, but the money is more than available in those accounts. Commissioner McCown said we have committed the $100,000 included in his motion. Chairman Martin noted that this building has been started since 1997 and we've been working in phases ever since and the overall objective was to get it completed. If we stall out again and not to anything for 5 more years, it is a waste of money. That's why he supports investing in our building and wants to get it going. Commissioner McCown doesn't have a bit of problem. Ed said the other discussion would be, does the Board want us to enter into an RFP process that would develop a two phase procurement for this and get pricing for the second phase in addition to the first phase, or do you want to have them as two discreet procurements? It would be a saving to wrap the projects together in two phases. What you would do is to make it contingent on funding and we would specify a trigger date.
Chairman Martin said that we have had one three day event and now we have three, three day events which we have taken away from Mesa County because our facility is an extremely accessible and a better facility than Grand Junction has. The Rifle Rendezvous was very successful and it needs to stay the size it is and

show it is crowding the facility showing it's a success; he is very pleased with the amount of activity taking place and we're getting recognized for that and want to proceed with that project.
The motion made by Commissioner McCown and seconded by Chairman Martin was amended and now the motion is that we develop a two-phase procurement and that the first phase would be the underground plumbing, the lift station necessary and the slab on grade; the second phase would be the completion of the project contingent on funding.
Commissioner Houpt – doesn't believe starting projects until you have the money in place.
Martin – aye; McCown –aye. Houpt - nay

j. Proposal for Lot 13, Lazy Diamond A Ranch Subdivision - Dale Hancock

Dale received a letter from Darin R. Axthelm of 224 River Ridge Drive on February 25, 2004 responding to what information Dale had provided regarding a letter of proposal. They propose to sell Lot 13, Lazy Diamond A Ranch Subdivision (Four Mile Fire Station property) together with all improvements and appurtenances to Garfield County for $225,000. He further notes in the letter that to his knowledge every lot in the subdivision including Lot 13 has the right to tap onto the domestic water system and to use irrigation water from the Atkinson Ditch which are owned and operated by the Lazy Diamond A Homeowners Association. He noted that Walter Brown is his attorney for future reference.
Ed redid the cost benefit analysis and it brings all cost streams back to time period zero. You have to evaluate both the cost and the savings associated with acquisition of that structure and attached to that is identification of the savings put together and the projected annual savings is $44,000 from an operational standpoint. Ed integrated into that the cost streams we would have to consider in terms of maintenance and repair and operating cost and those streams are in the analysis as well. Through the time value of money you bring all those cost streams back to time period zero and evaluate the benefit of the total project at time period zero.
Commissioner Houpt - The equipment being proposed to be stationed on this property will that fit into the existing garage?
Ed thought it would but thinks they are going to have three pieces and two will fit in the garage and one will be parked to the side and we will construct a heating unit that they will plug in.
Commissioner Houpt doesn't want to turn that corner into a parking lot equipment and is not in support of parking any equipment up there that will not fit into the existing structure. It's not an appropriate place to turn into a Road and Bridge parking area.
Dale – another consideration would be amount of material would need to be placed on the site if it was going to be used for snow removal
Chairman Martin – there is a small amount that will be there instead of trucking it there. But that is also screened with our screening and fencing that we use anywhere. This is a great location and a savings to the taxpayers of $44,000 is a great deal plus it's an immediate response to that particular area and it is a growing area with a lot of demands. The fire trucks were in there and that heated facility and if we need to do an expansion in the future to go ahead and make sure everthing was inside that would be a Road and Bridge issue that we could have it as a Road and Bridge facility and we can use their funds without hitting the general fund for purchase, etc.
Commissioner Houpt – the fire trucks were in there and they kept them in the facility and it was very unobtrusive. She said she is envisioning piles of gravel, not very attractive fencing, big machinery, and that's not going to be well received by anyone because this is not a location to have all this equipment out there. She would have to see a plan and understand that we would be able to follow through with that plan before supporting this because she really doesn't want it too turn into a Road and Bridge parking facility that it could easily do.
Ed – said there will be three vehicles; a sander, a grader and a loader.
Don asked for clarification on what Dale is asking of the Board today.
Dale is asking for general direction; he submitted a proposal that takes this from the realm of informal conservation to something for consideration of the Board.
Don said at the present time we have not title report, no survey, we have no appraisal, we have no phase one environmental evaluation which are standard items before acquiring property and if we're going to go to any kind of site planning, we need to have direction from the Board to move forward on those items and then bring it back.
Dale – there is also another process that he learned from Mark Bean; there's a Planning Commission Process that by statute is required if a government acquires additional lands.

Chairman Martin – all we're tying to do it get direction to either explore those possibilities or forget this particular issue.
Commissioner McCown – if we are going to move forward under the premise that it is not a Road and Bridge facility, we might as well stop right now because it is and he said he was sure that the people that you were talking about Saturday that welcomed seeing that same piece of equipment going up Four Mile so you get up to the ski area have to realize that those pieces of equipment live somewhere. How can that same piece of equipment that may save your life be so offensive when you drive by it the next day – that is a part of society that we have to deal with. And be it a sander, a mower, or a road grader, those are all part of the system that's supports the health, safety and welfare of those same people that may begrudge seeing it when it's not necessary for their livelihood.
Commissioner Houpt – agreed this is true but because of the location of this piece of property it would not be a location she would like to see turn into a holding area for Road and Brdige unless we had a plan that would work well with the culture of the neighborhood and that's in our regulation. If we want to look at what it will cost to improve that area, do the environmental assessment, get a true appraisal, that's fine, but she is not committing to the notion that we would put a Road and Bridge Facility there.
Chairman Martin that's all it would be used for; that's the only purpose we would need for that piece of property at the present time and feels very comfortable that it would be acceptable and welcomed in that particular area and designed the way it is now and used, but we need to say, Dale get us the appraisal, get us the next steps, the title, where the impacts are on that piece of property, etc.
Dale has an appraisal from the Assessor's but not a commercial appraisal.
Chairman Martin – wants to follow our policy and that is an appraisal done by a licensed individual.
Don said that's up to the Board; we have in the past on commercial properties done a full blown appraisal and recalled the properties across the street we relied on the Assessor's office to give the Board a ball park figure; one thing on title, to get a valid opinion on title on this property we need to have the County Surveyor do a survey.
Commissioner McCown questioned the need for a commercial appraisal because it's not commercial property, nor has it ever been.
Mark said it's been approved as a Fire station. It is still A/R/RD zoning; it's a platted 2-acre lot.
Commissioner Houpt would like to see a plan along with all those reports.
Dale said it sounds like we're getting engineering involved in this if you want to see some kind of a conceptual design, that's just more resources necessary.
Commissioner McCown – it can't be that tough, you have a building, a site plan.
Dale asked if they want to look at fencing, screening etc.
Don said one of his concerns is the property maybe subject to some easements that would affect site planning. It would be valuable to bring a plat back to the Board to show where any easements lie, where the right of way lies and see if they want to proceed to site planning.
The Board approved to move forward.

k. EnCana Air Monitoring Request – Doug Dennison

Doug Dennison – Air quality has become a big concern and EnCana has approached Doug to do some air monitoring. Grass Mesa residents have concerns that the monitoring may be basis and asked for a consultant with no advance notice of when the air sampling would be done but EnCana will pay for it. Is the Board comfortable with this approach?
Don said that air monitoring is a health concern and an agreement with EnCana can be done lawfully.
Commissioner McCown – if there's an air quality violation, we would report it to the State Air Quality, etc.
Don added that this is a straight forward agreement.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize Doug to negotiation an agreement with Don's office on an Air Monitoring Agreement; motion carried.

l. Mineral Leasing Allocations to School Districts – Jesse Smith

Jesse presented a letter written to Mike Coffman, State Treasurer that explained that in accordance with CRS 34-63-102 (c)(1)(A), the notification of Garfield County to distribute the 25% Mineral Leasing Funds to the School Districts within the Garfield County boundaries. The following is the distribution:

School District	Students	Percent
RE-1	4826	50.20%
RE-2	3773	39.24%
Grand Valley (16)	997	10.38%

DeBeque (49JT)	11		0.11%
Eagle (RE 50J)	7		0.07%
		9614	100.00%

This report needs to be submitted to the State by March 5, 2004 so funds can be released.
Chairman Martin asked the press to publish the funds. Oil and gas funds get filtered tremendously. Through this formula, $63,000,000 has been collected and to the County, after the entire formula has come out, the direct money to all counties is $5,252,000 and to the School Board to the State School Fund it $31,167,000 plus to the local school districts is another $3,000,000 on top of that, so it's $34,000,000 that go to the School Funds. We have the spill over fund which is in excess of $10.7 million that has to go to another formula which 25% of all left over money goes to the School District – they get the lions share; the towns get 37.5% of the left over funds after the spill over fund. We get to have $200,000 out of that $63,000,000.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the letter and sent it to the State; motion carried.

m. Letter of Support for Sustaining Funding for the Insectary – Steve Anthony

Steve informed the Board that the State Legislature's Joint Budget Committee is considering the elimination of state funds for the Colorado Department of Agriculture's Insectary in Palisade. The Insectary has been working on biological solutions to pest problems, both inset and weeds since the 1940's.
The County has worked with them on many insect releases on weeds in the past years and they have been helpful in providing biological controls in areas where options are limited, such as in residential areas and along waterways. They have released insects to work on Dalmatian toadflax along Midland in Glenwood Springs and also released insects for diffuse knapweed along the Roaring Fork River.
The Bureau of Reclamation is on the verge of making leaf beetles for tamarisk control available and the Insectary could play a key role in this process in the distribution of these insects.
Steve submitted two letters he drafted for the Board's consideration in support of the Insectary continued funding – one to Representative Rippy and the other to Senator Teck who is on the Joint Budget Committee.
Scott McInnis has said me may be able to get some assistance through the federal level as well.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt that we authorize the Chair to sign the letters to the elected officials that we have mentioned and authorize Steve to move forward with negotiation with Congress McInnis's office. Motion carried.

n. West Nile

Steve reported that they have sent out an RFP and one response has been received. The West Nile Task Force has been meeting and will be meeting Tuesday, the 9th from 10 a.m. to 12 noon in Glenwood Springs at the Operations Building off of Wulfshon on the 2nd floor and the focus will be two things: coming up with an educational plan and we get help from municipalities on determining the service area; we're looking at a service area of 50 square miles and about 1/3 is in municipalities. This is where the communication comes in.

COUNTY ATTORNEY UPDATE – DON DEFORD
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

John Hoffman, Carbondale Trails Committee, said they have been working with the Colorado Historical Society to get a grant for habilitating the Sutank Bridge and thanked the Board for their contribution and supplying funds and Road and Bridge work. This morning he needs the signature for a 20-year covenant and commitment of the bridge giving them $89,100 from the State Historical Fund to match $1,000 from the Town of Carbondale, $300 from the Carbondale Trails Committee and $29,000 worth of work from Garfield County. Garfield County will own the Bridge forever.
Commissioner McCown wasn't sure the County could place a covenant on County-owned property.
Chairman Martin stated this would need to be reviewed, make a decision on and get back to them.
John submitted a draft of the West Elk Scenic Loop By-Way Crested Butte to Carbondale trail study.
Proper presentation will be given at a later time.
Don asked the Board if they wanted it re-agenda; the timeline is 60 days. The date was set for March 1, 2004 at 8:30 a.m.

a.

b. Discussion and Consideration of Sutank Bridge Grant Agreement

John Hoffman, Tom Weskin and Dave Will were present.

Don said he had opportunity to review a proposed contract provided by John Hoffman and the State Historical Society concerning improvements to the Satank Bridge, County Road 106. He said he has a number of concerns about this proposed Agreement and discussed them with the Board. Two fundamental – if the County is the contractor and if not the Contractor – enter into a Stand Alone Covenant.
In-depth discussion was held with respect to whether the County is the contractor; use the contractor that John Hoffman has been working with; Randy as the engineer; meeting with Road and Bridge; is this road leading to the bridge on the County Road system; if we let individuals work on County Roads we require project information; bicycle traffic only and then the need to find a way to restrict the bridge; safety for pedestrian traffic; and liability.
Dale Will – Pitkin County Open Space – got money from the State Historical, negotiated on an agreement not a deliberate action, they would not be required to go back in and rebuild the structure.
John Helm was determined to be the person Don should talk to.
Marvin agreed that we need to know where the dollars are coming form and who's going to do what.
John said the funding is there to do the job and he was counting on the Road and Bridge to do the abutment – the one on the west side has been identified in the assessment report.
Chairman Martin noted that this bridge was 100 years old.
Commissioner Houpt said the abutment is the County's in-kind contribution.
Marvin said he understood this was equipment and personnel with what equipment he does have.
Commissioner McCown said he knew nothing about the engineering, funding and concrete, and an abutment if that's what it is.
Marvin asked if John had a dollar figure on what it cost to do the concrete and abutment work.
John thought it excavating back from the existing abutment about 2-feet and framing in for concrete pinning to the existing concrete cap on the stone abutment, pouring that concrete and tying in the up stream wing wall with that. He does have a dollar figure but not with him.
Marvin – this is assuming the County would buy all the concrete and do the framing?
John said the concrete, framing, the expedition.
Commissioner McCown was under the impression that the County would furnish the backhoe, the operator for the backhoe, a truck to haul it away; whatever had to happen but he did not understand that the County would be involved in the cost of the forming, buying the concrete, the wing wall, any of that other than the excavation.
The decision was that Randy, Marvin, John and Don would have a meeting and try to reach John Helm on the phone and see what we can do to get this project moving.
Commissioner Houpt said she doesn't want it to break the project, so everything needs to come to the table when this is brought back.

This will be back before the Board for a decision.
Trail
John Hoffman said he was hopeful of bring Marvin when they were inspecting the bridge to look at another trail. There is a four-mile section off of Hwy. 133; one mile is in Carbondale and it's been funding $125,000 to the stretch up to the Prince Creek Road. Then there's a quarter-mile section that would include a bridge from there to the Pitkin County line and then for this section of the project there's a 2-mile section up to the Thompson Creek Open Space and said Dale will explain. His request here today is to bring Mr. Stephens over to inspect that mile and a quarter along after we take a look at the bridge just as a cursory review of a possible county project.
Dale Will – for the last 20-years Pitkin County has been scratching its head about how to do a bike trail up the Crystal River and in the last year and a half they've been working with detailed review of parcels all the way from Carbondale up to the summit of McClure Pass as part of the Hwy 133 Scenic Byway Project to map a potential trail alignment from Carbondale to Crested Butte. That study is nearly done and they are quite pleased to have found an alignment that's on public rights of way to this. The first phase of this is from Carbondale out to Thompson Creek where the Pitkin County Open Space acquired the old Moshe Ranch out there and now they have the capability of doing a nature trail at the Thompson Creek with the conflux of the Crystal River. The four mile trail extending Carbondale's trail out to the Thompson Creek point would make a nice first step. The trail would all be within the Highway right of way that is 120 feet wide. The trick in the section of this trail is that we do have three jurisdictions; the good news if the 24 miles from Carbondale to the top of McClure, 22 of those miles are in Pitkin County. What they want to do is analysis that section between Prince Creek and the Pitkin County line to figure out how they might get

through there. Dave said he had a discussion with Randy Russell and together they have some bridges that they might ultimately be able to use sitting around as surplus. They are requesting some staff time to take a harder look at this.
Commissioner Houpt was in favor.
Dave said from Prince Creek to the Pitkin County line is about one and a quarter mile however it does include the crossing of the Crystal River by the Fish Hatchery.
Commissioner Houpt – what kind of money would Dave be asking the County for?
Dave – there's two steps. 1) is scoping the permits with the Highway Department, etc. and they are trying to put together a contract to get the permitting done and he has$10,000 committed to that. Carbondale has $5,000 and they are basically splitting it $5,000 per mile on a $20,000 permit contract to hire someone to deal with CDOT in putting the design work for the necessary improvements. There isn't an actual number for construction costs just yet. Pitkin County budgeted $600,000 for their section of this trail; that was contingent upon them raising the money for the 2-miles outside the County line.
Commissioner Houpt said we have some Conservation Trust money and wondering if this is the type of project we could use some of those funds on.
Chairman Martin said under the statute, it qualifies for it.
Dave said Carbondale has been very effective in building trails with its Road and Bridge Department and have built it with less money to do it with a contract.
Chairman Martin noted that Marvin's group did a little of that as well.
Commissioner Houpt suggested they get on the agenda and come forward with some more information after you've had an opportunity to look at it and come forth with a proposal.
Tom Newman has a beautiful presentation.
There was no problem with Marvin looking into this.

c. Executive Session: Litigation Update; Legal Advice

Don requested an Executive Session, Don and Mildred are requested Item e be removed from the Consent Agenda because we need to have a public discussion and provide legal advice on the status of that liquor license; also action in regard to the request for counsel on the Contract negotiation's correspondence received; the Crowley claim; direction for contracting for oil and gas evaluation.
Don quoted Section 24-6-402(4)(b) and (e) on seeking direction. Action will be taken on White Buffalo Liquor License
Ed, Jesse, Lynn Renick, Mildred, the Board, Don were to remain.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action taken:
Don said in regard to action and discussions with the State Health Care Policy and Financing, the staff is requesting that the Board of Commissioners appoint a County representative to act on behalf of the County in conjunction with staff in making presentations to that State agency. Don asked by motion for such a designation.
A motion was made by Commissioner McCown that the Chair be authorized to be that designee. Commissioner Houpt seconded; motion carried.

In regard to the Bryon Brown claim Don is asking that the Board authorize retention of Josh Marks at this junction even thought litigation has been filed for an amount not to exceed $200 so that he can be brought on board to represent the County in this claim should it proceed to litigation.

On the Liquor License Renewal, Mildred said she would recommend we go ahead and renew the license for White Buffalo and that the Board has the option if they want to, they can charge $500.00 more in fees for late renewal. There has not been any problems. The owner did not receive a renewal notice from the State and that created the request for the late renewal.
Commissioner McCown made a motion that we approve the liquor license renewal for the White Buffalo waiving the $500 fee. Commissioner Houpt seconded; motion carried.

Don was authorized to contact John Savage to continue negotiation for expertise on the oil and gas auditing.

COMMISSIONER REPORT

Commissioner Houpt – Thursday, ITPR 20/30 Regional Transportation Planning Meeting along with Jeff Nelson. We had the regional consultant who had taken all the priorities from all the counties and reprioritized everything and found that #3 became the 1St priority but the second priority was #21. Joe Krackum was there as well and they negotiated moving project that was already in, moving it up which had been rated as #107 – the reconstruction of the Red Canyon Road Intersection with Hwy 82. and grouped the #3 priority (the South Bridge) with it and the group agreed to make that #10 instead of leaving Garfield County at the bottom. The reality is there is no money and we may be lucky if we get to #3 with the money CDOT has for these projects. John created a lot of effort in creating a county plan process and it paid off. All the municipalities had representatives at the meeting. Serving on the State Parks Advisory Committee and there is a Town meeting on March 9, to discuss their strategic plan and get input from people in this region. They will be traveling all around the state to collect information for this purpose - Russell George is a part of this committee. Healthy Beginnings Advisory Board Tuesday a.m.; RE School District on Thursday at the RE-2 building 8:00 p.m.; RS2477 CCI Committee meeting in Grand Junction on Friday; Wildland and Healthy Forest Restoration Conference in Summit County on Saturday that she will be attending.

Commissioner McCown – School Board – Thursday.

Chairman Martin – Monday, he gave a Glenwood Elementary School a Civic Lesson for K– 5 grades; 7 a.m. on Tuesday, met with Rotarians in Rifle and gave a State of the County address; Wednesday he met at the Sopris Elementary and gave a program as well. Took a small trip to Washington DC – Western Interstate Region on Public Lands issue; and a public lands issue regarding PILT and had the Federal Lands issue meeting; Gateway Communities, Energy and Environment Committees; dinner with the BLM Interior Secretary and talked about Roan Plateau. School Board meeting on Thursday.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers remove
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Liquor License Renewal for White Buffalo West – Mildred Alsdorf
f. Authorize the Chairman to Sign a Conditional Use Permit for a Boarding & Rooming House for Stan and Carole Rachesky – Mark Bean

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items striking b and e; carried.

REGULAR AGENDA

PUBLIC MEETINGS

CONSIDER A POWER LINE INSTALLATION CR 215 PARACHUTE CREEK – JON PRICE WITH XCEL ENERGY

Jon Price with Xcel Energy Engineering Department, Marvin Stephens and Don DeFord were present. Williams Corporation has requested electric service at three separate Natural Gas Plants located along County Road 215. Natural gas generators are currently powering these gas-processing facilities. The current electric facilities cannot serve the projected load. The proposal is to rebuild the existing line and construct new overhead facilities within the County Road 215 ROW. The proposed powerline forage is: rebuild existing – 30,800 feet; new construction – 16,400 feet. Once it is complete, the old line will be removed.

Commissioner Houpt asked if they could install this underground line versus an overhead.

Marvin said that's a problem for Road and Bridge with underground lines as a lot of the line would be in the right a way of the road and could be a hazardous condition for his crew.

Jon said they are only adding a couple of wires with what's already there.

Chairman Martin said the generators are run withy diesel and there's smoke. Need to get rid of the generators.

Jon – after they get the power line installed, the generators would be only used for power outages.

Marvin felt the air quality would be better with the power lines.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the power line installation on CR 215, Parachute Creek for Xcel Energy; motion carried.

DISCUSSION RE: AMENDMENT TO IGA WITH CITY OF GLENWOOD SPRINGS ON 8TH &

PITKIN PARKING LOT

At the Joint City/County meeting held on February 17th discussion was held as to parking spaces. In connection with that discussion, Don submitted the IGA that proposes the current parking area located at the southwest corner of the intersection of 8th Street and Pitkin Avenue would be limited public parking for the benefit of users of both City and County facilities. The County will maintain ownership of the property throughout the life of this Agreement; the County has surfaced and developed the site as a parking lot that is acceptable to the City; the County shall provide a total of 22 parking spaces; of those 22 parking spaces, the County shall retain the exclusive use of 3 spaces for County-owned vehicles and will be responsible for posting accordingly; the County will be responsible for capital repairs under this agreement except any repairs necessitated through negligent acts of the city or it's employees or contractors. No handicapped spaces will be reserved.

The City will be responsible for posting the 19 spaces limiting use of those spaces to short term public usage for the City and County facilities in the immediate vicinity of the site. The City would post and enforce a one-hour parking restriction on all working days from 6:00 a.m. to 6:00 p.m. and will collect all revenues. The City will also be responsible for removal of violators. The City shall provide 7 parking spaces for County-owned and operated motor pool vehicles in the parking lot located at the northwest corner of 8th Street and Defiance Avenue and additionally the City shall be responsible for the provision of 7 parking spaces for County-owned and operated vehicles directly north of the County facilities along the property fence line.

Chairman Martin – two-hour parking. If we act on it and send it back to the City they will entertain it on Thursday.

Commissioner Houpt would not support 10 spaces, the City asked us to open this up to public. She would support 5 spaces only.

Chairman Martin – this is an attempt to make changes. Send it and if the City has adjustments, then the County can look at making some adjustments.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to revise the IGA to include 2-hour at 8th and Pitkin and increase the MP to 2 spaces and that the parking spaces 16 below the City open up to 8-hour for both city and county parking. Chairman Martin noted that the County cannot determine what the City would do on their sites.

Houpt – aye; McCown – aye; Martin – nay

Don requested the motion include authorization for the Chair to sign the changes to the IGA – approved.

REQUEST FOR RE-APPOINTMENT TO PLANNING COMMISSION FOR COLIN LAIRD AND ROLAND FISCHER – MARK BEAN

Mark Bean submitted the letter of interest from Colin Laird and Roland Fischer who terms expired 12-31-03 but said they are eligible to serve until someone is appointed to take their place or they are reappointed.

Commissioner Houpt – wants us to open up these seats in case there are others who want to serve on this committee. This should be the same for all County Boards in order to have a fair process.

Chairman Martin – agrees with Commissioner Houpt and gave direction for Ed to post the ad.

Send letters to all these individuals that we are just being consistent with the new County policy.

REQUEST FOR RE-APPOINTMENT TO THE FAIR BOARD FOR ALL CURRENT MEMBERS

Dale submitted the requests of Perry Will, Leon Hanhardt, Kate Foster, Patty Scarrow, Leslie Torres, T J Dice, Robert Flohr, Kevin Runia, Kathy Runia, and Kushia Sheets to be reappointed as members of the Fairboard.

The Board instructed Dale do the same and advertise.

REQUEST FOR RE-APPOINTMENT TO GRAND VALLEY CEMETERY BOARD FOR ALBERTA PAYTON AND NOLA MILLER

The request of Alberta Payton and Nola Miller as alternate as members of the Grand Valley Cemetery Board were submitted. It was noted for the record that Betty Letson's term expires in 2005 and Kerwin Stark expires in 2004.

The Board instructed Dale do the same and advertise.

PUBLIC HEARINGS:

CONTINUED PUBLIC HEARING TO CONSIDER AMENDING OR ADDING SECTIONS 2.02.431, 3.02.03, 3.07.03, 3.08.03, 3.07.03, 3.08.03, 5.03.15 AND 9.03.01 OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED TO ADDRESS PIPELINES. APPLICANT: BOARD OF COUNTY COMMISSIONERS

Chairman Martin swore in the speakers.

Mark Bean recommended continuing the public hearing until after the CCI meeting. A meeting is scheduled for March 11, 2004 hoping there will be some agreement as to what a pipeline should be. March 15th was suggested.
Doug Dennison, Mark Bean and Jimmy Smith have held an informal discussion. Mark did obtain the Boulder County regulation. CCI has requested some existing material.
Commissioner Houpt – important to let the people know that we're not dragging our feet on this regulation. The goal is to have a more consistent regulation within the County; all pipelines or just some pipelines. The Boulder County regulation is all encompassing and strong.
Mark – if we go with the Boulder regulations; we've tried to set it up 1-23-24
Don – it is much broader and goes to specific locations.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to schedule this to discuss the pipeline regulation until March 15, 2004. Motion carried.

CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR A PROPERTY ON GRAHAM MESA. APPLICANT: KENNETH LATHAM – FRED JARMAN
Fred Jarman, Kenneth Latham, Marilyn Latham, Don DeFord and Attorney for the Latham's - Dan LeMoine were present.
Don reviewed the noticing requirement for the public hearing. Don informed the Board they were adequate and timely and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit C–; Exhibit D- Garfield County Comprehensive Plan of 2000; Exhibit E – application materials; Exhibit F – Staff Memorandum; Exhibit G - Email from the County Road and Bridge Department dated 2/3/04; Exhibit H – Letter from Rifle Fire Protections District dated 1-13-04; Exhibit I – Letter from Arvelda May Ward dated 1-21-04; Exhibit J – Memo from the County Vegetation Management Director dated 2-28-04; Exhibit K – Letter from the City of Rifle Planning director dated 2-3-04; Exhibit L – Email from the Town of Silt Planning Director dated 2-6-04; Exhibit M – Letter from Golenda Covert received on February 23, 2004. Exhibit N - Garfield County Subdivision Regulations of 1984 as amended.
Chairman Martin entered Exhibits A – N into the record.
This is a request for consideration for exemption from the definition of subdivision. The applicants propose to divide their 59-93 acre property into a total of 4 lots where Lot 1 has 33.7 acres, Lot 2 has 6.63 acres, Lot 3 has 8 acres, and Lot 4 has 11.6 acres. The property is located approximately 1.5 miles west of the City of Rifle on CR 293 (North Graham Road) on the edge of the Graham Mesa. Fred noted that the Board of County Commissioners under Section 8:10 has the discretionary power to exempt a division of land from the definition of subdivision and determine that such exemption will not impair or defeat the stated purpose of the subdivision Regulations nor be detrimental to the general public welfare.
Fred reviewed the staff report and comments in detail.
Staff recommendation:
Staff recommends the Board of County Commissioners approve this application for a subdivision exemption with the following conditions:

I. <u>STAFF RECOMMENDATION</u>

Staff recommends the Board of County Commissioners **APPROVE** this application for a subdivision exemption with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant shall have 120 days to present a plat to the Commissioners for signature from the date of conditional approval of the exemption.
3. Prior to the signing of a plat, the Applicant shall provide proof to the Building and Planning Department that a well test for the well to serve Lot 2 which demonstrates an adequate pump rate and water quality pursuant to subset a – g below. If the aforementioned proof is not submitted, the Applicant shall be required to conduct a well pump test that demonstrate the following points:
    a. That a four (4) hour pump test be performed on the well to be used;
    b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
    c. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute

and information showing drawdown and recharge;

d. A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;

e. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;

f. If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;

g. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

h. For water supplies based on the use of cistern, the tank shall be a minimum of 1000 gallons.

4. That the following plat notes shall appear on the Final Plat:

   a) No further divisions by exemption from the rules of Subdivision will be allowed.

   b) No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

   c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

   d) Foundations and Individual Sewage Disposal Systems shall be engineered by a Professional Registered Engineer within the State of Colorado.

   e) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

   f) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.

   g) One (1) dog will be allowed for each residential unit within a subdivision and the dog shall be required to be confined within the owner's property boundaries.

   h) The mineral rights associated with this property (also known as Parcels 1, 2, 3, and 4 of the Latham Exemption) have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).

   i) Vegetation should be removed from near any structures in order to provide a safe zone in the event of a wild land fire.

   j) When constructing access roadways, roads should be a minimum of 20 feet in width and consideration is to be given to the weight of fire apparatus and accessibility during adverse weather conditions.

   k) Addresses are to be posted where the shared driveway intersects with the county road as well as where the individual driveways intersect with the shared driveway. Letters are to be a minimum of 4 inches in height and 1 inch in width and in contrast with background colors.

5. The Applicant shall address the following vegetation management issues with the County Vegetation Manager prior to final plat:

   a. <u>Inventory and mapping</u>: The Applicant shall map and inventory the property for Garfield County Listed Noxious Weeds. There may be Russian olive, tamarisk, and Russian

knapweed on the property.

b. Weed Management: The Applicant shall provide a weed management plan for the inventoried noxious weeds. The County is particularly concerned about noxious weeds found on irrigation ditch banks.

c. Covenants: Because weed management for the Association and each individual lot owner is not addressed in the covenants. The Applicant shall add wording in the covenants that mentions the responsibility of landowners to manage County Listed Noxious Weeds according to the Colorado State Noxious Weed Act and the Garfield County Weed Management Plan.

d. Common Areas: The Applicant shall address the roadside weed management of the road that will be utilized by the lot owners as far as who will be the responsible party?

6. Staff finds the Applicant is obligated to provide legally described and depicted easements on all irrigation ditches, water lines, spring boxes, and access points that are to be shared among the lots. Specifically, the Applicant shall be required to establish a maintenance and access easement to all components of the shared water system from the spring / well for the benefit of Lots 1, 3, and 4 which shall include all components of the shared water system. This easement shall be legally described and depicted on the final plat as well as in the protective covenants.
7. The Applicant shall be required to legally describe and depict all ditch easements that will convey water to newly created lots on the final plat in the same manner as the domestic water system components described above in condition 6.
8. The Applicant shall be required to legally describe and depict all telephone and electric utility easements that will convey service to all the proposed lots. This shall be shown on the final plat.
9. Upon further review of the EASEMENT DEED which provides present access to the Latham property from CR 293 and which is recorded in the Clerk and recorder's Office in Book 1199, page 748, it is silent on the issue of whether the easement is an "exclusive" or "non-exclusive" easement for the benefit of the Latham property. As a result and prior to final plat, the Applicant shall provide a legal opinion as to the nature of the easement and its ability to provide for legal non-exclusive access to Lots 1 – 4 of the Latham Exemption should the Board approve the request.

Applicant: Dan – conveying a portion in the Rifle Canyon Ditch to each owner of the new lots for irrigation. Agree to have a walk through with Steve Anthony. And no question about the easement but will supplement the plat making sure that it contains the fully described easements and that they match what is described in the declaration - add it as a plat note.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the application for a Subdivision Exemption with the conditions 1-9; motion carried.

PUBLIC MEETINGS:

CONSIDER INDUSTRIAL DEVELOPMENT ON GRASS MESA – BRET CLOSS

Bret Closs submitted a summary of the concept of industrial development on Grass Mesa in response to the increase in oil and gas activity in Garfield County and saying that the time has come for the county to take up where the Colorado Oil and Gas Conservation Commission has left off. His main complain is that the county has the ability and responsibility to regulate the operations of the industry in land use code 5.03.07 "Industrial Operations" and does not understand why these regulations have not been implemented. Oil and gas activity is a necessity but it needs to be done responsibly. The oil and gas industry will be in the County for a long time and so will residents like him who want the County to do what the COGCC will never do. Land use codes that govern industrial use. EnCana has purchased property in that area. We can't regulate them cleaning up their own property and they can leave the pits open with a permit and can continue using those pits. In reading through the County regulations, the extraction of natural resources requires a special use permit. When you go to the County regulations for extraction it lists all the requirements. Why if the COGGC regulations are in place, why aren't the County regulations being enforced. COGGC has no regulations with respect to pad size. He had to go through all the hoops when he went for his SUP for an accessory dwelling, whereas the oil and gas industry doesn't do anything yet it's in the regulations. Conflicts with landowners like him, he feels the County should enforce the regulations.

Mark has seen the property.

Don – back in time, to a large extend, he's correct, regulations seem to apply and has been the case for many years since early 80's. We used to regulate oil and gas however, with the ruling in Douglas County in

mid-1980's that was the first decision, local government was exempted from the State; it left further regulation by the Counties. After that, the more important decision for the County now when the Bolin Edwards case down and it was very specific saying if the Oil and Gas Commission regulated an area, Counties were pre-emptied. Again, it did say that the County and the companion case Municipalities could require permits so long as the Oil and Gas Commission had not invaded the area. At that time when the Bolin Edwards case came down, Don and Mark went to the sitting Board of Commissioners and asked for direction. Did we continue to compel the various companies to get SUP or not and the direction received at the time, do not enforce our regulations relative to oil and gas drilling for in most pre-emption exists and that Board did not want to become in litigation. Subsequent to that date, Mark and Don have made the same inquiry as more case law has come down, most recently the Town Frederick case and gave more certainty to the Bolin Edwards case talking about specific areas such as set backs, noise, visual impacts be pre-emptive areas by the Oil and Gas Commission. With that said, the Town of Frederick and the more recent case where LaPlata County was involved, have clearly said counties and municipalities can require permits what has happened however, is each one of these cases has further eroded the specific areas we can regulate so while permits can be required, but what we can require pursuant to that permitting is very limited at lease on the surface reading of these question. So the question has continued to be to this Board as to others, how far do you want us to get into regulations. The question came up to this Board, do you want us to enforce the existing regulations, at that time, Mark, Don and staff were told to explore other areas and see what was out there. That's when we brought back a proposal that Barbara Green developed for Gunnison County, temporary regulations and discussed those and given the ruling in the Frederick case, the direction was not to precede at least that type of regulation. This is a current history of Garfield County and our current regulations apply what you see is not actual.
Chairman Martin said we also followed the Delta County case in reference to this last year as they've been overruled on their issues; we also wanted to regulate noise in reference to Compressor Stations, etc. but we have now been superceeded by the State. We continue to do it as we are doing now working on pipelines, working with the industry, working with the other counties, but it's an uphill battle.
Commissioner Houpt – first of all, she's still learning this job and thanked him for the highlighted code. If we're not going to enforce these regulations they need to be removed or the public is going to rely on the fact that we have them in place. It's wrong to ignore something that you have in place as a County. Having said that, I do know that we are pre-empted on many things, but our staff has put together a comprehensive list of those issues that we can regulate and this is important in terms of pipeline regulation. The regulation the staff shared with the Board on Boulder she sees hope for expanding that to a more generalized regulation so we're not just looking at pipelines but at all activity. The reason that it has taken so long is there is a false start in not having all the parties at the table. We do have new case law; we have the will of many elected officials; we have the industry who are here to do a job but they're also meeting us at the table and willing to really look at what's critically important to move forward.
Bret – if you're preemptive by the State on some of the regulations, but what about the regulations they don't have and will never have because it prohibits the industry from doing their job. He talked to the COGGC on the water impoundment, and the impoundment itself is nothing, it's just to haul the water in, but the truck traffic is something and the COGGC can't and won't do anything about it.
Chairman Martin – no they cannot regulate the traffic.
Bret has an industrial water hole up by his house with traffic non-stop in the summer and fall months and thinks something could be regulated.
Chairman Martin said it is a public road system and we can't regulate one entity without doing all and what we have done is put the weight restrictions on there, surface requirements, level of service for Road and Bridge folks so everyone can either use it or not use it, limiting the access by weight control is what we have done.
Commissioner Houpt said we have done this with other industrial uses and restricted times when heavy truck traffic can use the road.
Commissioner McCown – this is not a public road system.
Bret – that's correct.
Commissioner McCown that's part of the road system in Grass Mesa Subdivision and it is not any part of the County road system. It's controlled by the Homeowner's Association and we would not have any governance over the use of those roads. The Homeowner's Association assumes control and responsibility in reference to maintenance. Then the access to that road is a road that was built off of the BLM access coming up the back of the Grass Mesa and that is through the BLM. It's a special design haul road that

EnCana build to keep traffic off of the access road and the individuals who live there use and that is a permitted process through BLM.
Bret asked Don if he could tell him on the regulations on water impoundment that are in the County's regulations. There are regulations on traffic, it's an industrial use.
Don said on the traffic issue that is one area when we are talking about County Roads we can regulate that as part of a permitting process and we've talked about that and that might be a reason for no other to go to a permitting system. Water impoundments we have to see what type of impoundment it is, if it is one that's permitted as part of the drilling process then we have to go to the Oil and Gas Commission and see if they think they regulate it, if they don't, then we do.
Bret said they don't.
Mark asked to address this further, saying the other part of this is we don't classify anything as a water impoundment subject to our permitting. – we don't classify unless it's 80 surface acres or more. The Board could change that regulation but that's what it reads now.
Bret – the impoundment itself wouldn't care if it was an 80 acre impoundment, but it's the activity that surrounds the impoundment that somebody needs to do something about.
Commissioner McCown said back to his initial comment that is a private road and our only land use action if it were a permitted use is where the road across the BLM would intersect with the West Mamm Creek Road; then we could limit the daily trips accessing the West Mann Creek Road. As long as they stay on that network of private roads, we have no authority at all to impose any regulations.
Commissioner Houpt wanted to know what authority the homeowner's association has.
Don said if EnCana is a landowner and they are a member of the homeowner's association and they're entitled to use the road. They're not entitled to destroy the roads. You've have to see in the homeowners association how they regulate.
Commissioner Houpt suggested that Bret look at the covenants.
Chairman Martin – we do not enforce covenants.
Bret but back to the County's industrial use regulations, if they don't fall under the COGGC jurisdiction which they don't here, he asked the Board to enforce the regulation on the books.
He can't even build a porch on his house without a permit, and this is on the same private road they are running all the water trucks.
Commissioner Houpt agrees and said we need to look at this; we're rewriting the codes and looking at regulations and thinks Bret is dealing with this today and is saying this is on the books so why are we not enforcing it.
Mark – that's the point and with the exception of the drilling, there's nothing for us to enforce in terms of the water impoundment. Those regulations don't address traffic unless they are a part of a SUP process, that's the dilemma.
Bret said the traffic is just one part of the whole picture. In reading through your regulations, there's a whole list of what's required of them before they even…
Mark – if they're an industrial use subject too the Special Use Permit process – that's the catch. That list in the Supplemental Regulations, those are applied to special and Conditional Use permit that are bought to the Board, they have to address all of those issues as part of that process. If it's not part of a SUP process, then it's not something that is applicable to it. Extraction is the drilling activity; we're preemptive from the drilling.
Don said there's no question that he's right about the language in our regulations is applies to the Oil and Gas Industry and it was intended to do that when it was first drafted and it was applied that way at first and we still would do it except for the ruling in the Bolin Edward case and the subsequent rulings out of the Supreme Court and Court of Appeals. That and direction the staff has received from the Board that the Board does not want to become involved in litigation similar to what LaPlata County did and lost.
Commissioner Houpt said we are working on regulations that will address the activity that surrounds oil and gas activity, the road usage, the pipelines, the right of way issues, the revegetation, the impact on neighboring lands, issues that we would address with any industrial use or home builder in our County. Don was saying that this was too narrow to address those issues and this goes directly to the extraction specifically. What we're working on and what she anticipates taking a vote on this spring is a more comprehensive regulation that will address those activities that would result during the whole process.
Chairman Martin – Steve Hackett has enforced code regulations and has visited numerous sites and found items that are in violation that we do have regulations that we can enforce and the industry has responded

and corrected those items the Country has responsibility. Doug hears issues daily and we have a proposed rule change, the industry withdrew it, now the counties are working on it. This is good input.
Don said he anticipates that we will have a solid draft of something in Sept/Oct. and a specific code addressing this issue.
Commissioner Houpt told Bret that we're having a discussion on March 15 on pipeline regulations.

CONSIDER APPROVAL OF A RESOLUTION CORRECTING RECORDS FOR IRONBRIDGE PUD AND THE IRONBRIDGE PRELIMINARY PLAN – MARK BEAN

Mark Bean, Don DeFord and Tim Thulson were present.
Mark submitted the corrected resolution for Ironbridge PUD and Preliminary Plan saying the previously recorded document approved by the Board on February 9, 2004 was lacking numerous Exhibits. That error has been rectified and requested the Board sign the Resolution.
Tim stated the documents are the same as the Board approved. The previously recorded Resolutions did not contain the Exhibits.
This will be the binding document technically. These will be done as corrected Resolutions.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the correction to the Resolutions No. 2004-20 and 2004-21 for the Ironbridge PUD and Preliminary Plan and authorize the Chair to sign; motion carried.

CONSIDER A REQUEST TO RELEASE COLLATERAL FOR THE IRONBRIDGE PUD – MARK BEAN

Mark Bean, Tim Thulson and Don DeFord were present.
Tim submitted the request and the engineers assessment of probable construction cost that do include all construction cost finished to date that are reflective of all construction changes that were recently approved under our amended PUD and Preliminary Plan. He explained that with the previous reduction request that the bank will more than likely want to issue a new letter of credit in the reduced amount unless the County is willing to forward the original letter of credit to the bank for presentation. In the past the County has been unwilling to give up the original evidence of credit and does not expect it today. The reduction certificate reduces the Letter of Credit by $2,683,395.65 with a new total of not exceeding $495,681.56.
The acknowledgement
The water supply has been incorporated; the agreement has been Exhibit 20E of Preliminary Plan, they had to pay the inclusion fee in the $848,145 paid to the District. The amount was $300,000 and asked this be treated like any other. Coryell drilled a well and can serve the development at the present time.
Correspondence has been received from the Sanitation District. Tim can get this, but represents this has been paid.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the release and authorize the Chair to sign; motion carried.

CONSIDER A REFERRAL OF A SPECIAL USE PERMIT REQUEST FOR A TEMPORARY ASPHALT PLANT AT THE UNA GRAVEL PIT. APPLICANTS: RODNEY POWERS, BILL PATTERSON AND RONALD TIPPING – JIM HARDCASTLE

Jim Hardcastle submitted the request noting the Planning Department has received an application for a SUP for the currently operating Una Gravel Pit located 4.5 miles southwest of Parachute, southwest of the intersection of US Highway 6 & 24 and County Road 300. The owners request the addition of a temporary, portable hot mix asphalt plan, augmenting the current extraction operations, to produce overlay material for an 18 mile segment on Interstate 70 east of Parachute. The request also includes the option to erect the plant on an as-needed basis and in different locations on the site based on mining progress in the future.
The site consists of 223.13 acres and is zoned A/R/RD. Most of the sand and gravel removed from this site has been used in the construction of I-70. This proposal is based on a bid recently awarded by the State of Colorado.
The zoning code provides the Board with the option of referring the SUP to the Planning Commission for their recommendation in a public hearing or the Board of County Commissioners may choose to sent this request to the Planning Commission because of the intensive use of the property, the high impact and nature of the current operations, their associated impacts and the property's location to a variety of adjacent uses. The regulations do permit the Board to hear this directly in a public hearing for review and decision.
Commissioner McCown would like assurance that the current owners
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to refer this to the Planning Commission due to the high interests.
Houpt aye; Martin – aye; McCown – nay

Commissioner Minutes Approved
Commissioner McCown made a motion to approve the October 1, 2003 – Special Meeting –Budget Hearing; October 6, 2003; October 13, 2003; October 14, 2003 – Special Meeting –Public Hearing on Budgets; October 20, 2003; November 3, 2003; November 10, 2003; November 17, 2003; December 8, 2003; December 15, 2003; December 18, 2003 – Continued Meeting – Budget. Commissioner Houpt seconded.
Martin – aye; McCown – aye; Houpt – nay only because she didn't review them.

POSITION RECLASSIFICATIONS – JUDY OSMAN
Judy Osman, Dale Hancock and Marvin Stephens were present.
Judy submitted the reclassification for District Foreman/Landfill Manager currently being filled by Kraig Kuberry. The recommendation is to reclassify from a District Foreman to a District Foreman/Landfill Manager and the position be placed in Pay Grade 7. Kraig has been performing these responsibilities for a couple of years with no additional compensation.
Judy submitted the reclassification for Director of Community Corrections and Emergency Preparedness Coordinator filled by Guy Meyer. There are certain certifications needed for reclassification however, Judy said she is recommending that Guy be moved to 94% of the market since he is performing the two positions and has not been compensated for several years.
Judy also said once Guy obtains the certification or degree that he is working on to revisit the idea of reclassification to another pay grade. Everyone in Pay Grade 8 has certificates or certifications.
Marvin supports the reclassification for Kraig Kuberry.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the increases as put forth; motion carried.
Letter Dave Grisso – EnCana
This is the same type of agreement that we had with EnCana last year and it was decided to approve the Frost Law exception. There was a meeting with them last week.
Roads Closed
Marvin said he closed down the upper end of Roan Creek from Carr Creek up; last year he did the same because it was so muddy. He also shut down Carr Creek this year as well. Baxter Pass has not been shut down yet.
Citizens for Access to Public Lands-County Road 256
Complaints about access going across and Marvin will be meeting with Don to review this on Douglas Pass, CR 256. Marvin contracted the people on that committee and will try to get Larry and his committee to meet this week and then we'll go from there.
Don said he shows there is a 3rd request that we've had from that organization.
Marvin said the FAA takes off this road and the federal government took over this road. This is the east end of Douglas and it is between Douglas and Baxter Pass.
Commissioner McCown said the Access Committee had trouble with the road was were it took off of CR 257 and started up through there. John Savage said his dad and another guy built that road for OSHA purposes and it was never maintained by the county.
Marvin told them to bring all the legal findings they had, according to their letter this was a county road and they're requesting maintenance.
ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

MARCH 8, 2004
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 8, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Proclamation – Month of the Young Child – April 25
Carry Pohl-Haberern said that April is the month of the Young Child and asked to have a Proclamation signed by the Commissioners. The actual date is April 25th. The Board agreed and informed her it would be placed on the agenda for March 15, 2004.
Special Events Liquor License – Rifle Chamber of Commerce
Michael Langhorne from the Rifle Chamber of Commerce said he is requesting the Board grant them a Liquor License for a Special Event to be held at the Airport in one of the hangers owned by Corporate Air. They expect about 200 people. The day for this event is May 1, 2004 so they are just trying to get everything in place. They will provide the liability insurance for the liquor service.
Commissioner Houpt was okay with this as long as the liability and insurance issues covered.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Event License upon proper review of the County Attorney; motion carried.
CR 160 – Access Issue
Dave Force, lives in Cardiff, said he has been out of town for three weeks and when he came back he found that the main road into his property is blocked. It's a County Road and it's been there for 35 years. It's no longer a road anymore. He was asking direction from the Board regarding access.
Chairman Martin – this is an issue we were working on; Ron Meyers also brought this to the Board's attention. That is where the school was moved and Mr. Alsdorf's owns the property. He informed Dave that the City of Glenwood Springs is involved in this because they were the ones that annexed this property into the City. It was CR160. We're trying to run the file down to make sure everything is designed properly so that he can get in and out. KN Energy also had an issue because of the short turning radius and the fact that the telephone pole was in the way. According to Robin Milyard they weren't going to allow any redesign until all the issues were ironed out on that telephone pole and access. Apparently Mike Alsdorf that owns the property has gone through the City and we did a road vacation about two years ago. It's still up in the air and we're trying to make sure that you're not blocked out of your property; KN Energy isn't either. The properties are still in the County but the street now belongs to the City.
Dave Force – the way it's laid out now there's no way to get a truck into it and said he has a 30 foot easement through KN Energy and there's no way to get a truck down into that easement the way that the plans are drawn.
Chairman Martin informed Dave that Bobby, Larry Thompson and he went out to look at the particular issue. Larry Thompson is the one in charge of that project, road wise so we need to work with the City and that's on-going. Is it physically blocked right now?
Dave Force – this morning they had equipment in there and you had to turn to go up there. There was a big truck and a rubber tire backhoe sitting there; there's a track hoe sitting off but it's the only access that I have into that 2-acres of commercial property and need it so trucks can get into there and bring in 60-foot pipes in on trucks.
Chairman Martin – yes, that's the big issues; we were out there in the middle of the intersection talking about that and walking it off, so I don't think it's been resolved yet.
Commissioner Houpt – But what's in place to help resolve this. I think we need to have a stop order or something so that they don't….
Dave Force – I feel like they're going to build a building access there; and this road I know for a fact was there when I bought in 1969 and that road was there in 1969; a guy by the name of Walk owned it and that was there way in 1969.

Chairman Martin stated that we'll need to get with Don, look at the file, and sit down with Larry Thompson, you, Mr. Alsdorf, Ron Meyers and KN Energy and get this worked out.
Dave Force – Is there a stop order in place? Chairman Martin – no. Dave Force – how does a person get this going? Chairman Martin – well that would be through a court action, Dave. You'd have to go ahead, go over to Court, and say that this is real problem to us. Commissioner McCown – I guess I'm not understanding because when we abandoned that portion of County Road there was another City street in place that was to take the place of that County Road and make a T-Intersection, which was a safer intersection than that Y Intersection that was there. Now, what has the City not done to make this go through? They were on board at the time this happened. Chairman Martin – well, there's at telephone pole in the middle that belongs to the City of Glenwood Springs Electric Department. What about to the Y and allow an easy access for the long trucks that Dave was talking about. Chairman Martin said what happened with that now T-Intersection, the 90 degree turn, they can't make it simply because of the telephone pole and running up over other people's property to make the corner. It's just too narrow a roadway. How wide was that roadway going down the private road in front of the school, the north/south one? Dave said he has no idea how wide that road is, but the way the turn is, it's been there forever, is 70 foot, 90 foot trucks have no problem there, and see what my big problem is, is that I turn into a 30 foot easement down through Kinder Morgan and I cannot do it; you'd have to back a pickup the way it's designed now to get around and get into that 30 foot easement that I have. And I used to be able to get a 90 foot rig through there. Commissioner Houpt – you know it sounds like since they have trucks out there it might be good to talk with Mr. Alsdorf and Larry Thompson, who's the City road person, and find out what the plan is for keeping that capability. Dave Force – I talked to Mr. Alsdorf a year ago and he'd just smile at me when I asked him about truck access. He's not interested in keeping it there. Chairman Martin – we're gong to have to find a solution and we're going to have to have all parties at the table Dave.
Dave – and I go to the courts to get a stop-order on it? Chairman Martin – yeah, showing that it is a real hazard or an inconvenience or a situation where you can't tolerate one way or another until it's resolved – the design. You're going to have to be able to prove that it is an imposition for you. Commissioner Houpt – yeah, a violation of your ability to do business. Dave Force – yeah, I know it's been there – I've talked to other people that say they know the road's been there since 1953 and I know it's been there since1969. Chairman Martin – that's where we're at and we'll still working on it at this end as well. Dave Force – cause there's still a County Road on the property, there's a yield sign that the County put up. Chairman Martin – yeah and somebody spray painted it too a little bit. Dave Force – yeah, I think that kids that were staying in the trailer there – I shouldn't blame kids – there was a bunch of kids staying in the trailer there and all of a sudden the yield sign was blocked out. Chairman Martin – well it will be an on-going issue here for a while; we'll get it resolved. Commissioner McCown – I'm still puzzled as to why it is an issue. Chairman Martin – just this one right here, this Y that comes across here. They can make this easy turn, but now they've moved it up here so it's a 90 degree turn. Commissioner McCown – right, how did they come out here this way. Chairman Martin – they didn't, they came out this way right here. Commissioner McCown – but when we abandoned this section, which is what we did, there was enough room in this area for a safe movement of traffic, be it trucks, whatever and I don't know what the City's done with the design. Chairman Martin – it's pretty small. That's something we'll have to work on.

COUNTY MANAGER UPDATE – ED GREEN

a) ***Presentation of Road Scholar Plaque to Don Phelps – Marvin Stephens***

Recognition was given to Don Phelps and the award of the Road Scholar Plaque was presented for the hard work involved in obtaining these goals.
Marvin said it is quite an honor for Don to receive the Road Scholar Plaque and appreciates all his efforts. Don read from the Plaque saying there are 10 different things to go through and it takes about 2 years to accomplish the goals.
The Commissioners stated their appreciation for his efforts.

b) Bond Release to Williams Field Services Group, Inc. – Marvin Stephens

Marvin submitted a memo to the Board stating that Williams Field Services Group, Inc. on CR 309 has tendered correspondence requesting that the Board acknowledge satisfactory performance under the terms of the road use permit/overweight permit and requested we release their surety and bonding company from all obligations provided pursuant to that permit. The department has reviewed the permit and the work and believes there is no potential claim that may be asserted by Garfield County against Williams Field Services Group, Inc. We have a 2-year warranty.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the performance bond for Williams Field Services Group, Inc. for work done on CR 309; motion carried.

c) Bond Release to Mid-America Pipeline Co. – Marvin Stephens

Marvin submitted a memo to the Board stating that Mid-America Pipeline Co. on Baxter Pass tendered correspondence to the Road and Bridge Department requesting that we acknowledge satisfactory performance under the terms of our road use permit/overweight permit and release their surety and bonding company from all obligations provided pursuant to that permit. The department has reviewed the permit and the work and believes there is no potential claims that may be asserted by Garfield County against Mid-America Pipeline Co. Marvin stated there is a 2-year warranty on this as well.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the performance bond for Mid-America Pipeline Co. on the Baxter Pass area. Motion carried.

d) Annual Purchase of Culverts for Road and Bridge Department – Marvin Stephens

Marvin and Tim Arnett presented the recommended bid for Grand Junction Winwater Works out of Grand Junction for the not to exceed price of $11,404.34. Three companies bid but this was the lowest bid for nearly $3,000. Tim said this bid is real attractive because steel is going up 30%. They will honor the same bid prices if we need additional pipe during the year. This is coming out of Salt Lake.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Grand Junction Winwater Works out of Grand Junction for the annual procurement of galvanized culverts for the not to exceed price of $11,404.34; motion carried.

e) Application for Grant – The Cooper Institute

Andrea Dunn, Ph. D submitted a letter of request for collaborators to work with the Cooper Institute on an application to the National Institutes of Health for a research grant to develop an innovative program to prevent or reduce overweight and obesity in the United States. The Institute has offices in Denver and Dallas and they are seeking to work with local governments throughout Colorado on this project. The program must include an environmental component such as offering pedometers (step counters) to employees, healthier food choices in nearby restaurants, cafeterias, and vending machines or making stairways more accessible and attractive.

If the Board agrees to collaborate with the Institute, a letter stating that the County is willing to work with them as well as the identification of a staff person to provide advice on how they can create a program that meets your needs and to help them access the employees to evaluate its

Christine Singleton from Public Health was present. She said they reimburse for the staff time. The focus is on small changes. They are trying to create a socially accepted environment conducive to change.

Commissioner McCown asked legal to comment on advice on the liability involved if the County doesn't follow through with the recommendations.

Don said since this is a volunteer program and no funds involved, he didn't think there was any liability issues.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign a commitment letter to participate as collaborators to work with the Cooper Institute on an application to the National Institutes of Health for a research grant to develop an innovative program to prevent or reduce overweight and obesity in the United States and to have the legal department review the material; Christine stated this needs to go out by Friday. Motion carried.

Club 20 Meeting – Homeland Security Conference

Dale Hancock – the Executive Branch was not involved in the last meeting but they are involved in implementing the Homeland Security Conference. Doug Dennison and Dale are both involved in this. After the Club 20 Legislative Meeting in January, Dale visited with Reeve Brown, President of Club 20 and commented that the absence of executive branch in the discussions and in local government world, that's who is causing us the most amount of concern with respect to unfunded mandates or absorbing greater costs in implementing and administering programs of the State Government. Reeve called and said he had set up a panel on Homeland Security involving Joe Morales, Department of Public Safety and the Office of Emergency Preparedness as well as Steve Denny from State OEM and Chuck Vale. Dale was asked to be the moderator of the panel and in doing so he can't ask any questions; therefore, he invited one of the Board members to participate on Saturday, March 20, at the Two Rivers Convention Center in Grand Junction at 10:00 a.m.

New Software for Accounting/HR

Ed informed the Board that next week – presenting selection report on the finalists for the new financial system.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. Consolidated Metro – Battlement Mesa- Update

Don said he had spoken to the Board previously regarding the Consolidated Metro District raising the fees. Quite a few citizens had contacted the Board. In order to accomplish this, they need to come before the Board of Commissioners as it has before. Their Board discussed this and some of the members were going to come to this Board; they have now decided to not make any alteration on the fees unless they go to an election.

Concerned Citizens for Access to Public Lands

Commissioner McCown met with Marvin on an issue brought forth by some "Concerned Citizens for Access to Public Lands"; these are roads from Baxter Pass to Roan Plateau that have been closed by land owners. They presented a rather lengthy packet of information and Commissioner McCown forwarded it to Don for advice on where the Board should go on this issue. There has been historical access; however the person that is head of the mine has cut this one landowner down from access to 10 a.m. to 4 p.m. This is not acceptable to agricultural use and this is a County Road issue.

Don commented that several months ago, CR 256 was brought to his attention. Don did a quick review on the old Highway user reports and found that it only included a very brief stretch. Most road issues, if the Board wants Don to render a research, will require that the County Surveyor be involved. Therefore, is this a request for the legal department to take formal action on this issue? This particular road is unique and it will require RS2477 research with BLM as well. Don stated that at one point on this road there will be rights for the FAA because more than 15 years ago, the FAA in order to protect one of their radar sites condemned a part of the County roadway so they could close it intermittingly. We have to locate that relative to the area that's being discussed in this letter. Don asked direction from the Board.

Commissioner McCown said that RS2477 is going to come on the forefront of this because his road in question, even though it was built by private individuals to access oil shale patterns, those oil shale claims now have become private property.

Don felt that we might possibly find that portions of this are public roads but not county roads. Don asked for a motion from the Board directing the County Attorney's office to conduct the necessary research to render a formal opinion on CR 256 and CR 257 or collateral roads that might be public in the same area. He estimated that the County Survey would be less than $5,000 because they ask for some title work and also some platting work, but not a formal survey; for the County Attorney's office the usual time spent on road research usually takes a full week's work.

Commissioner McCown he thought this was about 30 miles of road that's involved as it is the Roan Creek Road clear to Baxter Pass.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to request that we direct the County Attorney to research CR 256 and CR 257 in an amount not to exceed $10,000.

Commissioner Houpt stated that the Board must begin to look at cost because of RS2477 that we could wind up spending a lot of time.

Commissioner McCown referenced that these funds could all come from the Road and Bridge budget.

Don requested a time period between 30 to 45 days to have this back to the Board. This was included in the in the motion. Motion carried.

Other Road Issues

Don said the Board is involved already on County Road 121 with litigation and the surveyor is involved as well as Road and Bridge.

Commissioner McCown – large parcels of land are involved and removing the public from access is driving this issue. The public is alleging these are public roads and are coming to the Board for help.

Don reminded the Board of a similar road issue on east Mesa out of Carbondale. The position of the Board has been to shift the responsibility to the party who will benefit.

Commissioner Houpt suggested we look at a standard policy and said she is not convinced that it is the County's responsibility unless it is in the County Road system; why are we spending the money.

Commissioner McCown said we did adopt a way to handle these roads; unless these have been abandoned we still have responsibility for these roads.

Don said that whether these various roads are County Road or Public Roads is the issue and most of the time these are never part of the County Road system. However, CR 256 and CR 256 appear on the latest HUTF report that Rob Hykys submitted. These two roads are shown as public roads. Many times

you will see roads on the maps but not on the ground. Don will ask the Board to consider these on a road by road basis.
Chairman Martin said this relates to the old debate about RS2477 roads where they have been historically used and were declared public roadways.

b. Executive Session: Litigation Update; Legal Advice - Section 24-06-402 (b) (e) Oil and Gas Audit, OES Claim and authorization- Shannon and Shaun, Lou and Lynn need to be involved in the various discussions.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

COMMISSIONER REPORT

Commissioner Houpt – the RS2477 CCI Committee met on Friday in Grand Junction and talked about the Resolution and decided since we are in the process of determining what kind of recommendation to give to CSI on RS2477, they couldn't support the entire Resolution, so they made recommendations and determined that a federal law needed to come forth to bring some continuity to the issue but they are still in the process of bringing in information from all perspectives and asking questions on the impact of whatever direction RS42477 goes both locally, state, and national. Attending a Wildland Fire and Healthy Forest Restoration Act Conference and submitted a folder of information. She suggested the Board stay on top of what the requirements will be to comply with some of the planning issues. The Mountain Family Health Center has requested we send a letter of support on a grant application they are submitting for additional funds for medical equipment; she asked for an agreement for the Chair to sign the letter. They are seeking additional funds that would also help Healthy Beginnings. The Board will review and have a motion later. This week, Human Services on Wednesday, on Tuesday State Parks meeting on their new strategic planning process. This will be at the Community Center from 7 – 9. Friday, Pipeline Discussion at CCI and hopefully they will come to a decision on definitions; and also RS2477 meeting where Mark Udall will be presenting his position.
Commissioner McCown – Thursday morning he met with RE2 school; Thursday, Associated Governments meeting; Friday, meeting with the Access group at the Road and Brdige Shop; work session for the Com Board this Wed.; a Fire meeting from 9 – 11 with all the fire chiefs in the County at Glenwood Springs City Hall on Thursday; Demins and Diamonds 4-H fund raiser on Saturday evening, March 13 at the Ramada Inn in Glenwood Springs. The Associated Governments took a position regarding Energy Impact Grants Thursday and it was basically along the text of Senator Teck Bill that would cap the Energy Impact Grants at $32,000,000 and allow funding for the Department of Local Affairs to come out of the Energy Impact fund, however, we also said that the only way we could support that would be that if any excess funds above the $32,000,000 and the approximate $8,000,000 that's coming out of that fund to fund DOLA would go into a carry over fund knowing full well the cycling nature of this fund and those years when it would generate less than $32,000,000 it would be used to backfill that fund so that we would be guaranteed a minimum of $32,000,000; also building into that the escalation of the cost of operating the DOLA Enterprise, the operation/administration of DOLA. The $32,000,000 would also retch it up with the same percentage as it does to administer the DOLA office. They sent a letter to this effect to Senator Teck under those conditions. What it does, we would not go along with them putting a ceiling on unless we were able to put a basement under it and there's no way Commissioner McCown would support letting the administrative costs continue to rise without the ceiling for the grants to continue to rise with it, because conceivably down the road you would be paying all the administrative costs and they're be no funds to administer. Dave Norman gave a report that the seniors took a significant hit, Garfield County lost about $40,000 to our senior programs; Mesa County lost of $100,000. The JBC cut significantly at this point. They're anticipating a rather aggressive protest by the seniors.
Chairman Martin – Criminal Justice Review Committee Screening on Tuesday morning at 9:00 a.m. at the Courthouse. Last week we had two cases: one positive and one denied. We are bumping up against our cap. Guy is also working on another program on how much comes back to us and will give us that cost analysis/profit and loss statement. He also attended CCI meetings.

CONSENT AGENDA

A. Approve Bills
B. Wire Transfers

C. Inter-fund Transfers
D. Changes to Prior Warrant Lists
E. Authorize the Chairman to sign the Final Plat and Resolution for the Pollard Exemption from the Definition of Subdivision. Applicant: Wayne Pollard and Victor Ganzi – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items except **B**, wire transfers; carried.

REGULAR AGENDA
PUBLIC MEETINGS
CONSIDERATION OF COLORADO MOSQUITO CONTROL INC'S PROPOSAL (RFP 06-04) – TIM ARNETT AND STEVE ANTHONY
DISCUSSION OF STATUTORY AUTHORITY FOR MOSQUITO CONTRACT – CAROLYN DAHLGREN AND STEVE ANTHONY

Carolyn Dahlgren, Steve Anthony and Tim Arnett presented a Service Agreement to Colorado Mosquito Control, Inc. to provide mosquito management services for the not to exceed price of $100,000.00. Steve noted for the Board that this was budgeted for 2004. The control services will be for Garfield County, Carbondale, Glenwood Springs, New Castle, Parachute, Rifle and Silt. The overall object is to provide surveillance and monitoring, identifying and targeting culex mosquitoes, larval mosquito control, adult mosquito control, and public education. Only one responsive bid was received. Municipalities will make their own decision as to procedures; unincorporated Garfield County will be decided by the Board. This is an on-going process. Carolyn said the contractor has to work with the pest controller in each municipality. This is a voluntary program and the statutory changes will allow environmental services allow her to do vector control. The public health statutes do allow – these contractors have a lot of good experience in getting private and public property owners to cooperate. Phone call permission to walk on private property will be documented. This contract will indemnify the County for negligent or willful conduct. She requested input from the Board.

Chairman Martin said that failure to do anything would generate potential problems as well.

Steve said we will have to develop a procedure to proceed. The Board needs to decide what levels would generate an active spraying.

Mosquitoes generally travel a mile but the birds can carry the disease a longer distance. The Task Force on West Nile meets tomorrow and Steve will bring up the Commissioners concerns of what would occur if municipalities decided not to act. The contractor has a good notification system in place.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the Colorado Mosquito Control, Inc. for the not to exceed price of $100,000.00; motion carried.

NOISE BARRIER UPDATES – RANDY RUSSELL

This is particularly related to the Homeowner's Association at the Ranch at Roaring Fork as they are pursuing a private Noise Barrier permit.

Randy explained that CDOT, in the Policy Directive asserts that Garfield County would need to be a co-applicant because CDOT will not assume ownership over or maintenance of the resulting structure. Because the noise barrier would constitute a fence or wall, most probably in excess of height restrictions, an application would also fall under county land use reviews.

Discussion:

Randy handed out the Policy from CDOT that states that if a barrier cannot be placed on a private right of way and would need to be built on CDOT right of way, then there is an application process. The Ranch at Roaring Fork-proceed the County regulations.

The question is how much should staff proceed on some of the legal issues and research and any other issues.

Recommendation:

1. The current codification rewire process can address many of these issues. Once adopted, it is anticipated that "amendment processes" will be incorporated, and applicants will have to have a way to come in with a specific retrofit item, such as noise barriers, or other individual or logically grouped specific items without the expense and burden of opening up entire previous agreements for review.
2. Definitional issues regarding Noise Barriers, as they apply now currently to 'fences or walls' or if left as a stand alone item, can be worked into the overall text amendment proceeds now underway.

3. There does not appear to be a compelling Public Health, Safety or Welfare need for noise barrier regulations prior to the complete of the code rewrite process, and that a hiatus on such application s may benefit both potential applicants and Garfield County; therefore

Staff suggests:

The Garfield County Board of County Commissioners directs staff to track and further define noise barrier issues as they are promulgated and defined by CDOT, enter into such insurance and liability analysis as will be necessary, and incorporate such definitions and procedures into the upcoming Revised Development Code. And further,

The Garfield County Board of County Commissioners desire not to entertain private applications for Type H retrofitting noise barrier projects as defined by CDOT until both the issuance of a Procedures Directive by CDOT pertaining to noise barriers, and a revised Development Code, that incorporates such definitions and procedures, is adopted and put into place by the BOCC.

Commissioner Houpt suggested waiting on the general policy until CDOT takes a position. She doesn't want to get involved with this project by project because of the liability with sound barriers is too great.

Chairman Martin noted that CDOT is going to determine that the local entities if it is privately funded, you have to redo it because they have no procedures and it must be a case by case if it's privately funded.

Randy said he would want to have a good hard conservation when a semi plows into one of those sound barrier walls. CDOT came out with this one on 12-18-03 it has yet to come out with its procedural directive so we're waiting on CDOT to finalize their process.

Commissioner Houpt wants to wait until CDOT has everything in place and we have a position on our regulations and legal staff has a comfort level with our exposure on liability.

Randy – also defining what is a noise wall or a noise fence.

Mark wants to know where the Board wants his department to go. Do we proceed with developing something at this point or do we want until the state comes out with their final directive?

Commissioner Houpt wants to wait on the state.

Chairman Martin said it's not federal money and they won't mess with it. The local jurisdiction can deal with it and this is the policy they become the applicant to the state and then they have to meet these regulations.

Commissioner Houpt noted that we have nothing in writing that talks about their procedural directive and thinks we need to have that in place prior to moving forward on County procedures.

Commissioner McCown – at the end of the day it is the County's responsibility.

Mark – liability, regulatory requirements – the staff will proceed to do some research.

No other action was taken.

TRANSPORTATION POLICY MEMO – RANDY RUSSELL

Randy submitted a memo regarding policy, staffing, referrals, and communications in draft form only. There wasn't a clear understanding as to who does what and sees this as an opportunity to clarify this policy. Randy offered to be the handler of this information.

Commissioner Houpt said she is involved on both regional and state level and anytime an issue comes to the County, she feels that all information should be submitted to the Board. She personally wants to see this information because a lot falls to policy issues. She sees some real problems of putting out roles when the entire Commission is involved. She wants to be in the loop and supports that the entire Board is copied.

Chairman Martin referenced Article 4 where it states that at least two commissioners and that's why we're exchanging information. You have to read the entire document.

Commissioner Houpt said she read the entire article and that means a call can be made in-between meetings.

Chairman Martin – that would be an illegal meeting.

Commissioner Houpt referenced the wording "whenever possible" and does the law allow us to make decisions whenever possible together or are we supposed to make them together all the time?

Chairman Martin reiterated that we can only make a decision in a public hearing and if it's noticed and the subject matter is on the agenda. It allows that we can take information through a committee, make a recommendation, and bring it to the Board for a final decision. This is exactly what's happening here and Commissioner McCown brought this before us on another issue as well as Don has brought forth on other issues on roads and transportation. This is not about trying to leave you or Larry out of anything or himself. This is just to help the staff out saying, we'll put this together, make a recommendation, bring it to the Board, and we'll exchange information, that way we can make independent decisions but make it in a public session so that we have a vote of the Commission and a direct decision to the staff to follow.

Commissioner Houpt read “policy issues shall be immediately referred to the Chair for appropriate response” – what does that mean.
Chairman Martin – if the vote it to sign or not sign, that’s the appropriate response.
Commissioner Houpt expressed that she felt this opens up too much to function not as a Board and would like the language tightened up and wants to make sure everybody’s on that information loop.
Mark Bean – interjected that it sounds like what you’re asking and there’s no intention not to do this, we were trying to identify the lead person to deal with a specific issue; Larry with Access; John with I-70, you with CCI RS2477, a lead person on those issues but certainly to have all the information disseminated to the entire Commission as far as decisions.
Commissioner McCown – if it would put anyone’s mind at easy, he can assure you that the Access Committee is simply no more than that; it has absolutely no authority to do anything for anybody at anytime unless the appropriate governmental entity takes action that would grant something to happen. If it’s a County road issues it comes back to this Board like it did this morning the Board, the County Attorney looks at it and then this Board addresses it. If it’s a Forest Service issue, it goes back to the Forest Service and they make a decision, BLM the same way. This Access Committee is a sounding committee only. Anyone is welcome to come to this meeting and he will notify all of the Board of the dates.
Randy said there is a tough balance with the three Commissioners and by virtue of what hits your desk, you will dive up some of this and attending meetings. It is of no concern to me how you then bring that back and share it with each other. And if the language seems to preclude that, that’s something he will be more than happy to clean up. There was some recognition here that you will be taking some of these on individually because you have to dive it up and recognition that staff needs direction, okay if you get a whiff of these or someone makes a phone call, who do we start with and also between staff in terms of expectations and being kept up to date. And I’ll be engineering the road and bridge people, the planning people can always do a better job keeping each other informed and getting each other into our loops because that hasn’t always been the case. So there was some direction here that someone suggested that we will copy each other on the technical advisory committees.
Chairman Martin - Randy would be the focal point that anyone could go to in reference to the Commissioners or the engineers, etc. that you would have a library of samples that we have been covering and this was the other idea. You would be the focal point for storage. He wants to know if some of the things come up, who should way start with. That way we could make sure that we had one single person that could take care of everything, comes from multiple and that we have set up those files that we may have access to it at any time. That was the whole idea that way we have a simple location.
Randy – I respect that concern, not sure if it’s in this document or somewhere else that triggers the need to mandate the sharing of that information in a timely manner.
Commissioner Houpt – what’s a timely manner? Obviously that paragraph triggered for me a more extension issue in this County and that’s the lack of information sharing that we have. But this just creates a whole new stretcher to allow that to happen and personally as a County Commissioner feel a great obligation to keep up with all of these issues that are being presented to the Commission. She asked Don at what level we need to as Commissioners make sure that when we are involved in these discussions and these committees that we represent – there is a line in here that says if you are on a committee that you send information to the County Commissioner before you go and represent their position. That doesn’t always make it onto the agenda in these meetings, so what are our legal responsibilities as County Commissioners to make sure that we’re not making decisions outside of our realm of legal responsibility.
Don said all of you, not only in this area, but several others serve on committees, groups that are related to the County operations. And when you are asked to state a position on behalf of the County and if you haven’t received direction from this Board you need to get that. Now thinking about the various committees and this is just one that came to mind. For instance, Larry serves on the Communication’s Board and in that capacity he has to participate in functional decisions to make it work – budgetary, staffing decisions, etc. He may also be called upon to make decisions for that Board that affect County policy, i.e. what is the County’s policy about a certain level of communication, who should participate. Larry will have to make some judgments in that capacity about when to come back to the Board and say they’re asking for county policy and need direction; and other times when he simply has to move forward to get business done. As staff we have to rely on the three of you to make those decisions and to come back. On the I-70 corridor for instance that John is on is somewhat similar; recently we’ve had contracting issues. At the end of the day, the County will be asked to a signatory to that agreement. That’s a policy decision. But during the ordinary course of affairs, they may call John and say we have to meet on an issue, can you participate, are you

concerned in this issue or not, that's the type of thing he has to make some judgments and why this Board has designed him as your representative. It's not a direct answer, because there isn't a direct answer in every issue on these. Is it scope, policy always comes back unless authority has been given. For instance, on the Rural Resort, in the past has been an informal arrangement where there's a County representative appointed, it's a similar situation also and there are frequent issues that have to come to this board. But to get to that point, there will be several decisions that will have to be made that Don didn't think this Board anticipates coming to them every step of the way. If you think as individual members that you're not getting the information you need that things are just coming to you already determined for instance, among the three of you need to get that on the table and say I don't understand the basis for this – lay it out. But policies made for the Board has to be made publicly.
Commissioner McCown – referring back to the Com Board and even Associated Governments, both of those would probably render my participation ineffective if any decision was made during the course of either of those meetings had to come back to this board for a unanimous decision, or a majority decision before he could vote on those issues. There are numerous things that we vote on in the course of those meetings, some involving personnel, and you have to vote on those issues if you abstain it could end up in a tie vote and then you come back and present a personnel issue to this Board you has nothing to do with it.
Commissioner Houpt agreed. But on policy issues that you would take, would you bring those to this Board.
Commissioner McCown – and I did this morning. Prime example was the locked gate issue and told Don to look for it and bring it back to us with a recommendation so we as a Board can act on it.
Commissioner Houpt commented that on Associated Governments she sees positions that she hasn't learned about until she sees a report.
Commissioner McCown said he could say the same thing about Rural Resort.
Commissioner Houpt agreed and thinks that's why the three of us…..
Commissioner McCown said he hasn't seen a lot of information on the RS2477 that you've been on but I trust that you're there handling that for the best interest of Garfield County and would ask for the same respect.
Commissioner Houpt said he has it and she is not saying that she has to go to all these committee meetings, but we're talking about some information that would impact that discussion she is having at the State level and RS2477 roads and we're talking about the CDOT I-70 corridor analysis that we talked about at the regional level too. It caught me off guard that I got this policy recommendation and discovered that some of us were going to be in that loop and other's weren't and as a Commission member she wants to be in that loop.
Chairman Martin came to the defense of staff; he was the one that suggested even putting this together and making sure there was a two commissioner rule plus he's addressed this in public meetings twice before we got the policy in that we're meeting, that we're coming up with it. Randy's going to present the policy, etc. that we're not trying to eliminate anything, that we're trying to increase the information flow as well as the decision making – this just has a focus that we're trying to work on transportation levels; we have a task force in place with staff; Randy's the point person, I'll be there, we'll bring every decision making to this Board for final decision. I've reported on that twice.
Commissioner Houpt said you've reported that you're having the committee meetings and that's fine and not beating up on Randy, just saying that it's important that we keep everyone in the loop and doesn't think that negates what you've put together.
Randy said he doesn't feel beat upon at all, that just an attention getter, I think this tried to stress better practice but it certainly wasn't going to go as far as to mandate it, you can understand why.
Don commented on the very last sentence in the document and we're all are aware that we make our decision in compliance to the open meetings act and appropriately the rule of two should apply, but the rule of two is action by the Board of County Commissioners. And in one lawful method or the other that decision needs to happen in the properly legally organized County Commissioner meeting. Sometimes that may be a special meeting and maybe only two of you will be available but it needs to be a properly called special meeting, not some type of informal arrangement.
Mark – we did clarify that language with the meetings that the Board would be called upon.
Don – it needs to happen in a meeting, because he was a little concerned about the last sentence, "pending a briefing decision but the full BOCC" – it always needs to be a decision by the BOCC be it we only have to members present.

Randy said that would apply to the representation to County interest, not necessarily to be assignment of the staff time to vote.
Don said he would not agree on that.
Randy said so what we need is to have two sentences preserving both thrusts for making it very clear that's if it's the representation of County interest for a position for a policy that that cannot proceed without the Board's.
Don reiterated that he does disagree with Randy on that. When the board is committing staff resources, it needs to be a properly made decision of the majority of the Board. They are committing county funds and county staff. And this needs to be done in a proper format.
Chairman Martin – which we did, which we set this particular one up and allowed the time and run it through the administration, the department heads etc and say this is a committee we need to work on these issues, we put a regular schedule together as a County function and their job descriptions in solving issues, and for planning for the future – I think we met that requirement but we need to do it for everyone is what you're saying. Make a Board decision that we commit to that.
Don – with that said, certainly in terms of the administration of the County, Don is not talking about thinks that are part of everyone's day to day job that we've already budgeted for and all ready part of their job description. It's the type of thing that I brought to you today that requires a special effort for instance on individualized road cases where we might have to retain somebody outside the County, or a special project that doesn't anticipate it in the planning for this year. We say part of that relative to the Assessor's office that was a project we didn't anticipate at the start of the year – that's the type of thing he's talking about. If this is already contemplated and included in the job description then obviously that doesn't need to come back to the Board
Randy that was an issue that we saw wasn't budgeted for and brought it back to the Board to say, what is you direction on this. But if one of you were to hear about some public statement or press release and you need to find it and get on it, find out what was really said or something, that's an internal staff responsibility. He tried to think of a good example.
Don said he would be interested in the position of the Commissioners on this, Don's perception has been is that the staff has been good about protecting their time and their resources, this is a regular discussion between the planning staff and the legal staff about are we staying what we anticipated for the year, or we off on projects we hadn't anticipates; we try to get those things back to the board.
Chairman Martin said this was an attempt by the Board, at least he was under the impression this was going to assist you but putting some structure to that to save the time both of legal and planning and engineering and road and bridge, etc. by putting it in this format so we could see a schedule, this is what's going to happen, this is the check marks we're going to follow etc trying to again answer that question to save their time and energy and also look at their budgets.
Commissioner Houpt said she was confused because of your example Randy that I see as in the scope of it, something that you're working on, but would you have a concern about taking out the portion of the sentence that allows two Board members outside the realm of a public meeting to determine what you could do?
Randy and Mark agreed that we've conservation but specific legal direction. Anything out of typical context that you guys are going to have to call a meeting if you want to go charging of in a certain direction.
Chairman Martin – this gives you guys protection because I know I have a lot of crazy ideas and some are voted down at this Board, but some of them are also approved by the Board and you need to have confirmation of the majority of the Board or the entire Board to go forward.
Randy – None of us own this language. We're just trying to get to a point where we're all comfortable with a clarification of these relationships and we're not here fighting for any of these.
Mark – the intent here was to clarify the relationship, so that's what we're trying to do. I think been staff and Ed's part and the engineering and even the Board's part as to who is doing what so we're attempting to clarify what the roles are.
Commissioner Houpt said let me tell you what I'd be more comfortable with just so you have my opinion, is stating that Larry is on the Access Committee; John is working at the County level in the CDOT I-70 Corridor analysis but all that all County Commissioners are in the information loop on Transportation Issues. Is that a problem or is that okay.
Chairman Martin – that's understood.

Randy – if you'd like us – these things will change every time, but if you'd like us to include Rural Resort related issues…
Commissioner Houpt said no, she didn't need to be in this document but I need to be in the information loop.
Mark – what you're saying and I think the wording you objected to was there was some concern that somebody on an individual committee may get some information first before it's disseminated to the other two Commissioners; you'd like to make that that information is disseminated at the same time to everybody.
Randy said I think I have to scratch the words "wherever possible" – it will be done.
Commissioner McCown – it's going to be impossible to comply with if you're handed information at one of the Committee meetings – it's got to come back and be disseminated.
Commissioner Houpt – no, this isn't dealing with that, this is dealing with staff giving information to County Commissioners – this isn't information that is handed out at your committee meeting, this is only the relationship between County staff and County Commissioners.
Chairman Martin – I don't know, I handed out about 90% of the stuff at the Transportation Committee. Randy's had a little bit; we've all little bits of action items to bring back but never anything major.
Commissioner Houpt – well this is a major paragraph and all I can get from this is what it says.
Mark – that's an easy change.
Randy – it's a change of thrust to some degree but that's fine. I think I'm intuiting that I need to go back and refine this direction from this Board.
Mark – I think we need to reword it and bring it back to the Board.
Randy – and we'll run it through legal.

Transportation Consulting Contractors – update
Randy was engaged with the origination study which was RRC and Healthy Mountain Communities. We have an excellent technical advisory group on that project. The Consultants have been very good at giving us examples of a revised survey that will be sent out. One well attended TAC meeting; we've had a conference call via phone situation where people can call in and discuss any lingering comments or concerns they had; we got a copy of the final Employee survey late last week and are supposed to get the Employers survey for a final look at today and those should hit the streets. We should be seeing early codified results from that process as early as April and we did beef that up to some degree on housing questions. How much you commute depends on where you live and we wanted to know a little more about whether people chose where they live based upon the household jobs and how much they are searching for a housing to change location where they want to live. That should be real valuable information for our negotiation with HUD on acceptable rental levels that we always fight over in resort and boom town environments. This survey will do double or triple duty this time. This survey will do multiple issues and responses.
Chairman Martin offered to run off a copy from his email for anyone who wants it. Mark informed the Board there is a meeting coming up but not sure of the status of the transportation plan that Randy and Jeff are writing, this was rescheduled for the 18th.

PUBLIC HEARINGS:

ABATEMENTS – SHANNON HURST

CRYSTAL RIVER LIMITED PARTNERSHIP ABATEMENT

Shannon Hurst and Shaun McCourt were sworn in.
Shannon stated that this concerns a property with a modular on it that was moved. She recommended that the Abate of $2,080.99 be approved and stated this will need to be approved by the State.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatement to Crystal River Limited Partnership in the amount of $2080.99; motion carried.

SST ENERGY ABATEMENT

Sean McCourt explained that this was a clerical error and recommended the abatement of $3,630.92 be approved.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatement of 3,630.92 to SST Energy; motion carried.

CALPINE NATURAL GAS COMPANY ABATEMENT

Sean McCourt explained that in the old Computer system, these wells were listed as 001, 002 and we had twenty wells without the "00" in them and some 20 were double valued. The abatement is for $249,989.65.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to abate $249,989.65 to Calpine Natural Gas Company; motion carried.

SUSAN M. HALEVY ABATEMENT

Shannon Hurst explained this was assessed as vacant land and should be agricultural. The abatement is for $4,691.42.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the abatement for Susan M. Halvey in the amount of $4,691.42; motion carried.

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

Noise Barriers

Don asked if the Board took action or made direction on the noise barriers.

Chairman Martin – yes we did give direction to go ahead to do the research and bring it back to us in reference to what it would take for us to hear it – i.e. policies, etc.

Don said Randy has actually made a formal recommendation to the Board about the policy.

Commissioner McCown said the Board chose not to do that and sent him back to do further research and development on what it would take if a policy directive was initiated by CDOT and then at that time we would take action.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Roan Plateau

A group of citizens regarding the Roan Plateau were present.

Mark Rinehart expressed thoughts about the Roan Plateau and the gas extraction industry. Preserve the land for all future generations and the Board of County Commissioners must speak on behalf of this area. It is one of the most pristine areas in the United States. Until the President changed this it was being considered as a wilderness study area by BLM. He believes in this wilderness study and that it should to be continued. This board needs to provide direction and oppose any drilling on the top especially the wilderness study area. The gas extraction business has not demonstrated best practices and holds no regards to how they do business. The barbarians are truly at our gates and plan to propose 10,000 gas wells in our county. This will have a staggering effect on Garfield County. To get at the gas, they propose to approach it on the side of the plateau. Consider what we are facing. Wildlife, pure water, air pollution, distributed earth; the Roan Plateau must be held in trust so our grandchildren can know what the earth was like before we got here.

Chairman Martin – it is owned by the Department of Energy and the lease is already in place. We are sorting out the issues. Some of the things Mark requested are already gone.

David Pritchett – understand there are a lot of areas already spoken for and the ones that are not are what they are speaking of. Feels there is a meeting point that the Board can take. They just want a fair consideration of these issues. This is a very well-known area all through the Country.

CONSIDER A REQUEST FOR FINAL PLAT AND VESTING OF PROPERTY RIGHTS FOR THE RANCH AT COULTER CREEK PLANNED UNIT DEVELOPMENT. APPLICANT: SLC LAWRENCE, LLC. – FRED JARMAN

Fred Jarman, Mark Bean Don DeFord, Larry Green, Tim Malloy and Joe Enzer were present.

Don reviewed the notification required for vesting property rights. He informed the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Fred stated that the Commissioners approved the Ranch at Coulter Creek PUD and Preliminary Plan on January 12, 2004 with location on CR 115. At present, the applicant requests the Board 1) sign the Blue Creek Ranch Final Plat and 2) grant vested property rights to the Ranch at Coulter Creek PUD pursuant to Section 14:00 of the Subdivision Regulations.

However, Fred said that, due to the volume of information being reviewed and the fact that the County Attorney is short-staffed, the County has not finished the review of the final plat materials and the applicant will still need to adjust their documents as a result of the changes in the review. The applicant agrees with the request to continue the Public Hearing until March 15, 2004 at 1:15 p.m.

Larry Green said they actually support this request.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue the Public Hearing until March 15, 2004 at 1:15 p.m. Motion carried.

CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR A PROPERTY OWNED BY NAN KELLY IN THE MISSOURI HEIGHTS AREA – FRED JARMAN

Fred Jarman, Nan Kelly, David Kelly, Ron Liston and Don DeFord were present.
County Attorney Don DeFord reviewed the notification requirements and notice to property owners and determined they were in order, adequate and the Board is entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Memorandum; Exhibit H – Memo from the County Vegetation Management Director dated 3/2/04; Exhibit I – Letter from Austin Marquis received 2/23/04 and Exhibit – a Memo dated 3/4/04 from the Road and Bridge.
Chairman Martin entered Exhibits A – J into the record.
Fred reviewed the staff report saying this is a request for an exemption from the definition of subdivision for a parcel of 40.3 acres with access off CR 112 (Crystal Springs Mountain Road) located in the A/R/RD zoning.
The applicants propose to divide their property into a total of 2 lots where Lot 1 has 29.4 acres and Lot 2 has 10.9 acres. This property was originally a part of the Callicotte Ranch. This is the first of a total of four parcels that could be created from the parent property – Callicotte Ranch. If the Board approves this split, it would leave one more available before all four lots will be extinguished.
Recommendation:
Staff recommends the Board of County Commissioners approve the application for a subdivision exemption with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant shall have 120 days to present a plat to the Commissioners for signature from the date of conditional approval of the exemption.
3. That the following plat notes shall appear on the Final Plat:
    a) Only one last division by exemption from the rules of Subdivision will be allowed.
    b) No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.
    c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.
    d) Foundations and Individual Sewage Disposal Systems shall be engineered by a Professional Registered Engineer within the State of Colorado.
    e) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.
    f) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.
    g) One (1) dog will be allowed for each residential unit within a subdivision and the dog shall be required to be confined within the owner's property boundaries.
    h) All new residences constructed on Lots 1 and 2 of the Kelly Exemption shall install automatic fire sprinklers regardless of their size.

4. Because the well will be shared between Lots 1 and 2 of the Kelly Exemption, the Applicant shall be required to establish a maintenance and access easement to all components of the shared water system from the well head for the benefit of Lots 1 and 2 which shall include all components of the shared water system. This easement shall be legally described and depicted on the final plat as well as in the protective covenants and in the well sharing agreement.
5. The Applicant shall provide a legal opinion as to the nature of the easement that presently serves the Kelly property from CR 112 in order to determine whether it can legally provide access to Lot 2 as well as Lot 1 of the Kelly Exemption.
6. The property is located in RE-1 School District which generally requires a school / land dedication fee of $200 per lot. The Carbondale and Rural Fire Protection District requires a fire protection impact fee of $417 per new lot. These fees shall be paid prior to recordation of the final plat.
7. Prior to the signing of a plat, the Applicant shall provide proof to the Building and Planning Department that following has been completed regarding the well on the property that is to serve both Lots:
    a. A written opinion of the person who conducted the well pump test that this well should be adequate to supply water to the number of proposed lots;
    b. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
    c. If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;
    d. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.
8. The Applicant shall map and inventory the property for Garfield County Noxious Weeds. The Applicant shall be required to provide a map or sketch that has the locations of weed infestations. The Applicant shall provide a weed management plan for the inventoried noxious weeds. These documents shall be approved by the County Vegetation Management Director and presented to the County Building and Planning Department prior to final plat.

Ron Liston did not have any comments too add; he felt the staff covered the proposal very well.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Exemption from the Definition of Subdivision for Nan Kelly with the recommendations 1-8 by staff; motion carried.

CONSIDER A FLOODPLAIN SPECIAL USE PERMIT FOR A PROPERTY AT 324 FLYING FISH ROAD. APPLICANT: HOFFMASTER FAMILY LIMITED PARTNERSHIP – FRED JARMAN

Fred Jarman, Don DeFord, Tom Russell and Paul Rutledge were present.
County Attorney Don DeFord reviewed the notification requirements and notice to property owners and determined they were in order, adequate and the Board is entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E –Staff report dated March 8, 2004; Exhibit F – Application; Exhibit G – Comments from Resource Engineering dated February 26, 2004; Exhibit H – Email from Steve Anthony, the County Vegetation Management Director dated 2/25/04 and Exhibit I – Photos.
Chairman Martin entered Exhibit A – I into the record.
Fred stated that the applicant requests a Special Use Permit for Bank Stabilization on the Roaring Fork River that runs along the southern boundary of his property which is 5 acres in size.
The applicant seeks approval to install a boulder rip rap wall to prevent further erosion on his property and protect the primary dwelling unit located on the subject property.
The project involves the construction of approximately 150 feet of boulder wall along the eroded bank. The wall will be places so as to not decrease the existing conveyance area below the top of the bank. The bank will be cutback to provide for placement of rip rap at a 1:1 slope. Sediment control and flow management

practices will be used during construction. The new embankment will be revegetated with willow cuttings and appropriate seed mixtures for all disturbed area.

Recommendation:

Staff recommends the Board of County Commissioners approve the application for the Russell Floodplain Special Use Permit for development within the 100 year floodplain, subject to the following conditions:

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless specifically altered by the Board.
2. The Applicant shall comply with the two specific conditions of the Army Corps of Engineers as stated in their letter dated March 20, 2003 and listed here:
    a. You shall maximize the use of appropriate and effective methods to prevent excessive sedimentation and avoid, to the extent practicable, impacting important or identified spawning habitat. Please consult with the appropriate local Colorado Division of Wildlife Manager for any project consideration.
    b. You must send a signed letter of certification to the Corps of Engineers within 30 days after completion of the work (see general condition no. 14).

Paul Rutledge, engineering hydrologist stated the photos express the project. This is similar to other projects they have undertaken along the Roaring Fork River.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Russell SUP with the 2 conditions of staff as shown; motion carried.

PUBLIC MEETINGS:

CONSIDER CODE ENFORCEMENT ACTION ON PROPERTY OWNED BY TOM MEENEY AT 46007 HIGHWAY 6 & 24 – STEVE HACKETT

No one was present representing the Meeney's.

Steve Hackett submitted the alleged code violation of Mr. Tom Meeney and Jr. James Meeney located in the Canyon Creek area. The violations alleged consist of 1) illegal occupancy of a modular home that has not passed a final inspection; 2) failure to remove a temporary mobile home after permit expired; and maintenance of a salvage yard in a residential limited zone district. Steve noted that this property has been a code violation since before he took his job with the County in 1997. This particular case dates from February of 2001. Over the years that Steve has dealt with this, he said we've had involvement with the Department Social Services Department, Colorado Department of Agriculture, Animal Industry Division and Garfield Public Health official over various issues on this property. The package given to the Board outlines the violation; in the second letter indicating a list of items that needed to be completed in order to obtain a final inspection and Certificate of Occupancy on the modular; and further he submitted a series of photos which illustrate the current status of the property.

Steve anticipates receiving direction from the Board to refer this to the County Attorney for legal action to obtain complete and continuous compliance.

At one time there was a court case but then the property transferred this from one family member to another.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown that we refer the alleged violation, investigation and information on the Tom Meeney property to the Garfield County Attorney for legal action to obtain complete and continuous compliance on this property; motion carried.

Chairman Martin said he knows the family situation. This will not be easy.

CONSIDERATION OF AN AMENDED PLAT OF ANTLERS ORCHARD SUBDIVISION LOTS 7 – 10 & 23 – 26. APPLICANT: GREG WATKINS – JIM HARDCASTLE

Jim Hardcastle, Greg Watkins, and Don DeFord were present.

The applicant is requesting to move the interior lot line separating Tracts H & I, 200 feet to the west, so the lots dimensions will conform to the natural ditch feature of the property. The lots would change in size as follows: Tract H from 6.843 acres to 4.861 acres; Tract I from 7.194 acres to 9.176 acres. The applicant is the owner of both tracts totaling 14.037 acres. The location of the property is at the north extension of CR 259 north of I-70 between Rifle and Silt. There is a 60 foot roadway easement existing on the north boundary of the properties allowing future land owners of either lot access to CR 259. Tract H also has a 200 foot x 50 foot school bus loading easement on the west property line. An existing canal road, 80 foot

ingress/egress easement and transmission power line easement with two steel towers on site traverse the property east to west on the south property line. There are no structures on either tract at this time.
The lots were formed initially in 1908 as part of the Angler's Orchard Development Subdivision, from lots 25 and 26. The current configuration was allowed to be re-platted as Rolling Meadows Exemption in 1981 thus creating Tracts H and I.
Staff Recommendation:
The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval; and
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County Surveyor and shall include at a minimum the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.
3. The title of the final plat, before the mylar copy will be signed shall read: "Amendment of the Re-Subdivision of lots 25 & 26 of Antlers Orchard Development Subdivision (previously known as Tracts H & I, Rolling Meadows Subdivision Exemption)."
4. A note shall be placed on the plat: "Rolling Meadows Subdivision Exemption, approved November 10, 1981, Resolution # 81-342, filed in the Garfield County Clerk's Office and recorded as Reception #321473, the map is filed as Reception #322657."

Greg Watkins did not have any input. This will be just east of the ditch easement and Commissioner McCown suggested the ditch easement should be shown on the final plat.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat request with the 4 conditions with the ditch easement to be shown on the final plat. Motion carried.

RECONSIDERATION OF A REFERRAL OF A SPECIAL USE PERMIT REQUEST FOR A TEMPORARY ASPHALT PLANT AT THE UNA GRAVEL PIT. APPLICANTS: RODNEY POWERS, BILL PATTERSON AND RONALD TIPPING – JIM HARDCASTLE.

Jim Hardcastle, Ed Settle, Rodney Powers, Bill Patterson, John Arie and Don DeFord were present.
Jim submitted a memo to the Board from A & S Construction Company requesting a reconsideration of a referral to the Planning Commission of a Special Use Permit request for a temporary asphalt plant at the UNA Gravel Pit.
At the last meeting of the Commissioners, a decision was made to forward this application to the Planning commission. The applicants note that they were not aware of the agenda item on the March 1, 2004 Commissioner's Meeting and would like to discuss this application for the permit.
Rod Powers, Bill Patterson and John Arie, with A & S Construction were present. Rod stated the reasons he was requesting this be heard by the Board of County Commissioners. He gave the history of the gravel pit. In 1992 he checked the status of the permit but did not ask about the asphalt plant because one was there. He discovered a very short time ago that the asphalt plant was not part of the SUP. This is a low density area – one house about ½ mile away and have a permit to access the Interstate going across 6 & 24, it looks like CDOT will approve this. They are under the gun.
John explained they do not have the actual permit from CDOT. They understand they are to go to two public hearing. Time wise it would take 160 days to get the project done and this is a large project. CDOT has restricted the hours of work and it is a time consuming project. They will actually recycle a portion of that project. They will heat up the old road, kindle fire and relay and then overlay. The time starts April 1st. It will take the majority of the summer to complete the project.
Ed Settle, who works for Grand Junction Pipe, said the permit for the pit was issued to CW Builders in 1974 for gravel extraction and in 1980 CDOT got the original D & G Permit and that was subsequently transferred to a bank, then Grand Junction Pipe obtained it in 1991. In 1981 the original interstate from the County line to Parachute was constructed out of this permit and they had an asphalt plant to operate it most of the summer. He checked with Garfield County in about 1992 and asked the status of the permit and they said it went with the property and went forever. He didn't ask about the asphalt plant but just assumed

because one was there that it went with the gravel permit. We found out about a week before the job bid on February 12, that there never was a SUP for an asphalt plant. We scrambled and had a consultant put this together and we apparently should have been here at the meeting last week to perhaps convince the Commissioners that one meeting would be sufficient to review this process. It's a low density area with only house to the south of the pit about ¼ to ½ miles from where the pit will sit. At the present time we have a request into CDOT to access the interstate directly from the pit to go across the existing 6 & 24 north to the interstate which would keep all the traffic off of 6 & 24 going through Parachute. It looks like they are going to grant it, but we haven't received it yet. We're under the gun and would like to be able to accomplish this in one hearing.

John Arie said we don't have a guaranteed access to I-70 and may have to stay with the original plan, but at the present time it looks very favorable. The timeline is totally determined by CDOT and basically CDOT doesn't have a lot of procedures set up to analysis local government procedures and they basically bid the highway job and tell us to deal with it. Somewhere in our system we made an error in not coming to your meeting March 1 because we didn't think we were supposed to be here. This cost us, in talking with your staff, because now we're set up to go to two meeting. We're trying to save a couple of weeks in that if we can explain what we're planning to do and go to just one hearing. Time wise we have 160+ work days to complete the project. It's a very large project; the majority of the west bound lane is restricted to us to work on during the day. We start late and quit early. The process that CDOT has chosen is a very time consuming process; it's not just the everyday overlay, they are going to recycle a portion of that highway. The recycling process is very slow. They are actually going to heat up the old road, scarify it, mix some chemicals with it and lay it back down. After that process is accomplished, and then we will come in and overlay it. The time starts April 1st and they give us the majority of the summer, but it will take that long to complete the project.

Ron Tipping, one of the owners and also Grand Junction Pipe and apologized for not being better organized. They thought they had a permit for the plant. We are trying to cover a contractor now that has a rapid time schedule on this project. One of the adjacent property owners uses our property to hunt asparagus and grazes on a portion of it as well. The next closest people are quite a way from the pit; therefore he didn't think there would be a problem distributing anyone. They also will be providing some material for a lot of oil and gas traffic. To limit this to one more meeting would greatly help us in getting the project started. Staff has been very helpful in this process; staff did not mislead them in any way.

Jim said this would go to the Planning Commission on April 14th to the BOCC on May 3rd due to the noticing requirements.

Commissioner Houpt – the original decision was based on your the long-term request for having the asphalt plant.

Ron Tipping – if it helps to make it just a temporary permit, they will make it just for the one job and then go back through the Planning Commission for the long term.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to allow this SUP for the asphalt plant for the reconstruction of I-70 from the County Line to West Rifle to come directly to the Board of County Commissioners rather than going to the Planning Commission. Don clarified that the Board is willing to amend their application and the time limit for the asphalt plant for just the job. That will have to be done in a time frame so that staff can review the change to the application. Commissioner McCown asked if the Commissioners during the time of the hearing limit the duration of the asphalt plant. Don said in terms of legal enforcement, it's better if the applicant is requesting that and part of their application because there would be requirements potentially of removal of the equipment or potentially on reclamation and those things need to be addressed as part of the application.

Mark said the soonest the Board could hear this would be April 12th. He added that this is a relatively quick letter stating that they are requesting this to be a temporary permit for this project only and that all the other application materials would still be relevant other than it's just a one time permit for a time specified period. The notification must be to the newspaper by Wednesday and noticing to the public by Friday and it must contain exactly what you're asking so if there is concern they can come in and address that. Commissioner Houpt agreed this was still within the framework of her motion; Commissioner McCown agreed. Motion carried.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest:

_____

Chairman of the Board

_____

MARCH 15, 2004
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 15, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

COUNTY MANAGER UPDATE – ED GREEN
a. Applying Liquid Dust Suppressant to County Roads – Marvin Stephens
Marvin Stephens and Tim Arnett presented the recommended Board action on the two bids. They recommended the award to Envirotech Services, Inc. for applying liquid dust suppressant to various County roads at a not to exceed cost of $185,889.60.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Envirotech Services, Inc. at a not to exceed cost of $185,889.60; motion carried.
b. Applying Asphalt to County Road 233 and CR 104 – Marvin Stephens
Marvin Stephens and Tim Arnett presented. This is for applying 2.25 miles of Hot Bituminous asphalt to CR 233 and 0.5 miles to CR 104. Four companies bid and the recommended Board action which is to award the bid to Frontier Paving, Inc. for applying asphalt to both County Road 104 and County Road 233 for a total price of $219,687.60.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to award the bid to Frontier Paving, Inc. for Labor and Materials on CR 104 and CR 233 for a total price of $219,687.60 and additional work approved by the director of Road and Bridge; motion carried.
c. Financial/HR Software System Recommendation – Jesse Smith and TecHead Committee
Jesse presented the contract for the financial and human services software system.
Ed said as part of the 2003 – 2004 goals and objectives, we planned to update our antiquated system. HeadTec was present to present the proposal.
Jesse shared the results of the process and presented a recommendation which was to award the bid.
The need for a new system – Strategic Goal – we need a system that works for us and automate all of the systems including Human Resources. The committee looked at the KVS system and why it needed to be replaced. Once those inadequacies were identified, the committee determined that the KVS system is totally unfriendly, cumbersome, inefficient and very unyielding. Brian Sholten was involved in the process of determining the system desired to replace the KVS system and discussed the process.
Patsy Hernandez, Judy Osman, Brian Sholten, Mike Vanderpol, Richard Alary, Michelle McMullen, Janice George, and Diane Watkins were the core team; and representatives from key departments to speak to the needs of their departments. The second step was they formed a focus group which was a larger, broader group that had representatives from every department, all the elected officials, departments were represented and this was basically a requirements gathering session. They did a formal requirements analysis of what all the users required of the accounting and human resources system. That data gathering then became the input to the RFP that was issued. The RFP was developed and sent to 16 vendors and 8 vendors responded. The TecHead Committee determined an evaluation structure to determine the best system. The team narrowed it to three vendors and those vendors presented to the committee. From the evaluation, they had specified that the New World Systems scored the most points. The conversion is a very intensive process.
The NWS IT Advantages were listed: it is designed for government needs so there's public sector specialization; the state of the art technology; it is paperless; it runs on a browser, and any employee that has connection to the Website can annex this software and this saves a great deal of support costs; it is fully integrated so all the modules are integrated and produce reports and feed the general ledger. The payroll, receivables, and payables are fully integrated. This is a very commonly deployed technology and if we need to recruit labor. This is a proven system. Training will either net based or e-learning and if you have

access to the Internet you can take on-line training which saves the County a lot of money. Security levels consist of the County's security and in addition there are securities for department heads and internet access is available with a browser.
Judy Osman – this is a first for Garfield County. We will be able to bring back payroll into the County and cut down or eliminate paper. It also saves $26,000 per year. Departments can access the system on-line. Codes and pass words will be the method of tracking various forms. Judy goes on to inform the Board what advantages are in the human services arena.
Patsy Hernandez highlighted some of the accounting features saying that the system provides efficiency, complete general ledger and journal entry processes; fully integrated financial systems with drill down across all applications and suites; integrated search and inquiry capabilities; report and research capability easily accessible by elected officials, department heads and budget manager; electronic AP and payroll capabilities; project accounting and grant management capabilities; handles GASB and CAFR reporting; inventory and fixed asset management and budget preparation and management. This system will help with requisition and purchasing management for encumbrance accounting needs and then determines uncommitted balance of appropriations; Workflow management with a fully integrated produces to reduce the data entry work and errors; strong auditing controls; interfaces with Eagle Computer Systems and CFMS – duplicate data entry eliminated; automated month-end and year-end processing; automatically generates Due To and Due From entries; Ability to download/upload and attach Excel and Word documents.
Jesse reiterated the advantages of the New World Systems, a leading edge technology - 270+employees, 230 at HQ dedicated to support and development of NWS products; history of consistent, profitable growth. Still under original ownership and management with no debt. NWS has invested $25 million in development in the last 4 years; this system was built one system at a time and the NWS has been in business for 23 years. Future potential needs that NWS can handle include public works (Fleet and Facilities Maintenance), community service – building and planning (licensing, permits, inspections, code enforcement), and public safety (this is something the Sheriff may want to look out); e-government (citizen access to financial information); bid and quote management; e-personnel (employee access to their personnel information) and e-recruiting.
Fixed Costs – application/conversion training $258,600; hardware & system software $18,741 for a total NWS system cost = **$277,341.**
There are variable costs – estimated travel and temp labor (455 hours of training) - $32,220; KVS/ADP Extract files - $11,000; Network expansion (total - $50,000 for an additional project costs of = **$93,220.** $450,000 was budgeted. The total project cost is $**370,000.**
The software maintenance agreement costs go up approximately 5% each year. In five years it will be at $38,000.
Conclusion – the New World Systems will enhance our financial and HR efficiencies; will enrich our effectiveness, and will help the
The recommendation of the TecHead Committee is to obtain authorization from the Board to enter into negotiations and move ahead with the approval of the TecHead Committee, the County Attorney, and Ed Green.
The time-frame is estimated to be one-year to have all of this conversion in place.
General ledger and budgeting are the first pieces to convert.
Ed and Don were present and submitted the source selection and stated how they determined it was in accordance with the County's policy of purchasing under a contract. Once the contract is in final stages, they will come back to the Board for approval.
The system will be backed up every night and the regarding safety of the system.
Phil Winter of New World Systems presented. The warranty is for 90 days and then the one year maintenance contract begins. There is support built in i.e. phone support. The headquarters is in Michigan. Shannon Hurst liked the system.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to direct staff to move into contract negotiation with New World Systems for a new financial/HR software system for the County; motion carried.

d. Discussion of the Placement of the Greyhound Bus Station – Mark Bean

Mark said the City of Glenwood Springs received a request from Greyhound Bus requesting to utilize 541 s.f. as office and customer space in the freight building of which the City uses the balance of 2125 s.f. And is located in the parking lot to the west of City Hall on Eighth Street and Defiance Street. The lease has two

parking spaces available for use by Greyhound Customers and for their "package express" driver. Twenty parking spaces are projected to be displaced due to the new use. Greyhound Bus has operated in Glenwood Springs in the Village Inn building for 12 years. The proposed site improvements will include a new ticket counter, the addition of a second restroom, construction of a HC ramp/awning, new exterior building lighting, siding repair and painting the exterior of the facility.
Ed said the Board should realize that this takes 33 parking spaces – eliminates 17 and 7 County vehicles. Where to relocate those vehicles and consider we will have 17 less employee parking spaces for employees. This was referred to the County for discussion.
Commissioner McCown – we have to comment about our lost of parking spaces and what they have in plans to remedy this.
Commissioner Houpt said she agreed and the 8th street parking was supposed to be longer term and the traffic situation is going to increase. This came to the City and if they work a little harder they could find another site. The Mac
Chairman Martin – the common sense on parking was a main concern. We also have a problem with the IGA with the City.
Commissioner Houpt – if this goes back we would have to take back our parking spaces.
Chairman Martin – do not proceed with the IGA and inform the City that we will have to do this to have our parking spaces.
Mark was directed to respond to the City saying the Board met and there were comments about traffic and parking and we may need to withdraw the pending IGA.

e. Chip Sealing Various County Roads – Marvin Stephens
Marvin Stephens and Tim Arnett presented the recommended Board action which is to award the bid to GMCO LLC of Colorado, Inc. not to exceed cost of $231,101.03. This will be for CR 113; CR 114; CR 250; CR 314; CR 256; CR 326; CR 331; CR 306; CR 370G; CR 371; CR 371A; CR 371B and for traffic control.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to GMCO LLC of Colorado, Inc. not to exceed cost of $231,101.03; motion carried.

f. DOLA Grants – Tim Sarmo and Ed talked and Tim said asking the $1 million level on the new building is probably too much; he doesn't think the committee would be receptive and suggested to go to $800,000. Tim also was concerned about the Events Center and suggested the Board reconsider putting in another $125,000 to show 50% participation. He was concerned about the $100/$300 disparity.
Commissioner Houpt – concerned to go in this direction and save conservation funds for other projects. Randy needs to know what to submit on both of these projects.
Commissioner Houpt suggested to go for as much money as possible for the new building.
Chairman Martin said the JBC is eyeing this Energy Impact Grant money for the financial crisis of the state budget.
Ed said with the $100 taken out, the year end balance in the Conservation Fund would be $325 and if we take the $125, it will leave it at $200,000.
Ed said we have the $54,000 that we were going to apply to that Road and Bridge facility for Lift-Up and that doesn't seem to be the case so we have those funds available.
Commissioner McCown if we check the historical data, all of that fund balance would be wiped out to pay back the general fund for the loan it gave in the completion of the building. We have graciously looked beyond that to keep the Conservation Fund healthy. There was a commitment for that general fund to be paid back and to date it has not all been paid back.
Ed reminded the Board that earlier this morning the effectively saved $80,000 in capital form what was budgeted on the new software system.
Motion
Commissioner McCown said his recommendation would be to reduce the Energy Impact amount request on the replacement of the Taughenbaugh to $800,000 showing the balance coming out of the capital funds and on the build-out on the Fairgrounds Arena Project show another $100,000 coming out of the Conservation Reserve. Commissioner Houpt said she wouldn't. She would have it come out of capital.
Chairman Martin clarified that Commissioner McCown's remarks were in the form of a motion.
Chairman Martin seconded the motion because Commissioner Houpt would not.

Commissioner Houpt said there are other projects throughout the County that we should be looking at for the Conservation Trust money. We do have a balance in capital construction when we talked about doing the upgrade on the arena we had talked about putting a certain amount of Conservation Trust money into that and not going above that and so she would not support at all pulling more out of Conservation money for that particular project and feels confident we do have that money in capital.
Ed clarified the balance in the Conservation Fund after deducting the $100, it is $327,000 and if you were to take another $125,000 it would right around $200,000/$220,000.
Commissioner McCown said he was a firm believer in funding those programs that have already been in place and have not been completed before we start new programs. A $200,000 fund balance in the Conservation Trust Fund is adequate. There have been no specific programs identified; he doesn't like when something comes in we throw money at it, so he clearly supports the completion of the indoor arena project with those funds as it was started and as it was built with those funds.
Commissioner Houpt said there are programs that have come to us, there's a group out of Denver that talked to John and her about the Bair Ranch Conservation Easement; the Conservation Trust funds have been mentioned by both of us according to the person she talked to; also extensive trail programs have come to us, not new things but new things to what the County has spent money on in the past. She said she would like to honor other types of programs and save those funds for that.
Chairman Martin said both arguments are good but in looking back about 7 years ago of completing this particular project, we said we would have it completed in 5 years and it is at 7 years. We have contributed to the trails this year, two different trails as well as an historical preservation issue – these are fairly new to us. We're entering into them and think that is still an open door. We still have a fund balance of over $200,000 that we can assist in different areas and Bair Ranch was one of those that we definitely looked at because we did not have a funding source for sales tax or any other way to help. Conservation Trust Funds do qualify for it and wondered how Conservation Trust funds would qualify for new judicial system or social services building which would be questionable. Leaning that way he agrees with Larry that we need to complete the project.
Commission Houpt said she would like to make it very clear that she is not saying we shouldn't complete the project, but we do have other monies that could go toward the completion of that project.
Commissioner McCown said he thinks we have to be ever vigilant with our capital improvement fund knowing down the road what we've committed to with the Airport and if there's a change in our grant reporting process that capital improvement fund will stop growing immediately and it will make our general fund more healthy but it will stop any significant growth in that capital improvement fund and thus putting an end to any projects like the airport and other facilities.
Commissioner Houpt – or slowing it down.
Chairman Martin – that is one the sides of that sword that we have to watch out for.
Martin – aye McCown – aye Houpt – nay.
Randy requested clarification for the Events Center for the DOLA request, are we looking at a request of $250,000?
Commissioner McCown – my motion was to take another $100,000 so that would be $200,000; there was a $50,000 savings in the Road and Bridge facility that could be applied and then Randy would be asking for in-kind would show up and then Randy would be asking for the balance on the DOLA. Ed said pull $50,000 from capital.

COUNTY ATTORNEY UPDATE – DON DEFORD

1. Executive Session: Litigation Update; Legal Advice - 6 items. Contract negotiations with the City of Glenwood for the IGA for Four-Mile and the Roundabout with Marvin Stephens, Jeff Nelson, and Randy Withee; 2 – items in current litigation that will involve Shannon Hurst – American Soda and Glenwood Hospitality; discuss current items in litigations - Lofton settlement, Discovery in the CR 121 issue regarding Lawrence Ranch; a building and planning item for later this afternoon on the Coulter Ranch Development.

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

COMMISSIONER REPORT

Commissioner Houpt – Thursday a meeting between CDOT and City Council from 4 – 6 pm on GAPP; CCI meetings on Friday in Denver; last week we had Pipeline Meetings and will tie this into the discussion we'll have later; RS2477 - Mark Udall talked about his bill and she has a memo to share; still in the process of getting everything on the table with that group and it's been a really good process because there are so many issues that people feel quite passion about. State parks held a town meeting last week regarding strategic plan and budget cuts and she suggested if there's opportunity to talk to anyone on the JBC urge them to leave State Parks out of that cut.

Chairman Martin – the governor came to the Parks aid and said no parks would close. Commissioner McCown – the JBC is cutting seniors and children's program and keeping recreation in place in a tough call for the JBC.

Commissioner McCown – Tuesday, Access Committee Meeting at 10 am at the Forest Service in Rifle; Thursday 9 – 11a.m. the Fire Commission meets at City Hall; 9 am with some kind of meeting with Oni Butterfly but it was something coming to the Town of Silt that we would be excited about so he will tell the full board Monday; Retirement function Saturday evening for Bob Kibler, Garfield County Communication Authority.

Chairman Martin – Met with 4H on a fundraiser and they sent a big thank you to Garfield County for helping; Road and Bridge Transportation Committee at 1:30 pm in Rifle on Tuesday; on Tuesday just prior to that meeting we have a meeting with New Castle's concerned citizens, exit Social Services audits; Homeland Security Task Force Panel as well as Energy Panel at Club 20; Dale is a moderator at Club 20 and Doug is presenting again; this is for Saturday in Grand Junction.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Russell Floodplain Special Use Permit Resolution of Approval and Permit. Applicant: Hoffmaster Family Limited Partnership – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items absent item e; carried.

REGULAR AGENDA

HUMAN SERVICES COMMISSION

Women's Services – Julie Olson

Julie Olson and Sue Corny with Chipeta Council of Girl Scouts were present.

Support Letter for the Advocacy Support – Julie needs it today. It's the same letter they have signed in the past for the shelter grant. Nancy Reinish asked Julie to submit some membership = Jennifer Lindsay and 10-20-00 for membership.

Julie handed out a Domestic Violence Summary of 2002 and 2003 Advocate Safehouse Project Claims and Law Enforcement Filed Cases split by communities. Interestingly the number of cases in 2003 was 619 for Pitkin, Eagle, Western Slope Communities, Mountain Communities, Front Range Communities and Out of State compared to Garfield County Committees of 534.

The Law Enforcement cases in 2003 was 351 for Pitkin, Eagle, Western Slope Communities, Mountain Communities, Front Range Communities and Out of State and the same 351 number for the Garfield County Committees. These statistics came from the District Attorney's Office.

A lot of people contact the Advocacy Safehouse that do not contract the DA's office. Latinos that are undocumented are hesitant to contract law enforcement; they work with these individuals. Ten to fifteen percent of clients are children.

Commissioner McCown – the impact of immigrants is a nation-wide issue and to him it would be a useful tool.

Julie said about 20% of our clients are Latinos but out of that there are still some undocumented.

Sue Corny - Girl Scouts – serves 13 counties; 300 girls and 70 adults that are Girl Scout members in this county. She presented some statistics researched by the national organization. From the census, there will be 15 million girls ages 11-17 by the year 2010; our younger girl population is actually declining, by the year 2020, there will be 1 in every 5 US children that are Hispanic. Teen girls account for 58% of the new Aids cases reported among young people 13-19. One in 8 children are not covered by healthy insurance. Girls are beginning to drink at younger ages - 31% of our girls try alcohol between ages 10 and 14; 15.1%

age 15 and over are overweight. This is becoming a major crisis in the United States. Girls ages 13 – 18 think they are the savviest computer users in their household and girls are just as likely as boys to use the Internet. 73% versus 70% for boys. However, women in the workforce are 51% of the workforce and they represent only 26% of the computer scientists and 9% of the engineers today. 93% of girls ages 8 – 12 aspire to a college education; however Colorado was ranked the 44 worst of 50 states in the percent of teens that graduate from High School. These statistics are from 2002. 20% of the babies born to women without a High School diploma earn poverty level wages; in 2001 – 23% of our juvenile arrests of females in female juvenile rates in the last 20 years have increased more rapidly than for males. Violent crimes have increased 113%; simple assault 257% and weapon law violations a 140%. 51% of the girls in juvenile detention centers in Colorado have a mother who has been or is currently incarcerated. The No. 1 safety concern among girls ages 8 – 18 is that they are afraid of being made fun of or teased or bulleyed, yet nearly 75% of girls when surveyed said they had less than 3 adults that they could go to for help. The impact of these statistics are used to support our girls; they provide what we call "scientist on call" that go to our Girl Scout troop meetings; they go to the special groups and do science and engineering with their girls. They provide a program called "girls are great" which is for 5th grade girls moving into the 6th grade working with Youthzone and it helps girls transition in a 9-week period to get them ready for the peer pressure and the different issues they will face when they go into Middle School. They are also part of the Healthy People 2010 with the Colorado Trust and Garfield County Girl Scouts are putting on pedometers and they're walking. The goal is to have these girls walk as far in miles as Savannah, Georgia where the founder lived as a young girl. They learn a lot about nutrition and good health.

Commissioner Houpt move to sign the letter of support for the Advocacy Safehouse Shelter Program; Commissioner McCown seconded; motion carried.

BOARD OF HEALTH
WIC Contract – Mary Meisner
Program Updates
Healthy Beginnings – Mary said the transition with Mountain Family Health is on track and moving along well. Details are being worked out regarding client flow and transition action plans.
WIC Program has a case load of 1200 clients. The WIC revenue contract was not received in time to go through legal review and be presented to the Board today. The DEPHE State WIC office increased the WIC Contract dollars for this year by $9000 due to the consistent high case load numbers.
Immunization Program – 3800 doses of Flu vaccine have been ordered for flu clinic this fall.
Energy Preparedness/Homeland Security Program – CDPHE is putting on a required 2-day training session next week in Grand Junction, March 22-23 and 8 staff members will be attending. There is a source we can bill for the staff time at the 2-day conference.
Programs for Children with Special Needs continue to move along well; we are hosting the Regional Neurology Clinic on Thursday, March 18, 2004.
EPSDT will be recruiting for a new bilingual outreach worker.
Communicable disease prevention and surveillance program are busy and aware of the changing needs of the community.
Preventative Health Services continues to be of importance for staff. Car Seat checks will continue, wellness seminars and monthly blood pressure checks as well.
Health Fair will be held June 10, 2004 from 9 a.m. to 2 p.m. for the Garfield County employees in the County Annex Building in the Commissioners Meeting Room. Booths will be set up and staffed by the American Cancer Association; The American Lung Association and the American Heart Association are submitting materials. Blood Pressure checks and adult (TD) immunizations will be offered at no charge. Mary said she will supply more on this in May. Blood work will be done by local Health Fairs and they encourage staff to take advantage of this.
West Nile Task Force continues to move forward and an action plan is in place.
A new nurse – Phyllis Japard starts today.
They are planning a big PH push regarding sun screen, insect protection and West Nile protection and will purchase some time on the network radio – this will be shared with Mesa County.
A motion was made by Commissioner Houpt to go into the Board of Social Services; Commissioner McCown seconded; motion carried.
BOARD OF SOCIAL SERVICES

Approval of February 2004 Disbursements
For the month of February 2004, payments were made in the total amount of $73,526.82.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the EBT Disbursements in the amount of $73,526.82; motion carried.
Consideration and Approval of an Out-of-Home Placement Contract
Child ID number T273108 in the total not to exceed amount of $12,821.60 for placement at the Emily Griffith Center was requested.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the out of home placement for Child ID number T273108 in the total not to exceed amount of $12,821.60 for placement at the Emily Griffith Center; motion carried.
April 2004 "Month of the Young Child" Proclamation
Carrie Haberern, Child Care Program Manager prepared the proclamation for the "Month of the Young Child" and Lynn said the department appreciates the Board's action in acknowledging the efforts of our child care providers and local organizations towards enhancing quality and availability of care and education for the young children in our community.

April 2004 "Month of the Young Child" Proclamation

WHEREAS, The Garfield County Child Care Program, Roaring Fork Association for the Education of Young Children, Kid's First, Garfield County Association of Family Child Care, Garfield County child care providers and other local organizations are celebrating the Month of the Young Child in April; and
WHEREAS, by calling attention to the need for high-quality and availability of our children's care and education; and
WHEREAS, the future of our community depends on the early childhood experiences of our young children today, the quality of their care; and
WHEREAS, high quality early childhood education provides the critical foundation for our children's sound growth and development;
WHEREAS, high quality early childhood services provides the critical foundation for our children's sound development, NOW THEREFORE BE IT PROCLAIMED, that the Board of County Commissioners and citizens of Garfield County proclaim April 2004 as the Month of the Young Child.
We extend our heartfelt thanks and appreciation to all those who work so hard to care for our youngest members of the community, and we commend these efforts and encourage continuation of total community involvement of all citizens to recognize and support the needs of young children.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt as the Board of Commissioners to authorize the Chair to sign the April 2004 "Month of the Young Child" Proclamation as presented; motion carried.
Colorado Works Out-of-Wedlock Bonus to Counties
Lynn said the department received notification of an increase to the preliminary SFY 2004 Colorado Works Allocation by $182,251 as a result of a statewide distribution of $19.8 million received for Colorado's Out-of-Wedlock bonus. She hopes to have some funds left over for the TANF transfer at the end of the year to address the overages in the department budget.
Audit Update
The exit interview for Social Services and Single Entry Point Financial Compliance Reviews are scheduled for Wednesday, March 17. The response date was also extended from March 12 to March 31, 2004 in the Annex Building, 4th floor conference room.
Child Advocacy Center Project
Lynn informed the Board that Department representatives have been attending community meetings along with two other counties, Eagle and Pitkin, discussing the feasibility and interest in developing a Child Advocacy Center in this area. Other agencies that have participated include the Sheriff's Department, 9th Judicial District, Advocate Safehouse and Valley View SANE Project. She submitted an informational handout for the Board's review.
The purpose of this project is to develop a response team to allegations of child abuse in a dedicated, child-friendly setting.
Program Reports
Lynn submitted the various program reports. They have until August 31st to convert every client onto the new system. April 21-23 they will be doing a collaborative training from Social Services, judicial departments, Sheriff's office through the Core Services grant received last year.
Director's Meeting – Lynn will be attending and being updated on the programs.

Dale Hancock and Lynn presented the ***Legislative Bill – Lynn participated in a legislative committee.*** The direction suggested – this commission was established out of the child fatality Post series and the committee is really pushing through a child ombudsman program, (looking for private funds $500,000 over a three year period) and a child state review committee on child fatalities. Lynn has specific concerns and the impacts both to counties and ramifications in staffing for child welfare. Child welfare services will continually need to improve. The legislative is saying they want an additional oversight review committee over and above what the County already has to oversee all child deaths. Lynn said they are really looking to access responsibility on the county. A secondary issue is HB1274 – this bill is wanting a county review process, child protection or child welfare committee - pending child abuse cases. Ask Lynn for the copies of the Bills.
Dale Hancock – Citizens 1272 HB – Review Committee – we've had only one hearing. His concern is that is expands the control with no orientation to due process issues. At Club 20 he discussed this with Senator Taylor and Representative Rippy.
Lynn - The ombudsman bill looks like an unfunded mandate – the State is not supportive of this, there are committees in place to deal with this. Without a fiscal level it is not doable.
Commissioner McCown supports Club 20 to do a Resolution, do a blanket statement and reference these House Bills. Commissioner Houpt agreed that she support this. However, there seems to be strong opposing to unfunded mandates.
Action under BOCC.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of the Board of Social Services; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to ratify the actions taken by the Board of County Commissioners as the Board of Social Services – electronic transfers for the month of February 2004, payments were made in the total amount of $73,526.82; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the out of home placement for Child ID number T273108 in the total not to exceed amount of $12,821.60 for placement at the Emily Griffith Center; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Proclamation of April as the Month of the Young Child and authorize both the Chair and Ed Green to sign; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Lynn Renick to draft a position statement on the blank unfunded mandates; motion carried.
PUBLIC MEETINGS
NWCCOG PRESENTATION REGARDING GARFIELD COUNTY MEMBERSHIP – GARY SEVERSON & LIZ FINN
Commissioner Tom Stone from Eagle County, Liz Finn Coordinator of Rural Resort and Gary Severson presented. This is a voluntary association of 26 county and municipal governments in the heart of Colorado's rural resort region who believe that working together on a regional basis provides benefits that could not be obtained without the association with other jurisdictions. Membership would include: voting member, opportunity for seat on the Executive Committee; $1,000 annual member services benefit; eligibility for annual technical assistance grants; access to the NWCCOG GIS Service Center; access to the NWCCOG Regional Data Center; reduced rates for billable services that includes surveys, studies, issue analysis, meeting facilitation and elevator inspections; access to the NWCCOG Foundation, an IRS 501© (3) organization and access to the Rural Resort Region, a "boundaryless" issues based on the IRS 501 c4 regional organization dedicated to addressing issues facing resort dependent community.
The 2004 issue focus for the NWCCOG is housing for the mountain workforce and updating the regional indicator report. The City of Glenwood Springs is the newest member of the Northwest COG. The services the Northwest Colorado Council of Governments furnishes are broken into three components: Federal Grant Programs including Older American Act, Energy Management and Conservation Act, Clean Water Act and Homeland Security Act. The Regional Initiatives include Federal Lands; Economic Analysis, Regional Demographics, Rural Resort Region, Conferences and Seminars and Legislative and Congressional; The member services include: elevator inspections, NWCCOG Foundation, community surveys – pre-election surveys on issues for the ballot, GIS service center also including regional GIS and critical watershed systems, facilitated meetings, community issues - research and data services, information forums, training services, technical assistance, grants research, writing and administration, health insurance pool and personnel search services. Commissioner Houpt is Chair of the Rural Resort for 2004.

The NWCCOG annual dues formula calculates the jurisdiction's population x $.63 per person and the assessed valuation x .012 mils as annual dues. Their dues are running approximately $197,000 and the operation is $2.5 operation budget. They take the dues and leverage them.
Tom Stone – Eagle County is the highest paid dues member. Gary proved to Tom that they are getting a lot more than $52,755 investment. He is involved in all the Executive Committees. The local issues and the local control is where the rubber meets the road. He recognizes that the County belongs to the Associated Governments and recommended they also join the NWCCOG as well.
Commissioner McCown – are these fee based services under the list they submitted – Gary said most are additional fees. They offer members a $1,000 discount but pass through the actual dollar amount to the members. Personnel Services, they charge $5000 compared to a company in the private sector of $12,000. Garfield County's dues would amount to $40,972.00 for a full year. The County would receive a pro-rated amount based on the number of months included. Chairman Martin stated they were short on the assessed valuation – it's about a billion dollars.
Commissioner Houpt supported the membership in the NWCCOG. It makes sense to join both. She sees this as a huge benefit in all issues supported by NWCCOG.
Motion
A motion was made by Commissioner Houpt and seconded by Commissioner to make a motion that Garfield County become a member of the NWCCOG starting in May.
Commissioner McCown – this is premature- we do not have $40,000 in the budget and sees the duplication from DOLA, CCI, CTSI services that are provided. Under the member services, they are 'pay as you go' fees in addition to the $40,000 fee to join. He said by default we are under the Associated Governments for Homeland Security and the Older American's Act.
Commissioner Houpt – in grants we make up the $40,000.
Commissioner McCown – where are we short in grants? There is more in CCI that is the parent of CTSI. There has to be a stopping somewhere.
Chairman Martin suggested doing a comparison of benefits, doing a justification process and determining where funds would be available.
Commissioner Houpt – amended her motion to include doing a friendly analysis – staff to do an analysis to see if there is an overlap and identify $27,000 and review at the next meeting. Commissioner McCown – amended his second. Motion carried.

SELECTION OF ENERGY ADVISORY BOARD CITIZEN REPRESENTATIVES – DOUG DENNISON
The names submitted for this Committee were presented at the March 8, 2004 meeting. Those included were:
Michael Dietrich, Stephanie Dietrich, Lisa Bracken, Kathryn Bedeall, Bret Closs, Samuel B. Potter, Beth Ann Dardynski, Garland Anderson, Joan L. Savage, Scott W. Brynildson, Robert Houska and Orlyn J. Bell. One for each geographic area and those who own only surface rights as compared to mineral and surface.
Commissioner McCown suggested not including Scott Brynildson as he is in litigation with the Oil and Gas Industry. If you start out with an adversary committee it's not going to go anywhere.
Commissioner Houpt said it was sometimes better to have those people who are feeling adversary come in when the perimeters are being established, the ByLaws are being written, the ground rules for the committee are being made and the goals for what's going to be accomplished and established. It brings a different focus for them into the discussion. This group is not to be a reactive group but a proactive group that will accomplish some long term thinks in this county that will address issues that are impacting the industry and private citizens and this may be a benefit having people with different orientations at the table. This is not a group to work out legal issues with people but to really look at the various local impacts that can be addressed.
Chairman Martin – this is an advisory board to the Board of County Commissioners and we need to be happy with that, we also have to say that this is actually to identify issues within our area and to find resolution in our area without doing much other that sitting and talking and coming up with agreement. It's not to take it too much further that and if people have expectations that this is spear point to make either the industry to stop or to open it up fully, they're on the wrong committee. This is to solve problems within Garfield County and take those solutions forward and if anybody else wants to follow them, that's fine. That's why we want to hook up with the Northwest Oil and Gas Forum.

Commissioner McCown made a motion to appoint Kathryn Bedeall from Roan Creek, Joanne Savage from Parachute/Battlement Mesa, Samuel B. Potter from Taughenbaugh, Garland Anderson from Grass Mesa, Scott Brynildson from Mamm Creek; and Orin Bell from Divide Creek. Commissioner Houpt seconded.
Discussion
Commissioner Houpt would like feedback on Garland's selection.
Commissioner McCown said he was disappointed that no one from the Grass Mesa Homeowners Association came forward. Bret Closs came forward with road issues last meeting and that's clearly a Homeowners Association issue. There's no place for this Board to address those concerns.
Commissioner McCown justified the selection of Garland saying he has been more involved; Bret has just surfaced since Doug came on board and he also feels that Garland brings more knowledge of the area.
Martin – aye; McCown – aye; Houpt – aye
Doug will prepare letters to both those selected as Board members and the others a thank you for applying. Prepare this for the Chair's signature.

IMPACT ASSISTANCE GRANT APPLICATION FOR TAX YEAR 2003 FOR PROPERTIES OWNED BY THE DIVISION OF WILDLIFE – SHANNON HURST
Shannon Hurst submitted the Impact Assistance Grant Application for the Commissioners signatures. The total acres included in this application is 14,868,965 for a total amount of $9,688.67. This amount when received is to be distributed as: Parachute School District 16 – Tax District 048 - $21.38; Tax District 046 - $99.81; Rifle RE2 Tax District 023 - $593.09 + RE2 Tax District 023 - $58.52; RE2 Tax District 021 - $36.31; RE2 Tax District 021 $25.23; RE2 Tax District 021 $450.20l; RE2 Tax District 020 $95.79; RE2 Tax District 020 $163.05; RE2 Tax District 017 - $725.69; RE2 Tax District 017 - $5,840.32; RE2 Tax District 016 - $1,355.79; RE2 Tax District 016 $223.32; and RE22 Tax District $.17.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Impact Assistance Grant Applications; motion carried.

PUBLIC HEARINGS:
DISCUSSION OF THE 3RD SUPPLEMENTAL TO THE 2004 APPROVED BUDGET AND THE 3RD AMENDED APPROPRIATION OF FUNDS – JESSE SMITH
Jesse presented and stated this was the changes in personnel to get new employees on the payroll and pay them.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 3rd Supplemental to the 2004 approved Budget and the 3rd amended appropriation of funds and Chair authorized to sign. Motion carried.
Executive Session – Continued
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items that were not completed due to the time element; motion carried.
Action Items
Don stated that we've reached a settlement agreement in the litigation with Edward Charles Lofton which has been pending for some time, Case 97-CV-1718. We, being the attorneys for the County and for Mr. Lofton would ask that the Chair and the County Attorney be given authority as necessary to sign the settlement agreement that Don presented to the Board in Executive Session.
Commissioner Houpt so moved. Commissioner McCown seconded; motion carried.

Don presented draft to the response to interrogatories in the Lawrence v. Coulter Creek Valley Ranch and all litigation, 03CV004, and asked authority for the Chair and as necessary the County Attorney to execute the final draft of the answer to interrogatories in the form as presented to the Board.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Don presented the Board with a stipulation proposing to resolve the current BOA litigation between Glenwood Hospitality Inc. and the Garfield County Board of Equalization, and would like the Board to give Don authority to execute that agreement as presented at the valuing of the property at $4,000,000 for the current valuation year.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Don requested that the Assessor be given the authority to negotiate Resolution of the American Soda Litigation as discussed in Executive Session, generally reducing the total project value to in the area of $55,000,000 and a percentage to be determined at the current level between Rio Blanco and Garfield County a 55% split.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Richard Compton – Director of Non-Profit Organization – White River Conservation Project which deals with public lands issues in this region and was present to speak on the Roan Plateau issue. He said he's traveled most of the wildlands in Colorado and the top of the Roan Plateau is as special a place as he's found anywhere. He is familiar with the Commissioners stand in support in the past of keeping drilling off the top of the Plateau and hope they Board will maintain that position because we know there are other people who will do most anything to roll over our citizen and local interests and get the drilling rigs up there. He asked the Commissioners to speak for the local citizens and not allow any pressures that might be coming from other sources to change your position.
Chairman Martin was not aware of any other group applying pressure other than the environmental community. He asked Mr. Compton if he was aware that there were leases given out in 1999 by the BLM already on the top of the Plateau.
Commissioner Houpt responded that she was not receiving any pressure and thinks the Board is standing very true to our positions.
Mark Reinhardt from No Name and followed up saying he checked with the BLM and according to them, the gas leases that have been let are not on the top, there have been none given out for the top they are for the area which we see activity currently. There is nothing that has been cast in stone regarding the top area. The drill pads that are there are left over from when it was the Naval Oil Shale and they were doing exploration. The roads are there from the late 1880's when the settlers began moving in after 1935 when the Navy took over the area, so as a point of clarification, he believes from what BLM has said to me and these are the BLM people who have inventoried the area, that this is what we're all waiting for is the people in Washington to come back with the use plan since they tossed out the one that everybody had agreed on, local governments in the region, and now Plan B is forthcoming and then we'll get the comment on Plan B. This is what he found out since last week. Interestingly he talked to an appraiser from Battlement Mesa on Friday and he conveyed a story of a party that had bought 40 acres upon Grass Mesa and since doing that and building at $600,000 custom log home up there, that since their whole process began and the drilling rigs having come into that particular area, he reported that the bank is not willing to loan them the money to pay off what they spent building the house. So there is a dramatic case of the intense activity occurring up in that area that is affecting adversely real property values. One could only suppose that the more increases in intensity throughout the region, the more people's real value will be affected. This is a concern to everyone. To wrap this up Mark said, the sensitive drilling schedule intensifies in southwest Wyoming last week's Aspen Times in the Pinedale area basically they're talking about the fact that the BLM has been given the mandate by the government to quickly come in and do as much drilling as possible, it's a big habitat for mule deer, prong horn, elk in this one specific area, and it says for the second consecutive year the BLM which administers the Federal lands has granted
Questar one of the energy companies in the area, an exception for drilling density. And in today's paper here we have a rebuttal by the Vice President, Greg Schnack of the Colorado Oil and Gas Association refuting what everyone's concerns will be in this particular area, mainly on top of the Plateau, that they're going to want to come in and run rough over everyone here especially everyone in the western part of the County, so realizing the Commissioners haven't heard anything definite, he is quite passionate about this and thanked the Board.
Chairman Martin said the more we talk about it the more it's advertised globally, more people get interested on both sides of the issues. So continue to talk and we get more information out there.
Protect Colorado Fish
Paula Fathergil and the local president for Trout Unlimited Chapter here in Garfield, Eagle and Pitkin Counties and is representing 380 members who are residents in these areas. The Mission is to Protect, Conserve, and Restore Colorado Fisheries in North America and here. The comments she wanted to make today are those concerning the Roan Plateau proposed use and they would like to see an evenhanded plan that keeps the top and the cliffs of the Roan Plateau free from oil and gas exploration for the following reasons. There are 5 Colorado River Cutthroat Trout populations up there that are of genetic importance

and these populations are what the DOW uses to help expand their gene pool and keep it going for our native fish. We feel that with exploration and development of the top of the Plateau, it will release and cause sentiments to be washed into these sensitive streams and could endanger the fish. Also, the overall environmental impact on the Plateau can be significant as far as the environmental standpoint. Soils are very fragile to do any kind of restoration work up there may be almost impossible as the gentlemen before there are still remnants of roads that were from the original settlers up there; it's really tough to restore that kind of damage and scarring to the landscape. The other thing is there is an economic cost to the development of the Plateau. People come here to recreate, horseback ride, fish, hunt, and enjoy the solitude of the Plateau and if we allow oil and gas exploration to continue up there, we're afraid that kind of public resource will be lost forever. Oil and gas exploration is a finite business, once it is extracted the industry leaves and we're left with the damage that remains. There are wildlife considerations too. If the elk and deer habitat is damaged, they will move into other areas that may not be beneficial to the herd's survival as it has been on the Plateau. So overall, we stand for not drilling on the top and the cliffs of the Plateau.
Bob Millett said he's here supporting protection for the Roan Plateau. He's a former professor of Biology at Portland State University and a Member of Trout Unlimited and the Audubon Society and moved to this area two years ago in part because of the wonderful outdoor activities, the environment this area has to offer. He is deeply concerned about the future of this precious land called the Roan Plateau. Last year he was up there camping and backpacking up there and was in awe of its natural beauty. The Roan Plateau is one of the most biologically diverse areas in western Colorado. It includes a number of species not found anywhere else in the world. Its creeks as you've heard from Paula Fathergil are home to one of the most genetically pure strains of Colorado Cut-Throat Trout. It hosts a large number of rare plants that include the beautiful Parachute Penstemon, Utah Fescue and many others. In addition to providing habitat and great hunting opportunities for big game animals, the Roan Plateau provides habitat for sensitive bird species, such as Paragon Falcons, Bald Eagles, Boreal Owls, Sharp Trail Gross and many other species. The Roan Plateau is unique geology spectacular scenery, fish and wildlife resources and wilderness character that have attracted a number of recreational, hunters, fisherman, hikers, photographers, wildlife watchers, etc. The economic benefits of this to the County are immense; it's estimated that hunting alone on the Roan Plateau brings in almost $4 million annually to Garfield County. These are public lands and the need to manage in a way they benefit all the public, not just a single industry. We've already experienced the boom and bust days of the oil shale industry and if drilling is allowed on the Plateau, what will it be like when the gas runs out and the gas companies take their profits and run. We could end up with a severely damaged environment and pot marked landscape that we now see in the valley floor below. However, if this region is properly managed for maximum benefit to all of us, we can maintain this unique and beautiful place for all to enjoy forever. Furthermore, Garfield County needs to develop and participate in a Comprehensive Plan for sustainable energy development. Our supplies of fossil fuels are finite and their increased utilization is already contributing to air pollution, human health problems and global warming. We need a long term policy that includes renewal energy sources such as wind, solar and geo thermal. Conclusion: We deserve a balanced management plan for the Road Plateau, one that will protect the key natural areas on top of the Plateau and the Cliffs and still allow for gas development at the base. The BLM has estimated that such a plan is possible and could access around 86% of the gas resources in the planning area. Do we really need to destroy this potential wilderness area in order to tap the last 14% of the gas supplies? Let's keep drilling off the top of the Roan Plateau.
Lisa Brackens also sent in a letter and was given to the Board members.
Walt Stowe – Embankment South of the Hardwick Bridge – Westbank
That Hardwick Bridge was built approximately 12 – 15 years ago to replace the old iron bridge still standing there, at that point the installation of the retainage wall was set aside and taken out of the budget for budget reasons the County couldn't afford to build the bridge as well as the retaining wall. In that 12 – 15 years that have passed since then, that embankment continues to slough off and slide down with large boulders half the size of automobiles. A jersey barrier was put up some 8 – 10 years ago to keep the rocks from rolling onto the highway and since then the solution seems to be to go in there and excavate behind the jersey barriers every year as necessary. This problem was addressed 3 -4 years ago with the County Engineer and he was told at that time there were some steps being taken but he was a Commissioner and couldn't push too hard to get that happen. Last year he was told that there were some plans to do some pinnings on that embankment to stop the erosion. The real concern is two-fold: 1) Walt said he travels that road and probably 120 families on a daily basis and if one of those barriers were to jump over the jersey barrier at the wrong time it could be devastating or even deadly. 2) Walt said he owns three of the lots at

the crest of that hill and as this hill continues to erode, the building part of those lots at the top continue to caveat down making his area of land less. He doesn't know what responsibility the County has since they created the problem, they did the excavation to expose that embankment and they moved the road at that time 2-acres of ground was given to the County so that the road could be relocated and now basically he is compromising his property and the safety of a lot of citizens. He asked when is something going to be done and what exactly is in the plans, if anything.
Chairman Martin said that was a road and bridge project and we haven't moved forward on it.
Commissioner McCown said he didn't know what the status of it was but he didn't think there was anything planned for it in the budget this year, but it will be addressed.
Chairman Martin said he knows that was a large concern and it continues to be so.

CONTINUED HEARING: CONSIDER A REQUEST BY SLC-LAWRENCE, LLC FOR FINAL PLAT & VESTED PROPERTY RIGHTS FOR THE RANCH AT COULTER CREEK PUD – FRED JARMAN

Fred Jarman, Larry Green, Tim Malloy and Don DeFord were present.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Resolution of 1978 as amended; Exhibit C – Garfield County Subdivision Regulations of 1984 as amended; Exhibit
D – Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; and Exhibit F – Written list of numbers 1-17 - the application materials submitted by the applicant.
Chairman Martin entered Exhibits A – F into the record. Fred stated there were two requests before the Board today. The Ranch at Coulter Creek PUD and Preliminary Plan was approved by this Board on January 12, 2004. The applicant requests that the Board grant vested property rights to the project pursuant to Section 14:00 of the Subdivision Regulations. This means the applicant maintains the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan for a 3-year period without being affected by subsequent changes in County land use regulations. The applicant is also submitting their final plat for the Ranch at Coulter Creek.
In the staff memorandum, Condition No. 8 of the Preliminary Plan indicated that they have to obtain an order of inclusion from the Fire Department; they can't do that until this Board approves the final plat which then the district will submit the motion to the Court so they can get the order of inclusion. There is a sequencing issue here. What's being proposed here, in the event the Board approves the final plat, the district will then subsequently go forward and move for that order to happen in district court and then come back to us.
The four particular documents that require the Chairman's signature, item no. 2 of page 2, indicate the final plat itself in Mylar form and also the originals of the Subdivision Improvements Agreement, the Development Agreement and the Escrow Agreement. The fees that are required of the development and developer were listed at time of recording and with Road Impact fees this Board agreed to the improvements made by the developer to CR 115 rather than access the impact fees for this development and are in the SIA.
The vesting rights, there needs to be language on the final plat indicating that the approval of the plan will create a vested property right pursuant to Article 68 of Title 24 CRS. Pursuant to the vesting requirements they do a notice back out via publication no more than 14 days out.
Recommendation: Staff recommends that the Board sign the Final Plat and grant vested property rights to the development as requested.
Don DeFord said Fred covered the contingencies on holding this document for recording that is completion of the security, in the staff report, Don recalled a section that stated that the Clerk is to hold the final plat pending presentation of security.
Larry Green said there were a couple of other things: 1) the presentation of security in the form of the letters of credit; 2) the receipt of the order from the district court including that portion of this subdivision not already within the Carbondale Fire District making that part of it a part of the Carbondale Fire Protection District; and 3) payment of the fees called for in the SIA – there's a fee of $4500 + for the school district fees in lieu of land and evidence that the developer has paid the fees to the Carbondale Fire District.
Larry said they are prepared to do the letters of credit and the fees in the next 24 hours. The inclusionary order is expected to take a couple of weeks.

Don said normally at the time of recording, we require that the develop transfer to the Homeowners Association commonly owned property or infrastructure improvements of water systems, in this case a private road system, etc. In this case we've reached an agreement to have somewhat altered form on that. The commonly held improvements will be deeded to the HOA but that document will not be recorded until the improvements or either completed or in the event they are not completed, a date certain which is set for the day after they're supposed to be completed. Those deeds will be held in escrow pending the happening of one of those two events. The deed will be recorded but it will be held for a time in escrow giving the developer time to complete the improvements before transferring that property. The Open Space was specifically discussed. There is one change in the escrow agreement, paragraph 9, 2nd line "disregard any notices or warnings" it would be "other than those required by paragraph 3 of this same agreement." We're required to give notice when you've complied.
Larry Green acknowledged the corrections and stated he will bring in a revised page 2.
Carolyn Dahlgren, paragraph 10b, page 7 – "compliance with Fire District requirements" par "d" – "developer will construct an access road from the public road" and asked if this was another one of those public/private road issues and isn't it actually from one of the private roads within the agreement?
Larry agreed it was from one of the private road. He will also make the change. They are doing it all the way from CR 115 all the way up to the Fire District site because they're coming in on an internal road that will be a private road so they truly are building a road from the public road to the Fire District easement site.
Commissioner McCown stated this may be a problem; 12-foot is that an approved access road width for road off of a County road?
Larry Green said the internal road will be 22-feet wide; it's only this last part that is 12-feet wide.
Commissioner McCown asked if that 12-foot road portion taking off from a public road or a private road.
Larry Green said it is taking off from a private road.
Commissioner McCown said it would be in his best interest to change it.
Larry Green agreed to make that change and will bring in a new page 7 for the SIA.
Tim Malloy stated he thanked the staff for working through this with them.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the final plat and vested property rights for the Ranch at Coulter Creek PUD with the recommendation of staff also directing the Clerk to hold the plat until the presentation of security, receipt of order of inclusion into the Fire District and the payment of fees in the SIA, i.e. the school district and fire district fees and that all corrections noted today in previous testimony be made to the SIA and the escrow agreement and the Chair be authorized to sign; motion carried.

CONSIDER A REFERRAL OF A SPECIAL USE PERMIT REQUEST TO CONSTRUCT AN ADDITION TO A SINGLE FAMILY RESIDENCE TO BE LOCATED IN THE FLOODPLAIN OF THE ROARING FORK RIVER. APPLICANT: JIM DUKE – JIM HARDCASTLE

Don DeFord, Jim Hardcastle, Jim Duke and Kathleen Duke were present.
Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
County attorney reviewed the noticing requirements for a public hearing and advised the Board they were adequate and timely and they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following Exhibits: Exhibit A – Photographs.
Jim said the applicant requests a Special Use Permit to development an addition to an existing dwelling unit located within the 100-year floodplain at 256 Flying Fish Road, east of the intersection of State Hwy. 82 and County Road 100 on approximately 6 acres.
The applicant requests approval to construct an addition to an existing dwelling unit within the flood fringe of the 100 year floodplain of the Roaring Fork River. The addition is replacing an aged structure that is in need of replacement and the base floor is currently below the 100-year Floodplain.
Recommendation:
Staff recommends the Board of County Commissioners approve the Duke Floodplain Special Use Permit for development within the 100 year floodplain of the Roaring Fork River, subject to the following conditions:

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless specifically altered by the Board.
2. The Applicant shall adhere to the performance standards in Section 6.09.02 of the Zoning Resolution for development in the Flood Fringe and Flood Prone Areas applicable at the time of approval of this Special Use Permit.
3. The applicant must demonstrate to the Garfield County Building and Planning Department, Senior Building Official, that when the proposed septic system is built, that it shall be:
    1. An engineered system if groundwater is encountered within the first 4-feet of the top surface of grounds; and
    2. The proposed replacement septic system shall be in place before the final Certificate of Occupancy is issued for the proposed dwelling unit addition.

Jim Duke said he can live with the recommendations made by staff.
Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP for Jim and Kathleen Duke with 3 conditions by staff; motion carried.

CONTINUED PUBLIC HEARING TO CONSIDER AMENDING OR ADDING SECTIONS 2.02.4331, 3.02.03, 3.07.03, 3.08.03. 5.03.15 AND 9.03.01 OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED TO ADDRESS PIPELINES. APPLICANT: BOARD OF COUNTY COMMISSIONERS – MARK BEAN

Mark Bean, Don DeFord and various representatives from the industry and public were present.
This was a continued meeting.
Chairman Martin swore in the speakers.
Mark presented proposed regulations developed by staff, based on regulations from Boulder County. This regulation creates an administrative process for the review of all oil and gas activities, on either an individual facility or on a field wide basis. The option of permitting an area for oil and gas development is unique to this proposal, but has been supported by some industry representatives.
The proposed regulation could represent a substantial work load for someone and staff requests that a part of the consideration of this regulation include direction by the Board on how to deal with it on a staff level. The way the regulation reads, the Planning Staff would be responsible for this process. This may be more appropriately handled by the Oil and Gas Auditor office but may be more than Doug can handle by himself. The material Mark presented today was submitted for the Board's packets prior to the discussion held at CCI.
Mark suggested that since this proposed regulation was not included in the original notice for this continued hearing, it is staff's opinion that the proposed regulation should be referred back to the Planning Commission for a recommendation and a new notice to be published for final consideration should the Board decide to go with the proposed regulation or a version similar to it.
EnCana representatives have an interest to have the Board close this hearing and make a decision on the proposed language changes to Section 9.02.01 and 9.03.01 that deals with concurrency review by state and federal agencies of land use permits that require approval from multiple jurisdictions. Mark noted that these have both been reviewed by the Planning Commission.
Mark submitted Exhibit I – Memo for an administrative review process and Exhibit J – Doug Dennison's Memo
Chairman Martin entered Exhibits I and J into the record.
Commissioner Houpt and Chairman Martin provided input from the CCI meeting with COGGC who was not present but their voice was heard.
Chairman Martin said they were trying to put the rules and regulations together; it did not go as planned. The definition was not created for pipeline as well as a continuation of that meeting for another 3 -4 weeks. Bad news about Boulder County, they're revising all their uses on oil and gas per the Boulder County Attorney who was also the consultant for LaPlata County. They're throwing out what you presented and starting over as well. He noted that Mark still has referred to Boulder County (Mark said those have been corrected). Another issue he brought out was that we do not have a grading permit process in Garfield County.

Commissioner Houpt said she felt better about the meeting than John. The State discussion will be a longer discussion and apart from that, her recommendation is that we move forward as a County with our regulations and when something's completed, and thinks conservatively it will be months, then we will look at that as well and see where we have to fill in the holes. She understood that Boulder County is revising to bring more regulations into their current regulations as a result of some determinations that more recent lawsuit. The regulation that people suggested we start with was the LaPlata regulation because it hasn't been challenged and is pretty encompassing. Brian Mackey agreed that would be a good starting point for the State level discussion. Again, she thinks John is correct as it is not going in the direction one thought and it's not happening as quickly as we once thought and thinks we need to address this as a County so we don't leave people hanging out there. There was a lot of time talking about issues that Counties are interested in having addressed at the County level and many of them were in here so as we go through, she has a list of items to be addressed.
Mark requested her list. Commissioner Houpt continued saying once the laundry list was made, looking at it from the County perspective, industry and OGCC and who would be addressing these issues and regulate the issues, these are issues that need to be addressed but not necessarily only at the County level - setbacks, noise, impact on roads and construction, wildfire, noxious weeds, fire, water issues, construction timing, cultural and historical issues, geologic hazards, recreational, use of existing corridors, construction characteristic, and depth of pipelines, agreements and/or conflicts with surface owners, reclamation, security, emergency response, abandonment, capacity evacuation, funding, oversize and overweight road access/CDOT issues, impact fees process and as you can see we talked about a great deal of things. Her sense is that people are using a very general definition of pipelines, regardless of the size there is an impact to land. She would support all pipelines to the transmission station, which is what she heard people say the other day. CCI is meeting next month. Chairman Martin – the process itself was usually administrative action unless it has certain circumstances but it would be an administrative review process which is a time saver for the industry and the County but puts the burden on the staff and also paying for the reviews. Commissioner Houpt said it would be administrative review with the opportunity for public hearing if there was a challenge. Commissioner McCown said the challenge was from the applicant. Mark said the opportunity was there also if there was an issue of the applicant challenging the validity of the recommendation. There's a great deal of support for paralleling processes with other agencies. Commissioner McCown said we've gone full circle back to the definition for a pipeline. If we're going to implement something, we have to know what we're regulating. If we require someone to get a permit for a pipeline and you're saying your in favor of all encompassing, that's also going to take in KN Energy, and everyone that is running a gas line from a high pressure gas line to a house meter where it is then taken under a lower pressure. We don't have the staff nor the wherewithal, we're getting 80 requests to drill a month now that are all going to require pipelines; we don't have the wherewithal to review those little utility pipelines. But if you say all encompassing, you're talking water lines, gas lines, anything that is carrying a liquid or gaseous material and it is going to be overwhelming and that's why we started this initial circle on a pipeline is a pipeline. Commissioner Houpt said the land use impacts are virtually the same, regardless of the size of the pipeline, so how can you argue the size when you have the same type of land use impact. When we adopt a regulation we need to look at staffing. Commissioner McCown said there's no provision for denial in any of these. There are provisions for conditions of approval, but no provision to deny. So where are we looking at going at the end of the day by creating a new set of regulations without the permission to deny, yet requesting someone to come in and apply for a SUP or CUP referring it to a land use action and we have the authority to deny on SUP and CUP but we don't under the oil and gas pipeline. Commissioner Houpt said she knows we don't but we can create conditions and make sure they are in compliance. Commissioner McCown said adversely creating conditions for the purpose of denial, will get us in federal court quicker that you can drop a hat. They have to be fair and equitable. Commissioner Houpt said what we want to do it make sure that we're doing our job because you know the state is not looking at regulating this so it's all self regulated and typically with any other industry would look at the land use impact, the safety issues, the emergency response issues, the culture of the neighborhood – we are looking at all of these other issues with every other individual who comes in here who wants to build or do business in our County. Chairman Martin – the state can regulate but they have chosen not to under their oil and gas provisions. But they could start which would then preempt a lot of the issues and that's why we went to a decision matrix and listed all the concerns and then to go ahead and say what isn't covered through the rules and regulations as well as categorizing all the other rules and regulations of the County that's in place, what falls out then we will discuss, both with industry and rule

makers, but this is a long way off. Commissioner Houpt said staff has brought to us regulations that are enforceable by counties right now. Mark said that one of the regulations in there that is the setback issue may not be enforceable, their language is similar to what you see in LaPlata County, there's a suggested setback that's different that the State setback. It implies that's that the setback they want there's language that obviously says that can be overridden. He is not sure that anyone has challenged the Boulder regulations as it the model discussed in our January meeting as one that was acceptable at least for pipelines and in reading through that it looked like it covered the different issues we've been talking about too. Plus there was the opportunity to create a field wide planning opportunity to put into the process. Commissioner McCown said he thought this had a lot of value. Mark agreed, this was new and why this one worked well to try and create it. He suggested he could go back and look at LaPlata County and use that as a model. Commissioner McCown thought Rio Blanco did that too as far an area planning so that you don't have to come in for every specific well.

Jimmy Smith – representing EnCana, President of Wagon Wheel Consulting –in working with Mark on these regulations and Doug, EnCana is in very much in favor of this type of process regulating on an administrative level. They see not only the benefit to the oil and gas industry as far as being able to do a field wide permitting process with the County's opportunity to pull out specific projects that may have greater impact and look at those at a Commissioner level if necessary. Where it benefits the industry, we would then speaking for EnCana, put together a very comprehensive detailed package of projects that are known and planned for a specific period of time and support those with a document specifically, calling it a plan of development on each project and that could be added to the process as a supplemental if other projects came on line that could be made a part of the packet at that time. So, EnCana supports what is being offered up here as an administrative system. We see this as not only a tool for the County but also a good planning tool for the industry itself. The engineering specifications and those types of things could be put together in a packet and submitted to the County that would cover all projects. Those typically don't change but each individual project could be formed and put in that plan of development in a supplemental process. And, therefore this could be reviewed by Mark and staff and those particular projects of the larger type pipelines that impact a greater number of people or a greater environmental impact could be looked further by the Board. So we support that process.

Commissioner McCown said we've talked about this before, encompassing all pipelines, if we take out the 10" but we did leave the level hoop stress of 20% or more of the specified yield strength, would that catch what we're looking at. Disregard the size, deal with the pressure.

Jimmy – That would encompass most everything that we do and that would be covered in the engineering process but it would eliminate those smaller pipelines that are for a totally different service other than transporting natural gas to a sales point, it would eliminate the need for the Board having to look at it. This would be the Public Service because most of those occur on the well pads anyway.

Commissioner Houpt asked if it would eliminate pipelines that you put in or just other.

Jimmy said it would only eliminate most of the lines that he or most of the industry would put it for those you are trying to regulate would not fall out of the scope by doing that, the hoop stress factor would include those.

Commissioner McCown identified the definition recommended by the Planning Commission in the January 19, 2004 staff report under Condition No. 11 although it does say conduit versus pipeline. Mark said this does address the issue, a generic definition of pipeline and it does specific address the issues also related to federal and other interstate transmission lines in terms of being exempt from that. We cover a variety of different issues in that one definition. Jimmy said the entire process allows getting the story on the table in front of you and giving the Board the opportunity to identify the particular ones that may have impact than what he would even see and also at that time to allow the public interest to become a part of it if necessary. Commissioner McCown said he sure supports the alignment of different applications as they go through federal, state and local entities on a parallel course so you don't have to wait for one before you start the other. Jimmy said this is critical timing wise not only to the project itself but to all the entities involved in making that happen.

Don was asked his opinion and he said the board needs to agree on something that is objectively enforceable and so when you talk about the hoop stress that's objectively enforceable. Commissioner McCown asked Jimmy specifically if he was directed to, could he come up with a condition or a type of pipe that would circumvent the need for this application i.e. below the radar. Jimmy said no and he would not because it would not be in the best interest of the oil and gas industry. Commissioner Houpt stated she has comments on just about everything, but Mark suggested if the Board wants to go this direction, the

regulation in front of you is something that has not been reviewed nor has it been noticed so to adopt that particular regulation, we will need to renotice it anyway. Don suggested that this should be discussed after the Planning Commission comment. Chairman Martin – the issue still in front of the Board is in reference to the properly noticed hearing for the definition of pipeline and also identifying pipelines in certain sections. Mark also noticed the one section for concurrent review. The hoop stress of 20% was out of Weld County. Jimmy added it would be to determine the birth pressure and collapse pressure of the pipe and so 20% of the hoop stress is an engineering rule of thumb used all over the industry, not to exceed or not to go below. Commissioner McCown said he had to propose a common sense thing to him, if he was coming in and applying for a pipeline and it could 14 inches and I'm going to tell you it's a low pressure pipeline that is well below this hoop strength – it's a low pressure line; I don't have to get a SUP to put this in because it doesn't meet the definition of a pipeline because it's well below that strength. Then as I add wells to this, it's starts adding pressure and after I gather a field it would have clearly had to have complied with the permitting process, well the line's already in place, the damage to the surface is healing up, it's a done thing but yet it's back approaching this hoop strength and that would clearly be a scenario where it wouldn't comply wouldn't it? Jimmy said he was absolutely right and again that would be a time-line within the life of the field that the company is going to have to make a decision, they need a new pipe when it's approaching that category. Commissioner McCown said but if this is an administrative application and used the example of the Planning Office, if you apply for a permit and you say this is a low pressure line and don't feel I need a SUP in this instance it doesn't meet the hoop strength, how does Mark determine without incorporating this overall development plan, that there's going to be other wells coming on line to that particular line, so how can he determine if it needs it or not without that information. Jimmy sees the dilemma there, his thinking on the process would be for instance that line may not require a SUP at that time, but once those other wells came in and the wells would be included in that process if the characterization or the criteria of that changes, then he would see that needing a new supplemental POD and a review of that pipe. Jimmy added that he didn't see the industry putting in smaller pipes than needed at all. The development of the industry and where the industry is headed particularly in this area, it would be absolutely ludicrous for the industry to come in and say this was a low hoop stress. They know they're going to spend that money two or three times. Commissioner McCown
McCown said he was trying to get rid of part of that sentence that relates to hoop strength and the safety factor and just call it a pipeline a conduit or appurtenant facility designed for or capable of transporting natural gas, petroleum derivatives, or other liquid matter. You're back to Excel Energy, KN Energy and whatever because that takes it all in. Jimmy said in that case for the purpose of monitoring pipelines or regulating pipelines then he would put in the language "from the well to the delivery point" is what you're trying to cover, anything past that is already regulated.
Commissioner McCown – capable of gathering, transporting gas, petroleum derivatives or other liquid matters, would that include what we're looking for if we add gathering which would be able to gather from the different wells to a line. Jimmy said in his common sense thinking, yes, that's the process in the field; why not regulate it with the same process. Chairman Martin said it does open the door in reference to the state argument, what is a gathering system, but still again, gathering would be included in your pipeline definition. You could be superceeded if it happens to be part of the production process, then it would be superceeded, but it would still be in there for definition.
Commissioner McCown proposed the following: "pipeline any conduit or appurtenant facility designed for or capable of gathering, transporting natural gas, petroleum derivatives, or other liquid matter". This does include water and also wastewater. But some water lines are preemptive because they are flow lines and those lines that are clearly flow lines are preempted from this.
Don said if they meet the current definition of flow lines, that's correct, but now for gas and oil, that's a pretty limited distance. Water we have found can be a pretty long flow line. Commissioner McCown wanted Peggy to know that in our definition, it would cover water.
Peggy Uteush said with respect to the water lines in regard to the Divide Creek water issue, last year EnCana wanting to go across diagonally across people's properties rather than down the fence line with water gathering and wanted to make sure liquid matter included water. In the guidelines, is there any stipulation for public hearing process of this stuff? Mark said not automatically, no. Only if the applicant appeals it. The public has the opportunity to obtain the information, the applicant can challenge it and the appeal goes to the Board of County Commissioners. Either the applicant or the Board can call it up. So if you have enough residents that objected and the Board chose to call something up, then you could call it up yourselves but as a property owner, there was no provision. For Peggy's information, clarification was

made that if you are crossing any property you have to have a surface use agreement with the application and there is also the notification to adjoining property owners within whatever distance we come up with. Some of them are within 1500 feet.
Don asked Peggy about the water line up Divide Creek, his recollection is we did have an issue about whether or not that was a flowline even though it was very long; because of the definition of receipt and deposit of the water, so we'll need to take a look at this if the intent is to control that type of line. Mark said that was determined to be a flowline and then we come back to the same issue of preemption. Commissioner McCown acknowledged the possibility of that is out there on whatever we put in place. Commissioner Houpt said as part of the discussion, we hope this will start discussion at the State. Chairman Martin said when we talked about sound mitigation and the location of different facilities, the State did regulate noise under their oil and gas regulations. In moving forward with that definition as an opener, what else is needed out of this meeting today to go back with the additions to the sections Mark needs to move forward with some type of a pipeline land use regulation? Mark explained what will have to be done, the direction the Board would give us is to proceed forward with taking this type of regulation to the Planning Commission for their consideration allowing people like Peggy and other citizens as well as industry folks to comment on it both to the Planning commission and then come back to Public Hearing before the Board. He noted the sections that are identified in the 302-307-308 would have to be amended if we go with this process because those are referring to special uses and this would not be a special use, this would be an administrative review and essentially becomes a use by right subject to administrative review. That's what this process would be.
Don said at this point Mark your recommendation would be to take Larry's definition, to take that to the Planning Commission for their review. Presently those uses are and would be subject to SUP or CUP depending upon the zone district they are in as a pipeline. So defining a pipeline is fine and the question is whether or not we want to amend the Section 3 area where we actually added in clearly as a pipeline because as noted before in previous staff reports, pipelines are not a use allowed in the AR/RD zone district. Commissioner Houpt noted that Mark has the ability to determine when it shouldn't be a use by right or when it shouldn't be administrative and you turn it into a public process. Mark clarified there is that possibility where there's a debate between conditions or stipulations but basically that's the applicant or the Board calling it up, not necessarily staff. The conditions of approval that are attached are based upon the application, the director's decision be that the Planning Department or the Oil and Gas Auditor is still being debated. They have the right of appeal and the director basically identifies the conditions of approval and in terms of the proposed 9.07.07, Conditions of Approval, was read into the record. Once the determination is made the actual permit is not issued for another 14 days so the people have opportunity but there are really no provisions there and the right of appeal of the applicants, 9.07.08 and the call up is 9.07.09. Commissioner McCown noted the very fine timelines and would favor keeping these in there so the process didn't bog down. There is no ability for the staff or whoever is going to be responsible for reviewing and approving a particular application to call it up for a public hearing as it is presently written. If we chose to move forward in the direction previously discussed, can we close this public hearing, make that motion and also in that motion include the ability for present applicants to move concurrently with other entity applications? Mark said if the Board chooses to go this direction, he suggested the Board close the Public Hearing and that your decision be to approve the proposed amendments in Section 9.02.01 and 9.03.01.1 – those are the concurrence review issues and can be approved today; that says if anyone is going to go forward under our present regulations, which requires a CUP or SUP they can do that at the same time they are doing the federal and state permitting. The present applicants would go forward under the present requirements and not change until the new ones were in place.
Bret Closs – Grass Mesa – EnCana installed a gathering line a couple of years ago above ground between two wells and it ran in the bar ditch right by the road whereby you could drive over if you chose to and that's when he found out it was a non-regulated gathering line and it took 6 months with an attorney to have them move it off of the road and thinks Commissioner McCown's approach to the gathering line or pipeline should be is more on target than any kind of pressure or size because that can be regulated. He complimented the Commissioners on the direction they are heading. Chairman Martin said we are also doing GIS on the lines for future reference.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the Public Hearing; motion carried.
Commissioner McCown made a motion that staff would take this back to Planning and Zoning with the definition of a pipeline as we have so defined it. Don suggested it the motion to indicate to take it back for

consideration and set forth a definition for pipeline would be very helpful. Commissioner Houpt seconded. Chairman Martin said the motion is to go ahead and take the definition and also the recommendations as discussed. Commissioner Houpt said there were many comments she had on this and so when you take this to the Planning Commission are you also going to ask them to weight the difference between an administrative process and a Special Use Process or will you just give them this regulation.
Mark said they have already reviewed the Special use Process and arguably they will have opportunity to consider or include that in their discussions but what we will be presenting them is another alternative to that. Motion carried.
Commissioner McCown made a motion that staff be directed to include the proposed language changes in Section 9.02.01 and 9.03.01 that deals with concurrence review by state and federal agencies for land use permits that require approvals for multiple jurisdictions. Commissioner Houpt seconded. Motion carried.

CONTINUED PUBLIC HEARING TO CONSIDER AN AMENDMENT TO SECTION 8:10 OF THE GARFIELD COUNTY SUBDIVISION REGULATIONS, DEFINING EXEMPTIONS FROM THE DEFINITION OF SUBDIVISION FOR "SEPARATE INTERESTS". APPLICANT: BOARD OF COUNTY COMMISSIONERS – MARK BEAN
Mark Bean and Don DeFord were present.
Chairman Martin swore in the speakers.
Mark entered Exhibits A – J at the meeting held on February 9th. The new list includes Exhibits K – O.
Exhibit A - Proof of Publication
Exhibit B - Garfield County Zoning Regulations of 1978, as amended.
Exhibit C - Garfield County Comprehensive Plan of 2000
Exhibit D - Project Information and Staff Comments
Exhibit E - Comments from Jerry Hartert presented at the 1/14/04 Planning Commission meeting
Exhibit F - Letter with attachments from Roland Parker, dated 1/19/04
Exhibit G - Memo from Jerry Hartert, dated 1/26/04
Exhibit H - Memo from Jerry Hartert, dated 2/4/04
Exhibit I - Letter from Barbara C. Burwell, dated 2/4/04
Exhibit J - Garfield County Subdivision Regulations of 1984, as amended
Exhibit K - Memo from Jerry Hartert, dated 2/13/04
Exhibit L - Memo from Jerry Hartert in response to email from Mark Bean, dated 3/3/04
Exhibit M - Memo from Mark Bean to the Planning Commission, dated 3/3/04
Exhibit N - Letter from Jack Stanford, dated 3/10/04
Exhibit O - Memo from Mark Bean to the Board of County Commissioners, dated 3/11/04
Chairman Martin entered the new Exhibits K – O into the record.
At the direction of the Board, the Planning Commission reconsidered their recommendation to amend Section 8:10 of the Subdivision Regulations. The Commission was presented with the exhibits entered into the record at the Board's hearing on February 9, 2004 and a memo from staff and an additional letter. After a lengthy discussion, the Planning Commission recommended the following:

The Garfield County Subdivision Regulation of 1984, be amended to read as follows:

8:10 APPLICABILITY (of what is exempted form the definition of subdivision).
The Board of County Commissioners has the discretionary power to exempt a division of land from the definition of subdivision and, thereby, from the procedure in these Regulations, provided the Board of County Commissioners determines that such exemption will not impair or defeat the stated purpose of the Subdivision Regulations nor be detrimental to the general public welfare. The Board has determined that **the following divisions of land are exempt from these regulations:**

(1) leases, easements and other similar interests in Garfield County owned property
(2) land for oil and gas facilities **accessory to a pipeline, telecommunication site or a facility subject to Public Utilities Commission authority.**
(3) An accessory dwelling unit or two family dwelling that are subject to leasehold interest only and complying with the requirements of the Garfield County Zoning Resolution
(4) **Leasehold interest for apartments or any portion of a single parcel, where that parcel is the subject to zoning that allows multiple use by Right, Conditional or Special Use Permit and such leasehold interest is written and for a period not to exceed 25 years.**

(5) All leasehold interests current and existing and valid on the first day of June, 2004, where such interest is a written lease and describes an interest in an apartment or a portion of a single lot which is the subject of zoning allowing multiple uses by Right, Conditional or Special Use Permit.

Additionally, the Planning Commission recommended that the Board amend the Garfield County Zoning Resolution to read as follows:

2.02.52 Use:

(1) Use, principal: the purpose or function of which a lot, structure or building is intended, designed or constructed, or the activity which is carried on within said lot, structure or building; a noncommercial lot is restricted to one (1) principal use. Provided that there may be multiple principal uses on or in a lot, structure or building within any Commercial or Industrial Zone District.

On February 9th, the Board of County Commissioners considered the recommendation of the Planning Commission regarding amendments to Section 8:10 of the Subdivision Regulations. Based on the staff recommendations and public input at your January 14th meeting, a recommendation was made concerning multiple leases and apartments. The issue is tied to the definition of subdivision and the terms "separate interests, or interests in common", as defined by the State statutes. At the Board of County Commissioners hearing, there was additional public input in the form of written and verbal comments, that the Planning Commission did not have the benefit of reading or hearing. The Board continued the hearing to March 15th, to allow the Planning Commission to reconsider the recommendation in light of the new comments.

Issues

Attached for the Board's reference is the staff report and exhibits that were presented to the Board at their February 9th hearing. In summary, the overwhelming concern expressed to the Board was tied to the requirement that someone had to obtain a Special Use permit for a Commercial Park to have multiple leasehold interests on a piece of commercially or industrially zoned land as being an unnecessary burden to put on a property owner. Many of the people commenting on the proposed regulations, felt that a provision similar to Adams County and Pitkin County, which exempts from the definition of subdivision all leasehold interests with a term of 25 years or less, would be acceptable. Additionally, the issue of how to define when someone has to come in to the Board to amend the site plan approved initially, when there is a change in tenancy in a building? As it is proposed, each time a tenant changed, the owner of the property would have to submit a Special Use Permit application for the proposed change in use, regardless of whether or not the impacts changed. An argument presented to the Board, but not presented to the Planning Commission, is that a property owner not wishing to sublet any portion of their property can have multiple uses on the property owned by that individual and not be subject to the subdivision process. Staff agrees that an individual can utilize their property under the present regulations with multiple uses and not be subject to subdivision action, if they own all of the businesses on the property. It is also conceded that the potential impacts caused by such an application are not dealt with during the building permit process.

Additional Suggestions

Subsequent to the hearing before the Board, Jerry Hartert submitted an additional memo, outlining another reason to not require a Special Use Permit application. (See attached memo) It is his conclusion that the County already has a process to deal with the land use impacts noted in previous memos and it is not necessary to require a property owner to go through a Special Use permit process requiring public hearings for Uses by Right in the commercial and industrial zone districts. All that is necessary to clear up the subdivision definition issue is to exempt from the definition of subdivision leases of 25 years or less.

All Uses by Right in the L/I – Light Industrial Zone District are already subject to the Supplementary Regulations in Sections 5.00, 5.03.07 and 5.03.08 of the Zoning Resolution. All Uses by Right in the C/G – Commercial General and C/L- Commercial Limited zone districts are subject to the provisions under Section 5 (Supplementary Regulations). The L/I zone district requires the following:

3.12.08 Additional Requirements: All uses shall be subject to the provisions under Section 5.00 (Supplementary Regulations). Compliance with Section 5.03.07(Industrial Operations) and Section 5.03.08 (Industrial Performance Standards), inclusive, shall be required. If the

proposed land use is a "Use-By Right" compliance must be demonstrated at the time a building permit application is made to the County. Conditional and Special Uses shall require permitting by the County, consistent with the applicable Sections of this Resolution, for which compliance shall be demonstrated at the time of Conditional/Special Use Permit application submittal.

The uses in the C/L and C/G zone districts are subject to the following language contained in Sections 3.07.09 and 3.08.09:

Additional Requirements: All uses shall be subject to the provisions under Section 5 (Supplementary Regulations).

As it is written in the previously noted sections in the C/L and C/G zone districts, the Section 5 provisions are generally for uses subject to Conditional or Special Use permit review. The L/I zone district very clearly makes compliance with Sections 5.00, 5.03.07 and 5.03.08 a part of the approval of a building permit for uses in that district. The uses allowed in the C/L and C/G zone districts are not automatically subject to the provisions of Section 5, unless they are uses identified as Conditional or Special Uses or industrial operations identified in Section 5.03.07, which states the following:

5.03.07 Industrial Operations: Industrial Operations, including extraction, processing, fabrication, industrial support facilities, mineral waste disposal, storage, sanitary landfill, salvage yard, access routes and utility lines, shall be permitted, provided:

In most cases, the above “industrial operations” are classified as Special or Conditional Uses and would be subject to a public hearing before the Board of County Commissioners and as a result, subject to Sections 5.00, 5.03.07 and 5.03.08. The exception might be “storage”, which many of the multiple use properties have some form of storage on them. But in most of those cases, the storage activity is accessory to a principal use. Industrial Uses are further defined in the definitions section of the Zoning Resolution as follows:

2.02.31 Industrial Operations Classifications: Industrial uses shall be classified under one (1) of the following categories, which characterizes the dominant feature of the operation for purposes of regulation under this Resolution:

(1) Extraction: "to draw out or forth; hence to derive as if by drawing out"; removal of physical matter in a solid, liquid or gaseous state from its naturally occurring location; the initial step in utilization of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting;

(2) Processing: "to subject to some special process or treatment, as in the course of manufacture"; change in the physical state or chemical composition of matter; the second step in utilization of a natural resource; examples include petroleum refining, oil shale crushing, retorting and refining, ore smelting, coal crushing and cleaning, saw mills, alfalfa pellet mills, food canning or packing, creation of glass, ceramic or plastic materials, gravel crushing, cement manufacture; concrete batch plants; (A. 80-46)

(3) Fabrication: "to form by art and labor; to manufacture"; change in the physical shape of matter; the final step in utilization of a natural resource; examples include manufacture of equipment, vehicles and consumer goods from processed materials, wood and metal working operations, and batch plants;

(4) Storage: "act of storing or state of being stored, specifically, the safe keeping of goods in a warehouse or other depository", examples include products and open storage of mineral storage piles of gravel, ore and shale;

(5) Repair: "to restore to a sound or good state after decay, injury, etc"; restoration of a damaged object to its original physical shape; examples include automobile and equipment repair; appliance repair;

(6) Material handling: "to load and unload goods, materials and products, whether industrial or commercial, in bulk, excluding the operations of extraction, processing, fabrication or storage as defined above.

Staff acknowledges that it has not been the County’s practice to require a building permit applicant to submit information consistent with the criteria noted in Sections 5.03.07 & 08, with a building permit. These sections and Section 5.03 have always been applied to Conditional and Special Uses, subject to approval by the Board of County Commissioners in a public hearing.

<u>Recommended Action</u>

One possible solution to the issue of leasehold interests for commercial and industrial development is to add an administrative process for a site plan to be approved before a building permit is issued, to include standards the same as or similar to the standards cited in Sections 5.03, 5.03.07 and 5.03.08 for certain uses. To accomplish this, it will require amendments to the L/I zone district and publication of new notices, since all of the proposed amendments to date have been for the Subdivision Regulations and no notice has been given for changing the Zoning Resolution. Section 8.10 would still need to be amended to exempt commercial and industrial development from the definition of subdivision, if the leasehold interest is for a term of less than 25 years. The following section could be added as a Section 9.06:

9.06 Development Plan Review

9.06.01 Requirements: A development plan must be submitted for any property to have multiple leasehold interests on the same property located in the unincorporated area of Garfield County. Development plan approval is required prior to the issuance of any County building permits for a building to be used for multiple leasehold interests. However, commercial or industrial property with multiple leasehold interest, which may not require a building or other associated County permit must still obtain development plan approval under this section.

9.06.02 Application: The application for development plan review shall be made on application forms available at the County Planning Department. Such forms shall have all spaces completed, designate all agents, exhibit all owner or operator signatures, and be accompanied by required fees and all materials required within these regulations.

9.06.03 Development Plan Submission: The applicant shall submit eight copies of the proposed development plan with the completed application form to the Planning Department. The following information must be submitted with a development plan application:

A. A vicinity map indicating the section, township, and range of the site, and its relation to surrounding public roads and municipal boundaries.

B. A detailed drawing of the site at a scale of 1 inch to 100 feet, including the following:

1. The dimensions of the site, indicating area in square feet and acres, and the area of the site to be disturbed;
2. The location of all structures, sewage treatment lines and facilities.
3. Existing and proposed roads within the site as well as ingress and egress from public or private roads;
4. Lease lines, if appropriate.
5. On-site features such as floodplain designations, water courses and lakes or reservoirs, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, geologic features, vegetative cover;
6. Existing and proposed topography of the site at intervals of five feet; and
7. Existing and proposed vegetation, buffers, berms, fences, and other screening devices.

C. Diagram showing adjacent properties and the approximate location of buildings and their uses within a distance of 350 feet of any proposed structure, facility, or area to be disturbed. This may be drawn at a smaller scale than the site plan.

D. Copies of application forms or approved permits for all applicable local, state, or federal permits.

E. A fire protection plan, including documentation of the physical water supply devoted to fire protection.

F. Water and sewer service plan. Including documentation of legal and physical water rights for domestic/commercial/industrial purposes

G. A noise, odor, and dust abatement plan to control impacts on adjacent properties.

H. An access and transportation route plan prepared by a qualified traffic engineer, which also includes a traffic impact analysis on County roads and

State/Federal intersections, where appropriate, The Institute of Traffic Engineers (ITE) Trip Generation Manual shall be used as a basis for the projections.

J. A drainage and erosion control plan for both on-site and off-site drainage, demonstrating that off-site impacts will not exceed historic levels. The drainage plan will be stamped by a Registered Professional Engineer in the State of Colorado.

O. An undesirable plant management plan for the site, meeting the Garfield County Weed Management Plan criteria.

9.06.04 Referral and Review by Director

A. The Director will coordinate the review of the development plan application. Upon the filing of a complete application for development plan review, the Director shall promptly forward one copy to the County Road & Bridge, Health, and Engineering Departments; the appropriate fire district or County Sheriff; and any adjacent municipality for comment.

1. Referral comments on the proposed development shall be returned to the Director no later than 18 days from the date of application.

2. In addition, the applicant shall notify the adjacent property owners within 200 feet of the property boundary and post a sign provided by the Planning Department, on the site within seven days after submitting the application for development plan review. Both the notice and the sign shall indicate that a development plan review application has been made, and the phone number of the Planning Department where information regarding the application may be obtained.

3. Any determination by the Director to approve or conditionally approve a development plan application must be in writing and mailed or otherwise provided to the applicant no later than 28 days after the date on which the development plan application is filed. Failure to make a determination on the application within this time period shall result in the application being considered approved and the applicant's building permit being processed.

9.06.05 Development Plan Review Standards and Criteria for Approval

A. A development plan shall be approved or conditionally approved in accordance with the following standards and criteria.

1. Access roads on the site and access points to public roads shall be reviewed by the County Road & Bridge Department and shall be built and maintained in accordance with the Garfield County Road Specifications. . All proposed transportation routes to the site shall also be reviewed and approved by the County Engineering and Road & Bridge Department to minimize traffic hazards and adverse impacts on public roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise. Traffic increases resulting in an increase of 20% or more in Average Daily Trips (ADT) to a State or Federal Highway intersection, will require a new access permit to be acquired by the County. A new highway access permit will be obtained at the expense of the applicant.

Street improvements adequate to accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use shall either be in place or shall be constructed in conjunction with the proposed use;

2. All operations shall comply with all applicable State Water Quality Control and drinking water standards.

3. Utilities adequate to provide water and sanitation service based on accepted engineering standards and approved by the Board of County Commissioners shall either be in place or shall be constructed in conjunction with the proposed use;

4. Design of the proposed use is organized to minimize impact on and from adjacent uses of land through installation of screen fences or landscape

materials on the periphery of the lot and by location of intensively utilized areas, access points, lighting and signs in such a manner as to protect established neighborhood character;

5. Existing lawful use of water through depletion or pollution of surface run-off, stream flow or ground water. In a case in which water pollution potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin;

6. Impacts on adjacent land from the generation of vapor, dust, smoke, noise, glare or vibration, or other emanations;

7. 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;

8. Affirmatively show the impacts of truck and automobile traffic to and from such uses and their impacts to areas in the County;

9. That sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed use(s);

10. All commercial and industrial operations in the County shall comply with applicable County, State, and Federal regulations regulating water, air and noise pollution and shall not be conducted in a manner constituting a public nuisance or hazard. Operations shall be conducted in such a manner as to minimize heat, dust, smoke, vibration, glare and odor and all other undesirable environmental effects beyond the boundaries of the property in which such uses are located, in accord with the following standards;

a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.

b. Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;

c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards;

d. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision;

11. Storage areas shall meet these additional standards:

a. Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes;

b. All outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property at the same grade;

c. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;

d. Storage of Heavy Equipment will only be allowed subject to a. and c. above and the following standards:

(1) The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.

(2) All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.

(3) Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.

(4) Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

e. Any storage area for uses not associated with natural resources, shall not exceed ten (10) acres in size.

f. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property

9.06.07 Conditions of Approval

A. If the Director finds in reviewing a development plan application that the application meets the applicable standards set forth above, the Director shall approve the site plan, and the applicant may continue the processing of the building or other associated County permit application

B. If the Director finds that the application does not meet an applicable standard or standards, the application shall be approved with appropriate reasonable conditions imposed to avoid or minimize the significant adverse impacts of the development. Such conditions may include, but are not necessarily limited to, the relocation or modification of proposed access roads, facilities, or structures; landscaping, buffering, or screening; posting of adequate financial guarantees; compliance with specified surface reclamation measures; or any other measures necessary to mitigate any significant impact on surrounding properties and public infrastructure.

C. Once the Director issues a determination on the development plan, the determination shall not be final, and no permit based upon the determination shall be issued, for 14 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the Board of County Commissioners to call up the determination for further review, pursuant to Sections 9.06.08 and 9.06.09 of this Article. The Director's determination shall become final, and permits applied for in accordance with the determination may be issued, only after the expiration of this 14-day period, and only if the determination is not reviewed and acted upon by the Board of County Commissioners at a subsequent appeal or call-up hearing.

9.06.08 Applicant's Right of Appeal of Conditional Approval

A. In the event that the Director conditionally approves a development plan application, the applicant shall be entitled to appeal the approval to the Board of County Commissioners. The applicant must file an appeal for this purpose with the Director in writing no later than seven calendar days after the date of the Director's determination. If the determination is mailed to the applicant, three additional days for mailing shall be added to the time for filing an appeal.

B. The Board shall review the Director's determination at a public hearing held as soon as practical after the date of the determination. Prior written notice of this hearing shall be provided by the applicant to property owners within 200 feet by return-receipt mail at least 7 days prior to the hearing, and shall be

published as part of the Board's agenda in a newspaper of general circulation in Garfield County.

C. At the public hearing the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal, but may review any aspect of the development plan application. Based upon this evidence the Board may affirm the Director's determination, or may approve the development plan with modified, altered, deleted, or added conditions in accordance with Section 9.06.06 of this Resolution. No County building or access permit shall be issued, or the applicant otherwise allowed to proceed with the operation, until the Board acts on the Director's determination at the public hearing, and approves the development plan with or without the addition or modification of conditions.

9.06.09 Board of County Commissioners' Review ("Call-up") of a Determination to Approve or Conditionally Approve a Development Plan

A. No County building or access permit may be issued to the applicant, nor shall the applicant be authorized to proceed with any proposed development leasing not requiring one of these County permits, for 14 calendar days after the date of the Director's approval, in order for the Board of County Commissioners to review the approval. At the same time written approval of the development plan is provided to the applicant, the Director shall forward to the Board a written statement which shall include the location of the site, a description of the proposed commercial or industrial development, and, if the development plan is conditionally approved, the conditions of approval.

B. Upon receiving the Director's statement and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.

1. The Board shall review the Director’s determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of the hearing shall be provided to the applicant and to property owners within 200 feet by return-receipt mail at least 7 days prior to the hearing, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

C. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up, but may review any aspect of the development plan application. Based upon this evidence, the Board may affirm the determination, or alter, delete, or add conditions of approval, in accordance with Section 9.06.06 of this Resolution. No County building or access permit shall be issued, or the applicant otherwise allowed to proceed with the operation, until the Board acts on the Director's determination at the public hearing, and approves the development plan with or without the addition or modification of conditions.

9.06.10 Effect of the Approved Development Plan

A. After approval of a development plan for a commercial or industrial development, the applicant shall be entitled to have processed any necessary building or access permits or to otherwise proceed with the proposed operation. The approval of a development plan by the Director does not result in the vesting of development rights, nor does it permit the violation of any County or

state regulations or preclude the County Building Official or Road and Bridge Department from refusing to issue a permit if the plans and specifications do not comply with applicable County regulations.

9.06.11 Inspections

A. The applicant shall provide the telephone number of a contact person who may be reached 24 hours a day for purposes of being notified of any proposed County inspection under this Section. Any site under an approved development plan may be inspected by the County at any time, to ensure compliance with the requirements of the approved development plan, provided that one hour's prior notice is given to the contact person at the telephone number supplied by the applicant. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. The approved development plan shall be considered to grant the applicant's implied consent to such inspections.

9.06.12 Enforcement

A. In addition to any other remedy authorized under this Resolution to enforce the provisions of this Article, the Director shall be entitled to draw on any financial guarantee provided by an applicant pursuant to this Article, if the applicant violates any term or condition of an approved development plan. If the Director has reason to believe that a violation of an approved development plan for which a financial guarantee has been provided has occurred the Director shall provide written notice to the applicant describing the violation, and stating a reasonable time within which the violation must be corrected. If, within that time period, the applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the Director shall be entitled to enter upon the site to take any reasonable measures to correct the violation, and may draw on the financial guarantee to cover the costs of corrective measures.

B. If the applicant files a timely appeal with the Board of County Commissioners, the Board shall schedule a hearing on the appeal at the soonest possible time of which the applicant shall receive reasonable prior notice. If the Board confirms at the hearing that the violation has occurred and has not been corrected, the Board in its discretion may give the applicant additional time to correct the violation, or may specify the time at which the Director may take appropriate action to have the violation corrected and draw on the financial guarantee to cover the costs of corrective measures.

C. To insure the Director's ability to enforce the provisions of any approved development plan, the Director shall not release any financial guarantee provided under this Article for an individual development plan, until the Director confirms that all operations have been completed and all provisions of the plan complied with. The Director shall not release any blanket bond or other blanket financial guarantee provided under this Article unless he is satisfied that the person providing the bond has adequately declared its intention to conduct no further oil and gas operations in Boulder County in the foreseeable future. The Director shall also be empowered to release a financial guarantee if a successor to an operator provides satisfactory guarantees in accordance with this Article.

9.06.13 Amendments to a Development Plan: Any proposal to change a development plan and the used within it, approved under this Article shall require an application to the Planning Department to determine whether the proposed change constitutes a substantial modification to the approved plan. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved development plan is filed with the Director and approval granted in accordance with this Article. The applicant or its successor may appeal the

Director's decision to require an amended development plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Planning Director no later than 30 days following the date of the Director's decision to require a development plan amendment.
For the purposes of this regulation, substantial improvement shall mean any repair, reconstruction, or improvement of a building or other structure, the market value of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.
Additionally, the change in use of a piece of land, structure or portion of a structure that will result in an increase in traffic volumes of more than 20% of the projected or identified traffic volume from the site; or an increase in water or sewage usage that will exceed previously approved system capacities, shall be considered a substantial improvement.

Additional Issue

All of this proposed language does not address "apartments", which also require full subdivision review of any project over two dwelling units. At this time staff would suggest that the initial recommendation is still appropriate, which exempts a single apartment building, on property allowing multi-family dwellings as a use by right and having no more than six (6) dwellings.

Commissioner Houpt asked what would cover the issue of a change in tenant impacting the neighborhood with the lease, if you have a change of use but it's a lease change and it's going to impact the neighborhood differently?
Mark said the only way we would be able to deal with that is through our Enforcement; if we are aware of the change and have the opportunity then obviously if people come in with tenant finishes that would change that use, we would have the opportunity to deal with that thought the building permit process. Otherwise it would be something that comes in as a complaint through Code Enforcement or you suddenly get something in there that exceeds the capacity of the sewage disposal system facility that's available and we're made aware of that through a complaint.
Public Testimony
Brad Hendricks, CR 106, said he testified before Planning & Zoning and this is before you and he strongly encouraged the Board to adopt the recommendation. The big issues for him are the multiple uses in a commercial deal rather than having to come through a SUP.
Mark Gould, Westbank said the Board has heard his testimony. The bottom line is that we don't want to take anymore of the Board's time, he trusts that having sent it back to Planning & Zoning, and trusting that P & Z heard all of us, then they trust everything is going fine.
Roland Parker, real estate property manager and commercial property owner, and encouraged the Board to go in the direction of the P & Z recommendation.
Barbara Wolman, attorney with Stuver and LeMoine – participated in the P&Z and supports the proposal that's currently before the Board; John Scheck was here earlier but had to leave however he requested that Barbara also note that he recommends the proposal before the Board.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amendments to the Garfield County Subdivision Regulations 8.10 to read as presented in the staff packet. Motion carried.

The zoning change could not be accepted due to noticing.
Mark explained that this will be noticed and placed on the Commissioner's Agenda after a 30-day period.

PUBLIC MEETINGS:
CONSIDER A REQUEST FOR A 1-YEAR EXTENSION FOR THE KNOX EXEMPTION.
APPLICANT: MIKE KNOX – FRED JARMAN
Fred Jarman submitted the request for an Extension to file an Exemption Plat from the Definition of Subdivision for a 35 acre split by CR 306.
Recommendation:

Based on the past policy of the Board to grant a 1-year extension from the date of the originally required deadline, staff recommends the Board grant the extension for the Knox Exemption from the Definition of Subdivision until December 8, 2004.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to grant the one-year extension until December 8, 2004. Motion carried.

CONSIDER THE APPROVAL OF THE FINAL PLAT AND ASSOCIATED DOCUMENTS FOR THE SUN MEADOWS ESTATES SUBDIVISION AND THE ACCEPTANCE OF RIGHT OF WAY FOR
ANTONELLI LANE. APPLICANT: SUN MEADOWS ESTATE, LLC. (MAMM'S VIEW)– MARK BEAN
Tim Thulson, Don DeFord and Mark Bean were present.
Mark stated this was put as a public meeting because part of the conditions of approval was a requirement that the applicant acquire right of way for Antonelli Lane. One of the issues was the road impacts and one of the requirements was to obtain adequate right of way for work that needed to be done. The applicant did that and provided us the document and the deed to us. Staff is requesting that the Board authorize the Chairman to sign the appropriate final plat documents, which includes a final plat as well as the Subdivision Improvements Agreement and in addition that the Board accept the right of way for Antonelli Lane and the deed.
Commissioner McCown asked if a correction should be made as this shows it travel eastward to Miller Lane and in fact it travels west to Miller Lane.
Don DeFord said it actually does travel west and needed to be corrected.
Tim Thulson provided copies of the following documents: the Surveyed map, Land Title Guarantee Company Title Commitment, Bargain and Sale Deed between J. Haas and Carolyn Hass, and the Escrow Agreement by and between Sun Meadow Estates and James R. and Phyllis G. Adams. Sun Meadows is under the obligation to obtain a right of way needed to accommodate developer improvements to Antonelli Lane "from the east boundary of the developments property to Miller Lane." Sun Meadow has yet to close upon its purchase of the Sun Meadow Estates property and Sun Meadows funding in this regard is conditioned upon it obtaining any final plat approval. The Clerk should hold off on the recording until after the documents needed for security and letter of credit, the proof of recordation of the deed from the Adams to Sun Meadow and Sun Meadow to the County Sun Meadow is presented.
Don said the acceptance of the right of way needs to be an authorization for the Chair to sign a Resolution accepting right of way because that gets recorded and completes the transcript.
Tim Thulson added one point of clarification with regard to the expansion of Antonelli Road that deed has been executed and is in escrow at Land Guarantee Company and today will be asking the Clerk hold this until posting security and in the interim they will close the escrow agreement. Housecleaning matters, Tim noted some grammar errors and those have been corrected and the amount of letter with the bank should be in 3a on page 3, amount set forth in that paragraph is a correct amount certified in Exhibit A; Protective Covenants had 2 exhibits to be attached - a Wildfire Mitigation Plan and Exhibit B – a Vegetation Management Plan, was reviewed and included.
Chairman Martin pointed out a concern regarding the Covenants that allow 4H animals up to one year but no other animals unless approved. This is in the middle of Farm County and they do recognize the Right to Farm for the neighbors but within the Covenants, it states they can't keep animals on this property.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the final plat and associated documents for the Sun Meadows Estates LLC for the Sun Meadows Estates Subdivision and the acceptance of right of way for Antonelli Lane for Sun Meadows Estate formerly known as Mamm's View and the Chair be authorized to sign the plat, however, that plat shall be held prior the issuance of security and the SIA; motion carried.
Antonelli Lane – Road Acceptance
Commissioner McCown made a motion to approve a Resolution accepting the right of way to allow for the final plat of Sun Meadows Estates LLC to move forward with the Chair authorized to sign the Resolution; motion carried.

FairBoard Members
Commissioner McCown made a motion to reappoint the Board Kushia Sheets, Kathy Runia, Kevin Runia, Robert Flohr, TJ Dice, Leslie Torres, Patty Scarrow, Kate Foster, Leon Hanhardt and Perry Will; and if

anyone shows an interest in serving on the Board we will reviewed and appointed later. Commissioner Houpt seconded; motion carried.

ADJOURN
A motion was made by Commissioner Houpt and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

MARCH 23, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
AND
RIO BLANCO COUNTY COMMISSIONERS
GARFIELD COUNTY, COLORADO

The JOINT meeting of the Board of County Commissioners and Rio Blanco County Commissioners began at 6:30 P.M. on Tuesday, March 23, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Shannon Hurst Assessor and Mildred Alsdorf Clerk & Recorder for Garfield County including Don DeFord via telephone. For Rio Blanco, the following were present: Commissioner Kim Cook, Commissioner Forest, Commissioner Don Davis, Earl Kessler and Buck Manor.

CALL TO ORDER
Chairman Martin called the meeting to order at 6:30 P.M.
Executive Session – Litigation/Negotiation America Soda
Don DeFord said the two Boards need to conduct an Executive Session to discuss on-going litigation with the American Soda, LLC. There's a pending case in front of the Board of Assessment Appeals that involves both Garfield County and Rio Blanco County and various issues need to be discussed to see if we can come to a mutual settlement. The authority given to the Board is under Section 24-6-402(4)(b).
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.

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

Action Taken
A motion was made by Commissioner McCown on behalf of the Garfield County Commissioners that we approve the $55,000,000 total project settlement and agree to a 50% split of that settlement with the Rio Blanco County. Commissioner Houpt seconded.
Don DeFord stated this is contingent upon Rio Blanco approving a similar motion. Motion carried.

Rio Blanco Commissioner Don Davis called Rio Blanco meeting to session and open to a motion.
A motion was made by Commissioner Forest and seconded by Commissioner Kim Cook to agree to accept the appraised value of American Soda at $55,000,000 and agree that we will split that appraised value at 50% for Rio Blanco County for the year 2003. Motion carried.

Don DeFord stated his direction was to contact the Attorney for American Soda and inform him that both Counties have taken this action.
Chairman Martin confirmed that was the direction.
Commissioner Don Davis stated Don might inform Chris Cole at American Soda to inform him the two counties were on board.

Ed Green updated the Board on the DSS item saying we've had some news from the Auditors from the exit interview and Lynn stated they did agree to mitigate with the Board that adjustment for the furniture to the tune of $93,000 so we're really only out $5,000. This is a big plus. We're providing them with a lot of data that they asked for at the close out meeting and we're expecting some more good news in terms of facilities management.
Chairman Martin said this was overall about $533,000 they were requesting through the audit that we're reversing that trend and pulling money back in.
Ed said it was a great meeting. The final settlement is unknown but we will in a couple of weeks.
Chairman Martin said and at that time our timeline does run and if we still disagree with it there's a way of appealing directly to the Department Director. We may consider that but will bring it back on a final note.
Ed said he talked to Commissioners John Martin and Larry Green but not to Commissioner Houpt regarding getting vehicle for Public Health at Mountain View because of the number of clinics and home

visits has dramatically increased. It's impractical for them to use the Motor Pool vehicles. The Sheriff's Expedition is being traded out and Linda suggested using this Expedition in the general pool because of the four-wheel drive in the winter, so we're trading that one out.
The Commissioners didn't have a problem with this.

Executive Session - Legal Advice regarding Valley View Village Code Enforcement

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken:
Don said he needs direction on how the Board wants his office to proceed with the Valley View Village on property owned by the County and asked to have direction to complete an SIA that will deal with the removal of vegetation, allowing the drainage issues by the close of business on Friday of this week or that alternative to proceed with litigation in the nature of restraining orders.
Commissioner McCown added and to end the trespass situation. Commissioner Houpt said and to remove all materials.
Don said he was going to try and get this done immediately.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Special Meeting Requested

Don requested the Board set a special meeting next week to discuss completion of a contract with New World Financial Systems as well as to receive the report on the status of the Valley View Village property. Monday was suggested – March 29, 2004 at 9:00 a.m.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set a special meeting for Monday, March 29, 2004 at 9:00 a.m. to discuss the various items mentioned by Don DeFord. Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

ADJOURN

Attest: Chairman of the Board

_____ _____

MARCH 29, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The special meeting of the Board of County Commissioners began at 9:00 A.M. on Monday, March 29, 2004 with Chairman John Martin and Commissioners Tresi Houpt present and Larry McCown via telephone. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren, Operations Dale Hancock, Purchasing Director Tim Arnett, Building and Planning Director Mark Bean and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 9:00 A.M.
LICENSE AND SERVICES AGREEMENT - NEW WORLD SYSTEMS - SOFTWARE FOR ACCOUNTING AND HUMAN RESOURCES
Chuck Childress, Jesse Smith and Don DeFord presented.
Don DeFord explained that during the course of the last several days, Jesse Smith and he have conducted extensive discussions with Chuck Childress, the authorized representative of New World Systems Corp., concerning an acceptable contract under which the County will purchase a financial software package from their corporation.
Don explained his memorandum and a color coded agreement. There were two areas that Don directed the Board's attention to: 1) the payment, Exhibit A, 3rd page, licensing software. It is broken out into the Down payment of $64,600; Installation payment of $80,750 and the final acceptance payment of $16,151; a total of $161,500. Final acceptance was defined as acceptance of the last install, an event that may occur more than 12 months after the signature of this contract.
Chuck Childress and Jesse concurred with Don's findings.
The other item that was discussed was in Exhibit F, New World will interface to Eagle Computer systems for the Treasurer and the State DSS system. The price could alter significantly if we have difficulty obtaining technical contracts and/or technical specifications from the third parties involved. Jesse and Brian have said we will be able to accomplish our tasks as set forth in this exhibit.
Jesse said Byran had telephone conversations with Eagle, Bryan and KVS. This is a normal thing with ECS and it not a problem. There will be a cost for them to develop flat files but it should not be a significant cost at all. We have not yet received any estimate from Eagle Computer Systems but they indicate there is no problem in giving us the flat files we need. If they have to do any programming, they might have a cost associated with that. We think that both of these costs should not exceed $10,000 to $11,000 maximum.
Commissioner Houpt asked if this cost was factored into the amount the Board allocated for this project.
Jesse said it was.
Commissioner Houpt inquired as to what happens if it far exceeds that amount.
Jesse said we would look at an Option B or Option C as to another way to get to the position we would need to be where we would go in and pull the data out ourselves and do some manual work.
Jesse summarized the cost for the board: the fixed costs for the New World Systems Contract is $287,591 excluding travel at an estimated cost of $18,690 bringing the total to $305,281. The travel is a variable because of whatever the airline cost would be at the time that the travel is booked.
Chuck said they will schedule a kick-off meeting that will be done 2 weeks in advance and as a result of the kick-off meeting there will be an implementation plan put together that could stay in a year and the intent of the part of New World Systems is to make sure they have the appropriate trainers scheduled.
Commissioner Houpt asked what the State has said as to compatibility.
Jesse said the State has indicated their willingness to work with us to develop a parallel chart of accounts and that's what we need to do. There is nothing the state has to provide us per se.
Jesse also stated that on signing the contract we will need to issue a check for approximately $26,000 as well.
Commissioner Houpt made a motion that we authorize the signing of the Standard Software License and Service Agreement with New World Systems Corporation and with all of the amendments as presented and authorize the Chair to sign. Commissioner McCown seconded; motion carried.

Update Report on Compliance of Valley View Village

Mark Bean, Carolyn Dahlgren, and Jake Mall were present.
Mark referenced the photos from last week that the Board viewed. After consistently addressing the issues with the people they finally got all their personal material off the property. They have put up a fence to delineate the County's property line so they know where they're not supposed to go, but what remains is a piece of property where material is stored and we will want to see this reclaimed and revegetated. Carolyn and Mark talked to Mr. McConnahey this morning and he's aware of the fact that his client is responsible for doing that and they will need to enter into an amended subdivision improvement agreements to accomplish that.
Carolyn Dahlgren the purchase and sale has the property passing from the Hoaglunds to Dar Hart, LLC. as each phase of development occurs, so at the present time all we are dealing with is Phase A. One thing Carolyn needs to figure out is whether the Hoaglunds need to be held to this amended SIA or not. Jeff Nelson talked with them last week and with Jake from Road and Bridge, they are okay with how the land has been contoured; they just want the top soil put back on so it will support revegetation. Jake expressed some concern that once the piles of debris and rock are moved, we may find some excavation under that. Carolyn will write the SIA amendment to take care of that eventually. Neither Jeff nor Jake seem to be concerned about drainage, they think the drainage pattern will be the same as in the past. However the SIA needs to be drafted in case there are drainage problems and if so then the developer will be the one to deal with that. Carolyn drafted the SIA amendment and is assuming the Board wants a letter of credit now in place will have to be increased in amount to deal with revegetation on the County property and with whatever drainage issues that may arise in the future should we have to work on our property to fix what they created. The draft is such that they can increase the letter of credit in place or they can have separate letters of credit to deal with these issues. She also changed the indemnification paragraph to include what they've done to the County property. Carolyn asked if the board wanted to have their letters of credit increased or give us a new letter of credit.
Commissioner Houpt wanted to have the revegetation done at the earliest possible time because this is property they are not building on.
Carolyn said Jeff suggested they put in temporary drainage and not revegetation until the rest of the work is finished.
The other issue that came up Friday was dust control and the excavation company would be contacted about water trucks.
Don said based on this report his recommendation is that we not proceed with litigation. At this point they have accomplished those things that can be done through a temporary restraining order. As long as they enter into an agreement and proceed forthwith on reclamation issues it would accomplish everything.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign this amended SIA once our engineers have the necessary information back to Carolyn for the SIA. Commissioner Houpt said she wanted to make sure that this is taken care of forthwith; it's certainly not something we have to be patient about. Carolyn said Mr. McConnahey for Dar Hart LLC is being very cooperative. Motion carried.

Library Improvement from DOLA
Chairman Martin said $200,000 was granted from the Department of Local Affairs for the Parachute Library extension and there are some technical issues in receiving the funds.
Ed received a phone call from Tim Sarmo and his concern is "who does he write the Agreement with and who does he write the check too?" The question is the same, who holds the purse strings for the Library. One issue to address is who actually owns those buildings – us or the Library Board. Secondly, who should make improvements to it?
Don said as he has told this Board, previous Boards and the Library Board in the past, Statutes are not real clear on this issue but at the end of the day the authority of the Board of County Commissioners is to appoint the members of the Board of Trustees of the Library and to approve their budget. The Statutory provisions on the powers of the Board of Trustees, they have the authority to supervise, care, custody of all property of the Library and authority to sell, assign and convey property, they have authority to accept gifts of money from private doners for library purposes, and hold or acquire land for library purposes. So, clearly from Don's perspective, they have the authority to receive these funds. It is their authority also to draw up the budget, to approve it and to authorize expenditures and there's a separate provision in the Statutes under which they are authorize to expend the funds. So with that said, the authority clearly there from Don's perspective for the Library to receive the funds.

Jesse said the County auditors were in last week and met with Jesse on a variety of issues one of which, in reading the minutes, had picked up the discussion the last time the Library Board and their attorney was before the Commissioners and the position of the auditors was that the Library Board doesn't own the buildings, the County does and that they go on the fixed assets. Jesse asked the auditor to get with Don and discuss this as well.
Don said the auditor did meet with him and Don told him the same thing he's telling this Board, there's oblivion in the Statute that gives budgetary authority to the County Commissioners because under a separate statute, not the Library Statute, the Board of County Commissioners has final authority over the budget of any agency that receives money from the County and that certainly is this Board. But because they receive it from the sales tax, but the actual Statutes under the Board of Trustees of the Library give them authority in all other areas.
Commissioner Houpt agreed that the Library can own land under the Statute and it would add one more step to the process because it would be flow through. They have separate books anyway.
Jesse said no, they are part of our accounting system.
Chairman Martin said that is why we need to have that flow through the County and then authorize that going into theirs for the Library account expenditures, etc. Just being receiver of the grant monies and pass them through.
Ed commented that he didn't know how the Library Board and their attorney would react to this.
Commissioner Houpt asked if they can have the agreement with DOLA and just have this Board as a flow through agent so that we can have an audit.
Tim Sarmo is willing to consider any options; he just wants to remove himself from this dilemma.
Commissioner McCown asked who clearly owns the buildings.
Commissioner Houpt said the Library Board according to Statute owns the buildings.
Commissioner McCown asked if the Library Board has deeds to these buildings.
Don said to be very clear, they have the authority.
Don wanted to check to make sure.
The City of Glenwood Springs owns the property under the Glenwood Springs Library.
Commissioner McCown said some of the buildings that belong to the County; we do not own the property underneath.
Commissioner Houpt wants to check the deeds.
Jesse said from our auditors standpoint, the money from DOLA could go directly to the Library, because it will still pass through our books and our general ledger even if it's received by the Library Board so he didn't think that was an issue from the auditors standpoint and that might be the cleaner way to do it because it keeps the County in a constant position. The auditor was coming from the position that the Board of County Commissioners appoints the Library Board so consequently ultimate control is in the hands of the Board of County Commissioners.
Commissioner Houpt wanted to know what the dilemma is; is there a disagreement with the Library Board should be the negotiated party on that contract; is there any question that we want to be on the contract. Is the question whether the check should come to us and go through our accounting system to the Library?
Ed said the question is, does this Board want the contract to be with the Commissioners or with the Library Board and do you want the check to come to the Commissioners or the Library Board – both issues.
Commissioner Houpt said she thinks the Contract should be with the Library Board, it was their grant proposal, which we supported.
Commissioner McCown said he didn't have a problem with that. What is the auditor's heartbreak?
Jesse said simply the fact that the buildings are owned by the County and go on the County's fixed asset schedule. They don't have a problem with the check and the contract going directly to the Library Board because it comes back here through the Treasurer's office anyway to be deposited in the 120.
Commissioner McCown said he thinks we should find out who owns the facilities. Commissioner Houpt agreed.

Wellness Committee - Relay for Life

Ed stated two issues came out of the meeting last week: 1) we received a presentation from one of the road and bridge employees and his daughter are intimately involved with the Relay for Life which is a fund raising for the American Cancer Society. The Committee was impressed with the program and it basically involves sponsorship by a business or County Government by 10 of its employees to participate in this Relay for Life. It's an 18 hour event that occurs on July 16 and 17 in Rifle. The cost to the County would be roughly $1300. $100 for each participant plus a dollar for however many times they go around the track

which on average is 268 times per team. This would come from the grant funds that the County has spent ½ million for health and human services programs this year. 305/310 for our standard set, they're other human services grants that we've enacted including the CARE facility for $75,000.

County Health Fair
Ed said this is the second issue. Mary Meisner made a presentation and the County's part of the health fair is on June 10 and will be from 9:00 a.m. until 2:00 p.m. in the Board of County Commissioners room and will consist of several stations and in order to make it successful, Mary has suggested that there have a sign up for each employee to go around to each of the stations and they have a door prize as an incentive for employ6es to each station and participate in the fair. In addition there's need for food and Mary is requesting a $1000 to support the Health Fair in June. This includes supplies and she wants to hand out Deet for Mosquito control, etc.
Both of these issues will need to be on the agenda for a public meeting.
Feasibility Study for a Trail – Road and Bridge, Staff, Chairman Martin attended in Carbondale
Chairman Martin was asked to accompany the road and bridge folks with the Town of Carbondale as well as the Pitkin County Open Space in reference to the trail that runs south from Carbondale to Kebler Pass and over. Gunnision County is putting a trail in as well as Pitkin County Open Space. There's a section of Hwy 133 which the Colorado Department of Highways is going to allow to be used if they get through the feasibility study, etc. It's about $20,000 expenditure and they have raised everything except for $5,000 and have asked Garfield county to do a feasibility study with them at $5,000. He said he was looking at Conservation Trust funds and at this point we could find if it was in the multi millions of dollars or if it's in the hundreds of thousands of dollars in reference to their trail. Chairman Martin said this would help us form a good foundation either to assist or not in the future.
Ed said with the authorization on March 15, 2004 the projected year end of fund balance would be $227,000.
Commissioner Houpt said the folks working on the Bair Ranch Conservation easement are still looking for money from Garfield County and would like to put this on the agenda as part of this discussion when looking at Conservation Trust Fund monies.
All of these items would come out of the Commissioner's budget.

ADJOURN
Commissioner Houpt so moved to adjourn; Commissioner McCown seconded; motion carried.

Attest: Chairman of the Board

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APRIL 5, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

a) Supplying gravel for various Road and Bridge Projects – Marvin Stephens

Marvin and Tim Arnett presented the information regarding the three bids received. Marvin recommended these awards to be made in the 3 Districts:

District 1 – Western Slope Aggregate for a not to exceed price of $33,920.00
District 2 – LaFarge for a not to exceed price of $123,994.00
District 3 – United Companies for a not to exceed price of $54,882.80

Marvin put together a scenario showing the price per ton and the mileage making the recommendations valid for the gravel bids to the three different companies.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bids for aggregate to the following: District 1 – Western Slope Aggregate for a not to exceed price of $33,920.00; District 2 – LaFarge for a not to exceed price of $123,994.00; and District 3 – United Companies for a not to exceed price of $54,882.80. Motion carried.

b) Petty Construction – Trenching & Directional Bores on CR 221(Green Lane) – Kraig Kuberry

Kraig presented the Colborn Parcel, temporary access location map and the priority vicinity map for the point of presence for Big R Commercial Park for Qwest.

A motion was made by Commissioner and seconded by Commissioner to Houpt to approve the trenching and directional bores on CR 221 for Petty Construction; motion carried.

c) Surge Capacity Trailers – Guy Meyer

Guy submitted the information on the Hospital Surge Caches saying they were purchased through the Colorado Health and Hospital Association with a grant from the Health Resources and Services Administration in the US Department of Health and Human Services. The state's hospital preparedness advisory committee felt a strong desire for the control of the caches to be with local emergency managers to ensure paid response and care for patients during major emergency events when hospitals are unable to accommodate the volume of victims.

The goal of the grant and the caches is to provide local emergency managers with tools to create a temporary hospital for patient overflow related to an emergency event. A MOU was requested to be signed by counties housing the caches primarily for auditing purposes for the grand and to ensure communities understood the caches were intended for emergency events to support hospitalized patient care. There is no requirement to accept the cache if the County does not wish to accept a cache, Mr. Koons will need a formal statement from the county stating such for their records. The trailers are in and the stock is in and on Tuesday they will use the work crew to put everything in and take possession of them. The only thing we have to do is the title package. One will be left at the hospital and bring in the Red Cross for their use. We don't have to store these surge capacity trailers inside. These will be titled to the County. This is a federal grant and they will not provide any additional materials.

Jim Spear from the Sheriff's office was present and said these can be used by other agencies; the user gets to replace any items they use.

d) 2004 Fire Season – Guy Meyer

Guy wanted to provide the board with a heads-up about the high danger fire season.

e) Emergency Management Program Grants – Guy Meyer

These are funds that support ½ of the Emergency Management Program. There is a 25% reduction potentially in the Emergency Management Program Grants and Guy wanted to make the Board aware of this.

f) Garfield County-Parachute Branch Library Expansion – Ed Green

Jaci Sphuler said the Library received a $200,000 grant from DOLA. The construction schedule will begin as soon as possible. A letter from Governor Bill Owens to Chairman John Martin was submitted stating the Energy/Mineral Impact Assistance funds were approved for the Library Project.
Susan Hoover submitted a memo stating that Tim Sarmo feels he can go ahead and write the contract with the Board of Trustees for the Garfield County Library but would like something in writing from the Commissioners stating the ward that was issued was discussed at the meeting of the Board of County Commissioners on Monday, March 29, 2004.
Don said that Tim Sarmo wanted some action with the Board. Tim was okay with the Library Board receiving this grant.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize a letter to Tim Sarmo that the circumstances if the Grant were in front of the Board today and they were in support of the funds going directly to the Library Board. Motion carried.

Ownership of the Various Library Buildings

Don was asked to review the titles to the properties of the various library properties. All of the properties except New Castle are titled to the various municipalities and are run from the municipalities to the Library. New Castle is owned directly by the Board of Trustees of the Library.

g) Relay for Life – Ed Green

Ed said this is an event sponsoring a 10-person team in July at the cost of $1,000 for the participants and a dollar per lap. $1300 was recommended by Ed Green. This is endorsed by the Wellness Committee who reviewed it and felt it would be a good program.
Commissioner Houpt said she was in favor of supporting these types of request. Ed said Discretionary fund were suggested. The balance in that line item was estimated to be $20,000.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to support the Relay for Life in the amount of $130; motion carried.

h) Request for funds to support County Health Fair – Ed Green

Mary Meisner requested $1,000 for supplies to be used in the County Health Fair.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to take the funds out of the Commissioner's discretionary funds. Commissioner Houpt was in favor of having this money taken out of administrative funds. Commissioner McCown said he wanted to leave it as he made the motion this year.
Ed, Mark and Mildred make comments regarding this program favorably. Motion carried.

i) Lessons learned – Evaluation of fire at Williams Production Well Site – Doug Dennison

Doug submitted a memorandum and report on the response to the fire at Williams Production Well Site on February 22, 2004 in Parachute. The ultimate conclusion was that the response to that fire went very well with compliments to the Grand Valley Fire Department. They did identify some equipment issues.
The worst case scenario was if the rig collapsed. This was next to Hwy 6 & 24 but if it were in a different remote location, the rig might have collapsed. Commissioner Houpt was more focused on future events. Doug said early on a Sunday morning was the best time for this to happen with a volunteer fire department. Whether they are prepared for the worst case, he didn't think they were but there are measures in place to pull form other fire departments. Commissioner McCown said the well sites are only one component in emergencies; it could include the railroad, etc.

j. Air qualify monitoring for Western Garfield County – Doug Dennison

Doug is looking at Colorado Mountain College in the range of $20,000 to $50,000 and they will submit this grant geared toward workshops to talk about the issues and what they should be monitoring for and the ultimate potential of going after a DOLA grant in August. The Rifle High School is participating in a study. CMC is holding a work shop at the Leadville Campus on the air quality monitoring and the teachers will receive credit for the training. Leadville was chosen, Resource Management Institute that contracts to do sampling and the facility is geared up for this type of monitoring. They also have the dominators and cafeteria to handle the students. They are looking mostly at haze and visibility issues. Commissioner McCown felt it was important to have the baselines before this begins. Chairman Martin said it was Williams Energy on one study that we took monitoring west of Parachute all the way to New Castle to get the different baselines; then up the different drainages. I-70 was the real polluter. Commissioner McCown said there was a lot of migratory pollution coming in from other counties, documented Mexico and other states. The tests are taken during the air monitoring by a fixed station with filters included. Doug through this would be the outcome of these workshops. From the industry standpoint they're supportive of the monitoring but also balancing the money to be spent on monitoring versus earmarking a lot of that money

to try and find ways to get rid of the emissions to begin with. The tests are taken in a variety of ways. For the particulates, dust and other things, generally they just have a fixed station with filters in it and you decide what period of time you want to change out the filters and they have a pump sucking air through the filters. The organic monitoring is more complicated and gets extremely expensive. The monitoring EnCana did last year of Grass Mesa was about $20,000. The State has said they could potentially support this monitoring by doing the analysis. Doug said that's the reason for the workshops is to evaluate what is needed.

Energy Advisory Board Meeting – Commissioner Houpt was present and reported that this was a good discussion and commended Doug on the great job he is doing; it's a wonderful group.

Doug felt there are still some road blocks and issues that still need to be resolved in the formation of the Board. Discussion continued as to whether or not Doug should chair this board. Doug said no one was willing to step up and commit to the Chairman role. Those interested in the position of Chairman will submit letters to the Board stating their desire to be in this position and let the Commissioners decided. Everyone agreed that was okay. Otherwise if there are no letters, Chairman Martin said the Board of Commissioners would appoint someone. Lisa Bracken and Doug took photos of the seepage of gas in the creek. Friday, Bob Chessen, one of the environmental protection specialists for the Oil and Gas Commission collected samples of the gas in the water as well as Courtier and Associations a consultant for EnCana and the initial results of the analysis should be known later this week and hopefully determine the source of this gas. If it doesn't then additional sampling will have to be done. Chairman Martin read about this in the Grand Junction Sentinel and Rocky Mtn news.

Doug said they plan to keep the facilitator around for the first couple of meetings until we have a buy-in on where this board is going. The Board requested minutes to be taken and Ed was to look into this.

j) Continued discussion regarding membership with NWCCOG

Dale Hancock submitted the evaluation of services of the NWCCOG and evaluated those services that already exist. There are five areas and Dale worked from the print out that Gary submitted.

Those things that are unique to the NWCCOG are outlined in red. A couple of things were referred to Mark Bean i.e. on the water issues that the health department takes a role and responsibility for with the County. Elevator inspections are handled through our maintenance agreements through the manufacturers.

Chairman Martin had some feed back in reference to the Senior Citizen programs; they are very leery of allowing this to change from where it is under Associated Governments to NWCCOG to change these they way they are established simply because there's a different approach and would be topsi turby to RSVP, Nutrition Program, the Caregiver Program, etc., the things they have in place and request Martin vote not to change. Dale said home weatherization, carbon oxide testing, energy efficient appliances are the exclusive providences of Northwest COG that we don't have any handle on. Commissioner McCown said these are all pay as you go services with them. These are fees services the County would pay for.

Commissioner Houpt asked for an explanation on the various items Dale had colored in black. She said we have benefited from Northwest COG's studies and they have allowed the County to participate in their benchmark reports. Dale said we participated on time in a salary study a few years ago but not a lot of interaction with their studies. Commissioner Houpt said just because we haven't participated doesn't mean that we wouldn't benefit especially with the growing region and sees that as a huge benefit – the surveys, the studies, the planning and growth issues.

Commissioner Houpt asked Dale to explain the blacked items. Dale said these are things done in-house. Commissioner Houpt sees the planning and growth issues that NWCCOG provides and could benefit and feels it would be a worthwhile group to join given the fact that we do some of these on our own and thinks it would be a worthwhile group to join especially given the nature of the growth in our county and the types of services that Northwest COG provides but the different studies and surveys they are conducting. We do have money in our budget for this membership because we put in $40,000 for Rural Resort and they waived that this year. So we're talking about not even using the full $40,000 budgeted for that purpose. This will give us a good opportunity to see how well it will work for Garfield County. So much of our County now is in the same position as the other Counties in the Northwest COG are experiencing and it would be turning a blind eye not to join in May and give it the trail period with the money we already have in the budget.

Commissioner McCown asked if Northwest COG was a 10 or 12 County region. Dale thought only 6 or so. Commissioner McCown thought they were given an area similar to the Homeland Security which is the Northwest COG which is a 10 or 12 County region. Dale said they are Region 12 Planning District. Commission Houpt thought it was a 7 County region. Commissioner McCown said there were only 5 Counties and that depends upon if Routt County is in or out at any given year. Routt is out at the present

time. Commissioner Houpt said that Steamboat is trying to get in but Routt dropped out, so it is a 5-county region. Dale said Routt is in the Northwest RETAC but they're also sitting on the Revolving Loan Fund with us. Commissioner McCown said the reason Routt County dropped out of the Northwest COG was due to the management of the senior programs and they elected to move to Associated Governments. He summarized we would pay $40,000 a year and we'll get these 5 red-lined items. Commissioner Houpt did not agree with this opinion. Commissioner McCown reminded her that these are contract services you have to pay for. Commissioner Houpt pointed out the benefits of the membership to NWCCOG and that just because we join doesn't mean we'd change the senior programs because we would still belong to Associated Governments. The big think is the regional dialogue and legislative action issues; we could use their personnel search, consultants. Commissioner McCown pointed out that he was aware of those things, but those are the items you pay for, they do not come with the membership. Commissioner Houpt pointed out that you get $1,000 toward the contracting services and their surveys are very professionally done and typically include our County; we're benefit we would be joining in May and it would not cost $40,000. She encouraged staff to look at these services. She said we not only have an commitment to the constituents in our County to be a more active part of that but to Northwest COG too who has graciously allowed us to participate in the past. We can do it at a discounted amount because we would be joining in May, we have the money in our budget and we can see how much of this we use. She encouraged staff to look toward those items that we may be overtaxed on and use them. They do charge for some of these services but they charge a great deal less than a typical consultant. So instead of hiring consultants, which she thinks we are, we could get that service for less.

Commissioner Houpt made a motion that we join the Northwest COG beginning in May of 2004 for a trial period for the continuation of this year, use the funds that have already been budgeted for Rural Resort Region and reassess our membership for 2005 at a later date.

Commissioner McCown seconded for discussion and said he feels that even though it's at a discounted rate this year, it is $27,000 which is higher than the other organizations we've belonged to for a year; he doesn't feel that the services shown up as individual services that we're going to have to pay for in addition to that justify belonging to this organization. So he can't support it at this time. Commissioner Houpt said one thing we have to look at when we look at membership with AG&C versus Northwest COG or both is that we have a changing County and a huge portion of our County is dealing with the same issues that Northwest COG is dealing with and there is a portion of Garfield County dealing with the issues that Associated Council of Government is dealing with and for this reason it is advantageous is not to turn our backs on Northwest COG because it's a critical, critical discussion and partnership. Chairman Martin said he sees our association with Northwest COG/AG & C brings in the 26% of our revenue which is oil and gas and it's they're main concern. Great track record and senior programs and senior programs are the factors that is their main focus at certain times for sure, but also they have a very positive great track record in our senior programs and our programs are there and the directors are very comfortable with it and the senior program are what are going to sway him to stay with where we are. Commissioner Houpt clarified that she was not saying we leave Associated Governments and the senior program is very small in comparison to the services that Northwest COG offers. I think you guys are forgetting a portion of the County by not supporting this. Chairman Martin said he thinks we can join in those surveys but we will have to pay for them if they'll allow us to still being part of the Rural Resort Region – that's an in that we have to allow and go ahead and pay for those services on a contract basis. It doesn't exclude us. Commissioner Houpt said not all of the studies, John. Chairman Martin said true but studies are studies. We study our government to death. Commissioner Houpt said we're not studying government, we're studying economies. Houpt – aye; McCown – nay; Martin – nay. Chairman Martin said it's not because they're not a good outfit, because he's been to many of their meetings and they have some great programs. Commissioner Houpt said she thinks you guys truly are forgetting the needs of a huge population in Garfield County and very sorry that you made this decision. Chairman Martin said he thinks the concerns are covered by what we have in place with the agencies that were already in place with and we are answering these questions. But those are differences of opinion and we'll move on.

k. Discussion of meeting with Pitkin County

Ed submitted a letter from Pitkin County Commissioner Chair Dorothea Farris requesting a joint meeting to exchange ideas, discuss regional issues and share important information.

Mildred will be gone the latter part of April. May is the better time to schedule; May 12th or 18th was discussed.

k) Consideration and approval of Core Services Contract with CDR Associates – Lynn Renick

Lynn stated that at the last several Board of Social Services meeting she had announced that the Department received an expansion grant for Core Services for Adolescent Mediation. CDR Associates is the group that will do the mediation and the dates are April 21, 22 and 23; the grant total for this year that we have to spend by Mary 31st is $20,565. She neglected to realize a contract would be necessary for the CDR Associates. She anticipates 25 – 30 participants will be trained through this grant. The training is open to not only the Social Services staff but they are opening it up toYouthzone, Mental Health, and Probation so we can have kind of a collaborative emergency response for these cases. Carolyn Dahlgren stated the contract is being drafted and it will be the form purchase of services slightly different than what the board sees from other departments simply because this is core services money so the whereas clauses are different. The scope of services will be identified in Exhibit A.
Commissioner McCown verified that the timeline is such that Lynn needs this authorization today for the Chair to sign. Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

l) Increase in WIC Allocation from the State – Jesse Smith

Jesse submitted a memorandum stating the current contract with the State WIC Program from the period between October 1, 2003 and September 30, 2004 was increased by $9,246.00.
Mary said they have had a 10% increase in clients and she has been able to shift some staff to assist with the WIC bi-lingual staff into the program. Jesse said this amendment will take effect on May 1, 2004 and it does need the signature of the Board.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amendment and the Chair authorized to sign for an amount of increase in $9,246.00 for the WIC program; motion carried.

m. Roundtable held for the Elected Officials Staff – Ed commented that is was a very good meeting. Mildred added that her staff who attended were real pleased with the outcome and they learned a lot about the County.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. Discussion regarding IGA on funding for Mosquito Control Contract

Carolyn Dahlgren said the draft IGA and found some typos but it's not different from any other IGA the Board has seen. Steve Anthony is the one who has been doing all the leg work on all of this and has commitments from each of the Municipalities to contribute $2,000 per square mile and then the Board, within each municipality will be picking up about $75,000 for the other square mileage outside of any of the municipalities. So filling in the blanks on page 2 - Glenwood is committed to $8,000 and it has gone through their Council; Carbondale $4,000 and we have Council approval; Rifle $12,000 Council approved; Silt $3,160; New Castle $2,300; and Parachute $2,000. The only one we're not totally sure has gone to Council is the New Castle, but Steve Anthony talked to Steve Rippy last week and there is a commitment in place. Steve will have the responsibility to get it signed by the municipalities. Chairman Martin suggested the Mayor's meeting is a good opportunity to accomplish this task. An IGA draft was submitted for the Board's signature once all the municipalities' signatures are in place. Chairman Martin complimented staff on the good job of communicating to the public on the mass spraying and clarifications that it not going to kill everything; however somehow this information was not given to all this writing articles about the program. Spraying is our final option and is very controlled.
Steve said the spraying is comprehensive and will cover 50 square miles of service area and will include the monitoring, mapping, surveillance and Larvaciding and adult sighting if needed. Chairman Martin noted that the mapping is very important in showing what is happening with the trapping and pinpointing what kind of treatment needs to be done. The Larvicide treatment starts in late May; there have been some sightings of mosquitoes. The culex tarcales comes out later – July, August and through September.
A motion was made by Commissioner Houpt seconded by Commissioner to authorize the Chair to sign the Intergovernmental Agreement for Mosquito after we've received signatures from the municipalities. Motion carried.

Contract Negotiations Update

Carolyn updated the Board on the final contract negotiations saying we do have a signed contract; first of all they were able to get the wide indemnification paragraphs which are good since it wasn't possible to convince the contractor that he had to have written agreements with every private property owner. The contract includes their desire to have a warranty and disclaimer paragraph which is appropriate concerning what they are doing and they basically disclaimed any warranties under the Uniform Commercial Code. They had no problem with the insurance and Tim is checking on their legal liability insurance appeared. Ownership and control of documents ended up being different that our form and we own everything and

that's because they claim trade secrets and their GIS mapping system – data learning, etc. but we agreed to protect their trade secrets which is allowable under the Public Records Act but we also told them they would have to deal with any requests from the public since we can't give out the electronic GIS information, they will deal with public requests for information in a format they believe covers their trade secrets. This way Steve and Rob aren't the ones giving information to the public that might break a trade secret. The burden is on the contractor as to what type of format to give people copies of maps. Chairman Martin said the report back from the company of the multiple 20 plus Counties and Municipalities throughout the State, Garfield County is the most thorough in reference to our examination of the documents and contracts they have ever seen. We have asked the questions in reference to the safety of the programs. Good job for Steve and Carolyn.

b. Update of Valley View Village Subdivision at Battlement Mesa PUD – Carolyn Dahlgren

Don provided the update and photos of the area were submitted of the area. The personal property has been removed, there is a fence in place and later today Carolyn will be meeting with the attorney to discuss the SIA amendment. We are on track. Jeff Nelson, County Engineer seems fairly comfortable that drainage will not be an issue; the SIA will have provisions in it should it become an issue and has requested that Darter LLC. or its contractor put out some temporary silt fencing.

Don wanted staff to address the revegetation issue. Marvin went out with Jeff and Steve on the revegetation issue and came up with a figure of 2500 acres estimated. The revegetation is the only issue of concern. Marvin thinks we need some silt fencing and will be able to tell more after the rain today.

Carolyn reminded the Board that the Chair has been previously authorize the sign the SIA.

c. Code Rewrite Contract Amendment – Randy Russell

Don said this came up quickly and Randy has been the contact person.

Randy submitted the letter prepared for the Board's signature to Mr. Unseld with respect to Contract Identifier # CHPG00141 stating: This letter is a formal request to enter into a Contract Modification for our current joint project to develop a Model County Code and the rewrite of the Garfield County Zoning Resolution and Subdivision Regulations.

Garfield County would also enter into concurrent contractual modifications with the consultant firms for this project, Sullivan Green Seavy and Norris Dullea to reflect the changes proposed herein.

Garfield County appreciates the efforts you and your staff have lent to this effort. While the project has lagged somewhat in time increments and deliverables we still feel strongly that we are on track for the major product deliverables and time periods we originally identified culminating in the fall of this year. Where we have mutual concerns are in the areas of interpolating the language and lessons learned from developing Garfield County's specific code into a product that will serve as a statewide Model Code, and appropriate augmentations to that Model Code in the form of presentation, graphics and presentation in both Word and Word Perfect formats.

We have also jointly identified, at the staff and consultant level, elements of a logical companion "Workbook," that was not originally envisioned in our Scope of Services. This Workbook would contain model permitting applications, fee structures, legal agreements, Flow Charts and Diagrams, and other 'best practice' examples.

Our original work scope was based on Garfield County providing these elements internally, and only for Garfield County. This Contract Amendment allows for some additional consultant efforts in Workbook development that would be applicable to and attached to the statewide Model Code, benefiting both Garfield County and the State of Colorado in product deliverables.

SPECIFIC MODIFICATIONS

The following modifications to our present Contract, and to be replicated in our Contract with the consultants, are requested:

1. A Contract extension be granted extending the timeframe and ending date of our Contract with the State until April 30, 2005
2. Our Contract with the consultant firms will also be extended until December 31, 2004 with a provision to re-contract for the balance of work until April 30, 2005 subject to approval by the Board of County Commissioners in our 2005 budget process.
3. County match for this Contract will remain at $40,000 cash contribution for consultant efforts, and up to $10,000 cash contribution for necessary legal notices, hearing expenses, mailings, meetings, etc. State match for this project will increase to $75,000, an increase of $25,000, to fund specific modifications to the Scope of Services delineated below. Payment schedules will be modified to reflect this increase. The

County will contribute all necessary in-kind match for additional staff work, processing, audit and administrative costs for the amendment.
4. The Scope of Services for the development of a unified Development Plan, and timing for deliverables, for the Garfield County portion of this contract is not modified or amended, except for the addition of the following where appropriate:
5. Modifications to the Scope of Services:
A. Deliverables to the Department of Local affairs for a draft Model Code and a final Model Code shall be extended to January 31, 2005 and March 31st, 2005 respectively.
B. To the extent that Contract language needs to be clarified, deliverables to Garfield County and the State of Colorado shall be in both CD digital format and 10 bound final copies of the draft and final reports containing a Unified Development Code for Garfield County and a Model State Code for the Office of Smart Growth, Department of Local Affairs. The State Model Code CD will have both Word and Word Perfect versions. Workbook additions will include, at a minimum:

1. Flow charts for all appropriate development processes
2. A review and refinement of Garfield County Permit applications, generic models in the case of the Model Code
3. Appropriate process checklists and 'user friendly' instructions

C. All deliverables shall have a 'High Value' presentation quality, with appropriate graphics, headings and page layout.
PROPOSED BUDGET MODIFICATIONS (ADDITIONAL FUNDS)
$25,000 - To include conversion to Word Perfect for the DOLA deliverable CD, graphic enhancement and the addition of flow charts, and such additional Workbook items as may be negotiated with the consultants on joint review of desirable Workbook additions by DOLA and County staff.
DOLA staff will adjust payment schedules and final withholding accordingly.
Please note that all of the additional funds that are anticipated to be applied to this project are for specific consultant services and deliverables. The extension of time and review of draft products will require additional staff and administrative costs for Garfield County that we will contribute to this joint effort as additional in-kind match. In-kind efforts have been and will be substantial, although not applied to the current project or proposed for amended project match.
This proposed Contract Amendment is the result of close coordination and consultation between our staff, your staff, and the consultants working on this project. It will be beneficial to all concerned, and result in a refinement of deliverable products to our mutual benefit.
There have been two promotions: Charles Unseld is now running the local government and Eric Bergman is the director of Smart Growth. Randy made these changes to the original letter submitted for signature. Modification under 5A now reads deadlines for the deliverables to the Department of Local Affairs. The deadlines have been pushed out until March 31, 2005 but we will still have a 30-day time frame when the contract is still open to fine-tune the deliverable product to the State from the County; we're doing all the paperwork.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chairman to sign the Contract Modification request to the Department of Local Affairs for increased funding of $25,000 with the corrections as noted. Motion carried.
Executive Session: Litigation Update; Legal Advice
Don requested an executive session to provide legal advice on a proposed application for an access driveway permit onto Whiteriver Avenue in Rifle. This is on a similar piece of property that the Board has heard before. Also there legal update concerning pending legislative on
SB 215. Commissioner Houpt asked to include a personnel item. On the access permit issue Don requested that Marvin and Kraig be present.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Senate Bill 215
A motion was made by Commissioner McCown to direct staff to draft a letter to CCI in opposition to Senate Bill 215 and that letter be drafted for the signatures of all three Commissioners. Commissioner Houpt seconded; motion carried.
Driveway Permit – White River Avenue

Commissioner McCown made a motion to direct the Road & Bridge Department to move forward with their access permit application process and that they meet with the County Engineers to come up with whatever criteria they feel is necessary to generate a safe assess permit and that issue be brought back to County Commissioners. Don clarified this was in regard to an access point on Whiteriver Avenue, Creekside Condos. Commissioner Houpt seconded; motion carried.

COMMISSIONER REPORT

Commissioner Houpt – There's some concern from the TPR partners on the efforts Scott McInnis is making on getting money for the South Bridge because of the Regional decision making process that we participated in. She thinks it's important that we respond to those concerns and figure out whether there is a distinction between monies that would be allocated for that project, separate from what we put together as a region for transportation purposes. That's really an issue that is going to grow as those monies are sought for that purpose acknowledging that there's great need and Mayor Vanderhoof had talked to Representative McInnis when we had the Coal Seam fire but then there is a firm process on transportation issues and Chairman Martin was involved this year and didn't know if discussions were held specifically this effort with the rest of the group because they didn't seem to understand or be prepared for this action.

Chairman Martin said she was referring to the vote on the $6.5 million and also by the State's policies that no direct money from any federal agencies can go to a municipality or to a local government, it must go through the State process; the State has to have a review of that project as well as the agreement to disperse the funds. It's really interesting that a little bit of pork barrel politics are going on and maybe that's the only way to get the attention of the TPR but the State still has to be involved in receiving the funds from the federal government and agree to pass them through. So there are many hurdles that must be done.

Commissioner Houpt agreed there are many hurdles but people are concerned they are two different processes going on and the question posed to John was if this was part of the discussion during that TRP process.

Chairman Martin said no, neither was the Aspen ability to go ahead and raise funds as well as Vail and Eagle County to raise the total amount locally and then have the process pay them back when money was available. That wasn't within the discussion but it took place. That money is still pending from the State; they haven't paid those entities back that he is aware of. This could be one of those very possibilities but Glenwood Springs and Garfield County involved would have to pay 100% and then ask for the monies back. The $6.5 is not even half of what the project would cost. He wasn't sure where they are going with this and not sure how the State have viewed it; it may be a real concern to the State as well and suggested we ask those questions.

Commissioner Houpt said the South Bridge in that the project intersection around it was brought further to the top of list during the last TPR meeting and people just don't want to see their projects bumped as a result.

Chairman Martin said the biggest concern is that the 7th pot projects have to be completed before we go onto the new 20/30 plan and that is one of the biggest projects we've got going. The money for the intersection at Red Canyon Road has been put back and that's State of Colorado's money and that really did not have anything to do with the South Glenwood Bridge, it was only to take care of other issues at that intersection. Again, the big political question that was, even though you have the money, what is the project itself – have you done away with the Airport, has FAA given approval, what is the design of the 3 alternatives, going under, over or around and all of those questions have to be answered.

Commissioner Houpt acknowledged the local issues do need to be answered but this is separate from that but this is the negotiation we made as a TPR. This needs to be addressed with our partners. Tomorrow a tour of Grass Mesa with EnCana to look at the new things they put in place, new and improved. An access question from a concerned citizen outside of Carbondale and meeting with them on Wednesday and will talk to Road and Bridge about it. RFTA meeting on Thursday; Pipeline Regulation Meeting with CCI and other Counties on Thursday; meeting in Grand Junction on 2477 Friday.

Commissioner McCown – last week Monday we met with the Forest Service and BLM at the Road and Bridge Shop to discuss mutual problems on road maintenance; spoke Tuesday morning to the Rotary Club in Rifle; Thursday had a Fire Commission meeting from 9 am – 11am finally deciding on the International Fire Code and how it will be presented to the County for adoption; and this Thursday an Associated Government meeting in Palisade.

Ed – Mesa County was apologetic for not attending that meeting and are wanting to arrange yet another meeting. They just blew it – it didn't appear of their radar screen.

Commissioner Houpt neglected to mention that the joint meeting that the planning commissions the City of Glenwood and Garfield County had last Tuesday evening. The staff had put together a fabulous presentation on projections for use of lands that interface between the City and The County using Four Mile as an example. Everybody on these commissions was very excited to about the opportunity to be able to have these discussions and work together on that issue.
Chairman Martin said he received positive results with the meting with Rifle as well doing the joint project with them. We'll be visiting all the communities with P & Z making sure we have an interface with all of them. The only other item that was not mentioned was the Thursday noon – Community Corrections Board, April 8, 2004. He sits on the Board and has many staff members as well as well as the court system, the public defender to citizen groups. He invited the other Commissioners to attend.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign an Acknowledgement of Satisfaction, Subdivision Improvements Agreement for Filing 5, Phase 2, Los Amigos Ranch Subdivision – Mark Bean - Authorize the Chairman to sign an Acknowledgment of Satisfaction, Subdivision Improvements Agreement for Elk Springs Filing 6, a Subdivision of Los Amigos Ranch PUD – Mark Bean
f. Authorize the Chairman to sign Division Order for Well #857904 GM 13-12. Williams Exploration and Production
g. Authorize the Chairman to sign the Resolution, Grant of Easement, Permit for Fences and Ditches in Public Right of Way, and the Final Plat for the Langegger Exemption from the Definition of Subdivision. Applicant: Josef Langegger – Fred Jarman
h. Authorize the Chairman to sign a resolution concerned with the Amendment of Subdivision Regulations of Garfield County, of 1984, Modifying Section 8:10 – "Separate Interests"

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to
Approve the Consent Agenda Items a –f and item f. Items g will need to be handled later as an original were submitted for signatures.

Adrian Crouch asked to speak on ***Item i*** *(Authorize the Chairman to sign a resolution concerned with the Amendment of Subdivision Regulations of Garfield County, of 1984, Modifying Section 8:10)*. In looking at the copy of the Resolution, she said she has a couple of questions for the Board. 1) When will this start; 2) Will it be retro-active and if there's some questions in and around her land that has discretionarily split that she didn't know about, can she bring this up. Commissioner Houpt said that would be her assumption. We've had several public hearings about this and we didn't discuss making it retroactive. Adrian said just because she wasn't an attorney, she asked, "when it says it's exempt from easements, what does that mean." Commissioner McCown said that means an easement across a piece of property is not being the same as a land use not considered a division of that property. Chairman Martin – a county road that divides your land? There's a provision in the regulations that addresses that. It would be a separate issue. Don cautioned the Board about giving opinions about the effect of this Resolution on a private property owner's individual property when you're not in a hearing considering that property. If there are specific questions that need to be addressed about the impact on Mr. Crouch's property, you should communicate directly with Mark Bean first and then he'll bring it to the Board in an appropriate procedure context. Adrian said her only comment was that it seemed to her that this new 8:10 applicability gives the planner and the Board discretionary power at all times to decide what should be split on property and what shouldn't and she doesn't believe that is in the public interest. Don clarified what was in front of the Board today is a form of Resolution; there were extensive public hearings on this issue in front of the Board of Commissioners and the Planning Commission over the last few months. This is simply the written document that confirms action the Board has already taken. Commissioner Houpt said we adopted this in our last meeting and staff put together the actual formal resolution and all we're saying is that the Chairman has the authority to sign. Adrian said she would like to verify that this is not retro-active. Don said it is effective on the date of adoption which is today. Motion carried.

REGULAR AGENDA - PUBLIC MEETINGS

Garfield County Public Library Annual Report 2003 and Strategic Plan 2004 – Jaci Spuhler

Don DeFord, Jaci Sphuler, Director, Library Board members Cheryl Courier, Chuck Dixon and Bill Lamont were present. Jaci provided this report and plan to the Board several weeks ago; she said she hopes the Commissioners have reviewed it. Jaci feels the strategies plan is a good plan.

The Board felt this was a very comprehensive plan and complimented the Library Board and particular Bill Lamont in putting this together.

Jaci said future library expansions will be driven by participation and interest of the communities served. They are looking at ways to expand library hours recognizing that the buildings are not being fully utilized when the doors are closed.

Commissioner Houpt complimented the comprehensive work in the report Bill Lamont submitted.

Chairman Martin expressed appreciation for the hard work being done and we're looking forward to you going forward with your plans.

Bill said it took 8 months with the Library Board working together to put this together.

Glenwood Springs Aquatic Center – Tresi Houpt

Commissioner Houpt said this is for Conservation Trust funds. Terri Miller, fundraising chair for the "Let's All Pledge (LAP) campaign the build the pool asked the Board for a contribution of $100,000.

Commissioner Houpt said that the Conservations trust money that comes to the County yearly is targeted recreation, parks and open space and county activities; this clearly benefits the entire County and felt it was appropriate to contribute funds. We have built some facilities at the Fairground with this money and it is time to look at how we can expand those resources to other programs, other recreational opportunities, and open space throughout the County. The Glenwood Springs Aquatic Center is a project that serves people throughout our County.

Terri explained that the Community Center services the entire county and it will serve as a center for the swim teams, including Rifle and Carbondale.

Commissioner Houpt said she would like to see some of the Garfield County Lottery Funds be used for an aquatic center. This is the type of programs that Lottery dollars are meant to support.

Terri explained that 340 individuals or businesses have submitted funds. She pointed out the LAP has embraced the same vision that Garfield County has which is to embrace change to ensure service, teamwork and excellence. The Parks Department will oversee the construction and continue it in the day to day operations. In December 1999 the non-profit corporation was formed. Swimming in the second most popular way of exercise, walking is first.

The request of $100,000 is to be paid out in $35,000 over a three-year project.

Commissioner Houpt said this is a very good project to support; the involvement in getting this going has been grass roots and has been huge. Understanding that because of the laws, a Board cannot commit funds for more than one year. We could only commit to one-year of funding.

Commissioner McCown clarified that the Aquatic Center is still $1.3 million short in the completion of this but ground has been broken. At the end of the day the pool will belong to the City of Glenwood Springs Recreation Department.

Terri said the Glenwood Springs is very committed to building this project but all of the funds have not been secured. Terri commented on the fee structure for in-City users and out of City users the same as it is at this time. She felt there would be an increase in fees once this structure is completed.

Commissioner McCown wanted it clear that the County residents will pay more to use this facility.

Terri reminded the Commissioners that a lot of the swim team members are residents of the county.

Chairman Martin noticed that the City of Carbondale is contemplating closing their pool due to the lack of funding.

Sheriff Lou Vallario spoke as a citizen of Garfield County saying he is not opposed to a variety of recreational facilities but noted his involvement at the Fairgrounds and 4H. He wants to make sure that we are not diverting money away from the Fairgrounds and 4H. Revenue for other recreation and open space should come from another source.

Commissioner Houpt assured Lou that the money that has been allocated for the Riding Arena, $200,000, is allocated for that. Historically this trust fund money has gone to the Fairgrounds, but because of the way the spending is defined, it really needs to serve a broader base. It doesn't mean we're taking away from projects or programs. The Riding Arena will be completed this year; the money is going for that. This means we are going to begin to look at other programs as well.

Lou said this is the big concern because from his point of view and involvement with the Fairgrounds that the Fairgrounds continue to be supported because so many kids use these facilities and it would be a determinate to the community if funds are diverted. There's a lot of precedence and tradition set there and again it's a political and budgetary decision for the Board and not me, but if the County wants to get into other recreational issues then we need to look at other funding and possibly a recreational district.
Commissioner Houpt assured Lou that the Fairgrounds have a real healthy budget and because the County owns the facility we can also use capital money. So there's money to keep the Fairgrounds in place.
Lou said that was his main concern and that he didn't want to see money being diverted to another project when there was an on-going project at the Fairgrounds, but if there's budgetary means for other projects and as long as the Fairgrounds continue to go on, then he doesn't have any other concerns.
Chairman Martin said this is his concern as well because we're committed to getting this project completed and have promised the folks 5 – 6 years that we would get it completed and we need to stay on course and make sure we get the project completed this year as our strategic plan indicated we would do.
Tom Latham said he backed Lou on the 4H projects because with these young kids the Fairground interacts with them so much that truly it's almost a drug preventative program and he doesn't want to forget those kids.
Commissioner Houpt – it is a great program and fabulous programs for the kids throughout the County.
Shannon Meyer said she drove all the way to Aspen to visit their pool and would much rather visit the pool in Glenwood Springs.
Michael Erion – 392 CR 266 – Colorado Quarter House and volunteer for 4H – reiterated the support for the commitment to the arena project and stated that money should be allocated to complete that project.
A motion was made by Commissioner Houpt that we allocate $35,000 toward the Glenwood Aquatic Center and invite LAP to come back next year since we do not give additional years commitment.
Commissioner McCown seconded for discussion purposes.
Chairman Martin requested clarification on the balance in the Conservation Funds. Ed said the end of year projected balance was $427,000 but that was before the $200,000 that went to the Riding Arena Project, so now is $227,000. The only other consideration is if the DOLA grant is not approved, then the Board needs to decide whether to fund the remainder of it out of Lottery Money or the Capital Fund. Currently its $200,000 out of the Lottery Money; $50,000 out of the Capital fund and we anticipate the remainder $200,000 coming from DOLA.
Commissioner Houpt asked the capital balance. Ed said with the other project we're doing we'll expect to have an end of year fund balance of slightly less than $6,000,000.
Commissioner Houpt said as the state gives us this Conservation Trust Fund money they are sending a message that we look at all opportunities to support Parks, Open Space and Recreation and this gives us a great opportunity to start looking at those funds in a more County-wide basis.
Commissioner McCown said he sees that the previous expenditures of this fund have been directly primarily toward the Fairgrounds and the facilities there. The new indoor arena that was built there was built with these funds and was a $1.2 million dollar project; it is not completed. There is an office space for the Extension Office as well as the Fairgrounds managers, large meeting rooms that will allow public meetings to be conducted in that facility be it 4H or other public meetings of any nature. And I think those funds have been directed and spent very wisely; that building cost more than we had in the funds, so we borrowed from our general fund to complete that building. That is a false number that Ed gave, that fund still owns the general fund about $400,000. We have been gracious enough to look past that since our general fund has been able to survive and we've allowed other grants to take place out of this fund. If you want to get down to the nit picking part of this, we could wipe that fund complexly out, put it back in the general fund and still be in the hole at the end of the day. He said he agrees that swimming pools are great; swimming pools are closing everywhere because the cost of operation and the building of a swimming pool is normally the cheapest part of it. A few weeks ago when this Board was talking about the completion of the building at the Fairgrounds, Commissioner Houpt was reluctant to approve the $100,000 because we didn't have the money to complete it and you didn't like to give money to projects that we didn't have money to projects that we don't have money to complete. This is a $35,000 grant toward a $1.3 million dollar deficit as contributing money to an area that we don't have the money to complete. He said he would feel much better about giving this money if Garfield County people were not discriminated against and this is because of the fee structure. These folks are coming to Garfield County for a handout for funds but you're going to charge us more to use the facility. The Hot Springs Pool doesn't do that, the Arena doesn't do that, the Fairgrounds; it is a Garfield County entity and that's what I will look to this to be and stop

charging different rates for those of us that may live in a different area counting this as a benefit to Garfield County so the kids can come and swim on the swim team leaving out the caveat that it's will cost more because you're not in Glenwood Springs and at the end of the day this is going to be a Glenwood Springs facility. He sees a $35,000 grant that we don't have. Feel better to give this money to the County residents. The City is asking for funds and are still charging us a higher fee. Because you're not in Glenwood Springs.
Commissioner Houpt said this is a multi-million dollar project and this is a nice contribution and support that should come from us for recreational uses throughout the county. She said her sense if we do start participating with municipalities we won't see as many discrepancies in charges.
Houpt – aye; Martin – aye; McCown – nay.
Chairman Martin said this is a one-time contribution; we'll judge this and go from there. It's not that he's supportive of the project, it's that we open the door to all the other recreatioinal folks that are going to be coming in and it's going to be out of control because we show favoritism to one versus the other. But he said he hopes this doesn't happen.
Commissioner Houpt said she thinks this is a great opportunity to partner with all the municipalities; we receive this money for that purpose for enhancing the quality of life for people in Garfield County and people who live within municipalities are residents of the County as well.
Chairman Martin brought to Commissioner Houpt attention that the municipalities actually receive more money than the County in Conservation Trust Fund and that they need to go ahead and commit the total amount then to this project.
Commissioner Houpt was not aware of the amount the municipalities receive.
Chairman Martin noted the County receives the minor share of those funds.
Ed said between $140,000 and $150,000 a year.
Feasibility study for trails – John Martin
Chairman Martin said he had met with the Carbondale Trails folks as well as the Pitkin County Open Space and Trails Board members, members of our Road and Bridge, Engineering staff, etc. to look at the feasibility of running a trail from Carbondale all the way to Gunnison County clear over Kibbler Pass, etc. Gunnision County has contributed quite a bit and is working on their trails presently. The Pitkin County Open Space has also worked on their property along Hwy 133 Corridor and in theory, he committed to going ahead and designing something. There is 1 ½ miles of road that's in Garfield County that they would like us to look at, asking for us to partner with a feasibility study to see how many millions of dollars it will cost to build that trail. They are asking for $5,000 as a contributor to bring that feasibility study back to us. We asked Pitkin County for $20,000 for a transportation study to give to and from commuters and that information was along with means of transportation and also qualifies us to ask for enhancement funds from CDOT. He felt we can recoup this in many ways if we contribute $5,000 to the study. Commissioner Houpt asked if this was Conservations Trust Funds and does it qualify for those funds.
Chairman Martin said it could be because it is for trails and it is a study and does qualify because it is trying to work together as a region.
Commissioner Houpt agreed that trails are a healthy recreational opportunity for residents of Garfield County and would support giving the $5,000 but also support committing in-kind and monetary support in the building of that trail as well.
Chairman Martin said this will be about a 2-year study because there will be 2 bridges, filling of a wetlands, raising elevations of 10 or 12 feet next to roadways or the feasibility of boring under the Hwy 133 and coming up on the west side of the roadway instead of the drainage ditch and river. I will take a 404 permit plus the bridges would have to be the same height as the roadway which is not conducive to their trail design. $5000 will answer a lot of questions and will decide what direction to go.
It was noted that Commissioner Houpt also favored in-kind engineering support if they come back to us; this is a future issue and not included in this vote.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to support the $5,000 study from Conservation Trust money. Motion carried.
Ed said we are now up to $187,000 in the Conservation Trust money.
Bair Ranch Conservation Trust – Tresi Houpt
Commissioner Houpt submitted a summary on regarding the Golden Bair Ranch Conservation Project showing the location being in Garfield and Eagle Counties immediately south of I-70 extending from the confluence of the Colorado and Eagle Rivers at Dotsero to the east entrance of the Glenwood Canyon. There are 4,830 acres for a purchase price of $5,100,000 including the purchase of a conservation easement, fee acquisition of 512 acres by BLM that provides recreational access to the Colorado River and

adjacent federal lands. The simultaneous closing among all parties is in early July 2004. Funding commitments must be secure by end of May, 2004. The conservation values for the ranch are wildlife, relatively natural plant communities, open space and scenic views. The significant open space value increases given that it is located next to a large chuck of public land.
There are a lot of things about the terms of this easement and is a very different type of project to support. The entrance into Garfield County is tremendous. There isn't an open space tax and can't come to the table with a lot of money. Talked to DOLA and no challenge to us if we support. Need to look at the benefits of the Bair Ranch in its agricultural state for the County.
Public input
Chris Herman with Conservation Trust Funds - Cindy Cohagen with Eagle Valley Land Trust Shannon Meyer, Aspen Valley Land Trust. Cindy made several comments for the Bair Ranch project saying it is one of the crown jewels of open space remaining in Colorado. It protects the wildlife habitat, has tremendous impact on the Colorado River in that it has four drainages on the property and it also protects the western heritage of this entire region as people travel up and down I-70 they are reminded of what the west once looked like. This is one of the last reminders of the heritage that we all enjoy. The Federal government has already invested $1.5 million dollars in Conservation; the State of Colorado through GoCo funds has given two grants which is precedent setting of $600,000 and $400,000. They have received support from several large private foundations and actively raising funds in Eagle County through stakeholders on that side of the arbitrary line that separate us and received a significant grant from the Colorado Conservation Trust. They are requesting $2 million from Eagle County and it is on their agenda for the 8th of May; the Open Space Committee will debate it on April 26th. This is a now or never proposition and she urgently encourage the support of Garfield County. It's not the amount but the statement this County will make to the Eagle Board of Commissioners by supporting this endeavor.
Shannon Meyer of Aspen Valley Land Trust said they are strongly in support of the project and the broad range of partners is great. The easement that costs a little over $1,000 per acre is hard to come by where land values in this area are so high. The family has been very patient in working with the entities and it is hard for these people to hang in there. Eagle County really needs to see that Garfield County cares about the property as well since 43% of it is in Garfield County. They are watching it as it impacts their area of interest. Spectacular program to get all the governments involved. This is the window of opportunity and it will be gone very quickly. Eagle County needs to see that Garfield does support it.
Chairman Martin said there is very limited public access in Garfield County on the private property and is only from the north side of the Colorado River by boat and then onto some limited BLM property. The other is the limited development on the Conservation Easement is also in Garfield County and that is it won't stay the same at the mouth of the Canyon because they are looking at the development of a Dude Ranch and a couple of cabins as well as headquarters there.
Cindy didn't agree; the development allowed on the Garfield County side is very limited; a total of 3 structures none of which are visible from I-70 and the Dude Ranch is not accurate. The Bairs have found themselves in a position of what do you do when you have to sell the sheep and need to do something. This sustains some income but she didn't think the conservation easement they intend to put on the property will allow for it a dude ranching function. It is a working sheep ranch and it's the Bair's intention and that's what the Conservation easement that they will put over the land and protects it as a working sheep ranch.
Chairman Martin said he sees the off road tour groups as well as the chuck wagon and gives him concern. The other one is the limited access across the one-lane bridge, which CDOT put in after many months of negotiation with the senior Bair and that bridge probably won't change.
Craig Bair said the agricultural use on the bridge was lifted and CDOT did want the bridge just to be agriculture but it was lifted; another thing CDOT wanted to do was to see that he closed the gate that they put on there. Originally the gate put on there was to protect the Bairs from them from the public. However now they tried to enforce it to where they had to shut the gate. The Bairs requested the gate be there in order to close it and keep the public from coming across the river.
Chairman Martin asked if the Bairs planned to do tours.
Craig said they sold the sheep in 2002 because of the big drought and tours are a way to keep the wolf away. Craig has been working all winter to acquire more sheep and that will be the purpose to keep it a sheep ranch. Senator Ken Clobber send over a paper that said we as ranchers were protected in doing horseback rides and cookouts to subsidize agricultural. They are times when agricultural needs help.
Chairman Martin said this was a bill Senator Clobber sponsored which was agricultural/recreational definitions, etc that allows the Bairs to do this.

Craig said they basically want to continue as a sheep ranch; Craig had opportunity to buy his brother out and he had a piece of ground in the middle of the ranch and Craig doesn't want to see development in the middle or having people go by because it is different. They are able to control the public and one stipulation that he didn't want was having the public in there.
Chairman Martin said it easier access coming off Cottonwood in Eagle County.
For the price he's getting out of the property is nominal. Goes hand in hand with Colorado when they built the nice freeway in trying to protect the view scapes. Horseback riding and public access is what the people want, but he can restrict the use.
Chairman Martin understands what they are up against and because of the possibility of indebtedness on through and what will he do when it's all tied up and they can't sell it. The Conservation Easement stays with the land and they will have to write that into your conservation easement that says it allows you to do certain things, but you can't develop.
Craig said the family realizes that once this is signed, there's no going back. Has received criticism from neighbors; had a lot of offers but Craig said he loves the land. They do 4H also. His foresight into the future is limited but hopes that with what he'd learned in the last 4-years that this is a wise decision. Economists say hang on.
Commissioner Houpt asked Jamie to talk about the access on the river and the access to BLM property.
Jamie Connell with BLM and said she should ask Vaughn.
Vaughn Hackett, real estate specialists, BLM Glenwood Springs said the project is not entirely a conservation easement; they get 512 acres of land that runs along the river mostly the south side of the river from all most the confluence of the Eagle River on the other side of the new Two Rivers Development clear down to the existing BLM at the east Canyon Trailhead. He said that we should not think that this land is going to be protected from development just because they're not a good bridge there to go across. It could always be subdivided at some point in the future and we get people coming in wanting to build roads, miles and miles around BLM to get to another piece of land on the other side of the river so that they don't have to build a bridge, but that kind of development is a threat to the open space character of that land along the river. As far as access, BLM has always intended it to be basically a float across the river and anybody floating down the river and projected that we'd see an increase in the use of that river. There's fish in there even thought it is flat water and you can canoe down the river to actually the Hanging Lake Trailhead. They expect to see an increase of that part of the river and perhaps people would stop along the land that is Craig Bairs but would be BLM fee and all of that would fit in with that big block of BLM at Red Mountain. This is all in Eagle County land but it's a package deal and this is the access component of this project.
Commissioner McCown recalled mention of specific access and wanted to clear this up. There is no proposed access for the public across the infamous bridge that Mr. Bair talked about across his ranch to additional BLM ground is there?
Jamie Connell said no.
Vaughn Hackett said the bridge is already on BLM land and is not part of the deal. It's there as far as an authorization when BLM wants to run the public across a structure like that it has to be approved our engineering's and it would never pass that kind of an inspection for development as a public use bridge.
Janie said that BLM supports the project.
Chairman Martin for clarification stated that BLM is the federal agency that donated the $1.5 million to this project.
Commissioner Houpt said she thinks it is appropriate to invest Conservation Trust Fund money in this particular project because of the impact that development would have on the view scape, environmental impacts, wildlife and river side recreational impacts and made a motion that we contribute $ 25,000 to the Golden Bair Ranch Conservation Project from Conservation Trust Fund monies understanding that its no where near the $2 million that Eagle County is being asked for but they do have an open space tax and we have very limited resources. Commissioner McCown seconded. Discussion: Commissioner McCown said he has received and not just recently but when, as Mr. Bair was talking this has been going quite a while and he's right, his name has been in the paper a lot more than he wanted to be, but he has received a lot of feedback from his constituents in the west end of the County adamantly opposing Garfield County participating in this conservation easement. It is an easement that will clearly preserved the view scape, it will clearly preserve the possibility of on-going ranching, but there is nothing in this Conservation Easement once Mr. Bair has been given the money to preclude him from selling it to an appropriate rancher that doesn't know which end of the sheep is up and it will become a ranching area and it can have on-going hunting activities, it can become clearly a trophy ranch for somebody and normally that is what most

conservation easements in the past have been counted as. That is the outlet because we all know that the average person cannot buy the Bair ranch, pay the interest on it, and make a living raising sheep. It is not going to happen. You're not going to do it raising cattle, you would have to do something illicit or illegal to make a living on that by the time you pay the interest on that kind of money. So the only person that is going to wrap their arms around a piece of property like that is the family that's going to try to keep it going and the $5 million dollars will help keep the wolf away from the door, that's not bad, that's better than the sheep business; it's good now but a few years ago you could have bought all the sheep in Colorado for that. But, it's still not a public entity. We're asked to put funds into an entity that is still solely owned and controlled by the conservation trust that is placed on it and the individual that owns the land and the sale of that land is in no way prohibited – that is not restricted at all. The only thing that is restricted is the public, everyone that bought those lottery tickets cannot step foot on that land because it is still privately owned.
Commissioner Houpt said it can raft over to a portion of the land.
Commissioner McCown said that's the BLM land and they can do that anywhere.
Jamie said no, the 500 new acres would be a new addition to the public land.
Commissioner McCown said but this is part of this that has been declared public access along the river. I'm going to go across the bridge and go up in there hunting, can I do it?
Chairman Martin – No.
Jamie – Not unless you're invited.
Commissioner McCown said thank you.
Chairman Martin stated this needs to be kept between the Board due to a motion and a second.
Call for the question: Martin – aye; Houpt – aye; McCown – nay.
Chairman Martin said this is the trust that he's putting in the family and knows the burden on the family that's coming down the road in 10 years and hopes that the Board made the right decision.
Ed said the one point of clarification is now that if the Energy Impact Grant does not go through then we have to find other sources in addition to Conservation Trust funds to complete the Fairground Arena project. The total left is $162,000.

Zancanella Waterline – County Road 109 (Schmueser Gordon Meyers, Inc.) – Louis Meyer and Larry Green

Mike Zarock, Larry Green and Louis Meyer were present. Louis sent a memo to the Commissioners stating that in December of 2003 a request was made to the Board to consider a waterline construction project to be built along the corridor of County Road 109 for the Roaring Fork Water and Sanitation District. The project involves the construction of a 10-inch waterline from the northern end of Coryell Ranch subdivision to the southern end of Aspen Glen along the CR 109 corridor. The District bid included two waterline alignment options for the proposed waterline. Option 1 involves building a waterline below the existing retaining wall through private property and then along the east side of the CR 109 corridor. Option 2 involved building a waterline in the County Road, under the southbound travel lane.
Louis explained the problems they were having with the contractor, gaining an agreement with Crystal River Ranch and the 5-year maintenance bond to build in the County's ROW.
Today, Louis is presenting to the Board that Option 1 is still the District's preferred option, however, the District would like to keep open the option of completing the project by constructing the waterline on the west side of CR 109 above the retaining wall if negotiations with Crystal River Ranch fails. The District is seeking the Board of County Commissioners' final approval for this waterline project with any specific conditions for construction of the waterline in the County Road.
Don interjected that what is being asked is the subject of a road right of way and should go through Road and Bridge and Engineering first. This is the first time a permit has been brought up.
Randy Withee said they have presented the two options. Until they decide, some conditions, they would have to take the road section out and then it's the warranty issue. As to a permit, they need to see the option that will be used before issuing a permit.
Larry Green on behalf of the District said he was unaware of the new regulatory process that required a permit. The Crystal Ranch is making some unreasonable in their view demands about what consideration it wants for the easement and until we know the County demands, the District is going to have a very difficult decision one way or the other but now we don't know what exactly the Crystal River Range is going to demand and we don't know what the County is going to demand, so we are operating in an information vacuum as to which bullet to bite.

Randy said they have met as the Engineering Department and as Road and Bridge with Schmueser Gordon Meyer and discussed the perimeters of the two options. This has already been looked at and is incorporated in some degree in the specifications and bids. It's just a matter of when they are going to decide which alternate to go to; then they come forward and we look at issuing their permit. Without knowing that there's little we can do.
Commissioner McCown said to alleviate that vacuum that Larry apply to the County for running down the County Road and we're going to give you the scenario you'll have to do for the County. You're not bound by that can give this by request for a permit. This will clearly give you the piece of information that's missing now. Make the application to down County Road 109 and the departments will give you the scenario of the cost and what the maintenance period will be.
Don said under that process, if they are happy with the conditions, no more action is needed by this Board.
Louis said the last meeting they had the 5-year warranty was mentioned.
Chairman Martin noted this was hypothetical and best case scenario but it may be a condition, whatever Road and Bridge puts on it.
Commissioner McCown said if the conditions put on it were something they couldn't live with, they could appeal back to the Board.
Transportation Policy Memo review - Randy Russell
Randy submitted a memo to the Board outlining the revision of the Transportation Policy Memo they previously reviewed with the following modifications:

1. All modifiers and caveats have been removed from desired advance consultation;
2. Discretion when representing the County is better defined; and
3. Decision-making only through official meetings is reinforced.

Randy gave the history of the Transportation Policy stating it was the product of engineering, planning, road and bridge, and administration to formalize a work program and some methodology and ended up with this policy memo.
On first review the Board had a variety of concerns and is back to see if this has been fixed.
Randy included in his memo for clarification that levels of commitment for staff time and County financial contributions toward these efforts will also be made on a case-by-case basis by the BOCC. In no case shall a major initiative, project or task not already assigned and budgeted for, be proposed by a Commissioner, or undertaken by staff, without express consent from the BOCC granted at a regularly scheduled meeting or at a special meeting called for that purpose.
Business is not going to be with two individual conversations and staff and anything that was hinted as a rule of two except in a vote.
The spirit of the policy was to not be surprised when two commissioners show up at a meeting.
The shelf live of this policy was debated.
Commissioner Houpt – if this is a policy, then you make an addendum to that, but if there isn't a shelf life, it isn't important. It was also decided that when names change, the documents is updated. It was the consensus of the Board to use this as guidelines.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to follow this as a guideline and accept this as such. Motion carried.

PUBLIC HEARINGS:
REQUEST TO CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT IN THE ARRD ZONE DISTRICT FOR A PROPERTY OWNED BY JACK AND GLYNDA GAUSNELL – FRED JARMAN
Fred Jarman, County Attorney Don DeFord, Jack and Glynda Gausnell were present.
Don reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; and Exhibit G – Well permit for the property.
Chairman Martin entered Exhibits A – G into the record.
Fred said this is a request for a SUP for an Accessory Dwelling Unit by converting an unfinished second level of a recently permitted two car garage. The upper floor would contain 1 bedroom and a kitchenette. The property is approximately 45 acres and is improved by a single-family residence and a barn. The

access if from County Road 103 at 1879 CR 103, Carbondale (Missouri Heights area). The unit is about 720 sf.
Recommendation:
Staff recommends approval with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. At present, the structure is permitted as a garage only. The applicant shall amend the existing building permit for the structure so it satisfies all the required specifications for a mixed use structure that includes a garage and dwelling unit. This structure/dwelling unit shall not be occupied until a final certificate of occupancy has been issued by the Building Department. Applicant shall have this completed within 120 days of approval by the Board.
3. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.
4. The applicant shall obtain the appropriate ISDS permit as part of the amendment to the building permit. This system shall comply with the regulations and standards required by the Colorado Department of Public Health and Environment.

The applicant said it is straight forward and where the home is located on the property you can hardly see it from the County Road.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit request for an Accessory Dwelling Unit for Jack and Glynda Gausnell with the 4 conditions as recommended by staff; motion carried.

REQUEST TO CONSIDER A SPECIAL USE PERMIT FOR A GUEST HOUSE IN THE ARRD ZONE DISTRICT FOR A PROPERTY OWNED BY PATRICIA MUSICH – FRED JARMAN
Fred Jarman, County Attorney Don DeFord, Noel Mucich were present.
Don said since the publication and proof of mailing was not available, the renoticing will need to be done.

REQUEST TO CONSIDER A SPECIAL USE PERMIT TO ALLOW A CONVERSION OF A SINGLE FAMILY DWELLING UNIT TO A TWO FAMILY DWELLING UNIT IN THE ARRD ZONE DISTRICT FOR A PROPERTY OWNED BY TODD GRESSETT – JIM HARDCASTLE.
This was continued until May 10, 2004.

REQUEST TO CONSIDER A SPECIAL USE PERMIT TO ALLOW AN ADDITIONAL DWELLING UNIT IN THE ARRD ZONE DISTRICT FOR A PROPERTY OWNED BY JOHN MIKE DEER AND RITA HARRINGTON – JIM HARDCASTLE
John Scheck, Mike Deer, Rita Harrington, Jim Hardcastle and County Attorney Don DeFord were present.
Don reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; Exhibit G –Letter from Teller Springs Subdivision HOA.
Chairman Martin entered Exhibits A – G into the record.
Jim stated this was a SUP to allow **a portion of an existing stable and tack storage building totaling 2.016 sf to be used as an** Accessory Dwelling Unit utilizing 576 sf. for the ADU on 7.028 acres. The ADU was constructed with the house in 2003.
Correspondence received from Mr. Anthony, Vegetation Manager and he has not concerns.
RECOMMENDATION
Staff recommends **APPROVAL,** with the following conditions**:**

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. The ADU must be certified by a Registered Colorado Engineer or Architect that all concealed areas of construction comply with Garfield County Building Code Requirements.
3. That the applicant must submit a new application for a building permit for the ADU within the Stable, allow inspections, and ultimately gain a Certificate of Occupancy consistent with the adopted rules and regulations of Garfield County prior to any habitation.

John Shenck said the conditions and recommendations were acceptable.

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

A motion was made by Commissioner and seconded by Commissioner to approve the Special Use Permit request for an Accessory Dwelling Unit for a property located at 2150 County Road 109 with the 3 conditions as listed by staff; motion carried.
The time element was stated as 120 days in response to the Mike Deer's question.

REQUEST TO CONSIDER A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY WHICH INCLUDES WAREHOUSE/STAGING FACILITIES IN THE RL ZONE DISTRICT FOR A PROPERTY OWNED BY HARRY AND RHONDA NAUGLE (TETER)– FRED JARMAN

Don DeFord, Fred Jarman, Harry Nagle, Rhonda Hagule and Doug Teter were present. Don reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; Exhibit G – Referral Comments from Road and Bridge Department dated 2/26/03; Exhibit I – Referral Comments from Vegetation Management Department dated 3/26/04; Exhibit J- E mail from Steve Anthony dated 4/2/04 and Exhibit K – correspondence dated 4/2/04 from the Grand Valley Fire Protection District.
Chairman Martin entered Exhibits A – I into the record.
Fred stated that this is a request for industrial support facilities which would include Warehouse/Staging Facilities just west of the Interstate-70 Interchange at Rulison, Colorado on approximately 35 acres.
The applicant requests a SUP in order to locate the company Doug Teter and Sons Oilfield Construction Inc. on the subject property which offers follow-up maintenance support to the natural gas drilling operations throughout the western portion of the county. The company provides support service to gas and oil companies during drilling followed by on-going maintenance at the drill site. The company does the completion work on wells after they have been drilled including setting dehydrators, separators, and tanks, as they are needed. In addition, the company does all of the connection work, digs out and lays pipe for flow-lines and sales lines followed by backfill and final grading of the location. The company provides on-going maintenance, repair, and service to the wells as added. Presently, the company operates a 24hour/7day a week basis for EnCana Oil and Gas and Monday through Friday for Calpine Natural Gas. The operation includes 15 to 17 employees who drive their vehicles to and from the work site. Fred mentioned the other vehicles that would be included in this proposal.
The applicants did indicate they will plant some trees.
In general the use is in the comprehensive plan. It does not include: legal water; inadequate provision of method for handling wastewater; inadequate demonstration or proper/legal access onto CDOT frontage road; no proposed determinations of trips generated from the property and their off-site affects; inadequate provision of screening (fencing/landscaping plan) to mitigate visual impact; inadequate data to support negligible impacts to wildlife; no provision of a site rehabilitation plan; inadequate data to support amount of noise generated from the site; no provision for fencing of the outdoor storage areas for heavy equipment and it is very visible from I-70. It is very visible from all the surrounding properties.
Fred pointed out the location of the request on the screen.
Based on the deficiencies mitigation measures.
Recommendation: Staff recommends denial of the request for a SUP to allow for Industrial Support Facilities which include Warehouse/Staging Facilities for Beverly and Doug Teter on a property located at 16605 State Highway 6, just west of the I-70 Interchange at Rulison finding that the following standards have not been adequately satisfied:

Section 5.03

1. Utilities adequate to provide water and sanitation service;
2. Street improvements adequate to accommodate traffic volume;
3. Design of the proposed use is organized to minimize impacts on and from adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot…. Does not protect the established neighborhood character.

Section 5.03. Industrial Operation
A – Existing lawful use of water;
B – Impacts on adjacent land from the generation of vapor, dust, smoke, noise, glare of vibration or other emanations;
C – Impacts on Wildlife
D – Impacts of Trucks and automobile traffic

Section 5.03.07 (2) Industrial Operations
A – A plan for site rehabilitation

Section 5.03.08 Industrial Performance Standards
(1) Volume of sold generated
(5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:
A – Storage of flammable or explosive solids
D – Storage of Heavy Equipment
(3) All equipment storage will be enclosed in an area with screening

Fred explained this list of issues submitted to the Board and said they were included in the motion for denial. These issues go anywhere from having legal water for the appropriate use all the way through what appears to be adequate screening for this kind of use. It's probably the right spot for this but there are a lot of issues.
Harry Naugle said they didn't get the recommendations in time and when they did, time didn't allow them from addressing some of these concerns.
Chairman Martin noted that Mr. Naugle was requested to have port-a-potties and staff feels it would be too much to have those clean and sanitized.
Commissioner McCown said the fact remains that if this water well was drawn on a residential permit, it is still not adequate to serve an industrial use so you would have to apply and get another well permit before this Board can say there's a legal and adequate source of water. It has to be drilled, pump tested to see if there's an adequate amounts of water to support this use for a shop.
Mrs. Naugle clarified that they would have to drill that well and buying this property is contingent upon whether or not we have a well permit and special use permit. You can't do these two things without the property.
Commissioner McCown reminded them that this is the gamble they will have to take; you were going to buy it apparently for a resident for your son.
Mrs. Nagle said no it wasn't.
Commissioner McCown said the application doesn't indicate that your son was going to live on the property and also have a pipe yard and operation center.
Mr. Nagle said this was the intention but the well supposedly they wanted to come up with the fact that we could even get a well permit. He subdivided it and had to take the proposal to Dwight and then he suggested changing it to this; but they never had time to talk to Fred.

The Board stated that Fred's list included everything that needed to be addressed.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue the public hearing until June 7th at 1:15 p.m. for the applicant to get the proper water permit and answer all the concerns listed by Fred Jarman. Motion carried.

Motion on Agenda Item – "g".
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve Item g on the Consent Agenda and that the Chair be authorized to sign; motion carried.
PUBLIC MEETINGS:

CONSIDERATION OF THE TRANSFER OF PROPERTY IN THE OAK MEADOW SUBDIVISION FROM THE COUNTY TO THE RE-1 SCHOOL DISTRICT

Mark Bean and Don DeFord were present.

Don submitted the deed of transfer and the letter of request from the attorney for the School District. The County has held this property for many years and it was originally to the County as a condition of approval of the Oak Meadows Subdivision PUD in the 1970's to mitigate some of the impacts on the Roaring Fork School District, RE-1. Don requested that the School District provide the current title opinion so that we can go forward on a special warranty deed that in his opinion, a special warranty deed with the exceptions that would be included are acceptable and noted by the title company. The property is being conveyed by proper legal description. We have not had the surveyor go out and verify the accuracy of this legal description but he did talk to the attorney for the school district about that and she felt as long as it coincided with the method by way the County received, it was adequate for their purposes. If the Board wants to proceed, Don said he needed a motion authorizing the chair to sign a special warranty deed transferring the Oak Meadow parcel to the School District.

Commissioner Houpt so moved; Commissioner McCown seconded. Commissioner McCown asked if there was any restriction as to what the school could do with this property.

Don said there isn't in the deed, if there is any restriction it's only by Statute. The school district is limited to governmental purposes. Commissioner Houpt said the school district has exceeded that time limit by Statute and thinks they can sell it. Don said it's still up to the school district and even thought they sell it, it's still to mitigate their impacts.

Mark said they would have to use any money they received and it could only be used for capital funds; it's either land or construction.

Don verified that the property could be sold for development. Commissioner Houpt thought it was 25 years before they could sell it.

Don distributed a memorandum he completed on the Four Mile Roundabout Project; he received proposed contracts from the City. He was submitting this in order to give the Board time to review this document and would like to discuss it on April 12 and anticipates having a memorandum and contracts for RFTA which will be part of the packet.

Election Equipment VOTEC – Mildred said that she and Don met and did the contracts on the VOTEC registration system. They will be in the office on the 3rd week of April to do the installation and the week before Brian will be doing what is necessary in-house. She is holding off on the scanner as it is coming back with a new revision to the Secretary of State. We want to get it certified first.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

APRIL 12, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Stan Stevens appeared before the Board to talk about an item on the agenda, but it is in listed for Executive Session. RFTA was started by Pitkin County to bring the employees up to work, it spread to Basalt and El Jebel and eventually branched out to serve the ski company and other employers in the Aspen area. Seeking more income they came down to Carbondale and Rifle. They provide three (3) buses every 15 minutes up valley and less in Glenwood Springs and Rifle. He believes that his taxes are spent for RFTA in the Aspen area, and that they do not provide adequate financial proof to show where his taxes go. He feels it is absolutely necessary to have them show whether the tax money is serving the tourist organization up in Aspen or serving the people that the Commissioners would be asking the people to pay the taxes. He believes that this will be the only way that we can find out what is going on with RFTA. He handed out pamphlets from RFTA showing a view of this divided by the valet rooms. It has the cost for miles, hours and he added a fixed cost. Glenwood bought their own buses so he said he had no idea what their fixed cost is. But all of Glenwood buses are included in the fixed cost. $700,000 surplus the EOTC donated $300,000 30,000 was used to compensate for the free service from Aspen to the business center. The other significant loss is the buses they run to special events. RFTA is still positive by a quarter million dollars. Pitkin County has two taxes that they impose for the transit. Garfield County outside of Glenwood and Carbondale do not pay the $10 fee for vehicle registration he asks to consider the amount of cars in Garfield County that are not in Glenwood Springs or Carbondale. He sees this service as providing help for the people up valley but charging the lower valley people money. John asks him to wrap up. There are 44 buses in GWS and 124 in El Jebel, the only thing I would say in conclusion is that Glenwood didn't have the ability to negotiate and got stuck with a deal compared to Basalt who's paying .2% and a deal paying for fixed costs to have nothing to do with Glenwood Springs at all. When you talk to RFTA, or even before you talk to RFTA, insist that they split their financial numbers into two books – Aspen and Snowmass, Glenwood Springs and Rifle separate and distinct from any amount of service they provide everybody else.

COUNTY MANAGER UPDATE – ED GREEN
a) Applying Pavement Striping to County Roads – Marvin Stephens
Tim Arnett and Marvin Stephens presented the bids for the pavement striping. The recommended award is to United Rentals Highway Technologies, Inc. for a not to exceed price of $46,516.85.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to award the bid to United Rentals Highway Technologies, Inc. for a not to exceed price of $46,516.85. Motion carried.
Tim suggested that they should sweep the dirt off the roads before the painting so that the paint wouldn't adhere to the dirt and just blow away.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the pavement striping TO United Rentals Highway Technologies, Inc. for a not to exceed price of $46,516.85; motion carried.

Information - Social Services – CBS System
Ed informed the Board that the Social Services CBS system has been delayed.

COUNTY ATTORNEY UPDATE – DON DEFORD
Discussion Regarding Proposed Pet Animal Control and Licensing Resolution
Don submitted the draft Resolution and said that Sheriff Vallario and he had drafted the proposal. We have provided a graph showing animal control. The majority of this packet has been provided by the Sheriff's

office but we are anticipating that there will be other modifications to this document. Sheriff Lou Vallario and Animal control deputy Amy Chappelle were present. Lou said that Amy used to work for Eagle County and has brought back her experience back to us. The next step is in setting some rules and regulations. Don suggested that the Board review the document and postpone it in order to get this available for the public to review.
Commissioner Houpt requested to see the financial aspect of Lou's proposal regarding licensing.
Amy said we can get things very cheap; we get the licenses for 3 cents a piece. We can actually make a profit using in house labor.
Lou said we are thinking we can charge $10 per spade and $20 per un-spade.
Commissioner McCown asked Lou how hard would it be for him to attach a fiscal note to this proposal when we set this for a later date, showing the needed labor, the vehicles needed, etc? Commissioner Houpt requested that Lou also show the need for a temporary shelter in western Garfield County.
Lou said we see the licensing aspect as making it easier to find and return dogs.
Commissioner McCown said he sees a problem with the distances between Battlement Mesa and Carbondale, and asked Amy if she can get the licenses also by mail.
Commissioner Houpt interjected that she would like enough time to discuss the dangerous animal issues.
Commissioner McCown asked if this includes the sheep herding dogs. Are they exempt from these rules?
Amy said these dogs are on BLM property and if these dogs do attack people, it comes back to the State because there is no provision for dogs on this land.
Commissioner Houpt asked if Amy had an opinion on the number of dogs people have. One dog seems lonely.
Amy said she has two dogs.
Commissioner Martin said this makes the point that the have limitation on the number of dogs, which is only included in subdivision regulations.
Commissioner Houpt asked if people with multiple dogs would have troubles getting licenses.
Don suggested that this is why they the Board should post this information, so that the people can have time to review this and provide feedback.
Commissioner McCown moved to postpone this until Jun 14, 2004 and to authorize the County Attorney's Office to give 30 day notice even though it is not required by law. Clarification by Lou was that this would be for future discussion on the draft proposal. Don said yes it would and then when the hearing is held, we will include the publics input.
Commissioner Houpt seconded; motion carried.

Executive Session: Litigation Update; Legal Advice; Personnel – County Attorney's Office; Contract Negotiations – City of Glenwood Springs; and Contract Negotiations - RFTA

Don requested that Lou to stay for two items, litigation for his office, reorganized of my office, RFTA. Don also said he would need Carolyn as well as Jesse to attend.
Commissioner McCown moved to go into Executive Session for the items previously mentioned; Commissioner Houpt seconded; motion carried.
Those included were: The Board, Mildred, Jesse, Ed, Carolyn, Don and Lou.

Commissioner Houpt moved to come out of Executive Session; Commissioner McCown seconded; motion carried.

COUNTY SHERIFF UPDATE

Request for Ratification and Approval of Thermal Imaging Equipment

Tim Arnett and Lou Vallario were present.
Lou Vallario presented the request for ratification of a previous purchase for thermal imaging equipment. However, even before we put into the Federal Government for a 2002-2003 grant and we established a vendor, did the GSA state pricing and met those criteria with respect to the procurement manual that gives you the option to go that route rather than doing the competitive sealed bid process. The instrument comes along, we purchased it and now this exceeds $10,000 and not sure.
Tim said we were thinking is that other counties, the fire departments, etc. can come and use this product as it can an act as Homeland Security. There is only one company that manufactures this equipment.
Ed said since it is over $10,000 the board needs to improve it.
Commissioner Houpt moved to approve the Thermal Imaging Equipment for the Sheriff's office for $11,200; Commissioner McCown seconded. Motion carried.

Glenwood Springs Fire Department - $33,993.66 under Homeland Security Procurement – Sole Source
Tim said this was for the fire department for Homeland Security under a sole source. This is air shelters and blow up shelters when they have a necular/adversial type situation. Lou added that we purchased it as the fiscal agent.
Commissioner McCown moved to approve the expenditure of the equipment for the fire department; Commissioner Houpt seconded; motion carried.
Clarification for Future Purchases – Sheriff's Department
Lou inquired as to how future purchases should be handled in looking at 2004 grants where Northwest Council of Governments will be the fiscal agent but yet there will be items on it that will exceed $10,000. Ed said no, if we hold the paper and actually write the contract then we're subject to our Procurement Regulations, if the Council of Government, we don't care.
Lou clarified the procedure for the future Homeland Security grants by saying if this is not a bid process then should I just come to you ahead of time and tell you that it isn't a bid process.
Chairman Martin mentioned that the purchases needed to be part of the inventory and accounting system and should be given to Jesse.
Ed said Tim will write a one-page abstract and include it in the weekly activity for the Board to approve. Commissioner McCown reiterated that there will have to be some coordination with Tim Arnett before and then after the grant is approved.
Consideration of Battlement Mesa Realty Partners Lease
Lou informed the Board that we are continuing our presence in Battlement Mesa with Substation/Auxiliary Office. The Battlement Mesa Associates paying out of the $800 a month, $387.50 and then the Battlement Mesa Homeowners Association, now Battlement Mesa Services Corporation pays the other $412.50. The only expense that we pay is on the phone lines and utilities. He confirmed that Don had reviewed this.
Commissioner McCown made a motion that the Chair be authorized to sign the lease agreement with Battlement Mesa Realty Partners for the Auxiliary office and the satellite office in Battlement Mesa. Commissioner Houpt seconded and asked Lou if this only serves Battlement Mesa. Lou inform3d the Board that no, before he took office, there was a Battlement Mesa deputy and Battlement Mesa paid for the deputy in theory. Lou didn't like the "buying services" so he did away with that, but the substation is in place where the deputies can go on that side of County to get reports done so they don't have to come back here and also serves as the auxiliary office. Commissioner Houpt asked why Battlement Mesa pays for this. Lou said it probably was something that has been in existence, especially the deputy and then when he took office and did away with that purchase of services, they agreed to provide this office. There are two reasons, one now only do they get deputies in the area because of going to the substation to work but also the auxiliary was a program that was brought to our attention by Battlement Mesa and they are a model for that program similar to the ones in Arizona. They brought it forth to us and want to help support it. Motion carried.
Good News- ICE Contract
Lou said the ICE contracts, holding immigrants holds, is really starting to pickup and the month of February we billed $14,283 and that's more than we did in 2003. The breakdown is $55 per day per person. Friday the count was 33 individuals. They circulate through the jail in and out in about 2-days.
Commissioner McCown inquired as to any affect on the ICE program now that they have their own facility approved.
On the future facility to be built by ICE, Lou said he thought this was a processing center with 24-hour service and as a detention center but they may still hold them in our jail and process them at their facility.
Bad News –Sprinkler Leak Above Freezer
Lou said they had a sprinkler leak above the walk-in freezer and unfortunately we had just received about $8000 worth of meat and by that afternoon it was mostly thrown out. He explained the problem. The total for the damage and the food thrown out will be turned into the insurance company.
Executive Session –Litigation that involved the Sheriff's Office; Specific Personnel and potential restructuring in County Attorney's Office; Contract Negotiations; Legal Advice in Regard to Contracts with both RFTA and the City of Glenwood Springs and asking as to all items that these be discussed under Section 24-6-4-(2)(4)(e).
Carolyn Dahlgren requested to discuss the interpretation of the Zoning Regulations for an item on the agenda for this afternoon – legal advice.
Needed for the Executive Session will be the Sheriff for two items, the Board, Carolyn, Don, Ed, Jesse, and Mildred.

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

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Resolution and Final Plat for the McBride Exemption from the Definition of Subdivision – Fred Jarman
f. Renewal Liquor Licenses for: Catherine Store Wine and Liquor; Ironbridge Club; and Fairway Café – Battlement Mesa – Mildred Alsdorf
g. g. Authorize the Chairman to sign the Resolution concerned with the Amendment of the Garfield County Zoning Resolution of 1978, as amended, by amending Sections 9:02-01 and 9:03.01 (1) - Pipelines

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

REGULAR AGENDA

PUBLIC MEETINGS

DISCUSSION ABOUT THE ADOPTION OF THE INTERNATIONAL BUILDING CODE AND ASSOCIATE DOEUMENTS – MARK BEAN

Mark Bean and Andy Swaller submitted a memo to the Commissioners regarding why we should adopt a new code and what codes to adopt. The staff is requesting direction on the areas and if the building code adoption process should be forwarded onto the next phase of public hearings.
Andy said he was looking for direction at this time. We have been on the UBC for six years now and the logical sequence is to go from the 1997 to the International Code 2003. The UBC has been discontinued and blended into more of a national code. Our adoption of the Code coincides with many of the other jurisdictions adopting this code. The City's going, Eagle County, Basalt and Carbondale are working on it; there's a bunch of different Code books available, the four Codes, IBC - International Building Code, IRC - International Residential Code, IPC – International Plumbing Code; IMC – International Mechanical Code; and the IFGS – International Fuel Gas Code. The optional codes are the IECC - International Energy Conservation Code, IEBC – International Existing Building Code, IUWIC – International Urban-Wildland Interface Code; IFC – International Fire Code, IZC – International Zoning Code, IPMC – International Property Maintenance Code, and the IPSDC – International Private Sewage Disposal Code. Andy said there are really too many. The IZC, IPMC and the IPSDC do not really apply to the County. They conflict with the existing County and State rules and regulations. The IEBC is partly included in the IBC and is a work in progress as described by a local code consultant. The IUWIC is a code that would require changes in the Garfield County Zoning and Subdivision Regulations. The IFC could be adopted with County amendments now pending the results of a newly formed Fire Code Adoption Committee. There are a bunch of amendments in the booklet. The Commissioners have to give us directions, one of which is the potable water code. Also elevator permits to fix broken elevators, grading permits, and the gas line as gas companies are trying to push inspections on the County. There is a lot to these codes and public input will bring more issues up. The building department and the contractors are ready to go; pretty much the staff is requesting the direction of the BOCC. Assuming you are ready to review this, we can schedule a public hearing.
Commissioner McCown asked if the discussion includes just the IBC etc., what are we looking at?
Mark Bean said we are looking to proposing the Fire Code; it would be part of the County.
Commissioner Houpt clarified that Andy mentioned the Energy Code, would that be included?
Andy said yes but there are two different subjects between the residential and commercial.
Commissioner McCown said that he and Andy have been involved with the fire companies and they are trying to come up with something consistent. At the last meeting we have approved something, and they will come to the Commissioners and have their each decision approved for their District. Let's get the baseline adopted and then come back and make amendments. Can we hold the fire code meetings along with the building code?
Mark said he didn't know the specifics; we can go ahead and do the rest of the codes or both.

Commissioner McCown made a motion to authorize the staff to proceed with the publication for a public hearing for an Ordinance and Resolution hearing at the same time. Commissioner Houpt seconded; motion carried.
Commissioner Houpt stated she will not be here for the May 10, 2004 meeting.

CONSIDER ONE APPLICATION FOR PLANNING COMMISSION – MARK BEAN

Mark Bean submitted an application for the Planning Commission – Colin Laird. Colin is already on the Board and has been a regular meeting and the recommendation is to approve Colin for reappointment.
Commissioner Houpt made a motion to appoint Colin Laird to continue to serve on the Garfield County Planning Commission as a regular member. Commissioner McCown seconded; motion carried.

CONSIDER ONE APPLICATION FOR FAIR BOARD – DALE HANCOCK

Dale Hancock submitted the request for an appointment of Sharon Runia VanLue to the Fairground Board. Patty Scarrow had talked to her about serving on the Board. The Open Class event is very time consuming and labor intensive and Patty would appreciate help.
Commissioner McCown made a motion to accept Sharon Runia VanLue as a member of the Fairboard. Commissioner Houpt seconded; motion carried.

DISCUSSION AND DIRECTION REGARDING COGCC PROPOSED RULE CHANGES

Brian Mackey Deputy Director with the Colorado Oil and Gas Conservation Commission, Don DeFord, Mark Bean and Doug Dennison, Oil and Gas Auditor
were present.
Don has had a copy of this and said that he and Mark have had several discussions with Brian on over the course of the last week he was asked to review some proposed revisions to the Regulations to the Oil and Gas Conservation Commission and specifically pointed the proposed revisions to the atheistic and noise control regulations 8:02 propositions of the noise. Don emphasized that this is a proposed rule alteration and what is before the Board today is direction as to whether or not they want to take a position on that proposed rule change before the Oil and Gas Commission. The revision 4.9 was clarified that the Board did have it. Don noted that the latest revision does have some of the discussions that Mark and Don had with Brian. Don drew attention of the Board to the Ag area; residential/light industrial at one point the proposed revision equated the light industrial to agricultural and in the written document that has been removed. Don asked Brian if it was still his opinion that the areas where there is a literal actual residential development as light industrial residential.
Brian said yes to the extent that it's not being measured at a residence.
Don – at literally at a building.
Brian – right. You use the residential standard.
Don went right to the issue of Brian, Mark and his discussions – Brian's zoning categories are agricultural/residential and from the position of Mark and Don it seemed to equate agricultural with more than residential than light industrial and it makes a significant difference where there is literally not a building from which the sound is being measured. At the property line there is a different in 15 dba that the heart at the discussion on this change. Brian will explain why they are going with this interpretation of land use.
Brian Mackey, Deputy Director with the Colorado Oil and Gas Conservation Commission explained his interpretation. When you open up your Ordinances for changes, you look for Ordinances that are unclear to folks or need some clean up and this is an example for one of those for the COGCC. The intent on adding this into the proposed rule making is to make it more clearly as to how they have been actually implementing this on the ground. The way they are talking about measuring these noise standards, 25 dba within a property line using the area standard that's appropriate for that area or at least is matched to the kind of land use for that area is something they've been doing ever since these noise rules were started. If it's an agricultural piece of property, measuring 25 feet inside the property line we use the light industrial standard and to date we haven't run into implementation problems in doing it that way. Brian said he thinks the reason is that if there's a residence on the property, we also measure at the residence and we measure against the residential standard taking into account that you're recognizing that there are human receptors at the residence and you just need to use that residential standard. So there's really nothing new as far as how this rule is being implemented with regards to how we've been implementing it all along. So it's an unintended consequence that people have been thinking we've been trying to implement this in an entirely new way and we're really now.
Commissioner Houpt asked Brian if you're measuring light industrial at one point on someone's property and then you measure from their home because there's a lot of activity in this facility around homes, and

you come up with a different level, how you adjust the noise to compensate for the two different uses on that one piece of property.
Brian said we require operators to comply with the stricter standard, the quieter standard. So there is a difference. If at one point it's in compliance and another point it's out then we would require them to be in compliance for all points.
Commissioner Houpt said she was confused as to why you put agricultural with light industrial instead of the residential and maybe it's just mores specific to Garfield County because we have so many smaller ranches that are being impacted and we don't have the 5,000 acre ranches that are the norm. Are you basing that decision more on the larger agricultural uses rather than the smaller residential or how would you classify the homes that we have in our agricultural zone districts; would those be residential or light industrial like on Grass Mesa?
Brian said you're talking about measurements 25 feet inside the property line but out in the property away from the residence; the way we've been …
Commissioner Houpt said it's all activity around these residential areas that are dense residential but are fairly dense.
Brian said the way we've been applying this rule for the years that it's been in place is that we apply the light industrial standard for those kinds of properties.
Commissioner Houpt asked Brian if he would consider applying the residential instead since there are so many people living in those areas.
Brian said as Don mentioned this is a staff draft, it has staff thought built into it as to how it's been implemented and the Commission always accepts comments from any parties as to the proposed changes. I think the argument can be made for the Commissioners that consider this, it's a statewide rule and it's difficult to come up with a rule that fits all the different circumstances. Once again, the fact that we've been measuring against the residential standard at residences, is what has made this rule workable.
Don interjected one think I discussed with one Commissioner, Larry McCown a little bit on this but as an example so you can understand what the problem that Mark and I originally saw this with this, in Garfield County we have the situation that Tresi talked about where we have a number of 35 acre plus properties that are really like ranchettes where you have the residence and then the property line is some distance but it's viewed as most folks as residential development. We also have the problem that's crated by what is created in Garfield County for instance has approved some type of residential development of subdivision or a PUD where the County Commissioners actually have officially taken the position that this is a design for residential development. But it hasn't developed yet; the property looks vacant, probably being used for grazing pending actual development of the property. When you apply the light industrial standard to that property it makes it difficult if not unlikely to then go forward and development that property at least at the puerperal of the property line that's impacted by 70 dba light industrial zone. So one of the things that Larry had suggested and might be something you would consider and he's interested in what the rest of the Board would be interested in your position on this, is if you would apply residential standard where there was some type of recorded subdivision plat, either approved by the County or a 35 acre plat that had been recorded, because that's property that clearly in the future will be developed as residential property.
Commissioner McCown agreed that was a fair statement and said that he also used the example of the area west of Rifle, a large private holding that has been affected by oil and gas activity compressors in that area basically could go unheard from any residences because there are none there. That would be a case where the light industrial application, the 70 dba, would be perfectly fine because there are no residences in the area, there has not been a land use approved that there are forthcoming residences, that is wide open agricultural land, it's like does a tree make a noise in the forest if there's no one there to hear it. So that would go unnoticed, but clearly where you have an approved land use, a subdivision, lets say south of Silt has been approved, it has not been developed yet but we know there's going to be residential activity in that area, I would suggest by the mere action taken that a subdivision has been approved that's that is going to be residential and it should be governed as residential by the Oil and Gas Commission on the south emission from any activities from that area. Otherwise it's going to be very hard for that individual to move forward and market those lots if he's getting blasted with 70 dba at that property line.
Brian asked if it is helpful having the rule that the language you see in the draft, the bolded language about sound measurement being taken at occupied building constructed prior to or subsequent to the commencement of oil and gas operations?
Commissioner McCown said that's our concern is how it's going to affect the ability of that individual that has an approved land use in his hand to sell that lot to an individual that would want to build a house so that

you can test it. There's no way I want to live here with that noise, so that individual has been directly impacted by that noise yet it's meeting the standards because there's no residence there yet to take the measurement, but there has been a land use approved. We know it's going to be residential and it should be measured at the residential level.
Brian said which it would be under this proposed language.
Commissioner McCown said only if the house was built.
Brian agreed only if the house was built.
Commissioner McCown said but if the noise prohibited the house from being build and the lot being sold it's never going to happen, so you're directly impacting that individual that came in, in good faith and asked for his land use review and was approved to go forward with a subdivision or whatever and then along comes a compressor cranking out 70 dba at the property line and no body wants to buy his lots. That is clearly an approved land use that is for residential and it should meet the residential characteristics, 25 foot from that property. That's the caveat I want to see in there, not that a building has occurred, but it is the intent of the land use that a building is going to occur – that it is a residential area and that's all I ask.
Commissioner Houpt said I think you could make the same argument for existing homes and that's why I want to really stress that the use that's occurring….
Commissioner McCown said the existing homes are covered; I don't have a problem with the existing homes because it's at 55 dba at the existing home.
Commissioner Houpt said within 25 feet, but wondering if you have 15 or 20 acres, is that treated as light industrial or is that treated as residential.
Brian asked if it was agricultural in nature it would be treated as light industrial, that standard would apply at the 25 feet inside the property line.
Commissioner Houpt said that's where she has a problem.
Don said under the proposal that we're discussion Tresi, that would apply whether the subdivision's been sold out or not, so that if you had an exemption or even a 35-acre plat that was recorded and is intended for residential development, there may be homes on that today as long as it's a recorded plat under what we're talking about.
Commissioner Houpt clarified that what Don was talking about would protect those folks in existing residential areas.
Don said as along as it's a recorded plat, yes which most are in this day and age.
Commissioner Houpt so that would mean you don't have light industrial in those areas that are drilling in the ranchette areas.
Brian said it would be under this proposed rule, 25 feet inside the property line is agricultural in nature.
Commissioner Houpt but if you accepted our proposed idea.
Brian said even then he hasn't heard any proposed changes to change that, what the Board is talking about is what would constitute us applying a residential standard even if a residence isn't there. For clarification Brian asked Tresi if she wanted the residential standard to apply throughout the parcel even if residences aren't there yet, if it's been zoned as residential.
The Board agreed this is right.
Brian said so following that you'd be saying if there's an existing residence and someone moves a noise source next door, you'd like to see the residential standard apply throughout in that case so in other words and not have this concept of measuring 25 feet inside the property line at some level that's consistent with the land use. Brian mentioned that part of the logic behind that is the recognition that very often people have equipment on those kinds of properties that are noise generators themselves to a fairly decent degree.
Commissioner Houpt said but not 24/7 so when you're talking about a noise level that's brought in by a well, you're talking about a consistent noise level and that's why residential is lower than light industrial and would argue that it's a different type of noise and impact and would want to see it bought throughout that and looked at as residential because people purchased their homes with that in mind.
Brian said he understood the logic and this is the way we've been implementing it, not only here but in Weld County where there's about 10,000 wells, 700 or 800 new well permits per year and it hasn't been a concern about that expressed, from there there's a whole lot of subdivisions going in, the Brighton area, Fort Lupton is growing very rapidly right up around where historic oil and gas development and we're just not seeing those same kind of responses there.
Commissioner McCown asked if all the Ag land in Weld County was considered light industrial to the Oil and Gas Conservation Commission.
Brian said yes.

Chairman Martin commented that Weld County wasn't in tune with their environment as much as Garfield County is.
Brian agreed.
Commissioner Houpt noted the impact is growing in this County and we need to be sensitive not only to the industry's need as that develops but to the people's needs and environmental needs as we continue to see oil and gas activity growing in Garfield County and questioned Brian as to what kind of limitations would that impose on the industry; would they be unreasonable limitations if you required residential sound levels and why would that be unreasonable.
Brian said there'd be additional costs in abating sounds to those levels in some cases; we often see operators doing that kind of thing voluntarily and that's probably one of the reasons why this rule has been implemented the way it is without much difficulty over the years. Companies have been willing to do that.
Commissioner Houpt said if there's going to be a standard that if you're in an area where people will be impacted where somebody's qualify of life will be impacted, why would it be unreasonable to say, so instead of having a light industrial standard because we recognize that this area was not created to be light industrial but it's residential that you'll stay within the boundaries of residential to lessen the impact – it would be a win win for everyone; it would spare the expense of negotiating and creating something after the fact. We talk about wanting to create a situation in Colorado where's it's a win win situation for everybody and everybody's a good neighbor and then establish regulations that pit people against each other but putting light industrial in residential – that's setting everyone up to fail or to have some type of confrontation because people who buy their dream home in an area don't consider that a light industrial area when they move into that area.
Brian commented it's just to reflect the way we've able been operating on the ground and as of last week he said he was really sorry we opened this one up for change because it hasn't been a problem in implementing it.
Mitch Randall, Town Attorney for Silt and at least at a staff level we've got some concerns about this too. In Silt we have substantial development that is approved but not yet constructed at the edge of Silt Mesa for example and the investment in the infrastructure is being made today but the use may not be there for 10-years and thinks this will have a real impact at the upper edges, the latter phases of the development because it will allow even through the investment has been made and in a residential use it would allow the light industrial noise levels at the property line and affect that.
Commissioner Houpt asked if Commissioner McCown's recommendation would address that concern.
Mitch said he thought it would, the distinction between the zoning and the actual use certainly causes doubt from their perspective because there are two subdivision that come in mind, they are zoned for residential and it's a 3-phase project and phase three may not actually be used for residential for 10-years but sewers are being oversized, roads are being constructed, and there's a lot of investment in the planning of that area as one development and if you get a compressor at the top end that generating 70 decibels, it kills phase three. Commissioner McCown's comment addresses this but it certainly without that Silt has some concerns.
Janet Steinbach community property director said she has an additional concern over properties that are annexed and zoned but yet not subdivided because it takes a long time to subdivide some parcels. We have another commercial development that is close and they have some housing units in it so her major concern is that if we don't go by the zoning criteria then you're asking for the subdivision to incur some expense when the decibels are higher upon platting and she doesn't think that's right. If the subdivisions were always intended through the zoning to be residential. The platting may not occur for many years as well.
Don asked if Silt's zoning residential on these properties just a PUD or a variety.
Janet said it is a variety, they have many parcels that are PUD but many of them are straight zoning.
Nancy Jacobsen, resident who lives south of Silt and working on her 8th year there. When they bought their property they felt they were zoned agricultural residential and that's what the Board also felt. Now somehow, the Colorado Oil and Gas Conservation Commission have usurped that zoning and now we are light industrial. Nancy came before the Board of Equalization where the revaluation of property of taxes and made that point at that time. Somehow they have surpassed this Board in your authority which she said she was sure the Commissioners weren't happy about and now here they come with a noise Ordinance and they want to usurp and overrule any of our local authority. This is highly objectionable and feels the Commissioners need to strongly send to them a recommendation that they probably just shelf any change of any kind, because she is severely impacted with noise, vibrations and on March 9th underground

explosions and not sure how this is measured in decibels. She would really like to see the BOCC just say no, not this time. We recommend that you just forget about this change.
Brian added that closed this out by saying that actually the Oil and Gas Commission is not changing anything the way they've been implementing it; the way they go out and measure change right now would be no different under this language where we tried to clarify what we're up to but perhaps missing the mark. We talked about Garfield County doing something like filing a comment with the Oil and Gas Commission saying they that can support his rule change with these amendments, something like that and he said he'd be happy to take that back to the Board. Also to go back to staff with these thoughts too and kind of mull over some. That's one thing he saw as viable in coming here today to talk to the Board.
Chairman Martin noted this meeting in on April 19th.
Commissioner Houpt said some really good points have been raised and think it would be important for us to come up with some comments for the Commission and to recognize the zoning districts that we have, agricultural residential is not light industrial, it has that use with Oil and Gas but it should still be recognized as the zoning that it is and think future planning issues need to respected as well when we look at what type of noise issues we have.
Don handed out the full proposed revisions the 9th draft.
Brian commented that the concept of zone is being changed to area and that's because a lot of the Counties in the State isn't zoned so that concept of zoning in regards to those areas was making this rule unworkable for us.
Commissioner Houpt wants this a local regulations because everybody has unique circumstances and this Board has discussed various issues that need to be regulated at the local level and if everyone has a different type of approach to zoning and planning and development we may need to look at that as a County regulation.
Chairman Martin said there is a statewide movement to get everybody zoned in one way or another. That is the other side of that dilemma.
Doug Dennison pointed out 303-d APD Process they are looking at making some revisions to. The way the process currently works is as soon as the COCCG receives an APD from an operator, they will fax the front cover (the application form) to the local governmental designee and this is my first notification when a well is planned and that's when the 10-day clock starts clicking for my initial review period. The way this is being changed now is to have the operator provide that initial notification. Doug said his only concern is after dealing with a few operators in the County that are not real prompt about sending that information and the concern is that my 10-day comment period could expire before notification has been received that the APD is even planned. A workable solution is just to make it very clear in here that if the operator doesn't send it by fax or some mechanism that will ensure that the LGD gets it promptly then that's ground for that APD to be withheld until they comply with it. The way it reads now it doesn't really say there's any consequence for the operator not providing that prompt notification.
Brian said, I am surprised because the way the rule was set up in the past and the way the language is still there is that the first thing that happens is that the operator provides the LGD with a permit packet and it must be at or before the time of filing with the Oil and Gas Commission. If that's not happening then there's a problem that we need to solve, do some enforcement, need to be withholding permits because of that.
Chairman Martin thought this would be up to Doug and at present he's not receiving those packets.
Doug said no, and could say in every case he gets a fax copy from the COCCG long before he ever sees the package from the operator.
Brian was surprised and commented it was the first he's heard of that and this is unacceptable. This needs to be solved.
Doug reiterated that it's not just isolated, it's across the Board.
Brian appreciated hearing this because this is what this rule change is predicated on. The process was the operators would provide the local government designee with notice up front at or before time of filing with the OGCCG, they would in turn fax the cover page from the APE to the LGD let them know right when the OGCCG received it. Also current with that or even before we post to our web site notice that this permit is pending and that's what we're counting on it the LGD could use instead of us bothering them with all of these faxes all the time, they could monitor the web site and see when these are popping up, have the packet from the operator and get on with their business. He said they need to fix that with the operators and was disappointed to here that today. If they fail to do so they could fall back to the rule that was put into

place about last February a year ago, the CCI group. The LGD can ask the director to withhold issuance of the permit and that happens instantaneously.
Doug didn't have a problem with this new rule and said he could check the website.
Motion to Write a Letter to the OGCCG
Commissioner Houpt made a motion that we send a letter to the Oil and Gas Commission requesting what was recommended by counsel on the noise limitations for future development that is in a residential/agricultural area as being limited to residential noise limitation and that current residential areas that are being drilled and I would include the ranchettes specifically in the areas that are being drilled in, Grass Mesa, Divide Creek, etc. to be treated as residential as well; I don't know if we should include an acreage limitation because you're impacting, that impact is, even if you weren't receiving complaints all the time, so say anywhere in our zone district that is agricultural/residential should be treated as residential.
Commissioner McCown seconded the motion. Discussion.
Don said since the motion represents the position of the County Attorney, maybe the County Attorney could state my position. This may gender some discussion but after listening to public comment I would like to state my position and see if this is where you want to go. "My position is that they would treat, the Oil and Gas Commission for purpose of Rule 802, would treat the receiving area as residential if in the unincorporated area of the County there was the area in question was the subject of a recorded subdivision plat either approved by the Board of County Commissioners or a density of 40 acres or less per lot and secondly that it would be considered residential if annexed into a municipality and zoned for residential use.
Commissioner McCown said that was real close to what he and Don had discussed and is his position and would support that.
Commissioner Houpt then asked if this wouldn't include all the agricultural/residential area.
Don said you could, this is a Board discussion.
Commissioner McCown said he doesn't necessarily support all of that unless the actions that Don just spoke about have occurred because again you're talking the large parcels that are zoned agricultural that would under your theory require the same mitigation when there's clearly no one there to be impacted and sees that as an unnecessary regulation. He said he only wants those regulations that serve a purpose and we can enforce and the Oil and Gas Commission can enforce, so he said he doesn't see a need for that. Now, given that fact, if they spouting out 70 decibels on a 5,000 acre parcel and somebody breaks off a 35 acre parcel in that, that would trigger the land action and it would go to 55 decibels. Larry said he has enough level of comfort with that that's workable.
Commissioner Houpt – and they would have to mitigate it at that time.
Commissioner McCown – yes, anytime a land use occurs that generates a new plat that would be a lot of 40 acres or less which can happen without coming to us as a land use action. 35 acres or greater.
Don took this example and clarified a 5,000 acre ranch and a 35 acre parcel split off; under the language Don stated the Oil and Gas Commission could still consider that light industrial because his language was a density for the plat of 40 acres or less and there you've got a 5,000 acre parcel split into two and so it wouldn't apply there.
Commissioner McCown said the way it's written and the way it's been applied, at that property line it would apply if there's a house built there.
Don agreed if there was a house built there.
Commissioner McCown – it would clearly kick it in, the way it's been enforced it would go back to the residential rate, 25 foot from that property line.
Commissioner Houpt would like to see all of agricultural residential included because we have a separate; I think we could avoid a lot of problems if we recognize the residential component of that district by just saying let's keep these nice levels at a residential level. She doesn't see it as a hardship.
Commissioner McCown – I just don't agree with what I would consider unnecessary regulations if it's in an area where no one will hear these, no one will know if they're 70 or 55. That could be on Bill Cloud's property west of Rifle was an example given. BLM is an adjoining property owner.
Chairman Martin 500 or 600 acres next to BLM/Forest Service with the grazing permits, the private property in-holdings and no houses – no residences.
Commissioner Houpt said she is hesitant to pick an arbitrary number of 40 acres when I do this motion and so…
Chairman Martin said it takes into the size of parcels the Board doesn't have any review on anyway that can be created without our approval but we're still giving those folks some protection as well.

Don said there is a basis for it, what we see in the County for the most part when you have non-county approved subdivision plats, they generally follow close to the 35 acre average because that's the closest you can get to State law for splitting your property without going through the Board.
Commissioner Houpt asked then if you have a Grass Mesa or something where there are 35 acre lots and somebody has a 41 acre lot suddenly their noise levels go to light industrial.
Don said that's why he spoke of the average density and went to 40 rather than 35 so if you have one at 35 and another at 45, it would be an average for the platted area. After listening to Larry's comments just made then perhaps the Board would want to consider also including in that or any 35 acre parcel or 40 on which a home has actually been constructed. That clearly covers the existing residences. There is a motion on the floor.
Chairman Martin said we need to either amend the motion on the floor on agreement or to.
Commissioner Houpt said she could make that decision. I will amend it but I want to go a little higher than the 40, go to 50 acres when we're talking about average density and add that the caveat that Larry recommended on 50 acre split on a larger parcel where a home is being constructed.
Commissioner McCown amended his second.
Motion passed.
This will be given to the Oil and Gas Commission and be there present to either discuss it orally or to present it as a comment.
Commissioner McCown reiterated the operational problem that Brian and Doug will clear up right away.
Divide Creek – Gas Seep Update
Brian Mackey, Debbie Baldwin manager of environmental specialist group, area engineer Jamie Atkins and Doug Dennison were present. Bob Chessen, the other environmental specialist, has also been involved in the observation and sampling type work out there. A video presentation was provided showing the location of where the spill was located.
Brian said this was discovered on April 1st and Brian said they were called and Jamie and Bob responded taking water samples out of the creek and gas samples off some of the nearby gas production wells. As a precept, Brian said they have a memorandum of agreement with the State Water Control Division; they've implemented authority for us as the lead agency in responding to spills and releases to surface water regarding oil and gas operations. This is place to prevent regulatory conflictive regulatory authority over this kind of operation and also recognition of our expertise that we have on staff on the Oil and Gas Commission with regards to environmental protection concerning oil and gas operations. There are elements, speaking generally and not just with this incident, of the agreement that have to do with reporting by the operator to the water quality control Division and by Brian to the Water Quality Control Division when we're made away of that and its sets forth as far as response goes the Oil and Gas Commission will respond to all spills to surface waters and in accordance with the Oil and Gas Commission rules and evaluate the extend of the damage and we contact the Water Control Division immediately and let them know what about what our response entails and look for their guidance in that response. Then the agencies coordinate in an assemblance of data that we and the operator would put together related to the spill and release and all the physical data that's collected shall be shared between the two agencies. This is very close communication with the Health Department, the Water Quality Control Division specifically and wanted to emphasis this with the residents because it's a lesser know MOU that's in effect. Brian said they coordinate as far as remediation goes, the Oil and Gas Commission under the agreement shall require mediation of spills and releases to surface waters and that when a spill or release, enters or threatens impacts surface to the State, the Oil and Gas Commission coordinates with the Water Quality Control Division as far as what the remediation entails. There is also an element of the agreement that has to do with enforcement; we're the lead enforcement agency and whether we issue a notice of alleged violation, they notify the WQD about enforcement plans and if there's a negotiated fine and administrative order on consent, that the WQC can provide input into that enforcement action. This is how the regulatory agencies work.
Jamie said he received a call from Bob Eicher on April 1 that he had witnessed bubbles in this section of Divide Creek and I responded within 15 minutes, walked down the hill and saw the seep realized I needed to characterize this and find out where it was coming from. He called Bob Chessen and Brian and let them know that we needed to get someone out there for sampling and contracted EnCana to let them know what we had observed and asked for cooperation in getting information on the about surrounding wells and sampling on those gas wells to see if we could identify where this gas was coming from. That occurred April 2nd, Bob came out and gathered the first round of samples, subsequent to that we've identified other

sampling that we felt would be necessary to help us pin that down and we've done some but there may be more. There will be on-going monitoring, re-sampling and testing. This is our response time and how we viewed this complaint. Jamie said his involvement in this at this point is directed at evaluating the integrity of the well boars; they are trying to identify the source.
Debbie explained the first things that were done to collect gas samples and from nearby wells. W have the results collected on the 2nd well and based on these collections we have determined that it is not biological gas and that it is from Williams Fork gas formation. She continued to answer questions posed to her by the Board. There wasn't enough DNA to track it back to a certain well? I am not saying the surface fracture is what caused it.
Brian summed up saying that they are still involved in the investigation making the point that we are getting quick response and as to any danger to the citizens, we are testing the water from the wells and suggesting that they do not drink water from those wells. It is also not advisable to water the live stock.
Jamie answered questions regarding the anticipated mitigation for the inadequate cementing in the wells? The two that we have had problems with, have been cemented. If that were the source it could still take 1-2 months for the bubbles to disappear.
Nancy Jacobsen - Where are the bonds, what happens if you poison my well, I have 47 acres?
be careful what your recommendation is. I'm upset, but I am trying to wait and see.
Walt Lawry- Director of relations with EnCana said we are very concerned about the problem and we are actively pursuing the source. We are testing the landowner's wells and the springs in the area. All of the results have come back with non detectable amounts. The Divide Creek sampling has returned; one result is also showing detectable results. We plan to test them all once a week for at least the next three week. We have installed charcoal activated booms. We have offered to barricade the area off to offer wildlife protection.
Jamie said there is a meeting scheduled for Tuesday and they are meeting with the landowners.

PUBLIC HEARINGS:

SPECIAL EVENTS LIQUOR LICENSES FOR:

RIFLE CHAMBER OF COMMERCE

Chairman Martin swore in the speakers.
Mildred explained that this is a Special Events Liquor License for the Rifle Chamber of Commerce. At this time there are no problems.
Michael Langhorne said they are proposing to have their annual dinner at the Aircraft hangar at the Airport with open bar. This is a non profit event. The choir will perform songs from the 50's and "Grease" since this is the 50th Anniversary of the Chamber. We will be honoring some of the members who have been members for 50 years and generally doing the awards banquet. There are 5-area restaurants participating and a variety of foods to offer. We will have a silent auction as well. It is to be held on May 1st from 6:00 p.m. to 11:00 p.m.
Commissioner Houpt moved to close the public hearing; Commissioner McCown seconded; motion carried.
Commissioner McCown made a motion to approve the Special Events Liquor License for the Rifle Chamber of Commerce at the Corporate Air Hanger and the Chair be authorized to sign; Commissioner Houpt seconded. Motion carried.

CARBONDALE COMMUNITY CHAMBER OF COMMERCE

There was no one from the Carbondale Chamber and their event is not until June 12, 2004. Mildred explained they have had their signed posted but suggested postponing this until May 2, 2004 for a representative to be present.
Commissioner McCown made a motion to postpone the Carbondale Community Chamber of commerce Special Events Liquor License until May 3, 2004 at 10:15 a.m. Commissioner Houpt seconded; motion carried.

Noise Regulation - Revisited

Commissioner Houpt said she would like to have a discussion about the motion I made earlier on the Noise Regulation Rule Change Recommendation in light of some testimony brought forward by one of our citizens. When I made the motion of the recommendation to send the Oil and Gas Commission I was really having a problem just drawing a number on acreage out of the hat and initially my motion included agricultural/residential because there are such unique situation and Nancy Jacobson raised an issue that's really important. As an example in her area where neighboring land owner can put a well on their property line and greatly impact a neighbor's residence regardless of how large their acreage is or it can have that

amphitheater effect. We are really missing the point of what we're trying to assist people with if we put a 50 acre limitation on our recommendation. So Tresi said she wants to go to agricultural/residential because our geology is so different in different places and neighbors impact each other differently. Two activities can be very close to a property line and still have a lot of acreage but impact each other. I would like to change my motion back to my original motion was to include agricultural/residential without a 50-acre limitation.
Commissioner McCown said he thought the residential level would apply in Nancy's case. Commissioner Houpt – it wouldn't in the Detricks case because the well is right next to their property line but they have 75 acres.
Commissioner McCown - This motion will protect Nancy.
Commissioner McCown - But it is louder than 55 decibels at their house?
Commissioner Houpt – it's 70 dba. – They are further than 25 feet.
Commissioner McCown – it can't be at their house and it doesn't matter if they are further than 25 feet. At any residence it cannot exceed 55 decibels. Chairman Martin – agreed it can't under the present regulation and by statute. If it does then they need to mitigate the sound.
Commissioner Houpt said their riding arena had to be moved because of the location of the well but you can impact other activities that you're doing. You're impacting a residential area.
Commissioner McCown explained the way it's been applied – the noise source is located on a separate property which would be Detricks. A sound level shall be measured at a distance of 25 feet or more from the surface property line radiating the noise and at any occupied building unit. Once it's an occupied building unit it has to meet the residential criteria.
Don said the difference is 70 dba or 55 dba from the property line so using the Detricks as an example, if their house is relative close to the property line but more than 25 feet, 25 feet from the house under anyone's guideline, County or Oil and Gas Commission, it has to meet the 55 dba at 25 feet from the house. The difference comes at the property line measurement which under the Oil and Gas proposal would be 70 dba and it's likely 70 dba under the Board's recomm4endation too because the Detricks said it was 260 acres. Under Commissioner Houpt's discussion now, if you treat Ag/residential as residential period, then it's 55 at the property line and at the house so it mitigates the impact on the property that's not occupied by a house under this proposal by Tresi. One thing Don said he failed to mention before and occurred to him at the course of the discussion; Don pulled out the County's existing Special use Permit regulations which we haven't enforced against the Oil and Gas Industry but theoretically it could apply. You may recall about setting gravel pits. When you had the same issue come in the context of sand and gravel operation, you measure 25 feet from the property line and you universally apply to residential standard in the county regardless of acreage size. So again what we're talking about sending to the Oil and Gas Commission is different and somewhat more relaxed than you will apply to other industrial uses such as oil and gas. These are out there and this Board has to do decide how you want to take your recommendation.
Commissioner McCown noted that the County's only applies to Special Use Permits.
Don clarified that was true but was merely showing how in other circumstances the Board looks at it.
Commissioner Houpt – put a motion on the table to change my motion only to the extent that we're not limiting it to a 50-acre ranchettes but to include agricultural/residential throughout Garfield County.
Chairman Martin said this goes back to the original discussion held.
Commissioner McCown seconded the motion for discussion. He said he doesn't agree with it, I think we were at the point we needed to be with it at the public comment section and I don't think creating regulations that will be applied on areas where it is completely unnecessary serves any purpose and I think it will be less receptive by the Oil and Gas Conservation Commission than it would be one that would apply in certain areas where in fact housing and occupied housing were issues rather than a blanket anything agricultural will require a 55 dba on it. I 'm afraid we will shoot ourselves in the foot trying to over regulate it.
Commissioner Houpt said, but if we don't make a general statement, then the West Divide area will not be protected the same as other areas will be protected. You could be 30 feet from your property line and the well is a level of 70 allowed and they could argue that it only impacts 5 feet of your area. There are too many situations where too many people will be caught in the middle and they would have their quality of life impacted.
Commissioner McCown – well the impact doesn't occur until it gets to the residence. That's where the impact occurs.

Commissioner Houpt – why can't you have a peaceful quality of life beyond your house, beyond the residence? Why wouldn't the rest of your property be deemed residential? If you're on 40 acre piece of land for the whole thing to be deemed residential because we understand that quality of life is important, why not on a 70 acre parcel.
Commissioner McCown said he was fine with that but I just hope Nancy doesn't come in and want agricultural designation when it comes tax time cause it's clearly going to be residential.
Chairman Martin brought up a Statutory Provision that we can't adopt Ordinances that overrule the sound laws that are governed by the Oil and Gas Commission under a certain title (Oil and Gas Title 63) – it prohibits any municipality and any county to override or to make it more restrictive than the State Statutes and the interpretation.
Commissioner Houpt reminded John that we are sending recommendations.
Chairman Martin said if we do it too strong, that's what they are going to come back with, thank you for your input but we're going to follow the State Statutes which they govern.
Commissioner McCown said he is not looking to impact any resident but also not looking at trying to create a regulation that the industry and the Commission is going to stick their heels in the ground and say no way we're buying into that one, we're going to leave it like it was and if they leave it like it was, we don't have anything again.
Commissioner Houpt – but if we do this for gravel pits we have a really strong argument.
Commissioner McCown and Martin reminded Tresi this was for a Special Use Permit and it was like the Board placing other conditions of approval on those that we cannot place on oil and gas.
Chairman Martin because they are strictly governed by a different statute and they are identified through that statute as being exempt from the other rules and that's dilemma.
Commissioner Houpt – tell that to the other industries, the question is out there, why are we treated differently.
Commissioner McCown – let's call for the question, let's send it to Denver, we'll get an answer real quick.
Martin – nay; McCown - aye; Houpt – aye. Chairman Martin noted that we're wasting our time and shooting ourselves in the foot. We'll get further than what we're doing now. He projects the answer to come back that you don't have a right or a standing to impose regulations on the Oil and Gas Industry simply because of Statute and the interpretation based on Bowe and Edwards and also Frederick. This is going to create more trouble; we're at least giving some cooperation and we'll still get the industry to work with us a little bit better but now this is going to back them into a situation, hey, we tried to work with you, it didn't work, and we're going back to the statute.
Commissioner McCown – but this is what we're sending them.

COMMISSIONER REPORT

Commissioner Houpt – Had a tour of Grass Mesa with EnCana last week to look at the reclamation planning; RFTA Board meeting and they are still discussing budgets; a pipeline regulation meeting with CCI and we continue to look at those areas that Counties believe are critical to look at and regulate – it was decided that County Attorney's would determine what really could be looked at under the County's purview with respect to these regulations. This is a great exercise and thinks we should move forward as a County and just adopt our own regulations and go from there. RS2477 Meeting in Grand Junction on Friday and there was a solicitor from the Department of Interior present and some BLM reps and the fellow from DC talked about the MOU with Utah and said there's no interest from the Department of Interior to enter into another MOU with another State at this time; they are waiting on the Courts and whether it makes sense to go that route or not, so the group's still looking at those federal legislations and his MOU is doing. Everybody understands there needs to be some resolution to this. Chairman Martin thought it was already there and all you have to do is do your declaration and move on – it's a constitutional right guaranteed and also revamped in 1976 – it's already well defined. Tresi said next week she will go to the Grand Valley Citizens Alliance Meeting and a Human Services Commission Meeting on Wednesday; Rural Resort Committee meeting on Wednesday. Another committee meeting for Rural Resort on Thursday at 10 a.m. and will attend the barbeque after this meeting is over. CCI committee meetings on Friday as well as another RS2477 meeting.
Commissioner McCown – Associated Governments on Thursday in Palisade; took a position on SB 215 to oppose it; Mike Beasley was there and had a significant discussion on Energy Impact Grants and there's a real positive feeling we're make it thought legislature without getting that fund filtered but we won't know until May 8th when they adjourn. There are a lot of amendments out there. This week a Road and Bridge

Barbeque from 11 – 1 at the Road & Bridge Facility in Rifle on Wednesday, the 15th and will be leaving Thursday afternoon and be gone until the following Thursday, the 22nd.
Ed said there is a Transportation Meeting after the lunch.
Chairman Martin – Transportation on Wednesday; FAA meeting discussing the Airport and also the placement of funds in a year advance. CCI on Friday.

TRP Issue and South Bridge

Would like to talk about the *TPR issue* of whether McInnis is going to be able to get funding outside of the transportation moneys and if not it just raises havoc on the whole process that we spent money going through and all of the other participants are really angry right now because it's going to bump everyone down at the DC level if Glenwood has to get top priority on this operation. Chairman Martin disagreed saying that's not necessarily so as there's a whole bunch of hurdles to take care of and has to answer the question is the Airport going to remain or not and the City of Glenwood Springs hasn't moved forward on that particular issue.
Commissioner Houpt said they are blaming our Garfield County and Glenwood process for allowing that to happen. We are the ones that brought all the communities together and this was not brought up – South Bridge didn't get the priority. Chairman Martin said there's a time limit on it and if they are going to be able to go forward and complete that task, then that money would be moved to a different project. The South Bridge is on a totally different list and it's under the STIP program and it was the under the 7th pot plan. This came out well before the 20/30 plan – you cannot confuse the two. Commissioner McCown said the 20/30 plan came out well after this South Bridge. We did the study to see if we could afford it and quickly found out we couldn't. Glenwood still stayed in the game. Chairman Martin reemphasized the difference between the 20/30 plan and the 7th pot.

PUBLIC MEETINGS

CONSIDER WHETHER OR NOT TO REFER A SPECIAL USE PERMIT REQUEST FOR THE EXPANSION OF USES AT GLENWOOD CAVERNS TO THE PLANNING COMMISSION – FRED JARMAN

Fred submitted a memo explaining the background on this request for a Special Use Permit staying the owner of the Glenwood Caverns request to amend the previous SUP which will expand the types of uses and hours of operation for patrons of the present operation. All activities are proposed to be located at or near the existing Caverns upper site. These activities are proposed to provide patrons to be occupied while waiting for their cave tour to begin.
The expanded uses include: snack shop, banquet facility on the top floor of the existing building, performance amphitheatre, falconry, alpine coaster, zip line, giant swing, Indian education center (teepee), photography studio, climbing wall, movies, challenge (ropes) course, paragliding, mini golf, and show shoe rentals. The applicant proposes to phase the implementation of these activities over the next 4-years to 2008. The applicant proposes new hours of operation: 6:30 a.m. to 11:30 p.m. – Sunday through Thursday and 6:30 a.m. to 12:30 a.m. Friday and Saturday.
Staff requests consideration as to whether this should be referred to the Planning Commission or if the Board wants to have the request directly heard by them.
Commissioner Houpt made a motion to refer this to the Planning Commission for their review and recommendation. Commissioner McCown seconded; motion carried.

PUBLIC HEARINGS:

REQUEST TO CONSIDER A SPECIAL USE PERMIT FOR RODNEY POWERS, BILL PATTERSON, AND RONALD TIPPING TO OPRATE A TEMPORARY ASPHALT HOT BATCH PLANT AT THE EXISTING GRAVEL AND SAND EXTRACTION UNA GRAVEL PIT – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, Rodney Powers for Asphalt Hot Batch Plant, Ed Settle, Denise Gonzales, John Airy, and Rob Tipping were present.
Carolyn determined with the applicant that posting, notification of property owners and publication were timely, however, she also determined that the Board needed to discuss whether or not the publication was adequate because it is supposed to be published in the name of the owner. The Commissioners accepted the publication and Chairman Martin swore in the speakers.
Jim submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 as amended; Exhibit E – Application; and Exhibit F – Letter from Road and Bridge.
Chairman Martin entered Exhibits A-G into the record.

Jim Hardcastle stated that the request was for a special use permit for an asphalt hot batch plant that will operate on the site from the life of the pit to the duration of the project A & S Construction presently has under contract with CDOT. The CDOT Project, Parachute East & West, No. IM 0701-164 is located on the I-70 beginning at milepost 68 and ends at milepost 86.5 in Garfield County. The project has 140 working days. The completion date is expected to be approximately December 1, 2004.
Commissioner McCown clarified if the flaggers were going to be stopping trucks entering County Rd 300 in addition to the stop sign. It is saying that traffic control will be required during the hauling phase of the operation. I don't understand where flaggers will come into play as it is a simple left hand turn into the pit and a right turn out of the pit.
Jim said possibly due to the size of the truck and the current condition. The applicant indicated they will be rebuilding the road and at such time this may negate the use of flaggers. A new driveway 80 feet wide has to be constructed before they can start hauling.
Recommendations:
Staff recommends **APPROVAL,** with the following conditions**:**

1. Additionally, the applicant has obtained (purchased and paid) all yearly (2004) oversize/overweight permits and permits for the oversize/overweight equipment already hauled to the location. The applicant will need to continually maintain these permits every year as a condition of approval.
2. As part of the approval of the project, staff recommends that the Applicant remove all unused materials from the property. Several items were observed to be stored on the west side of the property and if not vital to the current operations should be removed as the area was not designated for storage as part of the original Special Use Permit.
3. Demonstrate that sound levels of noise radiating from a property line at a distance of 25 feet or more there from in excess of the dB(A) established for the following time periods and zones so as not to constitute a public nuisance.
4. A new driveway access is to be constructed that is a minimum of 80-feet wide to allow for trucks to turn in and out of the location without damaging the shoulder of the road. There is already evidence of trucks turning out of the location and damaging the shoulder of the road and the bar ditch.
5. Installing an asphalt mat the width of the driveway extending into the location for 20-feet and a depth of 4-inches attached to the paved edge of the existing road.
6. A stop sign is required to be installed at the entrance to CR 300. The stop sign will be installed as required by the MUTCD (The Manual on Uniform Traffic Control Devices). The stop sign will be the high visibility type and a minimum size of 36-inches by 36-inches.
7. Signage stating trucks turning will be required 300-feet north on the west side of CR 300 and 300-feet south on the east side of CR 300. These signs will be installed as required by the MUTCD (The Manual on Uniform Traffic Control Devices). These signs will be the high visibility type and a minimum size of 36-inches by 36-inches.
8. Traffic control will be required during the hauling phase of the operation. Traffic control will be certified flaggers and a traffic control plan will be required and sent to the Road and Bridge Department. The traveling public will have the right-of-way over the haul trucks.
9. There is a possibility that CR 300 will be under reconstruction and coordination between all companies will be needed.
10. The Road and Bridge Department asks to be made aware of any complaints or problems that arise concerning CR 300 or any issues that may concern our department.

Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion to approve the request for a Special Use Permit allowing for a temporary asphalt batch plant leaving Recommendation No. 1 in it's present form, change No. 2 changing the "should to shall be removed at the time of the crusher removal from the crushing operation", leave No. 4, No. 5 change to read "at the time of the County Road 300 improvement, the apron would be installed at that time to be contiguous", really struggling with No. 8 and guess I'm going to put at the end of that sentence "if deemed necessary by Road and Bridge", at this time I don't know what they're going to do, I don't know why they asked for it and wished they had been here to explain it but to me it seems a bit redundant if you're going to have a stop sign there and have a flagger standing there with a stop sign, don't know what purpose that is going to serve but turning movements are going to be made out on CR 300 and

that's a simple left turn and they cannot hold up traffic on 300 to allow you to make that turning movement anyway, according to this the through traffic on CR 300 has the right of way anyway so I would really question the need for No. 8 but will leave it in there with the stipulation that should there be traffic problems traffic control can be required by Road and Bridge but not required at this time and leaving No. 10 as it is.
Commissioner Houpt – Staff wanted a "shall" in Number 10 instead of "ask"; and in No. 3 he wanted the Statute 25-12-101.
Commissioner McCown agreed that was okay.
Commissioner Houpt seconded the motion.
Carolyn clarified the "temporary" and asked if he would put a time limit on it.
Commissioner McCown said the applicant today indicated December 1, 2004 was their drop dead date so that's good enough for me. Motion carried.

CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR A PROPERTY OWNED BY MAHAN PROPERTIES LOCATED ON BLACK DIAMOND ROAD – FRED JARMAN

Fred Jarman, Roberta Catz-Mahan, Jim Mahan, Attorney David McConnahey and Carolyn Dahlgren were present.
Carolyn questioned the applicant on the public hearing notification requirements and determined they were timely and in order and the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000 as amended; Exhibit F – Application materials submitted by the applicant; Exhibit H – a letter from the Vegetation Manager dated April 6, 2004; Exhibit I – a bound packet submitted by Leavenworth and Karp PC dated April 7, 2004 and an additional Exhibit J – the Resolution 2002-71 of this Board.
Chairman Martin entered Exhibit A – J into the record.
Fred provided a Video Power Point for the Board.
Fred said this is request for an Exemption from the definition of subdivision by the applicant, which is Mahan Properties represented by Roberta Mahan. The property is located up in the Black Diamond Area, an area which is just off of Four Mile Road. The property is 20-acres in size and the request is to use Black Diamond Road as a division line to separate that property into two tracts. The smaller tract Lot One having just over 5.5 acres and Lot Two would be 15 acres and change. Water for the proposed exemption would be provided by an existing spring well called the Davies well and they've also obtained an augmentation contract which is activated from West Divide Conservancy District. There are in place today and water is serving the units that are on the property. Everything on the property is also at this point constructed. Wastewater has been handled through ISDS for 3-units on the property; those are in place and permitted by the County. Access to the property is by CR 126 also known as Black Diamond Mine Road, the zoning for the property is A/R/RD. Surrounding zoning for the property is all A/R/RD as well as open space or actually ownership is BLM. With respect to the Comprehensive Plan the property is located in an area that envisions development at a density of 6 to 9 acres a dwelling unit; what's being proposed here the average density would be 10 acres per dwelling unit. So again the proposal before you is to use the Black Diamond Road as the dividing line in this particular piece of property separating it into two tracts. As far as the road goes, staff has determined that, and written here, probably evidence to support a claim that Black Diamond Mine road may be considered a County Road. This is based on basically the maintenance that the County has put into this road in the last 20-years, the longevity of the use of the road, State funds spent on this road, the present signage that the County has posted on this road, and it also has been included on the County Road map system, so at the end of the day it's a County Road. This is a US Quad map showing you where the property is in general. On the screen, CR 117 coming from the top, that's coming up 117 road and then if you were to take your first left that goes into the Dry Park area but you continue on dead man's curve there and then you take a right onto CR 126, Black Diamond Road and this gives you a sense of where this is and the topography of the area. This is the current Assessor's map, shows the property highlighted there, again you can see on the right side of your screen Four Mile Road as it travels up and so what's not shown on here is 126 but the parcel shows your 3 parcels below this property and then what I don't show, there are 10 properties above this as of this morning's tax assessor map. So, 10 properties above, 3 properties below. Fred also noted that this is a dead-end road. Black Diamond Road was initially

created as a private driveway which is in easement in the County records and has been maintained by the County for the last 20-years. In discussing the easement, it was intended to just serve those properties there and due to the financial benefit that those properties have had, the County has assumed its maintenance over the last 20-years and finally while the road has been maintained, the applicant's family has used the private roadway for recreational 4-wheeling just as an example of off-road vehicle use. Staff really put a lot of thought into this trying to figure our if there was really by dysfunction of this compound, is there really a preventive joint use and couldn't find that and articulate this to the Board and based on that recommended denial.

Staff Recommendation:

Staff recommends he Board deny the application as proposed due to the inability to make a finding that Black Diamond Mine Road prevents joint use of the tracts that comprise the applicant's property. Therefore Staff finds that the application does not comply with Section 8:52 of the Garfield County Subdivision Regulations of 1984, as amended, which is stated here:

"No more than a total of four (4) lots, parcels, interests or dwelling units will be created from any parcel, as that parcel was described in the records of the Garfield County Clerk and Recorder's Office on January 1, 1973. In order to qualify for exemption, the parcel as it existed on January 1, 1983, must have been larger than and thirty five (35) acres in size at the that time and not a part of a recorded subdivision; however, any parcel to be divided by exemption that is split by a public right-of-way (State or Federal highway, County road or railroad), preventing joint use of the proposed tracts, and the division occurs along the public right-of-way, such parcels thereby created may, in the discretion of the Board, not be considered to have been created by exemption with regard to the four (4) lot, parcel, interest or dwelling unit limitation otherwise applicable. For the purposes of definition, all tracts of land thirty five (35) acres or greater in size, created after January 1, 1973, will count as parcels of land created by exemption since January 1, 1973."

Roberta Mahan passes out information and the Board accepted the materials as the applicant's Exhibit K. First of all she inaccurately the third building a dwelling unit, she was referring to as for future use, and didn't mean it for now. It is ready to be a dwelling unit but not one already. Before she starts, is it the boards understanding that the reason the Mahan's have denied their subdivision exemption since May 2002 is because, they have not demonstrated that Black Diamond Road does not prevent joint use of the tracts that comprise Mahan's property?

Chairman Martin said that was the finding in the Resolution of 2002.

Roberta clarified that's why they are here today. In Exhibit I, there's a memo to the Board from Mark Bean dated May 2002 and included it in her Exhibit K to point out the bottom line where the County has agreed the 4th lot rule is not applicable. The County also agreed that the Covenants were not applicable so the final thing was that they didn't think it prevented joint use. The other thing in there was that the Mahan's could really use the 4th lot parcel exemption that we qualify for – that's what these Exhibits – Exhibit I shows you that we actually qualify for that 4th lot parcel but we're not asking for that, we're just doing the division. At this time she directed the Board to the laminated copy of the Black Diamond Mine Road, included in the Exhibit K – it's just a sketch map but it shows you that although this is a dead end road, it isn't going to be for very long. The little traveled dirt dead end roadway which is described by our neighbor's attorney and then by the staff long after they agreed that the County road is a public right of way, quote from page 5 in today's staff memorandum, "the applicant's family has used this private for 4-wheeler recreational use." No mention was made here however that her friend Cain for able to work for 4-months because a utility truck hit while he was enjoying our private road. There is a danger, the speed and the privacy issues are implied by staff to be Mahan's problem and not the County's problem and understanding that at the moment it is their problem and a very big problem. On the sketch map there are 15 homes, 3 guest houses, 1 home being built, 3 potential homes on 40 acre tracts, 2 potential homes on 10 acre tracts and above Diamond Mine Road there are 18 – 35-acre lots for sale in the Bershenyi development. 4 on 40-acr tracts and 3 hunting cabins, which sleep over approximately 25 people. Even thought there are 2 locked gates and a mile above Black Diamond Mine Road, nothing stops hunters and hikers from enjoying this Sunlight Mountain, they drive up to the coal mine road through Mahan's yard, and they go above there. This is a dead-end road but it dead ends into thousands and thousands of BLM land that lots of people use and many more will live there eventually. Many years ago CR 126 was a private road, a dead end road but as you can see and probably imagine it isn't now. It is a public right of way preventing joint use of Mahan's property. Comments with respect to the staff's memo to the Board, this is actually Mahan's 6th appearance before the Board, not our second and the reason we didn't complete the subdivision process in 1989 wasn't because of

the covenants, we could have gone on and done it in spite of the covenants, that didn't stop us because that wasn't a County concern at the time – we stopped doing it because we were sued and for a lot of money and it freaked us out and didn't finish the subdivision we planned to do. In Exhibit D at the end on page 4, in 1989 John Shenck had a meeting with Mr. DeFord and Mr. DeFord was quite clear (highlighted in green) in stating that "the grant of the subdivision exemption was not a subdivision but simply was an exemption from further procedures required by Colorado Statutes. It is in his opinion and certainly mine that until you actually convey the property to another property no subdivision has in fact occurred." So, he encouraged us to keep going and Don DeFord said it was just fine, it wasn't really a County issue. Then back on the first page of Exhibit D, Don reiterated that the Board (highlighted in green) "should not be concerned with Covenants unless they reflect on the appropriate use of the property." So, at that point we just didn't do it and wanted the Board to know that's why they didn't do it; we were harassed by a lot of people and decided to wait until the year 2000 which is the second time we applied, not 2002, the second time was in March 2000. According to the relationship to the Comprehensive Plan, the Mahan's have always been willing to only have one dwelling per lot, each proposed lot, this would be included on the plat note and looking at her Exhibit I, page 2, there's a letter that was faxed to Mark Bean that was drafted by Don DeFord and this was in March 2002 and Don DeFord wrote this and it said "amend application for exemption". They also agreed that the Mahan's had met all the water concerns and issues but we had already agreed to do that so that was never an issue 2-years ago. We would include this on the plat notes, by the way. Under major issues and concerns, the staff agrees that Black Diamond Mine Road splits the two parcels and that has been deeded to the County. The alignment of Black Diamond Mine Road on Mahan's property appears to be exactly the same easement are Mahan's willing to change it if necessary. We'll deal with the prevention of joint use, that's what this whole package is about to prove that we do have prevention of joint use, but at this time all of the property owners on Black Diamond Mine Road, every single on except for the Mahan's have the road dividing their properties from their neighbors. None of them have the road going through their property. There is no issue about privacy, it doesn't happen. Staff's cavalier of how convenient this is has no idea of not only inconvenient it is but how impossible. Everyone but neighbors has the right of way going through Mahan's property. This is a public right of way, it is not mine. They have the right to go through it. Our private safe haven could never be safe under these conditions. Dogs and small children are always at risk. Under the zoning part where they say the zoning violation discussed in this section could readily be corrected by deeding the County an easement which realizes CR 126 and this County's setback requirements. A variance will be requested at this time by Mahan's to meet this need if it's necessary. We'll be happy to change the alignment of the road; we have tons of room on the other side; it's just not a problem at all. We own the property outright, we have no encumbrances and we will be happy to realign CR 126 to meet those setbacks things you need us to. Staff has agreed that Mahan's have provided adequate proof of a legal water supply, we actually provided two requirements, and there is no clarity as to the spring being the Davies well. It has to be. Mahan's application package contains 1) an absolute water decree, a well permit from the State and an augmentation contract from West Divide. All of these requirements are satisfied through the use of the Davies Well/spring. Any well agreements will be demonstrated in the platting process; water quality has already been tested and approved twice and it in the Board's application package (the most recent one is 2-years ago). Sewer is okay, State and local health standards okay, drainage okay, fire protection, vegetation management all that are okay. Before I present our position, I would like to mention there is no reason to reply to the 2 year old dated acquisitions made by Mahan's unhappy neighbors' attorney. All of them are irrelevant since every objection has or will be today addressed, answered, overcome and hopefully agreed to by staff, the Board, the County rules and regulations, Colorado law, and the Constitution. Besides CR 126 Black Diamond Mine Road is not in their yard so they have no idea of traffic and privacy issues. Roberta explained her reasons for believing the County Road was a legitimate split of their property. She submitted the full report in a presentation booklet.

David McConaughy- Leavenworth and Karp – commented on Roberta sentence analysis, and added that her own lawyer, the County Attorney and he have all reached a different conclusion as to what the interpretation is and more importantly even if the language about preventing joint use were just an example of what a County Road does, the more important point is that later on in that same sentence it says "in that case the Board has the discretion to ignore the four lot limit on parcels. So ultimately, the Board can make the final decision whatever you want here to decide what's in the best interest of the citizens of Garfield County and no one has a right to a subdivision exemption and Ms. Mahan may have some conspiracy theories about discrimination or collusion or any other reason why it's been denied over the years but the

point is it's been denied because it's a bad idea. David submitted a Binder, Exhibit I and very briefly he showed the history of the area, tab 3, 1973 one parcel of 260 acres and tab 1shows how that parcel originally owned by David Davies was divided into what's now actually 13 lots. David explained the various splits of the 260 and said the only way this can go through is the road exception. The applicant's not asking for a 4th parcel on the larger exemption rule, but she stated they could have and that simply is not the case. The only way you can get this is to find a loop hole basically and that loop hole here would be creating a 14th lot out of one, all without any subdivision review and all without any planning by the County and that's a bad idea for several reasons but ultimately the goal here is to take this parcel which has presently two dwelling units allowed and if you split it in half it would make four dwelling units allowed; a house and guest house on each. So the goal here is really can we legally have two more houses on Black Diamond Mine. The Covenants have come up several times and first of all it should be stated that the neighboring lot owners do not agree that the Covenants were properly terminated in 2000 but David is not asking the County to enforce covenants. The reason it's relevant is because it was a representation of approval in this case. Tab 5, the original subdivision petition filed by Ben Carnes in 1975. Carnes owned the 40 acre lot that was split into a 20 and two 10's. In that petition attached to it on the second page says "protective covenants for the petitioner's property will be attached as follows: a – resubdivision, no tract of land may be resubdivided into smaller tracts of land. That was in the application and then the County Commissioners passed their Resolution in March 17, 1975 that approved the subdivision all as more fully described in the petition. So there was a representation made to the Board in 1975 that further subdivision would be prohibited and based on that representation, the petition was approved. Mr. Williams who owned the 40 acre parcel next door filed an identical application at the same time and in that one attached as Exhibit 8, there was a hand written notation that Commissioner Mattivi wrote in saying this exemption is granted on the specific condition that all agreements, covenants, conditions in the petition be complied with. So it was made an explicit condition on the other one, unfortunately that hand written notation wasn't added but David said he doesn't think it needed to be because again the Resolution approving this exemption, approved the petition and the petition included that representation. If this Board starts ignoring the applications when you approve things, that creates a very danger precedent for the future for everything you do. Basically someone can come before you and say anything they want and it's not going to matter unless is it explicated spelled out in the County Resolution and you've got a problem. People ought to be held to what they tell you. That's why the Covenants are relevant, not because we're asking you to enforce them, but because a promise was made to your predecessors and you ought to keep to it. The road exception will be testified to by Kathy Harris; Fred's presentation showed not only are the structures not being prevented from joint use by the road, but they are in the road, so how can you say the road is preventing use of those parcels when the structures on that parcel are actually in. The other questions are is this dead-end road, how many people are accessing it, etc. David said he almost bought one of the parcels at the top of this road and did a personal investigation and right when you get to that parcel there is a locked gate at the end of road, so it's not like just anybody can drive on up there to access BLM land. The gate goes between the end of the road where the 40 parcels are and the original Black Diamond Mine property which is part of the Bershyni Ranch and David was involved in a transaction where someone was looking into purchasing it and the issues in the transaction were what is the nature of this road and the easement? The Bershyni's represented to David and his client that it was not a public road, that no one had an easement and in fact Mr. Mahan had been granted a license, permission use, to travel up that road by snowmobile or ATV to access the reservoir but that was something the Bershyni's could revoke at any time. On the day before the closing of that particular transaction, Mr. Mahan recorded unilaterally a notice of easement claiming that he had a right to travel through the Bershyni's property up to the BLM land. The transaction got torpedoed because of that document and it never closed. The point there is the people who own all the land between this gate and any public land are the Bershyni's and in their mind no one has a right to go through there including Mr. Mahan except with their blessing and permission. So the whole concept that at any minute this is going to become some highway to the wilderness is flat out wrong. It ends in private property and that's the way it is. The water issue was pointed out and David said there is still an issue there and the application has a contract between the Mahan's and West Divide Water Conservancy District and the way West Divide works is they issue contracts to provide legal augmentation water which in this case would be added to Four Mile Creek, not to the drainage. West Divide can't provide any physical water up Black Diamond Mine Road; they can only release it into the creek down below. A couple times a year they will file a mass implementation plan in water court where they say these 50 to 100 people sign up for contracts since last here, please bring them under our Augmentation Plan. That has not yet

happened for this particular water right and there it's not an automatic thing. David's clients or someone else could challenge that plan for augmentation when it is filed in court and it is not a done deal just because there's a West Divide contract that the water court has signed off on this legal water supply. Secondly, it's not supposed to be a legal water supply but also a physical water supply and Ms. Stevenson is going to address her own problems, owner of one of the other 10-acre tracts created out of the 40. She had her well go dry and has to truck water to her house. This is just another reason why adding 2 more legal dwelling units in this area just doesn't sound like a good idea especially when insufficient proof that there is a legal or physical water supply.

Kathy Harris - neighbor 0987 Black Diamond Mine Rd said she is a 28 year resident, adjoining the Mahan's property to the West. She addressed parking, dogs running at large, unfinished dwellings, etc. The Mahan's have lived out of compliance for years and admitted at least three dwellings on their property, which is in direct violation of the existing zoning. They purchased the land with the road and the structures in place. The road does not create a hardship and there's been no dramatic growth as stated. The applicant continues to operate the 20 acre parcel as a single compound with related buildings and activities located on both sides of the road just as he has done for decades. Specifically to their submitted narrative, it is incorrect that only three remaining parcels on our entire road have not been subdivided into 10-acre parcels. There are fire remaining parcels, 2 – 20 acre parcels and 3 40-acre parcels still exist on CR 126. They claim a total of 26 families on CR 126, when in fact there are now 12 with only 4 families above the Mahan property; only four homes exist above the Mahan property. This dead end dirt road they claim is utilized of hundreds of hunters, hikers, bikers, campers and visitors every year is in fact just approximately one mile above their dwellings is where there is a locked gate across the road and if you pass that by foot, short of another mile there's another locked gate. This road is not even accessible to those of us who live there. The claim that neighbors speed in excess of 25 mpr and that the downhill traffic speeds to avoid slipping on ice is false because of the wash board, the steep windy dirt road that road cannot be safely driven in excess of 25 mpr. The Mahan's claim that the passage of time has changed CR 126, it's property owners and usage but I am testifying that the property owners have not changed, Kathy Harris a 28 year resident; Sharon Stevenson for 29 years; Dennis Hines for 17 years and the usage of the road remains residential. In regard to the water supply, the water up there is very limited and is a water short basin and everyone nursing their water systems to some extent. Her well has not gone dry but she has trucked water. Kathy noted that Commissioner McCown voted against this in 2000 and urged Mr. Martin and Mrs. Houpt to vote against the subdivision exemption in the interest of protecting this fragile water short basin with a steep dirt road we do not need additional parcels for development and non compliant issues created by Mahan. She recommended a very strong denial and said they would like to put this issue behind them. Pictures were entered as citizens Exhibit L.

Dennis Hines - Explained why he opposes this application naming similar circumstances. His main problem when given the copy of Roberta Mahan's letter and read the letter about the previous worries about what was going to happen came back particularly because of the end of the letter, not only was the County accused of harassing, but also it was stated by Mrs. Mahan that they were planning on using the place as a retirement colony for the Mahan family, i.e. all the children. My view of this was the fact that Mr. Mahan has almost never conformed totally to any of the restrictions of the County; if he got another section of land there would no longer be anything of control to keep him from just going co put with that and having 7 houses. Dennis said he doesn't trust the Mahan's – that's the problem and they have done some really strange things, i.e. the death of that little puppy. He wasn't aware of it until he drove down the road and came across the trench across the road – the renter did it and it was his puppy. Dennis said how his vehicle got stuck in the trench with his 4-wheel drive and there was another trench at the end of the property. The Mahan's informed Dennis about the puppy and how it had been run over by a speeding car. Later he found out it wasn't a speeding car rather a car coming up the hill in a normal pace but there were two oversize vehicles parked on the side of the road that would prevent you from seeing whether there was a car coming or what was going on. At that moment the folks inside the house opened the door, the puppy ran out to visit a kitty, did not see the car and ran into the middle of car underneath and was run over by the back tires. The renters dug the trench based on Mr. Mahan's advice at both ends of the property, claimed he owned the land beneath the road. Dennis presented a story about his first encounter with Mr. Mahan and related his personal feelings about why he has a fear of what Mr. Mahan could do.

David McConaughy summed up by going over his clients position – Harris with the history of zoning violations and said if the Board approves this request they will be sending several messages. The first message would be say whatever you want in an application to the Board of County Commissioners, they

won't hold you to it; the second given all the history of non-compliance and zoning violations is build it now, seek approval later – easier to ask forgiveness than permission. This essentially would be sanctioning the illegal construction of dwelling units on this property and showing people that's what they ought to do if they want to get around the regulations. The third message you'd be sending would be planning-scamming – this is an area where there are a lot of lots because of a lot of loop holes and exceptions and the message would be that's okay – we don't care about planning. The Board has the discretion to send whatever message you want even if the joint use issue doesn't come out the way I think it should. If you don't approve it, you'd be sending these messages: first, Black Diamond Mine Road is a private road and as it's configured presently it's not preventing joint use of this parcel – this is actual facts and that's what your code requires you to look at, so that would be a finding of fact to that effect. Secondly, a message that planning should through the subdivision process where all the rules and regulations and requirements can be addressed whether it's water, access and just good use of land. And finally, the message that is the real crux of this issue which is that four houses just don't belong on this piece of property – there are enough as it is and there shouldn't be two more dwelling unit on these 20 acres. David urged the Board to hold true to what has been done in the past – deny the application.
Sharon Stevenson - I live just below the Mahan's for 29 years and owns an almost 12-acre parcel. She is not a part of the attorney's fighting over deed restrictions, legal or illegal, life's become too short; seems like time, energy and money spent right now that road could have just been moved behind the buildings and would that have solved everyone's problem. Her concern for the Black Diamond that she wants to share with the Board is that her well of 28 years did go dry January 2003 and it was purged, we watched and waited and then in September Shelton drilled a 360 foot dry hole when he got a gallon a minute of slug and now she hauls water to her property. Mahan owns his own water company and how that works down the hill or whatever, she wasn't sure and doesn't know how the whole water issue for the Four Mile Drainage works and thinks that should be a consideration that is put on this county in determining whether there are more lots split or homes built up and down the hill. Personally, if it weren't for water issues and traffic on the road, she doesn't have a problem with her neighbors who have 20-acre parcel and Mahan's are not the only ones split by them, Stowe is also up above, and doesn't have a problem if they were made into two 10-acre lots. But we do not have the Covenants or deed restrictions that are fightable, exist or don't exist and that throws it into the Commissioners hands.
Commissioner McCown asked if her well fluctuates.
Sharon Stevenson mentioned it never missed since 1975 until it just gave out.
Ken Green - Own the property below the Mahan's, I do not have a dwelling there at present but am in the design stage with an architect and play to build his dream home either this year or next year. You've heard it all. Ms. Stevenson is probably 500 – 600 feet back off the road so the stream actually runs on the opposite side of the street from where she lives. The Harris's and Mr. Hines live on the stream itself and would seriously doubt if they had any water problems in several years. He's been the mediator between a lot of the arguments calling it the Aspen mentality of the Hatfield's and McCoy's and moved into a hornets nest. Too many stories about opinions and he doesn't believe the water is an issue for anybody who lives on Black Diamond Creek which is an established creek, it's been documented. Mr. Mahan with his permission more than 10-years ago had every official from the State of Colorado in his driveway and all documented his waterfall on his property, filmed it. And this on-going ridiculous issue is Black Diamond Mine Road, Road 126 – is it a County road or not. He's been to every one of these meeting except 1989 and he's frustrated. Either it's a County road or not, if not get the name off the Road. It's a right of way, or is it not a right of way; if this is a private road then he suggested putting a gate on it and keep everyone off it. We have the right if this is a private road to gate this community – it's our road if it's a private road. Everybody here is an owner and if you don't want BLM people coming and that erroneous as there's several different places if you really want to check this out, look at the map there are other places besides private properties from the bottom to the top that BLM actually crosses the road and people can access. You can't stop people from accessing by saying there's a gate at the top and you can't access. What happened to the 18 lots that I heard earlier today – how come there's no more houses that are ever going to go up here – how is Bershyni going to have access if he doesn't go up. There is no other way to access these 18 lots except through the top of Black Diamond Mine Road. If Bershenyi anticipates selling these approved lots, how will he get to them? Ken said he doesn't want a freeway up there but all this stuff plays on his mind and does he put his property up for sale; he's fed up with this same crap – this if four different times to come to these meetings. If this is a County Road, he knows there have been some things with the Mahans and the Mahans got into trouble with the County with the Building Department – he's been

involved in all this stuff and the Mahan's have since complied with the regulations. Ken relayed a story about an Aspen fellow who didn't comply with the rules and later was jailed and his home was bulldozed down. The Board has the options as the official ruling body of this County to comply with the rules but to say is this a County road or not – what are your rules – you can't go by supposition. Previous to the Mahan's getting their reservoir and diverting the Three Mile water down Three Mile Creek, the wells up there were going dry. Therefore there's a simple rule – if Mr. Mahan's doesn't drop some water, a quarter foot per second, he doesn't have water himself – he doesn't have a well (the Mahan's water source is from the spring). Ken summarized that he believes this to be a County Road.
Jim Mahan stated if you can show me that signature on where he filed some easement and blew a sale, he'll write David McConnahey a check for $30,000. As far as the trench is, he doesn't know anything about what they're talking about.
Roberta Mahan rebutted saying for the past four years they have done everything according to the Codes and Regulations so anything that brought up that's history is valid. The issue of Covenants has been run over and beaten to death and there are no Covenants that bind us to anything to the Hines or the Harris's and our Covenants were legally lifted according to all the County records – there are no Covenant issues at all. That is to potentially redirect the discussion which is what it did. Back to the original question asked of this Board and that is the only reason they are here today – "we can't prove that our public right of way goes through our property, divides it and prevents joint use and as far as we know we've already proven that in everyway I know how – the usage of the Road is in my yard, not private, public right of way and some of these dwellings that are marked on these pictures are incorrect and that's not a guest dwelling in the middle of that storage building but all of that is not the issue. The issue is there are no Covenant issues and that we have proven that our road divides and prevents joint use of the tracts.
Dennis Hines stated that Jim Mahan has said from the very beginning that he doesn't respect Covenants, they're silly, all Covenants are – that's what he told me in that conservation that he doesn't remember. In fact we have never accepted their decision to separate the two properties for Covenant purposes in the year 2000. They thought and Jim said he thought but he never brought if off that there were two Covenants because they properties were sold at different times, went on the market at different times, even though the Covenants say the same thing. When he won the first approval from the County in 1989, we sued them in court and the court accepted the notion as we all did at the time that they were all the same Covenants – six properties separate properties on the same Covenant. The court agreed and turned him down. That had nothing to do with the County and I agree that the Covenants are not a matter for the County to deal with. But I fact there were Covenants and in fact we are still on the Covenant for sure the three of us that are on the upper one and possibly the lower one that Ms. Stevenson and Mr. Green are on. They simply decided by a two to one majority because she was with us at that time, that that's the way it was and they got a lawyer in Aspen to write it out and stamp it and make it look real important – it had no legal standing whatever, it simply their rogue action. We've never done anything about it because it would cost a lot of money to go to court and it would have to be done in a civil court. This needed to be clear as many things are hearsay.
Roberta passed out Exhibit M – Entitled Termination of Protective Covenants the Deed Restrictions – Jim Mahan - 12-20-1990 and Kenneth Green – 12-17-1990. This was accepted into the record.
Roberta explained Exhibit M – when it went through the court process the judge since they were sued by Hines and Harris and Stephenson the judge only made us pay Ms. Stephenson's legal fees because he didn't really think that Hines and Harris had standing in the suit; that was the result of that and it was discussed but our three parcels are pretty obvious in Exhibit I, the Hines property is the only property that had the same deed restrictions and it's real clear on this page, Exhibit 1 where it shows you that the Carnes, Bolen, Rump, Williams and Faussone; Carnes is the one that sold these three properties – it wasn't that it was at different times it was actually deed restrictions that went with that one property owner and it only included the three that he sold his property to. That's why our deed restrictions were completely different from theirs and that's how the judge saw it and that's why they only had to pay Stephenson's.
Fred Jarman responded saying as he was listening to all of this, the history of his sort of saga is very interesting and thinks from a staff perspective what's very important and the message we're trying to send to you the Board, what's being debated here is the request at hand, it is based on the merits of the Code says today, it's on what the discussion and analysis that has been provided to you from today's staff – there's a lot of acquisitions made in today's testimony and can't speak to a large part because he wasn't around years ago when a lot of this was going on; but what he can tell the Board and would like to put on the record based on those acquisitions is this staff has acted as professionally as it can muster on this

application and objectively. It's a very important notion here because of this history that you've heard from everybody here. It goes from the Hatfield/McCoy's to water issues, to he said, she said, violations over a decade ago and what's really important is that the merits of this request needs to be examined on what it before the Board today and in today's present application.
Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion that we deny the exemption from a subdivision; I support denial of this back in 2002 and would continue to support that. It is a parcel that is split by a public right of way but by that split it does not prevent the joint use of the proposed tracts so, I will make that motion.
Commissioner Houpt seconded the motion and said she would like to state there's been some really interesting information brought forward but truly haven't seen anything that changes the conclusion that was made two years ago; pictures are amazing, the historical use of the land, I don't see that it prevents the joint use.
Commissioner Martin - I have a different point of view and that is I believe that the road is a public road and we've committed to that and we've declared it was in our watch Larry and we've put money on it, we identified it as 126, we've received highway user trust fund dollars to make some improvement, etc. I think that I have to stay consistent here not only from Sweetwater but to Roan Creek to Four Mile Drainage that if a road is dividing a piece of property, it divides it into lots – that's the way I've always seen it, that's the way I always stand, simple use of that road by any cars and it's a public right of way to me divides to me a piece of property into two parcels. I can't see us doing it, we don't have a bridge over the top of it to keep it going so I just stay consistent and simple, I see it as a simple situation – does a road divide a piece of property – yes; does it make two parcels, yes. That's the end of my statement.
Commissioner Houpt – I think that if that is the argument and people believe that's really critical, we need to take a look at our regulations because our regulations as I read them and as staff has, as they read them, is requiring more than that.
Chairman Martin – I disagree with that.
All those in favor to deny. McCown – aye; Houpt – aye; Martin – nay.
ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

APRIL 19, 2004
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 19, 2004 with Chairman John Martin and Commissioner Tresi Houpt Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Commissioner Larry McCown was absent.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

a) Procure Two Tandem Dump Trucks and One Tandem Semi Tractor – Marvin Stephens

Tim Arnett and Marvin Stephens were present.

Three bids were received for the Tandem Dump Truck and Tandem Semi Tractor. The recommended award was for Western Colorado Truck Center at a cost of not to exceed $325,602.00. One of the old trucks will be used at the Fairgrounds. The bid today is over budget but they have savings in other places to pay for these

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to award the bid to Western Colorado Truck Center for one Tandem Axle Dump with Plow and Sander, One Tandem Axle Dump with plow and sander and Pintel Hitch and One Tandem Axle Semi-tractor at a cost of not to exceed $325,602.00; motion carried.

b) ***Replacement of Ceiling tile in the Garfield County Courthouse Courtrooms – Richard Alary***

Richard Alary and Tim Arnett presented the two bids for the Board's review for the replacement of ceiling tile in the Garfield County Courthouse Courtrooms. This is for four courtrooms for the not to exceed price of $19,580.00 and the recommended award be given to John Farhurst Enterprises out of Basalt.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to Farhurst Enterprises for replacing ceiling tiles in four courtrooms for the not to exceed price of $19,580.00. The work will begin the 19th of May. Motion carried.

c) ***Appointment of Energy Advisory Board Chair – Doug Dennison***

Sam Potter and Harlan Hanson submitted letters of interest. Ed submitted an email from Doug to appoint one as Chairman and the other as Vice Chairman. Sam Potter submitted a very lengthy letter expressing his interest in being Chairman.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to appoint Sam Potter as Chairman and Harlan Hanson as Vice Chairman for the Energy Advisory Board; motion carried. Letters are to be sent to these individuals.

Waste Engineering – Remediation at Old Rifle Road and Bridge

Don advised the Board that there may be liability issues involved in any remediation program and may be in this one and asked if the Board wanted to proceed in Executive Session for a privileged report. The Board wanted to hold this in public session.

Randy Withee gave the historical information for the last two years; a plan was developed and submitted to the State and the direction from the State was to proceed with what is called an enhanced fluid recovery and ground monitoring only. That was one of the options presented to them along with 7 others. That option included doing some small excavations but the State told us to go forward with the enhanced fluid recovery and ground water monitoring only. Hence the commitment of the 2-year program. We met with Waste Engineering, our consultant who's doing all the study and the events. They finished the 8th BFR last month and in the process of completing the report for submission to the State. We had initial success in reducing the level of the free product (gasoline) when first started but the last several events appears that the depth of the free product basically stand at the same level. This is what's left over from the two underground tanks. During the discussion and what we're looking at right now is that the 8th BFR reports have to be submitted to the State for evaluation. Randy said what we're suggesting is with the Consultants to meet with the State in the next month of two to discuss direction that would choose us to proceed with. Ideas that might come out of that meeting would be 1) continue with the operations as is – possibly for a year; 2) continue with the on-going operations as it is by increase the events from a quarterly basis to a monthly basis to see if we can draw more out of there; and 3) re-quantify the limits of contamination and excavate the area and continue ground water monitoring. During the first go around we had some dynamics in there regards to building

structures that are right close to the area that is contaminated. Those building structures are gone. The excavation has three dynamics, associated with one is on the County's property, second one is what's underneath the street itself with all utilities and the third is within the City of Rifle's yard. In those dynamics is something we'd have to discuss with the State and maybe we end up excavating within our own perimeters and the rest be left there for BFR monitoring. Randy and Ed submitted the old report. Chairman Martin estimated the contamination to be 10 feet to 18 feet and the deep based on the ground water. Randy pointed out on the drawing the recommendations, however, it is up to the State. The City of Rifle Maintenance shop could also be the contaminate as well as the County Road and Bridge Shop. Randy said one of the other dynamics is to get some reimbursement from the State. Ed stated the County first went to the lease intrusive process. The first four extractions worked very well. The longer we worked at it the harder it became. Some of the free product migrated. Commissioner Houpt requested reports on a regular basis.
Ed said the scheduling will take until July to come up with a recommendation and then if the recommendation is to excavate, it will be a full blown project. There will be a need for ground water monitoring for at least 2-years. There's a lot of scenarios available.
Don - The source of contamination identified the source as the County underground tanks. Once we complete remediation are they confident there's not an additional source that would continue to contaminate the site?
Randy said they are 95% confident; the deal is if we end up going down and excavating, you could find something else but in this time frame the monitoring wells and bore holes they think will determine the source of that contamination.

Mike Morgan – Use Property as a Staging Area – Rifle Fire Department
Ed received a call from Mike Morgan requesting to use some of the County property there as a staging area for construction project they are going to do. The Board felt this would not be a good site due to the remediation and the possible excavation process.
Ed was to contact them and obtain additional information and let the Board know.

COUNTY ATTORNEY UPDATE – DON DEFORD
Don announced the hiring of Jan Shoupt, Deputy District Attorney, will start on the 17th of May as Assistant County
Downtown Development Initiative is what Don is working on which is still in briefing at the Court of Appeals.

COMMISSIONER REPORT
Commissioner Houpt – Colorado Mitigation and Wildfire Conference in Colorado Springs on Friday and Saturday. Provider Appreciation Brunch on Sunday. TPR Discussions are proceeding. Are there new monies being identified for the South Bridge or is this money that came out of the Colorado CDOT pot.
Commissioner McCown – absent
Chairman Martin – Road Tour on Wednesday in the West end including 300, 306 and looked at some damage that took place since we now have springs under our road off of Una Bridge so we may have some water; request to put a Cattle Guard on CR 306 because they wish to keep some ranches from violating their front yard. Transportation Workshop on the 14th in Rifle. Master Transportation Plan – report to the Board in a month. Went with Dale to Denver and met with FAA on April 11th and reiterated our safety and our apron expansion is number one. CCI Steering Committees; met with Jack Taylor at the Capital. SB 215 Issue – steering committee took a position of being opposed; 1041 Powers – still divided. Update on Senate Bill 1 – will be dead on arrival per John. Mike Ireland is concerned if the money for the South Bridge comes out of the Region 3 are what will happen is the overall budget is $10.5, the Bridge is earmarked at $6.5 million and would mean that if Glenwood Springs's bridge comes out of that fund and that's if it does and it would mean a reduction to the rest of the projects. However, there's also the conservation that this is different money and John is following up with Washington in order to stop the hysteria, either have the fact or not, have Scott McInnis tell what pot the money is coming out of and John's understanding is that it's supposed to be from the 7th pot which all projects under the 7th pot are supposed to be completed before the 20/30 plan but we will get true definition of where the money is coming from during this week. Oil and Gas Commission is meeting today and Doug is representing the County.

CONSENT AGENDA
a. Approve Bills

b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign Division Order for Property Number 857850 GM 344-2. Williams Exploration and Production

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the Consent Agenda Items a and e, deleting b, c, and d; carried.

REGULAR AGENDA

HUMAN SERVICES COMMISSION

- *CATHOLIC CHARITIES – WESTERN SLOPE*

Tom Zieman submitted the program Miles for Smiles Dental Program stating that the number of children treated for 2003 was 393. In 2001 it was 244 and in 2002 305. The total value of service was $261,000. Tom said they are still not meeting all the needs of the community. They are looking for a permanent facility and Valley View Hospital is being approached for a clinic. This would be a huge benefit to the community.

- Family Visitor's Program was not available for the meeting.
- Medical and Behavioral Health Services – Sue Horn

When things get tough it seems like those agencies become territorial. Youthzone, Colorado West and Social Services came together to see how the needs of the youth could be met. Mediation Training Services is now available and Wendy Leary has arranged this with an organization out of Boulder. Senate Bill 94 – the JBC wanted to take $6 M our of the $9M and due to the contacts by the community, they agreed to put back $5M. The Youth Corrections program suffered in that Colorado West Youth Program is closing May 1, 2004 due to the budget cuts. This has been an interesting process. At the time of the announcement there were 20 employees and 15 youth. The youth are still trying to be placed.

Sue mentioned other cuts have affected the State Hospital and the entire Western Region we only have 7 beds available down from 17. One of the things they've done is crisis stabilization unit program and one of those services is a bed designated in the DETOX center. In 24 hours they may have stablizilized. This has been very successful. This bed has been used for 16 people. There is cooperation by Lou at the jail who agreed that if something happened on a safety issue they would be there to maintain that and did a MOU because there was no exchange of money. This is somewhere in the tracking that will get to the Board. Don and the Sheriff are discussing this MOU.

The DETOX facility has been limited to only those who contribute. Different entities signed contracts and some of them met the obligation and some couldn't. They re-negotiated with some, but as of March 1, 2004 those entities that didn't meet their agreed contribution could no longer use the DETOX facility; Grand River Medical Center and Snowmass have been turned away until they can negotiate. Grand River has contacted Tom Updyke to discuss this. Eagle County has chosen not to participate; Rio Blanco and Meeker contracts have been re-negotiated. Sue said the County helps with the Human Services Commission and as long as we receive this is okay. The City of Glenwood Springs and the hospital have separate contracts.

Membership – Marlene Manion and Elaine Cooger from Columbine Home Health have requested to be members of the Human Services Commission.

Jenny Lindsay and Terry Martin have also submitted applications for the Human Services Commission but these have not come before the Board.

Chairman Martin noted these would be placed on the agenda for the first meeting in May

BOARD OF HEALTH

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to go into the Board of Health; motion carried.

- UPDATE ON MERGER – WANDA BERRYMAN

Wanda said they are on target for June 1 and it will become the Mountain Family Health Center.

Wanda felt she would have all the documentation by next month and training will start next month. The computers will be installed. We will not share a T1 line. It will be separate and they will absorb the cost. The phone system still needs to be worked out but this is still underway. On April 5th a memo from Karen Treewater that funds under Title V funds will be going away and Garfield County is probably one of few prepared for this action. Eagle County was not prepared so Garfield County could see a big increase in applicants.

The Board felt a point of discussion should be made with Pitkin County as well in the May joint meeting. Wanda said Title V money possibly going away was known in 1999.

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

BOARD OF SOCIAL SERVICES

- APPROVAL OF MARCH 2004 DISBURSEMENTS

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the EBT Disbursements for the month of March 2004 in the amount of $70,753.17. Motion carried.

- COLORADO COUNTIES, INC.- HEALTH AND HUMANSERVICES COMMITTEE PROXY

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to appoint Lynn Renick to be the Committee Proxy at the Health and Human Services Steering Committee in the event a County Commissioners is unable to attend the meeting and authorize the Chairman to sign; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to go into the Board of Social Services; motion carried.

Child Care Appreciation Brunch – Sunday on April 25th at noon at the Hotel Colorado

Lynn said Social Services is one of the sponsors. The Commissioners should have received invitations.

Fee for Services Contracts

Audit Update – Lynn received the final report and we have until May 4th to respond and May 25 to provide the corrective plan. The audit amount due has decreased significantly. The Board still has the option of appealing the finding.

Single Entry Program – actual corrections have been submitted.

Ed said applying rentals should be considered at the May 4th meeting.

Child Welfare doesn't look very good and next year it is showing a 6% cut.

Program Reports were submitted for the Board to review.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to come out of the Board of Social Services; motion carried.

- COLORADO BENEFITS MANAGEMENT SYSTEM WORK SESSION

Lynn Renick, Janice George and Trisha Murray presented.

Lynn informed the Board that the CBMS implementation has been delayed beyond the anticipated April 26th rollout due to unresolved problems identified through the non-production pilot. Lynn assured the Board that the Department has been continuing to go forward with training and implementation plans. She requested a work session in order for the internal CBMS project management team to be able to discuss and share information with the Board.

Janice George and Trish Murray were present. Janice reported that at the present time they are not happy with the system and it will increase working on one case initially about 2 to 3 hours. They haven't been trained on many of the programs. We do know that the Food Stamp program is working. They are asking that when we get to the end and authorize benefits for Food Stamps that they do a manual entry and this is going back to the 80's. They are not saying it will not be a paperless application and will have to continue doing a duplicate application system. The application will be increased by about 6 pages. Janice said they knew it was going to take more staff time. Food Stamps are working as long as you don't combine it with another program. The way the program is set up it would be difficult to go to a module system. In the household if there are two programs receiving income, it requires setting up 2 individual applications. Janice and Trish worked on this all last week and explained how much more work it is to input this application. Janice submitted actual screens that show the program and complexity of it. They will still have to do applications and if there's a data error, currently it will flash back but the new system we will get clear to the end with no indication as to what is the error. This will require a technician to go over every screen. Janice fully explained the problems.

Commissioner Houpt asked why we are going forward on this system.

Jesse said the reason the State is moving forward on this is they have spent $17 million to implement the new system.

Lynn said a lot of the information was available for advance training on the Food Stamp program but she hopes to find out more information at the meeting on this Friday. At this time the State is going forward and Denver County has been having meetings with Policy and Health Care Financing and pointing out some of the issues. Denver has asked to be a pilot for about 6 weeks before another date is set for the rollover.

Janice said her past experience with Denver is they are very meticulous and they are a part of CCI. There is a whole list of items the staff has not been trained out at this point. They system is wide open for a huge error rate.
Lynn stated they do have a contingency plan for Food Stamps.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to come out of the Board of Social Services; motion carried.

PUBLIC MEETINGS

DISCUSSION AND APPROVAL OF THE 4TH SUPPLEMENTAL TO THE 2004 APPROVED BUDGET AND THE 4TH AMENDED APPROPRIATION OF FUNDS

Jesse provided proof of publication and it was determined by Don DeFord that it was timely and appropriate and the Commissioners could proceed.
Chairman Martin swore in the speakers.
Jesse submitted the 4th supplemental and the amended appropriation of funds as Exhibit A primarily to deal with the new employees and the adjustment to the Conservation Funds.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Citizens from Rifle were present to request the Board reconsider the building of the new Human Services Facility in the City Limits versus at the Airport Property.
Leslie Robinson, Debbie Wilde, John Hier and Al Lambert were present among others.
Julie Olson, Director of Advocate Safehouse Project requesting that the Commissioners re-visit their decision regarding the new County Building in West Garfield County, that they change their decision from the Airport are to Rifle, and some of the reasons, she sent a letter on April 1st and admitted she doesn't know all the reasons why the decision was made to build the new building at the Airport Road but thinks it is going to hurt the people that she works with. She works with the disenfranchised, people who are having a difficult time surviving in Garfield County, and believes by putting the building at the Airport property location it makes not a small barrier accessing services, it's a huge barrier. In turn, and hopes she is wrong, but thinks for people who have this barrier, they may not access these services and down the road it will cost us a lot more money because then the Department of Social Services, the child protection team, is going to get involved. She requested they reconsider the decision, build the building in Rifle, exactly where, she doesn't know, there are some people here that do have some ideas about this but would like the new County Building built in Rifle.
Debbie Wilde, Youthzone, with just a few thoughts about why she's here today is because she thinks there is very little information and there's probably a lot more that's gone into decisions that we just don't even know about. But that information has not been available, nor have they understood a form of anyway to give feedback. Some of those concerned sent emails earlier that apparently haven't been received because they've checked in with Tresi at the Human Service Meeting and she hadn't received them, so they are assuming no one else did either. One of Debbie's concerns is along with what Julie is saying is they've heard some sketchy information about transportation and using the Travelers, etc. and this would be a way to maybe make this happen. From what we understand, again it hasn't been a really solid plan or they don't know exactly how that would work, but her concern is where does that money come from and is that going to be as additional money (they just heard at the meeting the other day that Traveler costs are going up already this year so it will continue to come up) is that going to be the money that down the road is said, oh, we've spent this $40,000 on Human Services because we're using the Traveler to get to the building. So is that included in operating costs for that building and how will that work and what has been done for that, because we've been at this table before and assumptions are made and so down the road, to not have us come here and say, we need to give of that money to the Traveler to get people to the building, so that would be one thing.
Chairman Martin said that Debbie had received some bogus information there in reference to where the money is coming from – it would a capital fund expense.
Debbie said they didn't have any information.
Chairman Martin said well he knows they did have some information, but it happens to be a capital expenditure and then general fund dollars. There's nothing coming out of Human Services or the taxpayer dollars that come in to fund all your programs. That was a misnomer.
Debbie reiterated they didn't have any information John and that's why she brings this up and then in the future too that we would continue to be informed.
Chairman Martin said that everybody is going to talk about that particular subject so stated he felt we need

a full Board here to make a decision in reference to going that way. He said we did a survey, we included including the social services, health services, everyone that seemed to work for them and use those services, we also did an employee survey, all that information came from two different public hearings that were posted; another one I can do and guess Allen is here to tell me which piece of property I didn't look at, there's one that I guess I could throw out there and that's the baseball field that the County owns, 7 acres of that, he said he'll need to get with the school and that'll take about 11 months to vacate that piece of property but that's 7 acres we could do; is that a benefit that we really want to do to displace that base ball field and the contract with the School District. We heard today that there's a problem with the present site in reference to mitigation of free produce or gasoline diesel fuel underneath, we're not sure what the State of Colorado is going to make a recommendation on between now and June but we have to excavate that down to 18' to 20', how far do we have to go, how much road, how much into the park, those are the things we've been working on.
Allen Lambert – City Council with the City of Rifle said there are a number of sites within the City of Rifle and think we need to investigate it fully and negotiate on it. He introduced the new City Manager, John Hier former Carbondale City Manager. Allen said he thinks we need to John, Larry and Mr. Green here that this really does needs to be kept in Rifle.
Ed said he didn't need to be convinced, he knows.
Allen agreed he knows how hard it is to work with staff and staff doesn't agree then it makes it very difficult, so you have to convince staff.
Chairman Martin said you have him at a handicapped because Commissioner McCown is not here and he needs to be here and privy to this information.
Allen said he understands that but what he's bringing to Chairman Martin right now is before getting into site specifics, (Allen and John were running around looking at specific sites) and these are all things that we need to sit down with you guys and look out – the baseball field was not one of them. They would prefer to leave the baseball field as an entity if at all possible, but thinks there are plenty of sites within Rifle, both Rifle owned sites, sites that the County owns that can be used and work well for this project. Now if you can put this building on this size of lot and make it happen, I think you can use some of the facilities and land that's available in Rifle and put a working facility there and make it happen. But what he's bring to John right now and like to pass this around is, the City of Rifle with unanimous vote of the City Council passed a Resolution, City of Rifle, Series Number 08-2004, to ask you, (read into the record) requesting to rescind the decision or delay the decision to locate the new County Services Building near the Garfield County Airport and would like the Board to delay that decision and come back to the table with us and look at sites before you go further with this. He said he thinks this is a reasonable request, you guys can read the reasons why we're asking for this delay. (Copies were submitted). Additionally, Al told a story that he felt John could understand, that say if a fellow wanted to start ambulance service and he went out and bought an old station wagon and put a bubble light on top, it would probably do the trick and serve the purpose and would save a whole lot of money, but is it really the best use of funds and does it really serve the purpose, does it really best suit the people that are going to be using it as well as the people that are going to be running it. So you need to have something that will work well for the people who are going to be needing those services and doesn't think having a building clear out at the Airport is going to really be the best us of City funds and City facilities, no I mean County funds and County facilities. So we ask you to delay this.
Chairman Martin said we'd go ahead and make a decision on that when we have a full board, but remember our number one priority was safety of our employees and of the people that we serve and one of the reasons that we put that safety if the time element to get out of Taughenbaugh, and we did research numerous sites, he said he'll sit down again with Al and look at them again, but we also have dollars that are committed, designs already in progress and we need to work on. This could be a waste of money and time.
Commissioner Houpt said that is quite possible but since you're talking she was going to say a few words as well, she thinks it's very important to listen to the professionals who work with the people both who will be serving. She has clocked the distance for the site that was decided on for the new county building and its 2 miles out from the most developed part of the Airport road. It's out in the middle of the country and I think Debbie and Julie bring a good point to the table when they talk about disenfranchised people who don't always take the time or know how to find the time or know how to find the time or know the resources for getting to places and that's why most services are in core areas of cities. New things have been brought to the table and said she didn't receive the emails that were sent. The City of Rifle has passed a Resolution and thinks it's important to look at other resources including potentially that ball field, its 7 acres and we could partner to build a new ball fields at the UMTRA site or other places. It's important to

revisit it before going any further.
Chairman Martin said we'll look at our timeline which was to complete this project and also our insurance liability in reference to the Taughenbaugh Building which are driving this, not the dollars, not the location, but the safety of the individuals who work in that building and use that building to access services and our Insurance company has put a timeline to get out of that building; now if we can meet all that requirement, then we're go from there. It's not just that we ran out of option; it's the time also.
Allen Lambert – Don't make waste by going haste.
Tom Zieman, Catholic Charities reiterated what was said, when you're dealing with folks that have multiple issues, multiple problems, trying to find somebody to get them to a point it's really difficult. We're just adding more stressors to them. Anything's that's within walking distance, again the core of downtown Rifle would be great, so that they don't have to depend upon someone else.
Chairman Martin said you've got to remember, it's not just for the City of Rifle, but it's for the Western Garfield County which includes Silt, Parachute, and New Castle. Even folks from Glenwood Springs go down there.
Tom Zieman said that's where we need to get RFTA to go from Parachute to Rifle too, that would be a big help. He said that RFTA does serve downtown Rifle so that would a bonus for people.
Chairman Martin said we'd go ahead and put this particular issue on the next meeting to go ahead and see if we wish to reconsider or not because time is of the essence.
John Heier – new City Manager of Rifle said he looks forward to working with the Commissioners in any way we can that will benefits the citizens of the City and the entire County and if there's anything that you could do on this project, I know they'd be appreciative and if you would consider sitting down one more time and meeting with the council, I know they'd like to do that.
Deb Stewart – Senior Programs stated that she was given a very short time frame to put a proposal together at Ed's request to tell him how much it would cost for the Traveler to provide services. It was 8 to 10 hours notice. She did put together a proposal as to what it would take outside of service we do and gave 3 – 4 different scenarios and each one had a dollar price tag behind it that was not small. She said right now we have our hands full not only with the demand for services but with increased cost like insurance, gasoline and everything else and will probably take some service reduction going on in the County so people really need us are going to be having to struggle to fit within 4 days versus 5 days a week. But, anything for us to help the County if indeed they do locate out at the Airport is totally above and beyond and outside what the Travelers currently does. It would be a contract service only and it has to pay for itself, if it didn't pay for itself, and they would have to purchase a new vehicle, that would be for that purpose, it would not take away from any of the service that's offered to the seniors at this point and time. She felt this was necessary to say for clarification. The Traveler's is not going out and seeking new business.
Ed made another clarification as Deb was concerned it might come out of the sales tax appropriation for Human Service Grants; that will not happen. One reason is because we have a whole committee that consists of some of you guys to decide how that money's spent and don't think they would do that.
Debbie Wilde said she was worried that it was coming out of that money, she was concerned that down the road it would be said, you know what, we're already spending x additional dollars on human services because look at this contract we have with the Travelers. This is a whole different deal and should not be considered like that's a way the County's helping human services. She just wanted that to be clear.
Commissioner Houpt said because of the timeline, she would like it on an agenda.
Ed agreed because the County is moving and we'd waste a lot of money and effort if we don't get this settled quick.
This was to put it on the next Board agenda – 10:15 a.m. May 3, 2004.
Decision on the Budget – Continued from the morning agenda
Proof of Publication was accepted.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the 4th Supplemental to the 2004 approved budget and the 4th amended appropriation of funds. Motion carried.

PUBLIC HEARINGS
REVIEW OF THE SPECIAL USE PERMIT APPROVED BY RESOLUTION NO. 2002-101 FOR THE EXTRACTION OF NATURAL RESOURCES (SAND AND GRAVEL MINING),

PROCESSING (CONCRETE BATCH PLANT, ASPHALT PLANT, CONCRETE CASTING AND FORMING) AND ASSOCIATED ACTIVITIES AND ACCESSORY USES FOR JOHN C. MARTIN, RICHARD K. STEPHENSON, SCOTT M. BALCOMB, JAMES AND JEAN SYNDERR – MARK BEAN

Mark Bean, Don DeFord, and David McConaughy representing the parties were present.

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

Chairman Martin swore in the speakers.

County attorney reviewed the noticing requirements for a public hearing and advised the Board they were adequate and timely and they were entitled to proceed.

Chairman Martin swore in the speakers.

Mark submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit
D – Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum to the Board of County Commissioners; Exhibit F – Garfield County Resolution No. 2002-101; Exhibit G – Letter from David McConaughy, Leavenworth & Karp, P.C. dated March 23, 2004; and Exhibit H – Letter from Ed Fink, Region 3 Transportation Director CDOT, dated January 12, 2004.

Chairman Martin entered Exhibits A – H into the record.

Mark submitted a memo to the Board saying Condition No. 21 states, "the Special Use Permit shall be reviewed one year from the date of issuance of the permit – the SUP was issued 4-7-03. A letter submitted as Exhibit G states that LaFarge West is in compliance with all conditions of the Special Use Permit and all other permits relating to the operation of the Mamm Creek Pit.

Since the operation started, the majority of complaints received by staff have been associate with Condition No. 6, which states: "A maximum of 200 ADT shall be allowed for the property in accordance with the Colorado Department of Transportation Highway Access Permit, issued based upon the Colorado Highway Access Code. Any change in the maximum ADT allowed by CDOT will require an amendment to the Special use Permit.

Staff requested that CDOT provide the County with an interpretation of the Highway Access Code regarding the term ADT, trip and axel count. CDOT responded with a letter and Mark said his staff has relied on CDOT to determine whether or not they have violated the 200 ADT limitation. CDOT has not found that the operators of the pit have violated this requirement.

The letter from CDOT addressed the questions posed by Mark Bean and in response stated: "The AADT means the annual average two-way traffic volume. While it is usually estimated, it means collecting the total count of a section of roadway for 365 days (so it includes both weekends as well as weekdays) and then divided by 365 to obtain a daily average number of vehicles. The 1985 Access Code referred to this as ADT but is referred as AADT in the current version of the state highway access code. The specific definition is located in the state highway access code in 2 CCR 601-1 part 1.5(1). Therefore when a permit refers to ADT, it is the same as AADT. The trip counts are counted in accordance with the provisions of the state highway access code.

A trip is defined as one vehicle entering or leaving a facility. If a vehicle were to leave a facility with cargo, deliver the cargo offsite and then return to the facility, CDOT would consider this as one vehicle trip out and one vehicle trip in.

Regarding whether or not the vehicle axel count change the number of trips counted for a vehicle, CDOT said in the case of the Mamm Creek Sand and Gravel Pit Access Permit #300178 and 300179, CDOT understood the type of vehicle (truck) intended for this use. Axel count does not change the number of trips counted for a vehicle.

David McConaughy stated they were in compliance and were here to answer the questions. The information on trip counts has been submitted to CDOT, average 144 trips.

Exhibit I was entered, LaFarge Trip Count Sheet - Steve Wood - March, April and May, estimates extrapolated on sales. The rest of the numbers were taken from tickets. David said this has been submitted.

Chairman Martin asked about the paving of the access road in regard to the watershed – still going with gravel and Mag chloride.

David submitted Exhibit J – a letter dated 11-10-2003 from CDOT that states about the road to be completed no later than June 4, 2004.

Chairman Martin asked if this includes realignment in that design.

Exhibit J was admitted into the record.

Doug Grant – adjacent landowner, owner of a gravel pit and uses the same access permit. Doug submitted Exhibit K a purple binder and asked that this be added into the record. Chairman Martin entered Exhibit K into the record.
Doug went through the packet of information noting Resolution 2002-101 especially pointed out Condition No. 1 on the second page, "all proposals and representations shall be made …….."
Doug made the claim that the LaFarge Gravel pit was making more than 200 trips per day and submitted in his report in the graphs. He maintained the count was every time you go in and out it counts as one trip in and one trip out equals four when the truck leaves and returns. This study points out they are well in access of 200 ADT. He called attention to the 10-14-2002 transcript of the Board of County Commissioners meeting minutes where Tim Thulson made statements with respect to his application for the gravel pit. Doug highlighted the section and read "with regard to some of the ……. We are capped at 200 ADT……" Again, 200 ADT.
He has photos that show a belly dump making the first switch back – truck completely over the white line to turn; he apologized for the quality of the pictures. Part of these pictures is to show they haven't created a safe entrance onto the service road; when you knock over things and take all the road to turn, his trucks from his gravel pit have to wait to turn there and stated this is a safety problem. Next picture shows CDOT trailers; moving on – the next one is an email between Mike Smith and Rob Johnson; the project, paving was to be completed October – not paved yet today. Next page – another email between Mike Smith – interesting to note in this email, this is Rob Johnson, on ton's sold – opened since June of 2003 and it goes on to say that they have done roughly 60,000 tons, goes on to relate – didn't count any cars, nothing but belly dumps and neglected to count dumps between; in our calculations it would be an addition 72 for trucks putting you at 228 not counting employee vehicles, etc. inspectors, what have you. On the Noise Study – DL Adams did a study for noise; he has a noise measurement device and he got 81.9 at the fence and the main noise was coming right from the generator - it is supposed to be 80 decibels. Jeff got 81.5; he got 79. The kicker is they are supposed to be 75 and daytime is defined and nighttime – it's supposed to be 75 decibels. They were down before 7 am and the big generator was running and they observed the large generator – puts them in violation of the noise. Hours of operations have not been abided by; his cousin observed trucks at 6 a.m. Rob Johnson was down running the scale. Deliveries – observed work beyond the hours. There's been some abuse of the hours of operation in several of the operation. Watson or Watkins – interesting about it – no violations were noted during inspections. November 2003 – permittee – see from the highway several without containment. Trucks parked behind the berms – like to point out no violations, the tanks weren't in any kind of containment. Can read about some of the problems he noted. The storm water plan in Best Management Plan – detention pond. Lower east side – berms at the asphalt plant were never constructed. Doug said he went to Denver to get this report.
Slides show waste oil running down the sides of the barrel. Interesting to note – every corridor you fill out discharge – these are your standards to meet and test for. And he listed those. Well, they were open from June, July, August, September, no discharge, no testing was done. How they dug a gravel pit and no discharge – where did the water go. I asked the State lady, they're sending me samples and will correct the DMR. Doug said he asked for copies of those slides – when ownership was changed from Western Slope to LaFarge. Doesn't have the slides – this is in question. Just like we talked about, The Rifle water – utmost care should be taken.
Also Item 19 of the SUP talks about the bald Eagle's nest – two bald eagles are in it now. Mr. Beattie present and may comment. We were told it was an adolescent testing nest. The tree doesn't meet the same demise as the traffic counters. Eagles are in it, they are using it, and it should be respected. The last page summarizes what we think are the problems. It's common knowledge by some of the LaFarge employees that 300 trips a day is common. The one truck 6900 tons per day. These are not including cars; the last one there, 200 ADT limit it being violated. Put there in because CDOT told me that was the case. 20% over you are in violation – told me this because they said your (his) driveway isn't in the right place, and will take action unless you correct- real quick to catch him but everyone in this county has been told you can't enforce – they sure do pick on me – noise limits, hours of operation, national fire code, storage of fuels, port-o-potties – do not migrate – put in asphalt plant no berms, no landscaping, storm water, no screening, no trees – what happened to the landscaping – we have to tolerate this – thinks this annual review should be extended and done yearly until they do all the things they are supposed to do. Doug requested the report that he submitted to the Board that they take time to read it and not make a decision today on what's going on here but to do a little more analyzing. He talked to Ed Fink not more than a month ago as well. He mentioned he hadn't seen the letter that Mark has, but he told me he didn't know anything about this stuff

yet. Doug gave him the traffic study. He didn't know what was going on but it was his mission or his job to straighten out the problem there. Doug went to a highway commission and told them it was interesting that there are no impacts to the road and LaFarge wasn't required to do much of anything here. When you put an industrial site, a gravel pit, asphalt plant, concrete batch plant and pre-casting area at the end of a narrow gravel road that's 2 miles and don't expect to do any work on the road, something's wrong. Who is going to bear the cost of fixing that intersection so it is safe; are the taxpayers at a time when the State doesn't have any money? CDOT access told me they don't get into planning and zoning, land use. Doug said you don't have to, it's real simply, Garfield County handed you a gravel pit, told you this is what's going to be there and all you've got to do is calculate what the traffic is going to be generated there and design and build the access road so that it fits. Ed Fink told me yeah, Wal Mart went in east of there on that frontage road; they sure would fix that intersection and bring it up to handle the traffic that they put on it. One other thing, Mr. McConaughy, the last time there was a public hearing and Doug didn't think it was appropriate to address but he asked me, what is this about? What this is about David is mitigating your impacts. You insinuated it was about the CDOT paving job and me wanting to get it. Doug reminded everyone that's he's been in the sand and gravel business since 1969 and doesn't remember selling one load of gravel to the State of Colorado CDOT. He's had numerous large constructors come into my gravel pit at his same location wanting to use the aggregate, set up an asphalt batch plant for the job out there just like you bid on. My response was if I could get an asphalt plant maybe we could do business. But with the politics historically in Garfield County he said he would probably never get an asphalt plant at his site. So it's about mitigating the impacts here, doing it right and there are gravel pits in other parts of the State that are near homes and neighborhoods that they have committees right in that community that works with them to see that it is at least tolerable to live by. Over here it hasn't been the case. Doug went on the say that he had contacted Pat Walker, CEO of LaFarge and explained the house he owns next to the Mamm Creek Gravel Pit, he came over and looked and say, Doug the description of your house is exactly right, I would not want to live in that house with 200 hundred trucks a day going in past it myself. Doug wrapped up saying it's about a level playing field – paying their own way like the access. Doug requested a copy of all the items that have been submitted so far today and the rest of this meeting; he will submit it in writing if he has to, if that is required. He asked two items: extend this review one more year because the obvious one that you can see that they have not come into compliance with all the permits they have (paving); and some information to clarify one item on the November 3, 2004 letter dealing with Mr. Mark Bean and Rod Johnson, second paragraph "no restrictions that I can find in any documents that restrict to sales to 200,000 tons. The 200,000 ton number was a projected number. Doug said if he recalls that in the permit the County issues, it says any of the things that they propose or represent to you is part of permit unless the BOCC say no, it is not. There were at least 5-agencies that they said that they were going to approximately 100,000 tons per year the first year and 200,000 thereafter.

Doug said this is what he remembers on all the documents presented to you. This is the individual who is the aggregate manager of this pit and he's saying that this was just a projected number, so before this is over, he asked Commissioner Martin to clarify and say, well what is it? Is that what you say too, it's just a projected so he can go to 300, 400, 500, a billion whatever?

Doug submitted a handout; Chairman Martin labeled it Exhibit F noted that it was already part of the record. Doug said now it's part of the record again.

Chairman Martin said this is part of a transcript; Doug said, "part of transcript, proceedings of the Garfield County Board of Commissioners, Mamm Creek Sand and Gravel Pit Special Use Permit Application dated October 21, 2002; that's when you were approving the permit and the items in the permit. He requested the Board refer to line 106, this is dealing with Chairman Martin at the time when he was clarifying things and he's going down there talking about the various things and saying that Mr. McCown has covered that, and so that was okay. One of the points he made here is "also the applications has cited that there's a maximum to be mined in this particular area of 200,000 tons and that bears annual production and there's their annual production." So it's pretty clear here, I think Mr. Martin, your understanding of it and it's referring to things that were cited at the meeting, so maybe I'm all wet and it's more that 200,000 but he would like an answer on that if possible.

Dan Grant, brother of Doug – 110 West Homestead – submitted the same folder and just reiterated what Doug said.

Applicant – Mr. McConaughy responded to the alleged violations addressed by Doug and An Grant. He summarized that not a single agency that says we have a violation of any of the permits. Mr. Grant has provided and not sure why we're still talking ADT and not even going to address that. The three issues are

neighbor type of complaints. Doug's own report indicates we are in compliance – that testimony was – hours of operation – there was one day when they had a violation – Rob Johnson self reported to Mark Bean and will tell you how that happened. Last one is the Eagle's nest and Mr. Beattie is monitoring that and we're in compliance. Happy to answer any questions.
Commissioner Houpt asked about paving the access road.
David McConaughy – this is addressed in the CDOT permit – since it had been Mag chloride, CDOT said it was fine temporarily and they do not want to pave it without CDOT approval.
Chairman Martin so noted in Exhibit J.
Commissioner Houpt asked about the intersection design
Steve Wood – negotiation with CDOT and they are happy with it; can't build it until CDOT approves the plan.
Chairman Martin asked about berms.
Rob Johnson – Operations manager for LaFarge – berms at in place, hot plant in place, hot plant removed and will be reseeded. Grant referring to the 100 year flood plain and has been mitigated by High Country – rolling speed berm – 3 to 4 and 10 feet wider. The scale house where toilets are located, the flood plain berms are in place.
Chairman Martin asked if they met fuel storage requirements.
Rob – the portable crusher Doug referred to is a 100 gallon fuel tank but it's empty – doesn't violate.
Chairman Martin asked if there was any violation of any agency.
Rob – not written or verbal. Had compliments and they said they wish other operations were as clean as this one. LaFarge is noted for how well they run their gravel pit operations.
Commissioner Houpt asked Mr. Beattie to talk about the Eagle's nest and if there were any concerns.
Mr. Beattie – 40 hours at 225 yards for monitoring; this is a great exciting time as we have not had a nest in this area; this year it is a nest – the birds are attempting to propagate. He rented a 60 foot boon, the nest is 85 feet – yesterday one of the eagle pairs went out of the nest and grabbed a squirrel; winds up to the nest and he saw a nestling; the mama bird picked off the fir and appeared to be tearing meat to feed the young. These birds are subjected to numerous stimuli – jets passing over and a couple 100 coal trains going by. These birds are doing great. The birds don't care that there's a gravel pit close by. He went on to explain that the LaFarge operation is not hampering at all. This could have been the ones attempting to nest last year – for every 20 eaglets 50% survive. The eagles should be out of there in 4, 5, 6, 7 weeks. Tried to research the last eagle to hatch in the area – Aspen Glen in 1973 – now it's eagle mania.
David McConaughy Condition 19 – was the
Mark reiterated that Mr. Watkins did speak to him and stated that he wished all gravel operators operated thusly – he found no violations.
Chairman Martin – none from CDOT?
Mark – no sir. Code Enforcement, Mr. Hackett has been out at the pit and didn't find any violations. He went out in response to a complaint; Mr. Watson's response was to a compliant also.
Doug Grant – 110 West - Basalt - last meeting CDOT was waffling. Mike Smith told me LaFarge wanted to come back and enlarge that intersection. If nothing more they need to come back and open it up for a public hearing. Doug – one switchback – there's no way trying to get more by getting this intersection bigger. The best way is to ask for every ticket they have.
David McConaughy stated they understand that any change will have to come back to the Commissioners.
Commissioner Houpt made a motion to close the public hearing; Chairman Martin seconded; motion carried.
Don explained the options according to Statute saying you find they are in compliance and to continue the permit, you may find they are not in compliance and suspend or require the permittee into compliance by a specified certain date and obviously this is a public hearing and you can continue.
Commissioner Houpt said she thinks a lot of information was brought to us today that I would these expect other agencies to bring to us as well if there were concerns about compliance and I do, I think that we have the responsibility to rely on those agencies that are overseeing the compliance of the specific issues that have been brought or specific requirements made for this gravel pit and our staff to bring that information forward; I appreciate the concerns, I have to put faith in the applicants that they will continue to comply with the Resolution that's in place and that you will come forward if there is a change in ADT's and I'm assuming that you will continue to work with CDOT on that as well, and for all those reasons I don't see any problems at this in the way that you're complying with your permit so I'm going to make a motion that

we continue the permit and find the applicant is in compliance with the Resolution was have in place, Resolution 2002-101.
Chairman Martin asked if she would like to have a review later on.
Commissioner Houpt said I would like for us to have annual reviews with all of our sand and gravel pits and industrial activities in our County; I think it's a good opportunity to touch base with activities in the County and keep up with what's going in environmentally, so yes I would add an annual review.
Chairman Martin – I know that they'd be monitored and the other agencies are also watching it, and will second the motion.
Don before you vote on this the continuance for one year, does that include notification provisions that are currently in the Resolution? Do they need to provide notice as they did today?
Commissioner Houpt – Amended the motion to provide for notification.
Chairman Martin – I think for more year I can go ahead and support that; I think that we'll find they'll be in compliance but again. Also like to see the agencies submitting they find no other violations in the other permits in some written form; the other eleven or twelve permits saying they find there's no violation of the other permits that this is hinged upon.
Mark clarified that Chairman Martin wanted documents from those other agencies.
Chairman Martin – I would; that will end all the debate in reference to if they're in compliance or not, each agency that's there. Vote: Martin – aye; Houpt – aye.

CONSIDER A REQUEST FOR AN EXEMPTION FROMO THE DEFINITION OF SUBDIVISION FOR A PROPERTY OWNED BY REX AND JO ANN COFFMAN ON CR 100, EAST OF CARBONDALE – FRED JARMAN

Fred Jarman, Tim Malloy representing Rex and JoAnn Coffman, and Don DeFord were present.
Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Don DeFord reviewed the noticing requirements for a public hearing and advised the Board they were adequate and timely and they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application materials (binder); Exhibit G - Staff memorandum; Exhibit H – Letter from the Vegetation Manager, dated 4-06-04; Exhibit I – Letter from the Town of Carbondale dated 4-8-04; Exhibit J – Letter from the Army Corps of Engineers dated 3-25-04; Exhibit K – Letter from the Road and Bridge Department dated 3-26-04; and Exhibit L – Letter from the Carbondale & Rural Fire Protection District dated 4-2-04.
Chairman Martin entered Exhibits A – L into the record.
Fred presented the staff report and a Power Point pointing out the request for the exemption from the definition of subdivision on a 141 acre parcel with access off CR 100. The site lies on the north side of CR 100 and south of the Raring Fork River approximately 1.7 miles east of Carbondale. CR 100 forms the property's southern border, the northern boundary somewhat parallels the Roaring Fork River with a small portion actually lying on the north side of the river. The applicant proposes to divide the 141 acre property into a total of four lots by way of the Exemption process. Three new lots will be created leaving the remainder lot to consist of 129 acres that contains the Coffman residence.
The site plan was shown in the Power Point outlying the three new lots being created. Slough Ditch runs through the parent property. Fred stated he had received the well permit.
Several slides were showed and explained in connection with the staff report and application.
This was referred to several agencies in Carbondale and others. The property qualifies for exemption and this proposal is consistent with the regulations.
Condition No.7 regarding the Slough Ditch was pointed out.

RECOMMENDATION:

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
2. The Applicant shall include the following text as plat notes on the final exemption plat:
   a. "Control of noxious weeds is the responsibility of the property owner."

b. *"One (1) dog will be allowed for each residential unit within a subdivision and the dog shall be required to be confined within the owners property boundaries."*

c. *"No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances".*

d. *"All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries".*

e. *"Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, <u>et</u> seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*

f. *"All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County."*

g. *"All new septic systems for Lots 1 – 4 of the Coffman Exemption shall be designed by a professional engineer licensed to practice in Colorado. All systems shall be Individual Sewage Treatment Systems (ISTS) due to the property's location up-stream from the Town of Carbondale's Roaring Fork Well Field Aquifer."*

h. *"All future lot purchasers / builders that they are required to submit an "elevation certificate" performed by a registered engineer 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 a floodplain Special Use Permit (or equivalent adequate land use permit) has been obtained. As an alternative, the building envelope may be adjusted to exclude any portions of the floodplain if practical. An amendment to the building envelop will require a plat amendment approval from the Board of County Commissioners.*

3. Because Lots 1 – 3 will share a well for their domestic water supply, the Applicant shall establish an unincorporated Homeowners Association (with associated protective covenants) to own and manage the shared components of the shared water system as well as the water rights which include the Basalt Water Conservancy District contracted water and irrigation water rights from the Slough Ditch that are to be used by Lots 1 - 3. This HOA shall determine how physical elements and associated rights of the shared water system (well, water lines, easements, maintenance and repair obligations) are to be owned and managed for each future owner of Lots 1 – 3. This document shall be provided to the County for review as part of the final plat submittal.

4. In order to provide adequate access to the lots for the Carbondale and Rural Fire Protection

District, the Applicant shall construct the shared access to lots 1 - 3 to have a minimum unobstructed width of 20 - feet. In addition, because the access route to lots 1 – 3 crosses the Slough Ditch using a bridge, it shall be designed and constructed to accommodate the weight of fire fighting apparatus. This design shall be approved by the Carbondale & Rural Fire Department.

5. The Applicant shall pay development impact fees to the Carbondale and Rural Fire Protection District equating to $417 per lot to be paid to the District at the time of final plat and prior to final recordation of the final plat.
6. The Applicant shall be required to pay a $200.00 school site acquisition fee to the RE-1 School District for each newly created lot at the time of final plat and prior to final recordation of the final plat.
7. The Applicant shall provide a copy of an approved 404 permit from the Army Corps of Engineers (if necessary) regarding any development impacting the Slough Ditch as it has been classified as an ephemeral channel (a "water of the US"). This permit (if required) shall be provided as part of the final plat submittal.
8. The Applicant shall be required to legally describe and graphically depict an access easement on the final plat providing access to Lots 1 – 3 over and across the “remainder” lot. This easement and terms of its governance and maintenance shall be provided to the County for review as part of the final plat submittal and shall be recorded along with the final plat.

Regarding weed management, the Applicant shall 1) provide a map and inventory of any County Listed Noxious Weeds on the 142 acre parcel and 2) provide a weed management plan that addresses any inventoried noxious weeds found on the property. The Applicant shall also provide a mechanism such as deed restrictions or protective covenants that determine who or what entity (such as a HOA) will be responsible for weed management on the access road into the proposed three new lots.

9. The Applicant shall submit an approved well permit issued from the Colorado Division of Water Resources as part of the final plat submittal. No submittal shall be accepted by the County without this well permit. As normally required, prior to the signing of the plat, all physical water supplies shall demonstrate the following as part of the final plat submittal:
   a) That a four (4) hour pump test be performed on the well to be used;
   b) A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
   c) The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
   d) A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;
   e) An assumption of an average or no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
   f) The water quality be tested by an approved testing laboratory and meet State guidelines concerning bacteria, nitrates and suspended solids;
   g) A water sharing agreement will be filed with the exemption plat that defines the rights of the property owners to water from the well.

Tim Malloy addressed Condition No.7 saying that “The Applicant shall provide a copy of an approved 404 permit from the Army Corps of Engineers (if necessary) regarding any development impacting the Slough Ditch as it has been classified as an ephemeral channel (a "water of the US")”. This permit (if required) shall be provided as part of the final plat submittal.

Rex and JoAnn Coffman and Shannon Meyer were present.

Tim presented a very brief summary since this is the second application. Those three lots were cluster on the west end via 35 acre lot exemption. The north parcel which is this application Rex and JoAnn will come back for 5 more lots in the Rural Lands Exemption. This is still under the density outlined in the Comp Plan. He pointed out that this is a very important piece of property in reserving open space and scenic views. He also pointed out the floodplain and minimized any impacts on the wildlife. There is a Bald Eagle roosting site and their areas of influence overlap and showed these on the Power Point. This application has been in the making for a couple of years.

In his view on the Condition No. 7 it was in his view a stream that ran year round which it does not, it only runs 6-months in the year. This is a constructive ditch with a head gate and noted the Condition No. 7 is acceptable because it say if necessary and will submit a letter stating if it requires a 404 Permit or not.

The fire district has recommended and Tim requested to drop this to 16 feet versus 20 feet for an access drive. He noted in the application, the wildlife with respect to fences, the representations, that report recommends fencing to be removed along CR 100 and pointed out that the fence is on County property and it out of there hands. Secondly, it also recommends converting all the fences to DOW standards which is a good idea but want to be able to do that in the normal course of business and maintenance. Other than that he said they are comfortable with the conditions recommended by staff.
Chairman Martin asked about the easement, is it going to be private or open to public the roadway.
Tim said it is private.
Chairman Martin – does that roadway also allow the crossing that the historical crossing of RFTA because they have a crossing policy that is not a permanent crossing, it's a license to cross and they've revisited those on an annual basis. Have you secured an annual basis permit or do you rely upon the historical crossing.
Tim said that's on the other side of the road, we don't cross it. The other sides of the road, those arrangements need to be made with Ackerman and have already been done.
Chairman Martin – in reference to the water, in the recommendations we talked about identifying certain historical flows to each for irrigation .1 cubic foot – is it tied to each lots therefore not being lost. Tying the shared irrigation water to each lot making sure it is a plat note that this water stays with that lot, that way when you do a history of that piece of property it shows that you've got water rights.
Tim Malloy – we can make that a note on the plat. If we are required or it is discovered that is water of the United States and we do need to that Corp permit, it might take longer than 4 months through the normal course of business in the County's Code for recording the plat and then they would request this be extended to one year to compensate.
Don for clarification on status regarding the south parcel that shows up on the plat, is it your position that this a legally split from the north parcel, Parcel A today. And asked Tim to explain for the record what the basis is for that.
Tim – yes, we actually discussed this with staff early on in the process of planning for this property and it's our understand that since the railroad corridor is a fee instrument that that was dedicated by fee instrument and that legally separates the north and south parcels; it's also our understand that and there may be some question about this, but since the County has a permanent access easement for CR 100 through the property that that would also divide the property, but certainly the railroad corridor is a fee instrument.
Don said in regard to the what's shown on the plat in front of him is the Phase One easement area, is that the conservation easement description of which is set forth in your application materials?
Tim – correct that is not a parcel, it is just a description of what area of the property is encumbered by …..
Don – in regard to the access road, is it your position that you already have permission from the Conservation Trust to construct this road?
Tim – yes, from the holder of the easement, which is AVLT, yes, there's a plan that's included as an Exhibit to the Conservation Easement which is virtually exactly this plan with that same access road among them. It's the nearly the last exhibit in that Deed of Conservation Easement.
Chairman Martin – that's in the same train of thought I was with in the access is it private or public and didn't get to the next phase, does the plan allow that road, so you're correct.
Don – I have to concede in reviewing the access easement it's a little confusing as to whether or not the wording of the easement actually gives you permission without getting something from them.
Tim – that's something we will look into and resolve before we record the plat.
Don – in regard to that easement, if it's going to be a private easement, would you convey that to the either incorporated or unincorporated Homeowner's Association that Fred referenced in his staff report?
Tim – yes that's the intent.
Don –lastly, a question that Chairman Martin just asked of generic referred to as dedication of water rights, in regard to the water system itself, was it your intent to actually convey the water rights necessary to provide domestic water to the HOA?
Tim – I think it is yes. We'll actually turn over the contract that we obtained from the Basalt. Water Conservation District to the property owners and if they elect to, they can seek individual wells with individual contracts; if they elect to keep is as a shared well with a shared contact then this would be the issue that would be resolved by the unincorporated HOA where in there would be documents regarding that shared well and delivery of water to each of the lots via the utility and access easement along the south of Lot 2.

Don – lastly, coming back to the Corp of Engineers and the issue on that ditch, as I understand you if the position of the Corp is that that is a water of the United States you'll get a 404 Permit to construct the crossing?
Tim – correct and we're working on whether or not, that's our hope, and whether or not that would be a nationwide permit since it's such a very minor encroachment. We've designed the lot so they're 50 feet from the ditch. The only real point of contention, potential fill or change within that water course would be the point of crossing of the access road and we believe that would end up being a nationwide permit because it's a very minor encroachment.
Don – taking the other side of that, if in fact that's a ditch and you've said it is and it has a head gate that controls it, is that right?
Tim – yes
Don – who controls the head gate?
Rex Coffman – that ditch was adjudicated in 1884, we have two adjudications and there's probably 10 property owners that use the water; it also runs through me, we take our share out and then rest of it goes on down towards Carbondale.
Don – I take it from what you've said, there are other down stream users from your property?
Rex – yes
Don – if that's the case then there needs to be a maintenance easement shown for that ditch so there's access for maintenance through the property.
Rex – we have a15 foot easement on each side to clean the ditch.
Don – all you need to do is show that on the plat. This issue has come up in the past and it may not be a real issue here but again with regard to the downstream users on that ditch, is there permission to cross that ditch?
Tim – we'll have to look at the easement; I haven't actually read the easement on it so that's one thing that we'll have to do.
Don – that's probably needs to be clarified and putting the access across the ditch. Don said he would add this as a Condition and permission for the other ditch owners.
Commissioner Houpt – we need to do some wordsmithing here, for the Fire Protection District, No. 4 Condition if we added to the end of the first sentence or with agreed upon between applicant and the Fire Protection District would that answer your concern?
Chairman Martin - Yes.
Commissioner Houpt and on No. 7 if a permit is after the last sentence, this permit shall be provided as part of the final plat submitted, if permit is required by the Army Corp of Engineers, the County will extend our 4 month requirement to one year for final plat submittal.
Fred Jarman – from the date they realize from the Corp is what I think you're suggesting.
Commissioner Houpt – that's what I was suggesting, the date they hear from the Corp, but whatever works. Tim said one year from today is enough for us.
Chairman Martin - date "from approval from this action".
Commissioner Houpt – then here's one more condition that Mr. DeFord wanted.
Don – yes, they need to obtain permission from the owners of the ditch to construct a crossing of the ditch over the easement and the easement also needs to be shown on the plat.
Commissioner Houpt – that will be Condition No. 11.
Chairman Martin – and a plat note identifying the water rights to each lot that needs to be there.
Fred – in number 5
Don – are you referring to the irrigation water rights?
Chairman Martin – yes,
Commissioner Houpt – and that was I?
Chairman Martin - the wording on I to establish water right as defined for each lot, irrigation water which was identified in the staff report.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the exemption from the definition of subdivision by Rex and Joanne Coffman as presented with Conditions 1 – 11 as presented and amended and that would include 2i as a plat note. Motion carried.
CONSIDER A REQUEST FOR A RURAL LANDS DEVELOPMENT OPTION (EXEMPTION) FOR A PROPERTY OWNED BY RANCH SAVERS, LLC LOCATED OFF OF CR 293, EAST OF

RIFLE – FRED JARMAN

Wayne Pollard, Michael Bennett, President of Rural Land Management Corp., Fred Jarman and Don DeFord were present.

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

Chairman Martin swore in the speakers.

Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application materials (binder); Exhibit G - Staff memorandum; Exhibit H – Letter from the City of Rifle dated March 30, 2004; Exhibit I – Letter from the Rifle Fire Protection District dated March 1, 2004; Exhibit J – Letter from the Road and Bridge Department dated 3-23-04; Exhibit K – Letter from the Vegetation Management Department dated 4-5-04; Exhibit L – Easement Declaration for the access easement; and Exhibit M – Exhibit A: Rural Lands Development Option Illustrative Example.

Chairman Martin entered Exhibits A – M into the record.

Fred reviewed the staff report stating the request is to utilize the Rural Lands Development Option (RLDO) to divide their 105 acre property into a total of 6 lots where 20 percent (20% of the property on the west end will be split into 5 residential lots that range from 3.5 to 5.1 acres in size leaving the remaining 80% of the property to constitute Lot 6 containing approximately 84 acres which will be placed into a perpetual conservation easement managed by Aspen Valley Land Trust (AVLT) which will allow the reminder parcel (Lot 6) to be a "working ranch" or "farm".

The property is located on the Graham Mesa just east of Rifle and has historically served as a working ranch for many years.

The Rural Lands Development Option was recently adopted by the Board in 2000 and amended in 2002. This is the first application submitted to the County. Exhibit M "*Exhibit A: Rural Lands Development Option Illustrative Example*" was explained as another option that the Planning Department includes in applications where 35 acre exemptions are appropriate. This means that a total of 8 lots could be created for development leaving the remainder 80% to be placed in an easement for 40 years.

Fred presented a Power Point in addition to his staff report.

Wayne Pollard – Lot Number 6, which is your remainder parcel, so as far as it was assumed that that was correct so that's nothing that we didn't already have planned. However, because there is another 35 acre parcel there that does not have a well drilled on it; it also has the ability to drill its own well also if so desired.

Fred continued with the report - Irrigation water is complicated and involves – they are proposing – an arrangement from the Rifle Creek Canyon Ditch – the Ranch was split out and the applicant would like to proportion (very small). Fred explained and asked the applicant to set up an HOA who would determine how physical elements and associated rights of the shared water system are to be owned and managed for each future owner of Lots 1 – 6. This document shall be provided to the County for review as part of the final plat submittal.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approve this application for a Rural Lands Development Option (a subdivision exemption) with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant shall have 120 days to present a plat to the Commissioners for signature from the date of conditional approval.
3. Prior to the signing of a plat, the Applicant shall be required to conduct a well pump test that demonstrate the following points for each of the two domestic wells serving Lots 1 – 6:

a. That a four (4) hour pump test be performed on the well to be used;
b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
c. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
d. A written opinion of the person conducting the well test that this well should be adequate to

supply water to the number of proposed lots;

e. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;

f. If the well is to be shared, a legal, well sharing declaration which discusses all easements and costs associated with the operation and maintenance of the system and who will be responsible for paying these costs and how assessments will be made for these costs;

g. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

h. For water supplies based on the use of cistern, the tank shall be a minimum of 1000 gallons.

4. That the following plat notes shall appear on the Final Plat:

a) No further divisions by exemption from the rules of Subdivision will be allowed.

b) No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

c) All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

d) Foundations and Individual Sewage Disposal Systems shall be engineered by a Professional Registered Engineer within the State of Colorado.

e) Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

f) All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.

g) One (1) dog will be allowed for each residential unit on Lots 1 – 5 and the dog shall be required to be confined within the owner's property boundaries.

h) Vegetation should be removed from near any structures in order to provide a safe zone in the event of a wild land fire.

i) When constructing access roadways, roadways should be a minimum of 20 feet in width and consideration should be given to the weights of fire apparatus and accessibility during adverse weather conditions.

j) Addresses are to be posted where the shared driveway intersects with the County Road as well as where the individual driveways intersect with the shared driveway. Letters are to be a minimum of 4 inches in height and ½ inch thick in width and in contrast with background colors.

k) All dead end roadways in excess of 300 feet in length are to be provided with a turnaround. As discussed, it appears that this could be integrated into the new driveways.

l) All building envelopes shown on the final plat cannot be adjusted without the explicit permission from the Board of county Commissioners.

m) *The entirely of land located within Lot 6 as shown on this plat is governed by a perpetual conservation easement granted by Ranch Savers, LLC to Aspen Valley Land Trust. The terms and conditions of this easement are more fully described in the document entitled "Grant of Conservation Easement in Gross" that is recorded in the records of the Garfield County*

Clerk and Recorder's Office in Book _____, Page _____ with the reception number of _____.All future activity on this lot shall be in accordance to the terms and conditions in this document.

n) *Regarding Lot 6, it is anticipated that a future owner may desire to build a house and a barn and other accoutrements that are normally found on ranches or farms. There exists on the proposed plat two different one acre envelopes where building a single-family dwelling is an allowed use in the ARRD zoning. When a house is built on one envelope, the other may not be used for a building site. There are also two different four acre building envelopes where building barns, arenas, shed and other necessary agricultural buildings are allowed. Like with the residential building envelopes, when one four acre building envelope is used, the other may not be used. There is also the option of building all houses and (agriculturally related) out buildings on one of the four acre building envelopes. In this case none of the other three building envelopes may be subsequently used.*

5. Because Lots 1 - 6 will share two domestic wells as well as raw irrigation water, the Applicant shall establish an unincorporated Homeowners Association (with associated declarations and protective covenants) to own and manage the shared components of the shared water system as well as any associated water rights such as those managed by the Triple C Ranch Water Users for the Rifle Creek Canon Ditch. This HOA shall determine how physical elements and associated rights of the shared water system (well, water lines, easements, maintenance and repair obligations) are to be owned and managed for each future owner of Lots 1 – 6. This document shall be provided to the County for review as part of the final plat submittal.
6. All buildings to be constructed on the property shall adhere to the National Fire Protection Agency wildfire protection mitigation guidelines.
7. The Applicant proposes to use an existing 12 foot wide gravel road (easement) through the 5 new lots which also provides access to the remainder lot. The majority of this road is flat; however, the applicant proposes to provide access to a potential building envelope on the remainder lot using a second portion of this road that appears to be steep. Prior to the final plat, the Applicant shall provide an engineered site section of the grade to show that the road is less than 12 percent grade.
8. Regarding the management of noxious weeds, the document, "Grant of Conservation Easement in Gross", on page 4, item 4 D, under prohibited uses, reads: "The intentional introduction or failure to prevent the introduction or spread of noxious weeds such as those identified by the Colorado Weed Management Association…." This language shall be changed to add the statement: "or spread of noxious weeds as designated by Garfield County and the State Department of Agriculture."
9. The Applicant shall establish protective covenants to be administered by a Homeowners Association that specifically provide covenants that assigns responsibility for weed management on common areas, as well as individual lots. This includes providing language that is consistent with the weed management role taken on by Aspen Valley Land Trust as described in the Grant of Conservation Easement in Gross for Lot 6.
10. Staff will require the Applicant establish a HOA to govern the use, maintenance, and fiscal obligations as they relate to the access easement that provides access to Lots 1 – 6. This information shall be submitted with the final plat documents at final plat.
11. The Applicant shall improve the access easement from CR 293 to the end of Lot 6 from its current condition of a 12-foot dirt road to at least a 20 foot wide gravel road condition prior to final plat.
12. The Applicant shall improve the access easement / shared driveway off of CR 293 so that the drainage ditches are re-established to keep the water from running down CR 293. A 30 x 10 asphalt apron should be adequate. In addition, the Applicant shall install a stop sign at the end of the shared driveway at its intersection with CR 293. The Applicant shall construct these improvements prior to final plat. The Applicant shall obtain a letter from the Road and Bridge Department indicating these improvements have been constructed to their satisfaction.
13. The Applicant shall include the dust retardant plan submitted with the application as an element in the protective covenants to be managed and enforced by the HOA. The

Applicant shall include provisions to this effect in the covenants to be submitted as part of the final plat submittal.

14. The Applicant shall provide a fully executed (signed by all parties) "Grant of Conservation Easement in Gross" with Aspen Valley Land Trust (AVLT) as part of the final plat submittal documents to the County. In addition, the Applicant shall submit a letter from AVLT indicating that they are satisfied with the irrigation water arrangement and that they have enough to satisfy their needs regarding the easement.

Commissioner Houpt on 4(i) keep this as 20 feet?
Fred – yes, but it's not required. It also mirrors the original fire department and they do say 12 feet is fine.
Commissioner Houpt – is it a different portion of road that Fred refers to in No. 7?
Fred – sorry, 7 actually this can come out; this speaks to roads put in place to serve these lots, the road that would serve all of these lots getting you to 293 to lot 6 are virtually flat. The road that Fred is speaking of is an internal road on lot 6 that may or may not be over 12% grade.
Chairman Martin – were they identified in the AVLT Conservation Easement, were they allowed to be there and suggested to make sure that is allowed even though it's on the application, does the conservation easement actually allow that road to be constructed to make sure that it is clear for the future.
Michael Bennett, President of Rural Land Management Corp - acknowledges this is the first Rural Development – hoping that ranching can be preserved. The road issue does need to be resolved. Somewhat at odds – less than 10 lots we would only be required to do a 12 foot road. Letter to Fred, and the 12 foot road seemed to be okay. The road doesn't go through the AVLT and they want to keep the roads to a minimal impact. The Fire Department said 20 feet, asked Mike to come look at the property, he revised his opinion and said the 12 foot would be okay. That's one issue they want the Board to address. The one acre on the NE edge of the property – the 12% grade doesn't apply per Fred.
Michael - Specifically address the water; we have prorated the amount of water from the original water rights which is .9 cfs per second so if you have 5 acres then you have 5 out of 105 of that part is being kept. It's being kept though as the Triple C Water Users Corporation and so all of these properties and adjacent properties that were in the original Turgoose Ranch are part of the Triple C Water Users agreement. They in fact own water rights – you may request your water rights to come out and you could have title to those – each landowner could do that if they wanted but they would be required to built metering devices and possibly ditches so that they could have those water rights in the future.
Wayne Pollard said the way it's set up is they can come through the existing easements, they're already in place, it was 210 acres and already has an irrigation system in place and rather than splitting it all up and being in a situation where you got into the smaller parcels with small amounts of water that may or may not do an adequate job of irrigation. We kept it all together and it will be done on a rotation basis so when the water is used on any one particular parcel, using Lots No. 3 as an example – at the time it may only be allocated a small amount of water but at the time it actually irrigates, it will have a full head of possibly as much as a .5 cfs up to a full cfs to be able to get across it, be done and go onto the next. This is written in the agreements.
Don clarified the record, once this plat is completed and if it's completed, who will control the irrigation.
Wayne Pollard right not there's Triple C Water Users Corporation in place, it constitutes all 210 acres of the old Turgoose Ranch which is a total of approximately 2 cfs; there's Ranch Savers, Don L. Reed, Derrick Johnson and Shan and Joy ……. And also Mr. Jim Hybarger that actually have that. Those are the ones that actually have Triple C. There are a couple of other irrigation easements that go through it that are not part of Triple C, Mr. Latham who owns property to the south has an actual easement for his ditch water which should be a preexisting easement already. That probably will need to be located somehow and put on there but to the best of my knowledge I don't know if there was an as built actually done on it or not and as much as you've got the right to put your water line in and go. Also recently brought to their attention that right at the corner of Lot 1 on the SW corner there's a very small in length another old irrigation easement that comes across there and goes into Mr. Comb's property which is right there in that corner where the dog leg comes out. But that was all underground, there was no physical evidence of it and so the easements exist we just have to get those placed on the plat.
Michael said both are non–recorded easements and both of those we only became aware of as a matter of public notification so we'll take care of those as soon as possible.
Don – in regard to Triple C, how will the new property be able to participate in that?

Wayne Pollard explained that the new property owners will be issued stock in the corporation and it will basically pro-rationed. This entitles them to have the water with the property and have the voting rights per the water amounts. Each is entitled to the usage of the water.
Don asked about the easement declaration that refers to parcels 2 – 6; and to make the record clear, those parcels 2 – 6, do they bear any relationship to lots 1-6 of your application?
Michael explained those were the parcels they purchased the 35 acre portions that were parcels 2, 5 and 6. They no longer exist.
Don – so in fact this Right of Way serves as a number of parcels other than the ones you intend to create.
Michael - limited number of parcels, yes.
Wayne said it currently has 3 plus possibly 4 more.
Don – on the plat showing on the visual the road appears to go the vicinity of the one acre building site and agricultural site and the eastern side of the property, at that point does this road provide unilateral legal access to other parcels other than Lot 6.
Wayne – Yes and the access will remain.
Don wanted the Board to be clear that in addition to these lots there are other properties using this road.
Fred said this is true of the one going south to the Hybargers.
Commissioner Houpt – what's to the north; agricultural land.
Wayne – currently agricultural land in 35 acre parcels, not one contiguous owner. Derrick and Kathy Johnson – parcel 3; parcel 4 – Joy and Chain Winsalar; the dogleg is owned by Mr. Dansinger owners; off to the east is Native Springs and Ms. Limer but they all access through CR 210. Below where the road comes down through, that is the access easement for Hybargers and that's where the access easement stops. Same thing with Mr. Dansinger goes to his property and then stops. Then Mr. Latham and Mr. Combs. No access easements will be done away with.
Commissioner Houpt – that discussion is 12 feet versus the 20 feet.
Michael – no houses are built currently and it is used as agricultural ground.
Lois Hybarger asked Don said she has the organization meeting and ByLaws of the Tripe C Water Users and the documentation and shares that were allocated to each of us as landowners when this was established. Fred has a copy. Wanted to be very clear about, Jim and Lois own Section 11, which is the end of the easement recorded 12-19-2003; and Commissioner Houpt had mentioned and it concerned her, if the Fire Department and the Fire Districts of the City of Rifle, creates any adjustment to the width of this road, according to the easement either the width or the development of this road, we are responsible for any of the fees incurred in the development of this road.
Chairman Martin said she would be if they are part of that homeowners association of the lots that are being created.
Wayne said that Jim and Lois are not.
Lois - So any activity occurring on Wayne's development would be a cost even though her property easement goes directly through this.
Chairman Martin – as far as dollars it would need an agreement with him to spend your dollars.
Don – she's under no obligation to do that, but could.
Lois – to say she's under no obligation by having a document that says I am under obligation to maintain and to do as he wishes to get to my own land is she walking into something that she shouldn't here.
Don – the requirement we've been discussing is 12 versus 20 feet and whatever conditions the Board of Commissioners applies is between the County and the developer. If they impose that on the developer, then it's the developer's obligation and you would bear no responsibility for.
Wayne said what Lois was talking about and should make sure she is aware and clear, is that if the BOCC say 20 feet, then they are the ones that have to do that, but Lois was under concern about the road agreement that says once the road is in place that yes, she would have to pay to help maintenance the road.
Kenneth Latham – lives on the south end of this property and has an irrigation ditch that runs through the east side along the road. They put a dual pipeline in, now called the CCC and would like somewhere in writing that he has an easement to maintain that and also if any damages occur from their negligent or construction that they would be repaired at their costs. He can show them within 10 feet of where his pipe is. SCS put it in and they followed the old existing ditch line but no fence line. It varied and cut corners to save as much as possible. Would like that in writing.
Michael – they are happy to provide the easement but they don't feel they should have to provide the survey.

Chairman Martin – not asking you to but to just put it on the plat that there is an easement there in a certain width that is allowed for maintenance. Mr. Latham will work with the developer to identify the location and layout of that particular pipe.
Michael asked if there was an expense, then it should be Mr. Latham's.
Don said one of the Board's requirements is to show all rights of way and easements on the plat and it is your obligation to portray the easement.
Commissioner Houpt asked if this was an added Condition.
Fred said not for that particular easement and could add that as a condition.
Dale Combs – 1631 CR 293 – owns property south and on east edge of CR 293 and the same as Kenny Latham only his pipeline comes down the western edge of the property and Wayne did touch on a little bit, but for clarification his pipeline is on the full western edge of his property and it originates on another piece of property just north of Lot 2 and then it comes down along the side of that property and across the corner of the lower lot. The pipeline is within an existing roadway with the inside of a fence that accesses that upper property. He would like the same agreement to maintain and repair and if they do tear it up repaired at their expense. Dale will show it where it is; he and Wayne have met and looked and discussed it, but he wants it on record. Also another concern is his 60' roadway and his house is located on the NW corner and accesses his home on the 60' access. With the prior owner of this property he had a question about the access and before a whole lot more development, would like this resolved before the final say is done.
Commissioner Houpt since there's more than one ditch easement wondered if we needed to be more general.
Wayne said they were made aware of this that there was a dispute as to Mr. Combs has legal access; they do not feel this is an issue to us and are basically in agreement to settle the issue now so that it does not become one of those issues that keep going; he probably has the ability to proof through adverse possession that he has this access and his access would probably have to be proved that he has it on the east side of that 60 foot access, but they want to get this resolved and it is not going to be an issue. The only concern is whether he needs to be or does not need to be a part of the road maintenance agreement and paying his fair share of the future maintenance, not of anything the board would require of them just the same as everybody else. That's basically what they told him they would already do and if there are other legal issues that may or may not be of issue then that would to the attorneys to resolve. Also his mother is at the lower end. Wayne said on his easement, once they were made aware of it on the irrigation side, it's always been his understanding that once there is an easement already there, it makes no difference whether recorded or not, but they want to get it recorded so it is of record. The old ditches were above ground and you could see where the water was, but now both irrigations systems are underground which makes them extremely difficult to locate. We have no problems creating these easements, already under obligation if we tear something up, if we get the easement established and the pipe is within that easement, then we have those problems, but for some reason that pipe is not in the easement, then it would become a whole different issue for repairs.
Don – Wayne has hit on exactly the issue he's concerned with and that down the road someone else develops this property and breaks that irrigation line because it's not in writing.
Wayne – it is probably 6 – 7 feet down and shouldn't be an issue for plowing, the reason is we is because the pipe is so deep, but in the particular reason they ended up getting it was because the pipe being so deep to make sure there is adequate drainage to dry the hole up to fix it and hit it. The repair of our line may become an issue of repair to his line.
Ken Latham – that is the problem now is when that ditch was put in, it was put 32" below level and when the owner came in that and started leveled he added another whatever it is but that ditch and the pipeline is under 32" of dirt originally and that's the reason why it needs to be established because it might be 7 feet there but only 24" at the other end. He knows within 20 – 30 feet of where and can show the shallow parts. He can identify.
Don said he thinks they can agree on a location for an easement. If that easement can be located, the responsibility for damage to that would lie with the individuals who break line because there's actual notice of the location of the line, but it the pipeline doesn't lie within an agreed easement then it should be the responsibility of the pipe owner.
Chairman Martin said he thought there was a GPS system to flow down through there to give you an exact lie of where it is. It is really cheap and faster to go ahead and GPS it underground and then establish a centerline off of that GPS and giving the easement to save both of you time and effort.
Commissioner Houpt – add those as conditions?

Fred suggested as a condition require them to put down where they believe the easement should be across their properties for not only these two property owners, but there may be others that certainly haven't been disclosed here today so this would only establish the ones we know about and that's it. Outside of that as far as damage and the obligation of these were yielded to Don.
Don – existing case law governs who's liable and did not think the Board should enter into that question.
Wayne said Mr. Latham's easement when they first purchased the property – the way it was presented, his line was in there – found out it was not when they purchased the property. Mr. Comb's easement, they didn't realize it was there until last Wednesday.
Don – show all easements on the plat.
Dale Combs – irrigation water – glad to see it is set up so we can use more water. Water after they irrigate; also like to make sure those ditches stay in place as is so he can use the water.
Michael said this is addressed in the AVLT and the Triple C.
Don – when do you anticipate the AVLT in place
Michael – there is something Fred gave him – the weed guy wanted to change the language.
Don – that will be addressed before recording
Fred – on the road issue – when the regulation was written, the idea for a Rural Land use you get a break on the road – 12 foot and that's the reason the road standard of 20 foot would not apply. In this case they are exempted.
Michael – this is different from the guidelines that these roads could be 12 foot.
Chairman Martin – this was one of the incentives – it is a bonus and a bonus to the people to commit 80%.
Commissioner Houpt – is the 12 foot a one lane road?
Don – defined in regulations as a single lane.
Michael – lot 6 and each driveway a fire turnaround.
Commissioner Houpt clarified that the fire department said this would work.
Michael – two cars could pass but trucks would have to back up to the nearest driveway.
Dale Combs – for something else that may help on this 60' easement that runs for 1400 feet from CR 293 to their property right now there are two roads established on the 60' easement. They are both 12' roads on the property presently. This may help on the 12' road width.
Fred said the applicant is correct, the property is flat and the surface is a 12' gravel/dirt driving surface and they're correct on the fire department making T-turns at the driveways but putting a turn around at the end where you connect to Lot 6 a good idea.
Commissioner Houpt asked if the emergency concern was the reason why Fred put 20'.
Fred – yes, we are relying on their but the Fire Department changed it to 12'. They were on-site and Fred will default to them.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to close Public Hearing; motion carried.
This is the first of our new Rural Lands Development clustering.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the application for Rural Lands Development Option for Ranch Savers, LLC with the Conditions 1 – 14 as presented by staff with the following revisions, 4 (i) like to change minimum to 12 feet in width and at the end of the sentence add "the inclusion of fire truck turn around at driveways and at the end of the road" the entrance going into Lot 6, delete No. 7 and add a new No. 14 "identify on the plat all easements of established irrigation ditches from adjoining properties". Chairman Martin seconded the motion.
Commissioner Houpt said she is very excited about this project and applauded the applicants for looking at the Rural Lands Development option and hope others follow suit.
Motion carried.

CONSIDER A SPECIAL USE PERMIT TO ALLOW THE CONVERSION OFO A SINGLE FAMILY DWELLING UNIT TO AN ACCESSORY DWELLING UNIT FOR ANTHONY AND THERESSA GIGUERE PERRY – JIM HARDCASTLE

Jim Hardcastle, Don DeFord, and Gerald Gates were present.
Don reviewed the noticing requirements for the public hearing. Gerald Gates stated he did not notify the Forest Service and they abut his property. Don advised with the exception of the Forest Service the notices were timely and adequate. Chairman Martin said anything that occurs in Sweetwater is generally known.
Commissioner Houpt asked what kind of impact it could have on the Forest Service.
Mark Bean – Mr., Perry would go forward at his own request and if there is any problem it would be Mr. Gates risk.

The Board acknowledged the risk and Mr. Gates accepted it.
Chairman Martin swore in the speakers.
Jim submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; and Exhibit F - Staff memorandum.
Chairman Martin entered Exhibits A – F into the record.
Jim reviewed his staff memorandum for a SUP to allow an Accessory Dwelling Unit (ADU) on 126 acre parcel located at 3412 CR 151.
The proposed ADU is existing and was constructed in 2002 as a recreational cabin and meets applicable Garfield County Building Code Resoltuion Section 106.2 and 219. The proposed ADU was then converted to a Single Family dwelling unit in 2003 by obtaining all necessary building permits passing final inspection and obtaining a Certificate of Occupancy.
The applicant would like to build and designate a new Single Family Dwelling unit and

RECOMMENDATION

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

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. A Building Permit for a Primary Dwelling Unit shall be applied for and construction of said structure shall commence within 180 days of the issuance of the Special Use Permit which itself is only valid for 120 days from the date of issuance as per Section 9.01.05. If the Applicant does not finish construction, the Building Permit is revoked, and the Applicant does not eventually receive a Certificate of Occupancy for the Primary Dwelling Unit, then this Special Use Permit shall became null and void.
3. Prior to issuance of the Special Use Permit all information pertaining to the capacity, size and installation date of the ISDS for the Additional Dwelling Unit shall be submitted to the Building and Planning Department.

Gerald Gates thanked the Board for their time and effort and no problem unless there is an impact on the lack of notification.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve with the conditions presented by staff. Motion carried.

Greyhound Bus Terminal

Mark received from the City the revised Greyhound Bus Terminal application and their regulations allow someone to submit information pending a hearing. The hearing is scheduled April 23; there have been some slight revisions in terms of the terminal location and removal of parking spaces. All that is staying the same. Access from the West will come off of the West Glenwood Springs Interchange but the access coming off the east will come in across the bridge come back around and somehow will then go back to the west and they have a route to go to the Amtrak Station.
The staff provided comments to the City already. The Board wanted to remind them they need to address the 8th Street access. The response is they are recommending approval from a staff level and the County's staff recommendation is that even though our 7 parking spots are being eliminated, they feel those can be accommodated by putting them further on down by the fence which Mark will advise them is not acceptable and that we'll have to reassess our position in terms of how we're going to do with this parking lot.
Commissioner Houpt has already informed them we will have to take spaces back in the Pitkin and 8th Street Lot. They requested Mark to make that comment.
Chairman Martin said to tell them we will go ahead and terminate our IGA in reference to our Parking Facility and that it will revert back to Garfield County.
Don asked if the Chair should be authorized to sign.
Commissioner Houpt wasn't sure we had decided to terminate our IGA and would rather just take back those 7 spots and keep public parking.
Mark asked if we had to terminate the IGA in order to take back the 7 parking paces.
Chairman Martin wanted a motion to terminate the IGA with the City of Glenwood Springs.

Don asked if communication with the City, should the Chair be authorized to sign this letter to the City stating the County's position regarding the project.
Commissioner Houpt agreed and wanted to outline that position so that we know what's being presented.
Mark read what he had sent them in terms of comments:
"The proposed facility will result in the lost 24 of the 33 (the City debates it and thinks it's only 21); 7 lost parking slots for County vehicles and the remaining 17 for the general public. Garfield County has 2 and has an Intergovernmental Agreement with the City regarding the use of the parking lot at 8th and Pitkin Avenue; the proposed agreement with Greyhound violates the IGA and will result in the County having to change the parking restrictions at the lot at 8th & Pitkin to accommodate the 7 County vehicles facing lost as the result of the Greyhound Bus Station relocation. The inclusion of large busses in the downtown area will create conflicts with the traffic in the area, the turning limits of the busses on Colorado Avenue and 8th Street to not appear to be possible without crossing into on-coming traffic lanes. (Which I still don't think they are for – there's no way the bus can turn onto 8th Street doing a right turn if there are people turning left onto Grand Avenue off 8th Street.) The lost of all day downtown parking comes shortly after the City Council and the Board of County Commissioners had been discussing the restriction at 7th and Colorado to 2-hour parking, the loss of the 24 spaces to the west of City Hall was not included in the discussions and does not appear to have been considered when reaching this agreement with Greyhound which is still being ignored here. Garfield County would like to know what the City's plans are for replacing the all day parking in this location; loss of the parking spaces will create an additional parking conflicts with the GAPP project when the GAPP project starts and County Engineering and County Road and Bridge staff question whether the surfacing of the parking lot will hold up over an extended period of time with the bus traffic on it. (Which the City Engineer does question, you note there is a potential for deterioration where the bus will go across that although he doesn't feel there will be significant impact for areas other than that, so they are going to hold them responsible for that.)
Commissioner Houpt was impressed with the letter.
Mark can add to it and enhance it and will put it in letter form for the Chairman's signature.
Commissioner Houpt asked Mark if he could just add to that paragraph that talks about moving 7 spaces back to this parking lot saying that would require us to ….
Mark – said he planned to say the 7 spaces proposed by the City Engineer along the fence line not acceptable and the County will have to move them back up to the 8th and Pitkin Avenue lot.
Commissioner Houpt made a motion that the Chair be authorized to sign the letter as written by Mark.
Chairman Martin second. Motion Carried.
The next meeting is April 27th and Commissioner Houpt will plan to attend.

PUBLIC MEETINGS

CONSIDER A RECOMMENDATION TO THE COLORADO DEPARTMENT OF HEALTH, WATER QUALITY DIVISION REGARDING A SITE LOCATION APPLICATION FOR A WASTEWATER TREATMENT FACILITY, FOR THE RAPIDS ON THE COLORADO. APPLICANT: THE RAPIDS DEVELOPMENT CORPORATION – MARK BEAN

The applicants have verbally requested the application be re-agenda for May 3 in the afternoon. Staff will contact them to make this request in writing due to the 60 days timeline to respond.

Adjourn

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to adjourn; motion carried.

Attest: Chairman of the Board

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APRIL 30, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The SPECIAL meeting of the Board of County Commissioners began at 8:00 A.M. on Friday, April 30, 2004 with Chairman John Martin and Commissioners Tresi Houpt present and Larry McCown on the telephone. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Social Services Director Lynn Renick and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 a.m.

CORE SERVICES PLAN – WORK PLAN
Don explained that today the meeting is being held to have Lynn explain the Core Services Plan and that authority for the Chairman to sign and authority for the other signatures of the participating Counties.

The Commissioners went through the plan and Don called attention to the basics of the plan and the changes from the past year.

Lynn explained that the total on the plan is the $546,724.49. On the Chafe Foster care, to make things more complex, operate on a fiscal year so those numbers won't go into effect until October 1, 2004. Also noted was the Youth Care worker salary – they put in for 25% of the salary and that will be $10,763 is not set and they are not anticipating to receive this.

This is the first year to have an IGA in place. The reason we are doing this is because of the various provider contracts we will be entering into, more than just Colorado West this year.

Lynn has a meeting with the other three counties, a follow up; there is already a verbal agreement with them in terms of continuing this. Another reason for the IGA was for the Board of County Commissioners to enter into separate provider contracts as the fiscal agent to avoid having all four boards to get every single provider contracts signed because it will be multiple contracts this year.

Commissioner Houpt clarified this year the IGA is to take us to another level so these different contracts will be entered too. She also clarified that none of the other counties will be pulling out of this.

Lynn will be having a meeting on Monday specifying that the grant signature authority will be maintained with Garfield County BOCC for execution not only of the Core Service Plan but also each individual provider contract, so right now what we have is a fee schedule for White River Counseling for both mental health and substance abuse, a proposed fee schedule for Colorado West and being finalized is a fee schedule for Child and Family Counseling Services. The provider contracts will provide us flexibility (there might be other providers within Summit County; Pitkin usually works specifically with Colorado West).

Lynn explained that Garfield County is the fiscal agent only and these will be independent contracts and we'll be administering and paying for the services to the individual clients that are served from those three providers for all four counties. We are the one holding the papers.

Don clarified that the cases would be more generic and not on a case by case basis. In terms of the individuals receiving service, Garfield County only makes the decision of who that client will see if it is a Garfield County client.

Lynn explained that it's specified in the IGA where the responsibilities will be to work with the provider to work with the individual clients and services, get approval and then counties will meet on a regular basis to look at the monitoring of the contracts and the funding levels. For the Board's information, we are sitting on two very different fee schedule proposals and Lynn said with the other five counties, Colorado West has

agreed to a fee schedule much less than what they proposed us. White River is basically the same as what we're anticipating, therefore there will be some negotiations going on.

Don commented on the IGA in paragraph number two, there needs to be a sentence added to the this paragraph and we will require that each of the participating Counties including Garfield County will take any necessary action to ensure transfer of their funds to Garfield County. Once these agreements are signed and in place the funds should come directly to Garfield County; this is just in case something happens that never has before, this would require that the Counties cooperate with us.

The payroll for Core Services will go out on a monthly basis from the State based on what our input is into the system and again the other counties are going to be responsible for putting in their own individual clients and their services. It will increase our monitoring and management departments and responsibilities for Garfield County. The change is that it's more on a reimbursement system than it is a flat 1/12th rate anymore.

Core Services Plan

A motion was made by Commissioner Houpt to approve the Core Services Plan for the Department of Social Services for the period June 1, 2004 through May 31, 2007 and authorize the Chair to sign. Commissioner McCown seconded; motion carried.

Eagle, Garfield, Pitkin, and Summit Counties - IGA

A motion was made by Commissioner Houpt to approve the Intergovernmental Agreement between Eagle, Garfield, Pitkin and Summit Counties concerning joint cooperation for Child Welfare Substance Abuse and Mental Health Core Services with recommended amendments in paragraph two and authorize the Chair to sign. Commissioner McCown seconded; motion carried.

Human Services Building

Ed participated in the discussions last night with the City of Rifle regarding the alternatives in terms of sighting our new building and an outcome of that is that the City of Rifle endorsed our placement of the building at the Fairgrounds location and they also asserted that they would do everything possible to affect the move of the ballfield to their Deerfield Park sight and would entertain the idea of sponsoring funding for that move but they did not specify the amount. We are having a meeting; Don will participate, with Rifle staff to work out details but one thing they asked and will ask on Monday is if the decision can be delayed one week so that the Commissioners and the City Council can come together and discuss it face to face. Ed asked if the Board was willing to sit down and meet with the Council on this issue and what would be the purpose of our discussion on Monday if we were going to do that?

Chairman Martin – just to tell people we were going to sit down and talk to the City of Rifle because of our approach.

Commissioner Houpt felt we should bring in the School District for that discussion as well if we're going to invite the Board of Education to join us.

Commissioner McCown suggested including the Field of Dreams people as well. They are 1/4th of the funding mechanism.

Tuesday evening, May 4th was suggested or Monday, May 3rd at 6:00 p.m. at City Hall in Rifle or at the RE2 building.

Commissioner McCown said even though it's our facility, is there any need to involve the Fairboard in this as it's clearly going to change the long term structure of the Fairgrounds as we know it know, i.e. the long term integrity of the race track will be gone should this be the chosen site. Historically there have been horse races involved at the Fair and that will be a function of the Fair or the facility that will go away.

Ed said the FairBoard is only focused on the Fair. The Fairgrounds Board that was disbanded and it would be a Commissioner decision.

Commissioner Houpt said anyone is allowed to come and speak; this is elected groups coming together and discussing the future of property owned both by the City and by the County.

Commissioner McCown – the Field of Dreams people are truly participants and expected to pony up a significant amount of this money. If we don't want them to contribute and Rifle is going to step up with their share of the money, then they don't have to be at the table.

Commissioner Houpt – the Field of Dreams people don't even know at this point whether they'd be able to transfer the money to a different site.

Commissioner McCown noted this is a significant point of discussion at the meeting that they should be at. That deficit they would create by not being able to transfer that would be a critical point of discussion.

Ed said other points of financing and related to Gary Pack, he indicated there is not budget this year for that ballfield but they could budget for it in 2005 and one or the other organizations may have to fund the money and get paid back in the ensuing year.
Commissioner Houpt suggested we could enter into an IGA to accomplish that.
Don said the County cannot loan money, that's a Tabor violation. There may be ways to work with that but that well take some time.
Commissioner Houpt – they may make certain improvements in the next year that are put on hold.
Jesse said this is a commitment for future payment; the grandstands could be delayed for a year and let them pay for something like that.
Ed – the City of Rifle is choking on this from a financial standpoint so this will be an issue as well.
Tim Arnett and Randy Withee did some research on fields that have been built recently in adjoining counties and estimated the cost of the ballfield to be at $450,000. The Rifle Parks concurred with that figure last night.

Adjourn
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

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MAY 3, 2004
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 3, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

- ***Agreements with Gallagher Benefits Service – Carolyn Dahlgren***

Carolyn Dahlgren submitted the letter from Don R. Heilman, Area Vice President with the Disclosure Statement/Acknowledgement describing the fees and commissions related to the Garfield County plan. There are three documents being requested for the Board's signature.
Carolyn explained in detail the contracts. This was reviewed with Jesse and Judy prior to bringing this to the Board. There is now a HIPPA document included; otherwise the Plan is the same as last year. This is different that the SIGNA contract that will be before the Board at a later date. Carolyn asked that the Board be authorized to sign two of the three documents today and that we will hold off on the third one until Carolyn finishes talking with our broker and with the lawyer in Chicago.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chairman to sign the Disclosure Statement/Acknowledgement Gallagher Benefit Services, Inc. Motion carried.
Commissioner Houpt made a motion that we authorize the Chair to sign the execution of plan (HIPPA doesn't require signature by the Chair) for the Garfield County flexible benefits plan. Commissioner McCown seconded; motion carried.
Commissioner Houpt made a motion that, pending determination from the various legal departments on the paragraph on contracting on an annual basis, we authorize the Chair to sign the Gallagher Benefit Administrators Administrative Service Agreement; Commissioner McCown seconded; motion carried.

- ***Solar Power/Harvey Gap Communications Site – Dale Hancock and Tim Arnett***

Dale and Tim presented the power system for the Hogback Transmitter Site explaining their recommendation. After reviewing the various specifications for a distributed power system for the radio tower near Harvey Gap, it is in the best interest of the County to install a hybrid power station. In a "hybrid" distributed power application, a solar electric system is combined with a propane generator to provide true redundancy. Both the solar panels and the generator work to fill the power "reservoir". The reservoir is the battery bank. If either the generator or the solar system fails, the other can serve the load independently on a temporary basis. The installed cost will run between $35,000 and $40,000.
Dale reminded the Board that he had requested about $120,000 earlier. He would rather have electric lines there but it is not feasible there and asked the board to approve this or to allow him to unhook it. Electric line versus solar power would have the benefit of bringing more users on it. Since we have the money in capital he would like to do it now.
Commissioner McCown with the changes in the Homeland Security there may be some sites needed and possibly some funds from that source.
Dale requested to turn the electricity off at the site and a propane backup source once the solar is installed. The debate about the safety since the Oklahoma. This was not in the budget this year and would require a budget amendment.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to move forward with the bid process on the solar power/hybrid distributed power application i.e. propane backup to the solar battery power unit at the Harvey Gap site. Commissioner McCown amended the motion and in a not to exceed amount of $40,000. Commissioner Houpt seconded the amendment. Motion carried.

- ***Discussion of Rents within the County – Jesse Smith***

Jesse Smith said we've been allocating rents and the reason was to maximize the rent on Social Services. The Auditors have disallowed it even though the statutes say you can. Jesse suggested the method to do this. We will reduce the amount the load the general fund is carrying and let the capital pay the interest and principle on this building and on the jail instead of the general fund paying that principle and interest. This meets the GASBY. Ed said there is over $7. million in fund balance. This project we're going to talk about today is estimated at $2.5 million and hopeful we can get, with the sale of Taughenbaugh and with the DOLA grant money all about $1.1 - $1.2 million, so that will take us slightly below $6. million as far as fund balance is concerned. The anticipated hit on capital from the anticipated projects that we have committed to include: $1. million for the Airport but this is likely to be delayed until 1006. We're in real good shape basically. The beneficial impact is that the fund balance in general fund will jump up from $3. million projected year end balance to about $4.5 to $5. million.

This means we will not be charging rents from the departments except for Road and Bridge because they have their own building and his own fund. The Road and Bridge portion of rents is about $350,000. Their projected fund balance is $4.5 million but Marvin has affected some savings on purchases and it is probably more like $4.8 million.

Commissioners McCown said it's just as important for the Road and Bridge to have a healthy fund balance and would prefer to see all of the rents come from the capital fund.

Jesse reminded the Board that a lot of new equipment, over $5 million worth and that's aging and it will have to be replaced and you can't afford a $5 million dollar hit.

Commissioner McCown made a motion that the existing expenditures that have been i.e. rent on facilities that have been charged to the general fund now be transferred and charged to the capital fund. Commissioner Houpt seconded.

Commissioner Houpt asked if this would be different for Social Services.

Jesse said that would be indirect cost allocations which we do on everything else anyway. Motion carried.

- ***Purchase one 2004 Ford Freestar Seven Passenger Van for Road and Bridge Motor Pool for use by Social Services – Marvin Stephens***

Marvin Stephens and Tim Arnett presented the recommended award for the purchase of the seven passenger van to be used by the Social Services Child Welfare program to transport children. Two bids were received and the low bid was received from Western Slope Ford for a not to exceed price of $22,219.00.

Tim said the other van they had, had over 130,000 miles on it. This is a replacement. Discussion was leaving it at Rifle shop for whomever on the spur of the moment. It doesn't have a lot of value for trade-in.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the purchase of one 2004 Ford Freestar Seven Passenger Van for the Road and Bridge Motor Pool for use by Social Services Child Welfare Program from Western Slope Ford for a not to exceed price of $22,219.00; motion carried.

COUNTY SHERIFF UPDATE: LOU VALLARIO

- ***Proposed Garfield County Wildfire Plan***

John Dennison, Lou Vallario and Dave Silvius were present.

Lou presented the proposed Fire Plan for Garfield County request for assistance by the Colorado State Forest Service. They have had extensive experience with major wildfires in Garfield County as well as the training, equipping, and organizing of the fire departments in the county. Additionally, CSFS coordinates the wildfire annual operating plans between the county and federal fire agencies. Kelly Rogers, Acting district Forester for the Grand Junction District of the CSFS will be the project manager. Kelly has extensive experience in fire suppression, GIS wildfire hazard area designation as well as running fuels mitigation projects and other county fire plans funded by the National Fire Plan. The Title of this plan will be ***Garfield County Wildfire Plan.*** The assessment plan will have multiple facets including BLM and USFS fire management polygons; a wildfire hazard assessment of all lands within the county based on fuel hazards and values at risk; private lands infrastructure (homes, gas & water wells, power lines, etc.). There will be several analyses done utilizing the listed facets and will include private lands with high fuel hazards adjacent to public lands; private lands with infrastructure improvements adjacent to public lands, and wildfire suppression strategies and opportunities for coordination between federal and private lands. Lou mentioned the other notable descriptions of the projects. In summary, Lou said that Garfield County has used the state Emergency Fire Fund (EFF) eleven times, more than any other county in Colorado with the exception of Larimer County. Millions of EFF dollars, State Contingency funding and FEMA reimbursements have been spent in Garfield county as well as millions of dollars of federal money spent on

federal land in conjunction with these private land fires in the last twenty years. All of the major communities in Garfield County are on the federal register as "*communities-at-risk.*"

The methods will include the GIS layers being created and agreements, state law analysis, wildfire history in the county, and individualized private lands analysis using existing data, proven skills and records existing on the Grand Junction District of the CSFS.

Lou said the anticipated completion date will be one year after allocation of funding.

John Dennison showed the Commissioners the Mesa County Plan.

This is being proposed to be funded by BLM for $18,000 and it will not be a cost to the County but he is requesting a letter from the Board of County Commissioners Garfield County in support of this fire plan. Sheriff Vallario has written a letter; they are meeting tomorrow at the state level to decide who gets the money for fire plans this year. With the Sheriff's letter it will help us and even though a letter from the Commisisoner might arrive late, he's been assured that Garfield County is a high priority simply because of the occurrence in the past. The pot is somewhere in the neighborhood of $100,000.

Dave Silvius, District Ranger, White River National Forest, Rifle said one real advantage to the Federal partners, once this is in place we have an expedited on and is part of the law that was passed. If the plans are in place, they can move more effectively – the public involvement part, the Counties and when the communities and the County are on board, they can move without delays.

Lou explained the benefits not only to the Sheriff but to the citizens as well.

Dave explained the County still needed to go through the process. If you can go through a check list process and make sure you fall into that category, you can document this process and move quicker.

John – the big frustration they had in doing fuel mitigation on private lands is when they have adjacent Federal lands that also have a severe fuels problem and they can act quickly on private lands but BLM and US Forest Service many times we're two or three years out by the time they get through they NEPA process – this really hurts.

Don said a motion should be made for the grant support for $18,000. Commissioner McCown so moved. Commissioner Houpt seconded; motion carried.

- ***Prisoner Transport Van***

Lou said 1 ½ they had 3 transport van and last year's budget didn't include 3 but now they need it. Rifle has increased court dates. Suggested the small van already in the fleet and this was going to the Landfill. They have a new van; the smaller van is the better way to go.

Jesse said the landfill moves inmates from Rifle to work everyday. We have budgeted for and replaced the Windstar – in talking with Lou, he needs the 3rd van.

The landfill has a 12 passenger van and that's the only use – Landfill to Rifle Correctional

This means we would not be selling one van. Has 138,000 miles and will be restricted from Landfill to Rifle.

Public Safety Council

Lou provided an update. He requested to wait until next meeting to give a formal report.

COUNTY ATTORNEY UPDATE – DON DEFORD

- Executive Session: Litigation Update; Legal Advice

Use of property at Fairgrounds, Legal advice acquiring and use at the Airport, updates on Litigation DDA, potential with SOS and also negotiations with Glenwood and RFTA. Legal of the Section on zoning on the Telecommunications coming this afternoon 24-06-02-(1)(b). Don said he needed the Board, Jesse or Ed, Mildred, Carolyn and himself for the session.

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

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

COMMISSIONER REPORT

Commissioner Houpt – Housing Trust Fund Meeting on Wednesday and Rural Resort Meeting on Thursday. Last week was the State of the Valley Conference which was very good and the folder will be put in the basket. Healthy Beginnings Meeting and reception for HB on May 24 here from 9 – 11 a.m. to celebrate Healthy Beginnings and the transition to Mountain Family. Wanda has done a super job and Ed has as well. It's really going well. RS2477 meeting and getting very close to a recommendation for CCI, there will be a presentation at the Summer Conference on her Committee's recommendation. We've been

requested to write a letter to the Eagle County Commissioners about our support for the Bair Ranch Conservation Easement. It goes to the Commission on the 11th.
Commissioner McCown – Thursday, met with the Senior Advisory Council at the Senior Center, Deb Stewart continued talking about Transportation Issues they are having; Meeting tomorrow evening at 5:30 p.m. with the City of Rifle; Wednesday and Thursday will be in the Browns Park Area with Northwest RAC doing a tour of the Vermion Basis Browns Park area and then Thursday, is the Northwest Resource Advisory Council to be held at Ladora Hall in Browns Park in Moffat County; Friday night doing an art auction for the school at Creek Bend; and next week CMC Ground Breaking next Monday night; Pitkin County Meeting Noon May 11, 2004 at the El Jebel Community Center; Coal Conference on Thursday and Friday.
Chairman Martin – Interview on the radio with MPR on Roan Plateau and status of advice given to the BLM and cooperating agency in Grand Junction tomorrow; couple of meetings with Emily Griffith in reference to Jim Connor, a fund-raising issue on Saturday; followed up by sitting with the 50th anniversary for the Rifle Chamber of Commerce on Saturday evening; and JCC with Rifle at 5:30 p.m. on Tuesday with the City of Rifle. Energy Advisory board will meet in Rifle on Thursday the 6th at 6:00 p.m.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Human Services Grant for United Way
f. Liquor License Renewal for Aspen Glen Golf Management Company – Mildred Alsdorf
g. Authorize the Chairman to sign the Department of Local Affairs $25,000 Code Re-write Contract Amendment – Randy Russell

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

REGULAR AGENDA: PUBLIC MEETINGS
RECONSIDERATION OF DECISION REGARDING LOCATION OF THE NEW HUMAN SERVICES COUNTY BUILDING

Various representatives from the City of Rifle and residents filled the meeting room for the discussion. Lee Leavenworth, Attorney for the City of Rifle, Police Chief Daryl Meisner, John Hier, Al Lambert, Randy Withee, Mark Bean, Don DeFord, Julie Olson of Advocate Safehouse,
Ed presented a summary of the meeting with Rifle regarding the Human Services Facility.
Chairman Martin did not offer his statement as a tongue in cheek; his commitment is to the Field of Dreams and a very high commitment for the School District and City of Rifle.
John Hier and several members of City Council – Beth Bascom, Allen Lambert, Judy Beltman, Mayor Protem and Lee Leavenworth presented.
A Resolution was submitted requesting the BOCC to re-discuss this issue with them. A suggestion was made that perhaps we could take a look at locating the Human Services facility. Rifle staff scrambled to see how this could be done, special meeting last week, met with Garfield County, and several motions made by City – 1) support Cooper Field, 2) contribute to moving with negotiations, 3) support meeting with other entities – school districts and the Field of Dreams – proposal Ed presented. Moved hurriedly but all came together and Rifle believes this is a workable solution and one that City of Rifle will be discussing in a special meeting. Haven't had an opportunity to discuss this proposal. Asked the BOCC to meet and perhaps join tonight at City Council to discuss these concerns. Monday, 5:30 City of Rifle versus Tuesday, School Board.
Ed said the County scoped out a work schedule. Rifle – Rifle take the lead on the ball field, select a contractor, city holds the paper. Two phases: Phase I – City of Rifle for $300,000. Phase II – School District to be in charge of the enhancements. School District provides lights in 2005 for $100,000 to 150,000. The additional funding – Rifle to pave 30th Street plus associated parking - $570,000 and pay $150,000 for the project. Rifle has offered up as a concession to rescind a small DOLA grant.
The County provide $150,000 based on the decision by DOLA we can recoup some of the money.

John Hier, Ed and Tim discussed – Tim wants this to be a community initiative and will allow his committee to consider an increase from $800,000 and $1,000,000 and Rifle and county share the incremental cost between this $200,000.
Rifle agrees to lad use issues: split faced block façade similar to City Market; Landscaping with trees and other traditional landscaping; primary access on to 14th Street. Water off 14th or Howard with a link with new main. Administrative Review – 45 days with site plan review, access reviews, floodplain 500 year; water sewer drainage, curb, gutter sidewalk, widen roadway and inspections wants a building permit issued and City does the inspections. Turn dirt November 2004. School District and City joint use – City and County agree on an accelerated review – 30 day from beginning to end – IGA with 3 parties with School Board, City and County – can accomplish this by the 1st meeting of June.
John Hier – the outline was what was discussed was basically. The City of Rifle Council hasn't seen it.
Lee Leavenworth – staff is recommending to go forward on this proposal and thanked the County in working. The primary criteria were to get a ballfield in place by February 2005 and this can be accomplished. Don DeFord and Lee agree that an IGA is possible.
Dr. Pack, School Board – work session tomorrow evening; looking through the proposal, they have known they only had a lease and concur the possibility of moving to Deerfield Park. Pricing out, no money to fund, enhancements, has reservations, committing to their dollars, Rifle is committing to DOLA funds and thinks more discussion - $250,000 and $300,000 – just priced the lights for Coal Ridge High School. If this is done over a 2-3 year period, due to budget it would be better.
School Board president – needs to find a different field. Investing in the Cooper Field if they have the money. Field of Dreams said they have planned some grant writing for the future. They will be at the City of Rifle meeting tonight.
Chairman Martin said we must be sure they can play baseball in Feb. 2005.
School District appreciates working with the BOCC on this project.
John Scalzo mentioned, without disrupting, you have a building available and never talked about – this building is big enough – go inside to remodel. Columbine Market. He didn't feel the BOCC is looking at the entire benefits.
Chairman Martin did look at the Columbine Market. The Family Dollar Store in doing something on one side.
Debbie Wilde – Youthzone – Baseball is very much involved here and feels the RE-1 school district and the City work together on this and how to phase in. Still no lights here at the ballfield in Glenwood Springs, but they do play ball.
Allen Lambert – thanked the BOCC and watched the progress on Friday. This can be a win win situation. Need a new ballfield and can keep the Human Services Building with in the City limits of Rifle.
John Scalzo – Jail – the Airport was not good enough for the jail, why is it good enough for this building?
Beth Bascom – great to be working with the City
Damon Wells, Baseball Couch for Rifle High School. Summer baseball is part of what these kids do. Baseball is a huge component.
Ed assured Damon that the ballfield nor the Fairgrounds would not be disturbed this year.
Al Lambert said if this works out, the new field should be in place by the February baseball season.
Damon – asked if some baseball field people could be involved in the planning of the sod used.
Judy Smead – Field of Dreams – concerns – summer program and be ready for Feb for 2005. She wanted to make sure the sod was done by someone who knows about soil; she also reiterated they are trying to write grants. It would take a long time to sell hot dogs and would need to acquire grants. Like to have support in a letter form, School District, City, letters of support.
Continue this discussion until 5:30 P.M. at the City of Rifle with the School District, Field of Dreams and other interested parties.

PUBLIC HEARINGS:

LIQUOR LICENSE – TRANSFER OF OWNERSHIP. NICOLE SOUKUP, D.B.A. VALLEY LIQUORS – MILDRED ALSDORF

Mildred Alsdorf, Nicole Soukup and George Soukup were present.
Chairman Martin swore in the speakers.
Mildred said this is noticed public hearing; it was posted with a legal sign and is a transfer of ownership from Julie Wernsman to Nicole Soukup doing business as Valley Liquors.
Chairman Martin accepted the notifications and proof of posting.
Exhibit A – Public Notice

Exhibit B – Application
Exhibit C – Purchase and Sell of Assets
Exhibit D – Certificate by the State of Colorado for Corporation
Exhibit E – Petitions for and against
Chairman Martin admitted Exhibits A – E into the record.
Mildred ran the records through CBI and there were no problems, she also has the individual histories. George will be the manager; same hours 9:30 to 10 and carry on the same mode of operation as Valley Liquors.
Mildred talked to the Sheriff's office and there were no problems. The site inspections have been completed.
A motion was made to close the Public Hearing by Commissioner McCown and seconded by Commissioner Houpt; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to transfer the ownership of Valley Liquors to Nicole Soukis; motion carried.

LIQUOR LICENSE – CONTINUED PUBLIC HEARING – SPECIAL EVENTS LICENSE FOR CARBONDALE COMMUNITY CHAMBER OF COMMERCE – MILDRED ALSDORF

Randy Louenthow and Mildred Alsdorf presented. Mildred submitted the Special Events License for Carbondale Community Chamber of Commerce.
Randy said this is an annual event CRMS Barn, Saturday 6-12 – Samples of foods – Man and Woman of the Year – dancing, Rodeo. They will be checked ID's; committee has rules and regulations – on duty personnel checking Ids'. The Barn is enclosed, making it easier to keep track of the people.
A motion was made to close the Public Hearing by Commissioner McCown and seconded by Commissioner Houpt; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the special events license for the Carbondale Community Chamber of Commerce; motion carried.

PUBLIC MEETING: ABATEMENT:

JOSE LUIS M.D. AND VIRGINIA SHARON RODRIQUEZ – SHANNON HURST

Shannon Hurst submitted the abatement stating that this was for tax year in the amount of $1,038.41. This is a lot next door they use for a garden, a driveway, etc. and can give the residential rate. If they use a vacant lot in use with residence. Jack did an inspection. Shannon said the statute is very loose.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to abatement for Jose Luis Rodriquez, M.D. and Virginia Sharon Rodriquez for $1038.41 for tax year 2003; motion carried.

PUBLIC MEETINGS:

CONSIDER A REQUEST TO RECEIVE PASS THROUGH FUNDING FROM THE COLORADO DEPARTMENT OF LOCAL AFFAIRS FOR PRELIMINARY ENGINEERING NEEDED TO ESTABLISH A LOCAL IMPROVEMENT DISTRICT FOR THE EXTENSION OF WATER AND SEWER SERVICE IN THE CMC/HWY. 82 TURN-OFF AREA – BOB PENNINGTON, SCHMUESER GORDON MEYER (SGM)

Bob Pennington and Mark Bean were present.
Bob submitted a letter to Mark Bean regarding the "CMC Turnoff Group." The memo stated that Bob has been in touch with Integrated Water Services, Inc. (Jeff Thomas) and they have begun the initial investigations for funding with Local Affairs. It seems possible that some grant monies are available, $10,000, to fund the preliminary engineering efforts needed to establish a Local Improvement District (LID) and extend the major water and sewer infrastructure to the participants in the CMC Turnoff area. However, in order to receive the grant funding, the sponsor of the LID, Garfield County, must receive and distribute the funds once the preliminary engineering starts. SGM will perform the necessary preliminary design engineering and will provide assistance regarding the issuance of Bonds as Assessment Engineer. Contact has been made with Dee Windsor, Sherman & Howard, Bond Counsel and Dan O'Connell, Stifel, Nicolaus & Company, underwriter previously.
There has been a major holdup regarding the formation of the LID because no one participant has been willing to provide the upfront funds needed to initiate the LID. Rick Broadhurst, Mountain Meadows Court Mobile Home Park has previously paid for the majority of work performed in the past four years, together with some funds provided by BMC West. The Roaring Fork Water and Sanitation District will ultimately own, operate and maintain the infrastructure constructed as part of the LID.

This is basically to support funding for DOLA funds. Mark spoke to Tim Sarmo, out of cycle funds and they can use for special engineering needs. The important thing is that it would be County project and we would be seeking funding for it. There may be a need for matching funds.
Bob Pennington, Engineer with Schmueser Gordon Meyer, said he has been working with the CMC Turn-off folks since 2002. Fixing the system, joining with H Lazy F, etc. but the biggest hurdle they've had is consolidation of this group and the best long-term is to hook up with Aspen Glen. Roaring Fork is not accustomed to where they have between 100 to 200 individual parcel owners that in some form or another they need water and/or waste water. The morale of the story is they are within the approved service area of the Roaring Fork Sand District, part of their Service Plan and would like to connect to their facilities. The last go around Bob had with the District was a proposal to create a sub-district within their District which would be a little different than a special improvement district does, it would be a property tax levied to these residents in this area. The Roaring Fork District is not in favor of this and directed him to come before the Board and form a local improvement district, in which case we will build the facilities and then donate them to the Roaring Fork Water and Sand District and they will operate, maintain and accept these improvements.
At the last go around, Bob said he had about 200 EQR's of people, dwelling units, ready to go but the problem was consolidating the people. Getting a group on individuals with a common goal. There are other resources available, including services by Integrated Water out of Fort Collins. But they are really the instigation of Bob's knowledge of the DOLA funds. The morale of the story, $10,000 will fund the preliminary engineering and Bob would be able to assemble these people in the room and tell them the cost and the basis for this Sanitation. BMC West with Van Ran has contributed to Bob's many studies and this is a better product to go with. Mark Bean did bring about the immediate concerns is a sewer service to the mobile home park. The most benefit is a water system. This has commercial and no fire protection nor a dedicated water system to draw from. From previous experience, the residents are pleased and this money but the County has to ask for the money. Water supply is being very difficult. The DOLA funds will be for the preliminary engineering study.
Commissioner McCown said we would have to go through the regular County Procurement Policy and Bob Pennington would have to submit a proposal.
Mark said his understanding that this money is out of the cycle and was not supposed to affect any other funds the County would request. This is Energy Impact funds to do this kind of project. The next step would be to authorize a formal grant application.
Commissioner McCown said he would fully support this as long as it doesn't affect and not affect the County's general fund and that it be included in the County Procurement Regulations and put that in the form of a motion. Commissioner Houpt seconded; motion carried.

CONSIDER A REQUEST FOR AN AMENDED PLAT, "FIRST AMENDED FINAL PLAT OF EAGLES NEST AT ASPEN GLEN – TRACT B HOMEOWNERS ASSOCIATION, INC. – JIM HARDCASTLE

County Attorney Carolyn Dahlgren and Jim Hardcastle were present.
Jim explained the amended plat would change Lot #5 to read as "Common Parking Parcel". It is 0.271 acres in size the there are no proposed changes in the boundary alignment and there are not structures on this tract at the current time.

Recommendations:

The Applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, **Approve** this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval; and
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, than signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat for the lot designation for Lot 5 to read "common parking parcel" and the first amended final plat of Eagle's Nest at Aspen Glen Tract B, PUD; motion carried.

CONSIDER A REQUEST FOR AN AMENDED PLAT, "AMENDED FINAL PLAT OF TRACT 41 AND 42, ANTHLERS ORCHARD DEVELOPMENT COMPANY'S PLAT NO. 1". APPLICANTS ARE MICHAEL AND TRACEY LANGHORNE – JIM HARDCASTLE

Jim Hardcastle and Michael Langhorne were present.

Jim said this is a request for an Amended Final Plat of Tract 41 and 42 in the Antlers Orchard Development Company's Plat No.1. The applicant is requesting to move the interior lot line separating Lot 41 and Lot 42 so the lot dimensions will conform to the natural ditch feature of the property.

Recommendations:

The Applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, **Approve** this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval; and
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, than signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.
3. Prior to submittal by the Applicant of the Mylar in the above condition, the Applicant shall place a 25.0' Access & Utility Easement from Book 1159 Page 829, along the northern property line of both lots 41 and 42.

Michael Langhorne said he was trying to be a good neighbor.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the amended plat request with the conditions recommended; motion carried.

CONSIDER A RECOMMENDATION TO THE COLORADO DEPARTMENT OF HEALTH, WATER QUALITY DIVISION REGARDING A SITE LOCATION APPLICATION FOR A WASTEWATER TREATMENT FACILITY, FOR THE RAPID ON THE COLORADO. APPLICANT: RAPIDS DEVELOMENT CORPORATION – MARK BEAN

Carolyn Dahlgren and Mark Bean were present.

Mark said he received a request this morning; the applicant will waive the 60 day time frame 1-May 17, 2004 at 1:15 p.m.

PUBLIC HEARINGS:

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW AN ADDITIONAL DWELLING UNIT. APPLICANT: BEVERLY KLEIN – JIM HARDCASTLE

Carolyn Dahlgren, Jim Hardcastle, and Beverly Klein were present. Carolyn reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.

Chairman Martin swore in the speakers.

Jim submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; Exhibit G - Garfield County Road and Bridge correspondence, Janey Dyke Landfill Technician for Kraig Kuberry; Exhibit H – memo from Andy Swaller, Building Inspector, and Exhibit I – applicant's request for information on the Certificate of Occupancy.

Chairman Martin admitted Exhibits A – I into the record.

This is a request for a SUP for an ADU that was constructed circa 1910 as a seasonal cabin. The applicant has built a new Single Family Dwelling unit and proposes to designate this cabin as an ADU. The total square footage is 1,125 and the ADU is on 35 acres. The location is 1777 CR 241 in the A/R/RD zoning.

Recommendations:

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

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. The Applicant shall apply for a septic permit and receive a final inspection prior to issuance of the Special Use Permit. The existing septic system shall be brought up to Garfield County required standards of performance for the total number of bedrooms to support the ADU and single family dwelling unit.
3. The non-conforming inhabited trailer observed on site is a [(zoning violation) remove] and shall be removed within 30-days. No SUP shall be issued for the ADU until the trailer has been removed. (This needs to be removed and the wording needs to be changed.)

Number 3 needs to be amended as there is a trailer on the property being used. This then is a 3rd request for a structure. The trailer needs to be removed before approval of this SPU.

4. The Applicant shall be aware that since the dwelling designated as an ADU is an older structure, any future modifications to it shall comply with the current Uniform Building Code provisions in effect at the time change.

Beverly said they put in a new leach field about 8 years ago and will check into it.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to
Approve the Special Use Permit for an Accessory Dwelling with Conditions as noted by staff, changing No. 3 to read "non-conforming inhabited trailer observed shall be removed within 120 days and no SUP shall be issued for the ADU until the trailer has been removed." Motion carried.

PUBLIC HEARINGS:

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT FOR DONNA MEADE – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, and Donna Meade were present. Carolyn reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; Exhibit G – Road and Bridge Comments dated March 19, 2004; and Exhibit H – Floor plan for ADU.
Chairman Martin admitted Exhibits A – G into the record.
This is a SUP request for an Accessory Dwelling Unit of 6.26 acres at 0245 CR 335, between Silt and New Castle, south of the Colorado River.
The applicant proposes to locate a manufactured home onto her property to serve as an ADU. There is a single family log home, garage, barn and fenced horse pasture presently located on the property.
Fred said this is within the H & B Minor Subdivision and was approved in 1980 and was treated as an exemption. She has satisfied the minor subdivision process. She has provided a West Divide Contract in additional to her existing residence.
Recommendation:
Staff recommends approval, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. This structure/dwelling unit shall not be occupied until a final certificate of occupancy has been issued by the Building Department. The applicant shall have this completed within 120 days of approval by the Board.
3. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.
4. The applicant shall obtain the appropriate ISDS permit as part of the building permit process to locate the manufactured home on the property. This system shall comply with the regulations and standards required by the Colorado Department of Public Health and Environment.
5. The applicant shall upgrade the present driveway onto CR 335. The driveway will be a minimum of 30-feet wide and not over 40-feet wide. An asphalt or concrete apron will be installed, the width of the driveway extending 100 feet onto the property with a depth of 4 inches. The driveway will be attached to the paved shoulder of CR 335. The Road and Bridge Department will not require a

driveway permit, but will require a final inspection on the upgrade to the present driveway. No Special Use Permit shall be issued until this has been completed.

The driveway permit was a concern but the Board explained this was a requirement of the County.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit request for an Accessory Dwelling Unit for Donna Meade at 0245 CR 335 with the 5 conditions as recommended by staff. Motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A "COMMUNICATIONS FACILITY" FOR KMTS ON TOP OF RED MOUNTAIN. APPLICANT: MOUNTAIN STATES COMMUNICATION – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, and Gabe Chenoweth, KMTS General Manager and John Banks were present. Carolyn reviewed the noticing requirements and advised the Board they were timely and adequate and the Board could proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; and Exhibit G – Letter from the City of Glenwood Springs dated April 19, 2004.
Exhibit H – Letter from Worrell, Griffith, Durrett & Jaynes, P.C. dated April 30, 2004; Exhibit I – Letter of support from Patrick M. Fitzgerald, GRI Broker and Owner; Exhibit J – Letter from Sarah Hess. Chairman Martin entered Exhibits A – J into the record.
Fred provided a Power Point Presentation. The applicant proposes to erect a 102 foot tall tower on a privately owned 40-acre property on Red Mountain in order to transmit for KMTS. This tower would replace the existing 41 foot tall KMTS tower.
The applicants supports the request for a taller tower at this site in order to comply with recent regulation changes enacted by the Federal Communications Commission (FCC) which effectively lowered the levels of electromagnetic frequencies (radio energy) that the general public can be exposed to at or near an antennae site. The applicant proposed that by raising the antenna to a certain point off the ground, the radio energy levels felt at the ground would be reduced enough to comply with FCC regulations. The new taller tower will be placed approximately 172 feet behind the existing tower.
The referral to the City of Glenwood Springs yielded a response that while the City is not excited about the additional visual degradation and potential sky lining of this tower they understand the limitations imposed on local jurisdictions by the FCC. However, they encourage the applicant to work with the property owners to exhaust all other co-location possibilities prior to approving this location. The City also noted concerns regarding aeronautical safety issues.
Staff findings include that this property is located in the ARRD zoning which requires structures not to exceed the height restriction of 25 feet. The applicant proposes that the tower would not be painted and would have a steel color with thin guyed wires to stabilize the tower.
The request to the Board is to approve a 77 foot height variance in an area that already contains a 70 foot tall structure.
Referrals were sent out and Exhibit G is a letter from the City of Glenwood Springs and no written comments but Fred said he has had telephone conversations with BLM.
The Cross is 70 feet tall that is currently on Red Mountain.
Staff finds that based on the information contained in the FCC guidelines, there are other remedies suggested by the agency available to assist in compliance.
Staff finds that the most effective method would be to fence in the existing tower to preclude the "public" from accessing the site. Additionally, the applicant owns the property where the existing tower is located, the site is large enough for the fenced area needed, and the road which travels the site is not a public road, rather it appears to be a private access easement precluding public access.
The staff is not convinced that other sites including Iron, Lookout and Sunlight Mountains could not be used. Therefore, the recommendation is to open and continue the public hearing to allow the applicant more time to fully explore co-location and other technical/physical options available that may be less impacting to the proposed site.

Gabe Chenoweth said John Banks, after seeing staff's response last week, wrote a response back to Mr. Jarman – several packets with that response letter were handed out with other exhibits. Exhibit K was admitted.
Gabe explained the FAA requirements a line of site, Glenwood Springs is the City of license.
He relayed the information regarding the other tower sites suggested by Fred – Lookout Mtn., Sunlight Peak, Holy Cross Electric explaining the reasons these locations would not work for reasons of low power areas, not allowed, or month to month lease offers.
John Banks explained his concerns with the new development planned on Red Mountain called the Glen Park Ranch.
Letters from KDNK, Pat Fitzgerald, property owner who sold the 35 acre tract to KMTS with a covenant allowing a radio tower and letters from Carbondale PD and Glenwood Spgs PD, Youth zone, and CMC were discussed. Gabe said after Fred's response and suggestion to co-locate with other towers, he tried to contact site managers and the one from Sunlight Peak LLC. said they could not accommodate.
Carolyn asked Gabe about the letter from Durant – alleging you may not have access because of the easement by Glenwood Springs.
Gabe spoke to the City and asked them and was told it's the City's position that they accept our use of the road, for the purposes of maintaining a Communication Facility; they understand it's not a high traffic use; it's not a frequent use and they had neither reason nor intent to interfere with that.
Commissioner McCown asked if there would be any other means of access other than this road.
Gabe said he's been told that access through Three Mile is a possibility; that is a private access which we do not have an easement to his knowledge.
Fred raised the issues of the replacement of the existing tower, as he looked at this they assumed the 41 foot tower would come down and be replaced by the 102' and not in addition to.
Gabe said the intent is if it is the Commissioners wishes they would bring the old tower into compliance with the existing building code.
Commissioner Houpt called attention to the two towers in use versus one.
Gabe would like to continue using the 41' tower.
Public Input
Mary Noone – goes up there six days a week. She inquired about the exact location.
Gabe explained that the building was built for the purpose of a lift lodge due to some excellent snow. Inside the building there are some equipment and the only proposed structure would be the tower. There is a possibility of additional buildings up there because of a residential subdivision that's been approved. Use of the tower with respect to this application is the only addition. Red Mountain Road use this summer when the tower is built, there would some increase in traffic; overall KMTS's use of the road would not increase at all.
Mary Noone suggested finding another location and not scarring the location.
Lynn Clear representing Glen Park Ranch and is a future resident of Glen Park Ranch; 35 acre parcels and a total of 13 parcels. On two sides of the parcel the Glen Park Ranch is contiguous and one 35 acre parcel in a wildlife conservation. They went to litigation with City of Glenwood Springs over the easement agreement and the outcome was a new agreement referencing a new roadway and gives them right for a gate. They allow other legal owners through the gate. Another property owner asked for the same easement and Glenwood Springs turned them down. The Radio Station didn't provide funds for the road improvement. As a pilot, the FAA doesn't really consider Glenwood but no one talked to Glenwood Airport and as a pilot, it is where people come to Glenwood and don't need anymore sticks up in the air. The Glen Park Subdivision paid the expense of burying the utilities in the ground and to stick a radio tower up there seems incompatible. At the time the improvements were made the road ended up next to the tower, the road could have been back further and if they had allowed the road it would have been easier to fence. Lynn said he plans to build next to the 35 KMTS parcel and has boys ages 3 and 5 and doesn't want the radio frequency to be a health concern. Worries about the high power and it may affect the property above the tower. Requested it not be approved.
Carolyn Dahlgren said all Special Use Permits regard proof of access, she couldn't tell if the applicant has current access on the road and suggested this be made a condition of approval if the Board so chose, that the applicant must show present access.
Commissioner McCown requested the outcome of the litigation and was this termed a private access by the Courts. Is it restricted to the public?

Lynn Clear said the easement agreement is drawn between the City of Glenwood Springs and Glen Park Ranch only. The public is prohibited from driving the road, it is gated. It is open to bicycle and pedestrian and not motorized.
John Banks explained the reasons the FAA is requiring the changes to the radio energy saying it makes the body warmer and your body can only expose of a certain amount of heat and after that you might start to feel sweaty, clammy, one might not think very well, you might be taking a risk to yourself and the physical heating is the concern they have in exposure at this height.
Commissioner Houpt presented a scenario regarding building a house close by and above but not within that 160 feet pillow, over the long term, have they studied the long term effects of being that close to this radio energy?
John said that's how the standard was made. Anybody who's not on the property has a huge safety margin.
Nancy Carlson is a property owner in the Glen Park Subdivision and the listing real estate broker for the sale of property there. The beauty of this property and the de-valuation of property with this tower are great concerns. She said she realizes growth has to happen and hopes the County develops in a smart way to keep from destroying the pristine areas of the County. The owners of the property spent a lot to bury utilities. Towers are located on Sunlight, Iron Mountain and Lookout Mountain and she cannot understand why they are non compatible; this is a residential community and just because no houses at the moment there soon will be. Therefore, looking at 102' tower – those lots around it, that's there line of site – can see the trains coming through the Canyon. She reiterated the 35 acre parcel placed into conservation and now they will look right at a tower. It's not just these 13 property owners; it's the whole valley that will look at this tall tower. She is in disbelief that the Board will even give it this consideration – totally disvalue the property; their guidelines for the development includes no fences, no horses, and is supposed to be the philosophy that you feel like they had 144 acres. Will have to access their property next to a huge tower. Building envelopes such that no home would have to look at another house. Carbondale to Glenwood Springs you can see the tower. Roads narrow – from Hwy 82 looks like a meadow. Explore something else; can they put the tower on the cross? This makes her ill.
Carolyn said should the Board approve this and allow the smaller tower to remain the applicant will only use the lower 20 feet and remove the higher part?
Gabe said it would actually be 21 feet because of the concrete base. At this time they have a microwave reception antenna on it which receives program material from the studio, also a remote program unit transmitter that transmits audio back to the studio from remote locations. These all fall under the 100 watt distinction.
Gabe addressed the concerns of Ms. Carlson brought up saying in the letter from Pat Fitzgerald who was the original owner of Glen Park Ranch, referenced to covenants in our Deed – in the Mountain States Deed which specifically, recorded in Book 478 Page 343 par 3 – "no building or structure intended for or adapted for commercial, manufacturing purposes nor any multiple family dwellings shall be erected, placed or maintained or permitted on such property except for those structures necessary for a radio broadcasting station."
The Deed was submitted.
Clarification was made that KMTS property is not part of the Glen Park Subdivision. They are not bound by the Glen Park Subdivision Covenants.
Nancy asked if this opens up that 35 acre parcel as a communication park and they can allow for 5 more towers. This opens the door.
Chairman Martin – the County hopes to co-locate towers. Each one comes in for a special review. Two are there now and a micro wave and an internet user.
Gabe – addressed this saying the height of the proposed structure was designed to accommodate KMTS use and most FM require line of site to areas and this new tower would not be likely they could take additional users and most of the towers would be shielded to more areas. Not much use for the public safety. No reason to add more towers.
Commissioner McCown asked if they could use cross as a possible tower location.
Gabe – the cross is 70' and would have to add 30' to the cross; did not think it was feasible. The Cross is on their property
John Banks said another concern of locating a tower on the cross is that it is a unique structure and unique symbolizism and subject to vandalism therefore being risky.

Commissioner Houpt asked about fencing in the current tower and relocating the road. She asked for a comparison between building a new tower compared to moving the road. Did you investigate relocating the road?
Gabe said the road is not their easement.
Commissioner Houpt suggested since they had just received the report late on Friday to continue this hearing in order to allow KMTS staff to look seriously at the staff recommendations and take more time to investigate the possibility of co-locating on another site – Iron Mountain had not been explored. Has everything been explored?
Commissioner McCown asked if they could go 160 foot in any direction with this road so that the tower site could be fenced with a 160 foot perimeter to prevent John Q Public from walking under the blue pillow and getting mashed and still route this road. Is this allowable terrain wise or is going to create a problem for the other land owners that use this road?
Gabe – terrain wise it would be okay but the problem becomes the tower moves back from the lip of the hill and you not longer have site.
Commissioner McCown said to leave the tower where it is; he's just moving the road.
Gabe said that leaving the tower the height it is and move the road to some other point in the property so that the landowner to the south can still access the property and a 160 foot safe perimeter can be built around the tower with a fence. It is physical possible yes, but monetary not affordable. This doesn't have to be part of the hearing today but there's no way they could afford moving the road.
Commissioner Houpt suggested a partnership with a larger dialogue; it's time to realistic look at all the options.
Commissioner McCown noted that this is not KMTS's preferred idea – it's the FCC regulations that are creating the necessity and not KMTS's plan by choice.
Carolyn requested that the Deed Restriction - Exhibit L be entered into the record.
Nancy Carlson requested to consider the cost to put a road in where they're a natural way, it's flat versus the cost of a new tower; please take that into consideration. If KMTS has to take down scrub, it's less intrusive related to the102 foot tower. Only property owners would see the down brush and it would grow back.
Commissioner Houpt said she did not want to close the public hearing and commented that John made a point that they only received the comments from staff on Friday and to respond to all of the concerns that staff has about making certain that every rock has been turned on this is critical. She said she does appreciate the time and effort they have put into making sure that putting a tall tower in that particular location has the least impact as possible and instead of closing this hearing, I would like to make a motion to continue this Special Use Permit hearing for the Communications Facility for the property owned by Mountain State Communication on Red Mountain to allow the applicant more time to fully explore co-location and other technical physical options available that may be less impacting to the proposed site as proposed and recommended by staff. A date certain was decided to be until next Monday, May 10, 2004. Commissioner McCown seconded. Discussion – Commissioner McCown suggested having the applicants explore camflouging the tower as a tree. Motion carried.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue until Rifle meeting at 6:30 P.M. Motion carried.

Attest: Chairman of the Board

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MAY 3, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
AND
RIFLE CITY COUNCIL
AND
RE2 SCHOOL BOARD
AND
FIELD OF DREAMS
GARFIELD COUNTY, COLORADO

The Continued meeting of the Board of County Commissioners with the Rifle City Council, RE2 School Board, and Field of Dreams regarding the Deerfield Park Ballfield and Human Services Building began at 5:30 P.M. on Monday, May 30, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, County Engineer Randy Withee and Mildred Alsdorf Clerk & Recorder.
Among those present were Rifle City Council members Keith Lambert, Sandy Vaccaro, Al Lambert, John Price, Judy Biltman, Jeff Johnson, Tom Whitmore, John Rice, Ed Weiss; the Rifle Planning Director, Bill Sappington; Daryl Meisner, Chief of Police; Attorney Lee Leavenworth for the City of Rifle; Debbie Pace, Vickie VanEngelnburg, Howard Stapleton, Jay Rickstrew, School Board. Beth Bascom city council. RE2 School and Gary Pack RE2 School District and John Scalzo private citizen and City Manager John Heir.

CALL TO ORDER

Chairman Martin called the meeting to order at 5:30 p.m.

John Heir gave the history of why this meeting was being held that started several weeks ago when the Garfield County Commissioners made a decision to build the new Human Services Building at the Airport property in Rifle. The City of Rifle approached the Board with a Resolution No. 8, requesting the Board of County Commissioners rescind or delay their decision to locate the new County Services Building near the Airport. Several City Council members appeared before the Board on two occasions proposing to work with the County on a site within the City limits of Rifle.
One of the outcomes of these appearances before the Board of County Commissioners was an agreement to explore the Fairground site where the current Cooper Ball Field is located which is used by the RE2 School District. The proposal included relocating the Cooper Ball Field to the Deerfield Park area as a joint effort by the City of Rifle, Garfield County, the Field of Dreams special committee and RE2 School District. The stipulation was that the ballfield has to be ready by November 2004.
Funding was to be part from a DOLA Grant, the remaining from the various entities participating.

Ed Green prepared a power point for the meeting with Rifle:

- Deerfield Park site – 5.6 acres
  - Parking also provided by the City
- Ballfield Construction
  - Design/Build
    - Rifle selects a Contractor and the City holds the paper
    - This would be a 2-phase contract:
    - Phase I - $300,000 – Design, grading, earthwork, sod, scoreboard, fencing, dugouts, irrigation, infield, utility rough-ins
    - Phase II – 200,000 – lights, announcer's booth, bleachers, concessions, restrooms, walk ways, landscaping
- Funding
  - **School District** provides lights in 2005 for $100,000 to $150,000 included in the budget for 2004
  - **Rifle** to pave 30th Street plus associated parking - $570,000
  - **Rifle** - $150,000
    - DOLA request would replace the existing small request for their miscellaneous water related project
    - Expectation of refund of at least $50,000 from other sources
  - **Field of Dreams -** $100,000 – plus they must alter the field grants from Cooper Field to Deerfield Park and they will not know until July what the grant dollar situation is.
  - **Garfield County** - $150,000 based on the expectation of refund of at least $50,000 on expectation of return from DOLA grant
    - Revise both the City and County DOLA grant to reflect additional funding

The City of Rifle deletes their request to DOLA; Tim Sarmo agrees to the proposal from Garfield County to increase the request for the Human Services Building from $800,000 to $1,000,000.

The City and County equally share the incremental increase over the $800,000

Included in this proposal, Rifle would agree to the split faced block façade similar to the City Market building; landscaping with trees and other traditional landscaping; primary access on to 14th street; water off 14th or Howard to link to the new main; 45 day administrative review for site plan, access reviews, floodplain 500 year, water sewer drainage, curb, gutter, sidewalk, and to widen the roadway. Inspections – the County wants a building permit issued and the City does the inspections.

For this the County commits to not go to the Airport to build the facility; the School District waives the balance of the lease of the Cooper Ballfield at the Fairgrounds, the City and School District resolve joint use; City and County agree to accelerated review process (30 days from delivery of plans); all agreements memorialized in IGA with key parties by the first meeting in June 2004; the City drops one of their grants in consideration for the County increased from $800,000 to $1,000,000 in DOLA grant; and that DOLA agrees and that the City and County share the proceeds over $800,000.

The Field of Dreams Committee felt this was happening very quickly and were very cooperative in working for the project.

The City of Rifle Council members and staff voiced their willingness to move forward.

Commissioner Houpt made a motion that we move forward on making a change to relocate the new site for the Public Health and Social Services Building for Garfield County to the Cooper Field location which is also the Pyle property on the Fairgrounds site and work with the City of Rifle to relocate the ballfield to the Deerfield Park area and move forward with an Intergovernmental agreement to that effect. Commissioner McCown seconded.

Don DeFord - in terms of the motion is that intended to be reconsideration to staff of your current position that we should plan development of the facility at the airport.

Commissioner Houpt said this is to change that direction; it was to change the location to the Cooper field.

Don DeFord – secondly, the motion in addition to being contingent on permits from the City of Rifle also contingent on permission from the School District particularly on the lease.

Commissioner Houpt – in regard to the lease; I think timing is essential on this project.

Commissioner McCown – while we're still in the discussion mode of the motion, I think it's critical that how the IGA comes together still drives the location of the building. If the only two players in this entity happen to be the City of Rifle and the County, and neither of us get the funding we're hoping for it could change the structure of this IGA and I think it has to be in place before we can commit to yes it is in granite we're going to build it at the Airport site and you're going to move that ballfield no matter what it costs. I don't think the Commissioners or the City Council are in the position to make that commitment, maybe you guys are, but I'm not and I would like to see the IGA come together with the contingencies that all of the players that have committed theoretically to this do come to the table with real dollars when it comes time to make this happen, otherwise we're doing exactly what we've known all along, it's a Field of Dreams. And I don't want to see the County left in that position and I don't think the City would want to do that to their constituents.

Commissioner Houpt – well I thought the City say they would commit to that $150,000 and by making this motion, that's the commitment I'm assuming we're making as well and phase two we're talking about in future years.

Commissioner McCown – I understand what your motion contained, what I'm saying is that $150,000 from the City and $150,000 from the County does not do phase one when the bids come in and there's no other money out there, then what do we do. The IGA is going to have a dollar amount attached to it and I'm assuming it's going to be a not to exceed $150,000 by the City and a not to exceed a $150,000 by the County, that's normally how our IGA's are written and if that bid comes in at $400,000, we're short some bucks.

Lee Leavenworth said we have a comfort level with $300,000 for basic design and build; you all are not committed until we all sign on the dotted line. Here we go forward conceptually, get the IGA written and by then we should have the design/build contract and it confirms that the $300,000 will be
Chairman Martin – and that will be done the first week in June, isn't that what we decided on? Is that understood in the motion?
Commissioner Houpt – Well obviously if we're not successful with the IGA then it will be committed not to move the baseball facilities but I would like to focus more on the success of this project and I really don't want my motion to include that clause but I will say, if we're not successful in getting this IGA in place then we will have to proceed with our original plans.
Chairman Martin – is that understood Mr. Ford and Mr. Green?
Ed – the point I want to make is if we change our focus to the Cooper field, then we won't have time to correct that to another site this year, so we're stuck with…
Commissioner Houpt - well let me clarify my motion, what I'm saying, what we're committing to in my motion to in good faith move forward to this Intergovernmental Agreement. If we find that it is going to cost $600,000 to build the ball field and no body can afford to do that, that will change that, but I can't imagine that we can't work with each other to make this happen. So although there's a comfort level on this submission, we need to include, what I'm saying is that we're still in the process of putting those numbers together and if staff needs to come back to us for some additional money, because the intent is to accomplish this.
Ed – my only point is that we have to focus on one design or another, its site specific and if we focus on Cooper then we won't have time to change again this year. That's my only point.
Chairman Martin – What it amounts to, is we have a process in place in one week it will still take us till November to turn dirt and that's the length of time we're looking at. We want to make sure our other folks that have a safety concern at the Taughenbaugh are safe and how can we make that into a safe building; that's number one priority. So if we lose too much ground and it puts us way beyond the time curve then our safety issues are going up higher for our employees, so we have to be aware of that as well.
Commissioner Houpt – I think we have that and look what we've accomplished in this short period of time.
Chairman Martin – the motion is to go ahead in principle.
Commissioner Houpt – my motion was that we move forward on making a change to relocate the new site for the Public Health and Social Services Building for Garfield County to the Cooper Field location in this City of Rifle and to work with the City of Rifle to relocate the ballfield to the Deerfield Park location.
Commissioner McCown – that's still my second. Motion carried.

Mayor Keith Lambert – we need a motion.
Lee Leavenworth framed the motion saying we commit to the $150,000 subject to the execution of the IGA and to include that the City staff work with County staff to accomplish this.
Judy Biltman so moved; Sandy Vaccaro seconded; motion carried.
Question – by the Field of Dreams – under Phase One it is completed by February 2005, will we get an equal or better facility at that point to at least get the equal to the facility we have now?
Bleachers were discussed, Ed said we could put the Bleachers as an additive alternative as part of the so if there is additional funds available.
The City of Rifle called roll and the motion was carried.
The City of Rifle adjourned.

Coroner

Don said the Coroner asked for authorization to proceed on a cremation on a Thomas Gagman and we need – we are still researching on the procedure to use however we need authorization to cremate.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Adjourn

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

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MAY 10, 2004
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 5, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Rick Davis – *Election Report* – encouraged the Commissioners to support the Clerk's Office to modernize and secondly encouraged the Board to work with the Legislatures, the Secretary of State's Office on rules as related to the citizens. It was a very difficult process to get through and understand the ways and means of getting through these 90 something different rules that are pertinent during an elected proceeding; none of these Rick said does he mention because of self-service, it was all things that came about after the election; issues after he had stepped down from City Council of Glenwood Springs. But he said he found it was a very difficult process to have a clear understand of what the election rules were and more importantly it was a process to understand the rights and means of a person is especially considering an election where there were things that did go wrong. Rick encouraged that there could be some legislation done that makes that easier in the future and not suggesting what that would be, but when we do have, after this fall we do have new Legislatures and encouraged the Board to work with them for the State so the next person that goes through this it won't nearly be that painful. The last thing is that it was such a difficult process and he eventually had to go out and get legal advice and presented a bill from a local attorney's outfit and asking that perhaps the County could give him a little assistance in working on paying this bill.

Chairman Martin assured Rick they could look into this and answer the request in writing.

Rick said once again his actions after the election were never about serving myself but they were about making sure things came together and has more benefit from this other than he doesn't feels he should shoulder the burden in paying for this legal expense that he found necessary because as the individual that was the in the quagmire.

Mildred assured Rick that the Commissioners are supporting her with a new registration voter system and for a new office scanner as soon as the Secretary of State certifies the equipment.

Richard Rhoades – CR 233 – Rifle made a request of the Board to publish on the *Website for the Garfield County* the action taken as well as the agenda items for the public to keep abreast of what is taking place in the County. He referenced that with the City Council of Rifle you can pull up the City Council meeting meetings. He attempted to view the Minutes of the County Commissioners and couldn't. It would be very helpful to see past BOCC minutes.

Mildred said thus far she is not putting anything about the minutes in the website. However, Richard can request whatever he's looking for and she can assist him in getting those. He just needs to make the request.

2004 –Colorado College State of the Rockies Report Card

Mark submitted a report card that was included 8 western states. Garfield County is second ranked Non-Metro County in the Healthiest Counties in the Rockies. In the grading for Income, Employment and Equity, Garfield County is 5th; and out of 138 categories in the Micropolitan Counties, Garfield County rated an A+ and ranked the 2nd highest in the best place to live. LaPlata was number 1 in the best place to live.

COUNTY MANAGER UPDATE – ED GREEN

a) Consider a Resolution creating Garfield County Energy Advisory Board

Doug submitted the Resolution establishing the County Energy Advisory Board was submitted. This outlines the specific criteria for the Board's functions showing it clearly as an Advisory Board to the Commissioners. The CEAB Board composition is also included in the Resolution.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt the Resolution to create the Garfield County Energy Advisory Board and authorize the Chair to sign it; motion carried.

b) Discuss secretarial support for Garfield County Energy Advisory Board – Doug Dennison

Doug submitted a request to have a paid person for about 20 hours per week take the minutes of the Energy Advisory Board and provide some administrative help in filing and preparing the minutes. Doug contacted the Extension Office but no one was willing to come forward for part-time work. Ed said this has been done in the past. Barbara Gabber worked as overtime in taking minutes when the Airport Authority Board was in place. Ed said there was nothing budgeted for a part-time person and if the Board wanted to support this request it would mean a supplemental budget request. Mildred offered the previous recording system used for the Commissioners
meetings prior to replacing it with the new CD recordings.
Ed was directed to work with Doug on this request.

c) Request for Out of State Travel for Brian Condie – Dale Hancock

Dale explained this was for an FAA meeting to verify relocation of the Localizer antenna for the Instrument Landing System. The total cost is $652.00 to travel to Seattle to the FAA Regional Office. The other value to this trip is we can save 6 – 9 months in the approval process just by having a sit down/face to face on this; the other thing is that it does two things because we had submitted the revised Airport Lay-out Plan and Brian can discuss this with them at this training.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of state travel for Brian Condie for a total cost of $652.00; motion carried.

Airport Update

Dale said the Denver FAA will be visiting the Airport today to visually verify the apron because of our prior presentation in their offices on the 15th of April where Commissioner Martin and Dale showed them a very overloaded apron with many jet aircraft, many small propeller aircraft and wing walkers going down to make sure there wasn't an accident. On Tuesday there will be a representative from the FAA facilities coming from Grand Junction to meet at the airport so it appears that our sit down/face to face with the FAA is paying some immediate dividends to the County.
Dale noted he had the following meetings this week: FairBoard, EMS Council and Community Corrections. Dale noted in the newspapers some controversy with respect to the licensing process of the EMT's because of a flawed testing instrument that the State had utilized and Dale wants to go back to the Council and make sure everyone classified as an EMTBI or paramedic has been properly certified for that process in as much as the County has that licensing responsibility.

Kudos to Linda Morcom

Administrative Secretary Linda Morcom won the trap shooting event in Eagle; she is the former Louisiana State Trap Shooting Champion.

COUNTY ATTORNEY UPDATE – CAROLYN DAHLGREN

Later in Agenda

COUNTY SHERIFF UPDATE – LOU VALLARIO

Building Addition

Lou Vallario and Randy Withee were present.
Lou Vallario submitted a memorandum, schematic estimate and layout plans for the additional space being requested in the Detention Center as a Capital Project.
Lou summarized the submittal saying this addition would provide for an additional 1600+/- sq. ft. of needed office space. This is necessary due to the increased staff – Human Resource specialists, and IT specialist, A Victim Advocate Coordinator and they are in the process of taking the County Emergency Manager into the Sheriff's Office as well.
Additional to the added space, they are re-arranging some spaces for more efficient use.
The grand total construction estimate is $160,380 with architectural & engineer fees @10% of $16,000.
Lou said he was requesting capital funds fro this project.
The furniture estimate provided by Sandy's office Supply was projected at $67,977.00.
Go under the Courthouse, move a wall, move some mechanical and relocate some storage areas.
The Clerk and Recorder's storage area would be moved to where the Sheriff's storage is located so they can expand. Mildred said that she has not heard of this and he didn't know.
Commissioner Houpt mentioned that unless the others affected approved this, it would be hard to move forward on this request. Dale has been involved. Lou has discussed this with several people but evidentially not to all. Randy reviewed the plans and outlined the Phases of the work.
Mildred said she didn't have a problem as long as she has the same amount of storage space and the availability of getting the license plates via the outside door. Lou said this should provide space for the next

10-years for administrative growth. This new space would eliminate those bondsman and family, friend, waiting to bond someone out of jail.
Commissioner McCown said this would be eliminating a problem instead of creating one. The only option is to do a budget amendment and hit the capital fund.
Ed reminded the Board of the three major hits to the funds: $150,000 for the ballfield, the improvements will be to the outdoor arena and where the funds are going to come for that as well, and the $150,000 range plus the Harvey Gap for the solar power wireless communication site.
Chairman Martin said it's going to be a review of the budget and the Board will need to sit down and discuss the priorities of our projects if we're going to approve this.
Ed said we just changed the Accounting process and will have an effect of about $1.5 to $2 million impact on the capital fund. When we talked about the building we were below $6 million. With that accounting change we're about $4 million, so there three hits need to be considered.
Commissioner McCown said the Ballfield move could actually be done with Conservation Trust Funds and the improvements to the outdoor arena. There's $162,000 remaining in that fund. This would wipe out those funds until the next allocation in 2005. The next allocation is close to $150,000. Commissioner Houpt said she wouldn't have a problem using the $162,000 for one of those projects.
Commissioner McCown – the longer we wait on this at 6% a year and it will only go up, plus it's hampering the operation of the facilities. We'll do the RFP off of Chuck's print
Lou didn't want to give the impression that this is critical but it is hampering operations and will help to put people in the places they need to be in. He had Chuck do the plans and dollars before he came to the Board to avoid the unknowns before presenting this to the Commissioners.
Commissioner Houpt added to the motion that this be contingent on a walk through with those other departments.
Chairman Martin wanted to make sure that we have finalized figures, review for safety, and if we can get a waiting room that would be a bonus. Many phone calls come to him from citizens and bail bondsman because of no waiting room
Lou said the door would be underneath the balcony.
Commissioner McCown made a motion to authorize the Sheriff to move forward with the final design also including the walk through by the City personnel and those other County Departments that are involved, i. e. Mildred, District Attorney, etc. to make sure this space is going to be a working area for them as well and to coordinate with Randy and Chuck Brenner on the design and bring the Board a final number.
Commissioner Houpt seconded; motion carried.

Emergency Manager Update
Lou Vallario has been discussing with County management the County Emergency Manager and has agreed in looking across the state half are under the Sheriff's office and half under County Administration, but in this particular case have agreed it would be best if the Emergency Manager work under the Sheriff's office. There are some issues, one is at the present the position is 50% funded, Guy Meyer and he does Community Corrections as well. We have agreed that leaves the Community Correction position open and available to the outside. Some of the caveats were to come up with that other 50% to make this a full time position. The Public Safety Council has an ad hoc group that's been behind this. Lou approached them last week and many were receptive to the options of financially coming to the table. Some were willing to get this as a yearly budgetary item, $2,000, $3,000, or $4,000 per entity times five Fire Districts and Municipalities. Some suggested going to the Energy Industry possibly since they are creating a lot of Emergency Management needs and making them part of that. Lou said they are moving forward with the concept of taking the Emergency Manager under the Sheriff's office and making an office for him. Everybody in the business agreed it needs to be full time so they are trying to shoot for making this happen in the second half of the year coming up with funding and making it a full time position. One of the concerns was if we start part-time it might be difficult to hire someone. So, they are making it a full time position and coming up with the funds to do this. Lou said this is conceptional and discussed this with Ed, Jesse and Chairman Martin.
Commissioner Houpt stated that she would have a hard time going to private industry and would like Lou to discuss this with Don DeFord.
Lou said the thought of private industry was a conceptual thought only.

Ed said one of the things discussed was that perhaps the Energy industry would just do sponsorships for some of the municipalities that could not afford their share of the cost but not translate into money for the County.
Commissioner McCown suggested to move cautiously because the private industry may demand a Hazmat response team and you are talking a tremendous investment and commitment and then you're pretty soon you'll be looking at hiring full time people as Hazmat responders. This would then build a whole new public safety department around emergency response and emergency preparedness; this has the potential of growing like wildfire. It all looks great now because of all the Homeland Security money that's available out there and all of this "possible funding" but when this runs out guess where the buck stops to keep it active or you disband it and that comes back to the Board. He said he supports this individual, but suggested to move cautiously because there are going to be a lot of preconceived notions on what this person's going to do and what the County's responsibilities are going to be once this person is on board. An IGA with everybody contributing their proportional share is a great idea that in turn will throttle back their desires and wishes. If they're paying for part of it they'll be more cautious on what they're spending.
Commissioner Houpt liked this idea as well and everyone would go in with the same expectations and understanding of what the perimeters are going to be.
Ed and Lou have been working on this.
Chairman Martin agreed and said that Lou needs to establish the protocol and the priorities and also remind everyone that this employee is Lou's employee and not everybody else's. Lou makes the final decisions.
Ed said the key is that for the first time the rest of the group recognizes that as an important aspect of this strategy.
Lou realizes this is the planning and preparedness, the training side of the Homeland Security issues and not the Hazmat. He knows this money will not last forever but certainly want to take advantage of it while it's there and get the training and equipment we need to handle any kind of catastrophe or emergency in Garfield County. It's important that the other entities, the Fire District, the Cities have a stake in that as well as a budgetary item knowing we will continue this effort. Whether it's terrorist or a plan crash, we'll be prepared. With hazmat there's a plan and it ties into the regional homeland security is to have more regional hazmat response teams; Eagle has one and Glenwood Fire is real close to making this happen. Rifle Fire might be the next one so we'll need it all along I-70 to make this happen rather than the Sheriff's office providing that.
Commissioner Houpt agreed it should be a budgetary item for every partner and makes for too tenuous a situation to rely on somebody granting or gifting one of the partners, they need to build it into their budgets and go the IGA route to have this long term commitment.
Lou this is still conceptual and they are looking for the best method. Not every entity is going to come to the table with funds for this, and they will still respond to those emergencies. We'll propose it, come up with a figure that will meet the financial difference and what the County's contributing and see who commits.
Commissioner McCown said these are the same people as on the Communication Authority Board.
The Board requested that Lou keep them advised of the progress and Don on the IGA.
This position would fall under the Sheriff's decision within the bounds of the IGA.
Courthouse Remodeling - *Dale Hancock*
During recent conversations Dale said he felt obligated to mention the earlier report the Sheriff made to the remodeling request. In the past during the prioritization of capital projects, the optiminization of the 4th floor of the Courthouse and didn't want to lose this as part of the conservation. The Capital Fund while it is better endowed, has a lot of interest in it and the other part is that in some of our emergency planning, a year ago we had talked about the need to have an offsite secure records storage location and that seems to have some concern with regard to what's going on the basement of the Courthouse now. The discussion included whether Road and Bridge could be involved in constructing a berm like facility to keep some of our archives or more historically relevant records secure away from premises in the event we had a terrorism type event. Finally, this is the Pandora's Box, Brian Condie will with legal come back to the Board on the Airport Operating Standards. When Dale and Brian met last week to review a number of things he suggested to propose the concept of the buildings and long term leases with these 35 and 40 year leases on them and at some point we inherit those buildings. Dale said with respect to on-going maintenance costs, is this best thing for the County's financial interest to take ownership of these buildings after that period of time.

Commissioner McCown said the ownership is still an option as any of those leases can be extended in 5-year increments. It's up to the Board at the time those leases renew.
Ed said we have punch list requirement toward the end of those leases every 5-years in order to make sure the facilities are kept up.

COMMISSIONER REPORT

Commissioner Houpt – Meeting with Pitkin County Commissioners Tuesday, and a meeting with the Library Board Tuesday evening; on Wednesday, the Energy Expo at the Fairgrounds in Rifle; Chamber Dinner on Transportation in Glenwood Springs; Thursday is the RFTA in the morning and Thompson Creek (emails); Monday, May 17th Commissioner Houpt will not be at the Board meeting, rather at a State Park Advisory Board meeting in Denver. Thursday – CCI Pipeline Regulation and Friday RS2477. On the 21st of May she will be giving a Graduation Commencement address for the Bridges Program.
Commissioner McCown – most of the same agenda; 5:30 P.M. tonight, the CMC land receiving reception from at the location by the Airport; Road and Bridge meeting on Wednesday at 2 p.m. with Mesa and the Forest Service. Thursday/Friday the Coal Conference at Steamboat; Friday it moves from Steamboat to Craig; last week a North RAC Wednesday and Thursday at Browns Park, Ladora Hall and Friday night held an art auction at the Creek bend Coffee House for the high school.
Chairman Martin – Last Tuesday met with the MPR radio and gave our presentation and stance in reference to our letter that went out to the BLM and other partners on the Roan Plateau and that was recorded nationwide. Energy Advisory Board meeting and he was pleased with the way that it is working; Doug reiterated that they are advisory to the Board of County Commissioners and their focus is to give good sound advice but also that they are a sounding board for complaints and not regulatory and that Doug is to take care of that issue and to rely that to the right people. CMC dedication at the Airport Road in Rifle. Presentation that the Weed and Pest folks are doing on Wednesday from 7 – 9 at the Roy Moore Elementary school in Silt; and on the 14th New Castle Breakfast with the citizens, this is a regular meeting held on Friday mornings. The 21st a meeting with DOW and the Recreational District of Carbondale and Trail folks talking about 4 new accesses to the Roaring Fork River for fisherman. Rendezvous on Friday the 21st
at 5:30 p.m. Bicycle Rodeo in Silt and there are 200 helmets to give away starting at 10 a.m. On May 26 – 29 John will be at the Western Inter-State Region of Public Lands which is part of the National Association of counties, John is a board member that takes in the 11-Western States on public lands issues in Ogden, Utah. City/County – 18th of May 7:00 a.m. – at the City of Glenwood Springs.
Commissioner Houpt wants to schedule a meeting with Carbondale and suggested to contact Bentley.
Ed – John Hier asked Ed to go the RE-2 School District meeting where he will present the concept of the ballfield. If the School District doesn't agree to vacate earlier than 11 months, we're dead in the water. That agreement is contingent upon the guarantee they will have a facility to go to in February 2005. Everthing needs to be in writing by next month - June.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers - none
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Conditional Use Permit for a Bed and Breakfast at 4351 CR 115 for Gretchen & Sranislaw Wroblewski – Mark Bean
f. Authorize the Chairman to sign the Resolution and Final Plat for Know Exemption from the Definition of Subdivision. Applicants: Michael and Rayness Knox – Fred Jarman
g. Authorize the Chairman to sign a Resolution for a Special Use Permit and Special Use Permit for Anthony and Theresa Giguere Perry – Jim Hardcastle

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

REGULAR AGENDA

PUBLIC HEARINGS

CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN EXPANSION OF A SCHOOL FOR THE EMILY GRIFFITH CENTER LOCATED AT 1252 CR 294. APPLICANT: BILL EVANS – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Emily Griffith Center staff Beth Miller for Howard Shipman, Susan Garcia Program Director and Bill Evans landlord and property owner were present.

Carolyn determined with the applicant that posting, notification of property owners and publication were timely, however, she also determined that the Board needed to discuss whether or not the publication was adequate because it is supposed to be published in the name of the owner. The Commissioners accepted the publication and Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 as amended; Exhibit E – Application; Exhibit D - Staff Memorandum; Exhibit G – Analysis from Church and Associates dated Mary 4, 2004 and Exhibit H – Letter from Schmueser Gordon Meyer dated 7/7/04.
Chairman Martin entered Exhibits A – H into the record.
Fred said this is a Conditional Use Permit to expand permitted uses for a School dba the "Emily Griffith Center" on 5 plus/minus acres off CR 294 in the Rifle Area. Included in the proposal is a history of the facility, formerly known as Western Academy. The proposal includes the internal expansion of facilities and services for the additional 7 students for a maximum of 35 students. Increasing the capacity to 35 would also female residents from the proposed 1359 program to attend activities on the 1252 company. In going over the staff report, Fred noted some findings with relation to the adequacy of the septic system and therefore the Staff Recommendation is to open and continue the public hearing regarding the request. He recommended a more detailed analysis be presented and verified by the County regarding the septic system.
Staff recommendation:
Staff recommends the Board of County Commissioners open and continue the public hearing regarding the request to expand the services and facilities of the Emily Griffith Center for a "school" on a property located at 1252 County Road 294, Garfield County so that a more detailed analysis can be presented to and verified by the County regarding the adequacy of the septic system.
Commissioner McCown clarified that this will replace the current special use or conditional use permit. Bill Evans asked if this was defined as a new permit and not just a change. Fred noted the regulations do not have a provision for an amended SUP. Beth Miller explored three systems, staying under the ERQ's, tapping into the City, and/or a septic system. They send the laundry out starting in February 2004 and by doing so they have been managing the system. Commissioner McCown noted the previous calculations were done by Schmueser Gordon Meyer and since they are on the City water system, a longer study span of time could be easily done and would request that be done. Bill Evans said the water readings after the laundry was sent out significantly changed the water usage. Bill didn't feel there was a problem in furnishing the County with these readings. D. Miller said the school plans to continue sending out the laundry long term. Carolyn asked the applicant regarding the definition of zoning code of schools and correctional facilities having to do with the type of students they are serving. These questions would be applicable to both this use and the other use to be discussed and requested that her questions be allowed as evidence in the first continued hearing as well as the second. The Board agreed. Carolyn noted they are permitted as a school, and asked if the teachers are licensed by state. Beth said by the Colorado Department of Education and meets all those regulations. Carolyn is they licensed elementary, special education. Beth – all of them and principals and educational directors have a special education endorsement. Carolyn – you are a treatment facility as well as an educational facility and asked how they are licensed under the State system as a treatment facility. Beth - the child welfare Department of Human Services licenses them as a residential child care facility (RCCF) and 2nd category related to the Medicaid dollars the boys receive which is RTC – residential treatment center. The staff secure relates to an open setting it is not a locked setting other than delay egress doors like in an Airport. The staff secure denotes the staffing ratios; staff to children. Various department place children from Social Services and also Division of Youth Corrections through Social Services and contracts are in place for both. The licensing from the State for the legal custody resides with the Department of Human Services or with their parents – it varies and contract for payment with parents or a governmental entity. At present there is a contract being negotiated for staff secure facility for children that were with Colorado West under the Division of Youth Services. The Contract was transferred from the Colorado West Mental Health Center. The contract was transferred and there are kids now in the facility from the Colorado West facility. The children coming from this contract would be kids who may have been picked up on the street, truant from school, awaiting hearing with Judge Ossola or the courts, abuse and neglect victims, substance abuse, and children under a Department of Human Services contract could have been placed through an adjudicated court order but not as a committed youth. The child is not permitted to leave the facility without the permission of the court on a permanent

basis. Essentially the kids are there under court order. They could also be under an order of Probation. These children are at the front end of the delinquency process. Beth estimated that 25% of kids do have juvenile court involvement. Carolyn requested more information on the percentage and more discussion about school versus correction facility and get back to the Commissioners with some information on Colorado case law involving pre- adjudicated and committed youth. Beth said that since the facility was opened in 1986 as Western Academy, the welfare students that are served have remained the same throughout the course of the history of the property.
Commissioner McCown asked that during the course of a child's stay at this facility, are you by law required to provide an educational environment for these children i.e. school? Beth said absolutely, the normal school year is 180 and Griffith School requests 210 days which means they scholarship the children for the other 35 days. The Emily Griffith School is certified from the North Central accreditation of colleges and universities and also through the Department of Education. This is done as a requirement of their stay. Funding in the form of PPOR for operating revenue as well as costs because all these children are handicapped under the laws related to special needs children.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue this hearing until June 21, 2004 1:15 p.m.

CONSIDER A REQUEST FOR CONDITIONAL USE PERMIT FOR THE CONVERSION OF A SINGLE-FAMILY DWELLING TO A SCHOOL FOR THE EMILY GRIFFITH CENTER LOXATED AT 1359 CR 294. APPLICANT – ROBERT LAY – FRED JARMAN
Fred Jarman, Carolyn Dahlgren, Emily Griffith Center staff Dr. Miller for Howard Shipman, Susan Garcia Program Director Robert Lay property owner were present.
Carolyn determined with the applicant that posting, notification of property owners and publication were timely, however, she also determined that the Board needed to discuss whether or not the publication was adequate because it is supposed to be published in the name of the owner. The Commissioners accepted the publication and Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 as amended; Exhibit E – Application; Exhibit,
F – Staff Memorandum; Exhibit G – Analysis from Church & Associates dated May 4, 2004 and Exhibit H – Floor Plan of the Dwelling.
Chairman Martin entered Exhibits A – H into the record.
Fred said this is a request for a Conditional Use Permit to expand permitted uses for the Emily Griffith Center to convert an existing single-family dwelling to a "residential treatment center for up to 14 females between the ages of 9 and 18. The applicant states the program/facility will primarily serve female students from Garfield County and other western slope counties.
The proposed facility will require 7 staff members and the facility will be staff in needed capacity 24 hours a day.
The property is located on the mesa just east of Rifle on CR 294. The dwelling is a single-story 3 bedroom, 1 bath residence with a two car garage. The applicant proposes to significantly alter the dwelling into the following phases: 1) Convert the garage into 2 sleeping areas for 3 students each; 2) kitchen and dining area; 3) recreation room administrative office/private counseling room; 4) convert a half bath to a full bathroom and 5) 2 larger sleeping areas for 4 students each.
Carolyn requested the same questions and concerns she asked and information requested to be included in this hearing.
Fred said this needs to be a stand alone permit even though County Attorney Dahlgren submitted questions for both facilities. Having their meals served from across the street, etc. does not qualify as a stand alone facility.
A Fax - Exhibit I – was entered into the record. Church & Associates document.
Exhibit J – photos showing the single-family dwelling house were entered.
Staff questions a stand alone and needs to be separate versus being attached to the other property. Therefore staff feels they do not have the standing necessary to request a Conditional Use Permit.
Commissioner Houpt asked if they had classrooms along with dorms would that help classify as a stand alone even though they used the kitchen from the other facility?
Fred – if in the plan it included classrooms (providing services for classrooms on site) it would.

Beth Miller said from the inception separate classrooms were intended, two classrooms, and separate teachers however it would have shared administration. The food arrangement could be looked into as well. Boys and Girls would not be in the same classrooms.
Commissioner McCown asked if the dining room could be converted into a classroom.
Beth noted on the drawings a separate building, an outbuilding, but there were no remodeling and plans submitted. It's a self contained building and easily moved into classroom space and was the intent from the beginning. This will be provided to the Board. This is for this time frame and not phased in. The new school would not be opened until the remodeling of the garage has been completed and licensed by the State Department of Education.
Commissioner McCown said this property has a domestic well adjudication; by converting this to a school i.e. different use, he wasn't sure that domestic well would still be in proper form and may require the owner or the new owner to go back to the State and obtain the proper adjudication for that well – it clearly changes the use from a domestic use as they are usually prescribed and there are usually conditions placed on those domestic wells. This was not included in the permit. You may be required to obtain a new well permit; one of the things we require is a legal and adequate source of water.
Commissioner Houpt clarified that if everything else is fine, we've opened and continued the last application, does it make sense to open and continue this one since the classroom information had not been presented to you before?
Fred agreed and wants the applicant to address the issues of providing meals to these students and whether that's also a connection to the larger Emily Griffith Center. These other connections that are inherent to keeping a school self-sufficient residential treatment center is a real important component here and continuing this would allow them more time to flush those issues out and see where they want to go with it.
Beth Miller will be happy to address the concerns. The girl's school serving the needs of girl's ages 9 – 18 would be a benefit to the community; they will provide drawings by the architect and address concerns regarding classrooms if this is continued.
Linda Shoupt lives across from the school and her concern would be if they were going to share meals at the main center, her property borders on the west and asked how they would get the children from 1359 to 1252 County Road 294.
Beth said they planned to use the same staff prep the food but serve the girls in their own facility.
Linda related some traffic concerns, past experiences with kids throwing things in their fields and also some who have run away and the Sheriff looking for them at their home and on their property.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue to this public hearing until June 21 at 1:15 p.m. to address the following: remodel on the garage and receiving those plans, issue of the changing use on the well permit, questions regarding the septic system, meals, and get Road and Bridge to provide input on the angle of the County Road and the intersection. Motion carried.

CONTINUED - CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THE COMMUNICATIONS FACILITY FOR KMTS ON RED MOUNTAIN. APPLICANT: MOUNTAIN STATES COMMUNICATION, INC. – FRED JARMAN

Gabe Chenoweth, Jon Banks, Fred Jarman and Carolyn Dahlgren were present.
Chairman Martin – now this is a continued public hearing. Everybody get settled and again I'll ask you, those who wish to give testimony in this matter, please raise your right hand. Do you promise to tell the truth, the whole truth and nothing but the truth.
Audience – I do.
Chairman Martin – Thank you very much. Mr. Jarman, do you have other exhibits that you need to identify?
Fred Jarman – yes, I do. As part of the packet to you there would have been, what I'm going to call Exhibit M which is a follow up letter from Jon Banks dated May 5, 2004; there is a second follow-up letter from Jon Banks, dated May 7, 2004, Exhibit N, and then I want to omit my staff report as Exhibit O just dated today.
Chairman Martin – so you're entering Exhibits M, N and O.
Fred Jarman – also included in your original packet was the Exhibit K already handed out at the last meeting, so I know that it was handed out at last Monday's meeting and you really didn't get a chance to really pour through that since we're talking about the same issues, so that's the reason I put that in there.
Chairman Martin – all right, thank you and the applicant has a copy of each one of those that you submitting.
Applicant – nodded yes.

Chairman Martin – we'll enter those into the record – M, N, and O.
Fred said I don't have a power point today but this is to follow up on last Monday's discussion. Again this is the proposed; it's a Special Use Permit request for a proposed tower for KMTS that would stand one hundred and two feet (102') tall behind their existing tower forty one foot (41') tower behind Red Mountain. , again, simply for the record, the applicant is Mountain States Communication also owner of the forty (40) acre tract on which the current tower sits. The existing zoning for that property is A/R/RD and again the specific request is for a communications facility. So, just a real quick recap, last Monday we sat here and discussed the merits of the proposal and also the Board opened and continued the public hearing until today so that the applicant could go back and readdress a number of those issues that I've outlined in this staff report. One being to really fully explore and exhaust all other co-location opportunities. , also there was some discussion as to other options at the particular site they're proposing whether or not they could change the location and height of a tower, also connected to the possible relocation of a road, obviously fencing issues to control the uncontrolled public versus the controlled public, i.e. the workers who would deal with that tower and then . Also a side note here about some, I included some of the Regulations from the Code that speak to the fact that all facilities shall comply with the radio frequency emission requirements of the FCC and in this facility compliance cannot be denied, so the test there really gets to the questions of while we treat this in the Code as a Special use Permit, technically it could be possibly considered as a Conditional Use Permit where it's more or less a use by right that you have the ability to place conditions on that you see fit. With that I've also listed a number of conditions if the Board sees fit to approve, one of the options that the applicant is proposing. Now, as far as a co-location goes, we had an agreement with the applicant in that they've really looked at a lot of the other locations except for Iron Mountain. We did talk a lot about Sunlight; that was the new one last week. They are not able to locate there, we said well let's see about Iron Mountain, it's a private site. It's Steve Beckley's Cavern site and they have done so and addressed that issue in Exhibit N. They've provided seven (7) points as to why that's just simply can't work. They also go onto talk about the physical site, what I call a physical site alteration option. That's either keeping the existing tower, fencing that, relocating the road increasing the height of the tower, moving it back, not changing the road – there are a variety of issues here. If you look at page two (2) of Exhibit N they provide you with option one (1), two (2) and three (3) and so I imagine we're going to focus on those three (3) alternatives here as far as what's being permitted proposed. Ultimately, the way it works is, the further you're going to move it, at least the way they're proposing to you, is the further they move that tower away from the lip of the mountain, the taller it needs to be to continue the line of site; but the smaller the area needs to be that they'll fence in because that radio field is then lifted off the ground. That's ultimately the issue I believe. And so, as you can tell, in the options as they get away from the lip of the hill the tower also goes up in height. The Board also asked them to come back with a cost analysis comparing those kinds of options against the erection of a hundred and two foot (102') tall tower and how that weighs out, where as the analysis as what costs more. In their Exhibit N they do not provide that only to say that they received a quote for fencing for options one (1) and two (2); there is no fencing option for number three (3) it wouldn't require it because it would be high enough. They go on to say that it doesn't appear shortening of the tower will be reduced, or the cost more than five hundred dollars ($500). I'm going to let the applicant articulate what their thoughts are on that as well as the chart here on page three (3) that talks about the difference between occupational exposure and general public exposure and how high that needs to be and that's what that chart shows you. So, I think we're really in the same place here; I think there are a number of options , a lot of this information has come fairly recently and so my staff report doesn't reflect any analysis of Exhibit N, any of those options, so this is relatively new. I wasn't in the office of Friday, that's when the email came to me, but, it's also very good to use it today. So I think those really were the issues as we left it. There is one last issue with respect to legal access to the property. There was a question of whether or not that the easement included them legally. And so they were asked to speak to that too. I understand that Jon has a letter for us from the City of Glenwood Springs that I think indicates that. So I think with that I'll turn it back over to you to hear from the applicant to make their pitch at this point.
Staff Recommendation:
Should the Board grant approval to the applicant, at the very least the Staff suggests the Board consider the following conditions of approval:

1. That the Applicant shall continuously remain in compliance with the requirements of the Federal Aviation Administration (FAA), as stated in the "Determination of No Hazard to Air Navigation" including:

a) The proponent (applicant) agrees to electromagnetic conditions in letter dated October 10, 2002;
b) Therefore, this determination is conditional in that upon receipt of notification from the FCC that harmful interference is being caused by the licensee's transmitter, the licensee shall either immediately reduce the power to the point of not interference, cease operation, or take such immediate corrective action as is necessary to eliminate the harmful interference; and
c) Any additional broadcast stations at this location, or increases in effective radiated power or antennae height shall require another study.
d) Based on this elevation, marking and lighting are not necessary for aviation safety. However, if markings and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA advisory Circular 70/7460-1 AC70/7460-1K.

2. That, as may be allowed by the regulations of the Federal Aviation Administration, the tower shall not be lighted or painted.
3. No permit shall be granted until the Applicant has provided proof to the County that the property has legal access to the property over and across properties owned by the City of Glenwood Springs.

Jon Banks – Handed in Exhibit P.
Chairman Martin – Yes, and we also have a letter from the Glenwood Springs Mall. We'll make that Q. Exhibits P and Q were entered into the record.
Jon Banks – the first question to address that came up last meeting is the possibility of co-locating at Iron Mountain. We have a letter on the top from Steve Beckley addressing that and saying that he doesn't see that as really possible. The other principal question was the easement and access and we have a letter from the City of Glenwood Springs who reviewed the access easement that was in our deed and indications that they've historically provided access personate to that grant and that they would be willing to execute an updated easement if necessary. At that point we get down to the various options that could be taken at the site. We contacted the Glen Park Ranch LLC. On Tuesday following the last meeting and again on Friday when we had a chance to analysis the situation and figure out what options might be available. Now, our real hope was that we would be able to present some options because obviously people like options. We looked at what would happen if the tower went up foot by foot and it was very clear that when the tower reached sixty feet, (60'), which is nineteen feet (19') taller than current, some very nice things happened. The first thing was that there are two exposure standards, one of the general public and one for occupational. And we really had concerns about proposing a structure that allowed the occupational exposure to be exceeded on the ground that would mean there would be places where no one should walk. Not just the general public. And from a point of view taking a prudent approach to safety, it seemed like it was wise to get anything that exceeded the occupational exposure limit off the ground. , Fred had talked and done a very very nice drawing to explain how this area around the antenna was and this is actually a pretty accurate picture. And what happens right now if we're here we have occupational exposure on the ground. At sixty feet (60') feet we just have the occupational exposure off the ground and something else happens that's very nice, which is the area of general public explore shrinks dramatically and we end up with a , fence radius of about seventy feet (70'). And then, if we get all the way up to , to a hundred and two feet (102'), which is there and that was our originally proposal, , the whole thing is off the ground. And this of course is unequivocally safe and we think that's one of the things that really recommends it. , however the options that we came up with were to take the tower to sixty feet(60'), pull it back about twenty five feet (25') from where it is and put a seventy foot (70')fence around it and that would encompass a part of the road. That was really only an option if the road could be made to go away. , the next option was to put a seventy foot (70') fence around the tower, pull the tower back until that fence was clear of the road and adjust the tower height so that it had a roughly similar line of site into town. When we did that we came up with about an eighty foot (80') tower. So that's an eighty foot (80') tower, seventy foot (70') fence pulled back from the road. And then the third (3rd) option was the original hundred and two foot (102') tower with no fence. One of the things that was very appealing about , the one hundred and two foot (102') tower was that if the regulation ever got stricter fencing could be added to bring it into compliance. An option that involves meeting today's standard with a fence right next to the road means that you really don't have an option to improve it later on. While we don't have any indication that the standards will change, those sorts of regulations don't get looser, they get tighter. We got a fencing quote

for the seventy foot (70') radius fence and that was about seventy five hundred dollars ($7500), seventy six thirty seven ($7637). , we received a fax this morning from the Glen Park Ranch people indicating that they had gotten an idea of the cost of moving the road and came up with about fifty five thousand dollars ($55,000), which they indicate is too high for them to consider. The cost of erecting a shorter tower is not substantially different. We still had the administrative costs, the FCC modification, we have the planning, we have the setting of guiwire anchors, we have the rental of the crane, we have the stacking of the sections, we have the labor, but we save the stacking of the two (2) tower sections, probably an hour's worth of the crane's time and the cost of those two (2) sections. So, maybe six hundred bucks ($600) less to put in the shorter tower. Exactly where we'll locate the shorter tower options isn't quite clear because we do have an overhead power line right next to the building and we need to make sure that we can tuck it in around the building so the guiwire can come down in a clear area. But I think that's doable and I think we can find, find a way to do the hundred and two foot (102') tower which was our original proposal, I think we can find a way to do the eighty foot (80') tower with fencing, I think we could find a way to do the sixty foot (60') tower pulled back twenty five feet (25') or so if the road were still there. But it looks like the cost of moving the road is out of our reach and apparently out of the reach of our neighbors.
Commissioner Houpt – Jon, if the road weren't an issue why would you be moving the sixty foot (60') tower back twenty five feet (25') and not just adding some sections to the forty foot (40') tower?
Jon Banks – To reduce visual impact. We think that's a worthwhile thing to do even if you guys would let us do it; I mean our original proposal to pull the tower back was because we thought it was unreasonable on the edge of the hill.
Commissioner Houpt - Jon, what I don't see in here is the cost of building a new tower and removing the old tower.
Jon Banks – We had budgeted the project at around thirty thousand dollars ($30,000) and a lot of, that's concrete and steel plus all the paper that allows you to do it.
Commissioner Houpt - And that's for both dismantling and building?
Jon Banks – Yes. What the proposal was to us was to take the twenty foot (20') pole off the top of the existing tower, which brings it into height compliance.
Commissioner Houpt – But if we want that tower gone so it's not a tower field and . . .
Jon Banks – We still have things on it that we'd like to continue to use there.
Chairman Martin - I believe you talked about it was a forty one foot (41') tower, you were going to take the top section off, still have twenty, twenty one feet (20' – 21') there.
Jon Banks – That would …
Commissioner Houpt – Why wouldn't you be able to use what's on that tower on the hundred and two foot (102') tower? On an eighty foot (80') tower?
Jon Banks – on, as we move the tower back only the very top part of it continues to have line of site to the city. KMTS currently has a microwave antenna which requires line of site even more than the FM does on the short tower and because it's right at the lip of the hill it can see down into their studios over near Gart Brothers in the Mall. I don't know exactly how it stacks up as the tower moves back but if we take the pole off the top twenty feet (20') that short tower's going to be mighty minimal.
Commissioner Houpt – But I'm asking why it, you couldn't serve the same purpose with just one (1) tower, instead of two (2). Because I do know that one of the issues raised at the last meeting was the concern that as you add more towers, this could turn into a tower field, it would open it up for that.
Jon Banks – This is a multi use site which is encouraged and having some ability to absorb tenants is worthwhile, it's going to help pay for the fence that we will be adding here, and it will prevent you from getting more applications from people if we, you know, have maybe something short near the lip of the hill that can accommodate internet users, people like that.
Commissioner Houpt – Okay, but back to my other question, could you have all those uses on that one tower? And if not, why not?
Jon Banks – I think it could be done; I think it would involve moving some of the antennas up near, they've have to be higher on the eighty foot (80') tower to see over the edge of the hill; I think they could be put there.
Commissioner Houpt – Okay.
Chairman Martin – All right. Other questions? Anything else Jon?
Commissioner McCown – If you move those antennas up on the eighty foot (80') tower Jon, it that going to make that tower appear more visible with the more hardware you hang on it than if you would leave it on the shorter tower down next to the lip of the hill?

Jon Banks – I think the stuff on the short tower now is down below the pole, so when the pole comes off it wouldn't be affected. I think that part down below is has very little visual impact, it's really sort of hidden in the Scrub Oak on the edge of the hill. , I don't know that it's going to be a big impact if it goes up on the other tower, but it, it will be more visible from some places.
Commissioner McCown - I believe you said it was fifty thousand dollar ($55,000) price estimate to move the road, how much of the road were you having to relocate at that price?
Jon Banks – That came from our neighbors and they're talking twelve hundred feet (1200') it looks like, twelve to fourteen hundred feet (1200' to 1400') it looks like, so they appear to have chosen a road alignment in the meadow which was behind the transmitter building.
Commissioner McCown – Okay. I believe that was up through the clearing the other day when we did have the Power Point up and that was quite a lengthy span of road as opposed to just going around the tower location if you will.
Jon Banks – Once you start going around the tower you go around the building too, that puts you back in that meadow.
Commissioner McCown – But it doesn't start down at the bottom and go all the way through the meadow.
Jon Banks – Right.
Fred Jarman – Part of the exercise last Monday was to see the visual impact as far as how much tower top you'd see as you moved away from the lip of the hill, can you describe how that works with options one and two comparatively as you showed in that site profile, you know, you showed the forty one foot (41') tall and then you showed the hundred and two (102) and you had that line, can you describe what the differences are?
Jon Banks – The sixty (60) would be the most visible, the sixty foot (60') tower moved only twenty (20') some feet would be the most visible. The limitation on moving that one back was that you start approaching the building very closely.
Fred Jarman – You approach the ski building, the old ski building?
Jon Banks – Yes. The eighty foot (80') tower is somewhat less visible and the one hundred and two (102') probably the least visible, although I guess the thing I should stress here, and this is what you picked up on in your report was that it depends so much on where you are when you're looking at it that the single point analysis from due east, sort of a starting place, but I suspect that each of those towers would be more visible from someplace that's less visible than others and I suspect it would change. Each of the options would change, so I think it's a dime on the dollar's difference between the three. We tried to sort of hold to that view line but it's not perfect.
Fred Jarman – Will the eighty foot (80') tower breach that line?
Jon Banks – The sixty (60) and eighty (80) both will.
Fred Jarman – By how much?
Jon Banks – Nine feet (9'), something like that.
Fred Jarman – Thank you.
Chairman Martin – Citizens out there that wish to make comment. Lynn. Come on up here, we know who you are but you have to introduce yourself for the tape.
Lynn Kleager - The one option that, and I apologize for not getting you the bids, we didn't get those till just yesterday and I was on vacation last week, so. Anyway the one option I haven't heard mentioned is what about adding twenty feet (20') to the current tower, which puts it even shorter than the cross and the money you save for the tower, if it's thirty (30), apply that to the road. And, Glen Park can make a contribution to the road, you know we hate to contribute to two roads but we'd like to see it stay at one tower max and not open the door in the future.
Chairman Martin – I think we had testimony that there's already two (2) towers up there, Lynn.
Lynn Kleager – You mean the other little microwave tower, whatever?
Chairman Martin – The one that's next to the building itself, yes.
Fred Jarman – Right.
Commissioner Houpt – No, it's on top of the roof.
Lynn Kleager – Well that's the one they're using right now for the radio station also.
Chairman Martin – There are two there as I remember it. Am I correct Gabe?
Commissioner Houpt – Well, there's a tower and then what's on the roof, is there another tower?
Jon Banks – The other tower is bracketed to the building, right.
Lynn Kleager – Oh, okay.
Chairman Martin – Right, so there are two towers already.

Lynn Kleager – The one on the building doesn't bother us, the building not a picture perfect thing but, I mean just asking the question why couldn't we save the money on the new tower and apply it to the road and then just add twenty feet (20') on top of your current antennae, it would still be shorter than the cross.
Chairman Martin – That is an option, maybe you'd like to talk about it.
Lynn Kleager – The cross is like about seventy five feet (75') or something.
Jon Banks – Yeah. , from a construction point of view it makes more sense to erect a tower than to add to one when we don't know what sort of foundation is in the ground or underneath that one tower. And getting a sixty foot (60') tower that all matches up is possible where as tacking onto one that we have involve, you know, some custom stuff. As far as keeping the tower at the same location and raising it sixty feet (60') that's certainly doable. We could, you know, put the new one very close to the existing one. The amount of dollar savings it appears is very small and I don't know if you're prepared to pick up the balance of the road. Your fax indicated probably not.
Lynn Kleager – Well, I'd like to see the proof on the cost of your tower at the same time, of course, you're only talking about a thirty thousand dollar ($30,000) tower. But, hum, but if you're going to erect it anyway I question, you know, the tower you have has been there for how long, thirty years (30), I'd say it's pretty good foundation at this point. I mean, why not try to re-use it?
Commissioner McCown – Aren't we still going to have to have a fence?
Jon Banks – Yes.
Commissioner McCown – And isn't this existing tower located right by the road?
Jon Banks – Yes.
Commissioner McCown – And anytime you relocate the road you're involving twelve hundred foot (1200')? Was that your estimate?
Jon Banks – Right.
Commissioner McCown – So fifty thousand dollars ($50,000) is still there.
Lynn Kleager – Well, we'd pay half of it.
Commissioner McCown – The building the new tower.
Lynn Kleager – I was trying to get them to save money on the tower to apply to the road is what I was trying to get to. Just to reiterate the smaller the tower the more compatible it is to our residential community that we're going to have.
Commissioner Houpt – No I would like to just point out that even with paying for half of it, it still doubles the cost if they have to, you have to construct a new tower, I mean if there's no way you can get around doing that, then from what I've seen presented today it looks like it would still be pretty expensive for everybody. This is why I thought you needed more time to talk to each other than just a week.
Lynn Kleager – Well, it was a very short time frame to try and get our ducks in a row.
Nancy Carlson - I'm a property owner up there as well as the realtor and I have spoken with Lee Green who's a property owner up there and he wanted me to express his objection for this tower, that he would like to see something worked out with the existing tower because everyone is used to seeing that to add another twenty feet (20') if possible to that he felt was a much more logical solution. Also, Patti Brendlinger, who is the real estate agent that represents the Lesniaks who are the owners of the, the property owners on the top of the hill, , she wanted to express her objection as well for the Lesniaks.
Commissioner McCown – Nancy, I guess it's a chicken and egg situation, was this radio tower there when this land was subdivided?
Nancy Carlson – Yes, and we thought it was going to stay just what it is.
Commissioner McCown – But there was a radio transmission site there?
Nancy Carlson – Yes.
Commissioner McCown – Okay.
Chairman Martin – Lynn has another comment, I can tell.
Lynn Kleager – Yeah, a little bit of history, well Larry just asked about too, when we put the road in we knew it was a problem going by the radio tower and at the time they were trying to relocate it and so that's why we had gone ahead and spent the money to improve that road and it would have been very easy at that time, you know, had they told us we're not going to relocate, with the road being that close, can you move the road over to the other end of the property, you know, we could have killed two birds with one stone if we had used our heads five (5) years ago. The one other thing I was going to point out is, they save five hundred dollars ($500) with twenty foot (20') sections so, hopefully they could add twenty foot (20') for similar cost, as far as I know it could be more but, it's a pretty small number I think than a whole tower.

Lou Vallario, Garfield County Sheriff - I just wanted to speak to really the needs of the radio station itself, whether you decide to raise it, lower it, put a fence around it, that's for you to decide and I'm not throwing my comment one way or the other. But I did want to just kind of impress the Board on the need for the station. KMTS has had a long relationship, particularly with law enforcement and I know you have both letters from the Carbondale Police Department and the Glenwood Springs Police Department supporting this. I'm probably mirroring what they've said, I haven't read their letters but, since as far as I can think back ten (10) years ago to the Storm King Fire, we've been able to utilize KMTS as a local radio station to get the word out for emergency situations. More recently the Coal Seam fire, the Mitchell Creek floods and the mud and they are just always there for the community. I can tell you specifically during Coal Seam, I was out of the state on a fishing trip and i started hearing these reports from major radio stations in Denver, while I was trying to drive back, and what I was hearing from them was so inconsistent with what really happened I finally picked up the phone, was able to call KMTS and I think Deb was there at the time and I spoke to her and she gave me, of course at the time I was the Assistant Chief of Police for Glenwood, a more accurate information that the fact that the Mall hadn't burned down and the car dealerships hadn't burned down and the town was still fairly in tact. So I guess what I'm saying is they've been very reliable and have certainly answered the need for public service announcements particularly when it comes to the critical things and the emergency things. I know when Coal Seam first started, one of the first things Terry did, Terry Wilson, the Chief of Police, got on the phone with Ron at home, Ron Milhorn, and called him and said hey, I need you help, I need you at the studio and it happened like that. So I just kind of want to weight in there when you make this decision we need to consider the ultimate value of the radio station itself and certainly we wouldn't want the FCC to have to shut them down because of dispute as to whether you're going to raise this thing, or lower this thing, or do whatever, so I just kind of weight in on the public safety side of it and how helpful they've been.
Commissioner Houpt – Jon, you had mentioned that in order to put additional feet of tower on the existing one it would be a more specialized job. Could you elaborate on that?
Jon Banks – Yeah, you have to make sure that it's going to meet structural code and when you don't know what the foundation is in the ground, you don't know. So adding onto something that's an unknown doesn't necessarily solve the problem. The existing tower is anchored with a block foundation that at its height doesn't require any guiwire. , at sixty (60) it's a tough call; at eighty (80) it certainly does. , so you're sort of into all of that anyway and when you know what you have in the way of a structure, you're ahead of the game. When it's a thirty (30) year old structure that you don't have any records on, you don't know who made it or what type of steel they used, it's difficult to be sure what you're doing is going to meet code.
Commissioner Houpt – And there's no one out there who would be able to tell you whether it was even worth adding onto, I mean you'd hire somebody to build the structure whether you built a new one or added onto the old on. Would they be qualified to advise you as to whether or not it would compromise the integrity of that tower or not?
Jon Banks – Well, their concern would be, we're going to have to dig up the foundation to see what it is and that would be, you know, the concern. It's probably much more straight forward to put one up and reduce the height of the old one or take it down or whatever than it is to add onto the one that's there.
Commissioner Houpt – Yeah, it is more straight forward, but I was just wondering, the viability of looking at that as an option.
Jon Banks – I'm not sure, I'm not, I'm not sure what it gains, I understand where you're going with this but I'm not sure what it gains.
Commissioner Houpt – Well, it gains in saving money on not constructing a new tower and being able to construct a new road.
Jon Banks – Oh, it's much cheaper to start from scratch than to try and work with what you've got.
Commissioner Houpt – Five hundred (500) section wouldn't pertain to the old structure.
Jon Banks – No, it wouldn't.
Commissioner McCown – Jon, clear it up for me again. The eighty foot (80') tower raises the area off of the ground.
Jon Banks – It raises the occupational area off of the ground and to exclude the general public we've reduced the fence to a seventy (70') foot radius, which is fairly manageable.
Commissioner McCown – Right, and that's just simply because of the standards for the public as opposed to the occupational?
Jon Banks – Yes sir.
Commissioner McCown – Okay.

Chairman Martin – But you'd have to move it back from the road so many feet.
Jon Banks – Yes, seventy (70) something.
Commissioner McCown – And that's strictly to clear the road.
Jon Banks – Yes.
Commissioner McCown – Okay. Now, for my own information, the road that crosses your property, everyone was worried about you having an easement across from the City to get to your property. Do you have, do the Glen Park Ranch people have an easement across your property to access theirs and is that access easement limited to the confines of the existing road? I mean, people can't come up there and wander around on your property can they?
Jon Banks – I assume their easement is limited to the road but not being an attorney I don't know. The only other thing that, well, that's all I know.
Chairman Martin – Other citizens? Nancy, you have another one.
Nancy Carlson – Well, first of all I want to make it clear that we too support KMTS, there's never been any doubt that we don't feel that it's, it's very important to have a local radio station; we just want to be able to work this out and I would agrees with Tresi that I don't think enough time has really been given to, to really sit down and work out all these, you know, one week to get an engineer up there, talk about a road, find out about what the base is, the foundation on the existing tower. I think there's lots of things that, it just takes time to get all of that and it, I guess I'm asking for more time.
Commissioner McCown – Maybe I misunderstood, but I thought last week the applicant's, part of their problem was the limited timeline they have, the importance of this radio station if we can't come to some kind of an agreement and they can't make their licensing deadline it will go off the air and we will lose our local radio station and part of meeting that licensing deadline is the safety requirements of this antenna system. Did I understand that correctly last week?
Jon Banks – Yes.
Commissioner McCown – So there is a bit of a timeline here.
Jon Banks – We're working with the licensing deadline in the fall.
Commissioner McCown – We just can't all sit around and get engineering studies back on this that take all summer.
Commissioner Houpt – What is your timeline?
Jon Banks - The application for license renew has to be in this fall, and is it September? Six months before April, so October I guess.
Commissioner McCown – So this work has to be completed prior to that?
Jon Banks – Yes.
Commissioner McCown – Or the plan has to be in place and approved.
Jon Banks – We would very much like to be able to say in our application that this is done.
Commissioner McCown – I thought I heard that somewhere.
Commissioner Houpt – So around October. And how long does it take to typically construct a tower.
Jon Banks – Oh, probably about a month and most of that is, you know, doing concrete, letting it cure and coming back.
Chairman Martin – Do we have any other comments?
Commissioner Houpt – Well, no, but I, oh, yes I do because I was going to say no and then I was going to elaborate. I don't think this was ever a question of whether or not KMTS is important. I think it's a question of whether all avenues have been pursued and I will still contend that the week we gave you didn't give you enough time to resolve a lot of the questions that had been brought forth last week. , and you know, when you put an additional tower up, it's big; I mean it's an impact.
Chairman Martin – It's an impact. The notice that went out was so advertised and it was posted and there was a requirement to make sure that those that are impacted have notification and to know who to contact with their concerns, ecteria and I think that all we accepted – the notification and I think it's been more than sixty (60) days since you've been working on this issue. Mr. Chenoweth, can you give me an idea how long this has been in the works and how long you've been talking about this particular antenna and the site? It's been more than sixty (60) days that you gave notice on, am I correct? In other words, how long have you been planning this particular antenna, or a site of improvement?
Gabe Chenoweth – We've been working on this a long time, yes, more than sixty (60) days that was your question. More than sixty (60) days.
Chairman Martin – More than sixty (60) days, more than a hundred and eighty (180) days.
Gabe Chenoweth – Yes.

Chairman Martin – Almost two (2) years or more.
Gabe Chenoweth – Longer than that.
Commissioner Houpt – But we sometimes work in vacuums. I mean I think that's an important question.
Chairman Martin – It is and it does affect the neighbors and also affects those that are looking at the mountains and that we have a scenic corridor to preserve, you have to limit it and try to mitigate it as much as possible. It's also like the silt in the Colorado, we'd like to strain it out so we can use it but we can't so we send it on down the line too. Okay. Any other comments? Last chance. Anything in closing, Jon or Gabe? Nothing. Anything from Fred? From Ms. Dahlgren?
Carolyn Dahlgren – No sir.
Chairman Martin – From the Board? Do I have a motion then to close the public hearing?
Commissioner McCown – So moved.
Commissioner Houpt – Second.
Chairman Martin – Have a motion to close and a second; all those in favor? Motion carried.
Commissioner McCown – I would make a motion we approve the Special Use Permit for KMTS Communications Facility on Red Mountain allowing them to erect an eighty foot (80') tower seventy feet (70') away from the existing roadway fencing a seventy foot (70') radius around the base of the tower and conditions one (1), two (2), and three (3) of the staff packet be included in the motion.
Chairman Martin – And number one (1) has four (4) subsections, is that correct?
Commissioner McCown – Yes.
Commissioner Houpt – Are you going to have them take the existing tower down?
Commissioner McCown – Only the top as they alluded to during their testimony.
Chairman Martin – That's a twenty foot (20').
Commissioner McCown – The pole.
Chairman Martin – Yeah.
Commissioner Houpt – You wouldn't put that in there would you?
Commissioner McCown – No, I wouldn't.
Chairman Martin – It's implied that all testimony is part of the conditions.
Commissioner McCown – Yes.
Chairman Martin – All right.
Commissioner McCown – That normal boiler plate.
Chairman Martin – Yeah.
Commissioner Houpt – I would support it if you were taking it down but I'm not.
Chairman Martin – I'll second it. We'll go ahead and have a discussion. Tresi.
Commissioner Houpt – I think it's really important as we continue to grow to think about how we are using our mountain side, whether it's residential development or whether we're talking about towers and what has become quite evident is that different mountains in our area carry different types of towers and this application is raising the bar for this mountain and it's bringing in tall towers and there are other mountains that are allowing for shorter towers and for that reason I don't see a need to maintain both on the same mountain when we're trying to protect our view sheds. I have a great deal of respect for your radio station too and I don't think that's the discussion today. I think the discussion is how we move forward and develop our pristine areas. And I appreciate the options you brought forward, I think you put a great deal of thought into that I don't support keeping the old tower in place however.
Chairman Martin – Larry, do you have any comment.
Commissioner McCown – No, I have nothing, I made it …
Chairman Martin – I understanding the shortening of the tower that it is extremely hard to see with twenty one feet (21') coming off of it, you probably won't see the second tower, don't have a problem with that. I do have a problem with safety with the citizens that are there and I think the fencing requirement is a necessity. I still think that you're going to look at and get other requirements; you're going to have to go ahead and increase the height of your pole, or relocate it again at a higher distance. I don't know if we're going to save you any money or time, but those regulations are going to come down the pipe, so we'll have to be very much aware of that. No matter where you put it, someone's going to see it. It also goes along with we have no review whatsoever on thirty five acre (35) parcels of land and how they're developed and how they affect mountain tops and valleys ecteria, so that is also a different type of concern, but it's still a concern. This is one that's a necessity I think simply to meet with FCC regulations, the ability for a business to continue and a public service as well. And the relocating to one mountain top or another causes interference with high and low frequencies as well as micro wave and others, they do have to be separated.

They haven't come up with a perfect system yet that will accommodate everything so that's why you do have separations of heights and also in frequencies. And we've had evidence that shows us it will interfere with the low frequency.
Commissioner Houpt – But will that happen?
Chairman Martin – Most definitely.
Commissioner Houpt – But this will allow for different frequencies and heights that was my point, not the point of moving …
Chairman Martin – Well, it causes the interference and I think that the letter from Mr. Beckley demonstrates exactly why they can't put it on that particular site.
Commissioner Houpt – That wasn't my point.
Chairman Martin - Okay, so we'll call for the question if there's no more comments. All those in favor of the motion to allow an eighty foot (80') tower with seventy foot (70') setback and a fence and testimony allowed.
Commissioner McCown – Aye
Chairman Martin – Aye
Chairman Martin – Those opposed.
Commissioner Houpt – Aye.
Chairman Martin – All right. It's two (2) to one (1) and it has been approved.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A TWO-FAMILY DWELLING UNIT. APPLICANT: TODD GRESSETT – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, and Todd Gressett were present.
Carolyn determined with the applicant that posting, notification of property owners and publication were timely, however, she also determined that the Board needed to discuss whether or not the publication was adequate because it is supposed to be published in the name of the owner. It was determined that notice was not proper as it was noticed as a multi dwelling versus a two-family dwelling. Therefore Jim Hardcastle published on behalf of the applicant due to the error. The Commissioners accepted the publication and Chairman Martin swore in the speakers.
Jim submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 as amended; Exhibit E – Application; Exhibit F – Staff memorandum, Exhibit G – Mid Valley Metro District; Exhibit H – Steeple Chase Construction, Steven Waldeck, an adjacent property owner; and Exhibit I – Letter from Wintergreen Homes.
Chairman Martin entered Exhibits A – I into the record.
Jim said this is a Special Use Permit to allow the conversion of a single family dwelling unit to a two family dwelling unit on Lot 56 Cerise Ranch Subdivision, Phase I on 2.004 acres. The Applicant proposes to convert a portion of a single family dwelling unit (Main Unit) on the finished first level of a recently (Fall 2003) permitted principle single family dwelling unit, the new unit is designated as the Second Unit . The second dwelling unit will account for 960 sq. ft. of the total 3,376 sq. ft. home size. The Second Unit would contain 1 bedroom with closet, a kitchenette, living room, full bathroom, utility room and three (3) egress points to the exterior of the home. There is, but upon approval, will be no interior access between the dwelling units. The exterior and interior design of the house will remain the same whether an approval is gained. The only difference with an approval would be the Applicant would add appliances to the kitchenette build a one hour firewall and eliminate the interior door.
Todd said the second dwelling is to allow his mother-in-law to live with them on the property.
Jim said the Exhibit H is in objection to this proposal. Essentially this is an investment and the issuance of the letter is whatg this could do to adjoininig property owners. It is an option for all property owners to allow for an ADU.
Staff recommends **APPROVAL,** with the following condition**:**

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. This second dwelling unit shall not be occupied for the proposed use until a final certificate of occupancy has been issued by the Building Department. A Building Permit for second dwelling unit shall be applied for and construction and/or improvements of said structure shall commence within 180 days of the issuance of the Special Use Permit which itself is only valid for 120 days from the date of issuance as

per Section 9.01.05. If the Applicant does not finish construction, the Building Permit is revoked, and the Applicant does not eventually receive a Certificate of Occupancy for the Primary Dwelling Unit, then this Special Use Permit shall became null and void.

3. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit request for an additional Dwelling Unit thus creating a two family Dwelling Unit for the property located Lot 56, 20 Sunflower Loop, Cerise Ranch," motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW A TWO-FAMILY DWELLING UNIT. APPLICANTS. PATRICK AND MARILYN FITZGERALD – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, and Pat Fitzgerald were present.

Carolyn determined with the applicant that posting, notification of property owners and publication were timely, however, she also determined that the Board needed to discuss whether or not the publication was adequate because it is supposed to be published in the name of the owner. Pat stated the mineral rights were recorded in the 1920's and currently there is not mineral owners receiving a tax bill nor any recorded individual handling the estate. Carolyn determined that since there was no individual handling the estate it would not be possible to hold the applicant responsible of notification of heirs. The Board agreed. The Commissioners accepted the publication and Chairman Martin swore in the speakers.

Jim submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 as amended; Exhibit E – Application; and Exhibit
F – Staff Memorandum were submitted.

Chairman Martin entered Exhibits A – F into the record.

Jim said this is a request for an SUP to allow the conversion of a single family dwelling unit into a two-family dwelling unit on 23.148 acres.

The applicant proposed too convert a portion of a single family dwelling (Main Unit) on the unfinished lower level (Second Unit) of a single family unit. The second unit will be slightly less than 1,500 square feet of the total 2516 sq. ft. home size which includes finished and unfinished areas. The second unit will be for leasehold purposes only.

Staff recommendation:

Staff recommends approval with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. This second dwelling unit shall not be occupied for the proposed use until a final certificate of occupancy has been issued by the Building Department. A Building Permit for the second dwelling shall be applied for and construction and/or improvements of said structure shall commence within 180 days of the issuance of the Special Use Permit which itself is only valid for 120 days from the date of issuance as per Section 9.01.05. If the applicant does not finish construction, the Building permit is revoked, and the applicant does not eventually receive a CO for the primary dwelling unit, then the SUP shall become null and void.
3. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.

Pat said he purchased the property in 1999 and built in 2000 and originally planned to put in the rental unit. He plans to exchange rent for services on the property.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP request for an additional dwelling unit thus creating a two family dwelling unit for the property located at 0600 CR 138, aka Lot 4, First Amended Senor Mesa Exemption. Motion carried.

Letter to BLM on Roan Plateau

Chairman Martin said he would like to send a letter to BLM, Jamie O'Connell, in reference to the Roan Plateau and the distribution of funds off of the Roan Plateau. He said on the transfer order, all proceeds would go to clean up the previous wells, well testing and also the clean up of the Anvil Points Tailing Mill through study of that particular document he found out that if there was any development on the Naval Oil Shale Reserve, one or two, any proceeds would then go the U. S. Treasurer until all things had been satisfied on the Department of Energy bill. This is something we need to address at least to let them know that we know that the provision is in there and sent this to Jamie and see how they handle it in their scenarios.
Commissioner McCown – would like to see a dollar amount because as of right now there is not dollar amount and they are just saying until everything is repaved and nobody knows what that means.
Chairman Martin – anywhere from $25,000,000 to $100,000,000; they're not sure what would take place but the minimum is $25 million and it would go up from there. Randy Russell assisted in drafting the letter. He sent it to the Commissioners via email.
The Commissioners didn't have a problem sending the letter.
Library Board – Independent from the County
Carolyn said there is no update from legal; just some direction on whether or not the Board wants her to present anything at the Library Board meeting tomorrow night or if this is going to be primarily conceptual and for the Commissioners to listen to them.
Chairman Martin - This entails the Library Board wants to go totally independent of the County.
He would like to see Carolyn present in case there's a legal question that needs to be researched and then put together in a memo form or response back to the Library Board.
Commissioner McCown said his biggest question that might arise at the meeting and doesn't begrudge them wanting to go out on their own, but the liability, the severance of the liability especially on personnel matters if they go out on their own and are hit with a lawsuit, does the County have arms length separation or are we part of the happy family since we appoint the Board.
Chairman Martin - and how does it affect the retirement, our health benefits as well as any other association that we would have to have to keep it rolling, including audits.
Commissioner McCown –supposedly they're wanting to severe all relationships with the County and eventually become their own taxing district.
Chairman Martin and at that point they will have to go ahead and do a mill levy and give up sales tax because they wouldn't be eligible for sales tax which has to be discussed as well.
Commissioner McCown – yes they would.
Chairman Martin – not if they were a District because it goes to Garfield County Libraries.
There will be no decisions; make it a work session.
Valley View Hospital – Lien on Garfield County
Chairman Martin – we also had a notice of intent to file a lien against Garfield County Environmental Friendly Services Inc. from Aspen, Colorado; they claim they have not been paid by the Valley View Hospital in the sum of $27,916.17 and they're filing a lien on the owner of the property which is Garfield County. They haven't served properly, only by mail. It's still an issue that the County has no notice on and turned it over to Carolyn Dahlgren.
ADJOURN
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn. Motion carried.

Attest: Chairman of the Board

_____ _____

MAY 17, 2004
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 17, 2004 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf 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
Jesse said we have launched our accounting/human services with New World Systems. One of the things was to make this 12 to 18 month project fun; therefore to build some levity and fun into this was the goal. This is to keep people informed and try to build some interest. As we do this conversion we are going to build our own rock pile.
Donna, Linda and Marsha presented the launching. All projects have time frames and have accomplished two of them. The one for May 10, 2004 is underway. They thanked the Commissioners for approving the new system.
Each Commissioner has a special rock and they put it into their rock pile.
The first milestone, the Hardware Assurance is completed; it is represented with the rock dressed in a ski cap and scarf because the New World staff said during the installation it was so cold in the room they were freezing. The second rock represents the accomplishment of the Project Kickoff and is represented with the ribbon. More rocks to follow. The project song, "We will rock you!" was sung by Linda playing the tambourine and Donna playing the drum.
Jesse said the new line of accounts are seriously being considered and they want to build this in the program to meet the various needs of the individuals it will serve; therefore Jesse is soliciting input as to what types of reports individuals are hopefully of retrieving. Please provide your input.
COUNTY MANAGER UPDATE – ED GREEN

a) Approve Grant Application for Electronic Waste Recycling – Randy Russell and Janey Dyke

Janey and Randy presented.
This is a request to submit a letter of intent for Electronics Recycling funding for a recycling event in 2005. These funds are from the Governor's Office of Energy Management and Conservation.
Landfill staff is developing revisions to the Design and Operations Plan for the landfill. There is an increasing and problematic waste stream entering our landfill. E-trash contains elements including lead, mercury, arsenic and other heavy metals. Included are Game equipment, TV's and the like.
The targeted area of impact is western Garfield County, essentially the Colorado River watershed from Eagle to Mesa Counties along the Interstate 70 corridor. The event site would be in Rifle Colorado with outreach in Glenwood Springs, New Castle, Silt, Rifle and Parachute/Battlement Mesa.
This proposal focuses on one collection event, to be held in Rifle, Colorado in late May or early June of 2005 on a weekend day and the probably venue for the event is the Garfield County Fairgrounds. Backup sites would be the Airport, or Road and Bridge Shop. This specific proposal requests support and funding for a "one time" educational and collection drive for the western portions of Garfield County. It works either as a stand-alone effort, or reinforcement for new policies that may be enacted next. If offers to contribute $2200.00 in cash funds, if approved, in 2005 and $4000.00 of in-kind, primarily staff time. It would leverage $2700.00 in OEMC funds for outreach, and a guarantee from OEMC for up to $1500.00 additional funding for transportation and processing should the drive exceed volume expectations.
The Board suggested pursuing this out of the landfill enterprise fund and favored pursuing this via the letter of intent.

b) Award of Airport Road Improvements Phase I, Section B – Randy Withee, Tim Arnett, Marvin Stephens, Jeff Nelson

Randy, Marvin, Jeff and Tim were present.
This is a project to improve 7,900 lineal feet of existing roadway by widening, structural improvement, re-alignment and improve the intersection of Airport Road and West Mamm Creek Road. Phase One, Section B includes CR 319 and CR 352 – 2.5 miles. The bid process included 55 to 6 general contracts attending the pre-bid conference and two bids were received from Con-Sy and Gould Construction. The engineer's estimate was $2,171,046.88 and Gould's bid was $1,818,895.75 and ConSy at $2,378,801.70. The budgeted amount was $2,300,346. The use of funds for this road project at Gould's bid would be:

Road project -	$1,818,895
Contingency -	150,000
Quality Control -	25,000
Survey -	5,000

For a total of $1,998,894 with a surplus of $301,451
Staff recommendation is for the Board of County Commissioners to award the Airport Road Phase 1, Section B to Gould Construction for the amount of $1,818,895.75.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to award the Phase I of the Airport Road Improvements, Section B to Gould Construction for $1,818,895.75; motion carried.
Point of Discussion – Randy, the monies we have in place, we might as an organization look at if we want to extend some of the road.
Commissioner McCown agreed that would be okay, probably West Mann. Mamm Creek will be the biggest impact to the funds because it's going to cost more per lineal foot to get that one done, but we don't want to take it too far west and run into Jeff's design on the east end of that; whichever is the most cost effective at this point. Chairman Martin agreed.
Ed said he talked to Dave Grisso of EnCana last week and told them we were about to award and he suggested that Ed send the letter so Randy prepared the letter and it will go out today.

c) Update on DOLA Grant for Engineering of Water and Sewer at the CMC Intersection Area – Mark Bean

Bob Pennington and Mark Bean were present.
Bob made a presentation previously to the Board of County Commissioners that he was pursuing a grant from the Department of Local Affairs to assist in the preliminary engineering for water and sewer services at the CMC turn-off at Hwy. 82 and CR 114. Mark sent an email to Tim Sarmo laying out the perimeters the Board established and based on those that this proposal would not affect any future funding but there is an obligation or commitment to a local match. Normally the match is 50% but there may be a way to reduce this to 35% or something. Regardless with $10,000 the amount is $3500 and $5000 commitment from the County. The County would be the one selecting the firm to do the study. The issue is this would mean a commitment of County funds.
The question is can the group come up with the matching funds.
Bob Pennington has been trying to get a commitment of funds from the people and has put something in front of the individual people proving them with a preliminary assessment telling them what it will cost them. There is a strict timeline with Colorado Department of Health. His commitment is from the mobile home park. It would be better to fix the problem for the area and not just for the mobile home park.
This is a growing concern but when it comes down to the County contributing funds is a concern.
If Bob can pull some funding from some of the other folks beside the mobile home park, the board would support them.
Bob stated his intent is to get 100% participation and forego the ballot question.
Mildred stated that July 23rd is the deadline for a ballot question for a Special District.
If they can come up with the match money, the County could help with the submittal in addition to his client, Commissioner McCown said he would still support it. The County could support this with in-kind funds with the submission of the grant.
Jesse stated in order to accept money for match purposes he would need to have legal involved. This was the same with the senior center.

d) Request for Out of State Travel for Jesse Smith

Ed submitted the travel request for Jesse Smith to attend the "Financing the Future of Government" National Government Finance Officers Association in Milwaukee, Wisconsin, June 13 – 16, 2004. The date of departure will be June 11 and return the evening of June 16 at a cost of $1485.00. The actual conference

actually begins June 11 and some of the sessions include GASB implementation guidance with a keynote speaker, Frank Abagnale.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the out-of-state travel for the National Government Finance Office Conference in Milwaukee for Jesse Smith; motion carried.

COUNTY ATTORNEY UPDATE – DON DEFORD

Carolyn Dahlgren advised the Board that the escrow agreement is what Valley View Village has requested instead of a letter of credit to deal with their encroachment on County property and the security for getting that property reseeded; this has never been done before. The bank doesn't want to either increase their original letter of credit or make their original letter of credit subject to the SIA and then as well as CISA so this works legally, it's a policy issue whether or not the Board wants to do this.

Commissioner McCown said this insures the revegetation of the ground disturbed and that's all we're after.

Carolyn said the other difference from when you saw the SIA Amendment, we gave them a May 15, 2004 deadline and Steve agreed that was fine in terms of weather.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the escrow agreement as presented with Darter and the Board of Garfield County Commissioners and Leavenworth and Karp; motion carried.

This will be signed before the Chair is signed.

COMMISSIONER REPORT

Commissioner Houpt - absent

Commissioner McCown – CMC transfer of land at 5:30 p.m. Monday; a noon meeting with Pitkin County in El Jebel; Library Meeting at 6:00 p.m. in New Castle; 2:00 p.m. meeting in Rifle with the Mesa County Road and Bridge people; the EnCana Energy Expo and then Larry left for Steamboat for a day with the Coal Conference then to Craig on Friday and Craig on Saturday. Tuesday a.m. meeting with the City/County with the City of Glenwood Springs; down to Battlement Mesa at 10 a.m. for a Service Association Meeting; Thursday, John has a meeting and Larry may join in on a Conference call at 1:00 p.m. with CCI and the County Pipeline Issue trying to get the model code together with all of the Counties. 5:30 p.m. Friday, Rifle Rendezvous serving line. Next Thursday 5-27-04 from 10-2 at the Battlement Mesa Activity Center is the Northwest Oil and Gas Forum.

Chairman Martin – CMC Rifle Regional Airport location new facility to focus on votechnical training; Library Board – results and we will continue to work on that one; missed a great presentation from Steve Anthony on Wednesday at the Weed and West Nile Seminar, two plus hours – a lot of land owners and interested people were present – Dennis Davidson's group was there – Soil Conservations, Cost sharing program and Steve's mentor from college from CSU well informed person on biology and effect of chemicals, etc. Also attended on the 13th the RFTA meeting; a poll of voters in reference to the market study they had will they support a tax or not; included 300 people including Glenwood Springs, new Castle, Silt and Rifle as well as the unincorporated area – interesting results to pose a question. Community Meeting with New Castle 7 am on Friday at the New Castle Café. Staff Meeting on Tuesday, Community Corrections screenings; Oil and Gas Energy Expo; Friday 21st to sit down with the Division of Wildlife, the Carbondale Recreational group, the City of Carbondale and interested fisherman and boat users for three improved fisherman accesses to the Roaring Fork that will be between 3 – 5 p.m. in Carbondale Town. This is just a preliminary, the possibility of putting together a Coalition to go ahead and have the improved accesses through a grant that will be discussed – this is the kick-off meeting, it's the Gateway Park Folks and John in an invited guest. Saturday the 22nd at 10 a.m. in Silt is the Bike Rodeo. John will be giving away about 200 plus bike helmet for a safety project. On the 26th – 29th of May, John will be out of town in Ogden, Utah for the (WIR) Western Interstate Region of public land, 11 western states; John will be one of the 8 from Colorado to go; discussing many issues on public lands from watershed, dust control, wilderness and road less; oil and gas development.

Commissioner McCown asked for discussion on something out of (AG&C) – the Moffat County Commissioners had drafted a letter clearing noting their dissatisfaction with the legislative session this year not adequately addressing the financial condition of the State of Colorado and we're sending that letter to the Governor asking that he possibly reconvene a special session to try to come up with some type of a solution to the financial problems in the State because as we all know those all tend to trickle down

eventually to our level. Rather than Associated Governments as a group endorsing the mail out of a letter of that type, it was felt it was better to come back to our respective entities and discuss where the view of each entity is on that. Larry said he thought it would be totally appropriate; the legislature worked on it all session and didn't get any further than when they started, to with a single focus issue nothing else bothering them they could perhaps come up with something. This could possible avoid a ballot initiative if they were able to get something in place.
Chairman Martin would like to read the resolution and we do have a problem, we've been working two years on a special tax subcommittee trying to make recommendations on what we could do to improve our economies starting with the state and working down to the cities and counties. He would support that as well.
Commissioner McCown said the Resolution was just in the form of a letter that stated the dissatisfaction that they had with the results of the legislative session and we could craft our own. It did go to the Governor's office and requested that he take whatever action necessary to try and rectify it.
Ed clarified that the entire BOCC should sign the letter.

Commissioner Report Continued

Chairman Martin – the Monument Gulch Wildfire Restoration Committee at Battlement Mesa, the service group will conduct a tour on Wed the 26th of May and meet at 9:00 a.m. behind the Battlement Mesa Fire Station and review the revegetation. Garfield County US Forest Service and Division of Wildlife on the Battlement Mesa Reservoir, reconstruction and revamping on culverts and restoration. Also, like to see a letter of support for that project (copy submitted).
Update on the Divide Creek gas seep – from Doug for contacting on additional information: they worked with 30 different resident 47 wells, ponds, springs and found their levels. They dealt with water, soil, air, biological study, operations and the reports are available with all the analysis. The Colorado Oil and Gas Conservation Commission have been notified and are taking an active role.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers (2)
c. Inter-fund Transfers - None
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for a "Communications Facility" on a property owned by Mountain States Communication. Applicant is Mountain States Communication – Fred Jarman

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the Consent Agenda Items a – e absent item c; carried.

REGULAR AGENDA

HUMAN SERVICES COMMISSION

INDIGENT AND HOMELESS SERVICES – MIKE POWELL

Tom Zieman and Mike Powell presented.
Tom said overall our client contacts have been about the same as the previous year. Many of the poor have moved away from the area due to the poor job market. There's a long list of rental properties available and there are quite a few foreclosures. There is 5-month waiting list for HUD.
They are way overtaxed to rent evictions.
A handout was given on the emergency financial assistance.
And the Family Transitional Housing Project that is a HUD project that Catholic Charities sponsor locally along with the Advocate Safehouse Project. These are folks in Garfield County, most are long-term residents and the goal is to teach them to fish versus giving fish.
Catholic Charities is currently applying with the Resource Center of Avon to bring this program into Eagle County as well.

LIFT-UP

Mike Powell summarized that there are people moving away and all the reports are that Garfield County is growing. There is not a drop in services, what seems to be going on: 1) a group that was able to get by without their help and are now looking to get by; and 2) those who have been using help are coming back more often for services. Lift-up does not turn away hungry people. They are not supplying help for prescription drugs and emergency housing.
The one thing down is the Government Commodities program. This year they have had several good shipments

Still working on a place in Rifle to relocate. The Loft on the Corner of Railroad and 8th is the target. Some people in Rifle have taken up the task and appreciate the County for all their help. Mike is meeting on Friday with the builder.

Geneva Powell – ***Salvation Army*** Board Member and Director of Garfield County Housing Authority

Salvation Army supplies emergency aid to families and the biggest category are people who are working and or on Social Security. They are mandated by the Federal government that 70% of our client list have to make less than 30% of AMI so that's $18,200 for a family of 4. They can assist people who make up to 50% of the AMI. Their biggest expense is rental expense and second is prescriptions. Projections for 2004 – prescriptions are one of the cuts – emergency help only now.

All but 10% of the money collected in the kettle stays in Garfield County. A total of $43,869.90 was collected last year.

The Salvation Army director quit and until a new director is hired, they are closed until someone is on board.

The overhead for Salvation Army is low. That 10% given to the State is received back in circumstances such as the Coal Seam Fire.

Garfield County Housing Authority

They are helping the working poor.

Geneva gave a summary of what is required in order to live in this area; people living in Parachute have to make $10.00 an hour; Glenwood Springs in a 2-bedroom unit they have to make at least $16.00 hour; live in Carbondale they need to make $21.00 an hour; and that's to cover their affordability of rural where they won't pay more than 30% of their monthly income for their housing expense and it's getting harder to do that. The area median income for Garfield County today is over $60,000. This is according to the Census Report.

Geneva thanked the Commissioners on behalf of the Garfield County Housing Authority for supporting Affordable Housing with advocacy, political stand and also with dollars.

DISCUSSION OF INTERGOVERNMENTAL CONTRACT – TUBERCULOSIS PROGRAM

Mary Meisner presented the IGA for the Tuberculosis Program effective July 1, 2004 through June 30, 2005 for $13,689.00.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to authorize the Chair to sign the Intergovernmental Contract with the Public Health for the Tuberculosis Program for $13,689.00 beginning July 10, 2004 through June 30, 2005. Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to go into the Board of Health; motion carried.

BOARD OF HEALTH

The Garfield County Health Fair will be held on June 10, 2004 in the Commissioners Meeting Room at Courthouse Plaza.

Mary explained the free services to be provided including Free T.D. Vaccination, Free Blood Pressure Checks, etc.

Tribute to Nurses Week-History of Nursing Service in Garfield County

Mary gave a history saying it was the Nursing Service in Garfield County. It started in 1919 and started with some of the funds left over by the Red Cross from World War I. This was a Community Service and the work everyone went to over the years to try and keep this Nursing Service going (it was not always the County Nursing Service) it was like a service in the community and the American Red Cross was always there to help recruit and also the Colorado Child Welfare Bureau, the Colorado Tuberculosis Association, School Boards were involved. They had a Community Coalition they put together to try to find ways to continue to employee these nurses. There was one located in Glenwood and one in Rifle and they sold Christmas Seals; it helps Mary's resolve to continue on working when she saw all the effort. Garfield County Commissioners in 1933 decided to make it a County Nursing Service and told the community they would pay the salary of the nurse and traveling and provide for the program. This goes up to 1935 and she would like the names of nurses after 1935. This is what State Health had and of course American Red Cross had great records but once the County took it on and it was going along, then some of the history dropped off.

Mildred informed Mary that the Commissioner Minutes would be a good place to search for the history.

Chairman Martin mentioned a breakout down at Cardiff and Dr. Cook was in charge of that. There's all kind of fantastic history that's in the Minutes. The County Health Doctor gave a report every Commissioner meeting.
The Board thanked Mary for this interesting presentation.

GARFIELD COUNTY EMPLOYEE HEALTH FAIR

Mary thanked the Commissioners for their contribution to the Health Fair.
Mildred mentioned to not move the tables in the Commissioner's Room as they are wired for the video and security.

Nursing Contract came in Friday but this will be brought forward on June 8, 2004. There is a $3847.67 decrease this year. However, they have received increases in other programs so it should even out.

PROGRAM UPDATES – HEALTHY BEGINNINGS REPORT

Mary reported on the Transition. Monday, May 24th is the Transition Celebration from 9:00 a.m.–11:00 a.m. There's been a lot of work that's gone into this transition. This has totally reorganized how low income women will enter the program. Hospital, nurse midwives, HB staff and will continue to the Nurse Contact program through the Public Health Nurse.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to go out of the Board of Health; motion carried.

BOARD OF SOCIAL SERVICES

APPROVAL OF APRIL 2004 DISBURSEMENTS

Wendy O'Leary and Diane Watkins were present. Lynn Renick and Michelle McMullen were out of town attending the State Accounting Conference.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the April 2004 disbursements in the amount of $67,799.64. Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to go into the Board of Social Services; motion carried.

APPROVAL OF APRIL 2004 DISBURSEMENTS

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the April 2004 disbursements in the amount of $67,799.64. Motion carried.
CBMS – Janice George said the new rollout date for CBMS is scheduled for July 1, 2004. On May 13, 2004 the State's Change Management Team came to Garfield County to work with staff. Janice George provided a brief report and update. June 22, 2004 is the date they will know for sure. November 2004 is the drop dead date to have everything covered. June 23 to July 1 – they will be unable to assist anyone financially – all systems will be transferred. It is now up to 80% accuracy and if they get it to 90% it will convert. Staff spends so much time per day (2 hours per day) as it is very complicated. This will give them 3-weeks of practice. Janice said the word is they are doing the entire thing and not just a partial. They are considering a paper copy and entering into the system later behind closed doors. Janice has her concerns about going ahead but she thinks they are sure they will do it.
Jesse said they have a date to meeting the obligation of the grant with the Federal Government and they have to proceed. They do have paper files to rely on.
Chairman Martin suggested looking into a back up to keep the files longer than 60 days. Brian will be involved

SFY 2004 Core Services – Mental Health and Substance Abuse Contracts

Carolyn Dahlgren - The four counties of Eagle, Garfield, Pitkin and Summit have sent a proposal to Colorado West Regional Mental Health Center that outlines a fee schedule for services to be provided as of June 1, 2004.
Carolyn presented the IGA to the Board for approval.

Audit

The Corrective Action Plan was submitted to the Colorado Department of Human Services last week. As soon as factual corrections on the Single Entry Point are received, a report will be made to the Board.

Preliminary Allocations and Close-Out Information

The preliminary Works (TANF) Allocation for the State Fiscal Year 2004-2005 is $1,454,870. The figure represents no change from the preliminary allocation for the current fiscal year; however the Department received additional monies for an out-of-wedlock bonus plus a mitigation surplus distribution that has raised the final Works allocation for the current year to $1,663,987. The Department is anticipating transferring $141,636 from Works to Child Welfare at close-out in July to assist with over expenditures in the Child Welfare Block. The department is projecting available mitigation funds to Garfield County in the approximate amount of $124,800.
The Department received an unexpected separate allocation next year for its Expedited Permanency Planning Program in the amount of $62,169. This serves both Garfield and Pitkin Counties.
The new Child Care Assistance Program allocation methodology would give Garfield County an increase of over 48% next year, however, due to a statewide 'hold harmless' factor, only a 10% increase is anticipated for the Department's child care allocation at this time.
The Department's Child Care Licensing contract is reportedly the same dollar amount as this year ($17,085) for a three-county area; and the Single Entry Point contract will include the same scope of services, however, a dollar amount has not been provided by Health Care Policy and Financing.
Program Reports
The standard reports were passed out for the Board's review.

The Board asked Janice if the child support goal of $4.5 million was within reach. Janice said this can be reached. There are so many systems and more are taking place to assist in collections.

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to come out of the Board of Social Services; motion carried.
PUBLIC MEETINGS:
PROPOSED LEVEL OF SERVICE STANDARDS FOR COUNTY ROAD – A. T. STODDARD, LSC TRANSPORTATION CONSULTANTS, INC.
Marvin Stephens, Randy Withee and A.T. Stoddard were present.
A memorandum was submitted providing a recommending for setting a Level of Service Standard (LOS) for County Roads in Garfield County.
Most road segments operate at LOS B or better. The next phase of the Transportation Master Plan project will be to forecast future traffic volumes and estimate the future LOC. Those facilities which are expected to be deficient will be identified. Any existing deficiencies must be excluded from any traffic impact fee calculations as they cannot be improved based on the impacts of future development. All future deficiencies will be included in the calculation of traffic impact fees. A higher standard for LOS will increase the cost of improvements to meet the standard and will result in higher impact fees and higher costs to be incurred by the County.
Estimates were given for the widening of lanes, providing shoulders, realignment and constructing passing lanes and turn lanes with a range from $100,000 to $500,000 per mile and for intersections $50,000 to $500,000.
The Level of Service Standard for Garfield County – is the qualitative measure of traffic service provided by a road under a particular volume condition, and prevailing roadway conditions as described in the current edition of the Highway Capacity Manual, published by the Transportation Research Board. An adequate level of service in Garfield County exists when the roadway system operates at Level of Service C, and intersections operate at level of Service D or better during peak hours.
Everything functions at a Level A or Level B right now and are relatively good on the County Roads. Agreement and Direction were requested from the Board – they will be back for formal adoption. The question is what level of service does the County want. The recommendation is to move forward looking at Level C on roadway segments and Level Service D at individual intersections.
Commissioner McCown asked in the preliminary cost estimates, did they take into consideration that 99% of Garfield County roads are prescriptive use easements so no expansion outside of the fences that are there could occur unless right of way is purchased.
Mr. Stoddard said not at this point no.
Commissioner McCown suggested that be factored in because right of way acquisition can change your half a million dollar number considerably. In your factoring process this is something to consider because the bulk, and probably 90% is conservative, of our roads are prescriptive use and we do not hold title to them so all we have the right to is the area that we are currently utilizing and that would be the area inside

the fences that are there. Any right turn lanes or any improvement to intersections that would entail right of way acquisition would significantly change those numbers and it would significantly change how we would look at the level of service both road improvements and intersection improvements. He said to go ahead with your level C Service and see where it takes us and the Board will make the judgment at the time.
Chairman Martin agreed that the staff has come up with the same conclusion and we need to establish that standard and see exactly what we're impacted.
Jesse said the County is under new governmental accounting standards that we have to meet and within those standards there is a fixed asset component in which we have to have every County road classified as to what type of road it is and grade it as to whether it is good, fair, poor, what have you and then a level of service approved by the Board of County Commissioners so we can put a financial value to everything. When do you anticipate having this all completed?
A.T. said in the inventory the roads have already been rated and that part has been done. We have developed a functional classification recommendation that will be incorporated in the draft report where we're identifying every roadway whether it's a local, collector, arterial, industrial, typical cross sections, rights of way, appropriate improvements; the level of service that we calculated is on collector and above, none of the local streets because those volumes are low. Basically all of that is in process and the rating is done and in the inventory and actually mapped that in the first working paper. Functional classification has been recommended, that's still going through some transition with the review process, but that will be available when we come back to the Board possibly within two months.
Jesse – on the classification of roads, is that like single lane dirt, two lane dirt, chip and seal?
A. T. - functional classification is a description of the road purpose, what it serves, whether it's through traffic, longer distances, and our local residential street would be at the other end of the spectrum.
Jesse said that we are going to need what that road is made up of.
A.T. – and then for each of those we were coming up with a typical cross section of what that road consists of, whether it's graded shoulders and we've looked at high density residential with curb and gutter and so there's a variety of road cross sections that would go with that as well.
Jesse – and can you provide a cost per mile or that road because that's what we will book it at and then if it's a two lane chip seal for example, and the cost per mile is whatever, then if they go in and simply maintain that road as a two lane chip seal, we'll expense it. But if they change it to a paved road, then we'll have to capitalize it and revalue it.
A. T. – Yes we can; this will be in the report. This will be available within 2 months. The functional classification is a description of what the road offers and the typical cross-section of each road. They can include a cost per mile as well.
Jesse said we have 5-years to get this entire fixed asset component in place in total and we'll book it at what it is now and then the Board will set the level to maintain it at and then we'll either expense or capitalize it based on what takes place on that piece of roadway.
Commissioner McCown – but being a governmental entity we still have the recourse on when funds are available, we're not mandated to an improvement schedule that we have to stick to if the funds are not there.
Jesse said we do have to report under GASBY that our roads are below standard or above standard when the Board sets the standard – we have to report that.
Commissioner McCown asked if the standard can be changed from year to year. Once you pick a level of service and the needs change, you have the flexibility to change that level of service.
A. T. said there have been jurisdictions that have revised theirs downward for a variety of reasons and really all this document will give you is not a mandate for expenditures but a document to help you prioritize those expenditures as funds are available.
Commissioner McCown asked if he had been able to get a long range plan from the oil and gas industry on what they're planning to do the next 20-years in Garfield County. This could be a very large factor.
Randy Russell pointed out that this feeds directly into a revised impact fee so that level of service is going to influence the impact fee structure and would have to be this level of service will change the impact fee schedule as well.

PUBLIC HEARINGS:
DISCUSSION OF THE 5TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 5TH AMENDED APPROPRIATION OF FUNDS – JESSE SMITH
Carolyn Dahlgren stated the notification was timely and adequate.

Exhibit A – Supplement No. 5; Exhibit B – Supplement No. 5 and Exhibit C - Notification was submitted as part of the Resolution.
Commissioner McCown asked if these were all personnel changes.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the 5th supplement to the 2004 approved budget and the 5th amended appropriation of funds; motion carried.

RIDING ARENA

Randy Withee and Tim Arnett presented.
There was a pre-bid conference meeting last week and about 8 general contractors came. The concern was brought up and received a letter today in the methods of phasing this out and the pricing for that. One of the concerns was we tried to work it where the initial phase one would be a 60-day schedule and then follow up with a 30-day with the second phase and hopefully incorporate that with the request for DOLA. What their concern is one of the awards that second phase with lead time for materials are 2- 3 weeks which would increase that schedule, plus then by the time they ordered it the dollar amounts of those materials could drastically increase. So therefore, what we're trying to look at here is to what we could get for the County's purposes the best economic benefit and just maybe say go out and do the whole thing. Get the price for the whole amount and bid it in one phase.
Commissioner McCown – we don't have the funds to build it and after talking with Tim Sarmo he's not going to ask us to withdraw that Riding Arena improvement Energy Impact request, he's going to let it go through, but we're not going to get it and that came directly from increasing the amount of improvements on the Social Services building by the $200,000 that was given to the ballfield. So we're hung out there. The discussion with Tim was on Thursday. The City of Rifle is giving up one of their goals and not to be real optimistic on getting the funds. It's safe to assume we're not going to get the DOLA grant to finish that out.
Tim Arnett said for these people to feasibly do this they're going to have to know what we're going to do, if not.
Ed – the question is do you want to proceed with this and apply more funds to it either from the Conservation Trust or from Capital. As the Board did characterize whatever their reasons, this is a serious problem.
Commissioner McCown said it's a problem we created.
Ed said we have the funds either the $162,000 in the Lottery money or from Capital.
Commissioner McCown noted the $162,000 and the changing the location of this building has been the triggering of this problem. It's a warm feel good thing that we're not getting the City of Rifle to step up to the plate and help us backfill our problem. If it's going to be built, it has to come out of capital.
Chairman Martin – we made a commitment and want to complete it this year and that's the only resource we have at the present is the capital funds.
Ed said we don't have any choice, they're in Taughenbaugh right now, they're just like Social Services and Public Health – we have to find another place to live.
Commissioner McCown summarized that we're going to eliminate the phasing of the bid and bid it all one lump sum and pay for it regardless of what it costs.
Jesse said we should get a better price with one lump sum versus in phases. One of the phone conservations with a contractor asking if there was any flexibility and he indicated under a two-phase process it doesn't not fit the way they would normally come in and stage the work so it will extend the time that it takes to complete the project.
Randy said part of the proposal would be starting in July. Their concern was the 90 day period and to extent it. Originally we wanted to get this done in October.
Commissioner McCown the most disruptive time is the summer and suggested to wait until September. It could be bid anytime but have the start-up date for later. Only the pre-bid has been done; the bid was set for May 25th. We can wait until after we receive word on the DOLA funds - July 21 or 22nd, but we can bid it anytime.
Chairman Martin stated the goal was to have this completed in October. We'll pull it out of Capital Funds if we don't get the DOLA grant.

Add to the June 7 Agenda – Executive Session – RFTA Contract – Agenda Item

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Carolyn Dahlgren introduced Jan Shoupt as the new Assistant County Attorney.

Board of County Commissioner Minutes – Website
Commissioner McCown suggested leaving the agenda in place and showing what action was taken. Mildred and Ed have talked about doing something like this. For the website is would only mention whether approved, continued, and show any new items on the agenda. Leave it on for a time. Mildred, Marian and Linda will work together on this.

CONSIDER A SPECIAL REQUEST PERMIT FOR AN ACCESSORY DWELLING UNIT FOR A PROPERTY WEST OF NEW CASTLE OWNED BY PATRICIA MUSICH. APPLICANT IS NOEL MUSICH – FRED JARMAN
Carolyn Dahlgren, Fred Jarman and Noel Musich were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Application materials; Exhibit F - Staff memorandum; Exhibit G – General Notes from Building Permit and Exhibit H – ISDS Application for Main House.
Chairman Martin entered Exhibits A – H into the record.
Fred said this is a request for a SUP for a Guest House on 3.16 acres at 168 Rippy Lane, New Castle. The applicant was cited for an illegal dwelling unit in a garage on the property as a zoning violation by the Code Enforcement officer of February 13, 2003. The applicant also installed a full second kitchen in the basement of the primary dwelling unit on the property which in effect, creates an illegal duplex.
The applicant constructed the primary unit (a manufactured home with unfinished walk-out basement); an engineered septic system was permitted and installed with capacity for 5 bedrooms. Since this was completed, the applicant obtained a second building permit to finish the basement which included 3 additional bedrooms. The applicant constructed an illegal dwelling unit in the garage with 1 bedroom – the current primary dwelling has 7 bedrooms and exceeds what is legally permitted and engineered in the septic system regarding capacity.
The guest house is located in the garage and will not impact adjacent uses of land. However, the application is not in conformance with the Garfield County Zoning Resolution of 1978 as amended.
Staff Recommendation is that the Board of County Commissioner denies this application for the guest house finding that the Applicant has not demonstrated that utilities are adequate to provide sanitation service based on accepted engineering standards and approved by the Board of County Commissioners that are either in place or would be constructed in conjunction with the proposed use.
Commissioner McCown noted for the record that according to the Assessor's records, the ISDS was built for 5 bedrooms and in fact if there are 7 bedrooms then this house is in non-compliance without anything else happening.
Noel said they're actually only 6 bedrooms; one can be a bedroom the other one is too small to be a bedroom; it doesn't even have a closet it. The other one doesn't have a bed in it, it's like an office, and so only 5 bedrooms are being used. The septic is 1500 gallons and they told him it would be enough, it would be enough to hold a hotel – it's the biggest one he'd ever put it as far as the type of system Noel put in. He understands there needs to be an overflow from the new septic in case it does use too much. He has a 1,000 gallon tank next to it that was next to it that was the one being used before the new tank was installed and it's like 30 feet from the new one and Noel was proposing to run the pipe into that 1000 gallon tank and using that as an overflow.
Commissioner McCown thought he'd have to come out of the 1,000 tank and then back you're your leach field; the 1000 gallon tank would have to become a part of the activation time for the septic. It would be become 1500 gallon, 1000 gallon, then your leach filed. The leach field has to also be sized per the number of bedrooms; so there may have to be some modifications.
Noel said he has a 1500 gallon dry well. The other one is a 1000 gallon with a leach field. So it would actually be running out of the 1500 dry well if it ever filled up so full that it needed some place to go, it could go into the 1000 gallon with the leach field. Percolation is taken place now.

Mark Bean said one of the problems is that the second septic system was ever reviewed or approved. Dry wells are notorious for failure and someone needs to come in and verify what needs to be done. Based on the information we have in our records, the system doesn't appear to be adequate and that a minimum someone needs to come in and verify what is there and what can work.
Noel said they are willing to do whatever is necessary.
Commissioner McCown is this is allowed to go forward it will be with a certificated engineer design a system and assure that it's been installed property that would be adequate to handle the number of bedrooms that are there totally, including the guest house, including the possible 7 bedrooms that could be there.
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to close the Public Hearing; motion
A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the Special Use Permit for an Accessory Dwelling Unit including in the conditions would be the normal boiler plate, all testimony by the applicant, also the one Fred had regarding the lighting that would be included, that all exterior lighting will be dimmed and downward and towards the interior of the lot – all that verbiage and that the ISDS system be designed and approved by a certified engineer and said engineer would ensure that it was properly installed and the County would be a part of the inspection process, giving a 120 days.
Fred offered these conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearings before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall amend the existing building permit for the structure so it satisfies all the required specifications for a mixed use structure that includes a garage and dwelling unit. This structure / dwelling unit shall not be occupied until a final certificate of occupancy has been issued by the Building Department. Applicant shall have this completed within 120 days of approval by the Board.
3. The length of stay of a guest shall be limited to thirty (30) days, unless said guests are the grandparents, parents, siblings or children of the occupants of the primary structure.
4. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.

Commissioner McCown amended his motion to include the 4 conditions of staff as written. Chairman Martin amended his second. Motion carried.

PUBLIC MEETINGS:

CONSIDER A REQUEST FOR APPROVAL OF THE PARTIAL SATISFACTION OF SUBDIVISION IMPROVEMENTS FOR THE VALLEY VIEW VILLAGE SUBDIVISION – PHASE A. APPLICANTS: EDWARD & IDA LEE HOAGLAND AND DARTER, LLC – MARK BEAN

Mark Bean said technically Dater LLC owns the subdivision. This is a request for partial satisfaction SIA to release security. The numbers were modified because County Engineering reviewed and reduced the amount of release $490,078.
A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the partial satisfaction regarding Darter in the amount of $490,078; motion carried.

CONSIDER AN AMENDED PLAT OF LOT 7, BLOCK 8 OF TAMARISK SUBDIVISION, FILING 2. APPLICANT: BATTLEMENT MESA PARTNERS – JIM HARDCASTLE
AUTHORIZE THE CHAIRMAN TO SIGN THE AMENDED PLAT OF LOT 7, BLOCK 8 OF TAMARISK SUBDIVISION, FILING 2. APPLICANT: BATTLEMENT MESA PARTNERS – JIM HARDCASTLE

This was combined as one action.
William Willey for Battlement Mesa Partners, Carolyn Dahlgren and Fred Jarman were present.
Fred Jarman for Jim Hardcastle said the applicant proposes to amend the southern Utility Easement of Lot 7, Block 8, First Amended Plat, Tamarisk Subdivision Filing No. 2. The applicant has obtained approval from all interested utility parties, Consolidated Metropolitan District, Holy Cross Energy, Qwest Telecommunication, Battlement mesa Communications, and Xcel Energy.
Staff recommendation:

for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984 as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval; and
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the amended plat of Lot 7, Block 8 of Tamarisk Subdivision Filing No. 2; motion carried.

Election 2003 - Update

Mildred made the Commissioners aware that she had received a letter from the Secretary of State asking Mildred to recertify the election results of the two races; this is a test case. Mildred is waiting for Don DeFord to get back to proceed with the recertification.

Request for Attorney fees for Rick Davis

The Commissioners said they need to respond to this request.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Chairman Martin who stepped down as Chair to adjourn. Motion carried.

Attest: Chairman of the Board

_____ _____

JUNE 7, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Ed Green was absent.

CALL TO ORDER

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

Charles Moore in Sutank – moved several years ago and purchased property from Bud Bender. The property adjoining his is Aspen Digger and this is what he is concerned about. He conveyed the following concerns: 1) the number of big trucks that are kept there and when they fire up in the morning they generate a lot of smoke and fuels creating an undesirable; 2) there is a lot of diesel spills on the property as well and they never clear it up. (This is going into the ground and someday it will have to be cleaned up.) Waldorf School purchased the adjacent property and the kids go through the property to access the school. 3) One of his neighbors is trying to sell her home and it's been a difficult process. His understanding is that Garfield County can't do anything until the property is sold. Charles handed out a memo. In 1999 the Aspen Diggers planned to fence the area but nothing has been done. Therefore, he would like an 8 foot fence constructed. This would ensure safety for the Waldorf School students. Also all vehicles within this property to be inside the fence and locked at night. The trucks are also parked on the street. This property is under the grandfather clause. Collins Drilling was formerly on this property. Garfield County did agree to reduce property taxes on one of his neighbor's property. Charles was informed that it would cost $250,000 to clean up this property.

Commissioner McCown said the Board doesn't have any authority to enforce this as the County wasn't a part of the agreement.

Collins Drilling wasn't there at the time when Charles Moore purchased his property.

Commissioner Houpt feels it is important to look into this and even through it's grandfathered in, it sounds like there are undesirable to the current residential neighborhood. She also wants to look into the grandfather clause to see if things can be done.

COUNTY MANAGER UPDATE – ED GREEN

a) Bond Release for American Soda LLC – Mike VanderPol

Mike presented the correspondence from American Soda, LLC. requesting acknowledgement of satisfactory performance under the terms of the road use permit/overweight permit and request release of their surety. American Soda has moved out and there's no further use of CR 215.

Commissioner McCown suggested keeping this bond in place until the new property owner has a bond to replace it.

b) Bond Release for KLT Gas, Inc. – Mike VanderPol

Mike presented the correspondence from KLT Gas, Inc. requesting acknowledgement of satisfactory performance under the terms of the road use permit/overweight permit and request release of their surety. EnCana has two bonds both for $500,000 one in Roan Creek and one for the County Roads 300's.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release KLT Gas, Inc. Motion carried.

c) Release of Irrevocable Letter of Credit for Bonneville Fuels Corp. – Mike VanderPol

Mike presented the correspondence from Bonneville Fuels Corporation requesting acknowledgement of satisfactory performance under the terms of the road use permit/overweight permit and request release of their surety. They have sold out to Evergreen and Evergreen has a new bond in place.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the bond for Bonneville Fuels Corporation; motion carried.

d) Wright Express Universal Fleet Program – Mike VanderPol

Mike submitted information regarding the fueling purchasing fleet card program. This can account for every penny via a monthly report; it can limit purchases to fuel only, limit the number of transactions, the dollars per transaction or the dollars per day by card.

In the past the County has used Texaco and they have sold to Shell. Wright has 2500 fueling stations. Currently we have Conoco, Texaco and a couple others that staff can use to fill their tanks; it is very different to get this information into the computer system. With the Wright fueling system it will streamline the process. The cost is $40 a month for set up and a $2.00 fee per month. However, the more control we have Mike feels it would be a cost savings. None of the concerns from the County Attorney's office are not valid. 100 cards would be $200.00. Amoco, Chevron, Getties, Shell, Phillip 66 Mobil, Quick Trip, Exxon, plus many more. With Texaco there is no monthly charge but expenses are running at $10,000 for motor pool. There are logs in the cars already for staff to document but sometimes receipts are not included and sometimes the log was not completed, which creates a havoc with tracking information. Each card would have a fuel card included with the car.

Marvin Stephens supported the request because it will assist in better information on the motor pool cars. The cost of $2400 a year was a concern to Commissioner McCown. Marvin supports the request for better control on the paper trail. This card will track mileage as well.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to move forward on entering into an agreement with Wright Express Fuel Fueling. This will take place in 30 days. Commissioner McCown inquired about the tax exempt process. Mike said this is adjusted from the invoice. The agreement will be brought back later as well as the pen numbers. Motion carried.

e) Review Earth Day Event – Household Hazardous Waste, State Annual Inspection – Marvin Stephens and Kraig Kuberry

Kraig submitted the Earth Day held April 22, 2004 at the Landfill. The report showed 312 customers and a total customer savings of $12,408.74. This included:

377,760 pounds of trash x 0.024 =	$ 9,066.24
1,035 tires x $2.50 =	2,587.50
50 appliances x $10.00 =	500.00
51 mattresses x $5.00	255.00

Household Hazardous Waste

Kraig submitted a power point on the Household Hazardous Waste Event survey that showed the following results:

Number of people polled – 227

What would you bring?

Paint, etc.	185
Petroleum products	122
Cleaners, solvents	81
Pesticides, Herbicides	72
Batteries, Ni-Cad, etc.	100

Would you be willing to pay a fee to drop off computers?

Yes – 146 No - 42

State Annual Inspection

Donna Stoner submitted a letter to the Commissioners regarding the inspection of the West Garfield County Landfill to assess the compliance of this facility with the minimum standards of the Solid Wastes Disposal Sites and Facilities Act Title 30, Article 20 part 1, C.R. D. as amended. She was pleased to report that this facility is in compliance; the facility was neat and orderly and she commended the Board and the operators for the obvious efforts made in operating this facility. Donna was real pleased about the new fence to keep the trash contained in the landfill.

Commissioner Houpt would like to have a break in the cost of bringing in construction waste if it was separated.

Kraig said 80% of the construction waste is already separated and if it's not they separate it.

The Commissioners applauded Kraig and Marvin for the work being done at the landfill as well as the Household Hazardous Waste event. Marvin would like to have this twice a year to see how it will work. Earth Day – it rained all day and the attendance was down. It all went very well. The landfill crew and work release assisted with unloading.

CR 138 Road – Pat Fitzgerald called to report some undermining of the surface. *CR 106* also has need of some work. Mowing was discussed.
Enterprise Fund at the Landfill – $780,000 - $335,000 still in the fund.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Lou presented a position description for a Bilingual Detention Deputy I to perform work involving care and custody of inmates. This position must have fluency in Spanish and English. Spanish fluency must be in speaking, reading, writing and translating. This is the entry/journey level in the class series and the person hired must have a passing score on the bilingual skill test.
Lou said they have very few bilingual folks at the jail. The extra dollar an hour for a bilingual person would apply to the Sheriff's Department.
Lou informed the Board that the minimum was down to 10 and he temporary closed the minimum pod and moved the inmates to the medium pod to save on staff costs. These 10 are in training and the minimum pod is only down temporarily.
Lou is going to look at transport and will likely add a 3rd position to avoid overtime. Jeff Hoffmeister is the person in charge. Lou said they have analyzed the cost of using outside services for out of state retrievals and it's more cost efficient to provide the overtime to travel within the current staff.
***Animal Control Program* - Lou** submitted a letter to the Glenwood Post/Independent just to explain the new dog licensing program. This is mainly to control the pet animal.
Commissioner Houpt asked if Lou has discussed these regulations with CARE. Lou did confirm that he did and at the present the Sheriff's office is using their facilities to the fullest. This will be discussed on the June 14th agenda.
Expansion of the Space
Tim has the final plans and they are moving forward on the expansion.
Airport Road Expansion – many tickets have been written. This is a two-month process on the road construction.
New Vehicles Purchased – Lou explained the new vehicles and the problems encountered.
CR 233 – with the new roadwork and paving, it is a race track. Lou will increase the patrol.
Overweight vehicles – The Board suggested doing a periodic check at the Port of Entry to provide a scale to see that the apportionment is being paid.

COUNTY ATTORNEY UPDATE – DON DEFORD

Colorado Association of County Attorneys in Glenwood this week.

This Friday, Colorado Association of County Attorneys will be meeting in Glenwood. They will meet separately with the County Attorney's that have oil and gas development in their counties.
Executive Session: Litigation Update; Legal Advice and direction all under Section 9-10-24 – 24-6-402 legal advice or direction on: Update DDA; Direction Contract on Four Mile Intersection, Library; Legal Advise Airport – litigation authority; 2003 Election; zoning and subdivision violations on Bair Ranch IGA with Rifle School and County Administrative Facility; legal advice – adoption of the Fire Code; update on Silt Road and Bridge Shop. Provide update on the Land Use Status on the American Soda Project.
RFTA will meet with the Board on 6-14-04; next week the Board will have the RFTA's response. Review of the RFTA survey was pulled also.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried.
Mark Jesse, Mildred, Don and the Board were to attend the session.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken:
Bair Ranch – Don asked the Board to authorize the County Attorney's department to institute necessary building code and land use litigation concerning alleged violations of those codes.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.
City of Glenwood Springs – Don asked the Board to authorize submittal of two letters one from the County Attorney's department to the City Attorney office responding to their second draft agreement pursuant to the direction Don received on negotiations on that contract; and the second to authorize the Chair to sign a letter to City Council of Glenwood Springs requesting a joint meeting between Council and Board members only.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Election 2003 - Position of Attorney's fees for Rick Davis
Don asked for a motion stating a position in response to a request for payment of Attorney's fees by Rick Davis.
Commissioner McCown made a motion that we deny the request for payment for attorney's fees as the County is not obligated to pay those fees and there were processes in place that I believe Mr. Davis could have achieved the same results and not have had to incur those fees.
Commissioner Houpt – seconded for discussion. I do believe that there is an obligation to have the correct information and to …. my concern is that's so unusual that people often don't know how to obtain the appropriate decision on how to move forward without hiring attorney's. I think it was an unusual situation that Mr. Davis was put in.
Chairman Martin said he is sympathetic to Mr. Davis' request however I do feel it opens up many other avenues that would be detrimental to the County and to the County coffers, as well as opening up to other litigation, etc. on Attorney's fees which we have not had to incur, so it's a decision to make individually here on a vote. Those in favor?
McCown – aye, Martin – aye; Houpt – nay
The majority vote even through we're sympathetic to Mr. Davis' request we still cannot fulfill it. The motion included authorization for the Chair to sign the letter and he will be notified by mail.
COMMISSIONER REPORT
Commissioner Houpt – at the same meetings as Larry; pipeline meeting and thanked Don in advance in getting involved with that, we've laid the ground work and now we need some legal advice for all the County Attorney's. An RS2477 CCI Committee meeting on the 21st and finalized the proposal for presentation at the CCI conference and go to the Board. This was a great process because everybody came in with varying perspectives. Gave the Commencement speech for Bridges School; Healthy Beginnings reception on 24th; a fabulous way to honor the program and those were honored from the very beginning; Colorado Trust Luncheon on the 26th and talked about local programs and future support; at the Northwest COG and Rural Resort and came back with the cost of living. Interesting numbers – if you group us – the numbers she would like to see analyzed are the goods and services numbers. CCI conference in Snowmass through Wednesday; Health Fair June 10 and RFTA Board meeting. Doug sent an email to us on Noise issues and an interesting discussion with the OCGG with what the noise regulations actually mean, and it seemed in conflict with what Brian said at our last meeting; would like a discussion on the 14th and wants to put this on the agenda. We need to talk about this noise regulation and how it's being approached – there seems to be some confusion.
Commissioner McCown – City County meeting on the 18th; on the 20th meeting Oil and Gas Roundtable; 24th Healthy Beginnings transition; 26th Battlement Mesa fire station for the revegetation of the Monument Creek Fire; 27th Oil and Gas Forum; last week Republican Convention Friday and Saturday; oil and gas steering committee meeting on Tuesday, June 8 at noon for the candidates; Thursday, conflict Thursday on the evening at the Two River's dedication; Roads in western 256 and associations – no.
Citizens for public lands sent a letter to the Attorney General. Access Committee meeting next Tuesday at White River Forest Service in Rifle – 10 a.m.
Chairman Martin – same as Commissioner McCown; on the 21st Gateway Park in Carbondale, BLM Division of Wildlife, Garfield County, concerned citizens, property owners, etc. were at the table to get a proposal for fisherman's access from Blue Creek down to Hardwick Bridge in four different areas; there's also federal money available to purchase property which is under the control of the DOW on a lease at the 133 Bridge. The DOW would like Garfield County to be included on the request for federal funds to purchase that property and hold it in perpetuity for a public access and a fisherman's access instead of under private ownership under a lease which terminates in 2008. Who and what is really needed will be determined with staff and them bring it back to the Board. The other items discussed were the Conservation holder at Blue Creek Ranch, they're in favor of a fisherman's access and a small boat ramp but the parking issue would be on Garfield County because they couldn't park on the property. We've have to have them park on the south side of Catherine's Store Bridge. These details are being worked out and then this will come back to the Board. Money is available – we just have to request it. Bike Rodeo in Silt and had over 400 kids in Bike Safety Program, several Garfield County employees volunteered their time to give out helmets and run through the safety program and participate in the City activities. Met with the new staff and principal of the Glenwood Springs Middle School on the 24th; they are changing some directions from discipline to curriculum. Ogden, Utah on the 26th – 29th for the WIR, Western Interstate Region which deals with public lands from Hawaii to Colorado. All states were represented; 8 representatives in Colorado and

all were present at the table. Discussion included the wolf migrating; when it gets to Colorado it is an endangered species and then we have to have something gathered for monitoring and how we'll handle the predator issue that we have on the books now. RS2477 is a very hot topic; Utah has their claim – they transferred ownership to BLM in the 1930's; they forget to tell the mine owners about this. Mine owners have been using those roads. Public Lands from WIR haven't changed their stance; they feel all public roads which are RS2477 in claim and there should be no time limit and should be handled individually. The Counties need to be at the forefront of that issue and not the States. State Convention in Denver. Kiwanis Club on Thursday.
Question for Don on the roads in the western end of the County that he was going to research, CR 256 and associates – not yet. Commissioner McCown said the citizens for access to public lands have some letters from the Attorney General's office and he has a copy. There is a national committee meeting next Tuesday and asked Don to attend – at the White River Forest Service Building in Rifle at 10:00 a.m.
Chairman Martin – Road trip in reference to the road access issue at CR 205 at Latham Canyon – the fuel reduction project last year in this field; they did 4,000 to 5,000 acres of fuel reduction on BLM land using the Water Act which opened up a tremendous amount of land and it's very successful. The vegetation is coming back and livestock is grazing as well as permitted livestock has tripled. In that he found 25 gas wells in that particular area in that Canyon. Photos of the reclamation projects in the mid-80's and followed that up to see what the production was in reference to those wells and according to the assessor, they had the greatest production in 2003 since the early 1980's; this was contributed to the drying and removal of the contaminates because they had an agreement with EnCana through their processing plant and that gas has been cleaned up. BLM land/Garfield County and a permit numbers is how they are marked. Jake will look at CR 205 as it comes out at Carr Creek – there is a road in-between. CR 205 starts in Mesa County at Fruita at 16 Road and goes to Carr Creek into the DeBeque area. It is one that it's in question. Invited to the Carbondale Chamber of Commerce fundraiser – Saturday June 12 at 5:00 p.m.

Noise Regulation on Agenda – Doug Dennison – June 14th.
Don was asked to set for public discussion 10:15 and invite Brian Mackey.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Division Order for Williams Exploration & Production. Authorize the Chairman to sign the Community Nursing Program Contract – Mary Meisner
f. Authorize the Chairman to sign the Business Associate Agreement with Valley View Hospital – Mary Meisner
g. Authorize the approval of the Board of County Commissioner Minutes – Mildred Alsdorf January 5, 12, and 19; February 2, 9, and 17; March 2, 9, and 16; April 5, 12 and 19; May 3 and May 10, 2004 including the Transcript for KMTS Radio Tower.
h. Liquor License Renewals: Thunder River Market, Inc.; Red Rock Diner; The Guzzler; and Columbine Restaurant – Mildred Alsdorf
i. Authorize the Chairman to sign the Resolution of approval for the preliminary Plan of the Callicotte Ranch Subdivision. Applicant: Rocky Mountain Mansions III, LLC. - Fred Jarman
j. Authorize the Chairman to sign the Business Associate Agreement between Garfield County Public Health and Valley View Hospital Association – Mary Meisner
k. Authorize the Chairman to sign the Resolution of approval for an Accessory Dwelling Unit for Parcel 7-E, H and B Minor Subdivision Exemption located at 245 County Road 335, New Castle and owned by Donna Meade – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a – k omitting items c and f; carried.
Remove Item c and f – a few alterations Carolyn wants to discuss with the State.
Discussion is needed on the Library Board.

REGULAR AGENDA

PUBLIC MEETINGS

USGS AND RC&D WATER STUDIES FUNDING REQUEST – RANDY RUSSELL

John Emerick, Project Director, Kirby Wynn Hydrologist, U.S.Geological Survey (USGS); Kristina Crandall Roaring Fork Conservancy – Research and Writing Specialists, and Senior Planner Randy Russell were present.
Randy submitted a memo and two inserts describing work efforts underway by the Colorado Big Country RC & D and the U.S.G.S. undertaking water related studies leading to improved data bases and mapping. Previously, as part of the 2004 budget, the Commissioners funded $5,000 for the Roaring Fork Conservancy (RFC) to inventory and map stream water quantity assessments for the year 2004.
Staff's only concern is that funding jurisdictions maintain some assurance that these efforts ensure integration with each other over time and we don't see duplicative work efforts.
Kristine Crandall, Research & Writing Specialist for the Roaring Fork Conservancy was present and addressed the Board with an update on the Watershed Steam Flow Survey Project and invited the Commissioners to attend the Watershed Collaborative Water Committee meeting on June 16th from 10:00 a.m. to 12:30 p.m. at the Eagle County Community Center in El Jebel.
Randy said that staff recommends consideration of a funding 'block' for the year 2005 in the Building and Planning Department's budget. $20,000 would cover all three efforts (Stream Health Initiative, Riparian Physical Habitat Assessment, and Watershed) for the next year
Kirby Wynn gave a power point presentation and handed out information on the retrospective assessment, 2004 – 2006. He presented the objectives and accomplishments to date. The current partners include Pitkin County, Colorado River Water Conservation District; U. S. Geological Survey; Aspen Ski Company Environmental Foundation and Town of Basalt; and Eagle County.
They are looking for additional funding.
Stream Health Initiative – in the process of developing a comprehensive baseline of stream and riparian habitat quality of the Roaring Fork and major tributaries. Identify and rank stream reaches in need of restoration or protection; Analyze problem areas; and Develop recommendations on best restoration or management strategies. He submitted a detailed report and provided a power point with explanation.
Request: in the 2005 budget, Randy suggested $8,000 for USGS and an additional $3,000 for RC&D and Kristina Crandall Roaring Fork Conservancy will be coming back in 2005 complementary for $5,000 to $8,000.
Chairman Martin – we're taking a very strong stance on saving our water and making sure it is of good quality.
Commissioner Houpt recommended to support this funding request noting money was available from the Rural Resort partnership $40,000 and funds are available to allocate for these programs and made a motion to fund USGS in the amount of $5,000 and $3000 for Big County RC & D for this current fiscal year using monies from the Rural Resort funds that we didn't expend this year. Commissioner McCown – seconded. Motion carried.
Next year's budget – Commissioner Houpt recommended putting $20,000 into a line item and having them come back in the fall; this will handle three levels – under the Building and Planning funds.

COLORADO WILDFIRE ACADEMY – NANCY KITTRIDGE, U. S. FOREST SERVICE
Nancy Kittridge, Brian Ayers, Mark Mullinock, Karen Bergethod, Liaison Officer and Justin Dombrowski from the City of Boulder, Fire Department. This is the 11th Annual Colorado Wildfire Academy. The dates for the event are June 7 – 13, 2004 located at the Roaring Forks High School in Carbondale. They will have 43 classes offered for those attending throughout the week, 1,030 people participating including the students, instructions and staff involved with the Academy and the estimated dollars into the area economy is $675.000. The representations present are: fire districts and departments are 44%; Federal Agencies – 29%, State, County, City Agencies – 12%; and private and other groups 15%.
There will be a service at Two Rivers on Friday for Storm King.
Justin Dombrowski - Tomorrow is the anniversary of the Coal Seam and the Hymen Fire two years ago and he was here for the Coal Seam Fire. The events – Thursday noon – fire camp school lunch and see some of the classrooms; Thursday evening from the school there will be an event at Two Rivers park 6:30 p.m. special presentation – a special quilt made with all the different fire departments that will be given to the community; at 7:00 p.m. Blue Grass music will be provided. On Wednesday and Saturday from 2:00 to 4:00 p.m. open houses – kids and families anybody to see what fire camp is like.
Brian Ayers – State of Colorado Forest Service - thanked all of the County staff for the cooperation in putting on this event.
Mark Mullonik – fires and water are interrelated. Water quality and watershed is the number two priority

with fire fighting. These sessions help with the coordination of the volunteers. The academies are one way to keep the people involved and provide services. He complimented the community in welcoming them here to Garfield County. He complimented the service providers in the area.

Ex Session Continued – Airport road project - condemnation process; IGA with Rifle on the lease termination project.
A motion was made to go into and Executive Session by Commissioner McCown and seconded by Commissioner Houpt; motion carried.
Commissioner McCown moved to come out of Executive Session; Commissioner Houpt seconded; motion carried.
Direction to staff:
Commissioner McCown made a motion to authorize the County Attorney to move forward with condemnation proceedings on the necessary right of way, the Harry Heavy's property that abuts CR 319 and 352; Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion that the Chair be authorized to sign the termination of lease agreement and in that sign an agreement that we will sign an IGA of similar body and substance as the one presented to us. Commissioner Houpt seconded; motion carried.

PUBLIC MEETINGS

CONSIDER THE APPROVAL OF A SITE APPLICATION FOR A LIFT STATION FOR THE BAIR CHASE SUBDIVISION AT SANDERS RANCH PUD. APPLICANT: ROARING FORK WATER AND SANITATION DISTRICT – MARK BEAN

Mark Bean, Debbie Dooley, and Don DeFord were present.
Mark presented the application for Site Approval for Construction of a Lift Station, Bair Chase Lift Station made by the Roaring Fork Water and Sanitation District (RFESD), Engineers, Schmueser Gordon Meyer, Inc. for the Bair Chase Ranch subdivision at Sanders Ranch PUD.
The Roaring Fork Water and Sanitation District (RFWSD) is proposing to build a variable speed lift station on the Bair Chase Ranch Subdivision at Sanders Ranch PUD, to transport sewage from the east side of the Roaring Fork River to the RFWSD treatment facility on the west side of the Roaring Fork River.
The Sanders Ranch PUD was approved for a total of 230 residential units on approximately 281.6 acres of land, with 230 acres of land dedicated to open space. The residential portion of the plan includes 120 multi-family dwellings, 48 condominiums, 48 single family dwellings and 14 golf course lodging units. A private 18 hole golf course is incorporated into the open space proposed as a part of the development.
The RFWSD has agreed to provide sewage treatment for the development and other areas on the east side of the Roaring Fork River. To meet the projected needs of the Bair Chase Ranch Subdivision at Sanders Ranch PUD, it will be necessary to build a sewage line under the Roaring Fork River, with a lift station on the east side to move the flows across the river to the treatment facility.
The proposed service area for the lift station includes the Bair Chase Ranch subdivision, lower Cattle Creek and the Midway area (CMC turnoff). The Equivalent Residential Units (EQR's) projected for the "present" condition is 380.4 EQR or 1141 people. The "present" condition includes Bair Chase and the current Lower Cattle Creek development. With the addition of the potential development in the Lower Cattle Creek area and the Midway area, the "future" condition would result in an additional 837 EQR or 2511 people.
The proposed lift station is designed to operate at a range of flows between 80 gpm and 435 gpm. The design takes into account the possibility that the Midway area may chose to gain access to the RFWSD sewage system via the Ironbridge (Rose Ranch) system. The design flexibility will be accomplished by using a three-pump station, with only two pumps installed initially and changing impeller size to meet varying demands. There will be two force mains installed to convey the sewage at a minimum of 2 fps. A 4″diameter line will accommodate up to 200 gpm and a 6″ line will be used for flows greater than 200 gpm.
The Roaring Fork Water and Sanitation District was originally approved for formation by the Board of County Commissioners and District Court in 1994. The initial service area was the Aspen Glen PUD, with a "regional service area" that included the Coryell Ranch, Crystal River Ranch, Rose Ranch, Sanders Ranch and the Midway area. To date the Coryell Ranch and Rose Ranch properties have been annexed into the District. The Sanders Ranch property would be next area to be annexed, if the development is approved by the County. As a part of the design, the Sanders Ranch property will have oversized lines to accommodate additional growth in the Lower Cattle Creek and Midway areas. The RFWSD sewage treatment plant was originally approved for 107,000 gpd capacity, with the ability to expand to 321,000

gpd, when demand is increased to that level. Current flows are about 25,000 gpd or about 23% of the existing capacity. The District maintains that the existing facility area is large enough to accommodate a 1 MGD plant, if demand ever warranted the need.
According to a geotechnical report for the project, the proposed lift station is not located in the identified 100-year floodplain. The 100 year floodplain elevation is 5947′ and the bottom of the lift station is at 5966′. The proposed force mains will have to be placed in the Roaring Fork River floodplain and will have to be permitted by the County.
The facility will be operated and maintained by a State certified Operator, hired by the RFWSD.
The developers of the Bair Chase Ranch subdivision at Sanders Ranch PUD will be obligated to install all the facilities and lines necessary to serve their development and the cost of reasonable oversizing of facilities and lines to accommodate additional development outside of the project area.
Staff comments: State Statutes: C.R.S. 25-8-702(2)(a-c), and the "Regulations for Site Applications for Domestic Wastewater Treatment Works", defines the parameters by which the Water Quality Control Division ("Division") shall review and approve or deny a site application for a wastewater treatment works. The Division is required to determine that each site location is 1) consistent with the long range, comprehensive planning for the area in which it is to be located; 2) that the plant on the proposed site will be managed to minimize the potential adverse impacts on water quality; and 3) must encourage the consolidation of wastewater treatment works whenever feasible.
The Applicant is required to obtain a recommendation of approval, denial or no comment from the Garfield County Board of Health and County Board of County Commissioners and various other local and regional agencies.
Therefore, Garfield County's involvement in the process is <u>to determine whether or not the proposed wastewater treatment work is consistent with "the long-range comprehensive plan for the area as it affects water quality and any approved regional wastewater management plan for the area</u>".
RECOMMENDATION
Based on the current comprehensive plan designation of high density residential and an already identified service area for the RFWSD, Staff recommends that the Board **RECOMMEND APPROVAL** of the site application for the Bair Chase Lift Station.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve and recommend approval of the site application for the Bair Chase Lift Station and authorize the Chair to sign the site application; motion carried.

CONSIDER A PLAT AMENDMENT FOR LOT 5, ELDER AMENDED PLAT, FILING NO. 3, RANCH AT THE ROARING FORK. APPLICANTS: MARK AND ROBYNE THURBER – FRED JARMAN

Fred Jarman, Don DeFord, and Craig Bundy and Mike Derengowski of Craig Bundy Architects, PC. for the applicant were present.
The owners of Lot 5, a vacant lot, request approval to slightly expand the southerly portion of their building envelope by approximately 8 feet to the south. The subject property is located at the end of Surrey Street, a cul-de-sac, and bordered by Sopris Creek on the west side. The area south of the existing building envelope is delineated as a jurisdictional wetland by the US Army Corps of Engineers. The owners of the lot retained Ecological & Environmental Consulting to reexamine the wetland area. This report indicated that the wetland area had changed and as a result was re-delineated further south. The owners have also received approval from the Ranch at the Roaring Fork HOA.
The plans show a 10 foot buffer will continue to be maintained from the newly expanded southern boundary of the building envelope and the newly delineated wetland area.
Staff recommendation:
The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions.

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State

law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat with the two conditions as shown by staff and the Chair authorized to sign; motion carried.

PUBLIC HEARINGS:

CONTINUED PUBLIC HEARING - CONSIDER A SPECIAL USE PERMIT REQUEST FOR INDUSTRIAL SUPPORT FACILITIES WHICH INCLUDES WAREHOUSE/STAGING FACILITIES FOR A PROPERTY AT THE RULISON INTERCHANGE OWNED BY DOUG AND BEVERLY TETER – FRED JARMAN

This is a continued public hearing originally held on April 5, 2004; Chairman Martin swore in the speakers.

1. Fred submitted the following **NEW** Exhibits: Exhibit L – Amendment Information to the Application; and Exhibit M – Memo from the Building and Planning Department dated 6/7/04 Exhibit N – Permit from CDOT dated 5-26; and Exhibit O – Letter DOW received June 4, 2004

Chairman Martin entered Exhibits L – O and acknowledging A – K entered previously, into the record.

Fred stated that on April 5, 2004, the public hearing was held and that staff recommended denial of the request for a SUP to allow for Industrial Support Facilities which include Warehouse/Staging Facilities for Beverly and Doug Teter on a property located at 16605 State Highway 6, just west of the I-70 Interchange at Rulison finding that the following standards have not been adequately satisfied:

Section 5.03

Fred reviewed the items that were incomplete.

1. Utilities adequate to provide water and sanitation service;
2. Street improvements adequate to accommodate traffic volume;
3. Design of the proposed use is organized to minimize impacts on and from adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot…. Does not protect the established neighborhood character.

Section 5.03. Industrial Operation

A – Existing lawful use of water;

B – Impacts on adjacent land from the generation of vapor, dust, smoke, noise, glare of vibration or other emanations;

C – Impacts on Wildlife

D – Impacts of Trucks and automobile traffic

Section 5.03.07 (2) Industrial Operations

A – A plan for site rehabilitation

Section 5.03.08 Industrial Performance Standards

(1) Volume of sold generated

(5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:

A – Storage of flammable or explosive solids

D – Storage of Heavy Equipment

(3) All equipment storage will be enclosed in an area with screening

At the last hearing, Harry Naugle said they didn't get the recommendations in time and when they did, time didn't allow them from addressing some of these concerns.

Chairman Martin noted that Mr. Naugle was requested to have port-a-potties and staff feels it would be too much to have those clean and sanitized.

Commissioner McCown said the fact remains that if this water well was drawn on a residential permit, it is still not adequate to serve an industrial use so you would have to apply and get another well permit before this Board can say there's a legal and adequate source of water. It has to be drilled, pump tested to see if there's an adequate amounts of water to support this use for a shop.

Mrs. Naugle clarified that they would have to drill that well and buying this property is contingent upon whether or not we have a well permit and special use permit. You can't do these two things without the property.

Commissioner McCown reminded them that this is the gamble they will have to take; you were going to buy it apparently for a resident for your son.

Mrs. Nagle said no it wasn't.

Commissioner McCown said the application doesn't indicate that your son was going to live on the property and also have a pipe yard and operation center.

Mr. Nagle said this was the intention but the well supposedly they wanted to come up with the fact that we could even get a well permit. He subdivided it and had to take the proposal to Dwight and then he suggested changing it to this; but they never had time to talk to Fred.
Fred stated that the applicant has worked to address the bulk of these issues and noted that the Teters are now the property owners formerly owned by Harry and Rhonda Naugle.
Fred included in his staff report the response to the various issues as outlined on April 5, 2004 and included above.
With the responses by the applicants, Staff recommends the Board of County Commissioners approve the request for a Special Use Permit to allow for Industrial Support Facilities which include Warehouse/Staging Facilities for Beverly and Doug Teter on a property located at 16605 State Highway 6, just west of the Interstate 70 Interchange at Rulison, Colorado with the following conditions:
Staff recommends the Board of County Commissioners approve the request for a Special Use Permit to allow for Industrial Support Facilities which include Warehouse / Staging Facilities for Beverly and Doug Teter on a property located at 16605 State Highway 6, just west of the Interstate -70 Interchange at Rulison, Colorado with the following conditions:

1) That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2) All lighting installed at the property shall be directed downward and inward towards the interior of the site.
3) The Applicant shall incorporate a bathroom into the building plans for the main warehouse building. In addition, the Applicant shall obtain an Individual Septic Disposal System (ISDS) permit to handle the wastewater generated from the bathroom uses as well as water generated from the well.
4) The Applicant proposes an eight-foot sight-obscuring fence to enclose a portion of the site as shown on the site plan and approved by the Board. The Applicant shall obtain a building permit for all fencing over 6 feet in height.
5) The Applicant shall construct a 2,500 gallon water storage tank in conjunction with the commercial well which shall store water to be used in the event of a fire at the facility and to prevent the spread of a wild land fire event. This water tank can serve as water supply for purposes at the main shop building as well as for fire protection. It shall be of a design that has been approved by the Grand Valley Fire Protection District that allows them proper access. The Applicant shall also consult with the County Building Department to determine if the tank design requires a building permit.
6) No welding or cutting (open flame) operations shall occur inside the main building.
7) The Applicant intends to have three diesel fuel tanks (one 1,000 gallon, and two 500 gallon tanks) on the property. These tanks shall be constructed in the location as proposed on the site plan. Further, the Applicant shall present the Planning Staff with a "spill control and secondary containment system" plan that has been approved by the Grand Valley Fire Protection District. The Applicant shall post "No Smoking" signs in the storage and dispensing area and shall locate at least one 20lb ABC Dry Chemical Fire Extinguisher within 50 feet of the tanks.
8) The Applicant shall be required to obtain an access permit from the Colorado Department of Transportation and present it to the Building and Planning Department prior to the issuance of this Special Use Permit.
9) That the Applicant obtains all necessary building permits and inspections consistent with the adopted rules and regulations of Garfield County for all development within the proposed area.
10) If any further expansion of the use is attempted / requested, the Applicant shall readdress the proposal and obtain the necessary approvals from the Board of County Commissioners.
11) That all noise generated from the property shall not exceed the accepted maximum levels set forth in the Colorado Revised Statutes.
12) In the event the proposed use is discontinued / terminated, the Applicant shall rehabilitate the disturbed areas by reseeding with a dry land pasture mix, and spraying and mowing of noxious weeds to the satisfaction of the County Vegetation Manager.
13) It appears that an adequate legal supply "of water" for the proposed use can be obtained with a proper permit from the state. No Special Use permit shall be issued until a commercial well permit has been issued to the property and presented to the Building and Planning Department.

Staff suggest that they bring back to us before we issue the SUP what is called a spill control and secondary

containment system plan which is something that the fire district is very rare of, they know exactly what they need to be, what's in them, so staff is suggesting they put that together so we can have the fire guys take a look at it ; and the other things such as no smoking sign next to the tank themselves; so with that, it's staff's opinion is that the Teters have done a good job of addressing the issues that they had the last time. Staff submitted a list of conditions suggesting the Board consider and on No. 8 this can be deleted all together – that is a condition specific to getting a highway access permit from the CDOT and they have actually done that.
Commissioner Houpt – asked how much of the area that will be used will be screened with that 8' fence. Fred explained in Exhibit L – in the applicant's addendum they have a site plan and the fence will screen the site from the interstate.
Commissioner McCown confirmed with the applicant that they could live with Condition No. 6.
Mark Bean was sworn in and commented that the type of construction to do welding inside and suggested a separate building for welding.
Add "Shall" in the fencing condition.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit to allow for an industrial sport facility which includes a warehouse and staging area for Beverly and Doug Teter with the conditions of staff striking Number 8, correcting No. 4 to insert the word Shall and In Condition No. 13, now Number 12 it should say a "legal supply of water". Motion carried.
CONSIDER THE ADOPTION OF THE INTERNATIONAL BUILDING CODE (IBC), INTERNATIONAL RESIDENTIAL CODE (IRC), INTERNATIONAL MECHANICAL CODE (IMC), INTERNATIONAL PLUMBING CODE (IPC), INTERNATIONAL FUEL GAS CODE (IFGC) AND THE INTERNATIONAL FIRE CODE (IFC). APPLICANT: BOARD OF COUNTY COMMISSIONERS – MARK BEAN
Don DeFord, Andy Swaller, and Mark Bean were present. Don reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. [The Fire Code, that notification is not adequate. In the past the Fire Code has been adopted within the regulations, this would be adopted by Ordinance. There are requirements for Ordinance and these have not been met and it must be read at a meeting but rather have it set in July in order to read is into the record. It could be adopted as an advisory. This could be held in July and then we will be making amendments to allow it to happen. Each jurisdiction will propose various amendment, this is outside the districts.
Commissioner McCown – the last meeting was that this Board will adopt a generic code and let each district made their amendments.
Chairman Martin swore in the speakers.
Mark submitted the following Exhibits: Exhibit A – Proof of Publication; Exhibit B – Project Information and Staff Comments; Exhibit C – 2003 International Building Code; Exhibit D –2003 International Residential Code; Exhibit E – 2003 International Plumbing Code; Exhibit F -2003 International Mechanical Code; Exhibit G – 2003 International Fuel Gas Code; Exhibit H – Web Page Download on DOE/ICC Collaboration 6/1/2004; and Exhibit I – Proposed Resolution Adopting the Various International Building Codes.
Chairman Martin entered Exhibits A – I into the record.
The Board of County Commissioners has directed staff to update the Building Code resolution to a more current version. Presently, the County utilizes the 1997 Uniform Building Code (UBC, 1997 Mechanical Code, 1997 International Plumbing Code,1997 Uniform Fire Code,1995 CABO, one and two family dwelling code, Appendix A. Staff has recommended that the Board adopt the International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (IMC), International Plumbing Code (IPC), and the International Fuel Gas Code (IFGC).
Garfield County is authorized by CRS § 30-28-204 to amend an adopted building code for the County. Garfield County last amended the building code in 2002 by Resolution No. 2002-32, which adopted the 1997 UBC. The following is the language of the statute:

30-28-204. Amendment of building code.

The board of county commissioners from time to time by resolution may alter and amend any county building code after public hearing, notice of which hearing shall be given by at least one publication in a

newspaper of general circulation in the county at least fourteen days prior to said hearing. In no case shall the area covered by the building code be extended or changed unless the same has been proposed by or is first submitted for the approval, disapproval, or suggestions of the county planning commission. Unless the county planning commission acts within thirty days, approval shall be assumed. The opinion of the county planning commission shall be advisory only and not binding upon the board of county commissioners.

Because the "area" covered by the building code is not being changed, it is only necessary to hold a public hearing before the Board of County Commissioners.

Issues:

The International Building Codes have been or will be adopted by a number of local jurisdictions this year. In 2002, staff recommended against adopting the newly developed 2000 IBC and associated codes due to concerns about the need for revisions to the code shortly after it was published. During the ensuing three years, the needed revisions were made and the code has become more universally accepted.

As with any national code, there are a number of issues that the local jurisdictions may choose to delete or modify. Staff has suggested a number of revisions that need to be considered by the Board, with the following issues deserving closer scrutiny:

International Building Code (IBC)

Section 101.4.7 Staff is recommending that the Energy Conservation Code not be adopted. **Explanation:** The Energy Conservation Code requires a significant amount of expertise to apply to an application. In the case of individual residential buildings, it will require people to hire someone capable of doing the energy calculations. The minimum R-values proposed in Section 1301.1.1 provide much easier design for the homeowner and inspection by the County. Commercial building calculations are very extensive and complicated which will increased staff time and involvement in the review of applications and inspecting the structure. Additionally, the Department of Energy (DOE) and the International Code Council have determined that the International Energy Conservation Code is too difficult to implement and are proposing to work together to revise the code. (See attached information)

Section 105.2 and Section 202 Agricultural buildings are not required to get a building permit, unless they have an indoor riding area. Indoor riding arenas will be required to get a building permit.

Explanation: Structures used for human occupancy/activities should be subject to structural review.

Section 105.5 Clarification of the permit expiration and renewal provisions.

Explanation: This has been an area of dispute in the past, due to vague language in the codes. Staff felt clarification was appropriate.

Section 106 Applications will still require a surveyed site plan for any building within 50 ft. of a property line.

Section 106 A new section has been added to require proof of water and sewer taps for structures in service districts.

Explanation: Most of the special districts have requested that the Building Department make sure that water and sewer taps have been paid before any permits are issued.

Section 109 All job sites will be required to have sanitation facilities on site during construction.

Section R202 A number of definitions have been amended or added to deal with issues that have been subject to interpretation previously. The definition of "dwelling unit" has been modified to note that only one kitchen is allowed and the definition of kitchen has been added. Certificates of Occupancy will only be issued to the property owner.

Section 3007 Elevators and dumbwaiters are starting to show up in some of the new building permits, which we need to address with standards.

Fire Inspection All fire protection systems required by this code will be inspected by the appropriate fire district.

Appendix J, Grading This section has traditionally been deleted from our building code requirements, due to staffing limitations. To implement this section, it will require a review by someone qualified to review civil engineering documents. Staff is recommending that the County Engineer issue grading permits.

[If this is adopted]

International Residential Code (IRC)

Section R105.1.1 Reroofing permits will be required for residential structures.

Explanation: Excessive loads as a result of multiple reroofings, can result inadequate roof loading and collapse in times of heavy snow accumulation.
Section R 105.2 and R202 Recreational cabins are still proposed to be exempt from building permit requirements, if they meet the specified criteria.
Section R105.2 Agricultural fences over six (6) ft. in height are exempt from permit requirements, provided they are post and wire construction.
Section R105.5 Clarification of the permit expiration and renewal provisions. **Explanation:** This has been an area of dispute in the past, due to vague language in the codes. Staff felt clarification was appropriate.
Section R106 A new section has been added to require proof of water and sewer taps for structures in service districts.
Explanation: Most of the special districts have requested that the Building Department make sure that water and sewer taps have been paid before any permits are issued.
Section R106 Applications will still require a surveyed site plan for any building within 50 ft. of a property line.
Section R107 Provisions for temporary housing during the construction of a single family dwelling. As a part of a valid building permit, an applicant can request approval for temporary housing that is connected to or has provisions for sanitary sewer. [Two acre lot or larger]
Section R202 In addition to the previously mentioned definition clarifications made in the IBC, the definition of "building" was expanded to include a minimum standard of 20′x20′for any residential building. Additionally, a recreational cabin is defined.
Section R306 All job sites will be required to have sanitation facilities on site during construction.
Section R1004.1.1 Requires all new factory built fire places and stoves to meet the minimum requirements of the State statutes.
Chapter 11 Energy Efficiency The entire section is being deleted and replaced by the R-values that have been used for a number of years. If the IRC code were adopted, it would require 0.35 vs. 0.50 Maximum Glazing; R-49 vs. R-30 ceiling insulation; R-21 vs. R-19 walls and floors; R-11 vs. R-10 below grade and R-19 above grade for basement walls; R-13 and 4 ft. vs. R-10 and 3 ft. for slab perimeter and depth; and R-20 vs. R-10 below grade and R-19 above grade for crawl space walls.
Explanation: This section is tied very closely to the Energy Conservation Code and will create the same issues noted previously for staff in terms of workload and homeowners in terms of cost of construction.

International Mechanical Code (IMC)
Section 104 Separate permits for mechanical installation are not required. In other words, mechanical work done on a house that is not a part of a new or remodel building permit, are not required to get a permit.
Section 303 LPG appliances will not be allowed in a pit or basement without meeting some very specific criteria.

International Plumbing Code (IPC)
Section 104 Separate permits for plumbing installation are not required.

International Fuel Gas Code (IFGC)
Section 106 Separate fuel gas permits for natural gas connections are not required.
Issue: Excel Energy officials met with staff earlier this year and were requesting that Garfield County take over jurisdiction of all fuel gas hook-ups. The County has not required building permits or individual fuel gas permits for the placement of a mobile home in a mobile home park. Placement of manufactured homes in a mobile home park had been left up to park owners. In the last few years, the State Housing Authority has required an inspection of the placement of a manufactured home, but they do not do any inspections of the gas hook-ups. Taking on this responsibility by the County will result in an additional workload that may require an additional inspector. At this time staff is not suggesting that the County take any additional responsibilities in terms of inspections. [Heads up – local energy company wants all mobile home to be permitted. This is onerous for the B & P to take on.

Section 303 Staff has recommended that no unvented gas heaters be allowed, regardless of the Btu rating. Additionally, LPG appliances will only be allowed in pits or basements, if they meet certain criteria.
Section 621.1 Again, complete prohibition of unvented room heaters and log heaters.

Exhibit I – proposed Resolution for adoption.
Section 105.2 and Section 202 Agricultural buildings are not required to get a building permit, unless they have an indoor riding area. Indoor riding arenas will be required to get a building permit. "add PUBLIC RIDING ARENA" An indoor arena with spectator accommodation"
Not being adopted - **Energy Conservation Code** – Commissioner Houpt would like to continue to look at as technology develops.
Kenneth Smith supports the staff not adopting this Code. Suggested revisiting it in 2006 to see if they made it more user friendly. This is a work in progress. It's a very restrictive document.
Houpt wants to keep an eye on it.
Staff agrees but at the present there are many very restrictive requirements.
Kenneth Smith – complimented the staff on the job well done.
Mark advised the Board that the Building Code staff may be requesting additional staff to assist in the implementation of these codes.
They will be effective upon adoption of the Resolution.
Fire Code – adopt and then each district will come in with their regulations. Ken Smith would like to ensure these are public hearings. Ex. 2003 – Code Council – 17 amendments were not administered. Cautioned the Board to read those rather codes

RECOMMENDATION

The Board of County Commissioners approve the adoption of the 2003 International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (IMC), International Plumbing Code (IPC), and the International Fuel Gas Code (IFGC), with the amendments and deletions from the various codes as presented in the proposed draft resolution.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried. Houpt McCown
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the adoption of the 2003 International Building Code (IBC), International Residential Code (IRC), International Mechanical Code (IMC), International Plumbing Code (IPC), and the International Fuel Gas Code (IFGC), with the amendments and deletions from the various codes as presented in the proposed draft resolution. Discussion: Commissioner McCown - There is nothing to prohibit us given property notice to come back and amend these at any time. Mark said 14 days notice is all it requires.

THE INTERNATIONAL FIRE CODE (IFC)

Don said in order to proceed with it, because it's an Ordinance, we must publish Fire Code – publish in its entirety. This is a substantial undertaking and Don asked the Board, given Commissioner McCown's comments earlier, does the Board want to proceed with adoption of the Code as recommended.
Commissioner McCown said we appointed the Committee that's working diligently trying to put this entire perfect plan together, but after sitting through those meetings it's not going to happen. We need to adopt a Code on its face as written in Garfield County and if you enforce it it's like the speed limit on a County Road, if it's rigorously enforced it will cause us problems and we need to amend those, but our first goal is to get it in place at least from the Garfield County standpoint. It will be for all the unincorporated area in Garfield County not in a fire district so we are not walking on the toes of any of those fire districts.
Don – of the Municipalities, it will apply in unincorporated Garfield County in the Fire District until the Fire Districts adopt or come to us with what they want to do.
The Board agreed.
Kenneth Smith – so you're going to publish the entire Fire Code in public notices.
Don – yes, the whole thing.
Kenneth Smith – okay, you may want to do a little case law research because ICOB filed a copyright infringement law suit against several jurisdictions that were putting entire building codes on their website and suggested ICB no longer exists, but want to check with the International Code Council and see what their requirements are and copyright infringements may be.
Commissioner McCown noted the cost to publish this would be about $2,000.

Don appreciated the heads up.
Kenneth Smith said there are there may be some legal way that you can do this.
Commissioner McCown asked if it could be made available at Libraries, etc.
Don said he looked at this and the Statute very literally said it has to be published in its entirety if it's an Ordinance. And there are provisions for the reading it by reference, however the Board does not have to read it out loud. You can do that by reference.
Chairman Martin suggested researching this further.
Mark Bean suggested in talking to some counterparts when you had your State meeting to see how they've dealt with this issue.
Don offered to read the Statute to the Board. It says the Ordinance has to be published in its entirety.
Commissioner McCown – the Ordinance, but not the entire Code.
Kenneth Smith – there's no provision for reference in the International documents?
Chairman Martin – the Ordinance identifies the Code as a topic.
Commissioner Houpt – well if the Code is adopted as the Ordinance, then our legal counsel is saying it has to be published.
Don reiterated if you want to enforce the provisions of the Code as the Ordinance, it's like the Model Traffic Code, which is also voluminous. It's the same type of problem. If you want to enforce the provision as carrying the weight of law, they have to be published.
Commissioner McCown – so Resolutions do not carry the weight of law?
Don – if the Statute permits you do that, they do. But in this case you've chosen to follow the Ordinance.
Commissioner McCown – because you said the Resolution was only advisory.
Don – the Resolution on the Fire Code was advisory, and what I mean by that is that the Fire Code was adopted as part of your building code, part of the requirements when the structure was built, but it was not adopted as a separate enforceable code. This is like a police Ordinance; we don't have many in this County but for instance the Fire Ban.
Kenneth Smith – So the Building Codes are being adopted as a Resolution and the Fire Code is being adopted as an Ordinance.
Don – yes.
Kenneth Smith - what would the ramifications of adopting the Fire Code as a separate Resolution.
Don – that's what we used to do and it wouldn't simply incorporate it as part of the building code and it would govern the design of a structure, but you could not go out, the Sheriff or whoever you design as the Fire Marshall, and literally enforce it as a separate Ordinance.
Commissioner McCown – how are the local Fire Districts going to adopt theirs? They are going to be the enforcement entity.
Don – yes, they are supposed to be as an Ordinance. Keep in mind that's not correct outside of a Fire District.
Commissioner McCown – each Fire District will have to publish it in complete form.
Don – yes, however, I will check to see what the Special District provisions. For Counties it falls in the same ordinance criteria that we've looked at for various things, when you do a Fire Ban, we looked at it for a weed and rubbish ordinance, contracts by ordinance because the Statute provided for that. It's the same type of provision – model codes were not designed to be adopted formally by Ordinance for a County. Municipalities are different than Counties and a Home Rule Municipality like Glenwood Springs can adopt an Ordinance by reference.
Commissioner McCown wondered if al the local Fire Districts are aware of that if they do have to publish it in its entirety. This is an unreasonable expense – over 1000 pages.
Mark notified the Board that additional staff may be necessary to implement this.
Commissioner McCown asked if there was going to be a fee associated with this?
Mark said it would have to be a separate fee, probably if it's not part of the building permit itself. We have not set down to figure out that fee schedule, to be honest. We will need to figure this out.
Commissioner McCown asked if these were voted on and adopted, when will they take effect.
Don said it would be the effective date of the Resolution, whatever that might be.
Commissioner McCown – I would hope we would have a fee structure in place before that date.
Don – we will need to do that.
Chairman Martin – because you can't enforce it if there's nothing there.
Mark – Yelp.
Chairman Martin – you can't require it if they can't get it defined.

Mark – we have two options here, 1) you can continue this so that we could get Randy over here to discuss this issue with you more fully; or 2) to adopt it and get a Resolution and then we sit down and put together a fee schedule.
Commissioner Houpt – let's adopt it and get a fee schedule.
Mark – Okay, that's fine. It's your call.
Commissioner McCown – I don't think anyone has any idea how many excavation permits would be required and I doubt seriously if Steve Hackett can enforce it.
Chairman Martin – only on a complaint basis.
Commissioner McCown – yeah that many of them, he'll never
Mark – it's going to be a tiger out with the exception of building permits where's it's very obvious somebody's doing something.
Commissioner McCown – building permits, I don't have a problem with it, but are we going to be adopting something that we can't enforce. I have a problem with regulations that are not enforceable.
Mark – I have absolutely no argument there, the only reason I'm cautioning you and making sure of what we're taking on here because it is pretty extensive.
Commissioner McCown – at building permit time, I don't have a problem but we do have instances where no building permit is required because there's no structure being placed there.
Mark – although we've had instances that we've had substantial cuts occurring in mountain sides that were intended to be for buildings but did not actually have a building attached to it at one point that whether or not they were good or bad, we'll have to wait and see when somebody actually does something on those locations.
Commissioner Houpt – well we'll require a permit right?
Mark – they would be required to get a permit now; but not necessarily deal with the aesthetic concerns that a lot of folks have about substantial cuts and fills but it is something that we'd come in to play with. That is enforceable.
Don – Mark let me ask you a question on that. Would this apply to the circumstance we've seen in the County where someone is coming in and doing a subdivision but wants to start work on it before we've actually done the SIA. It would apply to that I think.
Mark Bean – I guess the answer is, not having had a lot of experience with this, but my understanding of the Code is yes it would.
Don – the reason I raised that is that has been a fairly common practice in this County but I think the effect of this is they'll wait until the SIA is in place or they will have to get a permit. It's not that we have that many subdivisions but that is a pretty significant engineering consideration.
Commissioner McCown – yeah, but they'll have the engineering already done on the subdivision, so it'll just be a matter of handing to Randy and say, where's my permit.
Commissioner Houpt – I think it will cover situations that we wished were covered in the past and I say move forward and let the staff figure out how, what the fee structure should be and how to move forward with that.
Mark – okay.
Don was directed to do research and come back to the Board.
Motion carried.

ADJOURN

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

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JUNE 14, 2004
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 14, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE: ED GREEN

RESOLUTION FORMING THE PUBLIC SAFETY COUNCIL.

Leslie Robinson, Nancy from Valley View Hospital, Rifle Chief of Police Daryl Meisner, Glenwood Springs Fire Chief Mike Piper and Sheriff Lou Vallario were present.

Ed said there are commitments from the fire districts and have been visiting the municipalities – the ones contacted are really interested in participating financially.

In the County we have about $45,000 to support this and Guy has been using those funds principally. We think the position will the cost about $80,000 to $85,000 and roughly ten or eleven other participants in this and we can expect $35,000 - $40,000 from all the other participants. Using vacancy savings from the Sheriff's Office, we can fund this for the rest of the year 2004, so long as the rest of the folks pony up and make a commitment in 2005. By the next safety council meeting we should have formal responses from all of these municipalities and come to a conclusion.

The Resolution forming the Public Safety Council to identify public safety issues and facilitate solutions in Garfield County was presented. The Council will inform the Board of County Commissioners on an ongoing basis of any public safety issues; and identify specific areas of need in the public safety sphere and will identify solutions or make referrals to the appropriate department, agency, individual or group to ensure that the issue is satisfactorily addressed.

The Bylaws were submitted and reviewed. The membership is open to and shall include all emergency response public and private agencies such as Law, EMS, Fire, Municipalities, County, Health, Mental Health, Service, Volunteer, Communications, and any other entities with interest or concern for public safety.

Lou has been extremely pleased with the support for this. He can hire this position tomorrow but without a firm commitment for funding for 2005, he is hesitant to move forward. Once there is an IGA in place he will be prepared to hire.

Ed said the $85,000 would pay the salary and the computers, etc. needed for this position.

Commissioner McCown wanted to make sure that this position didn't generate another need for additional assistance like several others have in the recent past.

Ed said we can obtain additional grants from the State. The Homeland Security funds are available now. Working with the Safety Council in staging various types of emergency exercises.

Daryl said together we can accomplish a lot, separately everyone is limited.

Lou said we're in a 10 county region, the northwest region and we're expected to respond to another place and help if their emergency grows to that size; if we're not prepared here locally, we can't respond and then we're defeated on both sides. This is his take on this person and this group.

Commissioner McCown is very supportive of it but he just doesn't want to see Garfield County, after the second year, and the costs start to grow and nobody else is at the table financially. The good will, support and making copies may be there, but if this budget gores from $85,000 to $150,000 he would expect all the players to still be at the table. The money needs to be committed in future budgets to support this. This is a good thing for Garfield County.

Commissioner Houpt agrees with Daryl in that through a partnership we can go a great deal further than we could go on our own. She applauded Lou for putting this together.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Resolution of the Board of County Commissioners of Garfield County concerning the recognition of the Garfield County Public Safety Council.

Don DeFord – the position actually establishes the position of Emergency Management Coordinator? Is that the $85,000, so with passage of this Resolution then the Commissioners are committed to that with or without the other entities, is that right?
Ed – no, that's not correct. What we have all agreed is that as soon as we receive a commitment from the City Councils then we will proceed to fill this position, but not until then.
Don – then in fact should the Resolution provide that this position will be established upon the entry of an Intergovernmental Agreement with the Fire Districts and the Municipalities in the County.
Commissioner McCown and Commissioner Houpt agreed this could be added.
Commissioner Houpt amended her motion to include this; Commissioner McCown amended his second.
Don - On the title of Emergency Management Coordinator, that's very similar to a position in the County now that Guy Meyer fills; is this position intended to supplement or substitute for his responsibilities.
Ed – replaces it. Guy Meyer will be full time Community Corrections.
Don – At the present time that position answers to the County Commissioners, the intent of the Board to shift those responsibilities to the office of the Sheriff from the Board, is that correct?
Ed – yes. The Sheriff has agreed to that.
Motion carried.
Lou said they are rewriting the job description and will advertise once this is in place. Guy will serve as Emergency Coordinator until this position is filled. Ed didn't expect the position would be filled before August or September.

CITY OF RIFLE BALL FIELD UPDATE – ALEKS BRIEDIS OF RIFLE RECREATIONS
Tom Whitmore and Aleks Briedis were present.
The City of Rifle, Aleks Briedis, Recreation Director submitted the four contractors being considered for the Deerfield Baseball Field construction: Lyon Construction (Silt); Arrow J. Landscape & Design, Inc. and Design Concepts (Denver); American Civil Constructions, Inc. and Land Architects, Inc. (Littleton); and The Groundcrew, Inc. and Otak, Inc. (Rifle). From these bids, Aleks stated they will be able to stay in the $300,000 budget range. All four of these contractors are well qualified. Once we have a signed IGA between the City, County, and School District, Rifle City staff will be asking the Rifle City Council to award the bid to the selected contractor.
The anticipated date to start is July and a completion date in October.
The Field of Dreams is waiting to hear about the grant; if it comes in time the lighting will be done at the same time.
Randy Withee – the DOLA grant request needs to be turned in tomorrow. He requested the Board's pleasure on whether or not the Board wanted to withdraw the grant for the Riding Arena
Commissioner Houpt made a motion to authorize the Chair to sign the letter withdrawing the Riding Arena grant and submitting the grant for the new Human Services Administrations Building; Commissioner McCown seconded; motion carried.
FOCUS GROUP PRESENTATION
A methodology to complete an analysis, report and follow-up with the Board of County Commissioners and participants by conducting focus groups June 28 to July 9 was presented. The plan is to sample the entire Garfield County population using the Assessor's property records to identify the population. Then, using the statistical criteria set a sample size of 138 as the minimum required. A grid sampling methodology will be used to assure coverage in each taxing area with a minimum of one household per property tax area; use a random number generator to pull the samples and select only full time residents. There will be a total of 9 separate focus groups: 2 in Carbondale for 36 respondents; 3 in Glenwood for 55 respondents; 1 in New Castle for 18 respondents; 1 in Silt for 18 respondents; 1 in Rifle for 14 respondents; and 1 in Parachute for 18 respondents. Letters of invitation will be sent requesting RSVP. Once the attendee is confirmed they will receive an information packet and follow-up to verify attendance. A suggested payment to each participant was suggested to assure a statistically valid cross section of the population for a total budget amount of $8100.
Commissioner Houpt questioned the use of Assessor's records and suggested the voters. Her concern is that we would focus on only one type of people if we focus on the property owners.
Ed justified the property owners because they are the tax payers and are the largest stakeholders. Ed said this is over 90% of the County. The time factor is to have this accomplished prior to the budget process.
Commissioner Houpt – wants the qualifier in there – we are only sampling one general group in the county – the property owner.

Commissioner Houpt did not support paying people do participate in a survey and using public funds to obtain this information is not appropriate. She didn't have a problem paying for mileage. She's been in a lot of these and finds that people are pleased to be a part of
Chairman Martin referenced the Rural Resort as the example. He is in favor of paying Joe Public for his time and participation.
Ed said he has done this before and to be sure that you have a true cross section some people need an incentive. This is planned for around 7:00 P.M. in the evening.
Commissioner McCown supports a $25.00 per diem and compensated for their costs.
Ed said many will be willing to come without compensation; others will not.
Chairman Martin – suggested $30 to $35 versus $25.
Commissioner Houpt suggested a voter list to pull from and take out the party affiliation.
Mildred stated there are about 20,000 active voters.
Ed justified the use of the Assessor's records by saying they wanted to ensure the sampling are permanent residents.
Commissioner McCown made a motion to authorize the staff to move forward with focus group and methodology and recommended starting out with the $25.00 per individual per diem. Chairman Martin seconded the motion for discussion and asked if Commissioner McCown feels this $25.00 will be significant.
Ed said it will help and cover their expenses for getting there.
Commissioner Houpt – paying people for participating defeats the whole purpose of having focus groups. We live in a society where we encourage people to volunteer and be involved and if we have to start paying people for that opportunity to be active participants I think we're going in the wrong direction.
Chairman Martin likened this to voter where we only get 30% participation even though we've defended that right for 200 plus years. He was in agreement with some compensation.
Martin and McCown – aye; Houpt – nay

Greg Jung – one option that could have been considered was a prize of $500, $200 with a random drawing; also agrees because of the limited time it's too late, but to take into account the senior citizens living in assisted living and other situations that are permanent residents.
Chairman Martin – we looked at prizes but wanted to compensate everyone equally for their participation and not just one or two.
The Direction was given and the Board requested progress reports.

Update on the 2004 Projects
Ed submitted the update in the Board packets and noted the progress on the various ones. The ones that are problematic are the Airport Runway and CBMS for Social Services. The runway is being held in abeyance by the FAA and the State is stalling the installation. Ed said he didn't think they have a data system that works – the error rate was too great.
Chairman Martin mentioned a visit by the FAA at the Airport when, due to bad weather, the planes were diverted to Garfield County Airport at the time of inspection and our crew did a fantastic job.
CORRESPONDENCE WITH CCOERA
Ed included this in the Board's packets.
Chairman Martin said the state auditor is to present the Colorado Legislative Audit Committee a report regarding the audit that's been conducted with the CCOERA and it will be sent to each County as an accounting.
Ed asked for direction in possibly seeking an alternative.
Chairman Martin had a conversation in Snowmass with the new director and he didn't indicate anything was bad and didn't even indicate there was anything going on or even mention a new release or an investigation or even an audit in place, so possibly look deeper and see where we're headed.
Commissioner McCown favored waiting to see what the audit says before we move forward.

COUNTY ATTORNEY UPDATE: DON DEFORD
CONSIDERATION OF FIRE BAN – GUY MEYER
Don DeFord, Glenwood Springs Fire Chief Mike Piper and Guy Meyer were present.
Guy submitted the Fuel Moisture Content report showing County-wide we are in the 6 to 8 range; Don noted that anything below 15 is the critical break.

Guy recommended the fire ban at all elevations in the County.
Don – the Board can adopt a ban of fireworks as well. This is following the new legislative language. There are still fireworks that are available and it doesn't prohibit the sale of fireworks.
This will be in effect as soon as published.
Mike Piper noted that every year we are here doing the same thing. Please take the first meeting in June to institute a Fire Ban in place and we'll take if off if it rains everyday. Put in a burn restriction on every year and remove it in time for hunters. As it is now, every 30 days we have to renew it. He maintained there is confusion for the public.
Discussion followed and the Board justified the reasons to have a 30-day ban in place with renewal dates pre-determined if the conditions necessitated the ban.
Don explained the Board wanted to look at this every 30-days and examine the need for it. The Board wanted to taylor it under certain conditions.
Lou – one of the things looked at with the fire chiefs is different; a Resolution within the County on what you can and cannot burn in the County resulting in a year round regulations within the year where the fire districts would have flexibility to implement their own provisions. This might be an alternate to the 30-day ban. Uniformity is the key. He suggested looking at a yearly restrictive ban in addition to the 30-day ban.
Commissioner Houpt supports the 30-day ban. A general ban is easy for the public to understand.
The International Fire Code does address open fires and the need for additional discussion will be needed as we move forward with the adoption of the Fire Code.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to institute the Fire Ban upon legal publication with the provision of rehearing this matter at the first meeting in July; motion carried.
A motion was made to Re-notice the Resolution on banning fires on July 6th by Commissioner McCown and seconded by Commissioner Houpt; motion carried.

CONSIDERATION OF AMENDMENT TO COMMISSARY NETWORK AGREEMENT – LOU VALLARIO

Lou Vallario and Don DeFord were present.
Lou submitted the Commissary Network Agreement for signature of the Board with Keefe Commissary Network. The original agreement that was entered into on December 14, 2001 is herein amended to include the additional hardware of one Dell Computer, Color Monitor, cables etc. to be used for ongoing supplies to maintain and operate commissary at the jail.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt approve the amendment to the Commissary Network Agreement as presented with Keefe Commissary Network and authorize the Chair to sign; motion carried.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don did not have any executive session issues and suggested he could provide updates in a public session.
***Pipeline Regulation, County Attorney's Meeting; Contractual Arrangement with RFTA and Status Agreement with Rifle on Ballfield* – items discussed**

Regulatory Authority of the OGCC - Pipeline Regulation, County Attorney's Meeting

Don reported on the County Attorney's meeting throughout the State who are involved with Oil and Gas Regulations; the subject of Pipeline regulations was discussed. Two general topics of discussion: 1) where are the Counties involved in this area generally in going forward with a model regulatory code under which local jurisdictions would have some authority to implement regulations that the OGCC would not consider as pre-empted by their regulations; and 2) the same type of topic but directed toward pipeline regulations. This County became aware of pipeline regulations and the OGCC took the position at that time that they did not regulate pipelines, however they do define the term flow lines and consider their regulatory over the flow lines as superior to that of local jurisdictions; this County recognizes that flow lines are a fairly limited type of facility.
Model Regulations - David Baumgartner, County Attorney in Gunnison represented that he had detailed discussions with representatives of OGCC and that the State of Colorado is not interested in participating in any discussions that would result in local regulatory authority. From his perspective there is no interest as a group of County Attorney's to go forward with a model code of Oil & Gas Regulations. Garfield County is in the process of developing a Model Land Use Code in conjunction with a new land use code and there is supposed to be a section on Oil and Gas Regulation and that this County may consider something in that area that could be considered as part of a statewide model code; there was no opposition to that but there

was no interest in spearheading that or even participating in that discussion. Many Counties have regulations in place and that was part of it. LaPlata has a fairly detailed set of regulations in place; Gunnision also has detailed regulations substantially gutted by District Court decisions that they're going to appeal. The other Counties have varying degrees of regulations. Archuletta has some regulations and they are satisfied with what they do; all Counties recognize that through County Attorney's that when we approach the OGCC we don't always get what we ask for. Many times we get just the opposite; they would rather not approach them and take their chances with what they have than try and work with the OGCC. Commissioner Houpt commented that we shouldn't steer away from have a general policy in our new Code. This says to me that through experience each individual county understands that it makes more sense just to put the regulations in place and work with industry rather than trying to get by-in from the State level.

Don explained the different reasons depending on the County. For LaPlata County her summary of the position is correct – they found with their regulations that they've been able to work with their industry folks within the scope of the regulations and have not been challenged on their current regulations and Don emphasized, neither have they denied a permit. When we were discussing their regulations in almost all instances they defer to the OGCC if there's a conflict and that's the reason they've been able to work with the industry and they are satisfied with that. Other Counties such as Gunnision can't say at this point that they have viable regulations but neither are they encouraged that they are going to get anything any better by working with OGCC. Weld County/Bruce Barker participated in the discussion on the general land use model regulations he didn't say much. Their regulations in the area are not extensive but they have a permitting requirement but it's administrative.

Commissioner McCown noted it was very much like the pipeline regulations that we looked at originally with the 10" minimum pipe and 20% hoop strength – this was a Weld County regulation. Their permitting process is administrative with fees to drill; but their regulations are not in any way contradictory with Colorado Oil and Gas Conservation Commission Rules.

Don said the summary of that discussion is that the other County Attorney's do not have any desire to participate in drafting a Model Code – that's where they are for various reasons. This County may not be able to avoid this discussion if we're adopting our own Code and a purported State Model Code at the same time – we at least have to address the question because it's part and parcel of land use regulations generally.

Mark reported we are behind in the schedule for the Model Code rewrite.

Chairman Martin added that LaPlata has only has one company they are working with and they've never denied one and they say if every challenged they stand a great possibility of being defeated simply because of preemption. If we can't enforce it why are we working on it? We need to zero in on what we can at least refer and have a standard of practice that's acceptable to the industry here because we will not have the support from other counties. It needs to be taylor made to our county and involve the citizens and the industry to come up with what is acceptable and what is going to be administratively done because we know we can't deny.

Commissioner Houpt realizes we can't deny but we can establish perimeters and it's key to add citizens and not getting the industry's by-in.

Chairman Martin wants to avoid the false hope of the citizens; they need to know exactly what everyone is up against.

Pipelines – Don said there was a lot of discussion on this issue and the County Attorney's request is that this County cease its discussions with the Oil & Gas Commission; they feel strongly enough about this that the Commissioners are likely to get a set of correspondence from the other County Commissioners involved in the other counties and for many reasons just discussed, they have varying degrees of regulations on pipelines now in these Counties from none to fairly extensive but in the discussion, Don found with the possible exception of Weld County, even LaPlata doesn't expect the same type of impact and control of impact that we're seeing in Garfield County. They do control some of the flow lines through their regulations; they have not attempted in LaPlata County to control transmission lines other than by agreement and this is the same in most other counties. What they're concerned with is that by going to the OGCC, it gives a forum for the gas industry to put in what the other Counties would consider wholly ineffective regulations through the OGCC, primarily because they don't believe the OGCC has the enforcement capability (staff) to deal with pipelines and frankly that's what OGCC has told us also. So, they would rather the OGCC not become involved in this area and that each county attempt to do what it

feels is appropriate at a local level so long as there is cooperation with the industry. That is as far as it goes; their position is adopt your own regulations Garfield County, work with the industry and try to enforce your regulations but you will injury our ability (other Counties) to regulate if you continue to go forward with the OGCC.
Commissioner Houpt agreed this was the sense she was getting throughout all the discussions and there are numerous counties that have established their own regulations and they work for the activity that's going on in their counties and it makes sense for that to happen here as well.
Commissioner McCown asked if most of these Counties operation under a Special Use Permit Land Use Activity? Some counties don't even have zoning in place and what are they using for a land use activity as far as pipelines are concerned.
Don said Weld and LaPlata Counties have an administrative process to deal with it; Mesa County has the same; Archuletta county also an administrative process but what was evident in the discussion is the difference in the level of activity. When you've had considered one pipeline in 10 years as was done with one of the counties, you're not likely to get these strong arguments and it makes it much easier to work with the industry. Don pointed out if we had comprehensive pipeline regulations in this County, it was likely to be attacked simply due to the level of impact and so they needed to be prepared for that too, if this County goes forward with meaningful regulation of pipelines, we will probably be challenged. That will affect the other counties also.
Commissioner McCown couldn't understand how they could say at the meeting they didn't want us to go forward because it could hamper their position when if we do go forward with extensive regulations it's definitely going to hamper their position.
Commissioner Houpt – COGO's immediate reaction to the roundtable was this is our opportunity to get the local control out of the pipeline and they just crossed out some wording in a regulation that the OGCC, (the flow line regulation).
Commissioner McCown agreed with that but initially when Garfield County originally spearheaded this roundtable was to try to come up working with industry and the Oil and Gas Commission a uniform statewide regulation where if the boundary line between Garfield County and Mesa County involved a pipeline, which we're going to be hearing, there wasn't a different set of regulations in either of the two counties Garfield or Mesa.
Commissioner Houpt – the industry didn't want that control to be at the local level and they then left the table.
Commissioner McCown thought so as well and the focus was to put together what the local people wanted to see and come back to the State and then the Colorado Oil and Gas Conservation Commission impose a statewide rule on pipelines.
Chairman Martin – the intent is to get this done but we saw them scatter like wild cats when we tried to put that in the room and tried to develop it.
Commissioner McCown reiterated that even though the Counties want their regulations, but regulations that aren't enforceable are not any good to anyone.
Chairman Martin said they are regulations – if you can't enforce them, why have them.
Commissioner Houpt – the way it was posed to us by our staff was in a fashion at this time is enforceable. Now, the case in Gunnison may change that but as a county we never talked about putting a regulation in place.
Mark – the regulation that was proposed had a number of standards and criteria but Don noted and referred back to the OGCC in terms of their ability to pre-empt us for a cooperative regulation in which the industry went along with it. Everything was fine, but if we tried to impose a standard that exceeded or they challenged it, then obviously we defer back to OGCC or it would end up in litigation. We found in going through the review process already there's already a lot of challenges already for certain criteria that we were proposing. But they are already saying they don't think those are enforceable.
Commissioner McCown – so at best we see an administrative process in some of these other counties that take place for a pipeline, i.e. the planning department reviews them, addresses any concerns, if they're questioned does it come back to a public hearing, or what.
Chairman Martin – the appeal process comes to the Board of County Commissioners for a compromise if there's an appeal by the operator; both sides can appeal. The applicant as well as the effective property owner if there were some challenges. It is an appeal, it's not a denial, it's to find a compromise that will work and that's why we modeled those along with LaPlata and also Weld as an administrative review with that appeal process.

Commissioner McCown – if that were in place, we would not be having this hearing this afternoon.
Don – a couple of things affecting us that come out of the Gunnison County case, Tresi's correct, their position was and Don said his still is that in the pipeline area, as long as OGCC says there's no operational conflict you can control them in that area. One of the difficult points in the Gunnision County case is at least in the dicta part not the actual ruling, but in the language of the Court, was he indicated that if OGCC had the authority to regulate even thought had not regulated, there was pre-emption. That in Don's view is not consistent with existing case law in the State. The other very troubling part in this case was the extent to which the trail judge found that there are attempts to defer to the OGCC's regulations i.e. saying if there was a conflict you'd look at OGCC, he found it did not say in their regulations. The status of that case right now is interesting, because there was no permit actually issued in that case; the case is not final yet. So it cannot be appealed at this point and it may be that, depending on the final ruling of the trial judge, it won't be, but David Baumgartner indicated that they were going to try to get the trial court judge to certify it at least to the Court of Appeals so that they could get a resolution on appeal on some of these concerns.
Mark clarified his comments, the regulations that we proposed are all encompassing – it dealt with the drilling as well as the pipelines. The pipeline issue is one of those that clearly we have some authority to deal with because we included and got a little over reaching and the proposed authority could be similar to what LaPlata County, that's where a lot of our challenges come from. If it's only pipelines it may be the difference. We did have a memo about pipelines and at a staff level felt the issues could be addressed legitimately.
Don said this is the summary of the meeting of the County Attorney's.
Commissioner Houpt – from that she would like to see Garfield County go ahead and put together a pipeline regulation and thank everyone for coming to the roundtable meetings and just continue that process.
Commissioner McCown asked for clarification as to the areas she was looking at – administrative?
Commissioner Houpt clarified that we had talked about an administrative process being a valuable channel to address that in.
Chairman Martin said it needs to be in reference to the right of way and the crossing of county roads, traffic control, weight limits, etc. things we already have in place and coordinate those with our different agencies, also put in an appeal process of a conflict of a location on private property etc. We have the doorway open up under rules and regulations now and if we have that conflict that we're able to come up with a compromise and realignment through administrative review and property owner and industry involvement.
Commissioner Houpt wanted to go beyond this and look at the punch list that we put together and gave the attorney's and ask that the staff again put together the land use issues that we could regulate, not the technical, but we also have to provide for a public hearing process and that's the only concern that she has but maybe that's covered by what John said.
Commissioner McCown – that happens in the appeal process if they can't reach an agreement.
Chairman Martin – and we have to make sure there's a surface use agreement, alignment etc, that's in place, we don't need all the details but we need to coordinate with the state agencies and federal agencies that are crossing those public lands just so that we submit our concerns with that in an overall package, continue down that line of cooperation and deadline with respect to the federal regulations. The federal regulations have the bulk of the alignment, we need to make sure those are in there, and address administratively at least publicly that we have some concerns and make our recommendations within that timeline.
Commissioner Houpt would like to look at that administratively but also weigh the concerns of having it just be administrative. We wouldn't be having this hearing this afternoon if it were administrative and there are different land use issues that will be discussed in this hearing today with respect to any inconsistencies whether it's public lands or CDOT right of way or private property and those might be issues that the general public would want to participate in.
Chairman Martin – this is a concern when we have a public hearing and folks come in to participate and get involved and it doesn't even concern land that the County has jurisdiction on. If the BLM or Forest Service have those state lands or CDOT, etc. they need to be holding those public hearings, not Garfield County. If it affects the private landowner and there's a difference of opinion or non cooperation then we are involved because we're representing that particular property owner. Doug Dennison has a process that allows this to already be addressed and he brings it to our attention because of that surface agreement not being in place.

Commissioner Houpt likes BLM's conditions. We had talked in a meeting previously with the industry on those pipelines and had talked paralleling conditions and having continuity between agencies and BLM's seem to be very comprehensive.
Commissioner McCown – we had talked about paralleling the application process.
Chairman Martin – Continuity between the agencies is a way we can get more of our concerns in by making it part of the final resolution with the federal process and it stands a much better chance of being an order in reference to recommendations than if we do it locally even through we have our concerns locally. That overall document that says point A to point B and everything in-between is now hereby approved by the BLM process or Forest Service process – that's where we're really missing the boat by not having it as part of the final record.
Commissioner McCown clarified with Don that he anticipated these pipeline regulations or whatever process we adopt just being adopted by Resolution and included in our new re-write.
Don said that's up to the Board; the first part of what Larry said is correct, it will be adopted by Resolution by the Board and it will either be as an amendment to our existing land use code or as part of the new code depending on how the Board wants to proceed with it.
Direction was given.
Commissioner Houpt – the industry wants us to approach it so they can know where they stand. We should just take a look at what staff put in front of us months ago.
Don wasn't sure we ever had a definition of Pipeline in place.
Commissioner Houpt made a motion or a directive that staff move forward on creating a pipeline regulation for Garfield County and pipelines are pipelines, so move forward not trying to determine the size of a pipeline.
Chairman Martin - any line of pipe that intersects with any County controlled lands, such as right of way, etc. just call it a line of pipe instead of a pipeline.
Don – pending a second to that motion, he went back to Larry's question to focus on the timeframe. Does the Board want to consider this as part of the new land use code or do you want to move forward before we get to –
Commissioner Houpt – my motion is for us to move forward on this as a separate regulation that will then be incorporated.
Commissioner McCown seconded for discussion. Moving forward with this, I don't see it getting accomplished much before our land use code is, I see it moving along with the same speed as that and being incorporated in it; minimum 60 days for it to go to Planning & Zoning, it's a significant regulation in our land use code.
Mark – we already have something before the Planning Commission right now that's been continued for a couple of months pending discussions, part of it was educational for their benefit to learn more about oil and gas drilling admittedly before getting to the pipeline issue. It's possible for us to go back and take those regulations that are before them and focus them strictly on pipelines as opposed to getting into the boarder issues of overall oil and gas operations. In terms of time, we're looking at 60 days before anything before the Board.
Motion carried.
Don – lastly on the Oil and Gas issue, to inform the Board, you will meet the issue again when the Fire Code comes in front of you. The International Fire Code purports to regulate certain aspects of Oil and Gas Operation and so we will need to address our regulatory authority.
Commissioner Houpt asked Mark if he will have the oil and gas section in the Code.
Mark – there is a marker that has been left by the consultants for lack of a better description for us to insert what we want to in the our code; at this point the statewide issue in terms of the model is still a question. Basically our agreement is that we would put our regulation in place and the Consultants have provided suggestions based on the Gunnision Code but this has been challenged substantially. The Courts took away the authority of the County basically.
RFTA Don DeFord called attention of the Board to the letter submitted by RFTA. More discussion was agreed upon as well as further direction to staff.
Agreement to Develop County Administrative Facility – Jim Neu gave Don a final draft of what had been discussed - the termination of lease agreement and hopefully we'll be good at getting the termination of lease in place. Projection was to have the IGA in place by the first part of July.
Don and Ed were thanked by the Board for being on top of the issues.
COMMISSIONER REPORT:

Commissioner Houpt - CCI conference. A citizens campaign initiative in the works that would reform TABOR and a Portion of Amendment 23 in response to the Legislatures not being able to come up with a solid plan for budgetary concerns for the Governor; Club 20 – need petitions out to get it on the ballot in November. If there's a special session it will be pulled. Commissioner Houpt will bring petitions in the County. Gallagher is not being addressed. RS2477 Task Force presented the findings to CCI Board and various regions and copies were submitted. Next step is to draft a letter to those stakeholders, Russ George, Department of Interior, etc. along with our recommendations at the next public lands committee meeting. 22 hours of negotiations and tons of research and bringing in different people – very comprehensive discussions – give and take resulting in general comments. She was elected Vice President for Westerns District for CCI and will be active this year. Opportunity to chat with Representatives at CCI and it very nice having it in Snowmass. County Health Fair on Thursday and very successful.
Ed – on the County Health Fair, we need to do a follow up on lessons learned – started out with a focus on individual needs but due to legal constraints it watered down the ability. The question is does it make sense to have one in the future.
Commissioner Houpt said she felt there was a great deal of information available. RFTA Board meeting on Thursday and today discussion on our potential membership; met with Glenwood Spgs parking commission and plan to walk the parking spaces on Friday. They counted them and they are coming up with a plan and would like to make this like Pitkin County's lots to 2-hours. Joe O'Donnell and Chris McGovern participated in the walk. They still want to eliminate the all day parking across the street from the Courthouse at 7th and Colorado. Council will discuss and bring ideas.
Commissioner McCown – Oil & Gas Steering Committee; participated in Club 20 on Friday; Access Committee and Oil and Gas on Friday in Battlement Mesa; Strawberry Days this coming weekend. RS2477 – this can be covered at Tuesday's meeting as they are discussing a couple of roads that may qualify.
Chairman Martin – Snowmass Village – one issue on adopting Ordinances and the publication of that particular ordinance and the requirement by State Statutes – took this to a copy of legislatures and will try to get a sponsor to do an amendment to that particular Statute that either says to publish or to post as reference and not have to publish the entire document on the Fire Code – sponsor to do an amendment to either publish or post as reference – they felt this was a legitimate request – Cost was over $4,000 to publish the Fire Code not including the other documents.
Don explained the Fire Code and then renewed by Resolution. He has talked with City Attorney Karl Hanlon and the City handles their Ordinances with reference on publication. Karl said they have run into this situation and essentially they go ahead and adopt it by reference. The Fire Code says it will be adopted by reference; the City noted some risk but never been challenged. Don will publish by reference.

CONSENT AGENDA:

a) Approve Bills
b) Wire Transfers - none
c) Inter-Fund Transfers - none
d) Changes to Prior Warrant List - none
e) Authorize the Chairman to sign the Nursing Contract from CDPHE – Mary Meisner
f) Authorize the Chairman to sign the Resolution of approval for a Special Use Permit for a Communications Facility. Applicant is Mountain States Communications, Inc. – Fred Jarman
g) Authorize the Chairman to sign the Resolution of approval for a Special Use Permit for an Industrial Support Facility/Warehouse/Staging Facilities. Applicants are Douglas and Beverly Teter. – Fred Jarman
h) Authorize the Chairman to sign an approved Amended Plat for Greg Watkins. – Jim Hardcastle
i) Authorize the Chairman to sign the resolution of approval for a Special Use Permit for an Accessory Dwelling Unit. Applicants are Jack and Glynda Gausnell. – Fred Jarman

A motion was made by Commissioner and seconded by Commissioner to approve absent b, c, and d; motion carried.

REGULAR AGENDA:

Public Meetings:

Sales Tax Reports – Georgia Chamberlain

Georgia Chamberlain and Jean Richardson were present. This is a work in progress and today they are looking for feedback and realized the Board needs information to make decisions. The treasurer's office receives the money and then Jesse hands out the information. The treasurer is not in the loop and noted the

differences. The third office is the Clerk's and she has to access them on the Internet. This is verified and only one person can have access to those reports. We can download it in ways other reports can be created. Mildred and Georgia have not had the opportunity to sit down and work together. The difference between Jesse and Georgia, Jesse does net and Georgia does gross. What does the Board want to see when called by the constituents? Jesse and Georgia discussed this and Jesse was fine with Georgia's reporting today. Georgia submitted the Sales Tax 10-year comparison showing the 1993 – 1996 of ¼ cent and 1997 through 2004 1 cent.
The Library ¼ cent generated $1,532,030.28 in 2003 and through May 2004 it is $ $655,068.36
Commissioner Houpt suggested that Georgia put in the gross numbers and then have a line item for net. Jesse wants to reflect only the amount they are actually receiving.
What does the Board want - gross numbers or net numbers?
Commissioner Houpt – gross, treasurer's fees and net across the board because people want to see what we actually bring in. Feels this sequence needs to be shown.
Commissioner McCown wants consistency in the reports.
What report does the Board want to see that they are using. New handout page one and the handouts. Monthly the new handout and quarterly the graph.
Intergovernmental Agreement regarding RFTA Membership – Dan Blankenship, CEO RFTA
Pitkin County Commissioner Dorthea Farris, RFTA Board Chairman, Glenwood Springs City Council Dan Richardson, Dan Blankenship, General Counsel Renee Black, and other RFTA Board members were present.
Dan requested to come before the Board to discuss any outstanding issues associated with finalizing the Garfield County/RFTA Membership IGA.
Don DeFord had sent a letter outlining questions and conditions regarding the County's entering into an IGA to join RFTA. The IGA between RFTA and Garfield County must be entered into prior to placement of the question on the ballot.
The specific requests included:

1. A provision that would allow Garfield County to withdraw from RFTA providing that there would be a provision to protect RFTA by continuing to collect revenue until any dept incurred during Garfield County's membership was fully paid.
2. *RFTA Response: There is no such provision in the IGA that created RFTA and the RFTA Board does not wish to add one. However, if Garfield County places the RFTA membership question on the ballot, voters should be informed that there is no "out" clause in the Agreement.*
3. A provision that makes it clear that Garfield County has no responsibility for any existing or future debt of RFTA.
   RFTA Response: This request can be accommodated.
4. A provision that the Garfield County sales tax rate will not exceed the lowest sales tax rate currently in place for any existing member located in Garfield County at the time of the County's entry into RFTA.
   RFTA Response: The RFTA Board is currently considering asking Garfield County to become a member with .4$ sales tax levy. The lowest effective rate of contribution to RFTA by its existing members is .4$.
5. A provision requiring the provision of service to Garfield County equivalent to that which is currently in place.
   RFTA Response: The RFTA Board agreed to an 18-month maintenance of effort clause.
6. A provision providing that all revenue generated from unincorporated Garfield County will be expended for the purpose of maintaining service in the state Highway 82 and U. S. 70 corridor between El Jebel, the western boundary of Garfield County and the eastern boundary of Garfield County extending to Dotsero.
   RFTA Response: The cost of providing transit services and constructing and maintaining the trail within the boundaries specified above exceeds the anticipated contribution from Garfield County.

The Garfield County letter asked for information detailing the cost to it if RFTA were to provide the current level of service.
RFTA Response: The process of allocating costs by jurisdiction is complex, time consuming, and costly. RFTA has attempted this in the past with very mixed results. Unless all of the jurisdictions agree to the methodology on the "front-end" it is unlikely they will agree with the results the model produces.

The cost compared to what the sales tax would generate:

The estimated amount of sales tax generated from .4% in each community was projected to be:

New Castle	$	44,616
Silt		35,325
Rifle		236,427
Unincorporated Garfield County		353,565
Garfield County general fund/other		55,000
Vehicle registration fee		150,000
Total	$	764,933

Jesse Smith submitted a review of the Sales Tax Initiative – Review by Survey and concluded:\

- RFTA survey did not appear to sample an adequate number of residents from unincorporated Garfield County
- RFTA appeared to include too much statistical risk in determining its sample size
- Surveys obtained may not have been from a cross-section of the populace
- Some survey questions seemed irrelevant
- Some survey question results seemed to be interpreted with the best possible slant for a tax initiative
- The I-70 corridor municipalities have not yet considered financial support for RFTA and it is unlikely that all of them will offer support.

Public Discussion

Dan reviewed the survey and took responsibility for getting the public educated. The ridership is up for May of this year exceeding last year's ridership.

Commissioner McCown has concerns about items 1 and 4 and these are non-negotiable. Item 4 – 18 month clause; but item 1 if we do an IGA and go to the ballot, we're doing two things – 1) committing Garfield County and we can't get out unless we take a ballot initiative to the Board.

Dan Richardson does feel we are committing Garfield County, it's the citizens. Getting out, it was put in to have a level of commitment and no one else has a problem with it. As a member of RFTA you can come to the Board and if you want out, and then it would be up to the RFTA board to decide. This is having some trust that all jurisdictions are coming to the table.

Commissioner McCown – there is a need to educate the voting public, let them know there is a long-term commitment and if it goes south, Garfield County would only be one vote.

Dan – all municipalities – tables could turn and Garfield County have a significant seat at the table.

Commissioner McCown – item 4 – should we move forward, insured the same level of service for the Hogback Route for 18 months guaranteed and then on the 19th month, if the RFTA board dropped the service, then it would be a burning at the stake.

Dan – can guarantee a big fight if the RFTA board were to ever vote to rid of the Hogback service. But there is no guarantee to anyone. There is only an 18 month effort of maintenance service agreement.

Commissioner McCown – should this be a vote to the people and passed, is there a time period when the RFTA board can elect to raise that percentage.

Don – no; it will be voted on by the entire district, Pitkin, Eagle, Garfield voting as well as the residents.

Dan B. - only if there was an increase in every jurisdiction of a similar percentage – everybody would have to be voting on the same increase in order to vote on it.

Commissioner Martin – 38% of the recent poll are using I-70 to Eagle; 50% of the commuters are going up I-70. If we put 100% of our funding only to Glenwood Springs then we would need to have other means to contract with transit to Eagle County.

Dorthea Farris – on the Hogback Route – the fact that the RFTA Board, without down valley, has made a commitment to keep the service and she referred back to the school district and how that works saying legislature would have a school district with Carbondale, Rifle and Glenwood – there is law that you will become a district – there is a legal mechanism – the legislators do not address to disjoin. A vote. Mass transit – she's a believer and we have to have it; for Garfield County not having a voice is unfair to the residents. Four cents on a $10 bill is not too much. We as commissioners have an obligation to allow the citizens to make the decision.

Chairman Martin – There is also a $10 fee on every vehicle per year per vehicle never ending.

Dan B – analysis with Eagle. The plan now is to shore up what they have going on. It's not in the plan to do something new absence some additional funds to do that.

Dan Richardson – there has been discussions about expanding.

Dan B – some conversations with Deb Stewart and senior citizens for transportation – because of the shortage of funds, Deb is working with RFTA in getting her people to and from. If Garfield County puts this on the ballot, there is the possibility of giving some funds to the Traveler, perhaps $25,000.
Chairman Martin noted that 6.6% is directed to trails – this is of the sales taxes collected by RFTA.
Warren Roberts – is there any consideration on the people – how much per rider?
Dan B. said the tax was estimated at $350,000 plus $10 per vehicle; we don't have totals and we need the percent riding and divide it.
Mildred Alsdorf commented there are 62,000 vehicles at $10 = $620,000. Dan would like these numbers. Mildred will provide them. However, these funds collected can only be spent for stops, highway improvements and not on transit operations.
Phillip Vaughan – CR 323 – resident in unincorporated. Concerns on Hogback and taxation - .4 and $10 – 3600 travels – 180 single trips – 90 folks using – situation - - $350,000 only going into bus stops – not seeing the economics – need to be behind it and whether or not the Board puts it on the ballot, the electorates need to have good information – like to see the real details and what benefits the County will see – from a construction standpoint when we are incurring taxes – on the $10 fee – this is a disadvantage to the businesses.
Commissioner Houpt – disagrees that public transportation is a feel good measure as mentioned in the discussions. In terms of highway and expansion on communities and businesses – numerous areas have seen benefits on economics – with respect to the vehicle fee – it breaks down to $1.00 a month.
Dan B – important to understand that these services are readily available; it's a 2-year old service – ridership growing very rapidly. El Jebel to Aspen – and Glenwood Springs to Aspen – CDOT did a study in 1993 as to what modes of transportation – 30% in and out of Aspen were riding mass transit. Services were increased and it went up to a million. Think about the long term benefits. As the I-70 corridor grows the tax will grow and more people will use it.
Julie Olson – runs a non-profit – Advocate Safehouse. Most of the clientele do not have vehicles that run properly or they don't use them and they use the busses regularly. Important to give the voters an opportunity to vote on this and we need to make sure there is proper education.
Dave Sturges – interested in mass transit and attended a lot of meetings – comes from a belief that municipalities and government cannot solve transit on their own. Supports a regional organization. A simple question before this board – should the taxpayers of Garfield County have an opportunity to vote on this. An elected board or a representative board – the decision was made to have this representative board and each one district have a seat on the Board – important – Garfield County desires the right to sit at the board if the taxpayers agree to the ballot.
Margaret Fredendall – bus service is a benefit to a service organization; and as a parent she feels bus service is vital. She finally sees Pitkin County working with us – sees people going to Eagle County. With RFTA she thinks we will see more ridership and make the county more cohesive.
Mary Ann Virgili – Chamber of Commerce – transportation is the biggest issue for chambers; we support transportation solutions and they are very concerned about gridlocks. How to get employees to work. The residents should be allowed to vote and also belief in a regional transportation system.
Motion and Discussion
Commissioner Houpt made a motion that we have staff finalize the IGA between the County and RFTA incorporating the provisions set forth by RFTA in response to our concerns as presented in our packet and like to as a part of this have the staff explore the pro and cons of putting a ballot question on the ballot for the voters in November for either the point four percent (.4%) tax to join RFTA or a larger amount for a Transportation tax. Commissioner McCown seconded.
Commissioner Houpt said she has to agree that it's critically important that we go beyond our own feelings about public transportation and take it to the voters. We have some growing issues with transportation in our County; they're only going to get larger; we've seen the great success that a couple of years has brought with the Hogback Route; we've seen the history of RFTA under the last several years and the type of ridership that they have and it's time for Garfield County to come to the table but would like to ask the voters to make that determination. They won't be able to do that until this Board makes a decision to move forward, finalize the IGA and get the question on the ballot. I would support either the four tenths of a cent tax plus the $10 registration fee for automobiles; or a Transportation Tax.
Commissioner McCown – it remains to be seen how the ballot question is worded but he clearly doesn't see the IGA is not taking place unless there is a funding mechanism to trigger it. It is clear it will come from a sales tax and that is the only thing that will trigger participation in RFTA. Should the sales tax or the

voter initiative fail we will continue a status quo, we will not be members, we will not have a seat at the table, we will sacrifice that but that will be a vote cast by the electorate in the unincorporated areas of Garfield County. How we also address the motor vehicle registration is also whether or not we become a member of RFTA and doesn't think the registration alone is the financing that RFTA is looking for from unincorporated Garfield County becoming a member. It's an either or all situation; if the voters elect to join, pay the $10 in registration, pay the four tenth's of a percent (.4) we become members; if they don't we're status quo.
Commissioner Houpt – it's a package.
Chairman Martin – wants to remain optimistic but reviewing exactly what Dan Blankenship did in reference to his survey and breaking it down further, which we did in house, cards are stacked against you period. Again, it goes down to the size of the review or survey, who was surveyed, where it was surveyed, the margin or errors is way too great around 11%, taking it through the incorporated areas and they're not at the present time considering - Rifle is one of them that's not considering and the other three communities, Carbondale, New Castle and Silt are on the edge of not supporting it. Be careful what you're asking for because it may cost you a lot more and it may also answer the question that the unincorporated areas like the service but are not going to pay for it. This is what you've run into more than once. The motion is to support the question to go on the ballot, if an IGA is there and that the funding mechanism triggers membership onto RFTA.
Don pointed the Board to the responses RFTA gave, 1 - 4 are clear as to in terms of directing either Renee or Don on how to proceed, but item 5 actually asks for more discussion and I think we need more discussion and direction on how to proceed on the original request to this Board to keep all the County revenue in the County.
Chairman Martin – all the responses to RFTA, it's not even a guarantee that will even take place, the money could be used by the district wherever the RFTA Board decides to use it in their best interest to keep the system going. There is a provision that allows the same level of service for 18 months, but after that it's an unknown. As far as the tax question, 100% goes to RFTA for this particular issue; they have control of it, not this Board. We would have to pass a second tax question in my understanding to go ahead and do any kind of contract or take it out of general funds to get service to Eagle County on I-70.
Commissioner Houpt said it is part of the motion because we could decide to put wording language on that ballot question that would follow the direction that Pitkin, Snowmass and Aspen went with the transportation tax. That's why she wants staff to come back and bring information on that, but it's to our benefit not to require RFTA to keep all our money in Garfield County and everybody's money in their different jurisdictions because we're not bringing in as much as the other jurisdictions and we have a great deal to gain by not requiring that, so she is comfortable moving forward in the direction that they always have.
Don – given the statement, are you proposing as part of your motion, incorporating RFTA responses 1-4 as part of the next draft IGA?
Commissioner Houpt responded if we don't need language from Number 5, that's fine, we're not changing it as part of my motion.
Don said the attorney's trying to draft this we need to know what to put in front of the Board.
Commissioner McCown still thinks it's an issue for discussion and if it's the two attorneys talking, do so, but it is clearly my interest to keep the bulk of money of Garfield County dollars in Garfield County for the service they're paying for.
Commissioner Houpt – what I've heard from RFTA is that what we receive in Garfield County is Garfield County plus.
Commissioner McCown – yes, at this point and for 18 months, after that, we don't know.
Commissioner Houpt pointed out the logistics of the bus routes; they have to pass through Garfield County.
Commissioner McCown – they can originate in a part of Garfield County.
Commissioner Houpt – it is be careful what you ask for with you by saying that because the services that we receive exceed what we will be bringing in and that's the point of that issue and their services that will only grow with demand.
Chairman Martin – it's still a hard question and it's all stacked against the request.
Commissioner Houpt – my point is to move this forward, there is a timeline we're dealing with to get a ballot question on for November and would like to see this finalized.
Commissioner McCown suggested letting the attorney's discuss item number 5 and see if that's a point that could be negotiated.

Don asked if the Board wants a provision in the next IGA that still has some requirement to that effect.
Commissioner Houpt – I don't.
Chairman Martin – I do, you're talking 38% of your riders going that far and it's only a growing situation and soon will be divided to 50%. There is an indication that the ridership is bound headed south out of Glenwood springs by 18% over the last three years; that's due to economics and to also bus routes, etc. and tourism, but the other increase is the job rate in Garfield County is growing. It's an item of discussion that needs to be there. If we're going through mass transit, let's do it properly.
Commissioner Houpt sees ridership growing and the configuration in our County in this region as a critical area that the busses need to go through and can't see that service going through and can't see that service going away.
Chairman Martin – Service is two busses going through two or three times a day, that's the level of service between Glenwood and Rifle; but there's more to Garfield County than between Glenwood and Rifle.
Commissioner Houpt – but there's more to Garfield county than between Glenwood and Rifle, so there's a lot of service in unincorporated Garfield County.
Commissioner McCown – geographically the biggest part of it is west of Rifle as far as that's concerned, it's not population based but there's more acres west of Rifle than east of Rifle.
Don said, the motion, does it include item 5 in the RFTA response.
Commissioner Houpt does not want it to be a sticking point, if you go in and negotiate, No, this is not included in her motion.
Chairman Martin – item 5 is not part of the motion.
In favor – Houpt aye; not in favor – McCown - aye; Martin – aye.
Commissioner Houpt revised her motion and you can include Item 5 in there and use it as negotiation and everyone can go back to their boards and wants a fast deadline on this.
Mildred said the deadline in July 23.
Don pointed out what we're discussing regarding the timing issue; you need to conduct two public hearings of the proposed IGA Agreement that you intend to sign before you sign it. At least one of them has to have 10 days notice.
Commissioner McCown – The IGA that we'll be having the public hearings on before we sign will not take effect, no matter whether we do it July 4th, it won't take effect until there's a funding mechanism.
Don agreed, until it's approved by the voters it does not take effect, correct.
Commissioner McCown noted the issue of the Open Space Issue that was approved by the voters but the funding mechanism was not approved. This will be an all inclusive vote – it either is or it isn't.
Don – clarified the motion, the way the motion is and to clarify his position, the way this motion is drafted, the IGA must include at least a .4 % sales tax for RFTA and that's the funding mechanism and a $10 registration fee.
Commissioner McCown seconded the motion; motion carried.
The IGA will need to be adopted before the ballot question is placed on the ballot.

Discussion of COGCC Noise Regulations – Grass Mesa
Sherry Long Community Liaison, Doug Dennison, Brian Mackey and Rick Griebling via telephone; Jamie Adkins, Don DeFord and Mark Bean were present.
Don framed the discussion saying on Friday, June 4th; Doug Dennison submitted a memo to Mark Bean regarding an issue regarding a drilling rig on Grass Mesa. The rig has very loud brakes on the draw works that is causing a lot of discomfort to residents who live near it. Doug stated he had made several trips to the rig to try and rectify the situation, but the noise continues. He consequently took measurements of the noise levels and indicated that the rig was likely in violation of the OGCC's residential standards as given in Rule 802. Doug contacted Jamie Adkins and was informed that because Rule 802 states that the industrial standard applies to a "zone" when a drill rig is present, they apply the industrial standard at nearby residents. COGCC will do nothing in response to these complaints. On Grass Mesa where they are inserting drill rigs, the area is essentially residential.
Brian Mackey, Deputy Director of the Colorado Oil and Gas Conservation Commission and Rick Griebling submitted a memo of clarification and follow-up to the email from Doug Dennison of COGCC Noise Rules and levels for Drilling Operations.
First of all, the language in COGCC Rule 802a. is "Any operation involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation is subject to the maximum permissible noise levels *for industrial zones*." Those noise levels in Rule 802 are – 7:00

a.m. to next 7:00 p.m. for Residential – 55 db(A); 7:00 p.m. to next 7:00 a.m. are 50 db(A)Commercial is 60 and 55 for the same periods; Light industrial is 70 and 65 for the same periods; and industrial are 80 and 75 for the same periods.
As such, the maximum permissible noise levels allowed under the COGCC rules for drilling rig operations is the Industrial Noise Level, regardless of where the noise measurement is taken and whether or not the noise level is being measured at a residence. This requirement mirrors the State of Colorado Noise Abatement Statute C.R.S. 25-12 with regard to construction projects because a drilling operation is considered a construction activity that is temporary in nature.
Under C.R.S. 25-12-103(5), "Maximum permissible noise levels" reads: "Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority or, if no time limitation is imposed, for a reasonable period of time for completion of the project".
Brian reiterated that recently in discussing the noise levels with the Commissioners he was under the impression the discussion was regarding the permanent oil and gas production operations (gas compressor motors, for example) that were subject to rules that allowed measurements to be taken using all of the standards as appropriate. Drilling operations and other temporary oil and gas operations do not fall in the category as the permanent operations.
The complaint is primarily focused on the shrill and intermittent sounds from the drilling rig draw works brakes. EnCana is working voluntarily to reduce the brake noise through consulting with an acoustical engineer to develop sound reduction techniques for future drilling operations and to mitigate the impacts of the noise on the nearby residents.
Brain explained the differences as noted with temporary and permanent noise regulations. He clarified for the public hearing that there is a difference of a gas drilling operation and a permanent. This noise regulation has been in place for a number of years. SST drilling rig and EnCana has been working on mitigating the noise. They are going in great detail to minimize the problem. EnCana volunteered to send the residents out of area at night and to install mitigation efforts in their homes.
Doug Dennison – his email was incorrect and admitted being wrong in his assumptions. Three households have complained. Doug has been on the Mesa several times and the sound measurements are very consistent with the measurements – 53 – 54 with minor peaks of 60 with the brakes. In the morning it is louder and very annoying because of the nature of the noise. SST has been doing a lot to mitigate the noise. The brake noise is unique but for some reasons this one seems to be louder than other drilling rigs.
Sherry Long, Public Affairs with EnCana submitted a memo dated June 14 from EnCana;
Richard Eberspecher, Ray Hayden, Pete Toups and Ray Hayden from SST 5 Energy were present as well. They have mitigating some other noise with generators. The third well has been completed and continuing several things while working with SST.
Richard described they put up the wind walls to direct the noise up and down and this hasn't done a lot of good.
Sherry went through the things they have done in efforts to mitigate the noise. They are trying to change the frequency. They have also ordered additional sound blankets and they should be in place by Monday. The goal is to solve the problem and SST Energy will be looking into remedies.
Doc said within 6 – 8 weeks they should have the new brake system in place.
Commissioner Houpt - the long term solution seems to be the best advantageous. It makes sense to solve the problem by changing out all the brakes on their rigs.
Ray Hayden SST 5 representative - if they put this on hold, they would miss their drilling rig window; SST Energy would prefer not to do this but when the new brakes are available they would shut down until the new ones are installed.
Sherry – they have timing restrictions due to the Elk. Very dedicated to meeting these deadlines and any new or extended deadlines would mean having to come back next year. The distance is ¼ mile or less from residential homes.
SST will build a sound wall, have the blankets on, apply another coat of absorbing paint and think they will have an impact on the noise.
Sherry said the new brakes are very expensive and while waiting they are taking a look at the other rigs to see what is needed.
Commissioner Houpt – her concern about the way you approach the permissible noise levels due to the many differences between the areas in which companies are drilling and when you're in a residential area and you don't have a different level of accountable on noise, you're not taking into account the impact that

this has on the people who are living in the area, and wondering if you as a Commission have talked about treating residential drilling differently than remote drilling.
Commissioner McCown – asked Don, if we get a noise complaint from someone next door building a house and we send our enforcement officer out, during the construction phase of that house is the sound level still at 55 dba or does it go to the industry level during the construction phase, per state statute.
Don – theoretically it's a different level for construction because of the temporary nature of it.
Commissioner McCown – it is not an industry problem, it encompasses anything involving construction.
Don – it is a different level for construction – anything governed by State law.
SST is making every effort to fix this problem.
Brian – back to the noise regulations based on State Statute; the operator is working hard to come into quieter noise levels and it would be very unlikely to do a rule change to make rules different than the state levels permit.
Sherry will report back to the Board as progress is made.
The second hole will be started before the new brake system will be installed. About 10 – 14 days left on the first drilling well.

PUBLIC HEARINGS:
CONSIDERATION OF RESOLUTION REPEALING RESOLUTION NO. 02-091 CONCERNING THE CONTROL OF DOGS AND ENACTING THE PET ANIMAL CONTROL AND LICENSING RESOLUTION FOR GARFIELD COUNTY, COLORADO.
Lou Vallario, Amy Chappell, and Don DeFord were present.
Don referenced the publication was timely.
Exhibit A – Proof and Exhibit B – Resolution and Exhibit C - Memo from Lou June 10, 2004.
Chairman Martin admitted Exhibits A – C into the record.
Sheriff Lou Vallario submitted the new draft Resolution for control of dogs and enacting the pet animal control and licensing program for Garfield County. The former Resolution No. 02-91 concerning the control of dogs will be repealed if this is approved.
The Animal Control Resolution was discussed by sections and presented by Amy Chappell.
The one animal is not part of this Resolution. The other issue was the difference between a working dog and pet animal. Most of the complaints were due to a lack of information.
Don – as a general concept it would change some things in the County. Licensing, animal control officer in the County but Changes to Resolution 2002-91 - Section 11 was discussed.
Chairman Martin – prosecution – who presents to the Court in violation of these rules is enforced with the District Attorney.
Lou said he has not had any discussion or agreement by the District Attorney about enforcement.
Don did submit a copy of this to the District Attorney.
Commissioner Houpt – noted that a vicious dog; we're giving jurisdiction to the Courts.
Lou feels the summons should be done and a decision by the courts on a vicious dog. These parallels top the State Statute.
Commissioner Houpt – voiced concern over Section 25: destroying dogs.
Lou – as long as CARE is in the loop, the animal becomes the custody of CARE.
Amy – of the 111 dogs only 4 have been euthanized. 69 were not been reclaimed and adopted out.
Commissioner Houpt wants to take out Section 25 because there is another method for unsafe animal.
Chairman Martin – feels it is easier to take it out after you see you don't need it versus putting in back in after adoption of the Resolution. We have to have the ability to take care of the population.
Lou suggested it could have varying language to take care of the situation.
Chairman Martin – this is in the "may" language and we should rely on the judgment of our Sheriff.
Amy – some dogs become a human problem and it is in the grey area of a vicious dogs.
The licensing is the advantage of those who lose a dog.
Charles Ryden President of Garfield County Farm Bureau, 868 family members with 2 members per each household with membership and a lot are associate members. When they analyzed this they took into the account the feelings of the public – he submitted a handout that he sent to every one of the Board members and then held a Special meeting going paragraph by paragraph over what they could live with in the County. They came to a Resolution and statement that was read into the record – "Garfield County Farm Bureau opposes the proposed Animal Control Licensing Resolution of Garfield County. We have researched criminal law and regulations as well as the proposed regulation/resolution and feel strongly that

there are sufficient laws and regulations that are already in effect to eliminate issues with problem animals if properly enforced. We feel as Garfield County Sheriff, Lou Vallario that any licensing requirements should not apply to legitimate agricultural working dogs. And if the county still feels strongly about pet licensing and inoculations, amendments can be made to the existing laws and regulations to put this into effect; however we do not feel that animal licensing is necessary. If licensing occurs, we suggest a two-year licensing intervals and in the present one, Resolution 02-91 the definition, corrections need to be made – guard dog definition and the Rabies vaccination and Section 7 needs some clarification." Changes were proposed if this Resolution is approved.
Lou responded – never the intent to interfere with the working dogs. The Battlement Mesa and Four Mile are the communities driving this.
Additional discussion was held with respect to vaccinations, the philosophy of working dogs and pet animals among a few
Warren Roberts – the guard dogs, some we cannot catch. You ruin them when you make them a pet. They do not pose the problem of running at large and or barking. Most dogs are marked with ear tags.
Dave Newland – pet owner – suggested simply having identification on their dogs. The system is not broke, don't fix it.
Amy mentioned when a dog attacks another dog – this is a big problem.
Dave – amend the current resolution.
Chairman Martin entered Exhibit D – Farm Bureau letter into the record.
Exhibit E – Letter from Laurie Raymond was admitted into the record.
Laurie Raymond – business owner of High Tails and on the Board of Directors of CARE. Huge background with animals and thinks it's good idea to be proactive and identify these issues. CARE is very strong on not euthanizing animals. Experience says if animals are not treated seriously then you have trouble and there is a language problem in calling a dog vicious. State law identifies a vicious animal as dangerous and potentially dangerous. Working dogs – her sense is they usually have a dual function; some are deliberately breed and if you can't get hold of a dog how do you vaccinate it? How many are there, and what are their impacts on the safety of the public? Interactions – who owns them? She proposed options requiring the dog owners to obtain a life time registration; where and how many and if they're truly agricultural. Retired or injured agricultural dogs will then they become pets. We should be monitoring their place in society. Search and Rescue dogs – in her business she had working dogs in for grooming. The herding breeds are different than pet dogs and feels we're overreacted to one dog per household; it's hard to comply must less to enforce. The taxation of licensing is legitimate – our County just doesn't find it appropriate to euthanize the animals. CARE provides the shelter services. The cost of providing animal control and services is huge and balance is the key. She proposed a number of people with expertise could become a task force and thinks we needs more time to work on this Ordinance and have something really good. She offered her help to have the county develop a task force.
Calvin Roberts – seems like a momentum to go forward. Favors not adopting but changing the current and encouraged the things the Farm Bureau submitted. The new ordinance raises the issues of pets and working dogs and this needs to be worked on. What is the best way to clarify these things? The 5-day hold before you euthanize a dog issue is of concern - notification is required on the part of the County and until the effort is made to notify the owners the things we should hold the dog. He encouraged the Commissioners to please take a look at the regulation and make some changes.
Dan Richardson said he had two concerns pet owners and other people; he complimented the Sheriff for initiating this. However, he feels this issue needs more time; the issue is being a responsible dog owner and excluding working dogs is the issue for him. These dogs are still a potential threat. The reality of it is the general public is coming into contact with dogs, all dogs on a more regular basis. It's reasonable to say the owners could vaccinate the dogs themselves as long as they provide proof. There is a change of these dogs interfacing with the public and it's imperative to be to still have a record of these dogs knowing if they are vaccinated. There are some good approaches out there so everyone can be happy but a Resolution needs to come forth but more work needs to be done and in talking with animal experts.
Denise Doolen – at 3838 243 Road – of the 111 dogs they didn't get claimed, so what good will licensing do?
Amy – these are the 111 dogs that went to the shelter. She's had a lot more dogs. Garfield County hasn't had any kind of animal control in decades so her take is the initial sweep, the cleanup and that dog's been running on Jewell Lane for 2 years.

Amy – Now we're coming to the dogs that were reclaimed, almost half. This is a standard to get the dog back home.
Denise Doolen said most of these dogs are let loose on County roads when people do not want any more to do with them.
Lou Vallario – the issue of licensing is for those irresponsible pet owners that don't want to follow the rules, same as drivers who don't want to follow the rules, but the issue of licensing would be when we come in contact with those animals and it talks about notification, then we wouldn't have to put these animals in CARE and use more expenses, but rather return them to the owner. It's a matter of compliance with responsible pet owners.
Phillip Vaughan – aware of the Resolution – the more regulations the more effort it takes to enforce. We will end up hiring additional staff and potentially another county department that will mean more taxation; enforcing this has to be paid for. The unintended consequences will be more dogs dumped in unincorporated Garfield County because people won't or can't afford the fees. Public health and the West Nile issue are more important than dogs.
Lou – said in wrapping up that this was never intended to be voted on or not. Likes the idea of identification rather than licensing; they could do something that just requires identification of the dogs. This is a good process and in going forward in drafting the best thing possible. Thanked everyone for input and especially liked the ideal of putting together a task force but something is needed.
Commissioner Houpt favored putting a task force together and it sounded like everyone would be willing to work on it.
Commissioner McCown – we're here today to try and come up with something to address the non-responsible pet owner. We are trying to answer those concerns from people who have dogs that are driving them crazy and favored continuing this hearing. Lou is doing what
Commissioner McCown made a motion to come up with options and solutions and continue this until the first meeting in August 2 at 10:15 a.m. Commissioner Houpt seconded.
Direction to staff – work with the Sheriff, putting together a task force and getting the draft out in a timely order. Commissioner McCown thanked Lou for putting effort into this together and yes, it is a cost and he's not opposed to having a source to pay for it. Motion carried.

PUBLIC MEETINGS:
CONSIDER THE APPROVAL OF THE AMENDED AND RESTATED FINAL PLAT FOR THE IRONBRIDGE PUD. APPLICANT IS LB ROSE RANCH, LLC – MARK BEAN
Mark Bean, Don DeFord, Mike Staley and Tim Thulson were present.
Mark Bean submitted a letter from Tim Thulson stating this plat supplants in its entirety the prior plat recorded on September 11, 2000. He noted the Fifth Amendment to the SIA to incorporate all modifications to the latest Preliminary Plan and to incorporate the new develop obligations instant to the provision of affordable housing units removing prior provision for rental clubhouse apartments within the Golf course zone district and replacing the same with for-sale-units within Block 1. The Affordable Housing Declaration and the phasing schedule exceeding the 3 year vesting period provided under County regulations, Ironbridge anticipates filing a request to amend the Development Agreement.
Tim explained the certain exceptions on the document and these were disclosed. Paragraph 1 there are a number of patents signed, these are standard patent reservations for minerals for ditches, minerals and canals. It would be hard to find a patent without these reservations in Garfield County. With regard to the reservation for ditches and canals that the McCaron Amendment would require, should the Department of Interior decide to put a canal through one of your dedicated right of ways they pay you compensation for that. The second group of documents address the Robinson Ditch, location and operation of the ditch and Tim noted in the last document cited at Book 1102 Page 643 that L. B. Rose Ranch has success and interests in Roaring Fork Investments has a right to modify the ditch to relocate, move, do other modifications to accommodate our development. That was reserved under that document. Document under paragraph 3 – the big power line going through the development is the public service easement right of way, it also crosses CR 109 and relative to the public dedications under this plat it impacts the bike path only. The Rocky Mountain Natural Gas Company easement same comments with regard to public services – there's a compressor station and most of that goes along CR 109. The 5th document is a pre inclusion agreement that we reviewed during the subdivision entitlements; this is included because they will be utilizing public rights of way in the subdivision, a lot of the service lines are located in that area. Noted under the pre inclusion agreement that the district is responsible for repairing any damage they cause to

public rights of way should they need to do so in the operation of that system; furthermore, even if the district were to go away, the next group on line would the Homeowners Association because they've accepted responsibility for the maintenance of all public right of ways within the PUD. The last set of documents are merely the planned unit development approvals issued by this Board and the latest approval on the PUD was only an amendment and there are provisions in those approvals that are still applicable in this final plat. That isn't the case with the preliminary plan because that is an entirely new approval. Given location of this property and complications, these have been pared down as to the impact to the public right of way.
Don commented that the Attorney certification on the final plat that the public improvements that you're accepting are free and clear of any encumbrances except as stated and asked Tim to go through the exceptions he listed to make sure the Board is okay. It's not unusual to have a few items that the attorney's says he can't remove these encumbrances and that's what Tim's done. It's not unusual so as long as the Board is comfortable with what Tim is presenting.
The bike path goes underneath the power lines.
Don commented on the public improvements; when the Board is taking subject to these easements or other encumbrances, it means that if some reason the bike path were to interfere with the power lines, the bike path would have to go and the power lines would stay. More importantly and more likely to occur is you have some type of underground facility, a gas line for instance that goes under some of these roadways, if we did something to road or the bike path that forced us to relocate that gas line, we'd have to pay for it.
Mark – the documents that the Board would authorize the Chairman to sign will be the final plat, the subdivisions improvement agreement, and a quit claim deed to the bike path easement.
Don said in actually accepting the bike path on behalf of the public. This doesn't happen frequently but in a few instances the Board required dedication of the bike path and to date we haven't found another public entity willing to accept those, so if falls to the Board if you're going to require that. Important for the Board's consideration and already required, these technically are recreational facility not public roads and because of that you have a different type of liability for these than you do for roadways, you are not immune; you're insured but not immune so that you do accept responsibility for these and the liability for them even the Homeowners Association is to provide the maintenance.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Ironbridge Planned Unit Development Final Plat, Phase I and accept the exemptions of their attorney and the Chair be authorized to sign; motion carried.

PUBLIC HEARINGS:
CONSIDER THE APPROVAL OF A SPECIAL USE PERMIT FOR A NATURAL GAS PIPELINE RUNNING FROM PARACHUTE TO NORTH OF DEBEQUE. APPLICANT IS ENCANA GAS, USA. – JIM HARDCASTLE
Jim Hardcastle, Don DeFord, Jimmy Smith and Jeff Reale were present.
Don reviewed the noticing requirements and submittals with the applicant. He determined they were timely and in order and advised the Board they were entitled to proceed.
Terry Kirk – no notification. K & M LLC (Don noted this was attempted and returned 445 West Main Street – Silt). This is the address shown in the Assessor's office.
Commisisoner McCown – in lieu of him being here and mailed to the Assessors address, notification is adequate.
Chairman Martin swore in the speakers.
Jim presented the following Exhibits:
Chairman Martin entered Exhibits A – P into the record.
Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff memorandum; Exhibit G – Garfield County Road and Bridge Department; Exhibit H – Right of Way Grant and Temporary Use permit from BLM; Exhibit I – Colorado Department of Transportation, conditions of approval, and permit; Exhibit J – Garfield County Oil and Gas Auditor Review letter; Exhibit K – Letter of Objection, Dana Gregory, adjacent landowner; Exhibit L – Town of DeBeque, Colorado, review letter; Exhibit M – Town of Parachute, Colorado Review letter; Exhibit N – Grand Valley Fire Protection District, Review letter; Exhibit O – Garfield County Vegetation Management Review letter; Exhibit P – Colorado Division of Wildlife, Review letter and Exhibit Q – Resource Engineering – Michael Erion.

Chairman Martin entered Exhibits A – Q into the record.

This is a request for a SUP to allow the construction of 16.5 miles of a 24 inch diameter buried natural gas pipeline and related facilities. The property owners include: Chevron/Texaco, David and Amy Skinner; Ivo and Betty Jo Lindaurer; Sidney and Ruth Lindaurer; Robert and Arlene Boruch, American Soda, LLP; the Bureau of Land Management, and Colorado Department of Transportation.

The applicant is proposing a 24 inch diameter buried natural gas pipeline and related facilities. The 16.5 mile site traverses 8 separate land owners from an existing compressor facility (Roan Cliff) located 1.5 miles north of Parachute, Colorado and extends southwesterly to a termination point on BLM property located 4 miles north of the town of DeBeque, Colorado. The planned route and alignment of the pipeline will begin on American Soda property and will parallel the existing Williams Production 20 inch pipeline within CDOT ROWO. Construction will occur on two construction spreads and is scheduled to start after June 1, 2004 with a completion approximately 17 weeks later.

The project consists of permanent project facilities as well as temporary project facilities that will be necessary during construction of the project. A 75-foot wide area has been required on BLM land during construction of which 30 feet will be maintained as a permanent pipeline right of way.

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

1. The project lies within the "winter range" and "severe winter" range for deer. A small portion of the project lies within the "winter range" for elk. No construction should occur during December 1st and April 15th
2. Post construction and during full implementation of the project, impacts on the above mentioned species can be minimized by using remote monitoring systems that reduce the level of human activity along the pipeline corridor during the winter period
3. The removal of native vegetation will negatively impact the native species associated with this project. Therefore, a suitable sagebrush species should be added to the seed mix in combination with a suitable mixture of grass/forb/shrub seed. Seed plantings should be undertaken on disturbed soils which are prepared with a ripping tool that creates an uneven soil surface and seed bed
4. The replacement of rocks in comparable natural densities wherever rock outcroppings are disturbed. The DOW also supports the boring of outcroppings to preserve habitat and keep the total habitat disturbance to a minimum.
5. Revegetation success should not just be based on the density of preferred plant species; it should also be based on the absence of invasive and noxious weeds.
6. Associated negative impacts to the natural environment can be mitigated and/or minimized by disallowing public access of the site to motor vehicles.
7. Fragmentation and degradation of wildlife habitats is likely to occur with increased gas field developments resulting from this pipeline installation.
8. A post revegetation security for the parts of the pipeline that is not on Colorado Department of Transportation right of way or on Bureau of Land Management property shall be received from the applicant prior to issuance of the SUP. 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
9. Traffic to and from the site is to be kept to a minimum of 8-12 bus trips per day and no more than 12 trips involving third party inspectors during construction. No more than 12 trips per day shall be allowed after the completion of construction on the project.
10. Noise levels shall bee kept to and within the minimum allowed levels as noted in the matrix contained in this report.
11. The management of vibration, smoke and particulate matter and the emission of heat, glare, radiation, and fumes shall all be reduced and minimized to meet the guidelines and requirements set forth in this report so as not to adversely impact the immediate adjacent area.
12. Prior to the issuance of the SUP, the Applicant shall meet with the Town of Parachute and identify requirements that must be met to mitigate the impact of the proposed project and the applicant shall meet these requests. The town shall provide the Garfield County Building and Planning Department a letter stating the Applicant has satisfied said requirements or provide same with a letter stating there is no objection to the proposed project.
13. Prior to the issuance of the SUP, the Applicant shall meet with the Town of DeBeque and identify requirements that must be met to mitigate the impact of the proposed project and the applicant shall meet

these requests. The town shall provide the Garfield County Building and Planning Department a letter stating the Applicant has satisfied said requirements or provide same with a letter stating there is no objection to the proposed project.

14. the BLM has compiled a list of "Conditions of Approval" and "Standard Stipulations" (see Exhibit H) that are to be adhered to during and after construction on BLM land and Garfield County recommends that these also be included as conditions of approval for the proposed use on all non-BLM lands as well.
15. The applicant shall provide a written commitment to inspect, monitor, and be responsible for the management of any of Garfield County's Noxious Weeds that may emerge on private lands that are disturbed by the pipeline. It is requested that the applicant respond to any complaints by landowners regarding pipeline noxious weeds in a timely manner. It is also recommended that the applicant cooperate with the Colorado Department of Transportation in developing a weed management plan for any noxious weed infestations that occur on the pipeline within CDOT rights-of-way.
16. If the applicant uses straw or hay as either mulch or as a sediment barrier the straw or hay should be certified as weed free by the Colorado Department of Agriculture.
17. The Grand Valley Fire Protection District would like to be notified of any road cuts that might pose an access impediment as it relates to any residential or commercial structures it is charged with protecting.
18. Dust Control shall be included along Highway 6 & 24 as well as Interstate I-70 and no owner shall waive the dust control requirement.
19. Post-Construction Maintenance of Temporary Erosion Control Measures – It is obvious that the date 2003 is incorrect and it assumed that 2005 is meant in its place. It is also assumed that any roads not bored, will be part of the post-construction monitoring process.
20. The list of 10 seed types, to be applied @ 12.0 lbs PLS/Acre is different than the list on page 24, of the Environmental Assessment. That list has 6 seed types and an application rate of 11.5 lbs/Acre PLS. There is no concern with the seed mixture; rather that it will be applied to all disturbed soils, so as to prevent the influx of cheat grass as the primary plant species.
21. The Grand Valley Fire District requires a phone list of supervisory personnel, as it relates to construction activities. This list should also contain phone numbers, office and cell. At that time, the District will visit with the Company / Contractor Safety personnel as to any potential impacts that the fire ban may pose on the project.
22. The Grand Valley Fire District would like to be made aware of any road closures. Access to structures needs to be provided, either by a bypass or convenient detour, as suggested in the text. Any bypasses or detours will need to be compacted as per 1997 Uniform Fire Code, so as not to limit access by large pumpers and tenders.
23. In the event of a "True Emergency", the Fire Guard should call the Dispatch Center direct, rather than the Grand Valley Fire Protection District. The Contractor has listed a back-up plan of contacting their yard and having emergency information relayed to Dispatch by telephone. This is an acceptable alternative to direct contact with the Dispatch Center.
24. The Grand Valley Fire Protection District reserves the right to shut down all operations in the event of high fire danger as well, until risk or potential for risk have been mitigated. It is also noted that because the entire project is within Garfield County, the Garfield County Sheriff's Office should be directing activities outside of the Grand Valley Fire Protection District, as it relates to possible ceasing of activities, and not the Mesa County Sheriff's Office Fire Marshall.
25. The Grand Valley Fire Protection District is responsible for the eastern half of the project or more specifically, everything east of the turn back under I-70, near the county line. Everything west of this location is the responsibility of the Garfield County Sheriff's Department.
26. The listed fire suppression contact for Private and State Lands, Colorado is incorrect. It needs to be changed to the Garfield County Emergency Communications Dispatch Center, in Rifle. When contacting the Garfield County Emergency Communications Dispatch Center, please call **625-8095**. Also, the Grand Valley Fire Protection District is responsible for initial suppression on federal lands within the District as well.
27. Once activities start, please provide the District with the name(s) of Primary and alternate emergency coordinators as well as their appropriate emergency / non-emergency contact phone numbers.
28. Appendix "G" Hazardous Materials Management & Spill Prevention, Section 6.1 Required Notification – Please change the first bulleted contact to **625-8095** (911 Dispatch Center). The last bulleted item needs to have the phone number changed to (970) 384-6436, Mike Piper, Fire Chief, and Glenwood Springs, CO. It

is noted in the second paragraph that the Colorado River is to have a 20' deep bore under it. It is assumed that this was added in error, or not deleted from a previous use of this plan.

29. Appendix "I" Pipeline Plan & Profile Drawings – Sheets 4703 and 4704 are missing from the submittals. These sheets depict work, which will be done within the District. Therefore the District would like a copy of them prior to issuance of the SUP. The District does not believe there will be any need to evaluate these drawings prior to issuing an approval.
30. Associated Project Permits, 6840 – Special Status Species Management – There are numerous pages missing, making it impossible to review this section. Therefore the District would like a copy of them prior to issuance of the SUP.
31. EnCana Water Contract, West Divide Water Conservancy District, Letter dated March 3, 2003 – It appears that there may be a second page to this letter and the Grand Valley Fire Protection District would like a copy of the missing pages prior to issuance of the SUP
32. CDOT has as a part of their permitting process, compiled a list of "Special Provisions for Utility Installations" (see Exhibit I) that are to be adhered to during and after construction. These items will all be listed within the eventual Resolution of Approval.

In terms of the recommendations, there are a variety based on all the review entities, however added that it was pointed out prior to the meeting that a number of them are missing inclusionary language that requires conformance to the recommendations and that would be shall instead of should or may. Number 7 Jim said he'd like to strike as that is not necessarily a recommendation. Number 8, there is a consideration there for the Board in the amount of a dollar figure for revegetation and the security he'd like the Board to consider today. And would add one more recommendation – the Oil and Gas Auditor has reservations applying to portion of the application, Sections f and g; there are inconsistencies and we need those clarified, so the applicant shall answer those requirements as the auditor has cited. Road and Bridge has a comment that indicates all oversize and overweight requirements of Garfield County shall be observed through the life of the project so that would essentially Number 34; (strike 7 and keep the numbering sequence the same) Number 35 – all road damage as a result of this project shall repaired as per conditions set forth by the Road and Bridge Department; Number 36 – unpaved roads may require dust control, contact Road and Bridge for compliance with requirements throughout the life of the proposed use.
Mildred asked to add in there that all vehicles are licensed or proportioned in the State of Colorado and the list is given to the Clerk & Recorder – added as Condition Number 37.
Commissioner Houpt needed for clarification, "there will generally be adequate mitigation" and asked Jim to explain on page 11 of his report in 2, 3, and 4 what generally and adequate mean.
Jim said it's a way for him to identify the fact that they have or not exceeding the review standard there and with the information they've given us, they are meeting the intent of what we're proposing and reviewing. The intent is that they have thoroughly met as opposed to meeting most of it, so generally they have met it. The Board said to just be blunt.

Jimmy Smith – the project stated by Mr. Hardcastle begins at a point 2 miles north of the Town of Parachute and will be a 24" pipeline following primarily the same route that the Williams 20" followed; we did this in order to utilize that existing corridor and not to create any additional surface damage. It crosses four private landowners from the kick off point north of Parachute until it reaches the CDOT right of way just west of Parachute and will again follow the Williams line approximately 10 feet off of their pipeline to a point approximately 5 miles east of the Town of DeBeque. From that point we will exist north across I-70 and out of CDOT right of way onto BLM and two additional private landowners, one being Mr. Skinner and Chevron/Texaco property. The pipeline will terminate at the Trans Colorado line that exists now which negotiations have been finalized with a contract between EnCana and Trans Colorado to put gas into the 23" Trans Colorado pipeline at that point. The gas will be produced out of the Mamm Creek field, the volumes due to the drilling program that warranted the pipeline to continue to Trans Colorado in order to open up additional markets. The pipeline is leaving the Rifle and Parachute area now are full, pressure compaction is a problem and we need this other pipeline in order to get available gas to a market. The transmission lines that leave the Rifle and Parachute area are full which would include CIG, Questar, Williams, etc. All gas will come from west Rifle area, there have been provisions made on the pipeline for future development of acreage where EnCana has holding further west in particular the Orchard Mesa unit which is at this undeveloped; we've made arrangements to tie this gas in at that point and with no additional need for another pipeline. There is expansion possibilities tied in already.

Jeff Reale said they tried to negotiate with Williams but their pipeline isn't big enough so there is a need for the pipeline. Jimmy the right of way is a non-exclusive easement.
Chairman Martin – no property owners affected objected?
Jeff Reale – Exhibit K – is a protest.
Jimmy Smith – this landowner is adjacent to the CDOT right of way west of the Town of Parachute and when the Williams line was put in, their driveway which is owned by CDOT but they access onto their property, was affected by that pipeline primarily due to wet weather so some additional things had to occur such as hauling in gravel to keep their access open – that was their main concern and this is it now. They have already mitigated this now with this landowner making sure they have good access and egress out of their access. The current pipelines are Trans Colorado has a 22"; Williams has a 20" and now this is an EnCana 24" line. Trans Colorado will be able to handle both of these lines at field build out – Williams and EnCana. Trans Colorado is expanding their system the first time, now adding compressor stations south of Magnus and on down toward Natarita and into the Four Corners area and they will able to handle 120 or 150 million above the 300 + they can now with just that compression they have the ability and strategy to loop that line if they have to in order to take the additional volume south, plus there's other plans that will make some of the gas of both Williams and EnCana go north from DeBeque instead of all in that southern pipeline so these plans are underway now to handle the volume as they grown. The south shut down will happen the 22nd of June of the this year and be done the 25th of June; they have the stations built and the tie in work will happen in those three days and then they'll be finished with their first phase of their expansion.
Jimmy – on revegetation, the seed mix that will be used is determined by the landowners – most are using the BLM seed mix with Lindauer which will have some grass seed and potential alfalfa on him; we bidding this out separately from the construction bids so we have a contractor just dedicated just to the seeding and reclamation and will be using hydro-mulching along with there will be a contractor separately for reseeding. The weed management has been discussed with Steve Anthony. A meeting scheduled in DeBeque tonight.
Commissioner McCown on the amount on the vegetation bond it was determined to be $800 to $1,000 per acre and there are 104 acres disturbed; close to a $1,000,000.
Highland Trucking will probably used for trucking in water and they will do dust control is the onus of the pipeline contractor that will be doing the work but they intend to use Highland Trucking also for water and arrangements have been made on both ends of the pipeline.
Commissioner Houpt asked for clarification, why on BLM land you are maintaining a 30 right of way and on private and CDOT its 65 foot.
Jimmy said with a 75 foot working space. There are two permits with BLM, a temporary workspace and a permanent right of way, the 30 foot is permanent and the 75 foot corridor for construction; and on private land and CDOT it varies from 25 – 40 foot and a temporary work space of 65 feet.
Jimmy said CDOT has provisions for work time and the reasons are they are required to do inspections themselves for the pipelines and it is a 5-day work week person. They do grant exceptions and sometimes has granted EnCana Saturdays and Sundays but generally this is in line with their work week. The date for gas flowing through this pipeline is projected for September 1st, subject to weather or any kind of issues that could come up. The Emergency plan is in place with both Mesa County and Garfield County and they will discuss this tonight with the Town of DeBeque.
Jimmy – the follow up on inspections after the pipeline is commissioned will be monitoring once per month not only for integrity of the pipe but for revegetation growth as well as weed mitigation.
Jeff – said this is mandated by the State and requires once a month inspection until we get 75% vegetation and keep noxious weeds down. This springs noxious weed spraying is complete and all of our inspections for the early growth period and now maintain the once a month. Reseeding will be in the fall that didn't work out and spray again for weeds. We keep track on a spreadsheet.
The Environmental inspector will be Wagon Wheel Consulting/Jimmy Smith. There are no noise level issues after the pipelines once they are installed as it is buried 48" below the surface and no sound transferred off the pipeline. Even the above ground facilities has very little if any sound and if there were it is extremely below the state standards. There are no automatic pressure valves on the pipeline and we do have blow down valves, isolation values in three different locations in order to isolate any segment of the pipeline. They are not located in residential or commercial areas. All pipelines are maintained or surveillance by the State assistant for pressure and for operations we would know if we had a rupture or something like that and be able to isolate a piece of the line if needed in a hurry.

On videoing or security tapes – Jimmy said none is being done but arrangements could be made particularly for training purposes if someone wanted to. Housing for the workers is provided in town and it is not feasible for on-site housing. The safety plan includes fire protection and suppression, emergency first aid, water and sanitation.
Revegetation will be done in October as soon after the first moisture. There are some archeological sites on BLM and have been identified and marked off and rerouted the pipeline to avoid those.
Commissioner McCown referenced Condition No. 8 – what percent is the land disturbance on private land. Jimmy said 31,000 feet is CDOT; 24,000 feet on BLM; and the remainder of approximately 20 – 25,000 on private land and includes Chevron/Texaco property with no actual residences.
Commissioner McCown - This is in regard to the revegetation bond on private property only and was looking at an acre and dollar amount to plug in.
Jimmy estimated 22,000 feet and 20 percent of the million dollar contract would be about $200,000 reclamation on private property.
Environmental review disclosed four separate species to avoid; the pipeline was rerouted to accommodate the mitigation on those and fenced those off with fencing and silt fences to keep any right of way materials from washing or getting on top it them. These were classified as sensitive species identified by BLM but no listed species.
Sid Lindaurer submitted an unusual request but nothing unreasonable it wasn't directly related to the pipeline and easy to do and they agreed to do it. The Schedule takes into account winter grazing and migration routes for wildlife. Work has stated on BLM due to nesting birds; they wanted the right of way cleared, top soil removed prior to that time so the pipeline has started on BLM property, north of I-70 just before the Mesa/Garfield County line and heading west.
Terry Kirk has an access north of 300 Road and wanted to make this access is open all the time. He didn't get the notification as it was mailed to his old address.
Jimmy said that has been made a part of the contractor bid packages that they have to maintain all accesses and there will be traffic control on CDOT right of way all personnel are required to wear orange and also as part of the award of the bid at Jeff Reale's request, very much specified to them that they will be courteous to all people up and down the road and whatever means to provide assistance to the residents using the road or the residents adjacent to the pipeline will be taken care of by the contractor.
Removal of vegetation – Jimmy said the vegetation will be placed back on the right of way so that it doesn't become a road – called slash and this will be part of the reclamation. Fire suppression is provided at all times. They will spread the slash back on the roadway and it helps maintain reseeding.
Road dust mitigation – they will follow all recommendations on County Roads. Most of the impact will be to CR 204 north of DeBeque and that will be short term only.
Jake Mall met with them and they identified the shape of road now and what it will be returned to.
Drainage plan includes silt fencing and hay bales as they cut the right of way.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for the construction of a pipeline striking Condition No. 7; Number 8 include the sentence "the security will be held by Garfield county until vegetation has successfully reestablished according to the Reclamation Standards in the Garfield county Weed Management Plan in the amount at the same amount per acre as testified to in the testimony of the applicant"; adding Condition No. 33 – "the applicant will address all of the concerns of the oil and gas auditor"; Number 34 – "answer the Road and Bridge concerns on overweight permits"; Number 35 – "all road damage by any hauling documented damage will be repaired, dust mitigation on all roads the responsibility of the contractor"; and Number 37 – "all vehicles will be licensed or prorated in the State of Colorado, used on the construction project."
Commissioner Houpt asked if we can go through an add the "cans" to "wills" and the "shoulds" to "shall" – there really look like recommendations and she wants to make sure they are conditions. On Number 2 the above mentioned species **will** be minimized, Number 3 – second sentence there for suitable sage brush **shall** be. Commissioner McCown noted these were post-construction. Commissioner Houpt – if these are conditions, then make them conditions; if they are recommendations the make them recommendations. Also in Number 4 – the boring of outcroppings is actually boring underneath rock out cropping to preserve habitat; Number 5 – it **will** instead of should based on the absence of noxious and invasive noxious weeds, Number 6 – **will** instead of can be mitigated; Number 14 is unclear – **will** comply with the conditions of approval; Number 15 - 2nd sentence it is requested that, cut out "requested that" and put in the applicant

shall respond to any complaints by landowners on noxious weeds; Number 17 – instead of stating Grand Valley Fire Protection District would like to be notified, let's just say applicant **shall** notify; and Number 23 – instead of the fire guard should call the dispatch center, they **shall.**
Commissioner McCown amended his motion; Commissioner Houpt amended her second. Motion carried.
Adjourn
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

JUNE 21, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Doug Dennison, Oil and Gas Auditor for Garfield County, said the citizens in the Dry Hollow/West Divide Creek area have major concerns regarding EnCana and several organizations and individuals have approached Doug about doing some sort of independent review of all the environmental data and the geological data related to the gas seep. Doug talked to Tim Sarmo with DOLA to see if this was something that would qualify for DOLA funding and if there was a mechanism for out-of-cycle grants. The short answer is yes to both of those. Tim said it sounded like a project that they would consider for out-of-cycle funding but made no guarantees. The citizens in the area are very scared and Doug was out in the area late last night correcting bad information that led the people to be misled by an attorney – they were evacuated from their home for almost 3.5 hours. Doug is getting a lot of calls from people that they've got deformed animals, animals that are dying, and people don't know what to believe. In all honesty they don't believe anything that EnCana puts together which larger isn't fair but that's just a fact of life. A lot of folks don't trust what the Oil and Gas Commission may decide to do to let EnCana come back into that area, so that's why they are pressuring to get something more independent.

Commissioner Houpt thinks this makes sense, when you find yourself in a situation like this, you start recognizing things that you hadn't before or perhaps it is a result of what's going on but those folks won't be happy until they have an independent.

This needs to be action taken by the Board and not Doug's department. Commissioner McCown noted that the information would be available to the public or anyone that's litigating against EnCana; therefore we'd be doing research for the litigants with the grant; or we're doing research for EnCana. EnCana has their baseline study in order; it's just that nobody believes it. They did baseline studies of all the wells there before they starting drilling or they would really be up against it.

Commissioner Houpt felt it could benefit both sides. Commissioner McCown didn't have a problem with the study, history tell him that finding someone that is going to have the credibility of both sides that the people are going to believe is the problem. If it's not what they want to hear, they're going to discredit the study and hate to see the County throw X amount of dollars at a study and then people say it was prejudiced and we don't believe that. Doug said to look at both pieces he was thinking $10,000 to $15,000 to get someone to look at the environmental data as well as review the technical data related to the drilling problems and what may need to be done. Commissioner McCown asked about the County match and Doug says Tim always throws 50% out as a match. Doug may be able to get some of the other organizations to contribute if it was of interest. Commissioner Houpt noted to be careful as this needs to be an independent study and credible. The Energy Advisory Group may be involved in the decision of who would do the study. Commissioner Houpt had reports of other bubbling in the area. Doug said Jamie Atkins had been notified over the weekend on Gary Hill's property. Doug has arranged for a guy from the Colorado State Forest Service to go out tomorrow to go out and look at a lot of the trees that are dying in that area, it could be totally unrelated to the gas seep but it will give us data as to whether it's insects or drought or possibly related to the seep. Chairman Martin also suggested a soil analysis of the deep roots as well as the surface area. There is so much mis-information out there and it's running rapid. Commissioner McCown asked if whoever does this study wouldn't have to be well versed in this industry as far as technical information. Doug agreed and it would be one of the challenges on the drilling side of things is finding somebody who won't be perceived as having a basis. There are some retired petroleum engineers that live in the area no longer affiliated with the industry that he will asking if they would be capable of taking on. Ed suggested the current agreement we have with Walsh Environmental. Doug was okay with the Environmental but not so sure on the expertise of the drilling side. Chairman Martin noted the historical, the natural occurring stuff that also needs to be documented because it has been and make sure that people are aware that some

of that stuff occurs naturally and it may have been increased, natural, prolonged since the dawn of time and throw that into the study. Commissioner McCown asked if the industry would be willing to make their baseline well information available. Doug thinks EnCana would because he's talked to them about personally doing a review of their data and they have agreed to make it available. Don said in the past he's used both the Engineering School at CU and School of Mines for this type of research.
Commissioner Houpt made a motion to authorize Doug Dennison to move forward on applying for DOLA funds to hire an outside firm to study the impact of the seepage in Divide Creek; Commissioner McCown seconded; motion carried.

REGULAR WORK SESSION:

COUNTY MANAGER UPDATE: ED GREEN

Award of Contract for Office Build-out of Multi-Purpose Event Center. – Randy Withee and Tim Arnett

Ed Green, Randy Withee and Tim Arnett presented the project description to construct the interior finish of the office area located in the multi-purpose event center (riding arena). There were eight (8) general contractors who attended the pre-bid conference; three (3) official beds at the opening. Those bids received were from Classic Constructors, FCI Constructors, and Alpine CM. Two bids were not turned in.
The engineer's estimate came to $431,697 and the lowest bid was Alpine CM at $439,700. Ed explained that $475,000 was budgeted and there would be a surplus of $18,275.
Recommended action: That the Board of County Commissioners award the office build of the multi-purpose event center (Riding Arena) to Alpine C.M. Inc. for the amount of $439,700.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Alpine C.M. in the amount not to exceed $439,700 for the office build-out of the multi-purpose Event Center at the Fairgrounds; motion carried.

Request for Release of Noxious Weed Cost Share Fund. – Steve Anthony

Steve Anthony and Ed Green submitted a memo to the Commissioners requesting the release of $25,000 previously budgeted, to the Gar-Pit Association of Conservation Districts. This is the program that was initiated in 1999 and the County supported with a grant of $10,000 from the State of Colorado's Noxious Weed Fund for the cost-share and a County match of $15,000. In 2002 the Commissioners increased their contribution from $15,000 to $25,000.
This year they opened up the cost share to $1,000 for those who have large parcels of land. There are two deadlines, one in the spring and another in the fall. June 4 was the first deadline. There is an evaluation team that makes the decisions of the cost-share program.
Steve explained how the cost-share program works, how the applications are reviewed and stated that the funds are administered by the Conservation Districts.
Marvin Stephens wanted the Board to know that he has been working real hard and even on weekends and he has accomplished a great deal.
The Board agreed and complimented Steve as well.
Steve Anthony and Ed Green submitted a memo to the Commissioners requesting the release of $25,000 previously budgeted, to the Gar-Pit Association of Conservation Districts. This is the program that was initiated in 1999 and the County supported with a grant of $10,000 from the State of Colorado's Noxious Weed Fund for the cost-share and a County match of $15,000. In 2002 the Commissioners increased their contribution from $15,000 to $25,000.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt that Steve Anthony to move forward to release the $25,000 for the Noxious Weed Cost Share funds to the Gar-Pit Association of Conservation Districts; motion carried.

Community Corrections Contract. – Dale Hancock

Dale submitted the contract from the Colorado Department of Public Safety for the funding allocations for Fiscal Year 2004-2005 and explained the breakdown of funds: $354,634 for residential diversion direct sentence and diversion conditions of probation placements at a daily rate of $34.70 per offender; $22,349 for diversion non-residential placements at no more that $247 per month per offender, not to exceed an average of $4.71 per day per offender; $88,658 for residential transition placements at a daily rate of $34,70 per offender; and $18,625 for Community Corrections Board Administration and per diem supplements to provide specialized services, with prior approval by the State, for offenders with special needs. We increased our allocation of transition beds by 7 new ones.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Community Corrections Contract and the Chair be authorized to sign; motion carried.

Dale and Marvin attended a methamphetamine program – we have the ability to bring the presenters back to the County and felt it would be beneficial to bring them to address Road and Bridge, Social Services, Community Corrections, and possibly others who would be interested on the dangers associated with meth labs. The Board agreed for Dale to put this training together and open it up for the entire County staff.

Discussion of letter to CCOERA Board

Ed submitted the draft letter addressing the State Audit of CCOERA and the areas that require immediate attention based on the findings emanating from the audit. Among those concerns were the book value fund mischaracterized; internal record keeping functions, administrative fees, credit card expenses high; travel expenses excessive and oversight of the individual plans. The letter concludes that the State audit finds that CCOERA funds have been mismanaged and oversight of the board is lacking. The County is requesting CCOERA provide a response within two weeks in order that a proper evaluation of our alternatives including withdrawal from the CCOERA and plan if necessary and potentially develop a plan for appropriate legal and legislative remedies. Ed suggested the entire board be removed and replaced; this shakes the entire foundation of the retirement of our employees.

Commissioner McCown recommended sending a copy of the letter to Senators Ron Teck and Jack Taylor. Commissioner McCown made a motion to approve the letter and all Commissioners sign; Commissioner Houpt, motion carried.

COUNTY ATTORNEY UPDATE: DON DEFORD

Consideration of Memorandum of Understanding – Colorado West Counseling Services – Garfield County Sheriff

Don presented as Lou Vallario was not here for the discussion on the agreement between the Colorado West Counseling Services (CWCS) and the Garfield County Sheriff to provide space in the Detention Center for CWCS when necessary and when there is no other facility available for a twenty-three (23) hour mental health crisis stabilization bed in the Garfield County Detention Center.

Don said this has been occurring this year and this simply memorializes the action and requested the chair be authorized the sign the Memorandum of Understanding with Colorado West Counseling Services as presented. Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Consideration of Garfield County Jail Contract – Colorado West Regional Mental Health

Don informed the Board that this was to add additional services and reimbursement to the terms of the agreement and amend the contract of the 1st of January to include a total amount of $8,000.00 for the contract year January 3 – December 31, 2004. It is to provide counseling services to the jail; this is a needed service as we do not the needed expertise in-house to provide the type of evaluation service that CWCS can and we need to be able to do this in order not to unlawfully detain people who have behavioral or psychiatric difficulties. This is actually an amendment to the Human Services Contract so that we can change the scope of services when we need to but the base contract is still the Human Services Agreement that we always have in place with Colorado West.

Don asked that the Chair be authorized to sign the contract to provide mental health counseling and evaluation services to the Garfield County Detention Center. Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Airport Road (CR 319 and CR 352) Improvements Phase I, Section B - Approval of Agreement with Holy Cross

The County Engineering Department, Jeff Nelson, submitted the voucher for Holy Cross Energy dated June 8, 2004 for reimbursement of telephone poles in the amount of $13,200. This includes a design and cost for providing electric service to the power line relocation at the Garfield County Airport.

Don said this is part of the Airport Road Construction Project. Holy Cross is relocating their lines and some power poles that are actually located outside our current right of way but will be located in our right of way to be acquired as part of the construction. Because they are not in our right of way now and subject to permitting by the county, we cannot require that Holy Cross bear the cost of this relocation; it is our responsibility. Don asked that the chair be authorized to sign the Letter Agreement with Holy Cross for $13,200 for relocation of utilities. Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE advise on these agreements Consideration IGA RFTA; IGA Rifle/County/School District; Termination of the Ball Park Lease; and also discussion on the Litigation on DDA; Code Enforcement; Collection Action; and an Imminent Domain Action

Mark, Steve for Code Enforcement; Imminent Domain Jeff and Randy, Marvin and Kraig Kuberry on a collection item; Don, Jesse, Ed, Mildred and the Board were requested for the session.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items; motion carried.
Don requested that Ed and Jesse remain for all subjects; Mark Bean and Steve Hackett on the Code Enforcement; Jeff Nelson and Randy Withee on Imminent Domain; Marvin Stephens and Kraig Kuberry on the collection item.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action:
Chairman Martin admitted the 5-page letter from Lisa Bracken addressing the Divide Creek Gas Seepage for the record. This was in response to Doug Dennison's report several meetings ago.
IGA Rifle/County/School District
Don asked for authorization to send a sign an Intergovernmental Agreement between Rifle, RE 2 School District providing for development for a new Baseball Facility and a new County Human Services Facility in Rifle. Commissioner Houpt wanted to pull this from the Consent Agenda because we wanted to add language regarding the actual cost not to exceed $300.00. Don said by separate action he was going to ask the Board to do that. The IGA provides that you may take action to go over that amount. Therefore, he wanted the Board to first approve the IGA and then go forward. Don also stated that his did not identify this as a Consent Agenda item and asked that it be taken off the Consent Agenda item and separately approve both items.
Commissioner Houpt made a motion to authorize the Chair to sign the Intergovernmental Agreement with Rifle and Garfield School District RE2 as Don presented. Commissioner McCown seconded; motion carried.
Pursuant to address the issues that Commissioner Houpt just raised, under Section 2 (b)(i) contribution, he asked the Board of County Commissioners to approve an amount not to exceed a total of $30,000, $15,000 to be Garfield County's share of potential cost overruns – this is not known at this time but it is potential and would like it approved at this point in the event that occurs.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.
Terminate the Lease between the County and the RE2 School District
Don submitted the termination of lease between the Garfield School District RE-2 and the County effective August 1, 2004; and the IGA regarding the County Human Services Facility and the Ballfield Construction in that location. The IGA outlines that the County will contribute an estimated cost of $150,000 toward the construction of the new Ballfield at Deerfield Park.
Similarly, Don requested the removal from the Consent Agenda and take action on the Agreement to Terminate the Lease between the County and the RE2 School District concerning use of the Fairgrounds for a baseball facility.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.
Cattle Creek area residents – Pines and Raymond's
Don asked to have the Chair authorized to sign a letter to residences in the Cattle Creek Area responding to a letter that they had directed to the Board concerning potential violations of the Zoning Code by Pine's and Raymond's informing those individuals that as to the Raymond's property the Board will establish a date for public hearing on the first meeting in August to consider a Special Use Permit application for that property and to inform them that a notice of violation letter will be forthcoming from the Building Department concerning the Stone property.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.
Charles Moore – Aspen Digger
Don asked that the Chair be authorized to sign a letter responding to Charles Moore concerning the alleged Aspen Digger violation informing him that as to error and ground pollution issues those matters are properly referred to the appropriate state agency and that will be set forth in the letter and that as to certain property improvements that agreement is beyond the purview of the Garfield Land Use Regulations.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.
Garfield County Landfill Collection Item – Alpine Waste Inc.
Don asked for the Chair to be direct staff to deny use of the Landfill to Alpine Waste Inc. or the owner should that owner operate a different company based upon repeated and continue failures to pay existing

bills for that use of our facility and also to authorize Don's department to undertake collection litigation in relation to that company.
Commissioner Houpt so moved; Commissioner McCown seconded. Discussion: Chairman Martin – if it becomes a paid in full, etc. are we going to extent that to a cash basis only. Clarification was for a cash basis only. Motion carried.
Clarification – the items once reported to be on the consent agenda were not listed, they were Executive Session items.

Consent Agenda:

a) Approve Bills
b) Wire Transfers - none
c) Inter-Fund Transfers
d) Changes to Prior Warrant List
e) Authorize the Chairman to sign the Final Amended Plat of Tracts 7 – 10 of Antlers Orchard Development Company's Plat No. 1. Applicants are Wayne Pollard and Victor Ganzi. – Fred Jarman

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

REGULAR AGENDA:

Human Services Commission

Aging Services – Deb Stewart

Deb Stewart submitted a packet of information to the Board including the RSVP newsletter reporting they have 541 registered RSVP volunteers. She submitted the annual participants in the Senior Nutrition Program and the sites offered.
Diane Martinez – Low Vision Opportunities, Center for Independence - Works with individuals in homes to provide them opportunity to live on their own. Her facility is located in Grand Junction and serves 13 counties on the Western Slope. They provide visual care for the blind; meets in homes or nursing homes to make the transition back home; teaches other providers the same thing she does; gives presentations and one of the five staff who went to Washington, D. C. and addressed the Medicare and Medicaid funding and gave them figures of the cost of nursing homes versus living on their own. Housing and Transportation were covered. No cost for the individual – this is provided by grant funding.
Kate Somsel-Longmore - High County RSVP has been in the County for over 30 years and the sponsored program of CMC is a network for older adults 55+ who volunteer and provides opportunities to help seniors. Provided 68,000 hours of service to non-profit agencies which saved them over a billion dollars in wages. In 2004 thus far they've provided over 57,000 hours to Youthzone, many of the Senior Program, some people who need independent help and anticipating getting over 80,000 hours of service before the end of this month where their fiscal year ends. They are proud of the new services started this year – RCP volunteers started the Health Riders helping people in the Parachute area who need Cancer services – radiation therapy requiring 6 – 8 weeks at a time, 5 days a week and the RSVP volunteers and Kiwanis provide this service to alleviate some stress on the family members. This year they took 10 people back and forth for the treatment and anticipate 20 or more next year. Once again RSVP volunteer heard about the Medicare prescription plans and the cards available; it is a confusing program so three volunteers went to Grand Junction, took the training and now they are providing information and they are helping to educate on the best card for seniors to use. CMC had an ESL in Parachute but didn't have enough people to support the program; two RCP volunteers picked this up and helped provide the training.
Michele Moore – Columbine Homemakers – served 93 people in 2004 providing homemaker services to those staying in their homes. 84 of those are in Garfield County. They are partnering with the Caregiver Support Program and providing Respite care now. More than 85% of their clients in their homes for a longer period of time. They are filling a great need in the valley.
Deb said they were most proud of the ***Senior Directory.*** Pitkin County has agreed to put the directory on their website and would like to have it placed on the Garfield County Website. They provided 26,000 meals last year with an average donation of $1.95. Traveler rides – growth is increasing in the western portion of Garfield County. Total mileage for all vehicles is 77,403. The rides were broken out as to where the senior was going. The average client donation is $1.24. The average cost per mile is $2.51; average cost per ride is $8.04.

The 60 Plus Club Meal

Evening meal at New Castle – started last year. Getting senior who are still working. Gives them an opportunity to learn more about the programs available and adds a new realm of thinking. Pam Bunn is doing all the cooking.

Castle Valley New Castle Senior Housing has been approved and land has been purchased – 1.8 acres and they are working with Colorado Rural Housing; the ground breaking will be in September or next Spring. They may not be able to make the Community Room part of that senior housing large enough to handle more than those people that live there. One is a parking issue and the other is that it is a non-revenue generated space. They will only make this as a Commons Room at the New Castle Senior Housing large enough to serve the 24 that will live there. There three plex and five plex and making it look like an individual house. The nutrition program may need to say in the Town of New Castle and figure out a way to transport the 24 residents to the Town. The date of the ground breaking is dependant on HUD and when they release the funds.

Windstar – 2004 bus for Rifle and updating grant request for replacement of Rifle bus. CDOT grants have to be written three years in advance. These are to replace vehicles, no additional buses.

Thanked the Board for the Emergency Services with all public entities will help with issues

Next year they will be facing rising fuel costs and insurance costs.

Discussions with RFTA – have any funds been agreed to? Deb not getting a fixed rate, RTA – a $25,000 is written in and they want to build in a yearly increase. Don and Deb started discussions of a flat rate with an increase yearly. It's important to look at the IGA because this is the wording that talks about service to people with disabilities, aging, etc because the original IGA didn't have it in about that service area. Seniors have been asked to increase their contribution transportation. Volunteers are in their 80's at the meal sites and they have to look at a new way for these meal sites.

Board of Health

Review of Public Health Employee Job Description

Mary submitted the job descriptions for review of the Board of two new employees as well as the wage proposals. The concern is with nursing shortage that without a mid year adjustment we will never get to be where we need to be at market. Option C is a 4.5% increase to $17.50 Judy said they always advertise at the minimum grade but this doesn't mean they are necessarily hired at that rate.

Promotion for Yvonne Long PHN II proposal for the Emergency Preparedness Administrator to $19.26. The Bio-Terrorism funds have provided for computers, etc.

Commissioner Houpt made a motion to approve Option C for the PHN II current positions as proposed and for the increase for the emergency preparedness administrator position that has been currently defined. Commissioner McCown seconded. This will come out of contingency fund and Jesse said there should be vacancy savings over time to cover it. Jesse said we should think about bringing in new people no lower than 82.5% of the market, otherwise inflation kicks them out of the market and you're never catching up. Judy said this is a change of policy; when hiring someone that is inexperienced; then you're hiring them in at a higher rate.

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

West Nile Power Point Presentation – Laura Goodwin, RN through UCHSC, Denver

Laura Goodwin started with the Nurses' program in December and provided a power point to be taken to all of the senior citizens meal sites. Mary presented an evaluation sheet for the Board to provide input.

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

Lynn Renick announced that the Bill passed and will be effective in August 2004 – the "Dahlgren Bill" where both Social Services and the Board of County Commissioners can be conducted simultaneously.

Social Services

CBMS – the statewide rollout has been postponed with a new target date of July 30, 2004.

Approval of May 2004 Disbursements

Lynn submitted the EBT Disbursements in the total amount of $72,851.20 for the Month of May 2004.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the EBT Disbursements of $72,851.20 for May 2004; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into the Board of Social Services; motion carried.

Discussion, consideration and approval of Contracts:

Placement Contract

The Department is requesting approval of one placement contract for Child P51628 in the total of not to exceed $18,922.59 at Ariel Clinical Services #262-04.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the placement contract. Motion carried.

Child Care Licensing MOU

The Tri-County child care licensing program includes Eagle, Pitkin and Garfield Counties. The program will recruit; train and license family child care providers in the three counties who agree to share the costs of the program. The total cost is $65,674.00.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Tri-County child care licensing program for $65,674.00; motion carried.

Core Services - Mental Health

Lynn stated the four-county allocation is $132,497 and this is changing to a fee for service reimbursement rather than exclusive contract with CWMH for 1/12 reimbursement. The plan is to contract for a not-to exceed amount of $75,000 with Colorado West Mental Health.

Core Services Substance Abuse

This is a four-county allocation for $37,500 and this is changing to a fee for service reimbursement rather than for 1/12 reimbursement. The plan is to continue the contract with approved Managed Service Organization (MSO) – Colorado West Regional Mental Health and Whiteriver Counseling. It also includes a contract for a not to exceed amount of $10,000 with CWMH and $10,000 with Whiteriver Counseling. The four-county plan to match expenses with Additional Family Services (AFS) funding.

Discussion on Non-Emergent Medicaid Transportation

Deb Steward and Lynn Renick were present.
Lynn reported the Department of Health Care Policy and Financing (HCPF) has provided counties with updated rules that have re-established the reimbursement of non-emergent transportation for eligible Medicaid clients requiring medical care. The allocation available in a not to exceed $11,803.18 for SFY 2005, beginning July 1. Before the HCPF changed its rules the reimbursement to Garfield County was over $22,273. If a county exceeds its allocation, the county then must reimburse through county-only funding. Since HCPF has volunteered to seek out a separate State Designated Entity to administer this program due to the funding reimbursement levels and potential cost to the County, the recommendation is to let them move forward.
Deb Stewart has discussed this in the past but at the present time she does not have the staff to do this billing. Her concern is the $11,000 plus allocated. Her recommendation is that if the County is not going to put money into it, then go to the State and seek funding.
The Board concurred with Lynn's recommendation.

d. Monthly reports

Lynn submitted these reports for the Board's review.
Audit – Lynn reported that the audit findings are in and the corrective action plan was almost signed off on – it's been approved by the audit team; two things missing in order to give the Board the final report – the net versus the gross amount on the disallowance for the Social Services; and then Single Entry Point – Lynn send it corrections for the signification amount of approximately $200,000 and this is going through the channels – it's a wait and see – final formalized report will be submitted to the Board when it is available.
Close out – On June 30th, Lynn projected over expended to over $100,000, a portion of that she is hoping is able to be cleared out through statewide surplus distribution funds. Single Entry Point looks like we are okay for our contract amount; TANF will have an under expenditure of approximately $300,000 of which we will be able to transfer that money over into our child care and/or child welfare program. Child Welfare does not look good; our mitigation request was for $484,000 worse case scenario. We are guaranteed a minimum of $124,000 and things we will get more than that through mitigation. The child welfare transfer will be approximately at least $141,000 and she has also asked for statewide surplus of up to $400,000 – it won't be that, but the request was made. She found out that we can use Senate Bill 80 dollars a deferred revenue for other funds and she feels we will not be looking at county dollars for child welfare for the close out for the State fiscal year but it is very concerning and will stay concerning. Out of home costs hit the budget enormously. In child care assistance program it is a mixture of good and bad news. We're looking at potentially $350,000 short comings, but we have an excess of child care dollars that we can use to bail out and there's also surplus distribution for a large chuck of that. We've even out okay. The preliminary allocations for child welfare and child care for 2005 budget year; she is hearing

that those numbers are being delayed because Denver is appealing both of those allocation methodologies. Staff changes, Wendy O'Leary, family and child services manager has taken a position in Boulder Department of Social Services as a child care administrator and will be leaving July 9th. This has promoted a staff meeting to look at administrative needs. Janice George, our financial assistance manager is still planning to retire sometime in 2005; on July 1st she will have her 35th anniversary with the County.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of the Board of Social Services; motion carried.

Ratify as Board of County Commissioners

Commissioner McCown made a motion that the Chair be authorized to sign the MOU, with Eagle County and Pitkin County both on the Tri-County Child Care Licensing Program; Commissioner Houpt seconded; motion carried.

PUBLIC MEETINGS:

CONSIDERATION OF A ZONING ENFORCEMENT ACTION ON PROPERTY LOCATED AT 1122 COUNTY ROAD 106, CARBONDALE, CO OWNED BY LUKE MERRITT. – STEVE HACKETT

Steve Hackett, Mark Bean and Don DeFord were present.
Steve informed the Board this was an operation of a landscape business in the Residential/Limited/Urban Density zone district. Steve submitted copies of the various correspondences and documentation noting this has been on-going since the spring of 2001.
Steve recommends that the matter be referred to the Garfield County Attorney's office for legal action to cease the illegal business activity.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to refer this matter to the County Attorney to file litigation; motion carried.

PUBLIC HEARINGS:

ABATEMENTS - Alicia Salais Manufactured Home; to **Petroleum Development Corporation; Barbara Hurwitz; Barbara Hurwitz; Peter Neutze; American Furniture Warehouse; and Coco Cola Bottling Company of SLC/Swire Bottlers, Inc – Shannon Hurst**

Chairman Martin swore in the speakers.
Shannon reviewed the abatement with the Board and explained the circumstances.
A motion was made by Commissioner Houpt and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for **Alicia Salais Manufactured Home** due to double assessment in the amount of $45.06; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement to **Petroleum Development Corporation** for $2,033.35; Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement to **Barbara Hurwitz** for $1,305.12 due to the wrong assessment; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for **Peter Neutze** for $2,439.26; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to deny the abatements to **American Furniture Warehouse** for lack of information; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to deny the request **to Coco Cola Bottling Company of SLC/Swire Bottlers, Inc**. for lack of information; motion carried.

DISCUSSION OF THE 6TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 6TH AMENDED APPROPRIATION OF FUNDS. – JESSE SMITH

Jesse Smith presented the Resolution. The County Attorney noted the proof of publication.
Chairman Martin swore in the speakers.
A motion was made by Commissioner Houpt and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close approve the 6th supplement to the 2004 budget and the 6th amended appropriation of funds; motion carried.

Ex Session – RFTA Contract - Continued

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

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

Personnel Meeting - Continued

The Personnel meeting had been scheduled for the past two lunch times at regular meetings. It was decided to put this on as an agenda item and allow time for it.

Consideration IGA RFTA

Executive Director of RFTA Dan Blankenship and Renee Black, attorney for RFTA was present. Discussion was held regarding the letter from Renee Black in response to the Commissioners concerns. Don gave the history of the development of RFTA. Don confirmed some discussion with Renee on last Friday. This IGA would establish a certain proposed sales tax, participation, broad IGA with certain specifics and a process on which the County could go forward. Renee said they are also dealing with a number of other entities and sees this type of shorter IGA in order to get the question to a vote. Don said they also discussed why RFTA was responsible to pay the cost of the ballot question, the draft of the ballot question, etc. On the Ballot question the County would review the content of the language and there would be a mutually agreed agreement but for the cost, RFTA is statutorily responsible. Some references to Garfield County with a binding in unincorporated Garfield County only; question on notification – BOCC required to hold a public hearing but not before you adopt any agreement – there is a modified type of RFTA is they agree – this can be done after the election – very expensive for RFTA as they have to notify every property owner in the jurisdiction and didn't want to do this until approved. Includes all property owners in unincorporated Garfield County.

Don - if the BOCC elects to go forward there should be a final statement and follow the statutory requirements and in this agreement, the County shall sign the amended IGA and the County and RFTA should go forward. If it is approved by the voters, Don doesn't think it would be discretionary by the property owners.

Extensive Discussion continued involving Battlement Mesa taxing and no service but there is nothing that says there won't be service in Parachute.

On the subject of whether or not the County could get out of this IGA were the services to be cancelled after the 18 month guarantee on the Hogback Route from Glenwood Springs to Rifle. If the other municipalities don't approve their sales tax service in the I-70 corridor, then the service may be eliminated. Dan Blankenship referenced this to a school district or other kind of special district, there wouldn't be an option because RFTA needs to be making long range plans and not all agree to the decisions being made but the situation of service is dependent on funds; if decisions are not supported, then the threat or withdrawal could give any individual member more authority on the Board. RFTA said this is not the way we do it and you should be a part of it. There are other kinds of approaches if you come in as a member.

Chairman Martin still has concerns that there is no guarantee of service and Parachute no service; they must drive to the park and rides in Rifle, yet they still pay for it.

Commissioner Houpt said we make an investment in park and rides and others from outlying portions are driving to that park and ride.

Dan said that in New Castle there is a commitment for staff to work with RFTA; Rifle has a Worksession scheduled for July 7th to discuss the matter and City Council, 6 out of 7 wanted to see some benefits for the City and RFTA is going to work to do to show the benefits. Silt has held one meeting and wants RFTA to come back after the election; they have another meeting scheduled for July 28th. Parachute – last time was when they created the Rural Transportation – since then, no service – its tougher sell. Unknown on how much sales tax they would generate and if it would be feasible to offer service to that area.

Commissioner Houpt if this is put on the ballot important to look at that end of the County as well.

The Traveler funds - Dan referenced the agreement with the Traveler to provide $25,000. He suggested to provide in year one to provide $25,000 from unincorporated Garfield County tax collected or a percentage based on 2003; in unincorporated $350,000 tax was generated; 7% gives just under $25,000 to go to the Traveler.

Decision – Ballot Question

The Board could make a decision at the second meeting or wait until the 23rd of July. This applies to municipalities and the County and actually has until August 23 to get the ballot question to Mildred.

Don DeFord and Commissioner Houpt will miss the 1st meeting in July.

Dan Blankenship noted the July 8th meeting with RFTA

Clarification on two issues were to be made before the next meeting with RFTA - to allow the County to take the vote of withdrawing if the Hogback is discontinued – this is a critical breaking point; and the ongoing funding to the Traveler.
The Cost was projected to be about $1.50 per registered voters x 9200 therefore between $14,000 and $15,000 for the election.
Dan said that his Board will expect him to at least ask if Garfield County pay for ½ of the election costs.
Commissioner McCown noted that there were two elections where we have not received payments and a special district still owes the county since the funding mechanism didn't pass.
The final decision is to be made by the second meeting in July as to whether or not the County would consider paying a portion of the Ballot Question; statutorily it's RFTA's bill.
Commissioner McCown made a motion to continue this discussion on RFTA to July 12 at 1:15 p.m. Commissioner Houpt seconded; motion carried. The next draft will be submitted that includes the items discussed here today.

REGULAR AGENDA: BUILDING & PLANNING ISSUES

PUBLIC HEARINGS:

CONSIDER A REQUEST FOR A PRELIMINARY PLAN OF EAGLES POINT SUBDIVISION. APPLICANT IS BATTLEMENT MESA PARTNERS. – JIM HARDCASTLE

Tom Beard and Debbie Dooley of Schmueser Gordon Meyer, Jim Hardcastle and Carolyn Dahlgren were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Grand Valley Fire Protection District; Exhibit H – Colorado Division of Water Resources; Exhibit I – Colorado Geological Survey; Exhibit J – Resource Engineering – Michael Erion; Exhibit K – Letter from Steve Anthony, Garfield County Weed and Vegetation Management dated 5/6/04; Exhibit L – Letter from Daniel Hardin HP Geotech dated 5/12/04; Exhibit M – Wastewater Engineering, Review for Battlement Mesa Consolidated Metropolitan District with comments/responses from Schmueser Gordon Meyer Inc. in *Italicized* font and Exhibit N – Planning Commission Minutes – May 12, 2004.
Chairman Martin entered Exhibits A – N into the record.
Jim stated this proposed development is located at the intersection of Arroyo Drive and Spencer Parkway in heart of Battlement Mesa. The proposed property consists of 20.888 acres containing 60 lots with 56 units and a proposed density of 2.68 units per acre. The applicant intends to build single family homes exclusively. There are four open space areas proposed in the development of 0.127 and 0.654 acres and these are adjacent to Spencer Parkway which allows limited circulation opportunities for pedestrians.
Jim noted standard plat notes that didn't make it onto the staff report were subject to scrutiny at the Planning commission and an indication here that all standard plat notes will be added on a Condition Number 13; this includes the mineral rights.
Commissioner Houpt wants the may and should change to "shall ".
Applicant:
Debbie Dooley – the Planning Commission has some recommendations that were discussed and subsequent to the Planning Commission meeting they received some review letter from Waste Water Engineering, the reviewing engineer for the Consolidated Metro District and went through those comments with them last week and came to some resolutions. Currently Debbie said they are making design changes in water and sewer lines as we speak so there will be a set of drawing that will conform to their specifications. In their letter they suggested all changes prior to preliminary plan and Debbie suggested instead is that we make those changes and that the final construction drawing show their approval when submitted with the final plat. Recommendation No. 11 – David Blair has suggested rearrangement with the fire hydrants and Debbie said they are making arrangements with the new water line alignments and would like to drop this comment because those particular locations might no longer be appropriate with the new water line alignments and just like to say that our fire hydrant positions, that David is in agreement with the new positions of the fire hydrants as proposed. Say, that our final design will accommodate his recommendations and findings.
Tom Beard – noted the concrete curbs coming off the bridge at Spencer Parkway and Tom has had some informal conversations with the Road and Bridge Department and we have some concerns about the left turn area into the subdivision being too quickly across the bridge and with the fact of snow and ice in the

winter time, those may indeed be more than obstacle than we would like to have in there, the other medians would be concrete curb this will be work this out with the Building and Planning. Carolyn requested specific language and Tom said is says "concern" and in the light of full disclosure, this has been considered and if it looks like it can meet safety concerns we'll comply, otherwise we're strip it or otherwise meet satisfactory conditions for Road and Bridge – this is just part of the record. (Road and Bridge or engineer design). Carolyn – so whatever you come up with will be approved by Road and Bridge and engineering. Tom agreed. Item Number 12 is a final plat note that talks about fence heights and the statement is that the owners will build maximum fence heights – the intention there was to build fences that the deer are able to clear and wanted to clarify. Commisisoner McCown noted the standard we have of 32" so the deer can get over easily. Tom said this is their on-going development, it's a resubdivided down zoned from the approval of 300 plus units on the Exxon Plan, this is something that' more market driven with viable size. Open space – Tom said the intention is for a people park with Gazebo's that bisects the subdivision – the difficulty based on the 1982 decision by the Commissioners of all street being private, it then creates some real issues when you create these open space of ho maintains them and prior subdivisions we had a similar one called Stoneridge at Battlement Mesa, it has public streets and therefore the park became a real issue with the existing homeowners; this is private street and will be maintained by the private homeowners association and it will connect with the community trail system that goes to the master community association.

Staff Recommendation:

Staff recommends that Board approve the recommendation of the Planning Commission for the Preliminary Plat of Eagles Point Subdivision, a Resubdivision of parcel 3-3 Battlement Mesa PUD based on the findings noted and the following conditions of approval.

1. In the Final Plat application the Applicant shall include documentation that shows maintenance and management responsibility of the open space area by the Battlement Mesa Service Association.

~~2. The proposal shows Eagle Ride Drive is aligned with and opposite of Arroyo Drive. On the final plat the applicant shall rename the proposed Eagle Ridge Drive to read Arroyo Drive so as to conform to a system of signs and graphics designed for the total PUD area.~~ The suggestion to strike this requirement as a recommendation of approval from Planning Commission.

3. ~~HP Geotech shall verify that the proposed building envelope locations are adequate to meet slope setbacks prior to Board of County Commissioners approval of this plan application. Additionally, the covenants shall include recommended defensible space distances when considering rear of home placement~~. The Applicant has verified with HP Geotech which recommends "that building areas be set back from the steeper slopes in the western half of the subdivision based on an imaginary line extending up from the toe of the natural slope at 2½ horizontal to 1 vertical (40% grade.), and the lots located above slopes steeper than 40% are lots 25, 26, 27, 28, & 29 and lot 12. The platted building envelopes for these lots appear to have been set back from the steep slopes in accordance with our recommendations". 6/16/04 JWH

4. A Final Plat note shall be added that states: "Due to the widely varying site soil conditions including expansive clays, it is required that all lots shall have an individual site specific geotechnical study before a building permit will be issued."

5. A Final Plat note shall be added that states: "Complying with the below recommendations concerning water management and surface drainage are important for the long-term performance of home foundations. Irrigation water lines should not be laid near foundation walls or concrete slabs, or sprinklers allowed to splash against them. Landscapers should also be notified of the susceptibility to water sensitive soils at this site and adjust their designs accordingly. Surface water should not be concentrated and diverted onto steep down slopes unless they are adequately protected against erosion. The building lot boundaries are relatively close to the edge of the steeper slopes. Wetting and potential saturation of the steep slopes could possibly induce slope instability and localized shallow sloughing of the colluvial soils."

6. The applicant shall consider using concrete curb medians on Spencer Parkway and evaluate the need for additional left turn stacking distance in the final design.

7. The Spencer Parkway improvements for the emergency access shown on sheet C-11 shall be presented with more clarity and detail to clearly show the intended construction items.

8. Eagle Ridge Drive from the intersection with Talon Trail to the end is a cul-de-sac in excess of 600 feet. The applicant shall address the criteria of Section 9.33 of the subdivision regulations regarding cul-de-sacs in excess of 600 feet, prior to Board of County Commissioners approval of this plan application. In

evaluation of the cul-de-sac criteria the applicant may wish to consider improvements to the pedestrian/bike path with regards to emergency ingress/egress.

9. The Emergency Access Easement planned from Talon Trail to Spencer Parkway must be adequate for one-way, emergency access.

10. Based on section 4.60(C) of the Uniform Fire Code (UFC), Access to Public Right of Way, states that roads will be constructed as per detail – two eleven-foot lanes with a 30-inch curb and gutter section each side. Also, on-street parking must be prohibited and properly signed on all roadways as current typical dimensions do not allow for on-street parking

11. The proposed fire hydrant at Lot 26/27 shall be moved on the opposite side of the street, i.e. corner of Lot 15 & Raptor Court. Another proposed fire hydrant, located on the northeast corner of Lot 14, shall be placed equal-distant, between Lot 15 and Lot 48, on Eagle Ridge Drive. This fire hydrant can be located on either side of the street.

12. A Final Plat note and covenant shall be added that states: "pet cat and dogs be confined to the owner's property, home owners use browse tolerant plants, and build maximum fence heights."

And,

*that on **May 12, 2004** the Applicant's proposal was presented to the **Garfield County Planning Commission** for a recommendation to the Board of County Commissioners and that recommendation was to **Approve** the application with the following conditions:*

Christina Chapin moved to recommend approval of the Preliminary Plan of Eagles Point Subdivision to the BOCC based on findings on page 11 and staff recommendations on pages 12 & 13; striking #2 and add #13 standard plat notes. Add #14, recommendations included in Exhibit K. Jock Jacober seconded the motion. All approved unanimously.

13. the Applicant shall add standard plat notes on to the preliminary plat. 6/16/04 JWH

14. The applicant shall map and inventory the property. Mr. Taufer did inspect the site over the winter; a summer site visit will provide more details on what exists on the property. Russian knapweed and white top are common in the area. The applicant does address provisions for future weed management. 6/16/04 JWH

15. The applicant shall assign responsibility for future weed management in common areas and place said requirement in the covenants. 6/16/04 JWH

16. The Homeowners Association shall monitor lots, and if weed control is necessary contact landowners who must then take action to remove said intrusion... 6/16/04 JWH

17. For the surface area to be disturbed (3.6 acres), a revegetation security in the amount of $7200 shall be held (from the applicant) by Garfield County until vegetation has been successfully reestablished according to the Garfield County Weed Management Plan Reclamation Standards. 6/16/04 JWH

Carolyn clarified about the street that these are private streets by County regulation. The open space will be conveyed to the individual subdivision Homeowners Association at the time of final plat.

Commissioner McCown noted these were public streets from a standpoint of maintenance and the public does have access to these streets, it's not a gated community.

Tom said these are private streets and the County won't maintain them.

Commissioner McCown it is a public access to these streets by clearly privately maintained.

Tom agreed, there is no gate.

Commissioner McCown – asked Michael Erion on Number 6, if Road and Bridge through their review of this buys off on a painted medium type thing eliminating the concrete center barrier, is he okay with that?

Michael Erion – yes he is fine and they've had discussion about it. Originally at planning commission they thought it might be a good idea but some sequent discussion with Road and Bridge bought up some other safety concerns that may outweigh the benefits, so either way that Road and Bridge goes with it is fine.

With respect to the utility review, from his perspective for purposes of preliminary plan, the water and sewer utilities and their design do meet the requirements for preliminary plan. What the West Water Review is some specific items as far as being consistent with the District criteria as well as the District Engineer's own preferences on design. Michael's advice here is that he doesn't see that the West Water letter merits holding up preliminary plan and that those items are items that could be resolved at final plat in their final design.

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

A motion was made by Commissioner McCown and seconded by Commissioner to approve the Preliminary Plan for Eagle's Point Subdivision in Battlement Mesa with the staff recommendations 1 – 17

with corrections to No. 6 – reading "the applicant shall consider using concrete curb mediums on Spencer Parkway and evaluate the need for additional left turn stacking distances in the final design if approved by the Road and Bridge Department" and No. 11, rewording it striking most of it saying "that the final fire plan and hydrant location will be approved by Dave Blair the Chief of the fire district". Commissioner Houpt seconded; motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A "COMMERCIAL /RECREATIONAL FACILITY/PARK" FOR GLENWOOD CAVERNS PROPERTY ON IRON MOUNTAIN. APPLICANT IS POW, INC. – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Steve Beckley and Gina Beckley were present.

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

Chairman Martin swore in the speakers.

Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G –Letter from Glenwood Springs Fire Department dated 4-20-04; Exhibit H – Email from the County Vegetation Manager dated 4-27-04; Exhibit I – Letter from the City of Glenwood springs dated 4-20-04; Exhibit J – Letter from the Bureau of Land Management dated 4-13-04; Exhibit K – Letter from Lyle R. Moss dated 5-9-04; Exhibit L – Parking Study completed by Walker Parking Consultants dated 5-50-4; and Exhibit M – Letter from the City of Glenwood Springs dated June 1, 2004.

Chairman Martin entered Exhibits A – M into the record.

Fred reported this was a request for a SUP to allow for a Commercial/Recreational Facility/Park at the Glenwood Fairy Caves on Iron Mountain on 78.83 acres of property with BLM land to the North and West of the property. In 1999 the Board approved a SUP application for JMB properties to allow for the facility/park in the AI zone district memorialized in Resolution No. 99-065. The Board approved amendments to the terms of that permit to add the tramway that provides the main access to the upper site, an extension of time to complete the upper building and change the method of sewage treatment.

The applicant proposes to amend the SUP by expanding the types of uses and hours of operation for patrons of the present operations in a phased development plan over the course of the next 4 years to 2008. All these expanding types of uses will occur at the upper site; there are no expansion of uses are proposed for the lower site in Two Rivers Park. The proposed uses include: snack shop, banquet facility on the top floor of the existing visitor's center/restaurant, an expansion of the visitor center/restaurant, performance amphitheatre, falconry, alpine coaster, zip line, giant swing, Indian education center (teepee), photography studio, climbing wall, movies, challenge (ropes) course, paragliding, mini golf, and show shoe rental. The new hours of operation are proposed as between 6:30 a.m. to 11:30 p.m. Sunday through Thursday and 6:30 a.m. to 12:30 a.m. Friday and Saturday. The proposed expansion is sought to provide more on site activities to occupy patrons as they wait for their cave tours to start. The project spans two jurisdictions with the base tram building and associated parking located in the City of Glenwood Springs and the caverns, associated existing improvement of the restaurant/visitor's center, interpretive activities, etc.) as well as all the proposed uses occurring in Garfield County. The acreage on the upper site is 78 acres.

Fred provided a power point with some movies as well showing the proposed improvements.

The parking spaces proposed are 205. The maximum recommended guests proposed is 400 guests.

The amphitheater is proposed to seat 100 people with the flexibility to expand to 400 seating. The viewing aspect was done from the Glenwood Springs downtown area. Specific areas of the amphitheater would be seen in Glenwood Springs and No Name and requests were made for natural screening to mitigate the building. It will face Lookout Mountain.

The Alpine Coaster illustration from Germany was shown. This is a chain ride with speeds of 25 mpr. It is elevated off the ground sitting on footers and moves through vegetation.

Parking is a main issue and the uses are in Garfield County and the traffic is in Glenwood Springs. Currently they have 118 spaces and was approved by Glenwood Springs with a 72 room hotel, etc. They have a current application with Glenwood Springs for a 72 room hotel, a 5,000 foot restaurant and parking plan. They based their usage on the number of bodies – 400 above; a shared parking use in addition to the 450 and 72 spaces and 50 for the restaurant. In general Fred said they agree with the usage. 70% will use their own cars; 30% will use busses, tour busses and walking from local hotels. The City's take on the parking is that even now there is an overfill of the available parking spaces. The parking is clearly the

City's issue. Fred said they suggested that the Board condition it on not giving an SUP until they have the parking approved by the City. Condition No. 14 speaks to this.
Fred reviewed the concerns by the reviewing agencies.
Staff Recommendation: Staff recommends Approval to the Board of County Commissioners for the Special use Permit, with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. This Special Use Permit approves the following operations:
    a. Hours of operation will be from 6:30 AM to 11:30 PM Sunday through Thursday and 6:30 AM to 12:30 AM Friday and Saturday;
    b. The tramway towers and cabins will not be lighted;
    c. Activities offered on the site will be cave tours, covered picnic area, nature trails, gemstone sluice mining, geode cutting, astronomy observatory area, fossil dig, snack shop, banquet facility on the top floor of the existing visitor' center / restaurant, an expansion of the visitor' center / restaurant, performance amphitheatre, falconry, alpine coaster, zip line, giant swing, Indian education center (teepee), photography studio, climbing wall, movies, challenge (ropes) course, paragliding, mini golf, and snow shoe rentals;
    d. Passenger gondolas shall continue to accommodate bikes;
    e. The ultimate build out capacity for the gondola is 36 gondola cars in 12 groups of 3 with each gondola car having a 6 passenger capacity;
    f. The Applicant shall be responsible for snow removal on 50% of the roadway width on Transfer Trail to provide for emergency access; and
    g. The passenger gondolas will be designed to be ADA accessible.
3. The Applicant shall continue to adhere to the following suggestions provided for by the Division of Wildlife in Sonia Marzec's referral letter dated April 16, 2002:
    a. There shall be no outside storage of any trash or garbage anywhere within the property, with the exception of bear-proof trash containers
    b. Refuse kept in non bear-proof containers should be kept within secure structures that are not likely to be broken into by bears
    c. There shall be no dumps or underground disposal of refuse on site
    d. Except for bird feeders, the feeding, baiting, salting, or other means of attracting wildlife to site is prohibited
    e. Bird feeders should be strategically placed to avoid being an enticement for bears
    f. Tourists and other users to the site should be made aware of the local wildlife community by utilizing information provided by the Division of Wildlife.
4. The Special Use Permit will last as long as the Applicant has possessory use of the access easements to the cave property.
5. Regarding fire protection and emergency services, the Applicant shall commit to the following conditions as designed by the Glenwood Springs Rural Fire District:
    a. If a grill is installed in the plaza it shall require a fire suppression system (Ansul);
    b. The expansion of the visitor's center shall require fire alarms/detection system and the expansion shall be required to be sprinkled. Before the expansion, the Applicant shall install additional water storage (two 17,000 gallons tanks adjacent to the existing water tanks). This will being the total water storage to 68,000 gallons;
    c. The new photo center/candy shop shall require fire alarms/detection system and the new building shall be sprinkled. Before the new building is built, additional water storage shall be required;
    d. The remaining smaller buildings (Grill, discovery rock, etc.) do not require fire alarms/detection or sprinkler systems;
    e. The alpine coaster shall be designed with a way to provide emergency vehicle access to the bottom of the coaster where the return begins;
    f. The hammer head turn in the plaza shall continue to be required to remain clear of obstructions at all times;
    g. The material on the top of the shade structure shall be required to be steel;

h. The road to the amphitheater needs to be a minimum of 10 feet wide; and
i. With the delay in response caused by poor access to the site, the Applicants shall be required to stage some basic emergency medical and fire fighting equipment on site. The Applicant shall work with the Glenwood Springs Fire District to get direction on what supplies to stage on site.

6. The Applicant shall obtain an ISDS permit from Garfield County for the proposed leach field.
7. At present, the Applicant shows a "proposed route" for the Alpine Coaster. Staff suggests the Applicant be required to provide the Planning Department with the finalized route when the Applicant intends to construct the coaster to ensure that any site disturbance and emergency access issues are addressed.
8. The applicant must continue to maintain an operator's license from the Colorado Passenger Tramway Safety Board. The Applicant shall maintain a valid operator's license from the Colorado Tramway Safety Board throughout the life of the project. If the operator's license for the tramway is revoked by said Safety Board at any time, the Special Use Permit shall also be revoked. At any time during the life of the project the County may ask the applicant to produce proof of a Colorado Passenger Tramway Safety Board license that is in good standing.
9. The Applicant shall submit "as-built drawings" for any new utilities that are installed at the upper tram site to the City of Glenwood Springs Public Works Department.
10. The Applicant shall adhere to the phasing schedule as submitted in the application. In the event it is anticipated that a particular phase cannot occur, the Applicant shall be required to return to the Board of County Commissioners to adjust the phasing schedule on their approval. It shall be the Applicant's responsibility to track their phasing schedule.
11. Prior to any plans for the expansion of the performance amphitheater, the Applicant shall submit plans and a new parking analysis to the Board of County Commissioners and the City of Glenwood Springs Planning Staff. In addition, the Applicant shall provide a general scheduling plan for large end-destination events at the amphitheater so that parking at the lower site does not become an issue. This plan shall be submitted prior to issuance of the Special Use Permit.
12. The Applicant shall design the exterior of the amphitheater in order to effectively minimize visual impacts through the use of architectural features / details and natural vegetative screening. The Applicant shall present a "screening plan" to Staff prior to the issuance of a Special Use Permit.
13. The Applicant shall adhere to the City of Glenwood Springs lighting requirements for all uses requiring lighting. This shall also apply to proposed lighting for evening performances on the amphitheater.
14. In order to ensure adequate parking has been provided pursuant to the Walker parking analysis, no Special Use Permit shall be issued to the Applicant until the Applicant has obtained the necessary approvals from the City of Glenwood Springs that demonstrated adequate parking. In addition, and based on the Applicant's representation that parking is adequate, peak visitor usage at the upper site shall be limited to no more than 450 visitors at any one time.
15. <u>Any</u> modifications of this approval by the Board of County Commissioners shall require a new Special Use Permit review.

Commissioner Houpt and in condition 2 – Gondolas: Steve said they are accommodating bikes now; they come Transfer Trail but so far there hasn't been a lot of traffic.
Commissioner McCown on the Parking issue in No. 14 – this SUP is asking for the usage at the top. If I was a customer and the parking lot was full, it would be the Caverns loss. He didn't feel we should make this conditional on Glenwood Springs.
Fred justified – if the City doesn't approve it, then the parking issue would need to be addressed.
Commissioner McCown –the City may request they reduce the number of hotel rooms or restaurant seating to accommodate the parking.
On the route of the Alpine Coaster, Commissioner Houpt was okay as long as it can be addressed administratively. Does it address the view shed and does it give the staff the authority.
Steve Beckley addressed the Alpine Coaster regarding visual impact saying the average grade is 10% - hiking trails go at a 5% grade. The Alpine Coaster will not even require that they cut trees, it will down in the brush and in front of it and you shouldn't see any part of it; the only potential would be on the return and there is a road that goes below the tram and you can't see it either from town either and it goes straight up. The return will be the same road. The goal is not to have this seen by the town of Glenwood Springs.
On the parking analysis, Steve said this is an isolated location and if the parking lot is full there is no other

place to impact. It doesn't affect anyone but them. In the middle of the summer there are about 90 parking spaces. They also plan to have their staff use a park and ride and bus into to work. Bus access is on transfer trail and no other motorized traffic is allowed. Snow shoe area is only on their property. BLM doesn't mind any type of trail use by horseback, hiking, bikes or skateboards just no motorized traffic.
The alpine slide will snake through the brush. They had a sound impact at the site and no impact would be heard from a rock concert.
No. 14 – the condition on parking – Commissioner McCown asked Steve his preference, move forward on this application and what you are wanting permitted today and take your changes with the City of Glenwood Springs.
Steve would not like this new condition and it was not recommended by the Planning Commission and would not like it linked to the City approval on parking – Condition No. 14. There are issues with parking but they should be separate. His concern is since there is no amendment process, if this is conditional on the City, would he even have a valid permit because the City hadn't approved the parking. If the City says no, does it invalidate the tram and everything?
Mike Blair – emphasized that we are a resort community and this is very appropriate to add tourist and recreational activities – the City recently approved a paragliding activity. Traffic and parking are the only impacts that should be addressed.
Commissioner Houpt – on color treatment on towers – Steve said they could go with colors to fit in. Some could be out of wood. The only tower that will skyline is the 40 foot tower and painted dark green it would be less visible.
Steve summarized that he liked working with Fred and all representations and conditions except Number 14 are agreed to. Steve would like no. 14 eliminated. The tram cars control the number of people.
Number 7 - Carolyn clarified that conditions No. 7, 10 and 11. These three conditions delegate the authority to staff.
Commissioner McCown – clarified that any expansion of the amphitheater is a new SUP application because it is a significant change of permitted use. Commissioner McCown has no problem with Conditions 7 and 10 administratively, No. 11 is clearly a change in the initial permitted use and that would require another permit.
A motion was made by Commissioner Houpt and seconded by Commissioner to close the public hearing; motion carried.
A motion was made by Commissioner McCown that we approve the Special Use Permit to allow for a Commercial and Recreational Facility/Park the conditions as presented by staff, number 7 being changed to also read "that any view shed issues and color selection be dealt with administratively, number 10 also would be handled administratively, number 11 will read "prior to any plans for the expansion of the performance theater a new special use permit application will have to be submitted to the County Planning Department" and number 14, I would like that sentence to read "parking is adequate based on the applicants presentation for peak visitor usage at the upper site and no more than 450 visitors at any one time be allowed" and that will be hard to enforce but it is a goal we need to put there and sure the fire department has some load restrictions as what they will allow in the building as well, so how you maintain this, we need that number." Commissioner Houpt seconded the motion. Chairman Martin – Number 15, clarification, any modifications to it require a new permit, so we have allowed certain things to happen and they need to be specified. Commissioner McCown the phasing and the location of the coaster are administratively. Motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR APPROVAL OF A RESORT. APPLICANT IS THOM AND CAMILLE TOLER. – JIM HARDCASTLE

Jim Hardcastle. Bill Balaz, Thom and Camille Toler were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Garfield County Building and Planning, Chief Building official; Exhibit H – Garfield County Road and Bridge Department; Exhibit I – Burning Mountain Fire Protection District, Exhibit J – Department of the Army Corps of Engineers and Exhibit K – response from the applicant.
Chairman Martin admitted Exhibits A – K into the record.

Recommendation to continue the public hearing
Exhibit K was discussed. The applicant Thom Toler said he believes this answered all the concerns.
The hearing continued even though the staff had recommended continuing.
Thom said the Laundromat only consists of one washing machine and dryer to do the towels and sheets. As far as the septic system, he is very confident in his figures that it's completely adequate for this first phase.
Jim Hardcastle responded saying he is not an engineer and thinks this needs to be referred to an engineer.
Bill Balaz said they have an approved ISDS that will adequately handle the need. They are under the 2000 gallons and this is the deciding factor before the state will take jurisdiction and all this can be reviewed by the health department; the county retains the control.
Jim Hardcastle stated it would take 4 to 5 weeks to get this reviewed.
Commissioner McCown suggested this could be a condition of approval. And
Chairman Martin noted for the record that we are moving ahead on the applicant's request even though the staff has concerns over some technicalities.
Thom Toler asked if this issue can be a condition of approval before any permits are issued.
The Board informed Thom that potentially, but no decision has been made of approval or disapproval at this point.
Jim reviewed the proposal for a SUP for a Resort Designation located South of Silt, south of I-70 approximately ¼ mile on County Road 311. The applicant requests resort status on the 6 plus acre parcel to develop his project in phases. The property is now being used as single family use, an additional dwelling unit (un-permitted" and a storage building used to store materials for the applicant's business, TOMCA construction, which is un-permitted for a home occupations use. In the first two years they will modify the present ADU to be used as a lodge facility, build three additional cabins, and establish a trout pond and fish cleaning facilities, laundry facility, engineered mound septic system, gazebo for day use for such activities as reunions, weddings, anniversaries, etc. and augmented by the use of portable toilers. The additional phases of the proposal would be brought to the Garfield County Building and Planning Department as they are in the application for long-range informational purposes and are not part of the SUP proposal.
Jim stated that there is a change and staff does not recommend approval.
Commissioner Houpt said the facilities need to be put in versus portable toilets.
Applicant:
Bill Balaz addressed the comments on the access road, saying the road is adequate; he emphasized that the sewer was adequate for phase one and that is the only thing they are asking approval for today. He referenced again Exhibit K and reviewed it with the Board.
Chairman Martin – clarification as to the sewage capacity, is it 80% they need to go ahead and start planning for the future and 95% they have to have something in place.
Mark Bean said it there was a public facility they would be subject to the State Health Department Regulations that would be correct. Based on the applicant's representations and this is again where staff has not had opportunity to review this, under 2000 gallons is not subject to those regulations.
Commissioner McCown made it clear but as along as the public is utilizing this facility they will have to follow the Clean Water Drinking Act and be a licensed provider of clean water to these people, be it not a transit community source but they will have to provide that and their using 75 gallons per day per person in their calculations and the county uses 100 gallons per day for person for the calculation. Under that calculation the county uses to size systems, they would be in excess of the 2000 gallons.
Mark hasn't reviewed it and without further review would have to agree with Commissioner McCown.
Commissioner Houpt they need to have long term facilities instead of portable toilets and this would put them above that.
Thom – they are not dependent upon portable toilets; each cabin has its own bathroom, this is basically just a convenience because the pond to fish in is way back in the back of the property – we really don't need these. Everyone that would be fishing out there has their own facility that they would be staying in, either the existing front cabin or one of the three. These portable toilets were to be put back by the pond for the fishing. If they had a wedding these portable toilets would only be used temporary and for one event only. Like Silt Heydays, an every now and then type of thing.
Bill Balaz on 85% and 90% capacity for the sewer, Phase I is the only phase they would propose to use ISDS beyond that we would not have any additional expansion or other phases would be after municipal services are available for sewer and water.
Recommendation and Conditions:
Staff recommends APPROVAL, with the following conditions of approval:

1. That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. That the applicant obtains all building permits and inspections consistent with the adopted rules and regulations of Garfield County for all development within the resort area.
3. Prior to the issuance of the Special Use Permit, the Applicant shall submit an engineered design for the second mound system to the Garfield County Building and Planning Department.
4. A Section 404 Permit for the day use access road crossing of the Colorado River and the development of the trout pond shall be obtained if they involve some component of dredge or fill material and then shall be resented to the Garfield County Building and Planning Department prior to the issuance of the Special Use Permit if necessary.
5. The applicant shall submit an updated report to the Garfield County Building Official discussing the laundry component use in the first phase and estimated water source requirements which do not show up in the septic requirements of the proposal prior to issuance of the Special Use Permit.
6. As per Colorado Department of Health ISDS setback standards, an engineer shall verify the appropriateness at time of installation of any new septic systems and any permitting as may be required for the main lodge and kitchen.
7. The applicant shall utilize the Elevation Certification guidelines used by FEMA for construction in a floodplain for all dwelling units and construction associated with the Special Use Permit and provide evidence of this requirement prior to issuance of the Special Use Permit.
8. Fire access roads shall be a minimum of 20' feet wide.
9. If any further expansion of the use be attempted, the applicant shall readdress the proposal with and obtain the necessary approvals from the Board of County Commissioners.
10. All exterior lighting be the minimum amount necessary and that all exterior lighting be directed inward, downward and towards the interior of designated cabin sites, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

Carolyn asked the Commissioners, to clarify this is Phase One only and there's not a delegation to administrative staff to deal with other phases if you go for approval.

Commissioner McCown – a lot of protection and some redundancy built into the conditions of approval particularly Number 3 and 6.

Carolyn stated they could be combined.

A motion was made by Commissioner McCown to close the Public Hearing.

Commissioner Houpt asked to hear from the applicant before closing the public hearing what kind of conditions we'll have that will satisfy the staff's concerns.

Motion carried.

Commissioner McCown - Condition 3 and 6 would more than adequately address the adequacy of the septic system, they have to have an engineered system before we issue the Special Use Permit and adding No. 11 requiring a 4-hour pump test to ensure the quality and quantity of the water that's alluded to that we don't know.

Commissioner Houpt clarified with Jim if those conditions would satisfy his concerns.

Jim said generally they would if we have a response back from County Health and Colorado Department of Health and Environment.

Commissioner McCown said you weren't going to get a response back from the State.

Mark – we'll get technical assistance.

Commissioner McCown – Wayne Watson will write you a letter saying we don't respond to that.

Jim said the remaining information we'd like to see as part of that submittal to health or any other technical assistance that we gain is precise placement of the leach fields, mound systems, the tanks, all of the information involved with that.

Commissioner McCown all of that would have to be in an engineered system and that's all part of an engineered system, location, height of the mounds, method of evaporation etc.

Commissioner Houpt – as long as these address staff's concerns then she won't put a motion to continue on the table.

Applicant's response to Condition No. 11 – Thom said we do have two permitted wells on site that have gallons per minute and believe they show there's capacity.

Commissioner McCown – we still require a basic water test and pump test.

Bob Balaz took water pride in that system, he's spent probably 300 hours putting that fresh water system together and it's delicious water, so he's confident.

Carolyn – confused on the engineered design for the sewage system, is Mark saying on behalf of the Building and Planning Department that he needs Mr. Erion to review those?
No.
Mark said one issue that he's hadn't heard discussed further is the use of the portable bathrooms. Commissioner Houpt was going to discuss this if we got that far because she believes this should not be allowed.
Chairman Martin – the applicant has offered his understanding and also reasoning behind it.
Commissioner Houpt but it's a condition if we get that far.
Commissioner McCown – in any form you don't think they should be allowed?
Commissioner Houpt not for a long term proposed use, if there's overflow that needs to be taken care of that's fine but not to satisfy the use that's planned for that area.
Chairman Martin – no permanent use.
Commissioner Houpt – I guess I need a definite that you feel okay with the wording that your conditions have, you're confident that you'll get what you need if we don't continue this.
Jim – short of the port-a-potties that Larry just mentioned, yes.
There is a motion on the table to close the public hearing. Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion that we approve the special use permit for the allowance of a resort designation applied for with Conditions 1, combining Conditions 3 and 6 to read "prior to the issuance of the special use permit the applicant shall submit an engineered design for the septic system to accommodate all needs and actions to occur at the resort as per the Colorado Department of Health, i.e. setback standards, the engineer shall also verify the appropriateness of installation of any new systems and any permitting as may be required for the main lodge and the kitchen"; adding Condition Number 11 the normal 4-hour pump test to be verified and your short water test to be done on the water to prove water quality and quantity."
Commissioner Houpt – are you going to address the portable toilets.
Commissioner McCown – I did in that all activities that occur on the property, the sewage system has to be sized to handle that, there were no provisions in my motion to allow port-a-potties.
Commissioner Houpt seconded the motion. Motion carried.

CONSIDER A REQUEST FOR A PLANNED UNIT DEVELOPMENT FOR THE ROCK GARDENS PROPERTY IN NO NAME, CO. APPLICANTS ARE KEVIN AND KATHLEEN SCHNEIDER. – FRED JARMAN

Fred Jarman, Ron Liston, David McConnahey, Ron Wilder, Tom Zancanella, Kevin Schneider and Carolyn Dahlgren were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
John 1308 – purpose of any county zoning – property owners none of the mobile home owners in the park – listed on the County Assessor's roles.
Carolyn – don't own the property under – our noticing has to do with property owners and the posting requirements would take care of the - upset about those living in mobile homes.
Carolyn – the only is leasehold interests and property owners. Theoretically has to do with State law and County regulations. Own personal property.
Martin – understands you are affected, personal property and not owners of real property.
The Commissioners noted the objection but did rule the notification process was adequate.
Chairman Martin swore in the speakers. **Redo the lettering and see the staff report**
Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D - Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Staff memorandum; Exhibit F – Application materials submitted by the applicant; Exhibit G – Letter from Resource Engineering dated 5/05/04; Exhibit H – Letter from the County Vegetation Director to Building and Planning dated 4-19-04; Exhibit I – Email from the Road and Bridge Department dated 4-28-04; Exhibit J – Letter from the Division of Water Resources dated 4-28-04; Exhibit K – Letter from Leavenworth and Karp to Building and Planning dated 5-05-04; Exhibit L – Letter from DOW dated 4-26-04; Exhibit M – Letter from No Name Property owners to Planning Commission dated 5-10-04; Exhibit N – Letter from John Auster to Planning Commission dated 5-12-04; Exhibit O – Supplemental Application submittal received on 6-11-04; Exhibit P – Additional comments from Michael Erion dated 6-16-04; Exhibit Q – letter from the State Health Department dated 6-16-04; Exhibit R – letter from Eric Mangeo dated 6-20-04; Exhibit S – Letter from L.

E. Carol – dated 6-21-04; Exhibit T – Letter from Glenwood Springs to Ron Wilder dated 6-20-04 and Exhibit U – Letter to the BOCC from Mark and Melissa English.
Chairman Martin entered Exhibits A – U into the record.
The letter has not been received from the Division of Water Resources and it is merely administrative and based on this, a letter will be received at some point. Therefore, Fred agreed to send it to the BOCC.
Ron Liston – feels it is appropriate to hear testimony and requested to proceed through testimony and at the end leave the hearing open.
The Board concurred.
Exhibit O – additional information after the Planning Commission and not reflected in the power point.
Fred reviewed the proposal for the owners of the Rock Gardens Campground with a power point presentation. This is requested so that they may pursue a phased development plan to improve and enhance the existing uses and operations at the property which is a 43 acre parcel. Currently the uses include a mobile home park, tent and RV camping, single-family dwellings, and recreational activities including rafting, jeep tours, and bicycle rentals. The majority of these uses have occurred on the property since the 1960s prior to the establishment of zoning regulations/districts as well as the comprehensive plan. As a result of the non-conforming land uses that have occurred on the property over the last 40 years, the applicant proposes to obtain the proper land use approvals in order to brig the current operations and expanded uses into compliance with the County's land use regulations.
The applicant proposes to accomplish the integration of the new uses in a two-phase approach. Fred reviewed the Phase I and Phase II plans.
Exhibit Q – a new letter from the State and this is because the Rock Gardens have been approved for a wastewater system. The location of the system was questioned and Fred said the State did approve the move of the system.
Project Component Request – amend and rezone the property with a zone district and legitimize the uses already there to recreation.
Exhibit O – set of plans showing what is proposed. Fred reviewed these as they modify the entrance and upper site with cabins and tent sites; proposed community center and where the mobile homes will be phased out in Phase II. A site visit was done and Fred showed the slides of that on-site visit.
The Planning Commission did approve a recreation designation of the property. At present there is affordable housing and the mobile homes are owned individually but the property is owned by the Rock Gardens. The mobile homes are to be phased out and replaced by RV's and rental cabins. Ironbridge, Sunlight and now this one are the only Recreational Designations within the Comprehensive Plan.
Open Space – page 13 – this provides four different open space – 10.78 acres with 3.75 acres as usable or recreational open space. The property across the river and the Colorado River is open space.
Secondary Access – the applicants understand the situation but nothing has been sent back from CDOT. This issue was brought to the Board's attention. The fire department does not feel there is a need for a secondary access. The Planning Commission agreed to have the applicant's level out the area and they have done that down to a 6% grade. The Subdivision Regulations note that a 4% grade coming to an intersection is standard.
Last issue – the buffer barrier as shown on the site plan, the western barrier is taking a lot of vegetation and need to show us a vegetation plan. Sheet 7 of the plan shows the plan and shows an improved trail system (a 3' soft trail). Width of the main entrance – 25 feet and they have gone to the 26 feet, 22 feet of pavement and 4 feet of gravel.
Applicant: Ron Liston – outline of the staff recommendations were used for discussion. Ron said they met with the staff and condition No. 2 we have met with the fire department and looked closely at the water situation and that's a new exhibit - Exhibit T – June 18 letter from Ron Biggers from the Glenwood Springs Fire Department which addresses a variety of topics. The fire system and agreed upon doing a dry hydrant on the lower terrace level and then dropping a hydrant that they were proposing to take down there. Ron also reviewed, the P & Z had adopted a condition that the second phase fire hydrant which was then located by the Community Center building, that not occur until the second phase of development. The condition from the P & Z was that that be included in the first phase and that complicates the continued operation of the mobile home park in the interim until we actually make that revision, so he agreed that is appropriate and we will simply tap onto to the existing water system to serve the mineral water needs of the waste water treatment plant until such time as the water system of phase two is constructed. The other phasing element related to the sprinkler systems and his letter clarifies that the new building constructed will have the fire suppression sprinklers added and when we remodel the existing building that's when we would take

fire suppression sprinklers into the existing parts of those buildings. The net result was we want to revise that condition later on that calls for the all fire hydrants being built in the first phase and allow the water system to be constructed as it is laid out in the phasing plan. Numbers three is a valid condition and have discussed various places to put it and based on the approval is the right place to do it. Number 4 that's where the requirements for the fire sprinkler system has been called for in the zoning requirements and the clarification from Mr. Biggers that it occur in the existing structures when they're remodeled. Number 5 – the emergency access - when we first talked and some conservations were talking place with Fred he envisioned RV's going out that emergency access but Ron Liston did not – he was looking at it being a potential emergency vehicle, pickup size, first response, or an ambulance coming down to a location by the community center where there is a turn around parking area that we can simply extend over to the fence line – the fence was built by CDOT and we need to do ramping to get up to the grade of the fence. Ron said he didn't see the need for the emergency access. If there's a blockage like a wildfire, one we have the fire protection water and it would be a brief time area that the area would be blocked. He was thinking more in terms if something happened like an RV gets disabled and blocks that even no fire, it's blocked and time to get it moved, then if someone had a heart attack you can easily use the trail and it's a pretty easy way to get an secondary access out of there. We're more that willing to commit to building those – we have access to the fence and we'll continue to pursue with the State if they are willing to let us put a man gate in that fence or whatever they will allow. We request that you not make it a condition that is dependent upon us getting that. The bottom line is ultimately if there's an emergency, we'll cut the fence and then talk to CDOT afterwards. This secondary access is not for RV's to be taken out. They will make efforts to get access to the fence and will work with CDOT to get a way out. No. 6 – we recognize the need alarm system requirement and included. When we get down to the continuance we will modify this list and some revised regulations include that requirement. No. 7 – bear proof requirement is included. No. 8 –the question and main issue we have remaining is water rights issue with the State and David McConnahey responded. David McConnahey - The issue is that at the time this application was filed, there was a draft water court decree in the application which is what we were asking the water court to approve and so when it was referred down to the Denver office of the State engineer the comment came back saying here's the draft decree and I have some issues with it, and don't think the Judge will sign it and a number of things have to happen. Before the letter was ever issued, the Judge did sign it with some changes made at the request of the local division fire engineer, so there is now a court order saying that the water supply plan is legally approved for this project and it covers more usages that are being proposed in the PUD. It was really a miscommunication. Well of the objections was that haven't obtained new well permits well the court order mandates he issue them. 2 months ago they sent the court order and have been waiting to hear a response saying everything is cool. Unless he disobeys Judge Ossola's order there's not anymore to say about it. Ron Liston – the relocation of the wastewater plant, Fred pointed out and you have an approval from Mr. Watson and this works out quite well. No. 10 – Community Building – didn't want it moved so the relocation keeps the site in place. Therefore, this condition is not necessary. No. 11 – the language has been added to the zone regulations to accommodate that. No. 12 – driveway requirements, those are the standard in your original application. No.13 is the phasing question, yes, the waster water treatment will be built as part of Phase I, but the fire hydrants are the section we want the water system to be built according to the Phasing Plan in the Supplemental Package. No. 14 – weeds, supplemental package there is a response by Kirk Beattie that we went to great lengths to identify all the plant material located on this project and acknowledging that there are a variety weeds scattered in small quantities around the site that the Schneider's have done well with over the years and continue request they continue that same process. The Regulations state in the PUD that the owner shall maintain control of noxious weeds. No. 15 – this topic we discussed and the intent it phasing out the mobile home but there is a transitional issue that one of the things the Schneider's have been doing is whenever a property is vacated and acquire a mobile home unit, he has put his own unit in there in order to have control as much as possible. This may take a couple of years to see the transition occur so we need to allow him to continue the process. Once we accomplish the removal of the mobile homes with the RV Spaces, at that point we're saying the mobile home use would expire except for accommodating for employee housing. A coupe of mobile homes could be occupied by owners and/or employees directly of the operations there at the Rock Gardens. They did look at reducing the gradient to a grade for much easier – secondary factor – if you look at the No. 16 is the most challenging for us and tremendously impact full – we did look out flattening that grade, reducing the gradient to what we felt was a reasonable degree grade that makes it much easier and a lot of the challenges there for an RV because of the currently low RV activity in the winter and it's primary the mobile home

residents that are familiar with the situation and do well. A secondary factor we noticed to, as you recall on the photos that Fred presented, the entry gate, and the stop sign is located on the entry gate post which is back from where people are going to stop to have visibility and closer to the intersection. One thing proposed was we would move that stop sign on a separate post providing us some notification of the stop approaching but the analysis we did ended up meaning that in that entry area for a couple hundred feet we were going to be doing some filling in there and that complicates our access to the units beside it but it was a level that we could probably deal with. We did that and we could then transition back into the grade with the rest of the road that's about 7.5%. After we saw the staff comments, the engineers plotted and Ron has a detailed plot of that 4% and it essentially about doubles the length that it takes us to try transition back into the native grade so you're filling another 3 to 4 feet on top of what we were doing and going down and instead of affecting a couple hundred feet we're going like 480 feet down the roadway. That extra 2% effort to try and flatten out has a dramatic impact on the amount of fill we had to put on that road and thereby then the entire fill we had to do on the adjacent RV spaces to even make them accessible. It's an enormous impact and beyond doubling the amount of dirt work and effort it would take to try to get that down to 4%.
Chairman Martin –unless you stair stepped it – certain sections, certain grades, stepping it on the main road.
They were planning to stair step the sides.
Chairman Martin suggested the road itself too instead of doing it all in one straight grade or trying to level everything and bring them up you just stair step.
Ron Wilder – It is an 8% grade now and pretty steep and if allowable we could go 10% but that may create issues as well with RV's pulling out of the site with snow on the roadway; he'll just get stuck at the bottom of the hill as opposed to the top of the hill.
Ron Liston - the engineers have looked at this and tried to get the right balance of opportunity in there and the other factor is that this is a winter time issue and primarily the challenges occur on the lower site than the upper part because this part does get sunshine and does melt off so the 6% grade proposed is a reasonable solution combined with the stop sign to what a normal stop sign position would be. Combined with sanding you've got a management operation on site that is important to them that this flows well and you have reduced activity. There won't be RV's in there in the winter time to the amount you will have in the summer time, so this is a reasonable and practical solution. Once going beyond the 4% we get into an impractical level in terms of the gradient and amount of fill and the way we affect the overall appearance and grade of the site. Ron asked the BOCC to accept what we've proposed with a supplemental submission as a solution to that area. Ron summarized that these were the key points. With that he was open to respond to questions and leave with the request that we continue this onto a date certain.
Public Input:
Brian Vandermier – CR 129, No. 18 – a nine year resident of the Rock Gardens Mobile Home Park in No Name and mobile home owner. In regards to the PUD he said this would be the best use of this property. This PUD will add jobs and increased tourist revenue for the Garfield County and Glenwood Springs economy; it's a step forward to the tourist industry that's now become more or less the sable backbone of our economy. Some of the mobile homes are 28 to 30 years old; some are literally falling apart and contributed to an environment that is not the greatest to live in or to raise a family. It is time to renovate this property to a more conducive use of the area. The Schneider's will be building employee housing in their future plan if this is approved and it will benefit his family personally. As an upgrade resort, Rock Gardens will provide a needed service to the local tourist industry and provide an opportunity for many others to enjoy the scenic view of the Glenwood Canyon, enjoy qualify family camping experiences. The No Name community overall will experience little to no change in the present impact Rock Gardens makes. This PUD approval may even lessen traffic and noise. As a No Name resident he hopes this is approved.
John Ainsuly –1308 CR 129, No. 7 and reserved further comments on the extra exhibits that he has not reviewed yet. The ones he has reviewed, has a concern for handicapped parking at the community building, the store and office and the new bath house that it be available for the public because this is public property and will certainly be some handicapped persons coming to this proposed site if approved. Also as Ron Liston stated there will be use in the wintertime and sees it being used for longer term housing; it's a prudent thing that Mr. Schneider would do because his vacancy will be very high in the winter and therefore the impact of being long term housing for construction workers will be like the mobile home park because they will come and go like a mobile home park does. This will be not just a recreational park, in the off season Mr. Sneider would be prudent to rent these out for long term use for RV's which is very permanent in the construction industry. With Target and Lowe's coming in there's certainly going to be

construction workers coming into the area. This will have an impact. The loss of affordable housing will occur. And if this continues there will not be the people to work where the traveling or recreational area in this area that we do now. Most work for travel and recreation or construction in that park. There are a couple of teachers who work for the school system.
Charles Donalon – 1260 CR 129 – lived there since 1974 and they're approximately 2 doors west of Rock Gardens, less than 200 feet separate us. He's appreciative of Mr. Schneider and Fred's efforts in getting that wastewater facility moved 500 feet. Mentioned in their letter that wasn't really addressed in the Planning Commission meeting was the increase in density and how they will impact the traffic patterns; at the top of the hill there were several things coming together – the local No Name traffic, the Rock Gardens traffic, traffic from the Interstate both east and west going to CDOT and the bike trial and a lot go up the trail; and the school bus stops right at Exit 119. These are concerns. And it will impact them – going from a density shift in this Phase I - the 21 units where presently there are 8 of them and in meeting with Mr. Schneider he's indicated that he will do his best to isolate those people from the west and he'll like to have this somehow be a condition of approval of this PUD and the other is these fire pits, what will be done for camper fires there.
Mark English – property owner to the west of Kevin and east of Chuck said he has reservations about what a project like this would do to the scenery; what's there now is not the ideal and basically he's supporting Mr. Schneider on his new enterprise. There are a lot of issues and he is more than willing to discuss those with them. Like Chuck said moving the wastewater is appreciated. Other property owners have issues and properties on Wildwood Lane hear the noise that bounces off the wall. Kevin has said he will try to meet these conditions and quiet it down. Basically in support of the proposal.
Commissioner Comments:
Commissioner Houpt inquired about the fire rings.
Ron said they are restricting camp fires for any individual camper but they are providing 3 for common use – one at the office area, one at the tent site/common area and one potentially by the camper cabins and what's down below will remain. There will be no individual fire pits at the individual camp sites. One thing on the noise, the key factor in looking at the current regulations of the Rock Garden site, there's one thing about the RV operation is that many things that have happened out there had been with the mobile home park, with the RV operation they have the opportunity to shut people down, kick them out, etc. because they have a quiet time there, and the RV people there will clamor about noise as well. There's a real incentive that are things of concerns to the residents in the area are also crucial to the operation of a high quality RV facility. The restriction on the number of days is 120 days total in a year.
Commissioner McCown – very few RV parks in the area and most are full with permanent residents. Construction workers that are here have them all occupied and have been here for 9 months or to the end of the project.
Ron – this is directed to high market product and not cut rate if you stay long term. All will have water and sewer hook ups, and electricity.
Commissioner Houpt – asked about the traffic impact study.
Ron – there will be traffic from all the points of interest at this location.
Chairman Martin asked Fred – the access for the Intersection is a split jurisdiction; is this part of the Interstate, explain.
Fred – it's all part of the Interstate which raises a question he has about the stop sign.
Chairman Martin – stop sign and the Access Code and the placement will require approval of a stop sign by CDOT.
Ron – pointed out the 4% the staff pointed out is for the subdivision standards; but in this circumstance if prohibitative.
Commissioner McCown –he suggested a stop sign at one location and then you're instructed to stop again at the white line for visibility purposes. And follow the fire ban when in place. The fire pits – when the fire ban is in place you would be required to follow the same guidelines as everyone else in the County.
Ron said historically they have obeyed the fire ban.
Chairman Martin – across the river and crossing the railroad tracks to get to the climbing wall, asked Ron is he had any negotiations with the Union Pacific?
Ron pointed out on the screen on site plan – on the river side – Ron included in the zone district for the ropes course, etc. not to make it a big deal but if it ever does make sense to do something that it may occur, they are not negotiating between the railroad to do something on the other side of the river; if it happens it

would be between the railroad and the river. They did accommodate some minimal use like that in case they want to.
Chairman Martin –what is the overall distance they could use there – the railroad is a 100 feet or so in the right of way through there. As long as we note you would need to negotiate with the railroad.
Ron – there is a very linear strip along there.
David McConnahey added they did notify the Union Pacific Railroad of this hearing and no response.
Commissioner McCown made a motion to continue this hearing until the 12th of July at 1:15 p.m.
Commissioner Houpt seconded; motion carried.

Distribution of Additional Mineral Lease Allocations to County/Municipalities/School Districts – Letter from State Treasurer Mike Coffman

A motion was made by Commissioner McCown to authorize the Chair to sign the letter; Commissioner Houpt seconded; motion carried.

Focus Groups - Power Point – Jesse Smith

Jesse Smith reviewed the contents and procedure of the Focus Groups. This is was one of the objectives established for 2004 and the purpose is to obtain input from residents of the county regarding the service we provide them. The information we obtain will be used to develop strategic objectives for 2005 and beyond in order to plan for funding of these objectives.
The Commissioners added a couple of things such as Economic Development, add the jail under law enforcement and basically were comfortable with the other topics for focus. The Board felt that a wealth of information would be obtained from this effort and the priorities will generate what we need to know.
Jesse suggested we can hold a general town meeting and put them through the exact same thing.
The manner in which the outcomes will be shared with the people was discussed. Jesse suggested an article in the paper, advise service groups, put the information on the website but the key is to use it with the BOCC and key management to set objectives for 2005 - where should we put our monies.
Commissioner McCown noted that there was noting about Employees and this is a major expense and should include employees on every topic. This is a cost that no one sees. Personnel Allocation was added.

County Attorney – Discussion Items

Information – Don passed out a draft of a copy of the letter to the **Library Board**; a few sessions ago we discussed this issue and Don had sent a memo to the Board. Don said he is asking for input on this letter so he can make it fit your desires before sending it out; a copy to Jesse and one to Ed as well. Don said he's not for an immediate response but would like response individually during the course of the week and he will put together another draft.
DDA – Litigation – the Court of appeals have set the items to be reviewed in August and we're not included; Don projected it would at least September –
Timing wise a decision at the end of the year.

Board of Equalization

Shannon reports that the major ones have been settled.
The following dates have been set for the hearings: July 20, 21, 26, 27, 28, and August 3 and 4 if needed.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

JULY 6, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder. Commissioners Tresi Houpt was absent.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

REGULAR WORK SESSION:

County Manager Update: Ed Green

a) Consideration and approval of the 9-county single entry point contract with Health Care Policy & Financing – Lynn Renick

Lynn Renick, Linda Byers and Ed Green were present. Lynn presented the 9-County Single Entry Point Contract Amendment No. 1 showing the June 30, 2004 to June 30, 2005 contract in the amount not to exceed $414,470.00. This is based on 6% decrease from the 2003-2004 contract and the difference is ($27,280.00). Lynn stated that she needs approval retroactive from the 1st of July as we will not receive the July payments until this is in place. Lynn stated they are going to the advisory board to seek assistance and advice.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the 9-county single entry point contract with Health Care Policy and financing for $424,470.00; motion carried.

b) Proposed Holidays for 2005 – Patsy Hernandez and Judy Osman

Judy and Patsy explained that the current plan to begin processing payroll in-house for the first paychecks issued in 2005 requires us to have the schedules set up now for the next year regarding 2005 holidays. The following is a list of those holidays to be approved:

New Years Day – Friday, December 31, 2004 – previously approved in 2004
Presidents Day – Monday, February 21, 2005
Memorial Day – Monday, May 30, 2005
Independence Day – Monday, July 4, 2005
Labor Day – Monday, September 5, 2005
Veteran's Day – Friday, November 11, 2005
Thanksgiving Day – Thursday, November 24, 2005
Day after Thanksgiving – Friday, November 25, 2005
Christmas Eve (one-half day) – Friday, December 23, 2005
Christmas Day – Monday, December 26, 2005

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the holidays as listed for 2005; motion carried.

c) Installing a package hybrid power station – Dale Hancock

Tim Arnett and Dale Hancock were present.

Dale had discussed this previously with the Board and was given approval to proceed to obtain bids. A formal request for bids for replacing the failing electric power line at the Hogback Transmitter Site with a hybrid power station to meet present and future needs was submitted. The recommended award was to R & A Enterprises, Inc. at a cost of $34,740.00

Dale explained that we were here around 8-years ago to replace the line at this location. R & A have put many of these in around Colorado. It is propane backup and running on solar. It will put out enough electricity; more than we have now. Tim said we can move it and in response to vandalism Tim said they would block the access. The propane people are responsible. The batteries will last around ten years.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the bid to R & A Enterprises, Inc. for supplying all materials, labor and equipment to installing the hybrid power station at the Hogback Transmitter Site, County Road 237, Grass Valley Reservoir at a cost of $34,740.00; motion carried.

d) Qwest to bury phone cable 5277' in County ROW on CR 319 – Jake Mall

Marvin Stephens and Jake Mall were present. Quest is proposing to install a buried phone cable within the County right of way on CR 319. The length of the buried cable will be 5277-feet on the west side of CR 319 on the shoulder beyond the backside of the bar ditch. The buried depth of the cable will be no less than 36-inches.
Jake explained that Quest has unsuccessfully tried to obtain private right of way to install this cable; therefore the request to the County. Jake submitted a list of special provisions for the installation.

e) Qwest to bury phone cable 5600' in County ROW on CR 319 – Jake Mall

Marvin Stephens and Jake Mall were present. Quest is proposing to install a buried cable within the County right of way and on BLM property along the west side of CR 319. There will be 5600-feet within County right of way and 2100-feet on BLM property. The first portion of the buried cable will be in the new utility easement provided by the new construction of CR 319 to the BLM property line. The construction will also include one road bore to get the cable to the east side of CR 319 to the Dalbo Company location. The cable will be aerial over the gulch on the west side of CR 319.
Commissioner McCown asked if this was going to involve the new airport road construction and was informed that they will parallel the fiber optic cable for about 500 feet and then go directly south.
Carolyn Dahlgren clarified that the permit used is the old one.
The Commissioners gave consensus for these two permits to be issued.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario stated that he has four trailers that are Search and Rescue trailers that I want to trade in four two bigger trailers. I need your approval to sign over the titles.
The Commissioners approved.
Lou - We had a 40 acre fire that was put out very quickly. Permits during the Fire Ban were discussed.
Chairman Martin noted that there was a problem with the space with your cars.
Lou acknowledged that they had a problem with the space aspect between the cage and the back of the seat.

Computer Problems

Ed stated they had a worm in server and he approved the purchase of some software to help prevent these problems.

COUNTY ATTORNEY UPDATE: CAROLYN DAHLGREN

Hearing Officer – Board of Equalization

Carolyn Dahlgren submitted a request to the Board to have Steven Carter represent us for the hearing officer for the Board of Equalization.
A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to appoint Steven Carter as the hearing officer for the Board of Equalization; motion carried.

Commissioner Report:

Commissioner McCown – Ribbon cutting 10:00 a.m. on the White River Bridge Wednesday; Thursday to Craig for Associated Governments meeting from 10 a.m. until 2:00 p.m.; 10 a.m. to noon on Friday, meeting on the watershed growth scenario at the Town Hall in Carbondale.
Commissioner Houpt - Absent
Chairman Martin – Wednesday, the TAC meeting from 3 p.m. till 5 p.m. at Carbondale also touching on the new rules on federal highway funding and what's going to take place. Salt Lake City with the BLM National Planning Panel representing Garfield County on the Cooperative Agency Status so that the other counties in the nation will be able to see how that works. Passing up the opportunity to go to Maricopa County to serve on the WIR Board meeting because we have the Relay for Life on that same day which is the 16th in Rifle. Picnic in Silt 6:30 to 8:30 p.m. and also a Parade in New Castle on Saturday at 9:30 a.m. Appreciates the secretarial staff Mr. Dennison was afforded in reference to the Oil and Gas Energy Advisory Board – it went real well and the secretary, Indra Bredis, took good notes. A Power Point Presentation to educate our Energy Advisory Board. He appreciated the reading of the Resolution and the focal point of what it is and update every meeting to keep them focused on it.

Consent Agenda:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize Chairman to sign Division Orders from Williams Exploration & Production
f. Authorize the Chairman to sign an Amended Plat for Consolidated Lots 4 & 5, Lacy Park Subdivision. – Mark Bean

g. Authorize the Chairman to sign the Resolution and Special Use Permit for a "Commercial/Recreational Facility/Park" for a property owned by POW, Inc. containing the Glenwood Caverns Adventure Park. Applicant is POW, Inc. – Fred Jarman
h. Authorize the Chairman to sign a letter to President & Board of Trustees of Garfield County Library

Clerk and Recorder – Primary and General Election

Mildred submitted two letters one is to close my office on General Election Day, November 2, 2004 and the other is to combine my precincts for the Primary Election on August 10, 2004. The 12th of July is the last day to change party affiliation.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the Consent Agenda Items a – g removing item h from the Consent Agenda; motion carried.

Garfield County Burial Expense Policy Statement

Carolyn Dahlgren, Lynn Renick and Trey Holt were present.

In the case of the death of an individual with unknown financial resources, the Coroner's Office and the Department of Social Services shall communicate to determine if the person was a Public Assistance recipient that meets the criteria for burial assistance as stated in CRS 26-2-129 and associated state Rules and Regulations. The Colorado Department of Human Services Rules and Regulations outlines benefits and allowed payment available to an eligible Social Services client.

If the individual is not eligible for services through the Department of Social Services, the Coroner's Office shall make the determination of eligibility for coverage of burial expenses through the County, according to CRS 30-17-104. When it is determined that the County is responsible for burial of the individual, the Coroner shall access a specific expense line item in the Coroner's budget approved by the Board of County Commissioners. Burial services through the Coroner's budget shall not exceed $2,500 per burial.

Conversations regarding the cost of burial funds from the Department of Social Services (DDS) was challenged. The DSS and the coroner's officer have been in conference. DSS will only pay when in it the definitions of public service statutes make it specific. The request is that there be a line item in the budget.

Trey Holt said these charges include outside services including the Rosebud Cemetery. Another question is cremating; but we put ourselves in more of a liability. We exhaust every avenue to find the next of kin, sometimes we are successful, sometimes we are not; the average time span is over a month before anything is done.

Commissioner McCown - We do assume responsibility for all of the towns in the County as well and we provide the services for the indigents.

Chairman Martin said we do need to start the line item and suggested talking to Jesse Smith about this.

Commissioner McCown suggested the amount of the line item was suggested for that purpose only in the amount of $5,000 estimated of 2 a year for non-social services. This will be in next year's budget.

This is a new policy for the County.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the Garfield County Burial Expense Policy statement as presented; motion carried.

CONSIDERATION OF RENEWAL OF FIRE BAN RESOLUTION 2004-46

Guy Meyer was present and reviewed the fuel moisture content report submitted. The Board concluded that the fire ban should stay in place.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to keep the Fire Ban in place and review this again at the August 2, 2004 meeting. Motion carried.

ADJOURNMENT

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

JULY 12, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Dry Park Road – Maintenance Issue - Molgi Fairbanks – Dry Park Road – Two miles of the ten mile road is terrible; why and can the Commissioners do anything about it? Commissioner McCown – is it impassable, dusty or rutted – there are three different levels of maintenance here? Molgi said all of those; it is impassable for a passenger car. The Board will get with Road and Bridge and decide what can be done. This might be a private road.

Later in the Meeting

Dry Park Road –Bobby Branham from Road and Bridge stated that we maintain a portion of it but we do not maintain it.

Don – The entire roads is by prescriptive use for Dry Park Road and open for public use. The entire road is claimed on the HUTF; that basically is the dumping spot for the cobbles taken out for the City building.

Chairman Martin – the landowner will want to leave it as is. What level of agreement, the cost to maintain that two mile?

It was estimated at $100,000 to gravel the road.

The Board asked staff to come back to them with some definite figures.

State Hearing on the EnCana violations concerned with the Divide Creek Seepage issues

Bill Griffith – 6542 CR 331 in Silt, with several residents of the same area, requested that the Board attend the August 16, at 10 a.m. at the Ramada Inn in Glenwood Springs for the State Hearing on the EnCana violations concerned with the Divide Creek Seepage issues. The group submitted signed petitions. They also submitted a small list of concerns and hope that the Board will address and see that are properly handled according to your job descriptions in your elected positions.

Chairman Martin informed the group that this was the regularly scheduled Board of County Commissioner Meeting and they would have to discuss what could be arranged, if one or more could attend.

Nancy Jacobson – not often that the Colorado Oil and Gas Conservation Commission does leave Denver for a meeting like this – almost historical. It would be worthwhile to attend. This will be an open meeting and the group is going for a formal protest and would like the Commissioners to join in the petition.

Ed will check the docket for scheduled meetings and hearings.

Mark said there was only one public hearing scheduled for 1:15 a.m.

Discussion: Possibly cancel the Monday meeting, August 16, 2004 and reschedule it again for Tuesday, August 17.

The motion was held in limbo until later in the day to give Building & Planning an opportunity to see what Public Hearings have been noticed for August 16th.

Board of Equalization Hearings

Shannon Hurst – in the future she would like to be involved in the scheduling of the Board of Equalization hearings. There were only 168 protests and they settled 100 of those. She was interested in keeping the lines of communication open. The taxpayer needs time to prepare a case. The big thing is the time frame setting these for the 20th and 21st.

Commissioner Houpt agreed that the Assessor's office should be involved.

Don agreed there was no communication with the Assessor's office this year but they were following the same procedure.

Commissioner Houpt – there is always room for adjusting processes.

COUNTY MANAGER UPDATE: ED GREEN

DISCUSSION REGARDING TELEVISING THE BOARD MEETINGS. – TRÉSI HOUPT

Commissioner Houpt presented the question of televising the Board meetings. Why decisions are made, how processes work and generally inform the public of what goes on in these meetings. There's been an

estimate received of $10,000 a year; this is a good way of keeping our citizens involved. The other public stations outside of Glenwood Springs will run the tapes as well. She asked for direction for staff to move forward. Every other community in our county televising their meetings.
Discussion – Commissioner McCown had some concerns that unless the western portion of the County has paid cable television, this service is not available because you don't get TV. The newspapers are free press and he feels TV would discriminate against those you do not have cable television. This is a big price to pay for 35% of our citizens to have this available. Commissioner McCown complimented Marian and Mildred for the manner they are publicizing the BOCC actions on the Clerk & Recorder's Web site.
Commissioner Houpt – the citizens that have access to cable is a larger percentage.
Chairman Martin – noted that the storage of the equipment necessary to handle the coverage was a concern; he suggested justifying it and discussing this in our work sessions for our budget, which would include the overall cost, the feasibility of the suggestion, contract Comcast for the number of scribers, and compare to the Census information, etc.
Commissioner Houpt justified her agenda item hoping to get consensus to have staff work on investigating what it would take to set this room up for such a telecast.
The Board gave direction for staff to proceed to investigate.

DISCUSSION OF RFP FOR HUMAN/HEALTH SERVICES BUILDING – RANDY WITHEE

Tim Arnett and Randy Withee went over the Proposal Format and Content and the Work Statement with regard to the new Human/Health Services Building. The Focus is on expertise versus costs.
Discussion was held with respect to cubicles and hard walls. Randy reviewed the building plans and noted it was only as a space allocation blueprint. The final design will have input from Social Services and Public Health.
Commissioner Houpt wants natural light and a healthy work environment and would be prefer to give us flexibility and would lobby for the healthy work environment. She included skylights as natural light. Tim referenced the West Star bank basement where cubicles were used with walls and windows to the ceiling.
Ed noted that Social Services and Public Health would have input into the final design as well.
Chairman Martin noted we must stay within the budgeted amount for the building.
July 21st, DOLA presentation and Randy and Tim will be presenting with Ed.
The time frame for putting this RFP out will begin next week. The bidders will give us a lump sum bid and during the evaluations there will be a breakout.

Landfill Inspection Report

Ed reported that the landfill inspection report was very positive; this continues to operate in an efficient manner.

Fire District in DeBeque Area

Ed reported on a call from Bob Jasper regarding setting up a Fire District in the DeBeque area and he needed Assessor's records of owners of land in that area. They want to take a small portion of Garfield County and integrate it into that new Fire District.
The Board did not have a problem with this concept.
Mildred will need to know where it will be in order to assign them for ballot issues.

Circus in Rifle – August 17, 2004

Ed discussed this issue with John Hier, the Circus is coming to town in Rifle in August and they intent and the City of Rifle has blessed this in principal to occupy the 140 acres just acquired from the DOE. The problem is that you have to cross a live railroad track and you will hundreds of people. The County is the one that has to provide the permit for crossing since it's in an un-annexed area. Ed said they do have a railroad crossing with the gates and they intend to have flaggers on both sides to direct traffic flow. Another concern is that parking is going to be immediately on the other side of the tracks so that you can end up with cars clogging up on the railroad tracks. The Board informed Ed that they will need a permit from the Railroad. Ed said they have an obligation to contract the County.
Mark Bean – said he received a call from Barry with the Lions Club and Mark told him we have a permit requirement for an event anticipated for 500 or more people and requires a Special use Permit and requires a public hearing before the Board of County Commissioners. Don noted that the first step is to contract Union Pacific and that could be a longer process than they have time for. Given the use of the line it is not going to be an easy process.
Commissioner McCown - This is the site of the Circus two years ago. Since the City is the new owner, they should have the permit with the Railroad.
Commissioner Houpt – we should also relay our concern about parking so close to the railroad track.

Later in the meeting
Barry Miller – Rifle Lions Club –stated they had applied for a SUP for the Circus in Rifle for August 17, 2004; they expect over 500 people. The request was to waive the $400 fee for Building & Planning.
A motion was made by Commissioner McCown to waive the P & Z hearing and the $400 for the SUP. Commissioner Houpt seconded but stated we do not have a lot of information and questioned the waiving of fees. Chairman Martin stated that the Board does this on a case by case basis. Motion carried.
The Special Use Permit hearing will be held on Tuesday, August 16, 2004 at 9:00 a.m. on the Circus issue.
COHERA – Ed reported they are allowing the current Board to continue. The Director wants everyone to trust him. They made it known that the problem was with the Board. They will meet this week and the director will implore them to do that. Communication is important and had to come out and make some statements. The Director promised Ed they would stay in touch.
Four Mile Staging Area for Road and Bridge
Bobby from Road & Bridge is very excited about moving ahead with this location. The price of the property is $225,000 for the property. There is no water. An easement to the tank is part of the negotiation. Commissioner McCown suggested that we drill a well but Mark said we didn't have the legal right to do that. This was a lot created specifically without water. Don said this would have to go back to the Subdivision Approval because that subdivision was approved with a certain number of lots and the only way you could get water from the system is to amend the subdivision and amend the well permit. This can be done, that's the first step and then you'd have to go back to the Division of Water Resources and see about a well permit. Q: If the Board doesn't want to amend the subdivision and just applied to the State Division of Water Resources to see if they would issue a well permit. Don said he thinks there is still water available on that West Divide Substitute Plan for Four Mile but will have to find out. If there's not then there's a real problem of over appropriation.
Commissioner Houpt favored looking into the water issue before this Board makes any final decisions.
Commissioner McCown – it's a temporary situation and we could run it with port-a-potties and bottled water. There's not going to be a permanent office, it's just a staging area.
Commissioner Houpt said we don't let anyone else do that and it's not really temporary and we will rely on it for long term. We need a permanent water source and be consistent with what we require others to comply with.
More investigation before the Board authorizes Dale to continue negotiations.
COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE - LEGAL ADVICE – CONTRACT NEGOTIATIONS
Don requested an Executive Session to update the Board on the DDA litigation; Airport Road and Contracting, all items set for 10:15 – the Fire Code and RFTA Ballot Question; an Election issue and legal advice on intervention on the Oil and Gas Issue discussed by the citizens not on the agenda; also on a Land Use Issue and flexibilities and Canyon Gas Issue.
Don said he needed Doug Dennison and Mark Bean on a couple of items; Jesse, Ed, the Board, Mildred and Don were to remain for the session.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive session; motion carried.
Action Taken:
Request by candidate for Glenwood Springs City Council, Rick Davis, currently the Clerk's budget does not have a line item from which she could fund this request nor have any appropriations been made, she is asking if you wish her to establish such a line item and appropriate funds in the amount of $1586 for reimbursement for attorney's fees for 2003 election. Don said there were no statutory obligations for repayment of these types of expenses.
Rick Davis did file a complaint with the Secretary of State, as a general proposition that complain was sustained and the Secretary of State's office did order Mildred to take corrective actions that are a matter of public record; however as to Mr. Davis' complaint there was no recertification ordered nor was there any order from the Secretary of State's office that attorney fees be paid.
Commissioner Houpt made a motion that we do estimate a line item and appropriate the funds in the amount of $1586.00 to reimburse Rick Davis for the expenditure to his attorney for filing the HAVA

complaint that was sustained. She added that this is this is unusual but that's the motion; we have a responsibility to pay the bill. Commissioner McCown seconded for discussion.
Commissioner Houpt – this came before us for payment and believes this to be an unusual circumstance that one our constituents has put in position of having to follow up on an election that had some errors and as the County we have a responsibility to address those issues and supports the payment of this bill. She said she thinks that Mildred has worked diligently on working through these issues and this is another part of that issue that we need to address as a County.
Commissioner McCown – can't agree with paying the bill, clearly there's no statutory provision; it is another elected official that is not under the purview of the County Commissioners other than allowing for the budget process to go forward. He thinks this is setting a dangerous precedent; thinks that would allow the School District to come back and ask for the same thing; so on these grounds he opposes it.
Chairman Martin – Mildred has made the request and legitimate reasons have been made to me as well as the Commission and most likely make a decision based on those reasons.
Houpt – aye; Martin – aye; McCown – nay

DIRECTION TO STAFF REGARDING CANYON GAS RESOURCES

Don requested consideration of a motion by the Board authorizing Mark to send a letter Canyon Gas informing them that their position relative to enforcement of our pipeline or material handling regulations is in error and that they are required to comply with those regulations.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Other Gas Operators – Noting Potential Violations

Don requested that the Board authorize Mark to send a letter to Williams Energy, EnCana or other gas operators in the County who may be placing pipe or other transmission lines in the ground without a Special Use Permit that they are in violation of County Regulations.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.
Request earlier to
Appropriateness of intervening in the Oil and Gas Commission Hearing established for August 16 concerning potentially the violations of EnCana in their drilling operations in Divide Creek; the purpose of the intervention simply at this point that we have a public interest in the outcome and wish to intervene and be a party to the extent that we may wish to intervene in the future, we may alter that position.
Commissioner Houpt – direct the staff to research the hiring of an expert witness.
Don – in terms of research yes; if we need to retain expert witnesses or wish to take a more specific position, we'll bring it back to the Board. Yes, we need direction.
Commissioner Houpt so moved; Commissioner McCown seconded; carried.

Land Use – Lot Line Adjustments - Terry Kirk

Chairman Martin – the question, is there flexibility or a set procedure in place that we wish to follow.
Commissioner McCown – there is a procedures in place for the removal or eradication of lot lines and there's no need to substitute for that process. Commissioner Houpt agreed and requested that each applicant go through the formal process.
Don requested the Board continue a continued Executive Session later this afternoon to discuss the Airport Road Contracting.

DISCUSSION/CONSIDERATION OF CR 104 – BLUE ROAD - DEE BLUE

Dee Blue, John Kemp, Attorney, Bobby Brannan from Road and Bridge and Don DeFord were present.
John Kemp's letter to the County Attorney was submitted and indicated the survey of the centerline of the extended portion of the roadway from the intersection of CR 104 with the west boundary of the Dee Blue property, continuing on to the east for approximately ¼ mile to a point just east of Dee Blue's residence where the road ends at a cattle guard. The centerline survey will be for the purpose of having the Blue's grant to the county a 30 foot easement, fifteen feet on either side of the centerline for the extent of the road except for a small portion that crosses a property owned by Charles or Glen Harris.
The County will also survey a turn-around area along the south boundary of approximately the final fifty feet of the roadway. The curved area adjacent to the main roadway will be only for the County to use as a turn around for its equipment.
Don requested the Board move forward to approve the agreement represented by Mr. Kemps to authorize the posting of "no parking" signs, direct the County Surveyor to complete the surveys described by Mr. Kemp and then the Road and Bridge Department can move forward to pave the necessary right of way and continue maintenance of the CR 104. Once the survey is received, then this matter will be brought back to the Commissioners to formally accept the subject right of way easements.

Don showed the Board the Assessor's map on the road as it is portrayed. Bobby said they put in to pave a section of this road to the cattle guard.
Dee contacted Don to discuss the existing right of way, how far she thought they should pave and the road as is seen today as far as the cattle guard is a good place to stop maintain the road. There is not a deeded 60 foot right of way but would possibly fall under adverse use. If we have an agreement with the Dee Blue we will have a turn around area.
John Kemp does not agree that the County has any rights beyond the turn around. When the County does a centerline he requested the red markings and then Dee will have her engineers to review these.
The Board suggested coordinating the effort with both surveyors and engineers. Nathan Bell is the surveyor from Gamba and Associates who will be doing the survey for the Blue property.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt Attorney John Kemp original proposal as submitted; motion carried.
John Kemp thanked Don DeFord and other members of the Board for working with them.

DISCUSSION REGARDING A LETTER TO THE PRESIDENT AND BOARD OF TRUSTEES OF GARFIELD COUNTY LIBRARY

Don DeFord submitted the draft letter and included the comments provided by Mike Nelson, CPA who was asked to elaborate on Point 8 of the proposed letter dated July 6, 2004 from John Martin to the Garfield County Library Board addressing the additional services that will be required of the auditor, if the Library elects to handle its own finances. Whenever decentralized accounting occurs in an entity, that system will be required to have separate procedures applied to it. However, since the Library Fund is still just another fund of the County, materiality issues do arise. Under the new standards, referred to as GASBY 34, the concept of major funds is now a reality. The other reality is that the Library Fund is clearly not a Major fund. That being the case, its activity is audited together with all other "non major" funds.
He further clarified that the Library Fund will need to have its systems of internal controls reviewed, some analytical procedures applied to its accounts, some inquiry into its activity, and review of any unusual or significant transactions. It will depend a lot on the individual audit firm to decide what other procedures might be appropriate. The State auditing requirements only dictate that the Library Fund be included in the County's financial statements, present a comparison to budget in supplement information, and be subject to the auditing procedures just as any other non major fund.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the letter as submitted; motion carried.

Consent Agenda:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda, items a – d omitting b; motion carried.

REGULAR AGENDA:

DISCUSSION ABOUT THE PROPOSED ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE BY ORDINANCE. – MARK BEAN

Mark Bean and Andy Schwaller, Chief Building Official submitted a Memo to the Board explaining the Colorado Revised Statutes 30-15-401-5 that establishes the standards by which the Board of County Commissioner may adopt an ordinance for minimum fire safety standards. However, 20-15-401.5(2) requires that the Board receive a recommendation from a permanent commission to be known as the Code Adoption and Revision Commissioner. This Commission was formed by the Board previously and has made a recommendation to the Board that the County adopt the 2003 International Fire Code in its entirety, with the provision that amendments may be submitted to the County by the individual fire districts at a later date. After review of the statutes regarding the adoption of the 2003 International Fire Code (IFC), staff has some concerns about such as adoption and is asking for further direction before proceeding forward.
The statutes states that the fire districts will be responsible for enforcing the "fire safety standards" adopted by the County in their district and the County will be responsible for enforcement in the unincorporated areas not within a fire district. It is staff's opinion that this section creates a minimum code standard for enforcement, which can only be modified by petition of each district. The difficulty staff sees in that the standards contained in the 2003 IFC have a number of provisions that would be difficult at a minimum and perhaps illegal in one case to enforce for the entire County.

1. It appears that the 2003 IFC would purport to have some control over the oil and gas industry in particular the flaring of gas. This appears to be regulations that would not be enforceable, due to the COGCC regulation pre-emption. Other areas as well would be pre-empted by the COGCC regulations.
2. Aviation Facilities is another chapter that could present problems related to aviation refueling and storage.
3. Farms and Ranches – one exemption to the regulations applies to this category but there are numerous areas that present problems for enforcement and interpretation.

In Summary, if these regulations are adopted by the County as the minimum standard, the County is going to have difficulty enforcing them in areas not in a fire district and the fire districts are going to have to decide whether or not to exempt their areas from certain regulations after the County adopts the new code. This could end up with a variety of different fire standards throughout the County, with differing levels of enforcement. The Fire Chiefs of the main districts in the County have been made aware of these issues and a subsequent discussion of the issues as a group has not yet taken place.

Staff Recommendation: The Board consider the adoption of a modified version of the regulations that are enforceable in the areas not in a fire district, which the County will be responsible for implementation and then the fire districts can propose other modifications, as they deem appropriate.

Fire Chiefs were present from the various Fire Districts.

Discussion was held and Don informed the Board that whatever the County adopts, all Fire District must follow. You cannot adopt an unincorporated area Fire Code.

Mike Morgan and Ron Biggers - Glenwood Springs Fire District stated that consistency is the key but leave some flexibility based on demographics and geographies. Karl Hanlon for the City of Glenwood Springs suggested the Building Code and Fire Code with some amendments based on compromises to adopt. Would like to have a City and District Code. Agrees with Commissioner McCown in getting a basic fire code in place.

Ron Biggers – if the group keeps working, it would be good. The model code is good. The International Code is a combination of all the States. Certain specifics will be referenced and not actually adopted. Usually what the City or Municipalities want to make it more restrictive; the Code itself is not a bad document. Trying to get it as consistent as possible with all the areas of the County.

Chairman Martin noted that 2/3rds of the County is not in a Fire District. Adopt a baseline and allow the Fire Districts to amend their regulations.

There is a meeting on July 23rd and suggested looking at what each one sees in their district that needs to be tweaked, but get back on the road to adopt a baseline code.

Recommendation was for the Fire Districts to go back and come up with a recommendation we can all live with.

INTERGOVERNMENTAL AGREEMENT REGARDING RFTA MEMBERSHIP (CONTINUATION)

Dorthea Farris, Dan Richardson, Helen Klanderud Mayor of Aspen, Dan Blankenship, Renee Black and Don DeFord were present.

In previous discussions the County Commissioners recommended specific changes to the IGA with RFTA and a lot of discussion was held with respect to the membership.

Renee forwarded a memo to the County Commissioners saying the RFTA Board met on July 8, 2004 and made the following decisions in response to the County's request concerning putting a question on the November 2004 Ballot for unincorporated Garfield County:

1. The request was that the IGA make clear than one of its members are individually responsible for RFTA's debt:
   RFTA responded that the RFTA Board agrees to include this language in the RFTA IGA.
2. Request that the RFTA agree to maintain service within the I-70 Corridor of Garfield County at its present level of service for at least 18 months after November, 2004.
   RFTA agrees to include this provision however the original RFTA IGA had a similar hold harmless clause that allowed service modifications as long as they did not exceed a 5% reduction in the service hours. The RFTA board wants the language in the Garfield County membership IGA to be consistent with the language in the original RFTA IGA.
3. To agree that all revenue generated within unincorporated Garfield County will be expended for the purpose of trail building and corridor maintenance within Garfield county and maintaining

transit service in the State Highway 82 and U. S. 70 corridors between El Jebel, the western boundary of Garfield County and the eastern boundary of Garfield County extending to Dotsero, for at least 18 months after November, 2004. Notwithstanding anything to the contrary contained in this maintenance of effort agreement, if voters in the existing RFTA boundaries do not approve a sales tax increase in the November, 2004 election, transit service in the Highway 82 Corridor may be reduced.
RFTA Board did not agree to this 18-month provision for three primary reasons: (1) The Board agreed to hold the Grand Hogback service harmless for 18 months. Most if not all of the revenue generated by the .4 sales tax in unincorporated Garfield County would be needed to maintain the Grand Hogback service. (2) by RFTA's estimate, a substantially greater amount of funding is already, and will continue to be spent by FRFTA within boundaries prescribed by Garfield County so the provision is unnecessary. (3) While this provision would be easy for RFTA to comply with, it would set a precedent, which if applied to other new members, would not be possible for RFTA to comply with.

4. To provide an annual amount of $25,000 from proceeds derived from RFTA sales tax collections within unincorporated Garfield County to be dedicated to the RSVP Traveler.
RFTA Board agrees to this provision.
5. To have a provision that would enable Garfield County, or i5ts citizens, to conduct an election to withdraw from RFTA in the future, **only** if RFTA discontinues providing the $25,000 in funding for the Traveler, and/or discontinues operation of the Grand Hogback bus service operated in the I-70 corridor.
RFTA Board agreed to this provision on a limited basis. The County or its citizens could conduct an election to withdraw from RFTA, only if RFTA discontinues providing the $25,000 in funding for the Traveler, and/or discontinues operation of the Grand Hogback bus service operated in the I-70 corridor. This condition would remain in effect, however, only until two more members from the I-70 corridor join RFTA. The RFTA Board is amending its super-majority voting requirements to make it possible, regardless of the number of members, for as few as three members to prevent any measure from passing. Assuming Garfield County, Silt and New Castle join RFTA, at some time in the future, these three communities, in addition to Glenwood Springs could effectively block a measure to discontinue funding for the Hogback or Traveler services. Therefore, an out clause would no longer be needed to provide this assurance.

Dan Richardson shed light on the commitment to the Hogback route.
Helen – the Hogback Service - There has been historically and remains the same today, a commitment to the Hogback and the I-70 corridor for service. Understands the Commissioners concerns but all are equally in this for commitment.
Dorothea – this is the Regional Board and without Garffield there has been a commitment to the Hogback. Legislation: it took a lot of lobbing to create a transportation district and Garfield County has not been afforded to vote on this issue.
Vote on Mass Transportation: This is the way it is, this is what the District does for us and Garfield County needs to put it to a vote.
Helen Klanderud said the $25,000 to the Traveler this brings it to $50,000 and they will increase it. RFTA is already doing a $25,000 and this would be an additional $25,000.
Deb Stewart – This is a really good choice and we need to let people make this decision. Encouraged the Board to let the people make the choice.
Don 'Hooter' Gillespie – on Trails – always saying they didn't have the funds or capability to do it. They are researching for funding, the City is not obligated. Recommend Glenwood to opt out of RFTA where they're not contributing 28% - leery of getting in bed with someone who may be bankrupt in a few years.

Walt Brown – on RFTA Board when this thing started – it's underwater and if you join it under the terms of the Statute – your taxes can go various ways. They have a $2 to $3 million deficit. The Board was very suspicious of it – the busses proposing to be purchased are very expensive – buying into a huge commitment. Title 43 can amend the IGA; all it takes is a majority vote. This whole investment is very large and ridership figures do not justify it. Recommended not joining this IGA with RFTA and feels this will; and if you go to a vote provide more information on what it will cost them.

Dan Richardson – forecasting a shortfall and significant over time – do you want to continue providing service or scale back. Can't operate at a deficit – need to take action and we'll have to tax services – slow down on trails – 70% polled said they would use them. Fewer people in the unincorporated area; need partners in this process to sustain. Fuel prices up – energy supplies are fragile due to the conditions in the mid-east.
Dorthea Farris – you're only giving a choice to the residents – it's your obligation to let the people decide.
Helen – supported Dorthea on giving the choice to the residents. Let them decide if they want a vote in the RFTA. The advantage of an election is hashing out all of the issues.
Dan Richardson - $986,000 debt to service for capital purchases; in 2005 the budget a $1.5 million shortfall and what they would have to do to fit the current programs, scale back 4:35 a.m. and 2:15 a.m. – 6 a.m. to 6 a.m. – in the up valley service. Froze wages this year and upgraded the equipment.
Two ways to go – sales tax increases and the other is to cut back service. The forecast showed that the trail 2010 to 2020 – we would have an $80 million shortfall. With the .04 % - .2% from those already members – RFTA would be solvent for 10 – 11 years. They have done financial forecasting long term if only for planning purposes. The fleet of 85 busses: funding has been set aside to replace the oldest busses. They have 20 buses of the 1994 models and plan to replace them in 2006; and 15 to 20 busses every year after that.
Helen – not only asking your voters to vote for a .04% but other districts are asking for a .02% tax increase as well. RFTA tax is not added on food and utilities. They are going to a vote to give assurance of OTC funding, less than .02%, this cannot be withdrawn at the whim of political action in the future but will be solidified."
"Hooter" – if this is true what you're saying, then he said he would think the next time to Board meets you would vote to look into this $900,000 offer instead of turning it down and saying you're not going to look at it. Even if you net out $50,000 you'd have a trail system in place. Some of it's been covered with asphalt and it expands and it's of no value. The other argument is from Woody Creek to Aspen that was a $1.00 purchase so Aspen already has its trail system in. If we're all in this together and we're all doing things with membership then RFTA should look at and not just turning it down.
Walt Brown – As to the vote of the people, he doesn't feel it's an obligation to go to the people – this board can make that decision. Not that many people using the system. RFTA would like you to do it.
Dorothea – responded – they had to become a political system. Trails: anyone who has watched this group knows it is very pro-trail; the percentage to the budget is at the greatest extent it can go for trails. It includes trails going through Garfield County that are paid for by RFTA; one does not have to remove the railroad tracks in order to have a trail, the conservation easement, the trail corridor and the transit corridor all parts – 3 parts of that corridor. The corridor management plan includes a trail and includes mass transit and includes conservation so one does not have to remove track and put the trail on the track to have a trail. We have argued constantly to keep trails and trail construction and trail maintenance within the budget and complete it through Garfield County as well as Pitkin County to Eagle County and getting grants for trails.
Commissioner Houpt – said she wasn't familiar with the $900,000 discussion; would it allow us …
Dorothea – someone from AK provided one letter saying that if we a) can take the tracks, take the ties, sell them they're be a benefit of $900,000; there's not enough details and we do not have enough background and do not know the cost to the corridor may be in terms of maintenance and revegetation and the political costs.
Commissioner Houpt – would it be worth researching that to see what the benefit would be. She knows we desperately want the trail down here.
Dorothea – we would entertain bids from more than one company if they decide to do that.
Dan Richardson said, in the past RFTA has made decisions and discussed things that various jurisdictions have problems with. As big a decision to let Voters in Garfield County would entail more than one decision that Helen has alluded to, it is one the voters need to make. Perspective to the meeting held in the past, Dan attended all the meetings held with New Castle, Silt and Rifle and wanted to make sure there wasn't a misconception that Rifle said sorry, take a hike, we're not interested. He was encouraged with discussions with Rifle; they didn't say go away. They understood the value and were willing to make a contribution to RFTA this year, they didn't say that but that was his understanding. They find value but said basically we're not ready to contribute for the service we're getting. There were 5 – 6 citizens that came and spoke and said this is very important to us and it's important for us to have a voice in how RFTA proceeds. The track issue – Garfield County coming on Board is a way to have a voice in these decisions. One of the most important things about RFTA is regionalization; without RFTA he wouldn't know Dorthea or Helen and

wouldn't know the issues of the upper valley. The fact is we're a regional economy and all decision of the municipalities in Pitkin and Garfield affects each other. He encouraged the Commissioners to let the voters have a decision in this.
Helen – at this point in time, the $900,000 is a red-herring; if we sell the rails because they are in the corridor which was purchased for the potential of rail and trail; those who supported purchasing that corridor were mixed; some were more trail advocates; some were rail advocates. What we're discussing here is bringing the one jurisdiction remaining that's not in the RFTA membership at this time. The $900,000 if we invested it back in trails we could expedite completing the trails for which there's already a commitment – that may be true assuming it were a significant amount of money. It's not really to the crux and the heart of the issue we're discussing today.
Dan Blankenship pointed out there are two ways to go; more resources or cut back. They are trying to give people that choice. This is why they want the Commissioners to allow their people to make the choice.
Kathy Tuttle – Spring Valley – she's been involved in Transit and we're looking today at options. We need to get started. Remember we have a community that's growing; how to get people through our towns and keep the quality of life we enjoy is a concern.
Commissioner Houpt thanked the RFTA members for all the information – public transportation is expensive but we need it in all regions.
Chairman Martin thanked them too.
Ed said the sales tax revenues were $583,000 not $350,000 from the State; Dan was using the 2003 figures.
Don said at this point he needs direction from the Board on a policy decision on contents for the IGA if they want to move forward. The only comment on the Ballot question is that at some point we do have to arrive at fairly exact monetary amount to be generated in the first year for TABOR purposes.
Commissioner Houpt made a motion that we move forward in finalizing the IGA with the agreements presented to date that have been made between RFTA and Garfield County and that we accept the negotiated decisions by both parties on the issues that we have been working on as outlined in the memo dated July 8th; that we move forward in establishing language to put on the Ballot for this November for the voters to make a decision on whether or not Garfield County will becoming a member of RFTA and in that language, like to include a tax that will go to RFTA of .04 plus the $10 registration fee for automobiles in the unincorporated Garfield county also like to include (unknown amount) *to calculate an additional amount of Transportation tax to include an additional unknown amount at this point for other transportation needs in Garfield County perhaps linking to the I-70 Corridor in Eagle, the Lower Valley Trails and the Parachute area but would like a cost analysis from staff to come up with an amount.*
Commissioner McCown said he was able to second it that for a moment but then it got so clouded he can't second the motion. The additional transportation tax, we were here to discuss putting the joining of RFTA and the .04 on and then you added in an unknown amount of tax to be calculated and that got a little out of hand to me.
Commissioner Houpt said she actually did that because in the past we had talked as a Commission about the concerns of other transportation needs that we have; my sense it that it would be a .02% number and asked if he would like her to throw a number our.
Commissioner McCown can't second your motion the way it was stated.
Commissioner Houpt agreed and stayed strictly with RFTA and take out the unidentified transportation tax. But she felt it would be a mistake not to talk about this when we discussed the Ballot questions. She withdrew the unidentified tax but including the .04 and $10 registration fee.
Commissioner McCown seconded for discussion.
Commissioner Houpt agrees this is an issue that needs to be determined by the voters; it's a big decision and thinks that it was actually one of those larger issues when she ran for this position; I think that people has supplied us with incredible projections and the RFTA Board worked for months trying to figure out what scenario would be the least impactive on the consumer and the communities and the counties and I think they've come up with some good solutions, so I would encourage us as a Commission to move forward and give this decision back to our constituents because I truly believe the voters should be making this decision.
Commissioner McCown – I think along the same lines, we're elected to make those decisions for our constituents but in this case as I said very early on in the negotiation, be careful what you wish for. I think your numbers are skewed on the people that are willing to pay this tax for this service that they're not getting. The ridership, the 44,000 number that you used on the Hogback route, if you take that and break it down to the percentage of voters, it's very small. The people living in my end of the County which I am

better in tune to on a daily basis that the upper valley, I will tell you there is not a great deal of support. A prime example was Rifle unwillingness at this time not to come in at the amount that they were going to be paying. We're excluding an area completely, Parachute and Battlement Mesa and not even affording them that service, however they will get to vote and if you can convince those folks in Battlement Mesa that this is a needed service that is not being provided to them and expect them to pay .4% sales tax, then I'd say you've run a successful campaign. But right now I don't think it's going to happen and again I say "be careful what you wish for by putting this on the Ballot. But I don't think there is the ground swallow support out there that your polls have indicated so it's going to disappoints me to see hundreds of thousands of dollars spent on a campaign to get this past with a company that is fledging to make its payments Dorthea – we can.
Commissioner McCown – I'm just making a comment Dorthea, and again I ask you to proceed cautiously and be careful what you wish for.
Chairman Martin –well my comment is that the responsibility by putting a question to the citizens of Garfield County needs to be a good question; if we put every question that comes to us on the Ballot for comment or a vote for support, we will break this county in reference to campaign and election laws and questions, and I don'ts think this is a good question to put to the people simply because it's a tax without end, it's in perpetuity and we regulate our control of taxes and spending of those taxes to an entity that is not answerable that we are, we will be on the hot seat or this Board will be, constantly; but there's no guarantee of service no matter what you look at. It's also future debt and obligations and replacement costs that are just mind boggling; it's also based upon a declining sales tax revenue, use tax accommodation and vehicle tax - people are tied of taxes. They've spoken loud and hard on Garfield County soil that they are not. It's also belonging to an organization without really the ability to escape. We cannot satisfy the folks when they cut service; we are one vote, we are blocked. There's no way that we can go back and then say we did the best but you're going to have to continue to pay for the service that you're not getting and it goes on and on. I think that we need to have a better agreement; I think the bus service is fine, the choice is up to the citizens and our own survey – our Transportation Survey, our living survey on where people chose to live, 90% of the people who responded say they would not use it, they do not want to move, they chose to live where they are and put up with the hardships they have – they're happy with their community. And I've got too support that and overwhelming number of folks who have called me, talked to me at different groups that have gotten together from town meetings on through hearsay, we do not wish to join. I'm going to uphold that and if people don't like that, I guess I'll find myself in private life. But I will hold to that and that's my position. It needs to be no and that's what I'm going to say.
Don – a question that may need to be clarified by the Board, my understanding of the motion and seconded is that there would be a final draft of the IGA that would incorporate the letter of July 8th recommendations that would have to be brought back to the board, this motion does not actually authorize the Chair to sign an Agreement. Is this correct?
Commissioner Houpt if we have to sign it to get this question on the Ballot, it does authorize the Chair to sign. We've been through the discussion numerous times.
Don – it is then to authorize the Chair to sign.
Commissioner Houpt - It is not authorizing him to sign.
Dan Blankenship – it will not be signed until after the Election.
Commissioner Houpt – after the election?
Dan – the ballot question and unsigned IGA goes to the Voters.
Commissioner Houpt said she wanted to make sure the Ballot Question is on the November Ballot that is my motion so if it has to be signed, fine, if it doesn't fine.
Commissioner McCown said there is no IGA without the funding, end of story. So whether it takes effect November 3, 2004, or whether it takes effect today, it's a moot point without the sales tax question being tax being passed.
Renee stated that the Ballot language needs to come back to the Board.
Commissioner Houpt said she has received letters, email, all support for RFTA. She has seen an outpouring of support.
Chairman Martin - For the use of the bus I agree. It changes the overall – need to know what you're getting involved. And doesn't want to give that authority to any other board. Bus service is okay, the agreement is bad.
Commissioner McCown – not a ballot question to any incorporated area in the County; this is only in the unincorporated portion of Garfield County.

In favor - McCown – aye, Houpt – aye; Opposed: Martin – aye.

Renee – explained that the IGA doesn't need to be signed before the election because if the voters do not approve the agreement is null and void.
Don and Renee have been working with it.
Dan B. – what you're approving is the ballot question before the voters.
Don - What about executing the IGA?
Dan Blankenship - It doesn't go into effect unless it is voter approved.
Renee will provide a letter for Don to reserve space on the Ballot at the RFTA expense.
Dan – some discussion – willingness to pay half the cost. No, the County does not agree.
RFTA is paying $14,000 for the Ballot costs.
RFTA is negotiating the ballot question tax for New Castle and Silt; but if it is an impediment – RFTA will pay.
Commissioner McCown noted that the County was stung before and will not offer to pay ½ or any of the costs.
Bring back the IGA at next meeting.
Bring back the language – early meeting in August.
Don DeFord informed Renee that she was to reserve space through Mildred.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Barry Miller from the Rifle Lions Club requested a public hearing for a Special Use Permit for a Circus to be held on August 17, 2004 where they anticipate an audience over the 500 maximum. Building and Planning advised him that he would have to go before the Board. Today he is asking for a wavier on the $400 fee.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to waive the Planning and Zoning hearing and this to be scheduled for the Commissioners only; and that the $400 fee for the Special Use Permit be waived.
Commissioner Houpt commented that they did not have a lot of information. Chairman Martin said they waive fees on a case by case basis.
A determination was made to hold this public hearing on Monday, August 16, 2004 at 9:00 a.m.

Public Meetings:

DETERMINATION REGARDING THE REFERRAL OR NO REFERRAL OF A SPECIAL USE PERMIT APPLICATION TO THE PLANNING COMMISSION FROM AMERICAN SODA, LLP. – MARK BEAN

American Soda has submitted a SUP application to change the operation of the present plant in Parachute proposing in the level of production and the utilization of a different source for the raw materials to be processed at the plant. The workforce will be reduced from approximately 55 people to 30.
Their issue to have a hearing by the 16th of August.

REQUEST THE REFERRAL OF A SPECIAL USE PERMIT FOR ROBERT T. LAZIER TO THE PLANNING COMMISSION FOR RECOMMENDATION. – JIM HARDCASTLE

Fred Jarman for Jim Hardcastle, Carolyn Dahlgren, Jimmy Sells, and Don Scarrow were present.
This is an application for a SUP to build and operate or lease nine (9) separate buildings of approximately 1500 to 10,000 sq. ft for oil and gas industry central operations in the area near Grass mesa.
Staff recommends that this be referred to the Planning Commission due to the (1) complexity of the request; (2) potential adverse impact on the surrounding community; and (3) intensity of the multiple uses.
Jimmy Sells – for Robert T. Lazier and Don Scarrow prepared the application.

Don Scarrow stated that these issues noted in the staff report have been addressed completely and technically and basically requesting that due to the completeness that it does not go the P & Z due to the timing they are up against.

Jimmy Sells said there are 9 uses related to one Special Use Permit and that would be in the development and the Board has recently approved an application similar in nature without going to the Planning & Zoning Commission. They have some timing concerns with the leasing of the buildings and letters were submitted. Originally wanted to come in for a SUP for the two lessees and it was indicated to come in at this time; he doesn't know the specific uses that but they are identified in the regulations. He is the owner

and adjacent property and Lazier has afforded him to bring this and agree to heavier landscaping that would normally be and protect his interest in home development. The application is technically complete and were required to do the advertising and publishing and sending notice concerning the August 2, and would like to proceed.
Mark commented that he was not aware that they had proceeded to give notice; therefore, this is a moot point then if this is set for August 2. The SUP hearing will go as they noticed for August 2, 2004.

PUBLIC HEARINGS:
CONSIDER A REQUEST FOR A PLANNED UNIT DEVELOPMENT (PUD) FOR A PROPERTY OWNED BY KEVIN AND KATHLEEN SCHNEIDER LOCATED IN NO NAME, COLORADO ALSO KNOWN AS ROCK GARDENS. (CONTINUED PUBLIC HEARING) – FRED JARMAN
Fred Jarman, Ron Liston, David McConnahey, Don DeFord and Mark Bean were present.
This was continued from the June 21, 2004 Commissioners meeting.
Exhibits A – U were submitted at that hearing. The Public Hearing was continued.
Chairman Martin swore in the speakers.
Fred submitted a new Exhibit – Exhibit V – Letter from the Division of Water Resources dated June 28, 2004.
As you recall, on June 21st, the Board opened and continued the public hearing on the proposed PUD until July 12th, in order to provide the Applicant additional time to obtain a letter from the Colorado Division of Water Resources (the State) indicating that the proposed community water system would not result in material injury to decreed water rights. The State has issued this letter of "no material injury" and it is attached to this memo as ***Exhibit V***.
The owners of the Rock Gardens Campground request land use approvals so that they may pursue a phased development plan to legitimize and enhance the existing uses and operations at the property. The uses presently existing at the property include a mobile home park, tent and RV camping, single-family dwellings, and recreational activities including rafting, jeep tours, and bicycle rentals. The majority of these uses have occurred on the property since the 1960s prior to the establishment of zoning regulations / districts as well as the Comprehensive Plan. As such, once zoning was set in place for the property, it rendered all of the present uses as non-conforming uses. The Applicant proposed to rezone the property from ARRD and RGSD to PUD.
PHASING PLAN
The Applicant proposes the following phasing plan:
PHASE I: (To be completed by November, 2005)

1. **Construction of sewage treatment plant to serve the entire PUD and potable community water system to serve the improvements planned in Phase I which includes 21 RV spaces and administration / office building on the west side of the entrance roads and the 11 camper cabins and 18 camping spaces and new bathhouse on the east side of the entrance road per the PUD plan.**
2. **Construction of a new bath house and service building to replace the existing upper shower/rest room building. The new structure will also include a laundry room.**
3. **Realignment and reconstruction of the access road from the entry to the end of parking for recreation services guests.**
4. **Installation of new recreational vehicle spaces west of this new road, placement of camper cabins and development of new tent camping sites.**

PHASE II: (To be completed by 2009, although all wastewater discharging facilities will be connected to the sewer treatment plant by June, 2007.)

1. **Construction of a new driveway at the end of the existing mobile home area creating a looping connection back to the main drive.**
2. **The gradual replacement of mobile homes with recreational vehicle parking sites may also begin in association with roadway and utility improvements.**
3. **Construction of a community meeting building and recreation hall.**
4. **Extend and complete the community water system infrastructure from the water main terminus from Phase I to the community building and fire hydrant as shown on utility plan as per the PUD.**
5. **Complete replacement of mobile home spaces with recreational vehicle parking sites.**

6. **Renovation and expansion of administrative and recreational services buildings including retail space and employee housing accommodations.**

In addition, the Applicant shall install a "Dry Hydrant" near the Colorado River on the lower bench of the property as part of Phase II improvements.

STAFF RECOMMENDATION FOR REZONING FROM RGSD & ARRD TO PUD

Continued:

Staff recommends the Board of County Commissioners approve the rezoning request for the Rock Gardens property from ARRD and RGSD to PUD with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearings before the Planning & Zoning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall install two new fire hydrants on the new eight inch water main. One shall be located near R.V. spaces 2 & 3 or on the north side of the expanded office building as part of Phase I improvements. The second new hydrant shall be installed near the new community building as part of Phase II as the water line main is extended to serve the improvements in Phase II. In addition, the Applicant shall install a "Dry Hydrant" near the Colorado River on the lower bench of the property as part of Phase II improvements. The dry hydrant shall be designed and installed to National Fire Protection Standards. Prior to installation, plans of the dry hydrant design shall be presented to the Glenwood Springs Fire Department for review and approval.
3. The Applicant shall contact the Glenwood Fire Protection District once the community water system and new hydrants are completed so that the Department can obtain fire flow rates on the system.
4. The Applicant shall install fire sprinkler systems (meeting NFPA Standards) in all new buildings when they are built including the community center. When the additions are constructed on the existing buildings which include the administrative office and residence complex and expanded storage/maintenance shop). Further, the Applicant shall retro fit the older parts of the same buildings that will be added on to with a fire sprinkler system at the time the additions are made. The Applicant shall install an alarm system for the sprinkled buildings to be designed to NFPA 71, 1999 standards and monitored by a UL Listed Central Station.
5. The Applicant shall design and construct the secondary emergency egress right-of-way which terminates at the Rock Gardens property line as shown on the PUD Plan.
6. The Applicant shall be required to bear proof all outdoor trash containers and require that all dogs on-site shall be kept on leash.
7. The proposed community building shall not be relocated to the presently proposed location of the waste water treatment facility.
8. Due to the potential for geotechnical concerns for potential settlement of structures, all structures shall require a site specific geotechnical study before a building permit is issued. This should be included in the PUD Zone Regulations.
9. The private driveway through the property shall be constructed at a total width of 26 feet consisting of 22 feet of pavement and 2 feet on each side as a gravel road base.
10. The Applicant shall complete the wastewater treatment facility as part of Phase I.
11. The Applicant shall complete the community water system in two phases with Phase I improvements to include the wells, storage tanks, water pump / treatment systems, fire hydrant, and 8" water main to terminate where the main internal road turns east. Phase II improvements include completing the 8" water line to the community building and fire hydrant located adjacent to the community building.
12. Regarding the control of noxious weeds, the Applicant shall provide the following information prior to the hearing before the Board of County Commissioners:
    - A. Inventory and mapping-The Applicant shall map and inventory the property for County listed noxious weeds. There may be tamarisk and or Russian-olive in the area along the banks of the Colorado River.
    - B. Weed management-The applicant shall provide a weed management plan for the inventoried noxious weeds.
    - C. Open Space weed management - Please provide a weed management plan that details whom the responsible party will be for future weed management in common open space areas.

The Applicant shall re-grade the last portion (30 linear feet) of the main internal driveway to where it meets the entrance / exit point out of Rock Gardens to a maximum grade of 6 percent as shown in the proposed re-grading plan.

13. The maximum length of stay for guests at Rock Gardens shall be limited to no more than 120 days per year.

David McConnahey, Tom Zancanella and Ron Wilder were present and commented on the Water Decree.
Tom Zancanella the initial decree for water has never been called out and they will use it for their irrigation Supply.
Ron Wilder explained that the project is not dependent upon that irrigation supply. The audit plan covers the irrigation.
David said they were in total agreement with the set of conditions.
Laurie Hogan, Marketing for Glenwood Springs Chamber of Commerce spoke favorably for the development saying it will have a good impact on tourism. Many of the parks have full time residents and leave less opportunity for tourist to visit the area and find suitable camp grounds.

Jeff Pollack – opposed for just this reason. Agrees we need tourism but this is displacing our own community and we need to keep their dollars here as well as increasing tourism. At the No Name intersection there are about 1900 transactions in that small intersection and it is polluted with vehicles presently. If this is approved there will be 3 times the amount of traffic. This intersection is a danger to children, this impacts water and eliminates residents out of their homes.
Paula Bergman – Rock Gardens residence. She did a traffic study checking traffic from 8:30 a.m. until 9:00 p.m. and the total amount of vehicles was 1,067 in that period of time. This included traffic coming off the freeway going north and vehicle traffic headed into and back out from the Rock Gardens. Traffic just going in and out was a total count of 715 that included 349 pedestrian and bicyclists accessing the Glenwood Canyon bike trail. A grant total of 1,782 vehicles including RV, semi's, cars and motorcycles at one intersection with simply stop signs to manage the traffic. People are driving too fast, the bike path is on a hill and there have already been several near misses. This bike trail is what we woo people to Glenwood with, yet there are problems with bring in more traffic. No Name is a very busy intersection with traffic and safety issues in addition to the entire Affordable Housing issue. I own a trailer there and I stand to lose my home. 30 kids were counted playing in the area where this is proposed in the middle of the day. The size of the proposal is overkill.
Jack Real – taxpayer and resident in No Name and he wanted to reiterate some concerns already stated. The Rock Gardens has been a welcome part of No Name over the years. He has two serious concerns with the proposed development; Affordable Housing loss and the potential for fires. If this plan goes through, we will lose 26 homes now occupied and possibly more where teachers and policeman live.
Exhibit X, petitions signed by the Rock Garden's residents was submitted.
Tom Zieman – Catholic Charities – Affordable Housing – he is concerned about the loss of these units – these are the working class people and would like these units to be there and/or some kind of compensation for their losses.
Commissioner Houpt inquired if there was compensation for loss of the Mobile Homes; when you need to move them they are worth nothing if they are older models.
Tom Zieman agreed if you move an older mobile home it's worth nothing. This is the loss they will suffer.
Bridgett Evans works at Good Health in Glenwood Springs and lives in No Name, renting from her mother who is a homeowner there outside of the Rock Gardens. As well as concurring with all these people in opposition to this rezoning and this development, she wanted to clarify a few other issues. Somewhere – before the public could speak she heard a reference regarding open space and is aware that the Schneider's own some property on other side of the river, not the north side that is part of the campgrounds. That may be the only open space visible as far as driving through or passing on the river. After this development, if it is half as big as what she's been exposed to, she doesn't know if you can classify it as open space. Her main concerns are not only the things we've raised but for the children, the safety of the bikers; Glenwood Springs and not just the No Name residences and their taxes built that bike path and she's heard that another road is to cross the bike path in these discussions at another point for emergency access and wanted to clarify that concern. This development is going to happen, what she wants to address is the secrecy that's been kept to the extent of it. We know what may happen but are asking for this zoning to be put off and the public to be made more aware of what he's wanting to do and for the builders to reconsider other more community minded decisions and research alternatives to be addressed. Things like a play ground being

included, these children have no place to play and therefore play in the streets where all these cars are driving. Minimum amounts of space perhaps for camp site; an increase but not perhaps that much. There are trailer parks that have plug ins within 30 miles on either side of Glenwood Springs so the comment about sending the tourists to Grand Junction was referred to and she doesn't think people have to go that far.
Commissioner Houpt asked Fred just how extensive the notice was for last meeting.
Fred Jarman said the posting was at the gates, publications, and adjacent property owners within 200 feet.
Bridgett said that No Name residents and the community at large wasn't notified realizing there are a lot of renters in that area. 200 feet may have included 2 residences and it should have included about 40 residents.
Chairman Martin – they met the regulations.
Jeff Pollack –the proposal includes a fabulous community center with a rock climbing wall and they are also building a pool. This is a great place for people to go and it will include a recreational center in No Name for a low density neighborhood. Low density residential is what it was before; now it'a a commercial operation. There are over 20 rafting buses and vans that come and go all day; abandoned trailers with no value to these trailers or to the residents; you can't relocate these mobile homes to any other site. He still profits from them and we need Affordable Housing. If they have no shelter then they become a burden on Social Services and Catholic Charities.
Lisa Hays – one of the teacher and has lived 19 years in this location with a home 20 year old. This is Affordable Housing would like to stay here. We need growth and a place of tourism but we also need people who are dedicated to this community who want to raise children and grow old here.
Bridgett Evans – three current residents of Rock Gardens was looking at rentals in the No Name and couldn't afford it.
Ron Liston said he recognizes the need for Affordable Housing but this property can not solve the problem. Notification was not given to the renters however, they were made aware that changes that would affect their housing years ago and there's been a significant amount of notification. When a unit was vacated the Schneider's replaced it with privately owned housing. Important to understand that this is not for the protection of the current mobile home park – it's inappropriate and say it's the source of a lost of Affordable Housing. The facts of the project were known. The staff and Planning & Zoning have studied this and we have compiled with the regulations of the County and we are not asking for special treatment. He said we not trying to justify anything, we pointed out the traffic and it's important for people to know what goes on from us as we have no hidden agenda. The RV traffic versus the mobile home traffic is not going to change significantly. The concept of a community center is for a family gathering and not for rental purposes. I is a shelter or building to have a dinner, not a replacement of a community center and yes, they do have a location to put in playground for the kids. Trying to achieve building upon what's there already and doing it in a way for people who will pay to stay there. RV parks are in the standards of the County. We have tried hard to enhance the property and this is an awkward challenge and has tried to put people on a long term notice about the proposed changes.
Commissioner Houpt inquired if CDOT was notified.
Fred – CDOT didn't respond.
The Exhibit containing Petitions was admitted into the record as Exhibit X.
Commissioner McCown noted that the numbers on the existing housing is privately owned and rented; how many are owned.
Kevin Schneider – 11 are owned and they are leased ground on a month to month basis; this is the way it has been as long as he can remember.
Victoria Alexander – resident and taxpayer in Garfield County for 15 years; she is opposed to this, many conversations as to who moves here and wants the conveniences. We do need Affordable Housing in the No Name Mobile Home Park where are these residents supposed to go in this valley if they are to leave their already existing Affordable Housing.
Greg Jeung – 1221 Blake – per the application it looks like they are requesting an up zoning from A/A/RD and Low Density Single Family or something and I think you have the ability to negotiate some of the terms and not sure if there are many options for these people. Thinks we need to be progressive in thinking and maybe there's some County land or city public land where these people could be relocated to. Another big issue is that a lot of these RV parks in the County have become full time uses. You see 5th wheels with plywood skirting on them. Apparently the County doesn't have the ability to enforce their limitation of 120 days per year. This becomes a self imposed regulation for the owners or managers of the park and

potentially these spaces could become more full time uses which against provides a need for certain people, it is a different level of Affordable Housing but yet if in fact these are RV's that are classified as 5th wheels, they wouldn't be paying property taxes like a mobile home has and what's shameful is that the value of these places, paying an assessed value of $40,000 per unit and basically they become worthless. These people have no equity in their trailers to get started somewhere else. This is a problem in the valley, Basalt and Carbondale have also struggled with the issue of mobile home residences being displaced and Glenwood has a few mobile home parks in the southern part of the town and potentially more can happen and it is providing a need and if there's a way to think towards the future and try to help preserve this aspect of affordability and housing for residences is important. If this can factor into the negotiation part about this request for an up zoning and looking at some compensation or alternatives for these residents would be helpful.

Commissioner Houpt commented that Greg raised a very important discussion and agrees with Ron that one project can't solve the problem we have with Affordable Housing but we're behind the 8 ball as far as a County and we need to make a commitment to move forward with Affordable Housing and not rely on have private business owners to find themselves in a position of being the villain when they are trying to create a new use on their property. She thanked everyone for coming forward today and bringing this issue out into the open because it is critically important. The problem with this issues is that we don't have a couple of years to work on this; this is an immediate issue for people and we have to do some brainstorming on how to meet the needs of people who can't afford as much as our regular market homes are demanding. She suggested putting everyone's heads together while this topic is at the forefront of our minds and maybe come up with something for our community because she hates to see what will happen to Glenwood Springs and to a huge part of our County if we don't pay attention to this dilemma It's hard for people to understand who are being displaced that there are two different issues here but there really are but it's incumbent on all of us to work together to make sure that we do find places for displaced people and we don't lose them as community members.

Jan McNutt – a resident for 17 in the City of Glenwood and she is not against growth but displacing 30 homes is adding to a problem we already have. Housing is a killer in the area; very big concern on the bike path and it looks like a road. She's seen children almost hit because they get ahead of their parents and people do not understand this is a bike path, people think this is a road and they don't expect a kid on roller blades, etc. This is hard on her because she is for growth; her huge concern is this bike path and appalled to know this size of a development was going on in this area. Doesn't think Glenwood understands what's going in there.

Ron Liston – based on the engineering study, when you move the mobile home and replace with RV's it is less traffic.

Jan reiterated her concern that RV's will not know that there is a bike path and this intersection needs to be having a stop light showing a bike path.

Ron said they talked about it; there is a stop sign is there and they have talked about grading the entrance and plan to do additional signage; also to add a crosswalk both on the bicycle side and the road. He noted that the bike path was added after the Rock Gardens were there.

Chairman Martin asked if Ron was willing to work with CDOT since this is a CDOT right of way.

Commissioner McCown referenced condition no.13 on page 5 saying if we add after "plan, and signing adequate to control traffic at the path crossing"; if CDOT will allow it. We don't know if they will allow it and we can't put regulations in that they may not approve.

Chairman Martin – the problem with affordable housing is that the government will have to own government housing to control that and to allow people to go in and not depend on private industry to supply everything we want for affordable housing and guarantee it. This government will have to build it, own it and run it. This is not particular in this application but felt he needed to make that comment that there has been several court case hearings saying you control rent, you have affordable housing, the government owns it period. So if that's what we want to get into, that's a different subject than this application.

Commissioner Houpt said there are a couple of different avenue for that; you can look at the impact of growth and you can look at affordable housing.

Chairman Martin – It's a terrible impact for those people who are using those mobile homes, the 30 trailers that are that, of course they signed a lease saying it was month to month and I know that Carbondale went through a very heart wrenching situation right across from City Hall as well as we have it going in Edwards with the same situation. Affordable Housing, employee housing, is phasing out trailers. It's a shame, but

don't what else we can do unless we change the Statutes.
Commissioner Houpt well as we look at projects like this there is a recognization that people are being impacted as growth continues in this region and in making my statements she wasn't saying an so, please find homes for everybody. But what she said, we have business owners, we have elected officials, people who work in non-profits and people who are being displaced in this room. If everyone work together and make a commitment to maintain communities that they have a place for all levels of income then maybe we won't find this kind of situation. Property should not be made the villains but she is saying we have to look at the impact of growth and if development can't keep up with affordability, then yes it is incumbent upon us to move forward on it and there's really good resources for us to do that so we'll put this on an agenda.
Commissioner McCown said well actually we have a very good mechanism in place with affordable housing and we were at the forefront of that of all the counties that surround us. Anytime there is an up zoning and there is an increase in density, we deal with affordable housing. Many of the cities and towns and counties in this area don't so I take issue with the fact that you said we're behind the scale on this because we're not.
Commissioner Houpt – we'll behind on keeping up with the need.
Commissioner McCown – not saying that but I am saying we're at the forefront compared to the other cities and towns and counties. We have one in place.
Chairman Martin – noted that we do have an application in front of us and that is in reference to the development on the property proposed to us.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown to approve the rezone to a PUD for the Rock Gardens with the staff's recommendations 1 – 14 with correction in 13 as placed on the record, "adequate signage be in place to control traffic impact crossing."
Commissioner McCown echoed everyone's sentiments here that i8t's not an easy position to be in to think you're displacing people but again it's not Mr. Schneider's sole responsibility to provide affordable housing for 30 residents, they are on month to month lease; I sympathize with them, I wish I had an easy answer but denying this particular request on the basis of affordable housing is not appropriate so that's why I made my motion.
Commissioner Houpt – it's very difficult because since I've been in this position, I've attended numerous meetings on affordable housing and we don't seem to be getting anywhere but at the same time we keep approving projects that either make it less affordable for people to live in the area or displace people and so I want to go on record saying that we as a commission now have to come to the table and we need to do something about meeting the needs of all our constituency with affordable housing. I'm meeting doubt on this and now it's time for action, so I'm going to be putting that on the agenda because I think it's a real problem and I also agree that Mr. Schneider is not responsible for that particular problem.
Chairman Martin – call for the question even though it gives me a headache over this particular issue because I've seen it numerous times before.
All those in favor: Martin - aye McCown – aye; Houpt - aye

COMMISSIONER REPORTS
Commissioner McCown – River cutting on the White River Bridge Wednesday; Guard rails are coming; Associated Governments on Thursday Silt Town Hall; Mike Sawyer on the LOVA Trail Group Tuesday evening and the Burning Mtn Days – Saturday.
Commissioner Houpt – 2nd Home Industry Symposium that NWCOG gave last Thursday – the meeting on Growth scenario analysis seemed like a very similar discussion to that; LOVA meeting Tuesday at 6 pm; on the 16th – Friday, Central Mountain Transportation Corridor Coalition meeting in Frisco 10 a.m.
Chairman Martin – Beginning on the 16th attending the National Planning for BLM's – any public land use, review and recommendations made up of National Association of Counties; BLM nationwide, 13 states, Wilderness Workshops, Environmental Groups, local and state government. John will serve on a panel of 4. Met with Ed and COHERA; met with the Transportation folks in reference to our consultant on transportation needs in Carbondale Wednesday of last week. Picnic in Silt on Friday and meeting with the Division of Wildlife in reference to the money on the proposed fisherman's access and launch sites in Carbondale coming from the lottery money, they may do the purchase on permanent access and on the 16th at 10 a.m. there is a meeting but Randy Russell and John will both be unable to attend. R & B meeting on the 14th at 2:00 p.m.

Mike Blair – Citizen
Affordable Housing Issue – member of City Housing Commission said he is reminded of this very often. The thought that he had was when we displace people such as mobile home parks, he noted there are very few around the county compared to the need. Great need and suggested the County may make it easier for mobile home parks to be developed and perhaps where people can own their homes and the land under it and allow mobile home greater than 20 years old. Since the County is reworking the rules, he asked for consideration of this matter.
Commissioner McCown – said the 20 year old rule is generated by the owner of the park and not the county; the county has no control on private property.
Commissioner Houpt said we are working our Code and will work on that as well.

COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – Airport Road
Jeff, Randy, Board, Ed, Jesse, Don, the Board and Mildred were to remain.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session and adjourn; motion carried.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

JULY 19, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

CR 125 – County Road 125 – Bobby Branham, Former – District 1 for Road and Bridge supplied the Board with information requested from last week saying the total cost would be $62,693. The owner of the property, Sue Rogers had been in Africa and was in touch with Chairman Martin Sunday evening. She said the plan could affect her ranching operations but requested time to discuss this with Road and Bridge and the Administration and then get back to the Board. This would be an item in the 2005 budget

Colleen Truden – representing Sue Rogers on behalf of Crystal River Ranch, had a discussion on the improvements proposed on the County Road and asked for an opportunity to discuss this with her client. This is an open range and time is needed to have a meeting with her client. Anything that impacts her ranch is a concern. Ed gave her a copy of the materials and work bid. This will be postponed until after the August Primary Election.

COUNTY MANAGER UPDATE: ED GREEN

DOLA Grant Application for Air Quality Monitoring – Doug Dennison

Ed Green and Doug Dennison presented the Energy and Mineral Impact Assistance Program application that is requesting an Air Quality Monitoring Program in Western Garfield County.

Colorado Mountain College assisted Doug in putting this proposal together. The dollar amount was DOLA will contribute $80,000 for equipment and personnel time looking at the data; the EPA has volunteered to commit all the for $20,000 and the rest is up to the County. $84,000 for equipment is the County's. $10,000 grant from the State Department for outreach planning. It comes to a 60% match from and the remaining $124,000 from DOLA.

The specific site was selected with meetings with the State Health; this will be monitored in a co-location where they have done this in the past and they have individuals in this area that shed light on the site. They also have a mobile station to monitor specific sites. The new data would be compared to the old data.

Chairman Martin referenced the $393,000 we are to receive from the State Treasurer on the Federal Minerals 3rd cut.

Jesse wasn't sure how that plays in to what has been budgeted and what we've received so far.

Chairman Martin – if we have this available and it is Oil and Gas generated revenue, that we maybe would need to put this back into monitoring air quality if it's available and suggested this be used for the grant match.

Doug said if the BOCC approve moving ahead, this will be submitted August 1, and realistically it would be the first of 2005 before funding would be awarded from DOLA. Doug said he stretched this where the biggest chunk of this was the Capital purchase of some equipment which would be upfront costs and not spread out over the two years.

Commissioner Houpt made a motion that we authorize staff to move forward on this grant application for air quality monitoring throughout Garfield County and authorize the Chair to sign the application. Commissioner McCown seconded.

Chairman Martin – how does this affect your department staff wise?

Don said it doesn't. This is the kind of things he envisioned he would be doing and CMC will be doing a lot of on the ground work with staff and students who are trained in the air quality controls aspects.

Chairman Martin wanted to make sure this wouldn't lead to an expansion of his department.

Doug assured the Board it would not.

Motion carried.

Replacing present roof on Courthouse with a new TPO roof – Richard Alary

Ed Green, Tim Arnett and Rich Alary submitted the bidder list and said seven (7) roofing contractors attended the pre-bid conference and they received bids from all seven (7). The lower bid was from Miracle Roofing for $104,700.00 to remove the existing roof and replace it at the Garfield County Courthouse. The roof project is $104,700; the Architect C. F. Brenner, Inc. for plans and specifications $6,000; a contingency of $15,000 brings the total project to $125,700. Ed noted the budget amount was $175,000. This starts 20 days after notification and the completion time within 30-days.
A motion was made by Commissioner McCown and to approve the bid to Miracle Roofing for $104,700; Commissioner Houpt seconded; motion carried.

County Road 317 – Beaver Creek and County Road 320 – Rifle Rulison Road

Jake Mall provided a letter to the board for a request from the Sheriff, Lou Vallario to change the yield sign on CR 317 at the entrance to CR 320 to a stop sign. Jake said this is a Y intersection with limited visibility to the west controlled by a yield sign. He concurs with the request.
It's the small vehicles are the ones that are the problem. 306 Wallace Creek side is controlled with a yield and asked if he could also change this one out.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the yield signs at County Roads 317, 320 and 306 to stop signs. Motion carried.

Update of Relay for Life – Mike Vander Pol

Mike reported on the Relay for Life held in Rifle. Mike was elected the team captain. He thanked the Commissioners for the Cancer Society for their commitment. Patsy and Ruben Hernandez, Wendy Turner, Cathi and A.J. Edinger, Brenda and Jim Slappey, Linda Hunter, Bonnie Embry, Frank O'Mara. They walked a total of 240 laps for a total of 60 miles over an 18 hour period. Asked the Commissioners to contribute an additional $240 to the American Cancer Society for the laps walked which is equivalent of $1.00 per lap. The goal was for 250 laps so they just fell a big short. Photograph of the team was submitted. All the team members had a great time and want to do it again.
A motion was made by Commissioner McCown to authorize the $240 for the Relay for Life; Commissioner Houpt seconded; motion carried.

Airport Manager Update – Brian Condie

Brian Condie submitted an impressive Airport Update including a status report showing the Airport upgrade to D-III with the Environmental Assessment in 2005 however this will begin shortly as it takes 9 months to complete, the Engineering upgrade design in 2006 and Construction 2007-2009.
Fuel Sales are 24.63% over June 2003 YTD totals and Brian estimated jet fuel sales over one million gallons in 2004. The significant Airport improvements should maintain a strong growth rate for several years. The Strategic Projects are: Airport Upgrade; Ramp Expansion; Remote Communications Air to Ground; Remote Monitor; Land Development; Airport Marketing; and Terminal Area Forecast.
The Transportation Security Administration finally came out with their Security Guidelines and the Garfield County Regional Airport is in compliance with all the regulations.
As for Strategic Planning – Non-Commercial Aeronautical Land Lease – Development Guide/Building Area Plan; RFP due July 21, 2004; Term, rate and no hangar revision options; Pioneer period; Infrastructure cost; Based aircraft economic benefits $165,698 per aircraft; and Encourage small and large hangar development. Brian also commented on the airport lights – ramp lights and entrance sign.
New Storm Water Plan after they go over one million gallon of fuel.
Commissioner Houpt complimented Brian on the good work he's doing at the Airport.
Strategic Planning – we have more than enough space to build hangars. Three building areas are identified. Best to segregate the aircraft - divided into three different areas. RFP for those who want to build small hangars.
Brian proposed a scale of fees for the hangars. He will be coming back on the 9th of August.
The goal is to attract some large corporations to come in and build some infrastructure.
Carolyn stated they never own the land, they own the metal, and the land belongs to the people of Garfield County.
Commissioner McCown agrees with the concept and understands the need to do something to give to the little guy for small T-Hangers and the smaller individually owned aircraft and incentive of owning the building and it never reverted to the County and supports this wholehearted, but when it comes to the larger, commercial private is a gray area. The little guy can't borrow money to do it under the terms we're imposing right now.
The Direction given:

Direction is to if they build a hangar and they keep for non-commercial only, they're not allowed to enter contracts with FBO's for storage of their aircraft or the size of the hanger reverts back to the County.
Commissioner McCown – this size of the hangar would accommodate.
Commissioner Houpt – look at that as one option, you're still in the process of analyzing this and putting it together.
Commissioner McCown – You're going to be able to enter into a contract with an FBO to handle over flow jets in your hangar and that should be under the same conditions as those hangars in the heart of the airport, revert back because you're taking that risk. On the private ownership hangars, it is smart, given probably the type of construction is going to differ from the bigger hangars, is it smart to shorten that term and increase the punch list dates so we keep some quality buildings out there? We have one in question now. Would it be smart to go to 20 years and do 5's because there may be a different type of construction than we see on the big hangars and may deteriorate faster so that they require an upgrade.
Brian - The development guide specifies what they can and cannot put in which makes it uniform throughout but we still may get some that aren't up to code in 10 years. Also looking at a Pioneer period up to the time when we get our runway expansion done. If you come in before that say you get 40% off or 20% off for the next 5 years as an incentive to entice these guys to start building. It's not the hangar, it's the aircraft we get based out of there that will bring the economic impact. More discussion next month.

Fairgrounds
Ed reported they met with Alpine and resolved the issues with the Quarter horse folks; plumber will be out of there by Tuesday; Wednesday, Thursday, and Friday is there core time and they wanted absolute silence, so we going to ensure that. The pour will no occur until the 27th. There's no dollar impact but there may be days associated with the change.

Energy Impact - DOLA presentation that Randy and Ed will make on Wednesday. A copy was given to the Board.

Copy of Letter from Waste Engineer report sent to the State – Ed gave the copy of the letter and basically they've identified three potential solutions to that property and they will come up with an estimate for each one and get a reading from the State on which they want. Ed's view and the same for Waste Engineering is that it's time to get the dirt out of there and not mess with anymore extractions.
The Commissioners agreed.

EPIC Committee – Free Dump Loads for Employees
Ed met with the Epic Committee and one of the suggestions was a free dump day for employees, where once a year employees could bring one pick up load to the dump anything they want. Janey presented a proposed certificate that we could pass our certificate. This will be no impact to our regular customers. Janey calculated revenues forfeited to be $2900 for the entire benefit but actually there's no cost outlay. To offer this to the employees.
Commissioner Houpt – even though we do have our free dump day around Earth Day, many people in the County are working and can't take advantage of it. This allows them to go another day.

Ed pointed out in the email that we have 400 people that take advantage of the free dump day and they are lined up along the County Road for the entire day.
Chairman Martin felt this was a better solution as well as the other issues such as the Town of Silt when they do their special event, do the same thing for them giving them a certificate allowing them to do that, that way the landfill folks aren't calling up and asking if this was approved.
The Board agreed with this recommendation for free dump day certificates.
COUNTY ATTORNEY UPDATE: DON DEFORD

Final approval of RFTA IGA
Don DeFord, Renee Black and Dan Blankenship were present.
Don submitted the IGA concerning a vote to join the Roaring Fork Transportation Authority that included all the previous requirements stipulated in the discussions. If the electors of unincorporated Garfield County approve the Garfield County RTA ballot questions, Garfield County will become a member of RFTA and sign the RTA IGA, as amended. The proposed Ballot Question was not included at this time.

In the Board's packet was the initial draft Don received last week and after he received it, reviewed and compared it to the motion and the last memorandum from RFTA, there were a few alterations made to the Agreement; this reflects the Board's motion and the position that RFTA took at the last meeting. It incorporates all necessary changes. Don stated he has all the attachments and is looking today for a motion that will authorize the Chair to sign the final Intergovernmental Agreement between RFTA and Garfield County and this will be the Agreement that will be submitted for voters.
Commissioner Houpt – I will make that motion we were discussing. Commissioner McCown seconded.
Chairman Martin asked if the actual signing of this document means that Garfield County itself, the government is part of RFTA at that particular moment and is waiting to be ratified.
Don – no. Renee may want to comment on that as well. This agreement specifically states there will be a vote, this is really an agreement between the Commissioners and RFTA to go to a vote, I believe, and asked Renee to comment if she has a different view.
Renee Black – no, that is right.
Don – once it goes to a vote, if approved by the voters you will then see a modified IGA in the long form. Now, what I haven't given to the board are all of the attachments that go with this. Dan Blankenship brought those over today and they are very voluminous that includes the current IGA that this Board has reviewed several months ago and years ago and that is the agreement that will be modified and signed.
Commissioner McCown – I think number sixteen (16) addresses your concerns, John.
Chairman Martin – yes and no. Because you know the original IGA says that those sign that are members of RFTA no matter what and that's there's no way to get out of RFTA, no matter what, and I think we need to make sure we understand that this is a question on taxation to the citizens and if they wish to commit those taxes to RFTA, not that we are joining RFTA at this particular time. It worries me simply because there is no escape clause.
Commissioner Houpt – The reason we are signing this is to finalize the agreement that we would move forward with so that voters understand what they're voting for but it certainly doesn't commit us to a membership with RFTA until is goes to a vote and we find out what the outcome of that vote is. This just allows us to explain to voters what we would be committing to.
Chairman Martin – I understand that's what the perception is but that's not what the original IGA says and that's what concerns me, so as long as everyone understands and it's on record that this is just an agreement to put this to the vote and if it is passed then those monies will then be allocated to RFTA and then we'll meet other obligations, but to some interpretation, signing this means we're a part of RFTA immediately and I just want to make sure that is not the fact on the record that we will wait for the vote of the people.
Commissioner Houpt – it's not and I think Larry's right it states that in here, so I think we're safe on it.
Don – couple of things before you actually vote on the motion; first of all as Mildred pointed out to me, I draw your attention to Paragraph 15 of the Agreement, and make sure you understand that this proposal is for both a sales and use tax and again Dan or Renee may want to comment on that, but that is not what we currently have in the county for our other sales tax, it is only a sales tax, we did not adopt the use tax provision. And it is you intention to impose both a sales and use tax in unincorporated Garfield County.
Dan Blankenship – yes and it would be collected by the State I believe. Currently we have that sales and use tax is in place in all the jurisdictions that joined RFTA in November of 2000 wherein the RFTA tax was imposed that was Glenwood Springs, Carbondale and Basalt. In Pitkin County they had existing sales taxes in place, any penny and a half penny which were dedicated to RFTA, a portion was dedicated to RFTA by the voters. Both of those taxes as well, or at least one has a sales and use tax in place or has a use tax in place, so, we think that, I'm pretty sure, based on State Statute, that that the tax RFTA is authorized to impose is a sales and use tax.
Chairman Martin – And an accommodation tax too if you so choose.
Renee Black – yes, if chosen and right now thee State is the one collecting the use tax for us.
Commissioner McCown, so an individual building a home in Garfield County and gets a real good deal on their lumber package out of Grand Junction, they will pay a .4% use tax on the cost of their building.
Dan Blankenship – Yes.
Commissioner McCown – even thought that is not a sale that transpired in Garfield County.
Dan Blankenship – that is correct, I mean that's the way it is supposed to work but there's some question about whether that's the way it does work because the builder should be paying that tax. Without some way to actually audit it or find out about it, there's a question about whether or not we're getting all those use taxes.

Chairman Martin – that puts a burden on building inspectors when they're going ahead and verifying the purchase of different materials, such as the City of Glenwood Springs, you have to present on your building permit the final inspection, all of the receipts and all of the costs in order to verify the cost of the building permit is in line with what you have erected and so that's the burden that falls on the building inspectors and also the final CO's on buildings that they have to verify all of the different things that they bought through the different companies and then again that's an audit that you're asking for on every building.
Commissioner Houpt – we did discuss this before I made my motion at the last meeting, it was very clear that it was sales and use tax and that has always been a part of the document before us.
Don DeFord – Mildred wanted to make sure we didn't miss that because it was.
Mildred Alsdorf – that's also where I collect on motor vehicles, I'm going to be collecting RFTA use tax, but I don't collect Garfield County use tax, and it's not just the State that collects.
Commissioner McCown – it's the use tax in Garfield County.
Agreed.
Mildred Alsdorf – it will be the only use tax that Garfield County has if it passes.
Dan Blankenship – although it is being collected in Carbondale and in Glenwood Springs.
Mildred – the other thing under number six it sales an authority sales tax, it doesn't sales and use for the City of Glenwood and Carbondale, etc.
Dan Blankenship – well, perhaps we should amend that because it's clear.
Renee Black – it is a use tax. On 6 is it a sales and use tax.
Don – so should 6 be sales and use tax.
Dan Blankenship – right but the way I understand it is that normally, if someone buys an automobile in Denver, they pay the tax in Carbondale or they pay taxes in unincorporated Garfield County.
Mildred – they pay taxes when I license it.
Dan Blankenship – right and somebody's buying building supplies, the idea is not for somebody to buy goods without paying taxes on them, but if they say it's going to be delivered in unincorporated Garfield County or Glenwood Springs, or Carbondale, then the tax would be collected in that location based on whatever rate is employed there. The same thing applies to a refrigerator or an appliance or whatever, that is bought but delivered here. But if it's outside the jurisdiction I don't think it's the intent that people get away with not paying the tax it's just that they pay the local tax. A lot of people don't claim it though, when it's delivered, it's a rare individual that's going to pay the tax on it.
Chairman Martin – unless audited and then they do pay it with a penalty.
Dan Blankenship – we do our best to notify people that this tax is in place and we're collection about $80,000 a year in those jurisdictions where it's in place now.
Commissioner McCown -
Don DeFord – the comment I wanted to make on this is under Paragraph 15, you will be coming back to the Board within the next few weeks with proposed ballot language; that of course will reflect not only an agreement to enter into an Agreement to join RFTA to the voters but also has to reflect all of the necessary Tabor issues for a tax increase, so as you may recall under Tabor that request a specific statement as to the revenue collected in the first year. So a sales and use tax will specifically be stated to the taxpayers with a revenue amount. So with that said and with the change, now that we know what needs to be in Paragraph 6a that reflect a sale and use tax.
Commissioner McCown – and it should also reflect in 8.
Don agreed.
Commissioner Houpt – there is a motion; were you going to say that.
Don – yes but the motion does not reflect those changes.
Commissioner Houpt – I would amend my motion to reflect those changes. Commissioner McCown amended his second.
Vote on the motion: Houpt aye; McCown – aye; Martin – I oppose, have to stay consistent because there's no escape clause and I can't enter into a contract that has no escape.
Don – with that stated we will have the change and we'll get John's signature and forward those to you this week.
Dan Blankenship – and Don, you will notify Mildred; even though she's here that would be a measure on the ballot.
Mildred acknowledged that she had been informed.
Don agreed this motion gives direction to place it on the ballot.

Dan Blankenship – then at some subsequent time we will come back and talk about the Ballot Question itself or the language.
Don – our time frame is the first part of September so before the last meeting in August, the Commissioners will need to approve the Ballot Language.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE
Don requested an Executive Session to discuss and obtain direction from the Board including the EnCana/ Oil and Gas Commission update that really is two-fold (1) provide the Board on pending litigation; (2) advice on pending land use matters and EnCana; discuss the status of contract negotiations for airport Road , notice of claim from Kramer, Contract negotiations for Highway 133 potential trail improvements; the status of County Road 256; and potentially any questions from the Board on the LoVa Trails request.
Staff requested: Airport Road – Brian Condie; EnCana – Mark Bean and Doug Dennison for both EnCana issues.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action Taken
Don requested direction from the Board to proceed to develop a contract with **Airport Land Partners** pursuant to which we could re-construct County Road 319 on property on which they may have a claim, so long as they forego any claim for damages on that property.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Direction to develop a contract with **Gould Construction** Inc. in two areas: **1)** to accept the Deed of Right of Way for property also as part of that 2) to issue an access permit for property they own adjoining CR 319 once that property has been annexed to the City of Rifle.
Commissioner Houpt so moved; Commissioner McCown second; motion carried.

Gould Construction (2) – authority to issue a contract amendment or change order for the current construction project pursuant to which the County would direct Gould Construction to proceed with reconstruction of County Road 319 regardless or whether or not we receive a deed from Mr. Howard so long as Gould Construction waives any potential claim for damages.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

EnCana OGCC Update
Don provided the Board with an update on current litigation, the matter is set for August; we have a pre-conference is set for July 21, 2004 in which we'll discuss the procedure that will be followed for that hearing. In regard to land uses the staff received direction to do further investigation on the status on the land farm as designed by EnCana and return with further information to the Board on our regulations and their applicability.
County Road 256 – Don gave the Board a copy of a letter from an Attorney in Grand Junction protesting inclusion of portions of County road 256 as that road may run between Douglas and Baxter Pass. That letter protesting that section, first of all the map does not appear to be one that's generated from the County as an official county road map but the position taken in their letter is accurate. Don had previously told the Board that this road was declared to be private right of way by the District Court many years ago, Don personally investigated the status of that case at the request of the Board; in review the existing court order some time ago and advised the Board publicly of that and I think the Board then took the position that portion of CR 256 should not be included on the County Road Map. This is part of our on-going effort to get out County Road Maps up-to-date that was part of it and asking the Board to proceed in this project to designate a primary and secondary road system.
Commissioner McCown noted they also question in their County Road 254 which we've had similar discussions on as well even through our Access Committee.
No action today is required; the Board has previously taken action on this road.
COMMISSIONER REPORT:

Commissioner McCown – last week he met with LSC, road analysis, and went over the status of the study they're doing on the designation of routes throughout the County; met with the LoVa Trails people Wednesday morning; New Castle Parade on Saturday; there is a popping out party at Valley View Hospital from noon on Wednesday; Com Board on Thursday; Parachute Parade on Saturday and will be leaving immediately after the parade for a trip back to Missouri next week.
Commissioner Houpt – Friday the I-70 Corridor Coalition met in a facilitated meeting by the Rural Resort and decided that Rural Resort would facilitate moving that effort forward and that the current IGA's (signed several months ago) would stay in place and there would be discussion about what the cost would be for moving forward with funding request. She thought there would be agreements that come from that group with proposed funding requests from all of the memberships. The focus hasn't changed it's as outlined in the IGA. Next week – going on a river trip in Utah and will be out of town.
Chairman Martin – last week he went to Utah to attend the National BLM Land Use Planning where he presented information about being an cooperating agency – opened up a few eyes, and also there were a few people who paid attention to the concerns of local governments in reference to planning of BLM public lands – from access to the actual use of the lands and the failure to supply budgets to live up to their management plans they put in place and things we will be hearing from them in the future on other issues from pipelines to weed contract - made some inroads. No BOE scheduled on Tuesday and Wednesday. Meeting on Thursday with Pat Tucker property in trying to establish a permanent easement and ownership on property down by Carbondale on the Bridge at 133 and 82 seeing if we can make that into a permanent fisherman's access as well as boat launch as well as white water park, etc. Carbondale Recreational District in the town of Carbondale was involved; this is another follow-up meeting between Mr. Tucker and John and the Mayor of Carbondale. The Colorado Trust is holding a luncheon in Grand Junction on the 23 as well as a CDOT at 9:00 a.m. in the Glenwood Offices and Grand Valley Days on Saturday.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers - none
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign a Special Use Permit for David Johnson and Lacy Park LLC. – Mark Bean

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda absent item b; motion carried.

REGULAR AGENDA:

HUMAN SERVICES COMMISSION - MINORITY SERVICES – TOM ZIEMANN

Tom Zieman, Director of Catholic Charities

Immigration Services this is the program to help people with certain types of Visa's and also citizenship processes; they served 93 clients, this year already 55 this year. Immigration issues – Denver is part of a pilot project for immigration courts, appeal courts where if the person making the claim for citizenship loses the appeal that the INS officer is right at the courthouse and takes them custody – they have no chance for re-appeal or anything. It's a pilot project being done in some major metro areas. What this does for the most part, those people who have the right to appeal, may chose not to taken the chance if they lost they're be immediately in custody. It's a Catch 22 thing. They are still in support of some Federal legislation that would allow a legalization program of undocumented immigrants here, that's is a fair proposition and if you can put in proper safeguards, have computerized access for employers to verify who's here legally and who's not would be a win-win situation all the way around. With the current terrorist this becomes problematic. In the newspaper, there was an article about the INS doing some random traffic stops on the highways and that was strictly rumors but it went through the immigrant community like wildfire. Catholic Charities had tons of calls for several days with that concern. The immigrant community advocate, a program where they help immigrants with information referral and also most important with mediation services to negotiation with a 3rd party – employer, landlord, etc. In terms of numbers, in 2003 – 126; 2004 already 72.

BOARD OF SOCIAL SERVICES

Lynn Renick submitted a letter to the Board thanking them for helping develop and implement the recent Methamphetamine Symposium held in Mesa County.

Approval of June 2004 Disbursements

Payments were made in the total amount of $72,519.93.
A total amount of $72,519.93.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the EBT Disbursements for Social Services in the total amount of $72,519.93 and chair be authorized to sign; motion

Discussion, consideration and approval of Contracts:

Area Agency on Aging – Caregiver Services/Senior Equipment and Services

The Department of Social Services received a Notice of Grant Award for $74,885 to provide two programs, Caregiver and Senior Services and equipment to eligible residents in Garfield, Rio Blanco, Moffat and Routt Counties.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Area Agency on Aging in the amount of $74,885; motion carried.
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Colorado Works Memorandum of Understanding

Lynn presented a letter and copy of a Memorandum of Understanding for the Colorado Works and the Colorado Child Care Assistance Programs. The MOU allows the Department to continue providing TANF funds and programming to eligible clients as well as low-income child care assistance.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the MOU with Colorado Works and the Colorado Child Care Assistance Program with the amendments as presented; motion carried.

Core Service Contracts

The four counties (Eagle, Garfield, Pitkin and Summit) have agreed to contract for Core Services with Colorado West Regional Mental Health Center in the not-to-exceed amounts of $75,000 (mental health) and $10,000 (substance abuse). An IGA allows Garfield County Board of County Commissioners to enter into the contracts for mental health and substance abuse services for the four counties.

Lynn requested the approval for authorization of the Chair's signature because the contracts need to go to Colorado West for review and they may have some feedback. The mental health contract is for $75,000 less 3% administrative retainage that the department maintains as the fiscal agent. We can extend and do an addendum with this and Lynn will inform the Board if that's the case. We have developed a process for the other counties in order to monitor the monies again this is such a new system we're seeing how it goes. The substance abuse is different because we have additional family services funds so instead of requesting a typical 30% discount which we have done in the past even though we've done a 112 payment in the past, in the contract we're requesting a 50-50 split; a 50% payment through the additional family services dollars which we do not control but services have to be approved and they have to meet the out of home criteria. Then 50% through our core services grant which is $37,500 for the four counties. However, because we can utilize different providers we have never used this kind of a 50-50 split with AFS dollars. We cut down the contract term at this point and time to November so that we can monitor and see how it's going and we have a current, not to exceed $10,000.

Today, Lynn is requesting signatures on the two contracts and there will be other contracts that we will be entering into with other providers, with White River Counseling, both for Mental Health and Substance Abuse as well as a few other providers for specialized service – that could be Spanish speaking only providers for Mental Health therapy, specialized services for forensic type assessments, psychological assessments, parent/child assessments because of court cases, etc. so there will be hand full of other contracts, which will be $10,000 or less that she will be asking the County Administrator to sign.
Commissioner McCown – clarified that this hasn't gone to Colorado West and there may be some changes. Therefore do we want to wait until we get the contract back so Carolyn has time to review the changes before they are back to this Board?
Carolyn stated there is no clue as to what will be coming back from Colorado West, there's been so much negotiation already but she is hoping it will go as is. If there's any substantive change then it will have to come back to the Board.
Commissioner McCown didn't want to give the Chair authorization to sign a contract that's going to come back from Colorado West and the Board may not know what's in it.

Lynn said the issues is that with Core Services, the year actually started June 1, versus July 1 and we're past the deadline; Lynn agrees they would have to agree to come back with any substantive changes if Colorado West is not willing to sign this.
Carolyn suggested they could ask for a special meeting via telephone if Colorado West just says no. Commissioner McCown rather than make a motion to authorize the Chair to sign he would like these to go to Colorado West, he crafted a motion that the chair be authorized to sign these after they have gone to Colorado West and have met with Lynn's and our legal department's have answers to these questions after review, then the Chair would be authorized to sign them; any substantive changes, they would have to come back. Commissioner Houpt – seconded. Motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into the Board of Social Services; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to ratify the contracts we negotiated through in the Board of County Commissioners as the Board of Social Services; motion carried.

Lynn stated because July 1, 2004 is the beginning of the State fiscal year there will be some other contracts, mostly extension contracts that would be for $10,000 or less such as the Link Program which is the TANF educational preparation program with CMC and Colorado West through the Single Entry Point, mental illness services.

Financial Report

Lynn submitted a copy of the Financial Compliance Review between 1/1/1999 through 12/31/2002 and she gave a verbal report as well.
The audit Supervisor, Cheryl Wilmer accepted the Corrective Plan submitted and all non-compliance issues have been brought into compliance, brining closure to this review.
Lynn added that she is anticipating receiving 40% of the requested mitigation funds. Full report next month.

CMBS – Roll out postponed until August 2004. Lynn said she is hearing that Garfield County is one of the better prepared counties for the change.

Program Reports

Lynn submitted these to the Board for their review and comments.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of the Board of Social Services; motion carried.

BOARD OF HEALTH

GARFIELD COUNTY HEALTH FAIR REPORT

Mary Meisner reported on the Health Fair that was held June 10 from 9:00 a.m. until 2:00 p.m. saying approximately 75 County employees participated. A total of 35 employees received Td boosters; all 30 bike helmets purchased were given out and over 50 water bottles, numerous samples of DDET insect repellant and sunscreen were picked up and a n8umber of employees took advantage of the chance to have their blood pressure checked. Many health related questions were answered at the Women's Health booth, West Nile Virus booth, and Nutritional Education booth and the Chair massage booth was a relaxation treat. Drawings were held every hour for some great prizes and drawings for smaller prizes on the half hours. The grand prize was a $50 dollar gift certificate to Gart Brothers. The dollar amount spent for the health fair came to $809.85; she had included $885.00 in the budget.

They email a survey out to employees and were real pleased with the outcomes. Some suggestions included having more vendors, provide flu shots and man all booths as several were not. The Wellness Committee will be evaluating. The suggestion for the Fall Health Fair was a good idea.

EPSDT Contract with Dept. of Health Care Policy & Financing

This is an amended made May 2004 for a total amount of $21,011.00 and for the 2004-2005 the same amount of funds - $21,011.00.
Carolyn has discussed the 5% loss but Mary said she can do it. They can bill with any help needed with computer services.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the EPSDT Contract with Dept. of Health Care Policy & Financing amended made May 2004

for a total amount of $21,011.00 and for the 2004-2005 the same amount of funds, $21,011.00. Motion carried.

Garfield County Nursing Services – IGA

The proposed effective date of this contract is October 1, 2004 and will terminate September 30, 2005. The amount is $18,159.00.

PUBLIC MEETINGS:

DISCUSSION OF COUNTY PARTICIPATION IN LOVA TRAILS GRANT– MIKE SAWYER AND LARRY DRAGON

Discussion was held with Mike Sawyer, Jeannie Golay, Todd Tibbits, IT person and Chairman of LoVa and Larry Dragon.

Material was included in the Board's packet containing the trail that parallels the Colorado River from Glenwood Springs to the Mesa County line.

Garfield County has historically been a supporter for the LoVa trail since LoVa's inception almost four years ago. Garfield County was one of the original partners in the grassroots group that ultimately became the LoVa organization. The county donated staffs time to help develop the LoVa Trail master Plan and since has provided LoVa with financial support to develop the organization's institutional capacities as well as to undertake trail related projects. Today, the request before the Board is to have Garfield County partner with the Great Outdoors Colorado Grant Proposal. LoVa was given a grant application for up to $6.5 million. As part of the application process they have been working with defining the proposal, engineers for cost estimates, land owners in Rifle trying to discuss access and conservation and governmental agencies, - Rifle, Silt, New Castle and today Garfield County.

In April 2004, LoVa submitted a concept paper to GoCo to fund two large-scale LoVa trail segments. First LoVa requested funding for the completion of a non-motorized trail from west Glenwood Springs along I-70 to the Canyon Creek interchange. Second, LoVa requested funds to develop a recreational trail and river gateway along the Colorado River in Rifle.

In order for LoVa to submit an application for the GoCo Large Scale Projects grant, and bring in millions of dollars for the development of recreational facilities in Garfield County, LoVa needs the following contributions and commitment from Garfield County. LoVa has two requirements to meet by August 6, 2004 – Garfield County to be a co-applicant and 2) Garfield County to be an entity with an on-going funding source to maintain the trail.

Jeannie Golay is heading the development in South Canyon. This is in the CDOT right of way, however CDOT has expressed lacking funds to maintain the trail.

The proposal outlines the following as being needed by Garfield County.

Mike Sawyer said with the change in demographics he believes it is time for the County to look at other options to connect our communities which benefit our residents and also work to develop the tourism in this valley – a regional and statewide amenity.

1. A commitment to act as the steward fro the South Canyon trail segment located in unincorporated Garfield County.
2. A financial commitment to help meet the cash matches requirements for the GoCo grant. GoCo requires that at least 25% of the costs of a project be funded with cash contributions raised by the local community. LoVa request Garfield County contributions in the amount of $45,000 in FY 2005, $50,000 in FY 2006 and $55,000 in FY 2007.
3. 10% of the project costs must be covered through in-kind contributions. Garfield County is asked to consider whether additional in-kind services, such as public works crew time, can be contributed.
4. LoVa needs Garfield County to be a co-applicant on the GoCo grant. A resolution of the Garfield County Commission supporting the LoVa trail grant application would also be helpful.

Commissioner McCown suggestion to participate with a specific dollar amount versus just saying we'll do the maintenance of the trail. There are other trails in Garfield County and preferred to come up with the matching funds versus maintenance. We have no liability on County Roads because we have immunity, but we do not have immunity on trails.

Commissioner Houpt wants the county to be more committed to trails. She feels we need to seriously ask the voters to create a revenue stream for trails.

John Hoffman, Carbondale Trails Committee voiced support the request for the County to be a participant. He encouraged the Commissioners to partnership saying the maintenance has been estimated on trails to be $3,000 per year for every mile and to build a trail, RFTA is estimating about $300,000 per mile. Commissioner Houpt noted for the record that going by the $300,000 per mile, it would require $1.2 million for the 20%.
Mike Sawyer stated the County should view this trail as a transportation asset that the citizens will use. They have had input from the residents and there is significant support for trails in the County and the County is our regional form of government. Jim Stevens from the Town of New Castle supports the LoVa Trail especially the portion through Canyon Creek. Silt and New Castle are working together to link the communities with a trail. New Castle passed a parks and recreational tax.
GoCo uses money from the lottery funds to support trails. Traditionally, this falls in the realm of government.
Ralph Trapani voiced his strong support of LoVa and encouraged the Board to let staff work with LoVa. This is a significant opportunity to obtain the grant. He responded to Commissioner McCown's concern for 25 years of maintenance saying if the trail is properly constructed it should last 25 – 50 years. As for maintenance on the Glenwood Canyon, once the equipment is purchased, it is minimal to maintain it. What LoVa is asking for today is a sign of the times – people want trails as another form of transportation. He said there are other non-profit entities that put money into trails, a lot of wealthy people and knows this group will search for funding.
The commissioners discussed various issues including Commissioner Houpt wanting to place an additional .2% sales tax into the Ballot Question being proposed by RFTA.
Commissioner Houpt –I think we have a responsibility as a County to move forward with trails. There's been ample indication over the past several years that people are interested in developing in the region; the Canyon Trail is packed and every trail you see in the region is used on a regular basis; I think that from the amount of time and research that's been put into this we should move forward with the LOVA Group understanding that we have a responsibility to move forward in identifying different means for generating on-going revenue for recreation in this County, so I support it completely. She made a motion that we agree to be the co-applicant on the GoCo Grant for LoVa and act as the steward in maintaining the appropriate insurance necessary to be the steward. Commissioner McCown asked if she would like to identify a funding source in her motion?
Commissioner Houpt – for maintaining? We can start with our GoCo funds but I think we need to explore a more substantial revenue stream for future trail projects. Commissioner McCown seconded for discussion.
Chairman Martin – well, not to pick on LoVa, not to pick on the trail through the Glenwood Canyon, it pales in comparison to the most used trail in Garfield County, which happens to be out of Yampah which goes across the Routt National Forest and there are more visitors there that go across the Devils Causeway than the Glenwood Canyon has seen in 10 years so that we don't contribute a penny too but it is the most used trail. We also have many other trails but it still doesn't take away the responsibility that says what's in the in the urban areas we need to work on trails and so I agree with you, we need to work on urban trails between the cities, but as far as trails, we have hundreds of thousands of miles of trails in Garfield County, so let's define what we're talking about and that is urban trails, 10 foot wide, concrete highways for people and bikes, that's what we're talking about, not just trails.
Commissioner McCown – I still don't have the level of comfort I need on the stewardship part of this as I said earlier, I think I could feel very comfortable as far as coming up with donating $15,000 to your maintenance costs to this, if there was an entity to accept the responsibility and the liability and that should be CDOT; I'm sorry that it's in the CDOT right of way, I have a problem with Garfield County or any other local governmental entity maintaining a trail or any type of transportation entity in a CDOT right of way, we have no business there, that is clearly theirs, we will never own it, we are there as a guest but someone invited us there to take care of something that is their responsibility so, I can't support this. I support it in theory; I applaud you for the work you have done but right now there are two critical things missing. One is a funding source if you were to get all of the Conservation Trust money, a $150,000 a year applied to LoVa excluding any other trail entities in the County, that would be a mere pertinence of your overall budget. Now the $15,000 for maintenance I think is a pipe dream. I'm sorry, that is a great number that was thrown out, that is an asphalt trail that they're talking about, some of is a soft trail, there's a big difference in what we're talking about, and a concrete trail along an Interstate Highway. So, if you come up with other ideas, conceptionally I am willing to support your plan, your group has done a lot of work; you've come forward with great ideas, just no funding.

Chairman Martin – the motion was to live up to that steward ship in levels of dollars that we're able to raise, is that correct? In other words, until we come up with another source.
Commissioner Houpt – the Conservation Trust Funds.
Chairman Martin – is that 100% of the Conservation Trust funds, or to a certain level that you use.
Commissioner McCown – she just identified that as a funding source.
Commissioner Houpt – as a funding source, I think that needs to be a future discussion.
Chairman Martin – another discussion then, a level of percentage.
Commissioner Houpt – we won't know because we don't know the costs but we're looking to
Commissioner McCown – that's the part that bothers me.
Commissioner Houpt – we're looking 2 to 3 years down the road for maintenance and that's not going to be a great deal of money in the next few years and by then we may have another funding source.
Chairman Martin – that's what I'm looking at, you're committing those funds from the Conservation Trust Funds to a level of maintenance.
Commissioner Houpt – right.
Chairman Martin – okay. That's to be discussed once we find out how much it's going to be, but we've identified that as a potential funding source for that maintenance.
Commissioner Houpt – correct.
Chairman Martin – any other need for clarification? Any questions from legal? All those in favor?
Houpt – aye; Martin – aye. All those opposed – McCown – aye.
Chairman Martin – okay, we'll go ahead and do that and be a co-sponsor and live up to that commitment. Mike Sawyer, as LoVa, express our gratitude and we promise to be responsible and very active partners with the County in bringing this to fruition and Commissioner McCown, we understand and recognize your concerns and we want you to know that we see those as valid and we will be working with both County staff and our partners up and down the valley to address those.
Chairman Martin – out biggest partner has to be CDOT, we must bring CDOT to the table to reconsider their issues. We will have to work that, we're committed to this particular issue and being co-sponsors we're going to have very hard on CDOT to bring them around.
Mike Sawyer – we're more than happy to facilitate that how we can.
Randy Russell, Garfield County Planner – it's not just this potential GoCo Grant, it is the current Enhancement Grant that we've been granted through CDOT and another one that's in the loop that we could be granted from CDOT for South Canyon and we need a clarification, are you expressing a desire to provide maintenance in South Canyon for projects that might have any funding source behind them because that's an Intergovernmental Agreement we're going to be asked to enter into with CDOT very shortly and one of the issues still outstanding there is maintenance responsibility. So, I'd appreciate it if you would give us a little broad umbrella in your sense of that, that's number one. Number two, and let's not be confused about this down the road,
Commissioner Houpt answered number one – today we were just talking about the South Canyon portion of that trail, that's what my motion covered – Canyon Creek.
Randy Russell – but you're responding to a request that involved GoCo funding potentially, does it also include the Enhancement Grant funding for that same stretch?
Mike Sawyer - LOVA simply sees there's a big tub of money we need to raise to build this project; GoCo is going to the lions share, CDOT Enhancement money will flow into that tub, County contributions, City contributions, fund raising, but it's one trail.
Commissioner Houpt - if the maintenance for that stretch of the trail.
Commissioner McCown – 2.5 miles.
Correction by LoVa representative – 5.2 miles.
Randy Russell – the other piece of this that's important is that, CDOT may have different standards and a different policy depending on whether it's Interstate Highway. Their sense of this is if they probably have to own it in the Interstate Highway sections stretch, they might want to dicker with us in the IGA about liability and maintenance; ownership is probably going to be theirs. That's not the case on all CDOT rights of way but I think they're probably constrained to own it on Interstate Highway, I think you're right Ray.
Chairman Martin – that's what we're going to reiterate in other words.
Randy Russell – we'll try to get that clarified and inserted.

PUBLIC HEARINGS:

DISCUSSION OF THE 7TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 7TH AMENDED APPROPRIATION OF FUNDS. – JESSE SMITH

Friday's notice shows property notification and Don advised the Board they could go forward.
Exhibit A – Adjusting Payroll; Exhibit B – three items; Impact of $1500 on general budget for MA's budget for election; 2) funding for the build out of the event's center and 3) Sheriff – revenue to expense for the commissary.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 7th supplement to the 2004 approved budget and the 7th amended appropriation of funds; motion carried.

PUBLIC HEARINGS:
CONSIDER A TEXT AMENDMENT REQUEST TO THE ZONING RESOLUTION TO ADD "GROUP RESIDENTIAL FACILITY" AS A SPECIAL USE IN THE AGRICULTURAL/RESIDENTIAL/RURAL DENSITY ZONE DISTRICT. APPLICANT IS BILL EVANS. – FRED JARMAN

Mark Bean, Carolyn Dahlgren, Beth Miller, Howard Shipman, Susan Garcia and Bill Evans were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Mark submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – application; Exhibit E – Staff memorandum; and Exhibit F – Letter from Colorado Department of Human Services dated 7-14-04.
Chairman Martin entered Exhibits A – F into the record.

The Applicant, Bill Evans, owns a 5-acre property in the ARRD zone district. Since 1986, the Applicant has owned and operated a school / residential treatment facility (known as Western Academy) on the property under the approval of a conditional use permit. At the time, a school was the use that closest fit what was being proposed, in that, education remained the primary focus of the students.

Over time, the property has served as a location for Western Academy (now the Emily Griffith Center as a relatively newer tenant) which has evolved into what can be classified as a "residential treatment facility" where education remains a strong component; however, recently, the Emily Griffith Center administration testified to the Board of County Commissioners the facility also accepts students who have been placed via a court order under the Colorado Children's Code. Children may be placed by a court under the provisions of the Dependency and Neglect Statutes or the Colorado Juvenile Justice System. Children under the jurisdiction of the juvenile delinquency court may be in social services custody but are not "committed" (sentenced) to the State Department of Human Services Division of Youth Corrections (DYC). The Emily Griffith Center, at the time of the hearing before the Board, was negotiating a contract with the DYC for "staff secure" beds.

The Applicant recently came before the Board to request certain amendments to the Conditional Use Permit for a School on the property. In reviewing the use that the facility has evolved into as well as considering definitional changes in the land use code in 1997, Staff believes this type of court ordered placement component of the Emily Griffith Center operations moves the use further away from the definition of "school" to be more similar to a "corrections facility" although that is not a good fit either. It appears the Emily Griffith Center operation and mission falls somewhere between these two uses for which there is no exact fit or use in the ARRD zone district.

<u>In Summary</u>

From a zoning perspective, the land use code only provides uses such as "school" or "corrections facility" that do not accurately or adequately characterize and properly address the use and need discussed above. Staff believes the land use code should address the issue by providing a use that 1) not only more accurately and appropriately fits the need of the community 2) but is also handled with an informed public process as a Special Use Permit process that provides discretionary authority the Board of County Commissioners and notice and opportunity to the public to comment on specific proposals in a meaningful way. Staff finds that the proposed use should require a special use permit which provides the Board authority to deny the request as opposed to a conditional use which can only be conditioned and not denied.

At present, Staff finds that based on the programs offered and types of individuals placed at the Emily Griffith Center, it clearly does not fit the definition of a school and should be differentiated from a corrections facility. This is very important because of the "risk / threat" issues that are related to a facility such as Emily Griffith because of the types of individuals that may be placed there and whether or not they pose a risk for the area in which the faculty is located. In any event, the Emily Griffith Center cannot and should not be considered just a "school" which only requires a condition use permit based on the issues raised above.

I. PLANNING COMMISSION RECOMMENDATION

The Planning Commission unanimously recommends the Board of County Commissioners approve the proposed text amendment to the Zoning Resolution of 1978, as amended by adding the following sections to the Zoning Resolution of 1978, as amended:

1) Add the following definition to Section 2.00:

2.02.283 GROUP RESIDENTIAL FACILITY FOR CHILDREN AND YOUTH**: A residence and other necessary building spaces providing a community living environment and services for minor children and youth, seventeen (17) and younger (unless Court-ordered for continued placement between the ages of 18 and 21), who require custodial care, clinical treatment, or specialized out-of-home and educational services, whether court-ordered or privately placed. This term includes, but is not limited to specialized group child care home excluding family foster care, emergency shelter care facility, residential child care facility ("RCCF"), and residential treatment center ("RTC"). Such a facility may be staff-secure for placement of youth, but may not be a locked facility. A Group Residential Facility for Children and Youth shall not be considered a corrections facility as defined in Section 2.02.156 of the Zoning Resolution.**

2) Add "**Group Residential Facility for Children and Youth**" as a special use as listed in Section 3.02.03.

3) Add the following section to Section 5.03 (Supplemental Regulations)

5.03.023 GROUP RESIDENTIAL FACILITY FOR CHILDREN AND YOUTH: Before approval is granted for any group residential facility for children and youth, the Applicant shall provide proof of any required local, state and/or federal licenses, as applicable to the services provided and population served by the facility.

Carolyn Dahlgren commented that such a facility as this not only serves DYC kids, not just DDS kids but it can also serve privately placed kids.

Robert Haggerty – Contract Manager for the Division of Youth Services, Region Office commented that DYC has been contracting with service providers in Garfield County since 1991 serving detention youth kids and kids that have been committed to the Department of Youth Corrections, a Division of Human Services which is also a Department of Social Services. All are serving the same kids and some kids fit into different spectrum on the continuum of kids with needs throughout that whole system. Social Services kids are frequently on probation type status when they are placed in some of these contracted facilities. Due to overcrowding and cost of new construction of state institutions, years ago State legislature authorized DYC to contract with private providers to provide services through a continuum of ranges from everything from institutional secure settings to staff secure settings, community settings, foster families and eventually parole. When a young man or lady is committed to the Division they're subjected to thousands of dollars of testing everything from physicals, vocational, educational, psychological, and some pre-natal in some cases.

Based on those assessment, kids are assigned to risk and also identified by a group of needs and the service plan is developed and based on that risk instrument and the needs to be provided, the youth is identified somewhere on the spectrum of services. Before they come to anything other than a state secure facility they will spend the assessment period in a locked secure facility, possible several months to stabilize medication, assess how they will do in any placement and once they do show progress referral is made to a contracting agency, hopefully the family, parents other interested parties agree with this treatment plan and if the contracting agency agrees, they take the youth for services. Typically, in Garfield County kids went from services provided here right to parole and parole is not granted. Staff secure by definition means line of site supervision 24 hours a day. Historically kids from Colorado West used a service population at numerous community projects and Restorative Justice is one of the County's frameworks for DYC's mission statement.

Bill noted that Mark Bean has been involved in the process since 1986 when they started and everyone wants to make the facility work including the City of Rifle and the County Commissioners and the only thing available then was to call it a school for the Conditional Use Permit. It wasn't a perfect fit but there was a school that was 12 months a year. In terms of the services that have been provided, they haven't changed; the same things have occurred since the very beginning. When the county added the Corrections Facility designation, the staff rightfully questioned whether of not now with this new classification, the Emily Griffith should fit under that classification. However, it wasn't a Correctional Facility so, somewhere in-between as in the staff reports, this new zone, "Group Residential Facility" – this fits the current need in the community and the entire western slope.

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

Commissioner McCown made a motion to approve the Zone text amendment allowing for the addition of a Group Residential Facility as a Special Use as presented by staff in Section 2.02.282 (sub 2 & 3) AND 5.03.023 as shown. Commissioner Houpt seconded; motion carried.

CONSIDER A SPECIAL USE PERMIT REQUEST TO CONVERT A SINGLE-FAMILY DWELLING TO A "GROUP RESIDENTIAL FACILITY" EAST OF RIFLE. APPLICANT IS BOB LAY. – FRED JARMAN

Carolyn Dahlgren, Mark Bean, and Bob Lay were present.

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

Chairman Martin swore in the speakers.

The Applicant requests approval of a Special Use Permit for a Group Residential Facility which consists of converting an existing single-family dwelling to a "residential treatment center and special education school" for up to 14 emotionally disturbed females between the ages of 9 and 18 that are enrolled in the Emily Griffith Center program. A Group Residential Facility is contemplated as a Special Use in the ARRD zone district and defined as:

"A residence and other necessary building spaces that provide a community living environment and services for individuals requiring custodial care, medical treatment, or specialized social services. This term includes, but is not limited to: specialized group child care home, facility or center; residential child care facility; residential treatment center or facility; shelters from domestic violence; and/or residential treatment services for children and adolescents as ordered by the courts."

The Applicant states this program / facility will only serve female students from Garfield County and other western slope counties. This operation would be closely connected with the activities of the Emily Griffith Center Western Campus located nearby. This facility, if approved, would allow the Emily Griffith Center to provide treatment and education services to emotionally disturbed females that will be housed separately from the facility at the Western Campus at 1252 CR 294. More specifically, the facility will be dedicated to serving females who have been abused, neglected, and have significant mental health issues and special education needs. All residential treatment and education services will occur at this site.

The plan involved significantly remodeling the single-family dwelling into the following spaces:

1) Convert the garage into 2 sleeping areas for 3 students each;
2) Kitchen and dining area;
3) Recreation room administrative office / private counseling room;
4) Convert a half bath to a full bathroom;
5) 2 larger sleeping areas for 4 students each; and
6) Convert separate garage building into classroom, office, and bathroom space.

The Applicant supplied floor plans in the application showing the physical breakdown of these spaces. The proposed facility will require 3 staff members and the facility will be staffed 24 hours a day. The program at the facility will offer individual, family, and group therapy and special education needs as well as equine therapy and wilderness programming. While the residence will serve as a treatment / learning facility for females only, they will also be able to take advantage of the well established facilities in the Western Campus a few properties away. The application states that meals for these students will be prepared at the same facility.

Regarding the education component of the proposal, the application states that the Colorado Department of Education and North Central Accreditation will accredit the school. All of the teachers will be certified by the State of Colorado. Students will be able to obtain credits that can be transferred to their home schools. The students will be able to graduate from the school and/or staff will assist students in receiving their GED. The majority of the students will have a special education designation. The focus of the education program is to meet the student's education, social, and emotional needs.

A. Background / History

As you will recall, the Applicant presented the same request to the Board on May 10th. However, at that time, the Applicant sought a Conditional Use Permit for a "School." Staff recommended the Board deny the Application ultimately finding the proposed use 1) does not fit the definition of a school, 2) is functionally and operationally dependent upon another separate use on a separate property, and 3) has

not demonstrated that adequate utilities exist to handle wastewater generated from the use.

The Board agreed to open and continue the hearing to allow the Applicant to resolve issues raised by Staff. As a result of subsequent discussions between the Applicant and Staff, the Applicant decided to withdraw the application and re-apply to the County for a Special Use Permit for a "Group Residential Facility" which was to be a text amendment to the Zoning Resolution proposed to the Board at the same meeting. Therefore, a text amendment to the Zoning Resolution will be proposed to the Board just prior to the Board's consideration of this Special Use Permit. In this way, should the Board approve the definition of a "Group Residential Facility", it would appear to be an appropriate use under which the applicant could apply rather than a "school" which is not an appropriate fit in the zoning code.

B. Site Description

The property is located on the mesa just east of Rifle on CR 294 (South Graham Road). The property is flat and currently contains a single-family dwelling and is across the road and walking distance to the Emily Griffith Center as shown in the illustration to the right. The dwelling is a single-story 3-bedroom 1-1bath residence with a two car garage.

I. STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approve the request for a Special Use Permit for a "Group Residential Facility" on a property located at 1359 County Road 294, Garfield County with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. All uses shall continually be consistent with the definition of a Group Residential Facility as defined by the Board of County Commissioners.
3. The Applicant shall be obligated to connect to the City of Rifle's central sewer system when service becomes available.
4. The Applicant shall provide the Planning Staff with an activated augmentation contract from the West Divide Water Conservancy District and amended well permit from the Division of Water Resources prior to the issuance of a Special Use Permit.
5. The Applicant shall obtain a septic permit from the Garfield County Building and Planning Department prior to the issuance of a Special use Permit. This system shall be installed by a licensed contractor.
6. The Applicant shall complete the following improvements prior to the release of any building permit for the property. The Applicant shall provide the Planning Staff with an approval from the Road and Bridge Department indicating the following has been completed to their satisfaction:
   A. Relocate the existing driveway 220 feet to the west to reduce safety hazards presented by the sharp curve in the County Road;
   B. Install a 40' long culvert that is of 18" diameter to go under the driveway entrance to allow road ditch drainage to pass;
   C. The driveway entrance shall be a paved apron that is 30 feet wide by 10 feet deep and 4 inches thick;
   D. The remainder of the driveway shall consist of a gravel surface at least 100 feet back into the property; and
   E. The existing driveway has been abandoned and reseeded to be incorporated into the lawn of the property.
7. The Applicant shall submit proof of all required state and/or federal licenses, as applicable to the services provided and population served by the facility prior to the issuance of a Special Use Permit.
8. The residential structure shall be obligated to connect to the City of Rifle's central sewer system when service becomes available.

Public comments:

Steve Hauquitz borders Emily Griffith on both sides of his property and the Lay property would be on his north east corner. Some of his concerns are it that currently he doesn't feel they manage the kids as well as possible, several incidents where they've called and couldn't get anyone to answer. There's been kids on the roof for 45 minutes at a time, the other things are the kids in the middle of the road, cussing at people as

they drive back and forth and it's flat out profanity. Part of the time there's an administrator and part of the time there's not. He saw a kid pick up a beer bottle and threaten one of the staff. There are some good programs such as the horse program, but their management of the kids is what it could be. There's no city services and you depend on a well and septic system. He has a concern about more septic systems in that area. He relies on springs that are underneath the hill for domestic water and irrigation water. This also devalues his property values.

Beth Miller with Emily Griffith commented that the staff does intervene and provide supervision – the children sometimes need to cool off. The child on the roof – in a situation like this you don't want to escalate the child, instead you talk to the child and they will eventually come down.

Howard Shipman with Emily Griffith stated it was highly upsetting to hear a resident say these things. This facility is dealing with kids with emotional problems; their track record is good for the amount of disturbances – it's a price to pay with kids in our own community but everything needs to be done that bothers our neighbors. Girls are tough to deal with but not like boys. If we were to go to another location that is not in the same location for filling the need for girls, it would defeat the purpose. He proposed to monitor the impact into the community as much as possible. Not minimizing Steve's comments but work with him and assure him his concerns are met.

Sonja Morgan – directly across the road in a residence and property directly adjoins. She echoed Steve's concerns. When it went from a church to Western Academy it was bad enough, now to change a home and combine the current facility with girls is not the best. They have experienced a lot of problems with that facility. She has two teenage girls and the boys made comments toward her girls. She has had some kids at her house on freedoms and this is part of the biggest problem; two times kids in the street who were very distraught using profanity and as the autos passed by they were daring them to hit them. Quite a spectacle. This is residential, if they could perform in a regular residential neighborhood that would be okay, this facility does not provide 100% supervision. Oftentimes the Sheriff and fire department are called; kids are breaking glass, etc. The last thing the neighborhood needs to for this facility to get larger and definitely against the school for girls next to her property. Kids have been tackled in the yard; point is these kids can only stay in the school for a certain time. With increasing more kids, they will have more problems. Real different from the Western Academy. They have been at the school and have not found anyone readily available. Once she had to go get her dog and she saw a kid restrained and no adult. Not a good use of this property; it was originally built as a Church. The volume of traffic driving by and the constant use of profanity is the highest type of offense. There was a kid in the street behaving suicidal. This whole area will become residential and not the type of setting to mix these kids. The corner is horrible. She relayed another incident when she called the police when it was Western Academy; kids were hitting golf balls aimed at staff. She later found out it was staff hitting balls at kids. She called the police. A kid got hit in the head and came crying in. The kids in the street, the kid on the roof, breaking glass – the Sheriff seems to be there often. These issues are happening.

Linda Shoupt – lives across from Bob Lay and reiterated the concerns already stated. Kids have thrown things over in the hayfields. Flower picked, planters kicked and having more kids right across the road creates a concern for her horses; what will keep a stone from hitting her horses; kids aren't supervised well enough. Traffic at the corner is bad. Haven't called the police; it is a residential community. Now they will be totally surrounded by kids. Shouldn't be there.

Howard Shipman – the kids they treat need a residential area; the goal is to get them into a more home-like situation. Being in a neighborhood has drawbacks and there are good things. During the Hyman fire, Emily Griffith kids helped evacuate the neighbors. The kids that slip out – the driveway issue – changing the access – not to make light, but suggested if the Board passes this and they'll like to develop a neighborhood committee for complains and see what is happening. We've been operating on a no news is good news. This committee would meet with Susan and willing to make this as part of the SUP. Board of Directors was suggested – getting to know who they are. This is purely for helping the kids in the community and will work with the neighbors on these concerns.

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

A motion was made by Commissioner Houpt to approve the request for a SUP on property at 1359 CR 294 with conditions deleting No. 8 due to duplication and adding a new No. 8 that would require the Emily Griffith School to initiation a neighborhood advisory committee. Commissioner McCown seconded for the purpose of discussion. Would you entertain in your Condition No. 8 to include a review in 6-months by staff regarding any complaints filed to the law enforcement agencies or by the neighborhood.

Commissioner Houpt agreed. This would be 6-months staff reviews after they open; if there is a problem then a special review would be called in. Commissioner Houpt amended her motion; Commissioner McCown amended his second; motion carried.

After the hearing was closed, the Baurers, adjacent property owners came forward stating they were adjacent to Lay's property on the back – on the Lay property. Someone called them telling them about the hearing. Carolyn Dahlgren stated she did not see them on the list and they are in the audience and would be willing to testify.

Chairman Martin – asked the Bauer's to come forward.

Carolyn Dahlgren suggested a waiver since they did actually get noticed and are present or the Board can consider an imperfection in notice.

Mrs. Baurers said their property is adjacent to Robert Lay's property; the back property line, the fence line is our fence line. The Board stated the public hearing was closed.

CONSIDER A SPECIAL USE PERMIT REQUEST TO CONVERT FOR A "GROUP RESIDENTIAL FACILITY" EAST OF RIFLE THAT WILL BE OPERATED BY THE EMILY GRIFFITH CENTER. APPLICANT IS BILL EVANS. – FRED JARMAN

Mark Bean, Carolyn Dahlgren, Beth Miller, Howard Shipman, Susan Garcia and Bill Evans were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Mark submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Analysis from Church and Associates dated July 6, 2004; Exhibit H – Letter from Schmueser Gordon Mayer dated 7-7-04; Exhibit I – Letter from the City of Rifle dated 7-7-04; and Exhibit J – email from the State of Colorado Department of Public Health and Environmental Water Quality Division dated 7-14-04. and Exhibit K – all the testimony in the previous hearings were admitted.

Chairman Martin entered Exhibits A – J into the record.

The Applicant requests approval of a Special Use Permit for a Group Residential Facility which includes the internal expansion of facilities and services for an additional 7 students for a maximum of 35 students at the Emily Griffith Center Western Campus building. This expansion will include increasing the beds in the Treatment Learning and Containment Unit (TLC) which also allows for additional day-treatment students. A Group Residential Facility is contemplated as a Special Use in the ARRD zone district and defined as:

"A residence and other necessary building spaces that provide a community living environment and services for individuals requiring custodial care, medical treatment, or specialized social services." This term includes, but is not limited to: specialized group child care home, facility or center; residential child care facility; residential treatment center or facility; shelters from domestic violence; and/or residential treatment services for children and adolescents as ordered by the courts."

The existing use on the property is characterized as a Residential Treatment Center and School operated by the Emily Griffith Center for emotionally disturbed male's ages 9 to 18 years old. This use has been in place on the same property for at least the last decade. At present, the capacity of the facility has been capped at 28 residents. The facility is supervised 24 hours a day by staff that does not reside on the premises. Various departments of social service agencies throughout the State of Colorado-Child Welfare Division refer the residents. The residents have a significant mental health and abuse history. This present proposal is to increase the student capacity from 28 to 35 students. This expansion will include increasing the beds in TLC from 7 to 14 beds. There will be no change from the existing/current use of the facility. The profile of our students will not change. The purpose of increasing the capacity is to provide more evaluation and crisis beds to the TLG staff secure unit.

The proposal is to expand the capacity of the existing TLC units from 7 to 14 single rooms constructed of concrete block. The unit is connected to an indoor gym, and a secured outdoor recreation area with 10-feet high fence. The unit has delay egress doors, 3 bathrooms, group/education space, storage for

personal items, and additional safety features. Children in the TLC unit may be contacted by phone or in person.

There is currently and will be approximately 12 staff vehic1es parked in front of the Emily Griffith Center. Emily Griffith Center owns a 12-passenger van and a suburban. Those vehicles are also parked in front of the center. There is one food delivery to the front of the building one time per week, and two trash pick-ups per week. There will be no vehicles entering or exiting near or at the location of the TLC units.

As you will recall, the Applicant presented the same request to the Board on May 10th of this year. However, at that time, the Applicant sought a Conditional Use Permit for a "School." Staffs recommended the Board open and continue the public hearing regarding the request to expand the services and facilities of the Emily Griffith Center for a "school" so that a more detailed analysis can be presented to and verified by the County regarding the adequacy of the septic system.

The Board agreed to open and continue the hearing to allow the Applicant to resolve issues raised by Staff. As a result of subsequent discussions between the Applicant and Staff, the Applicant decided to withdraw the application and re-apply to the County for a Special Use Permit for a "Group Residential Facility" which was to be a text amendment to the Zoning Resolution proposed to the Board at the same meeting. Therefore, a text amendment to the Zoning Resolution will be proposed to the Board just prior to the Board's consideration of this Special Use Permit. In this way, should the Board approve the definition of a "Group Residential Facility", it would appear to be an appropriate use under which the applicant could apply rather than a "school" which is not an appropriate fit in the zoning code.

Staff Finding

The facility's domestic water is presently served by the City of Rifle. Wastewater is presently handled by an existing septic system. The application materials state the Applicant proposes to handle increased wastewater generated from the additional students either by an additional ISDS or by connecting to the City of Rifle's wastewater treatment facility. The Applicant has applied to the City for this service but no line or service is presently in place. Instead, the applicant proposes to handle additional waste water generation with the existing system as well as reducing water usage by eliminating the "in-house" laundry service.

Waste water generation has been an issue for the present use for many years; it ultimately controls the number of students that can reside at the facility. The Applicant states that they have been monitoring water use on a daily basis and sending data weekly to Church and Associates for their review. This data reflects the fact that the facility is sending out the laundry to 4th Street Cleaners in Rifle on a daily basis. Since the laundry has been sent out, the water usage has decreased. Church and Associates and The Emily Griffith Center are confident that the center and this addition will meet the [waste, sic] water requirements.

[It should be noted that the original proposal to locate the Emily Griffith Center in the present facility included much discussion on how to handle wastewater. The Applicant was required to prove that a septic system (of 2000 gallons or less) could handle wastewater generated. Otherwise, a site application approval from the State would have been required.]

The City of Rifle indicated that the most likely would approve an extension and tap if funded by the Applicant and if the engineering plans were approved for the line. However, the Applicant has not been approved for a tap / extension from the City of Rifle at this time. Instead, the Applicant hired an engineering firm, Church & Associates, to complete an analysis of the existing septic system to determine if additional flow could be handled. The consultants indicate (see ***Exhibit G***) that the additional waste water flow from the 7 students could be handled by the existing system if all laundry was handled off site.

STAFF RECOMMENDATION

At this time, Staff in unable to recommend the Board of County Commissioners approve the request because the existing septic system cannot handle the increase in students and staff.

Applicant:

Bill Evans – owner of the property at 1252 County Road 294, originally started as Western Academy in 1986, changed tenants in 1998 to a facility called Youth Track out of Denver and subsequently changed tenants to the Emily Griffith in 2002. This proposal is primary that of the tenant and signed off by Bill Evans as the property owner. The review, because of their addition internally, not externally, in the building of 7 additional beds and that's what prompts this review. What we would ask is that the previous hearing the

residential care facility that was added to the text in your zoning be applied to this particular situation. It would be better since the details of this proposal are the tenants that they speak to this issue.

Beth Miller – we have asked that our engineer Ed Church speak to his calculations and his procedures in making his recommendations regarding the septic.

Ed Church – summarized some things on the system design and what's being asked for today. Copy of the title page cover of the State Guidelines that specifically allow designs to be based on meter flows was submitted. Chairman Martin admitted Exhibit L into the record.

Ed detailed the information in the report addressing the addition of more students, the gallons per day of water usage and the plan to provide a daily meter reading. Additionally he is proposing to reduce the water usage by the laundry being outsourced, some old fixtures that are the old style high water use left and they will be replaced; more water conservation into the program, a couple shower heads and high water use toilets that still can be retrofit. Emily Griffith in general is very used to regulation and this is not something new for them, it's another item that will be added to their list, if they need assistance from us, we will get the Commissioners water usage records. We've looked at connection to the city of Rifle; it's estimated that this will be $80,000 to $100,000. It's approximately 1,000 feet up hill to the current sewer line. If in fact, Emily Griffith were to do it themselves, they would $35.00 per foot x 1000 feet = $35,000. In discussions with the City of Rifle, they say the taps are $5,000 each and estimated it will take 6 taps and another $30,000. Plus right of way and legal considerations estimated between $20,000 to $30,000 so there is $80,000 to $100,000 cost. The question is, do we wait for Rifle or does Emily Griffith put a private line to extend up there. Ed would much prefer it to be an extension by Rifle and he understands that Rifle is not excited about lift stations. He understands that and would rather have it done to their specification because a private line would only serve Emily Griffith and would not anticipate future considerations that the City of Rifle may want if they do it.

In response to Dwain Watson's memo, part of this is in the ISDS guidelines that allows specifically use of metered flows. We don't use it for residential but for commercial situation, many times the actual flows are considerable less then the guideline flows and that's what we find here and that's why they are using those numbers. There are some statements in here that appears that the residents live in this facility with no supervision; Ed wasn't sure where Dwain came up with that, and is obviously not correct. No inclusion for staff, but that is not true, the numbers seen in '86, '97 included the staff in the student's number.

Commissioner McCown – this is in essence is a commercial facility according to what Ed was saying.

Ed Church – it is not a residential.

Commissioner McCown – non residential/commercial – most commercial facilities when they reach 80% capacity have to start a planning process for upgrading or upsizing the facility. Would you say this is to that?

Ed – I think it would be and talked to Emily Griffith Center about that and I believe the wording from the prior case is applicable that future expansion, anything else will include connection to Rifle. In a site application you spend a lot of money getting your permit and he would rather spend money in treating the waste water than getting permits. Also, that Emily Griffith does not want to be owners and operators of a major waste water treatment family, they would rather help kids, so let's connect to Rifle and with the plan of Rifle to have included in their plan if they bring it out, and you have to connect. The condition of that is acceptable. If they want to expand beyond this, they will now understand what that connection requires and should be required to connect to Rifle beyond this.

Commissioner McCown – you did the design for the care facility that we heard previously for the girls and in that you were looking at 75 gal per day per person; in this one you're looking at 50, is that because of the laundry?

Ed Church – no, that's because at 1252 we have actual records and at the new one we don't; he could have extended that at the 1359, but he did not.

Commissioner McCown – so you feel comfortable enough with these records as a condition of approval, we put a flow monitoring on these waste water and it exceeds 2000 they're shut down.

Ed Church – as long as it's what the state criteria is which the average is 30 days.

Commissioner McCown – so acknowledged.

Ed said they understand that too and are going to make that effort to keep that number correct. There will be peak flows over 2000 but the 30 day average will be less than that.

Beth Miller – one other clarification on this staff report, paragraph 1 on page 2 regarding – the word is the "profile of our students will not change" that's absolutely accurate, the profile as we've talked about is a mental health child who has academic needs as well, and wanted to clarify that given the new category, the

category includes children from expanded referral sources, committed kids and whatnot that Bob Haggerty had talked about but not to confuse the word “profile” with the category of children where they’re being referred from. With the proposed expansion, it is an internal expansion of our staff secure unit to be able to provide other assessment and containment for some of the kids who are either at risk or in need of additional supervision.
Commissioner Houpt – so staff will expand with that?
Beth Miller – absolutely.
Commissioner McCown – at what rate of supervision?
Beth Miller – the staff secure unit is a unit that has a single room per child and all the children are contained behind egress doors so that they’re not able to just runaway, although they’re not locked as talked about, not being a locked facility.
Commissioner McCown - given these additional 7 students, how many additional staff can we expect?
Beth Miller – it’s 2 staff per shift plus a teacher and a therapist so approximately an additional 8 staff would come along with those 7 boys.
Bill Evans – clarified, it’s not 8 staff at all times, you’re talking about a total of 8 staff to cover 24 hours, 7 days a week. Of those 8, only a limited number are there at one time.
Beth Miller – 2 per shift.
Howard Shipman, CO with Emily Griffith Center, about the water and tapping into the City, we’re outsourcing our laundry now and it’s an expensive endeavor and we’re making every effort even if we can cut a deal with the City of Rifle; the opportunity to actually sit down and say what can we do if we try to work together on this, but it’s to our benefit at Emily Griffith Center given our budget as to try and tap into that as soon as we possibly can because the laundry facility if very expensive.
Commissioner McCown – given the geographical area where you’re located, he cannot imagine the City of Rifle designing a sewer system that doesn’t involve a lift station there. Their treatment center is the wrong way from this location.
Steve Hauquitz – in the last endeavor he said they had a good track record; what do you consider a good track record but when you have a sheriff’s van that appears 2 – 4 times a week to pick up a kid from the back of the building in handcuffs, how is that a good track record. It’s been better in the last 2 -3 weeks but at one time you had the Sheriff’s department there every day. The fire department was there three times in one day. Regarding the septic tank it is pumped twice a month. If it was capable, you wouldn’t have to pump it twice a month. To add 7 more kids and 8 more staff, how will the septic and leach field work. His eyes tell him what’s going on. Still reiterates his concerns about 7 more kids, the problems now with 28 kids, not in favor of adding 7 more kids. We’ve called Emily Griffith when there are problems, kids in the middle of the road when they’re trying to be run over, when they’re screaming at cars, when they’re eon the roof, you never get an answer. You call, you leave a message you don’t get a call back. Until the other day when he went down to cut a horse our of a fence that belonged to Emily Griffith I finally got a person who said to call extension 20 but until that time, he’s seen Susan one time, she told me to call her if he has problems, but you call down there, you leave a message with Susan, you don’t get any answer. We have called the police when the kids were on the roof; my wife called the dispatch center and left a message about a kid on the roof at the Emily Griffith Center. When we did talk to the staff another time it was like, well we wait for them to come down – why are they on the roof in the first place? Why do they have access to a roof that’s 30 feet high? If that’s a track record, I don’t know where we’re going. I heard him say they had 32 kids and doesn’t know if the engineer was saying 32 staff or 32 kids, if they have 32 kids, they are over right now. What would you think if they were to put one of these systems in your backyard? How would you feel? We do have some major concerns; I think they have some major problems. We have been a good neighbor, kids have climbed on our fence, I have a 7 foot fence to keep the deer out because I have a nursery, and we have kids that climb that 7 foot fence. There is a gate 100 feet down the road, she stood and watched the kid climb the fence. One of those kids gets hurt, who’s liable? He’s on my fence. It’s crazy and a staff member stands and watches him. If it’s going to come to – fine – I’ll get your ball and hand it back to you. I don’t want you climbing my fence. I’ve worked with your staff members and said come over, fine, we did have problems like Sonja said with the golf ball incident; we’ve had a lot of incidences that, fine, we didn’t call the police; I’ve had more incidences with the staff members than I ever had with kids. I do have some major concerns and if you enlarge this septic system or whatever, my springs are 200 foot right down the hill; they’ve had their horse program, said it was going to be 2 horses, it’s up to 5. Where they keep their horses is right over the top of my springs. I do have concerns, they may have fallen on deaf ears, I don’t know.

Sonja Morgan – in the last proceeding you had asked for an addition to be made that they establish a residential advisory group and she would think this needs some time to play out before we allow them to increase the numbers that they have there. They've made some very genuine offers to work out some problems that there has been in the past, but I think we need some time to see if those are actually going to play and if any advice that we offer or concerns that we bring to their attention make any changes in what's going on. She would feel very unfortunate if we allow them to now have more students under their supervision when you've heard today that there are definitely concerns with the students they already have. They've made some generous opportunities to work with them and she wants more time to see if this is going to work.
Beth Miller – justified the Sheriff's transportation vans saying whether a child is a delinquent or whether or not he has minor or major kinds of problem, he is transported in handcuffs and that just means he's being brought to us that and not necessarily that he's had such a serious incident at our facility that it would require handcuffs. The concerns of the neighbors are serious and they do want to address those. Some kids are taken to a hearing and brought back the same day; she understands how this would look. The issue of the fire trucks coming, we have addressed that, there was a day where the boys had pulled the fire alarms and now they have this worked out a system so that we contact the fire department for better communication and have also built some protective measures around the pull stations to try to prevent the boys from doing that. With regard to this proposal and the additional beds in the staff secure unit, clearly these kids do have a day or an hour when their escalated and having a difficult time, they do need an area where they can be secure and where they can continue to do the work. These staff secure beds will add additional security and allow staff to provide better care for them. She asked the Board to consider the additional security this would add with these 7 beds.
Howard Shipman - The Homeowners Association would address some of the issues that were brought up like as an example, the horses. If there's a concern that the horses are on the back of our property and we need to clean those corrals more often to Steve's satisfaction. He reiterated that the goal is for these neighbors to come in here and say, we feel good, we're pleased, we're working with the Emily Griffith Center and we understand now. It never occurred to him that kids being transported in handcuffs would be perceived the way it was to the neighbors. Howard reiterated his concern of damaging water sources was committed to doing whatever necessary to eliminate the impact.
Commissioner McCown asked how long can public hearings be continued?
Carolyn responded that the Board could continue it to a date certain; the subdivision is one where we have time limits.
Mark Bean commented on the testimony regarding the waste water treatment: 1) he was taken back on the statement that the system was designed for 4800 gallons per day without a site application. He questioned how that came about because we would have and the State also, cited this as a site requirement so he doesn't think it was approved in that manner. If it's built in that manner then somehow it got approved incorrectly or it was built incorrectly, not sure which. We have a difference of opinion in terms of the calculations and how the calculations occur. We have technical advisors and the State Health Department to, at this point, disagree with the calculations and method of calculating future use even through there's an existing metered system. Mark acknowledged that the language given to us in the ISDS regulations that we also use, is correct language. In a conversation with Mr. Watson's supervisor today he indicated that generally that language is used for repairs and maintenance; not used as a general rule for expansion. Since Mr. Watson was not there he couldn't speak to the other details and the issues that Dwain had in his comments. Mark suggested at a minimum, Mr. Church, Mr. Watkins and staff involved in a conservation to discuss these calculations.
Commissioner McCown – personally is having bigger problems than that. I think there is a problem with the sizing of the system, I would like to try a motion to continue this hearing until the first meeting in January at 1:15 p.m. to allow the formation of this neighborhood and come back to us with your input and that group comes back to us with their input. I don't feel comfortable granting this expansion with what I've heard here today to be candid. I have also heard from the Sheriff that he was concerned about the number of calls that were taking place at this location. I think there needs to be a better grip on this and would like to see the input from the neighbors and like to see you come back with an answer to those problems and the wastewater treatment problems the first meeting in January.
Mark clarified that would be January 3, 2005 at 1:15 p.m.
Commissioner Houpt -

Chairman Martin – we will take recommendation from the State Engineer on calculations as well as the citizens.
Mark suggested that the applicant should send return receipt notice to the adjoining property owners to remind them also.
Commissioner Houpt seconded but has some discussion. I think that it's important to look at the positive things that Emily Griffith is doing for kids; there is a nitch that's being filled in this county that is desperately needed and I think you'll find with any teenager there are moments of trauma and emotion and I have spent some time at Emily Griffith and I appreciate the program that's been put together and I also see the need, there are many children in crisis regardless of how they get there. I'm concerned about septic and I want staff to be able to come forward with a recommendation to approval and feel confident that the system is going to be a reliable system that's put into place. I just hopeful that everyone goes into this with the desire to make it work. Now the problem with putting a caveat on approval of this type is that people want to really make it work and I hope that happens because I think this service is critical to the kids in our county.
Chairman Martin – not unlike the discussion we've had with the placement of jail, community corrections, special needs students, etc. this is an issue where the community is also affected, it always affects the immediate neighborhood and we always go through that, but I think the point has been taken that we need to go ahead and clarify calculations, the use, the meters, etc. on the system itself, is it capable or not, is the calculation of 55 gallons what we're after; is it 150 per student based upon what we do as fair and equal treatment of everyone else that comes before us and have to design that system. Motion carried.

CONSIDER A SPECIAL USE PERMIT REQUEST FOR AN OFFICE, PLUMBING MATERIAL STORAGE AND WAREHOUSE, AND ASSOCIATED VEHICLE PARKING. APPLICANT IS CAPITAL CONSTRUCTION, LLC. – FRED JARMAN
Mark Bean, Carolyn Dahlgren, Davis Farrar, owner of Capital Construction Doug Mochrie were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Mark submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Comments Bobby Branham, Garfield County Road and Bridge Department dated June 24, 2003; and Exhibit H – Comments from Steve Anthony, Garfield County Vegetation Director dated June 26, and Exhibit I – response to the proposed landscaping and Zeroscaping as part of the application.
Chairman Martin entered Exhibits A – I into the record.

The Applicant requests approval to construct a 12,000 sq. ft. structure for the purpose of storing pipes, fittings, and an assortment of plumbing fixtures that require an enclosed and conditioned space. In addition, the Applicant requests approval for an associated office.
Project Description: The Applicant has been in business in the Aspen area for over 20 years and has indicated that they have established a reputation for being very organized, clean and professional. The Applicant currently occupies space rented from Rudd Construction adjacent to Highway 82 at the County Road 154 stop light. Currently, the Applicant utilizes 7,000 sq. ft. of interior space with parking for 6 GMC 4x4-plumbing vehicles.
Approximately, 7,000 sq. ft of the 12,000 sq. ft. structure will be warehouse space and 5,000 sq. ft. of the structure will be used for future office space. The Applicant provided floor plans with the application that illustrates the anticipated office space and the warehouse space. The Applicant asserted that the proposed structure will be designed with a residential flair using natural finishes such as rusty metal roofing, rough sawn beams, porches, split rail fencing and neutral colors for the siding. The Applicant provided with the application elevation plans for the proposed structure.
The Applicant noted that the 5,000 sq. ft. office space has been dictated by the requirements of the warehouse. To be clear, this office space shall be dedicated solely and entirely to an office support for the warehouse operations for the Capitol Construction business. This space cannot be used for any other business unless underlying zoning occurs.
Hours of operation are 6:30 am to 5:00 pm, Monday through Thursday. UPS will deliver to the site daily around noon. There will be deliveries received from Denver on Tuesday and Thursday at 10:00 am, with

two and a half ton delivery trucks. No semi truck deliveries will be made to the site. All large items, from R.A.C. or comparable companies, are shipped directly to the job sites.
There are three (3) office personnel on-site. It is staff's assumption that there are 6 field personnel that will travel to the site to pick up company trucks at the beginning of the day and return them at the end of the day. Proposed employee parking will be located between the proposed structure and CR 113. The six (6) company trucks will be parked on the lower level. Permanent electric service is currently supplied to the property and plans are to remove the poles and bury the service underground.
The Applicant indicated that there will be no retail traffic to the site. Virtually all of the clientele and contractors are from Aspen and do not and will not visit the office. Sales personnel visits to the site will be discouraged. The Applicant does not anticipate the business to increase in size. The Applicant has indicated that they have produced the same volume of business for many years and are comfortable where they are in the construction market. The goal is to get out of the high rents and utilities and own.
At present, the property contains two existing residential units on site. The Applicant proposes to completely eliminate / remove all residential structures from the property.
The Applicant provided a subsoil study / report conducted by Hepworth Pawlak Geotechnical, Inc. (HP GeoTech) dated September 27, 2002. HP GeoTech indicated that "the proposed commercial building can be founded on spread footings placed on the natural subsoil's and designed for an allowable bearing pressure of 1,500 psf. An alternative would be to over excavate to the sandy gravel and re-establish the footing grade with granular structural fill. Footings placed on the structural fill can be designed to impose a maximum bearing pressure of 3,000 psf." The report, which was not submitted in its entirety with the application, summarizes HP GeoTech's findings and presented their recommendations.

Zoning: The subject property is zoned A/R/RD. The type of use requested, as part of this application, to some extent falls under the definition of "Storage" which is a Special Use in the A/R/RD zone district. "Storage" is defined as the *"act of storing or state of being stored, specifically, the safe keeping of goods in a warehouse or other depository", examples include products and open storage of mineral storage piles of gravel, ore and shale."* There are no provisions for offices in any of the Zone Districts, however, it has been the policy of the County to allow as least one office as requested; however, there are no criteria as to the size limitation of an office.
The CR 113 area, from approximately a one and a half mile up from the intersection of CR 113 and Highway 82, has been changing over the years with the beginning of the salvage yard as discussed further in the memorandum. There are a variety of special uses that operate along the CR 113 corridor.
In 1992, the County granted a Special Use Permit to Pine's Stone Yard on the property to the east of the subject property (see Exhibits J). The SUP granted to Pine Stone Yard allowed for the "processing, storage, and material handling of natural resources". There is an associated office with the use. No retail sales shall occur on site, only wholesale.
To the west of the subject property, is a legally non-conforming salvage yard which has existed on the property since 1967. Currently, the property owner is pursuing a Zone Amendment, to change the zoning from A/R/RD to C/L (Commercial / Limited), which has been approved by the Planning Commission and will be before the Board on July 21st. There are no provisions for a salvage yard in the A/R/RD zone district, however, the salvage yard has existed on the property prior to zoning, and therefore it is considered legally non-conforming. The salvage yard does have an associated office.
"Storage" is a subcategory of "Industrial Operations Classification"; therefore it is subject to the standards outlined in Section 5.03.07 of the Garfield County Zoning Resolution.

Pursuant to Section 5.03, as listed under the Zone District Regulations, special uses shall conform to all requirements listed thereunder and elsewhere in the Zoning Resolution, as well as the following standards:
1. Utilities adequate to provide water and sanitation service based on accepted engineering standards and approved by the Board of County Commissioners shall either be in place or shall be constructed in conjunction with the proposed use.

Response: The Applicant noted that water will be supplied by an existing well and the waste treatment will utilize a relatively new existing septic system.
The Garfield County Individual Sewage Disposal Permit issued for this property indicates that the existing septic system has been sized for one single family dwelling (see Exhibit G). As noted previously, there are two residences on the property and it is anticipated that the new structure will be attached to the existing

system. Prior to the issuance of the actual Special Use Permit, the Applicant shall determine if the existing septic system is capable and sized for the proposed new structure and existing uses. In addition, a new Garfield County Individual Sewage Disposal Permit shall be obtained.
The Applicant did provide with the application a well permit that was issued in 1964. The permit indicates that the use is for domestic purposes. In addition, the permit is not in the current property owner's name. The Applicant noted that a residential well permit is currently in the process of being issued to the Applicant, however, a copy has not been provided to Staff.
Prior to the issuance of the actual Special Use Permit, the Applicant shall provide updated information on the well. This information shall include, but is not limited to, an updated permit with the proper property owners name, a determination from the Colorado Division of Water Resources as to whether an commercial well permit is required for the proposed use, whether there is adequate water for irrigation, and the Applicant shall provide a pump test for the existing well, to determine physical water supply and water quality. The well shall be tested for 4 hours and shall pump no less than 350 gallons of water per person, per day (3.5 people per dwelling unit, using 100 gallons of water per person, per day).
A copy of the final well permit for the property shall be provided to the County prior to the issuance of the actual Special Use Permit.
2. Street improvements adequate to accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use shall either be in place or shall be constructed in conjunction with the proposed use.
Response: Access to the property will be off of County Road 113. The Applicant indicated that the entrance to the property will be widened and the scrub brush will be cut back to provide for better sight distance. An approximately 6 ft. berm will be installed along CR 113, approximately 10 feet back from CR 113 and seeded with native grasses. The site plan submitted with the application indicates that the proposed parking areas and driveway will be chip and sealed.
The comments /recommendations provided by Bobby Branham, Garfield County Road and Bridge Department, (see Exhibit I) shall be adhered to. All improvements shall be inspected and approved by the Road and Bridge Department upon completion.
3. Design of the proposed use is organized to minimize impact on and from adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot and by location of intensively utilized areas, access points, lighting and signs in such a manner as to protect established neighborhood character.
Response: As noted previously, the Applicant proposes to install a berm along CR 113 (Cattle Creek Road) and plant it with natural grasses. Xeriscape will be utilized for the remainder of the property.
The 12,000 sq. ft. structure will be constructed on the lower bench of the property. This should provide significant screening of the structure from CR 113 in both directions. During a site visit to the property, it appears that only the structure's roof would be visible from CR 113.
The Applicant noted that the existing split rail cedar fence will remain. The only lighting for the use will be at the entrance of the structure, which will be installed for safety purposes. The Applicant noted that one 24" X 18" sign will be installed at the building, and that there will be no signage along CR 113. The sign shall comply with the County's Sign Code.
Pursuant to Section 5.03.10, uses listed as Special Uses shall be permitted only:

1. *Based on compliance with all requirements listed herein, and;*
2. *Approval by the County Commissioner, which Board may impose additional restrictions on the lot area, floor area, coverage, setback and height of proposed uses or required additional off-street parking, screening fences and landscaping, or any other restriction or provision it deems necessary to protect the health, safety and welfare of the population and uses of the neighborhood or zone district as a condition of granting the special use.*

Response: The Board may impose additional restrictions as listed above; however, staff sees no reason for the Board to impose any special conditions. The Applicant should be aware of the 15% "maximum lot coverage" restriction in the A/R/RD zone district. Lot Coverage is defined as *"the portion of a lot which is covered or occupied by buildings, structures, parking and drives."* On a 2.899 acres parcel, 15% would allow for 18,942 sq. ft. to be occupied by buildings, structures, parking and drives.

Section 5.03.07 [Industrial Operations]:

Pursuant to Section 5.03.07 of the Zoning Resolution, a permit for Industrial Operations requires the submittal of an impact statement on the proposed use describing its location, scope, and design and

construction schedule, including an explanation of its operational characteristics. The impact statement is required to address the following:

NOTE: An impact statement was not submitted with the application and staff inadvertently overlooked this requirement when deeming the application complaint. The responses below are based on representation made by the Applicant in the application.

(A) Existing lawful use of water through depletion or pollution of surface run-off, stream flow or ground water.

There is no real or potential impact to surface, stream flow or ground water supplies from the proposed use. The proposed use will not involve use of chemicals or materials that will pollute surface or ground water sources on or adjacent to the property.

(B) Impacts on adjacent land from the generation of vapor, dust, smoke, noise, glare or vibration, or other emanations.

Response: The proposed use should not result in the generation of vapor, glare, vibration, or other emanations that impact adjacent land as all aspects of the proposed use will be within the new structure. In the event of potential violations with respect to vapor, dust, smoke, noise, glare or vibration, the Applicant will be required to provide proof of compliance with applicable Federal, State, and County laws, regulations and standards.

(C) Impacts on wildlife and domestic animals through the creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.

Response: The application did not contain an analysis of wildlife impacts on the property. There is existing fencing that defines the property boundary which appears to be wildlife friendly. The Applicant proposed to retain the existing fencing. The proposed use should not result in increased adverse impacts to wildlife or domestic animals through creation of hazardous attractions, alteration of existing native vegetation, and blockade of migration routes, use patterns or other disruptions. The activities of the use should not result in the generation of products or waste products that will attract wildlife or domestic animals. Waste that is created shall be housed within a wildlife-friendly garbage receptacle and disposed of accordingly.

(D) Affirmatively show the impacts of truck and automobile traffic to and from such uses and their impacts to areas in the County.

Response: The Applicant has not affirmatively shown the impacts of truck or automobile traffic to and from the site and the impacts to areas in the County. According to the Trip Generation Manual ("Manual") by the Institute of Transportation Engineers, "Warehousing" is described as "warehouses primarily devoted to the storage of materials; they may also include office and maintenance areas." According to the Manual, the average vehicle trips ("ADT") per employee for "warehousing" is 3.89. The Applicant indicated that are 3 office personal and it is assumed that there are 6 off-site personal that access the site daily to pick up the company trucks. Therefore, the average daily trips per day are 35.01 (9 employees X 3.89 ADT). In addition, there are a variety of deliveries by UPS and from Denver during the week.

(E) That sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed use(s).

Response: It does not appear that the proposed use will damage abutting property. As noted previously, the storage structure will be constructed on the lower bench of the property. The remainder of the property, the upper bench, will remain similar to what currently exists with some outbuilding being removed and a driveway installed to access the new structure. As indicated before, the property to the west is a salvage yard and the property to the east is a stone yard.

(F) Mitigation measures proposed for all of the foregoing impacts identified and for the standards identified in Section 5.03.08 of this Resolution

Response: Mitigation measures for all of the foregoing impacts identified have been addressed throughout this memorandum. Mitigation measures for the standards identified in Section 5.03.08 [Industrial Performance Standards] of the Garfield County Zoning Resolution are addressed in this memorandum.

Special Use Permits may be granted for those uses with provisions that provide adequate mitigation for the following:

(A) A plan for site rehabilitation must be approved by the County Commissioners before a permit for conditional or special use will be issued;

Response: The Applicant did not provide a plan for site rehabilitation. The only addition to the property is the 12,000 sq. ft. structure. Should the use cease on the property, staff assumes that the structure will

remain, as well as any remaining existing structures. Any changes to this Special Use Permit, which runs with the land, will require a new Special Use Permit.
Steve Anthony, Director of Vegetation Management, provided the following comments with respect to vegetation management on site (see Exhibit K):

1. Noxious Weeds:
    a. Weed Management: The Applicant shall manage any Garfield County listed noxious weeds that may occur after the construction of the berm
2. Revegetation:
    a. The Applicant shall provide a plant material list of all species that will be use in the xeriscape mix. Since the amount disturbed on site is small, a revegetation bond will not be requested.

(B) The County Commissioners may require security before a permit for special or conditional use is issued, if required. The applicant shall furnish evidence of a bank commitment of credit, bond, certified check or other security deemed acceptable by the County Commissioners in the amount calculated by the County Commissioners to secure the execution of the site rehabilitation plan in workmanlike manner and in accordance with the specifications and construction schedule established or approved by the County Commissioners. Such commitments, bonds or check shall be payable to and held by the County Commissioners;
Response: The Applicant shall comply with this provision if deemed necessary by the Board of County Commissioners. The Applicant asserted that if any bonds, commitments, or other security is deemed necessary, the Applicant will comply.
(C) Impacts set forth in the impact statement and compliance with the standards contained in Section 5.03.08 of this Resolution. (A. 93-061)
Response: See responses in Section 5.03.08 below.

Section 5.03.08 [Industrial Performance Standards}:

Pursuant to section 5.03.08 of the Zoning Resolution, all Industrial Operations in the County shall comply with applicable County, State, and Federal regulations regulating water, air and noise pollution and shall not be conducted in a manner constituting a public nuisance or hazard. Operations shall be conducted in such a manner as to minimize heat, dust, smoke, vibration, glare and odor and all other undesirable environmental effects beyond the boundaries of the property in which such uses are located, in accord with the following standards:
(1) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.
Response: Other than the sound of vehicle travel, no sound will emanate from the site. All proposed operations within the site shall comply with the maximum standards established in the CRS 25-12-103. Upon a receipt of a legitimate allegation of a violation with respect to noise, the Applicant will be required to provide proof of compliance with State dB levels.
(2) Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

Response: No vibration is anticipated with the proposed use. The use will be confined to the proposed structure. Upon a receipt of a legitimate allegation of a violation with respect to vibration, the Applicant will be required to provide proof of compliance with applicable Federal, State, and County laws, regulations and standards.
(3) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
Response: No emissions of smoke and particulate matter are anticipated as part of this project. Upon a receipt of a legitimate allegation of a violation with respect to smoke or particulate matter, the Applicant will be required to provide proof of compliance with applicable Federal, State, and County laws, regulations and standards.
(4) Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

Response: No emission of heat, glare, fumes or radiation is anticipated as part of this project, aside from the emissions from the trucks. Upon a receipt of a legitimate allegation of a violation with respect to the emission of heat and radiation by the proposed use, the Applicant will be required to provide proof of compliance with applicable Federal, State, and County laws, regulations and standards.

(5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:

(A) Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;

Response: There will be no storage of flammable, explosive solids, or gases stored on site. The application was referred to the Carbondale and Rural Fire Protection District; however, no written comments were received. The Applicant shall comply with all Local, State and Fire Codes that pertain to the operation of this Facility.

(B) At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;

Response: There will be no outdoor storage associated with the use, except for the 6 company vehicles. These vehicles will be parked on the lower bench of the property adjacent to the structure. These trucks should not be visible from CR 113 or the adjacent properties.

(C) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;

Response: No materials or waste are associated with the proposed use. All garbage generated will be stored within wildlife-friendly garbage receptacles and will be removed accordingly.

(D) Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:

1. *The minimum lot size is five (5) acres and is not a platted subdivision.*
2. *The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.*
3. *All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.*
4. *Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.*
5. *Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.*

Response: No storage of heavy equipment is proposed or anticipated.

(E) Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size. (A97-112)

Response: All storage associated with the use will be within the structure. No outdoor storage areas are requested.

(F) Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property (A97-112)

Response: The Applicant indicated that the only lighting for the use will be at the entrance of the structure, which will be installed for safety purposes. The light should be point downward and inward.

(6) Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

Response: The proposed used should have no real or potential impact to surface or ground water supplies. The existing and proposed uses will not involve use of chemicals or materials in a manner that will pollute surface or ground water sources on or adjacent to the property. This application was not referred to the State Health Office for comments. In the event of potential violations with respect to water pollution, the Applicant will be required to provide proof of compliance with applicable Federal, State, and County laws, regulations and standards.

Section 9.03.05 [Periodic Review of SUP]:

Pursuant to section 9.03.05 of the Zoning Resolution:

Any Special Use Permits may be made subject to a periodic review not less than every six (6) months if required by the County Commissioners. The purpose of such review shall be to determine compliance or noncompliance with any performance requirements associated with the granting of the Special Use Permit. The County Commissioners shall indicate that such a review is required and shall establish the time periods at the time of issuance of a Special Use Permit. Such review shall be conducted in such manner and by such persons as the County Commissioners deem appropriate to make the review effective and meaningful. Upon the completion of each review, the Commissioners may determine that the permit operations are in compliance and continue the permit, or determine the operations are not in compliance and either suspend the permit or require the permittee to bring the operation into compliance by a certain specified date. Such periodic review shall be limited to those performance requirements and conditions imposed at the time of the original issuance of the Special Use Permit.

Response: At the discretion of the Board, this SUP may be subject to periodic review no less than every six months. Shall the Board feel that periodic review is required; the Board shall indicate that such a review is required and shall establish the time periods at the time of issuance of this SUP.

STAFF RECOMMENDATION:

Staff recommends that the Board **APPROVE** the Capital Construction, LLC. Special Use Permit for an office, plumbing material storage and warehouse, and associated vehicle parking subject to the following conditions:

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, including but not limited to:
   A. Hours of operation: 6:30 a.m. to 5:00 p.m., Monday thru Friday;
   B. UPS deliveries daily, and Tuesday and Thursday supply delivers from Denver, and a maximum of 36 vehicle trips per day shall be allowed which shall be limited to all delivery / employee/ work trucks to and from the site;
   C. No semi truck deliveries to the property;
   D. The exterior of the structure will consist of natural finishes, such as a rusty metal roof, rough sawn beams, split rail fence and neutral siding colors;
   E. Company truck parking shall be located on the lower bench adjacent to the structure;
   F. No retail sales traffic to site;
   G. The exterior color of the structure shall be tan to blend with the other structures;
   H. A 6’ berm will be installed along County Road 113, approximately 10’ back from CR 113. Xeriscape will be utilized on the remainder of the property;
   I. Only one light will be installed at the entrance of the structure for safety purposes. This light shall be directed downward and inward;
   J. Only one 24” x 18” sign will be installed at the structure. There will be no signage along CR 113.
2. Any changes to the conditions of approval must be specifically altered by the Board of County Commissioners through the appropriate land use and public hearing process.
3. The Applicant shall comply with all applicable requirements of the Garfield County Zoning Resolution of 1978, as amended.
4. The Applicant shall comply with all State and Federal regulations and standards, such as Noise Abatement, Water and Air Quality.
5. The Applicant shall comply with the recommendations outlined in the letter from the Garfield County Road and Bridge Department dated June 24, 2003. All improvements shall be inspected and approved by the Road and Bridge Department, and written confirmation shall be provided to the Planning Department prior to the actual issuance of the Special Use Permit.
6. The Applicant shall comply with all Local, State and Federal Fire Codes that pertain to the operation of this type of facility.
7. Prior to the issuance of the actual Special Use Permit, the Applicant shall determine if the existing septic system is capable and sized accordingly for the proposed new structure and existing uses. A new Garfield County Individual Sewage Disposal Permit shall be obtained prior to the issuance of the actual Special Use Permit.

8. Prior to the issuance of the actual Special Use Permit, the Applicant shall provide a final copy of the actual well permit. In addition, the Applicant shall provide the following updated information regarding the water supply to the uses: a) updated permit with the proper property owner's name, b) a determination from the Colorado Division of Water Resources as to whether an exempt commercial well permit is required for the proposed use, c) whether there is adequate water for irrigation, and d) a pump test to determine the physical water supply and the water quality. The well shall be tested for 4 hours and shall pump no less than 350 gallons of water per person, per day (3.5 people per dwelling unit, using 100 gallons of water per person, per day).
9. Groundwater resources shall be protected at all times. In the event of potential violations with respect to water pollution, the Applicant shall provide proof of compliance with applicable Federal, State and County laws, regulations and standards.
10. The illegal residential unit shall either be removed or rendered inhabitable.
11. Waste created by the use shall be stored in wildlife-friendly garbage receptacles and disposed of regularly.
12. The Applicant shall comply with the following vegetation management:
    a. The Applicant shall manage any Garfield County listed noxious weeds that may occur after the construction of the berm. On-going weed management of the property shall occur.
    b. Prior to the actual issuance of a Special Use Permit, the Applicant shall provide a plant material list of all species that will be used in the xeriscape mix. This material list shall be approved by the Garfield County Vegetation Manager.
13. Any changes to the Special Use Permit for an office, plumbing material storage and warehouse, and associated company vehicle parking, will require a new Special Use Permit.
14. Prior to the issuance of the actual Special Use Permit, the Applicant shall comply with the following recommendations of the Carbondale and Rural Fire Protection District (letter dated June 27, 2003):
    A. A fire apparatus road shall be provided within the 150 feet of the exterior walls of the first floor of the structure.
        i. The apparatus road shall have a minimum unobstructed width of 20 feet.
        ii. A minimum vertical clearance of 13' 6" shall be provided for the apparatus access road.
    B. The fire apparatus access road shall be capable of supporting the imposed load of the apparatus and shall be of an all-weather design.
    C. A dead-end fire apparatus access road in excess of 150 feet in length shall be provided with an approved means for turning the apparatus around.
    D. An approved key box "Knox Box" shall be provided at the main entrance to the building.
    E. Since there is no water supply for fire protection and there are no fire hydrants available to serve the property and provide adequate fire flows, an automatic fire sprinkler system shall be installed within the structure meeting the requirements of NFPA-13, Standard for the Installation of Sprinkler Systems, 2002 edition.

Commissioner Houpt – well the applicant will probably respond to my question on why specifically the change occurred and since Fred is not here, I'll wait and see if they tell us.

Davis Farrar – the staff has covered the application in good detail. To answer Commissioner Houpt's question, the reason we are moving the building, actually one building width to the north is that previously is was going to be on the lower bench of the property and as a result of the geotechnical investigation and final engineering for the building, it was evident that it was going to be more expensive to do it in that location because of the slope and ground water issues, etc. so we would just like to slide basically one width to the north, about 60 feet approximately. I don't know whether your packets include it or not but there's elevation of the building in terms of visibility from the roadway. Mr. Mochrie has spent approximately an addition $100,000 designing this building to have an architectural sort of residential character to it as you can see by peak roofs and the events on the top so that it will blend in with the area and in fact and we would suggest in fact it would provide an approved appearance to the area if you've been out there. So the design looks pretty attractive in our opinion and hopefully you'll see that the same way.

As a point of Information as Mr. Bean has indicted approximately a year ago this application was approved by the County Commissioners and I guess it's our assumption that if this application doesn't proceed forward, that we can still move with the original approval; that doesn't get waived or vacated as I understand.

Mark Bean – unless there was a reason that the conditions were not met and were vacated or invalided for that reason, that's the only reason I could see.
Don – that's correct.
Davis Farrar – and as was previously mentioned the application was essentially the same. We would like to discuss some of the conditions, well let me talk first about, there's a couple of typos in the staff report that we'd like to just clarify with the commission while we are here today. It was noted that part of the reason for, in the staff report, moving the building, was input on engineering design from the fire department, I think it's just missing a word, and in the text. They did provide us input on fire protection issues and access so, I will just clarify that. And the access I think, I met with the fire department in April of this year while the application was in the process of being prepared and the fire department likes the upper bench because they get better access around the building instead of going around the steep hillside. There was another reference in the staff report that the building, without a zone change, there could be no other business in the building and I think that the intent is that no other different type of business.
Mark Bean – no.
Davis Farrar – Capital Construction Company only.
Mark Bean - Capital Construction Company only.
Davis Farrar – and I guess we would like to discuss that with the Commissioners and if there is as a similar business, plumbing, contractor business that had identical or similar impacts that fit all the conditions of approval, I understand the Special Use Permit runs with the land and I don't think Mr. Mochrie will live for 100 years and if at the end of his ownership with the property, or something, we would simple like to request the ability to set up a similar type of business with a similar type of impact.
Mark Bean – I don't think that would be the intent of the language. The intent of the language and maybe we should clarify that, is to say that you could not have other businesses at the same time. In other words, while Capital Construction is there, that's the only business that could be there. If as you said, the land use permit if approved goes with the land and a similar business with the same interests could meet the same criteria, yes it could be transferred. Okay.
Davis Farrar – Okay. I understood that but the language could have been read otherwise so that we appreciate that clarification. Also in the staff report they requested some additional information that we have provided since that report was submitted. We provided Mr. Jarman a copy of the Division of Water Resources well permit which is now a commercial well permit for that property from a residential permit, so we've met that provision. In the original application there was an engineer report on the status and capability of the existing septic system for the proposed use and so I think hopefully we've satisfied that condition in the staff memorandum and also we provided Mr. Jarman a copy, as Mark mentioned, a copy of our pump test on the well and a copy of the seed mix to be used on the berm and the disturbed areas which is a zeroscape design for minimum outside water use mix of vegetation.

With that, I think we'd like to move into some of the Conditions if that's an appropriate thing to do at this stage.
Chairman Martin – if you'd like to go ahead.
Davis Farrar – I'd also not that I took some photos, digital pictures last week and emailed those to Mr. Jarman showing that most the buildings have been removed from the property and will be removed, finished very shortly. So the illegal residential use, Mr. Mochrie inherited that use when he acquired the property so we've cleaned that issue up. Moving on to the staff report and conditions of approval. The hours of operation are identified as we identified between 6:30 a.m. and 5:00 p.m. and we understand there is considerable scrutiny in the Cattle Creek area on all the special use and activity out there and we would just like to clarify or discuss with the Commissioners the issue of if an employee were to be tied up in Aspen where a lot of the work takes place, say in the winter and got back to the facility at 5:30 p.m. is that technically a violation of the Special Use Permit, if it is I guess we would ask for grace and obviously our intent is that those are the normal business hours but due to circumstances beyond the employee's control, other that rescheduling work hours, we would like to ask for a little bit of latitude in that and I don't know what the Commissioner's reaction would be.
Chairman Martin – is there a response from the Board?
Commissioner Houpt – do you think that's probably going to happen isn't it, if they're just dropping off a truck and…
Mark Bean– I think the issue that comes in to play and I'll leave this up to the neighbors to speak to that, is sometimes this exception becomes the rule that the exception. And I think that's the issue.

Davis Farrar – and our intent just for everybody's information including the adjoining property owners, is to not use this as a means of extending the normal business hours but Doug is a business owner and he may go to the office on Saturday morning to look at files, but there wouldn't be 18 employees showing up at the office and if we could at least draw some language for the conditions that would recognize a little bit of flex without saying that you know, the employee comes back at 5:05 p.m., it's a technical violation of the Special use Permit, we'd greatly appreciate it.
Chairman Martin – that's something to consider.
Commissioner Houpt – you know the staff report says Monday through Thursday, and the conditions say Monday through Friday.
Mark bean – the conditions are Monday through Friday; I'm assuming that's correct?
Doug Mochrie – the original report did say Monday through Friday and the second addition for some reason changed from Monday through Thursday.
Commisisoner Houpt – are your days Monday through Friday or Monday through Thursday.
Doug Mochrie – Monday through Friday and in all our original reports specified that. And I've got a copy of the original SUP and it states Monday through Friday. I'm not sure where that was transferred.
Mark Bean – it could have just been a matter of typing quickly and somehow Thursday came out and it was on a Thursday.
Doug Mochrie – that could be.
Davis Farrar – I suspect that may have been the case. The second condition talks about UPS deliveries as daily deliveries and that remains accurate, Tuesday and Thursday, supply deliveries from Denver, again, not trying to nit pick this but, we suspect there will be scrutiny over this and we don't want the County end up having to micro manage the project nor do we. The supplier has actually moved his facility closer and coming out of Gypsum so we're happy with trying to develop some language that talks about number of delivery trips say per week, on an average or something like that again to get a handle on it but if we had a supplier that came out of Gypsum instead of Denver, the way this is written, could be a technical violation of the special use and we'd simply request some latitude on that. As well as they may deliver on Tuesday and Wednesday instead of Tuesday and Thursday, so we would suggest some language in terms of vehicle trips, delivery trips per week perhaps at 8 trips per week, that would be on an average would be a more appropriate way to look at that. As Mr. Bean identified in the staff report, the staff made some assumptions about the number of employees and vehicle trips associated with that and the staff condition as it is written is 36 vehicle trips per day shall be allowed. The operation has between 22 and 24 full time employees that include the field personnel as well as the office personnel. We would like to suggest that a number closer to 38 round trips per day as a maximum including the delivery trips might be a more appropriate figure to deal with in the application.
Chairman Martin – round trips meaning in and out as one round trip?
Davis Farrar – yeah, and typically they don't, one way trips, average daily traffic is considered as one way trips but somebody goes there they're going to leave, because there is not residential facilities.
Mark Bean – a point of clarification, that's 38 round trips per day for delivery, employee and work trucks, is that
Davis Farrar – that will work.
Mark – okay, that's the way it's written here and I just
Davis Farrar – it says 36, as I read this condition B and a maximum of 36 vehicle trips per day shall be allowed. If those are round trips that close, if those are single trips
Mark – it's better to clarify.
Doug Mochrie – in addition – so that's for employees only
Commissioner Houpt – so would it work to just cross out the first part of that B and that would and start with a maximum of 38 and that covers the problem with specifying the day that deliveries will appear.
Davis Farrar – sure
Mark - so just 38 trips per day period, regardless of the type of vehicle?
Doug Mochrie – I'd prefer to say 38 round trips for employees.
Mark – that is not what this is saying, that's why I'm saying that.
Commissioner McCown – that's deliveries and employees, that covers it all. I think you'd better leave it.
Doug Mochrie – Okay.
Davis Farrar – Let's see, moving down C – no semi deliveries, we're fine with that; D – the exterior of the structure will consist of natural finishes, etc. we're happy with that and we're pretty proud of the design of the building, E – company truck parking shall be located on the lower bench, adjacent to the structure – I

think that's a carry through from the previous review. There is a parking area on the lower bench as you've seen on our site plan and there's some parking associated with the building, adjacent to the building separated from the lower parking, we'd simply say AND adjacent to the structure. So it would be parking on the lower bench and adjacent to the structure. The employees will typical park their vehicles down below so they're hidden and then at the end of the day the company trucks will park down below, but again we're just, we assume there will be some scrutiny and we want to comply with all the terms and conditions.
Commissioner Houpt – is there enough room on that lower bench?
Davis Farrar – Yes. Our site plan shows adequate parking. No retail traffic to the site, we're happy with that, we will commit to that. The exterior color of the structure shall be tan and blend, we're okay with that because that's how it will be; 6 foot berm along CR 113, etc. we're okay with that and we'll use zeroscape to minimize water consumption, probably there'll be some water to get it started and then it's be designed to live on it's own with the variable participation that we have around here. Only one light at the entrance of the structure for safety purposes and it'll be downward directed and inward, we're okay with that. One sign for the facility, we're okay; and Condition 2 – any changes to the approval must be altered by the Board of County Commissioners, that's fine. 3, we're okay.
Commissioner McCown – I have to ask, just a minute, I have to ask where that condition came from. That's normally in a Special Use Approval process. I don't anyone can change the conditions of approval without coming back through the process.
Mark Bean – I think it's just acknowledging that there's a different process if they chose to amend applications like this as opposed to the full blown review. You're correct, it could be deleted.
Chairman Martin – he's moving into our new regulations I think.
Davis Farrar – Excuse me, we're going to keep 2 or
Mark Bean – we'll discuss that.
Davis Farrar – But we're going to comply with all the provisions of the County Zoning Resolution of 1978, as amended; we'll comply with State, Federal, local regulations of noise, water and air quality etc. 5 – we're okay with – the recommendations of Road and Bridge; 6 – we're okay with that as well – the fire codes; 7 – I would say that we have completed 7 already with the letter from the Church.
Mark – I think we'll just defer to engineering to verify that, I know you provided information; this condition obviously doesn't hurt you one way or the other.
Davis Farrar – right. 8 – we provided a pump test already to the County. On 9 we will protect the ground water resources and we'll comply with the terms of that condition. On 10, that's in process and we're happy to leave that as a condition until they're all removed; 11 – waste generated, we'll put in and we would suggest maybe instead of wildlife friendly containers, I think that's a combination between game friendly fencing and bear proof containers, I think it's bear proof containers is what you're after and we're happy to do that, otherwise I think you could include an open container and invite wildlife in. We will comply with the vegetation management recommendations and we've given you already the seed mix on that. On 13 – we're happy with 13 and it goes back to that previous condition that Commissioner McCown mentioned, it says that will require a new Special Use Permit, I think the County's proposing having an amendment process in the future which we would certainly welcome because this has been a big exercise to simply move a building and we would simply ask that that be worded such that or whatever the provisions are in a newly adopted code.
Mark Bean – arguably it's redundant.
Carolyn Dahlgren – Yeah, same as paragraph 2.
Davis Farrar – Condition 14 in terms of the recommendations of Carbondale Fire District, we will comply with all those provisions.
Chairman Martin – anything further?
Davis Farrar – nothing at this time.
Chairman Martin – questions from the Board to the applicant.
Commissioner McCown – not at this time.
Chairman Martin – we'll turn to the audience, those that raised their hand and were sworn in. If you'd state your name and we'll listen to your testimony.

Jim Robertson from 912 County Road 112, I realize that this Special Use Permit has already been granted but there's some of my concerns about adding this traffic to our County road, that intersection to the highway can't even keep up with the traffic that's on it today. It is absolutely - backs up every morning and people get trapped out in traffic because they can't, they're trying to turn in there so I think the number of

vehicle trips that we're talking about is really going to have a serious impact. The other thing, I can't understand why the commercial use of these residential properties is continuing on up Cattle Creek. When I bought my house there, I thought I was moving into a residential neighborhood. Now it seems like I'm going to be the first residence adjacent to a commercial zone. It's not a good thing for me. So, I wished that we'd been paying closer attention when this was happening last year but, obviously that's water under the bridge. Thanks.
Chairman Martin – questions?
None
Bill Crimble – 1168 County Road 113 – as the gentlemen expressed and I, 10 years ago expressed concern with 5 roads intersecting at the base of Cattle Creek. If you take in the two lanes of the Highway, I was visiting with a bus driver the other day and that has become an extreme concern of hers, the trying to get in and out, the traffic that will be generated by these additional trips, most of that traffic will be turning across those two full lanes into another section of full lanes; there is more and more traffic coming off from the Carbondale area off of 82 turning there are the base of Cattle Creek to service the other down valley buildings in there, the businesses in there. We did get the County to put in a stop sign coming down the road CR 110 and that has assisted in making it a lot more safe, but it is a really, really concern. Again, in traffic concerns, the plan, but I've not really looked at the blind, but they would be coming out onto Road 113, you come around the corner and you drop suddenly and it's a rather blind area, quite blind and if you have this much additional traffic, what we have from the Pine Stone, what we envision coming out of the Morris property, I see, either the County's going to have to go in and widen that road extremely widen that road so it will be much more safe, or I envision some very, very serious problems with that tremendous amount of increase. I don't know what Wayne Rudd's future is but if he increases that and the other properties there where the Go-Kart track are, accessing right directly onto CR 113, I think we're going to have an extreme bottle neck there in the very, very near future. Having lived on Cattle Creek for 30 years, the amount of traffic that is going up and down Cattle Creek today is mind boggling. I'm really, really amazed of the amount of traffic that travels on that road, throughout the day, not just the early morning hours of business hours, but throughout the day. So I think, we, that should be one thing that should really looked at in your consideration with the traffic. Yes, I do realize that this Special use Permit has been granted, it does concern me, that as you as officers of the County are granting these to me just kind of willfully, 10 years ago we were told because of the Special plan, the Comprehensive Plan, thank you Jim, that where one construction is and the Go-Kart track, that that would be the complete stop of any commercial , approved commercial development of any kind and then we had the Special Use Permit with Pine Stone, we've had this property, uh, folks, to be very truthful with you, the Morris property was never posted to ask for a change his use to commercial. We never saw any posting of that property. How it because commercial is a complete mystery to all of us on that road. We have been told that it was posted, but there was no posting. So we, I think for the future of all of us up that road and I think you received numerous letters of concerns from citizens that at some point you have to say no to all of this development and if you approve some of it you're going to have to put some limitations on it because it's a very, very big concern. I see my property values going down every day because of the conditions of what has been developed down there so far. Thank you.
Julia Coffman – 1164 CR 113, I understand that this Special Use has already been granted as well. I had no idea that that property had been changed to commercial. I didn't see any notification either. I guess when I saw it posted for the plumbing, I just assumed it would be turned down because it was clearly residential, not having a clue that it would be approved, much less to this degree. 36, 38 trips a day is crazy, it's absolutely crazy, there's no shoulder on the road, the speed limit is at 40 mpr, it's too fast, there are huge trucks coming in and out of Pine Stone. The access at 82 and 113 is awful, absolutely awful. My husband for work, this was just within the last month, coming like Bill said, you come down from Cattle Creek and it goes into this blind curve by Pine Stone, they don't even look pulling out of that, they don't look up the road for traffic coming down, I mean he had to slam on the brakes and screech, literally screeched to a halt to not hit a truck coming out of there. So I'm concerned with I guess this proposed berm on the road, it may prevent us from seeing a building but I want to know that the view is looking out for 38 vehicles roundtrip. Are they going to look up the road? Can they see up the Road? Can they see the oncoming traffic both ways, that's a huge concern as far as the berm, is for me. Also, the hours of operation – 6:30 in the morning is not normal hours, this is a residential area, I mean we all have homes there, this is not a commercial area, there's one building you know, it's residential, look around, there's houses, there's not commercial buildings and same think I don't know why you guys keeps approving these Special Use Permits up a road

that's clearly residential. I mean this property was residential, I mean there were horses out there and its country and like we've all said, we all bought property there thinking we were out of the city and in a rural setting and you've continued to grant these permits, and I don't understand. The commercial use that's down now is failing badly and has failed badly. I mean clearly it isn't a place for commercial, it doesn't work, it's purely for someone's own, I don't know what, you know, just money making greed I guess in a way. I mean it is a residential area. If you want to take your business and have a storage facility there is so much available that is empty that I don't know why you're granting it into a residential area. There's plenty in Carbondale, you go around Carbondale, there's buildings that are already built and empty. It's the same arguments we had 10 years ago, it is not like this has grown to the point where it needs to come up Cattle Creek, I don't understand what the need for it is. There's huge commercial areas that are being developed in Glenwood Springs both where they're centers where people live, where they can be closer drive to work, why they're coming all the way down and out of the cities and into the County, you know for no reason, but the Fire Department, the Police Department, to get them to come out and watch over these facilities that are in residential areas, that's you know, it just doesn't make any sense. So I object not only to the hours of operation, I think it should be 8 to 5 Monday through Friday, not Saturday morning and maybe Sunday afternoon and then it's 7 days a week, 24 hours a day. What is it exactly, it's 8 to 5, that's business hours and any increase in traffic should not be okayed whatsoever. And I am concerned about the berm and the view onto the road, I think if you're going to allow that much, you absolutely have to lower the speed limit; you cannot have 38 round trips more on a two lane road that has no shoulder going 40 mpr. It's ridiculous. So I would also ask you to lower the speed limit on that road. Thank you.
Chairman Martin – okay, any questions of Julie.
None.
Calvin Lee, appearing here on behalf of clients rather than as an individual citizen, representing David J. Robertson who just spoke earlier and Steve Kenney who couldn't be here this afternoon. Both of them oppose the request for moving this building and to give you, and, but if you do approve it, because it's totally a new application you can change the conditions that you grant it and the initial application a year ago and so I will be asking you to impose some different conditions on this Special Use and so for you to assess whether those conditions are reasonable, I want to give you some background and some history that has taken place in the last few months. This property, the Raymond property, and the Pine Stone property and the Dawson property up Cattle Creek, about two months ago applied to have their zoning changed from rural/residential/agricultural to commercial. There was a Planning and Zoning Commission hearing that took place on that application and after hearing testimony the applicants reasons and testimony from the public, the Planning and Zoning Commission voted 7 – 0 to deny the application for rezoning to commercial. Mike Deer stated that it was his opinion that when Morris applied for their special use that that was the limit because that was could be seen from Highway 82. He figured commercial was only appropriate for what the visibility was from Highway 82 and beyond that it should remain residential and therefore he was not inclined to grant the rezone from rural to commercial for these properties. Willy Myers, who you're all acquainted with, an engineer and well acquainted with zoning and all the ends and outs and reasons for changing things and what's involved and whether something should be changed or not, stated that the big properties, the big lots, the big developments are easy because we have a lot of citizen input and the infrastructure is there to be built, it's these little spaces that are difficult for the County to deal with and the example he gave, the intersection of the Spring Valley Road and Highway 82, he thought that was a mess and he said if we're not careful with 82 and Cattle Creek, that would become like Spring Valley which is the intersection that is dangerous, it's a mess, it's visually a blight, it's developing a small little town there between two other towns, two existing towns. Everyone on the Planning & Zoning Commission agreed with those arguments and voter 7 – 0 to deny the commercial, the request for commercial zoning. So, in that regard I am requesting on behalf of my clients, these additional conditions that are different from the original ones granted a year ago to the Raymond property. As Julia Coffman stated, the hours of operation, 6:30 to 5, that a heavy, that a pretty heavy kind of industrial sort of hours of operation, it should be 8 to 5, 8 to 5 pm not 6:30 to 5:30. People are still asleep at 6:30. Vehicle trips and I want you, I request that you pay specific attention to vehicle trips and make the language very specific because there's already a Board of Adjustment appeal pending for the Pine Stone property. My clients, Steve Kenney and Jim Robertson made complaints to the Planning and Zoning Department that the Pine Stone property had daily 50 to 100 vehicle trips per day going in and out of Pine Stone property and they're concerned about the noise, the traffic and safety. In response the Pine Stone property said that their only limited to 10 semi-truck trips per day and the reason they gave her that was even though in their application they said they

would only have zero to 10 vehicle trips in their application, they pointed to the minutes that were generated from this Special Use hearing in which Dave Michaelson, the County Planner at the time, said the applicant says there'll be 0 to 10 truck trips per day. So, Pine Stone's attorney argued that since Dave Michaelson and the minutes say 0 to 10 trucks, even thought their application says 0 to 10 vehicles, that meant semi trucks but therefore they're allowed, not only 0 – 10 semi-trucks but since the Special Use Grant, or the Resolution didn't reference to any other kind of vehicles, it was unlimited to all other kinds of vehicles. The staff, with advice of the County Attorney, his opinion of Pine Stone was that they're going to do a compromise and say 0-10 trucks regardless of what kind of trucks, didn't matter whether they're semi or other kinds of trucks, they're allowed 10 trucks and Pine Stone's not satisfied with that, so they've appealed to the Board of Adjustments for a ruling that they are allowed more than 0 - 10 trucks per day. So this application is saying 36 vehicle trips per day should be allowed which should be limited to all delivery, employee, work trucks coming from the site, to make it absolutely clear about what kind of vehicle trip we're talking about, I suggest that it should be zero to whatever, and my clients that it shouldn't even be 36 it should be some lower number because if the applicant is saying there'll be 36 and 24 employees so how can their possibly only be 36 vehicle trips, there'll probably be more even if they're saying it's going to be 36, my clients feel it should be less than 36 vehicles trips per day and it should read that it should be zero to whatever number of any kind of vehicle per day for any purpose, not just delivery, employee, work trucks, and in F it sales no retail sales traffic to the site; because of the problems I cited to you about the Stone Pine Yard ability to hire a lawyer and muse with words and say well since it only said no retail sales, I guess we can wholesale traffic there, so let's just say, no retail or wholesale sales traffic to the site.
Chairman Martin – Calvin, stepping one, go back, you left, also, you left open-ended, you said 36 maximum trips or whatever, is that roundtrips or is that single in and out trips, how do you count your falling into the same issue as the
Calvin Lee –well, they say a maximum of 36 vehicle trips so I would say that that includes a round trip so,
Chairman Martin – that's what I wanted you to clarify, if your client says it round trips, that means it's in and out and that you count each one of those as one trip, that's what I need you to clarify.
Calvin Lee – I would say you need to count each trip as a trip, 36 doesn't mean 36 round trips.
Commissioner Houpt – it does or doesn't?
Calvin Lee – does not.
Chairman Martin – so that means 18 vehicles can go in and 18 vehicles can come out is what you're saying, that was the total 36.
Commissioner Houpt – so it's one way, 18 vehicles.
Calvin Lee – right.
Chairman Martin – I need to get it right. Okay. Go ahead.
Calvin Lee - Finally, the staff report says concerning sound, the applicant is saying that there will be other than the sound of vehicles traffic, no sound will emanate from the site and then the language is upon a receipt of a legitimate allegation of a violation with respect of noise, the applicant will be required to provide proof of compliance with the State db levels. Is the applicant saying there isn't going to be any sound other than vehicle traffic, then this should say that there will be no noise other than vehicle traffic because again, it's a residential/rural neighborhood and what we get into and I've experienced it myself with a property I own in Carbondale and I used to live there, there was noise coming from a commercial site and you get into having to hire experts saying that this is the dB level and they're saying it's not high of a dB level and you're saying, yes it is and even if it does comply with state standards the noise allowed by state standards is aggravating, I mean it's annoying when you're there and you're expecting to sit on your porch and having whatever, relaxing, your day off, this is during work hours obviously, and so you're saying well you're not on your porch, but some of these people are retired or don't work normal hours and so it's nice to be able to sit there and not having to worry about whether that noise that I'm hearing exceeds the state levels or not regardless, it's annoying and aggravating so they're saying that they're not going to have any sound then this should say there will be no sound regardless. And I think you can impose that condition since it's a Special Use Permit.
Commissioner Houpt – where is that, what condition?
Calvin Lee – it's on page 9 of the Staff Report.
Commissioner McCown – it's not a condition of approval.
Commissioner Houpt – oh, it's not.
Calvin Lee – the same argument with, on page 9, with vibration, it says, no vibration is anticipated with the proposed use. Is anticipated, that's the applicant saying, or maybe the staff is saying and if that says there's

going to be no vibration, then there should be no vibrations regardless with whether it complies with state levels or not, again it's says, if there's a legitimate complain then the applicant shall supply proof of compliance with applicable, federal, state and county laws, regulations and standards and I'm saying you should make it a condition that there shall be no vibrations period. Same thing with emissions of smoke and particulate matter and with the emission of heat, glare, fumes or radiation. The applicant is saying there won't be any, then there shouldn't be any and we shouldn't have to be going back and forth about whether they do it if it complies with state, county or federal laws. Apparently, I've gotten two calls of complaints about the Pine Stone property burning particulate matters and it has annoyed these people who live up.
Chairman Martin – I think that was their building, their building burnt up.
Calvin Lee – their building burned up? No
Jim Robertson – it was some trash they were burning.
Chairman Martin – but their building also burned.
Unidentified – yes,
Chairman Martin – it's no longer an office, it's a shell right now.
Commissioner McCown – your local fire department can address that as well. They can issue them a summons.
Unidentified – yeah.
Calvin Lee – so in closing it is called a Special use and it's special and so because it is special it needs to be closely monitored, closed conditioned and the applicant, if they're granted this needs to comply and listen to what the neighbors are saying and the conditions being imposed upon them and they need to be strict because we're dealing with neighbors who have a legitimate complaint.
Chairman Martin – thank you Calvin. Any questions of Calvin? Any other citizen that needs to be heard?
Don Huntsman – 1172 Cattle Creek road, I think most ofo my feelings and concerns have been expressed adequately, but I do want to say to the group that I bought in what I thought was a residential area and this turning into an industrial area not even like commercial and I do resent what is happening in the area and I hope in the future more thought will be given to residential areas than to the industrial concerns.
Chairman Martin – all right, thank you Don. You may come forward.
I'm Pam Pine, we own Pine Stone Company at 0600 County Road 113. I'm a neighbor too, I live there, work there, I shouldn't say I live there, I work there. I find Mr. Robertson amazing to say, when he has a business there that brings in semi trucks, he runs his business out of there, how can he sit there and the pot calling the kettle black. Just amazes me. You're use by right, I'm there also. If a neighbor has complaints about traffic, I wish they would come in and address us instead of just saying, we don't look – I find that absurd for the number of trips that we supposedly make in and out of there, I find that pretty absurd. I think we're incredible careful about coming in and out of there, we at one time had put one of those large concave, convex whatever mirrors, it was shot out within a matter of days, we did try to attempt that and believe me if our guys come in there too fast, pull out without caution, we are on them, there hasn't been, yes I'm sure on occasion there has been somebody who's had to, you don't see, you look, you try to, you do the very best you can, there has not been any accidents there. As the neighbor, I don't find the noise, I mean we can sit in an office with doors open and unless the forklift is going right in front of our doorway, you don't hear noise, it's very quiet very often and I can't imagine that Mr. Mochrie is going to have any more noise whatever generated. You're allowed to burn trash on your property, I think that's absurd, we check with the County before we do it to see if it's legal; it's no violation to be burning stuff. I think some of the neighborhood stuff that goes on that I find when I'm there is noisy is our neighbor across the street who decides shooting guns up into the BLM land, his form of entertainment and that's an incredible amount of noise there, much more so that what we generate. I think Mr. Mochrie will be fine there, I'll probably appreciate his building being there, the looks of it, it'll cut down on an awful amount of dust that goes flying up that valley there. To say the neighborhood has changed, you've got commercial, who knows what Rudd's going to do with his property, I mean it's commercial, it has been. Yes, I would have liked to have mine commercial also, it gives me a few more options but it's not, so there. I just find it pretty insulting that somebody's that trying to have a small business in town, where do you think all these wonderful properties are for rent or lease, I'd like to know too because to find outside storage available and to run your business out of one place I think is a very limited proposition. Something that everybody might profit from, I find it really high that that speed limit is 40 miles an hour going Cattle Creek. I certainly would vote in favor or lowering that to 30 and the other day one of our employees was stopped. She lives further up Cattle Creek and she was stopped for speeding further up the road and the cop did say to her, it's not the businesses on Cattle Creek, it's the locals who are, they get past that one curve, and off they go

flying up that road and its there that the traffic deserve issues. I think also that to say the commercial is just generating the traffic is not true, I think just the whole development of residential off of 112, 10, 20 miles however far all those roads go up in there creates a lot of traffic. I'd like to see the County too do something about that corner, I think it would be better for residents, businesses, everybody. It's a bad situation., there was an accident there just the other day, I don't know how or what, but as far as Mr. Mochrie's concerned and what he wants to do, I think the building will look nice, I think it'll cut down on dust, I assume he's going to be reasonable about when he's there whether it's 10 after 5 or you know, whatever it is, I think is a minor thing. He's trying to do a legitimate business to provide jobs and income for this County and I think that's the important consideration.
Commissioner McCown – one thing. So you don't get in trouble, there is a burn ban in place in Garfield County.
Pam Pine – I don't think we've burned recently.
Commissioner McCown – Okay, that's the time that you can, okay.
Pam Pine – oh no, if it's not available we don't burn, but burning I know is not against the law if it's legal to be doing it.
Chairman Martin – and it's in the Carbondale Fire District.
Pam Pine – yes it is and they were wonderful in responding to us.
Chairman Martin – next?
Kim Robertson – I live a 0912 County Road – I have to say that I think its your job to protect us, the residents of Cattle Creek and I think you've really let us down. Pam Pine has said that we run a business up Cattle Creek in a residence, which we don't, there's no business there of any kind. About the burning, I can say that if any of you walked up or drove up Cattle Creek recently, they have a pit, a huge burning pit and they burn plastic as well as wood on a weekly basis and the fumes, we're only residence down from them and we smell those fumes and the diesel and the noise and the Stone yard is gone from Pine Stone to next door to us to Raymond property which we hear the large vehicles, the metal screeching on metal and the traffic with all the residents of Cattle Creek have been run off the road by the semi's. And it's ruining our quality of life and I just think you've really let down the residents of Cattle Creek by allowing it to happen and I think you should be protecting us from people like Pam Pine.
Chairman Martin – all right. Questions? Anyone else? All right. Mr. Bean, anything else to offer.

Mark Bean – given some of the testimony and an issue that I hadn't quite frankly brought, because it came up recently in relationship to another project, we received another letter from Colorado Department of Transportation wanting us to get together with them to discuss improvements on the east side of Cattle Creek and 133, I mean 113 and Highway 82 road based upon the Sanders Ranch project. You do have the ability and note here what is on page 5, one of your criteria for review, the street improvements adequate to accommodate traffic, volume generated by the proposed use and to provide safe convenient use to use shall either be in place or shall be constructed in conjunction with the proposed use. We do not have a commercial road impact fee so I'm not sure how we get to this issue. We as a staff will be meeting with CDOT here in the near future to discuss the potential issues here, but basically what they're calling out is again the need for a new access permit for that location. With the variety of uses that have been approved or are in the process of being developed in that area, apparently the traffic counts have increased above that 20% level where they're starting to say that we're in a position to where we need make improvements. So, I wanted to give you that information, it's a fairly recent letter but it was not something Fred was privy to in this discussion unfortunately.
Chairman Martin – all right.
Commissioner Houpt – Mark, when Fred puts vehicle trips into a condition is that one way or round trip?
Mark – normally that would be a round trip.
Chairman Martin – any other questions then at this time? Davis you have a right to respond to the public.
Davis Farrar – I guess in terms of the response from the public, I appreciate their concerns, you know I think that area is changing out there as it's been presented previously. I would note for the Commissioners information that the original Resolution 2003-54 approving the use out there with the building in a different location, really is the only difference had no restriction on the number of vehicle trip other than it said no semi truck deliveries to the property. We're willing to live with 38 round rips per day for all of the vehicle trips on the property as a reasonable response to the public's concerns and the County's desire to regulate this site. And I think we talked about the other conditions that we can live with and clarification of language and I think it is obviously going to be important that that language is clear so that it's not you

know muddied in the future. But I think Mr. Mochrie is proposing to make an improvement to that area, visually and he operates a very successful, legitimate business and employees Garfield County residents and we would request that Garfield county Commissioners approve the application and with the conditions as we discussed.
Commissioner Houpt - I have a question from Mr. Mochrie, have you considered allowing employees just to take truck home so there's not pick up and drop off traffic on road every day.
Doug Mochrie – Actually the majority of our employees live from Rifle to Parachute, we supply a vehicle for them everyday to compute there. We have one vehicle that takes 8 people and other that takes 6 I think to limit the amount of trips that they make to our site and then in our vehicles we take 3 people per vehicle to Aspen, so I do as much as I can to limit the trips and the cost of transportation.
Commissioner Houpt – so if you have
Doug Mochrie – we'd actually generate more trips by me allowing them to take the trucks home, they can hold fewer people.
Commissioner Houpt – okay, just wondering
Commissioner McCown – plus that would have to come back by the warehouse to pick up supplies to go onto work.
Commissioner Houpt – just wondering how you got to 38 since you don't have deliveries everyday and
Doug Mochrie – well with the UPS delivery every day, there is 3 office personnel, all this averages out around that number.
Commissioner Houpt – okay. Is that all during the same period of time or is that spread out.
Doug Mochrie – yeah, and that gets back to our hours, we do start earlier, we work 10 hour days, we only work in Aspen, we've been keeping these hours for 20 years now. Everyone is gone at 6:30 a.m. and do not return until approximately 5 in the evening. This site is virtually empty for 2 – 3 people for 10 hours during the day so there is, to address the noise, there is no noise, there's no vehicle traffic except for UPS and an occasional delivery.
Commissioner Houpt – so it's okay to say no noise as a condition.
Doug Mochrie – yes.
Davis Farrar – if I may, no noise means you can't walk out of the building and sneeze. But I'm just saying we're – I think there's some scrutiny here so reasonable levels – vehicular noise.
Doug Mochrie – there's no production or anything that goes on there during the day, it's a warehouse only. We do everything in Aspen on site. I guess we're just trying to do everything we possibly can do to accommodate everyone. We want to live in a friendly neighborhood also and we're in this position between the commercial and the residential and that's all happily agreed to all the restrictions as they be so we are a buffer between the two zones. I'd love to live within that range. I don't want to abuse our privileges either.
Chairman Martin – other questions.
Commissioner McCown – I have none.
Chairman Martin – back to staff, anything else?
Mark Bean – no.
Chairman Martin - Ms. Dahlgren?
Carolyn Dahlgren – no sir.
Chairman Martin – anything in closing, Davis?
Davis Farrar – no sir thank you.
Chairman Martin – did I miss anyone in the audience? Back to the Board, final questions, or motion to close.
Commissioner Houpt – make a motion that we close the public hearing; Commissioner McCown second. All those in favor – McCown – aye; Martin – aye; Houpt – aye.
Commissioner Houpt - I'd make a motion that we approve the Special Use Permit for Capital Construction LLC with conditions as recommended and a few that I'd like to adjust. On B, we'll take our the first portion of that sentence up to a maximum of and staff had 36 trips in there, is that, well we can't talk to you, I'm going to leave that in there, 36 round trips per day and that will include delivery and employee trips; On 1- F, I'd like to add no retail or wholesale sales traffic to site; and I thought maybe terms have been changed since I'm not working with BLM anymore, maybe they are called "wildlife friendly" garbage receptacles now, so I think we all know that means "bear proof, " [Mark asked if we were staying with "wildlife friendly"] we can say with bear proof [Mark - I'm not sure that it makes a whole lot of difference] [Commissioner McCown – why don't we just change "friendly to proof"]. Let's do that. [Mark – wildlife proof, okay]. And I'd like to add number 15, no noise production, no noise created by work production

other than traffic to and from the site; [Commissioner McCown - Tresi, in you motion on E there was a request to insert “and” after the lower bench to allow for them to load vehicles at the site.] [Chairman Martin – that’s under 1 – E] [Commissioner McCown – 1-E, company trucks parking shall be located on the lower bench and adjacent to the structure] okay. [Chairman Martin – that’s included in your motion?] Yes, I’ll amend that.
Commissioner McCown second.
Chairman Martin – I have a motion and a second, discussion?
Commissioner Houpt – I think this is a very difficult area and we purchase residential property with the feeling that it should be secure and that it shouldn’t be a transitional area and I think that any business in this area has a responsibility to make sure that they understand what the residents are dealing with living in a transitional area I think it’s a huge responsibility, I don’t think it’s one that businesses should feel frustrated about or upset by, I think it should be a given that you want to do the very best you can to your neighbors. And everyone should recognize that there are difficulties in transitional areas but I truly do believe that there’s a special burden on commercial sites to make sure you live well with your neighbors.
Chairman Martin – all right. Larry do you have any comments?
Commissioner McCown – no.
Chairman Martin – I’m going to stay true to what I did in the original hearing which Davis knows what I did and that is that I think we need to draw our line in the sand, not that this isn’t a great project, not that this doesn’t employee people, etc, but I do need to stay consistent which I’ve done throughout and I’ll vote my conscious there. Call for the questions, all in favor?
Houpt – aye; McCown – aye; all those opposed – Martin – aye, not that I’m against you its just that I drew my line in the sand on this particular issue way back when and I’m staying with it.
Doug Mochrie – I understand.

Commissioners:
Commissioner Houpt – well the applicant will probably respond to my question on why specifically the change occurred and since Fred is not here, I’ll wait and see if they tell us.
Davis Farrell – the staff has covered the application in good detail. To answer Commissioner Houpt’s question, the reason we are moving the building, actually one building width to the north is that previously is was going to be on the lower bench of the property and as a result of the geotechnical investigation and final engineering for the building, it was evident that it was going to be more expensive to do it in that location because of the slope and ground water issues, etc. so we would just like to slide basically one width to the north, about 60 feet approximately. I don’t know whether your packets include it or not but there’s elevation of the building in terms of visibility from the roadway. Mr. Mochrie has spent approximately an addition $100,000 designing this building to have an architectural sort of residential character to it as you can see by peak roofs and the events on the top so that it will blend in with the area and in fact and we would suggest in fact it would provide an approved appearance to the area if you’ve been out there. So the design looks pretty attractive in our opinion and hopefully you’ll see that the same way.
As a point of Information as Mr. Bean has indicted approximately a year ago this application was approved by the County Commissioners and I guess it’s our assumption that if this application doesn’t proceed forward, that we can still move with the original approval; that doesn’t get waived or vacated as I understand.
Mark Bean – unless there was a reason that the conditions were not met and were vacated or invalided for that reason, that’s the only reason I could see.
Don – that’s correct.
Davis Farrar – and as was previously mentioned the application was essentially the same. We would like to discuss some of the conditions, well let me talk first about, there’s a couple of typos in the staff report that we’d like to just clarify with the commission while we are here today. It was noted that part of the reason for, in the staff report, moving the building, was input on engineering design from the fire department, I think it’s just missing a word, and in the text. They did provide us input on fire protection issues and access so, I will just clarify that. And the access I think, I met with the fire department in April of this year while the application was in the process of being prepared and the fire department likes the upper bench because they get better access around the building instead of going around the steep hillside. There was another reference in the staff report that the building, without a zone change, there could be no other business in the building and I think that the intent is that no other different type of business.

Mark Bean – no.
Davis Farrar – Capital Construction Company only.
Mark Bean - Capital Construction Company only.
Davis Farrar – and I guess we would like to discuss that with the Commissioners and if there is as a similar business, plumbing, contractor business that had identical or similar impacts that fit all the conditions of approval, I understand the Special Use Permit runs with the land and I don't think Mr. Mochrie will live for 100 years and if at the end of his ownership with the property, or something, we would simple like to request the ability to set up a similar type of business with a similar type of impact.
Mark Bean – I don't think that would be the intent of the language. The intent of the language and maybe we should clarify that, is to say that you could not have other businesses at the same time. In other words, while Capital Construction is there, that's the only business that could be there. If as you said, the land use permit if approved goes with the land and a similar business with the same interests could meet the same criteria, yes it could be transferred. Okay.
Davis Farrar – Okay. I understood that but the language could have been read otherwise so that we appreciate that clarification. Also in the staff report they requested some additional information that we have provided since that report was submitted. We provided Mr. Jarman a copy of the Division of Water Resources well permit which is now a commercial well permit for that property from a residential permit, so we've met that provision. In the original application there was an engineer report on the status and capability of the existing septic system for the proposed use and so I think hopefully we've satisfied that condition in the staff memorandum and also we provided Mr. Jarman a copy, as Mark mentioned, a copy of our pump test on the well and a copy of the seed mix to be used on the berm and the disturbed areas which is a zeroscape design for minimum outside water use mix of vegetation.

With that, I think we'd like to move into some of the Conditions if that's an appropriate thing to do at this stage.
Chairman Martin – if you'd like to go ahead.
Davis Farrar – I'd also not that I took some photos, digital pictures last week and emailed those to Mr. Jarman showing that most the buildings have been removed from the property and will be removed, finished very shortly. So the illegal residential use, Mr. Mochrie inherited that use when he acquired the property so we've cleaned that issue up. Moving on to the staff report and conditions of approval. The hours of operation are identified as we identified between 6:30 a.m. and 5:00 p.m. and we understand there is considerable scrutiny in the Cattle Creek area on all the special use and activity out there and we would just like to clarify or discuss with the Commissioners the issue of if an employee were to be tied up in Aspen where a lot of the work takes place, say in the winter and got back to the facility at 5:30 p.m. is that technically a violation of the Special Use Permit, if it is I guess we would ask for grace and obviously our intent is that those are the normal business hours but due to circumstances beyond the employee's control, other that rescheduling work hours, we would like to ask for a little bit of latitude in that and I don't know what the Commissioner's reaction would be.
Chairman Martin – is there a response from the Board?
Commissioner Houpt – do you think that's probably going to happen isn't it, if they're just dropping off a truck and…
Mark Bean– I think the issue that comes in to play and I'll leave this up to the neighbors to speak to that, is sometimes this exception becomes the rule that the exception. And I think that's the issue.
Davis Farrar – and our intent just for everybody's information including the adjoining property owners, is to not use this as a means of extending the normal business hours but Doug is a business owner and he may go to the office on Saturday morning to look at files, but there wouldn't be 18 employees showing up at the office and if we could at least draw some language for the conditions that would recognize a little bit of flex without saying that you know, the employee comes back at 5:05 p.m., it's a technical violation of the Special use Permit, we'd greatly appreciate it.
Chairman Martin – that's something to consider.
Commissioner Houpt – you know the staff report says Monday through Thursday, and the conditions say Monday through Friday.
Mark bean – the conditions are Monday through Friday; I'm assuming that's correct?
Doug Mochrie – the original report did say Monday through Friday and the second addition for some reason changed from Monday through Thursday.
Commisisoner Houpt – are your days Monday through Friday or Monday through Thursday.

Doug Mochrie – Monday through Friday and in all our original reports specified that. And I've got a copy of the original SUP and it states Monday through Friday. I'm not sure where that was transferred.
Mark Bean – it could have just been a matter of typing quickly and somehow Thursday came out and it was on a Thursday.
Doug Mochrie – that could be.
Davis Farrar – I suspect that may have been the case. The second condition talks about UPS deliveries as daily deliveries and that remains accurate, Tuesday and Thursday, supply deliveries from Denver, again, not trying to nit pick this but, we suspect there will be scrutiny over this and we don't want the County end up having to micro manage the project nor do we. The supplier has actually moved his facility closer and coming out of Gypsum so we're happy with trying to develop some language that talks about number of delivery trips say per week, on an average or something like that again to get a handle on it but if we had a supplier that came out of Gypsum instead of Denver, the way this is written, could be a technical violation of the special use and we'd simply request some latitude on that. As well as they may deliver on Tuesday and Wednesday instead of Tuesday and Thursday, so we would suggest some language in terms of vehicle trips, delivery trips per week perhaps at 8 trips per week, that would be on an average would be a more appropriate way to look at that. As Mr. Bean identified in the staff report, the staff made some assumptions about the number of employees and vehicle trips associated with that and the staff condition as it is written is 36 vehicle trips per day shall be allowed. The operation has between 22 and 24 full time employees that include the field personnel as well as the office personnel. We would like to suggest that a number closer to 38 round trips per day as a maximum including the delivery trips might be a more appropriate figure to deal with in the application.
Chairman Martin – round trips meaning in and out as one round trip?
Davis Farrar – yeah, and typically they don't, one way trips, average daily traffic is considered as one way trips but somebody goes there they're going to leave, because there is not residential facilities.
Mark Bean – a point of clarification, that's 38 round trips per day for delivery, employee and work trucks, is that
Davis Farrar – that will work.
Mark – okay, that's the way it's written here and I just
Davis Farrar – it says 36, as I read this condition B and a maximum of 36 vehicle trips per day shall be allowed. If those are round trips that close, if those are single trips
Mark – it's better to clarify.
Doug Mochrie – in addition – so that's for employees only
Commissioner Houpt – so would it work to just cross out the first part of that B and that would and start with a maximum of 38 and that covers the problem with specifying the day that deliveries will appear.
Davis Farrar – sure
Mark - so just 38 trips per day period, regardless of the type of vehicle?
Doug Mochrie – I'd prefer to say 38 round trips for employees.
Mark – that is not what this is saying, that's why I'm saying that.
Commissioner McCown – that's deliveries and employees, that covers it all. I think you'd better leave it.
Doug Mochrie – Okay.
Davis Farrar – Let's see, moving down C – no semi deliveries, we're fine with that; D – the exterior of the structure will consist of natural finishes, etc. we're happy with that and we're pretty proud of the design of the building, E – company truck parking shall be located on the lower bench, adjacent to the structure – I think that's a carry through from the previous review. There is a parking area on the lower bench as you've seen on our site plan and there's some parking associated with the building, adjacent to the building separated from the lower parking, we'd simply say AND adjacent to the structure. So it would be parking on the lower bench and adjacent to the structure. The employees will typical park their vehicles down below so they're hidden and then at the end of the day the company trucks will park down below, but again we're just, we assume there will be some scrutiny and we want to comply with all the terms and conditions.
Commissioner Houpt – is there enough room on that lower bench?
Davis Farrar – Yes. Our site plan shows adequate parking. No retail traffic to the site, we're happy with that, we will commit to that. The exterior color of the structure shall be tan and blend, we're okay with that because that's how it will be; 6 foot berm along CR 113, etc. we're okay with that and we'll use zeroscape to minimize water consumption, probably there'll be some water to get it started and then it's be designed to live on it's own with the variable participation that we have around here. Only one light at the entrance of the structure for safety purposes and it'll be downward directed and inward, we're okay with that. One

sign for the facility, we're okay; and Condition 2 – any changes to the approval must be altered by the Board of County Commissioners, that's fine. 3, we're okay.
Commissioner McCown – I have to ask, just a minute, I have to ask where that condition came from. That's normally in a Special Use Approval process. I don't anyone can change the conditions of approval without coming back through the process.
Mark Bean – I think it's just acknowledging that there's a different process if they chose to amend applications like this as opposed to the full blown review. You're correct, it could be deleted.
Chairman Martin – he's moving into our new regulations I think.
Davis Farrar – Excuse me, we're going to keep 2 or
Mark Bean – we'll discuss that.
Davis Farrar – But we're going to comply with all the provisions of the County Zoning Resolution of 1978, as amended; we'll comply with State, Federal, local regulations of noise, water and air quality etc. 5 – we're okay with – the recommendations of Road and Bridge; 6 – we're okay with that as well – the fire codes; 7 – I would say that we have completed 7 already with the letter from the Church.
Mark – I think we'll just defer to engineering to verify that, I know you provided information; this condition obviously doesn't hurt you one way or the other.
Davis Farrar – right. 8 – we provided a pump test already to the County. On 9 we will protect the ground water resources and we'll comply with the terms of that condition. On 10, that's in process and we're happy to leave that as a condition until they're all removed; 11 – waste generated, we'll put in and we would suggest maybe instead of wildlife friendly containers, I think that's a combination between game friendly fencing and bear proof containers, I think it's bear proof containers is what you're after and we're happy to do that, otherwise I think you could include an open container and invite wildlife in. We will comply with the vegetation management recommendations and we've given you already the seed mix on that. On 13 – we're happy with 13 and it goes back to that previous condition that Commissioner McCown mentioned, it says that will require a new Special Use Permit, I think the County's proposing having an amendment process in the future which we would certainly welcome because this has been a big exercise to simply move a building and we would simply ask that that be worded such that or whatever the provisions are in a newly adopted code.
Mark Bean – arguably it's redundant.
Carolyn Dahlgren – Yeah, same as paragraph 2.
Davis Farrar – Condition 14 in terms of the recommendations of Carbondale Fire District, we will comply with all those provisions.
Chairman Martin – anything further?
Davis Farrar – nothing at this time.
Chairman Martin – questions from the Board to the applicant.
Commissioner McCown – not at this time.
Chairman Martin – we'll turn to the audience, those that raised their hand and were sworn in. If you'd state your name and we'll listen to your testimony.

Jim Roberson from 912 County Road 112, I realize that this Special Use Permit has already been granted but there's some of my concerns about adding this traffic to our County road, that intersection to the highway can't even keep up with the traffic that's on it today. It is absolutely - backs up every morning and people get trapped out in traffic because they can't, they're trying to turn in there so I think the number of vehicle trips that we're talking about is really going to have a serious impact. The other thing, I can't understand why the commercial use of these residential properties is continuing on up Cattle Creek. When I bought my house there, I thought I was moving into a residential neighborhood. Now it seems like I'm going to be the first residence adjacent to a commercial zone. It's not a good thing for me. So, I wished that we'd been paying closer attention when this was happening last year but, obviously that's water under the bridge. Thanks.
Chairman Martin – questions?
None
Bill Crimble – 1168 County Road 113 – as the gentlemen expressed and I, 10 years ago expressed concern with 5 roads intersecting at the base of Cattle Creek. If you take in the two lanes of the Highway, I was visiting with a bus driver the other day and that has become an extreme concern of hers, the trying to get in and out, the traffic that will be generated by these additional trips, most of that traffic will be turning across those two full lanes into another section of full lanes; there is more and more traffic coming off from the

Carbondale area off of 82 turning there are the base of Cattle Creek to service the other down valley buildings in there, the businesses in there. We did get the County to put in a stop sign coming down the road CR 110 and that has assisted in making it a lot more safe, but it is a really, really concern. Again, in traffic concerns, the plan, but I've not really looked at the blind, but they would be coming out onto Road 113, you come around the corner and you drop suddenly and it's a rather blind area, quite blind and if you have this much additional traffic, what we have from the Pine Stone, what we envision coming out of the Morris property, I see, either the County's going to have to go in and widen that road extremely widen that road so it will be much more safe, or I envision some very, very serious problems with that tremendous amount of increase. I don't know what Wayne Rudd's future is but if he increases that and the other properties there where the Go-Kart track are, accessing right directly onto CR 113, I think we're going to have an extreme bottle neck there in the very, very near future. Having lived on Cattle Creek for 30 years, the amount of traffic that is going up and down Cattle Creek today is mind boggling. I'm really, really amazed of the amount of traffic that travels on that road, throughout the day, not just the early morning hours of business hours, but throughout the day. So I think, we, that should be one thing that should really looked at in your consideration with the traffic. Yes, I do realize that this Special use Permit has been granted, it does concern me, that as you as officers of the County are granting these to me just kind of willfully, 10 years ago we were told because of the Special plan, the Comprehensive Plan, thank you Jim, that where one construction is and the Go-Kart track, that that would be the complete stop of any commercial , approved commercial development of any kind and then we had the Special Use Permit with Pine Stone, we've had this property, uh, folks, to be very truthful with you, the Morris property was never posted to ask for a change his use to commercial. We never saw any posting of that property. How it because commercial is a complete mystery to all of us on that road. We have been told that it was posted, but there was no posting. So we, I think for the future of all of us up that road and I think you received numerous letters of concerns from citizens that at some point you have to say no to all of this development and if you approve some of it you're going to have to put some limitations on it because it's a very, very big concern. I see my property values going down every day because of the conditions of what has been developed down there so far. Thank you.

Julia Coffman – 1164 CR 113, I understand that this Special Use has already been granted as well. I had no idea that that property had been changed to commercial. I didn't see any notification either. I guess when I saw it posted for the plumbing, I just assumed it would be turned down because it was clearly residential, not having a clue that it would be approved, much less to this degree. 36, 38 trips a day is crazy, it's absolutely crazy, there's no shoulder on the road, the speed limit is at 40 mpr, it's too fast, there are huge trucks coming in and out of Pine Stone. The access at 82 and 113 is awful, absolutely awful. My husband for work, this was just within the last month, coming like Bill said, you come down from Cattle Creek and it goes into this blind curve by Pine Stone, they don't even look pulling out of that, they don't look up the road for traffic coming down, I mean he had to slam on the brakes and screech, literally screeched to a halt to not hit a truck coming out of there. So I'm concerned with I guess this proposed berm on the road, it may prevent us from seeing a building but I want to know that the view is looking out for 38 vehicles roundtrip. Are they going to look up the road? Can they see up the Road? Can they see the oncoming traffic both ways, that's a huge concern as far as the berm, is for me. Also, the hours of operation – 6:30 in the morning is not normal hours, this is a residential area, I mean we all have homes there, this is not a commercial area, there's one building you know, it's residential, look around, there's houses, there's not commercial buildings and same think I don't know why you guys keeps approving these Special Use Permits up a road that's clearly residential. I mean this property was residential, I mean there were horses out there and its country and like we've all said, we all bought property there thinking we were out of the city and in a rural setting and you've continued to grant these permits, and I don't understand. The commercial use that's down now is failing badly and has failed badly. I mean clearly it isn't a place for commercial, it doesn't work, it's purely for someone's own, I don't know what, you know, just money making greed I guess in a way. I mean it is a residential area. If you want to take your business and have a storage facility there is so much available that is empty that I don't know why you're granting it into a residential area. There's plenty in Carbondale, you go around Carbondale, there's buildings that are already built and empty. It's the same arguments we had 10 years ago, it is not like this has grown to the point where it needs to come up Cattle Creek, I don't understand what the need for it is. There's huge commercial areas that are being developed in Glenwood Springs both where they're centers where people live, where they can be closer drive to work, why they're coming all the way down and out of the cities and into the County, you know for no reason, but the Fire Department, the Police Department, to get them to come out and watch over these facilities that

are in residential areas, that's you know, it just doesn't make any sense. So I object not only to the hours of operation, I think it should be 8 to 5 Monday through Friday, not Saturday morning and maybe Sunday afternoon and then it's 7 days a week, 24 hours a day. What is it exactly, it's 8 to 5, that's business hours and any increase in traffic should not be okayed whatsoever. And I am concerned about the berm and the view onto the road, I think if you're going to allow that much, you absolutely have to lower the speed limit; you cannot have 38 round trips more on a two lane road that has no shoulder going 40 mpr. It's ridiculous. So I would also ask you to lower the speed limit on that road. Thank you.
Chairman Martin – okay, any questions of Julie.
None.
Calvin Lee, appearing here on behalf of clients rather than as an individual citizen, representing David J. Robertson who just spoke earlier and Steve Kenney who couldn't be here this afternoon. Both of them oppose the request for moving this building and to give you, and, but if you do approve it, because it's totally a new application you can change the conditions that you grant it and the initial application a year ago and so I will be asking you to impose some different conditions on this Special Use and so for you to assess whether those conditions are reasonable, I want to give you some background and some history that has taken place in the last few months. This property, the Raymond property, and the Pine Stone property and the Dawson property up Cattle Creek, about two months ago applied to have their zoning changed from rural/residential/agricultural to commercial. There was a Planning and Zoning Commission hearing that took place on that application and after hearing testimony the applicants reasons and testimony from the public, the Planning and Zoning Commission voted 7 – 0 to deny the application for rezoning to commercial. Mike Deer stated that it was his opinion that when Morris applied for their special use that that was the limit because that was could be seen from Highway 82. He figured commercial was only appropriate for what the visibility was from Highway 82 and beyond that it should remain residential and therefore he was not inclined to grant the rezone from rural to commercial for these properties. Willy Myers, who you're all acquainted with, an engineer and well acquainted with zoning and all the ends and outs and reasons for changing things and what's involved and whether something should be changed or not, stated that the big properties, the big lots, the big developments are easy because we have a lot of citizen input and the infrastructure is there to be built, it's these little spaces that are difficult for the County to deal with and the example he gave, the intersection of the Spring Valley Road and Highway 82, he thought that was a mess and he said if we're not careful with 82 and Cattle Creek, that would become like Spring Valley which is the intersection that is dangerous, it's a mess, it's visually a blight, it's developing a small little town there between two other towns, two existing towns. Everyone on the Planning & Zoning Commission agreed with those arguments and voter 7 – 0 to deny the commercial, the request for commercial zoning. So, in that regard I am requesting on behalf of my clients, these additional conditions that are different from the original ones granted a year ago to the Raymond property. As Julia Coffman stated, the hours of operation, 6:30 to 5, that a heavy, that a pretty heavy kind of industrial sort of hours of operation, it should be 8 to 5, 8 to 5 pm not 6:30 to 5:30. People are still asleep at 6:30. Vehicle trips and I want you, I request that you pay specific attention to vehicle trips and make the language very specific because there's already a Board of Adjustment appeal pending for the Pine Stone property. My clients, Steve Kenney and Jim Robertson made complaints to the Planning and Zoning Department that the Pine Stone property had daily 50 to 100 vehicle trips per day going in and out of Pine Stone property and they're concerned about the noise, the traffic and safety. In response the Pine Stone property said that their only limited to 10 semi-truck trips per day and the reason they gave her that was even though in their application they said they would only have zero to 10 vehicle trips in their application, they pointed to the minutes that were generated from this Special Use hearing in which Dave Michaelson, the County Planner at the time, said the applicant says there'll be 0 to 10 truck trips per day. So, Pine Stone's attorney argued that since Dave Michaelson and the minutes say 0 to 10 trucks, even thought their application says 0 to 10 vehicles, that meant semi trucks but therefore they're allowed, not only 0 – 10 semi-trucks but since the Special Use Grant, or the Resolution didn't reference to any other kind of vehicles, it was unlimited to all other kinds of vehicles. The staff, with advice of the County Attorney, his opinion of Pine Stone was that they're going to do a compromise and say 0-10 trucks regardless of what kind of trucks, didn't matter whether they're semi or other kinds of trucks, they're allowed 10 trucks and Pine Stone's not satisfied with that, so they've appealed to the Board of Adjustments for a ruling that they are allowed more than 0 - 10 trucks per day. So this application is saying 36 vehicle trips per day should be allowed which should be limited to all delivery, employee, work trucks coming from the site, to make it absolutely clear about what kind of vehicle trip we're talking about, I suggest that it should be zero to whatever, and my clients that it shouldn't even be 36

it should be some lower number because if the applicant is saying there'll be 36 and 24 employees so how can their possibly only be 36 vehicle trips, there'll probably be more even if they're saying it's going to be 36, my clients feel it should be less than 36 vehicles trips per day and it should read that it should be zero to whatever number of any kind of vehicle per day for any purpose, not just delivery, employee, work trucks, and in F it sales no retail sales traffic to the site; because of the problems I cited to you about the Stone Pine Yard ability to hire a lawyer and moose with words and say well since it only said no retail sales, I guess we can wholesale traffic there, so let's just say, no retail or wholesale sales traffic to the site.
Chairman Martin – Calvin, stepping one, go back, you left, also, you left open-ended, you said 36 maximum trips or whatever, is that roundtrips or is that single in and out trips, how do you count your falling into the same issue as the
Calvin Lee –well, they say a maximum of 36 vehicle trips so I would say that that includes a round trip so,
Chairman Martin – that's what I wanted you to clarify, if your client says it round trips, that means it's in and out and that you count each one of those as one trip, that's what I need you to clarify.
Calvin Lee – I would say you need to count each trip as a trip, 36 doesn't mean 36 round trips.
Commissioner Houpt – it does or doesn't?
Calvin Lee – does not.
Chairman Martin – so that means 18 vehicles can go in and 18 vehicles can come out is what you're saying, that was the total 36.
Commissioner Houpt – so it's one way, 18 vehicles.
Calvin Lee – right.
Chairman Martin – I need to get it right. Okay. Go ahead.
Calvin Lee - Finally, the staff report says concerning sound, the applicant is saying that there will be other than the sound of vehicles traffic, no sound will emanate from the site and then the language is upon a receipt of a legitimate allegation of a violation with respect of noise, the applicant will be required to provide proof of compliance with the State db levels. Is the applicant saying there isn't going to be any sound other than vehicle traffic, then this should say that there will be no noise other than vehicle traffic because again, it's a residential/rural neighborhood and what we get into and I've experienced it myself with a property I own in Carbondale and I used to live there, there was noise coming from a commercial site and you get into having to hire experts saying that this is the dB level and they're saying it's not high of a dB level and you're saying, yes it is and even if it does comply with state standards the noise allowed by state standards is aggravating, I mean it's annoying when you're there and you're expecting to sit on your porch and having whatever, relaxing, your day off, this is during work hours obviously, and so you're saying well you're not on your porch, but some of these people are retired or don't work normal hours and so it's nice to be able to sit there and not having to worry about whether that noise that I'm hearing exceeds the state levels or not regardless, it's annoying and aggravating so they're saying that they're not going to have any sound then this should say there will be no sound regardless. And I think you can impose that condition since it's a Special Use Permit.
Commissioner Houpt – where is that, what condition?
Calvin Lee – it's on page 9 of the Staff Report.
Commissioner McCown – it's not a condition of approval.
Commissioner Houpt – oh, it's not.
Calvin Lee – the same argument with, on page 9, with vibration, it says, no vibration is anticipated with the proposed use. Is anticipated, that's the applicant saying, or maybe the staff is saying and if that says there's going to be no vibration, then there should be no vibrations regardless with whether it complies with state levels or not, again it's says, if there's a legitimate complain then the applicant shall supply proof of compliance with applicable, federal, state and county laws, regulations and standards and I'm saying you should make it a condition that there shall be no vibrations period. Same thing with emissions of smoke and particulate matter and with the emission of heat, glare, fumes or radiation. The applicant is saying there won't be any, then there shouldn't be any and we shouldn't have to be going back and forth about whether they do it if it complies with state, county or federal laws. Apparently, I've gotten two calls of complaints about the Pine Stone property burning particulate matters and it has annoyed these people who live up.
Chairman Martin – I think that was their building, their building burnt up.
Calvin Lee – their building burned up? No
Jim Robertson – it was some trash they were burning.
Chairman Martin – but their building also burned.
Unidentified – yes,

Chairman Martin – it's no longer an office, it's a shell right now.
Commissioner McCown – your local fire department can address that as well. They can issue them a summons.
Unidentified – yeah.
Calvin Lee – so in closing it is called a Special use and it's special and so because it is special it needs to be closely monitored, closed conditioned and the applicant, if they're granted this needs to comply and listen to what the neighbors are saying and the conditions being imposed upon them and they need to be strict because we're dealing with neighbors who have a legitimate complaint.
Chairman Martin – thank you Calvin. Any questions of Calvin? Any other citizen that needs to be heard?
Don Huntsman – 1172 Cattle Creek road, I think most ofo my feelings and concerns have been expressed adequately, but I do want to say to the group that I bought in what I thought was a residential area and this turning into an industrial area not even like commercial and I do resent what is happening in the area and I hope in the future more thought will be given to residential areas than to the industrial concerns.
Chairman Martin – all right, thank you Don. You may come forward.
I'm Pam Pine, we own Pine Stone Company at 0600 County Road 113. I'm a neighbor too, I live there, work there, I shouldn't say I live there, I work there. I find Mr. Robertson amazing to say, when he has a business there that brings in semi trucks, he runs his business out of there, how can he sit there and the pot calling the kettle black. Just amazes me. You're use by right, I'm there also. If a neighbor has complaints about traffic, I wish they would come in and address us instead of just saying, we don't look – I find that absurd for the number of trips that we supposedly make in and out of there, I find that pretty absurd. I think we're incredible careful about coming in and out of there, we at one time had put one of those large concave, convex whatever mirrors, it was shot out within a matter of days, we did try to attempt that and believe me if our guys come in there too fast, pull out without caution, we are on them, there hasn't been, yes I'm sure on occasion there has been somebody who's had to, you don't see, you look, you try to, you do the very best you can, there has not been any accidents there. As the neighbor, I don't find the noise, I mean we can sit in an office with doors open and unless the forklift is going right in front of our doorway, you don't hear noise, it's very quiet very often and I can't imagine that Mr. Mochrie is going to have any more noise whatever generated. You're allowed to burn trash on your property, I think that's absurd, we check with the County before we do it to see if it's legal; it's no violation to be burning stuff. I think some of the neighborhood stuff that goes on that I find when I'm there is noisy is our neighbor across the street who decides shooting guns up into the BLM land, his form of entertainment and that's an incredible amount of noise there, much more so that what we generate. I think Mr. Mochrie will be fine there, I'll probably appreciate his building being there, the looks of it, it'll cut down on an awful amount of dust that goes flying up that valley there. To say the neighborhood has changed, you've got commercial, who knows what Rudd's going to do with his property, I mean it's commercial, it has been. Yes, I would have liked to have mine commercial also, it gives me a few more options but it's not, so there. I just find it pretty insulting that somebody's that trying to have a small business in town, where do you think all these wonderful properties are for rent or lease, I'd like to know too because to find outside storage available and to run your business out of one place I think is a very limited proposition. Something that everybody might profit from, I find it really high that that speed limit is 40 miles an hour going Cattle Creek. I certainly would vote in favor or lowering that to 30 and the other day one of our employees was stopped. She lives further up Cattle Creek and she was stopped for speeding further up the road and the cop did say to her, it's not the businesses on Cattle Creek, it's the locals who are, they get past that one curve, and off they go flying up that road and its there that the traffic deserve issues. I think also that to say the commercial is just generating the traffic is not true, I think just the whole development of residential off of 112, 10, 20 miles however far all those roads go up in there creates a lot of traffic. I'd like to see the County too do something about that corner, I think it would be better for residents, businesses, everybody. It's a bad situation., there was an accident there just the other day, I don't know how or what, but as far as Mr. Mochrie's concerned and what he wants to do, I think the building will look nice, I think it'll cut down on dust, I assume he's going to be reasonable about when he's there whether it's 10 after 5 or you know, whatever it is, I think is a minor thing. He's trying to do a legitimate business to provide jobs and income for this County and I think that's the important consideration.
Commissioner McCown – one thing. So you don't get in trouble, there is a burn ban in place in Garfield County.
Pam Pine – I don't think we've burned recently.
Commissioner McCown – Okay, that's the time that you can, okay.

Pam Pine – oh no, if it's not available we don't burn, but burning I know is not against the law if it's legal to be doing it.
Chairman Martin – and it's in the Carbondale Fire District.
Pam Pine – yes it is and they were wonderful in responding to us.
Chairman Martin – next?
Kim Robertson – I live a 0912 County Road – I have to say that I think its your job to protect us, the residents of Cattle Creek and I think you've really let us down. Pam Pine has said that we run a business up Cattle Creek in a residence, which we don't, there's no business there of any kind. About the burning, I can say that if any of you walked up or drove up Cattle Creek recently, they have a pit, a huge burning pit and they burn plastic as well as wood on a weekly basis and the fumes, we're only residence down from them and we smell those fumes and the diesel and the noise and the Stone yard is gone from Pine Stone to next door to us to Raymond property which we hear the large vehicles, the metal screeching on metal and the traffic with all the residents of Cattle Creek have been run off the road by the semi's. And it's ruining our quality of life and I just think you've really let down the residents of Cattle Creek by allowing it to happen and I think you should be protecting us from people like Pam Pine.
Chairman Martin – all right. Questions? Anyone else? All right. Mr. Bean, anything else to offer.

Mark Bean – given some of the testimony and an issue that I hadn't quite frankly brought, because it came up recently in relationship to another project, we received another letter from Colorado Department of Transportation wanting us to get together with them to discuss improvements on the east side of Cattle Creek and 133, I mean 113 and Highway 82 road based upon the Sanders Ranch project. You do have the ability and note here what is on page 5, one of your criteria for review, the street improvements adequate to accommodate traffic, volume generated by the proposed use and to provide safe convenient use to use shall either be in place or shall be constructed in conjunction with the proposed use. We do not have a commercial road impact fee so I'm not sure how we get to this issue. We as a staff will be meeting with CDOT here in the near future to discuss the potential issues here, but basically what they're calling out is again the need for a new access permit for that location. With the variety of uses that have been approved or are in the process of being developed in that area, apparently the traffic counts have increased above that 20% level where they're starting to say that we're in a position to where we need make improvements. So, I wanted to give you that information, it's a fairly recent letter but it was not something Fred was privy to in this discussion unfortunately.
Chairman Martin – all right.
Commissioner Houpt – Mark, when Fred puts vehicle trips into a condition is that one way or round trip?
Mark – normally that would be a round trip.
Chairman Martin – any other questions then at this time? Davis you have a right to respond to the public.
Davis Farrar – I guess in terms of the response from the public, I appreciate their concerns, you know I think that area is changing out there as it's been presented previously. I would note for the Commissioners information that the original Resolution 2003-54 approving the use out there with the building in a different location, really is the only difference had no restriction on the number of vehicle trip other than it said no semi truck deliveries to the property. We're willing to live with 38 round rips per day for all of the vehicle trips on the property as a reasonable response to the public's concerns and the County's desire to regulate this site. And I think we talked about the other conditions that we can live with and clarification of language and I think it is obviously going to be important that that language is clear so that it's not you know muddied in the future. But I think Mr. Mochrie is proposing to make an improvement to that area, visually and he operates a very successful, legitimate business and employees Garfield County residents and we would request that Garfield county Commissioners approve the application and with the conditions as we discussed.
Commissioner Houpt - I have a question from Mr. Mochrie, have you considered allowing employees just to take truck home so there's not pick up and drop off traffic on road every day.
Doug Mochrie – Actually the majority of our employees live from Rifle to Parachute, we supply a vehicle for them everyday to compute there. We have one vehicle that takes 8 people and other that takes 6 I think to limit the amount of trips that they make to our site and then in our vehicles we take 3 people per vehicle to Aspen, so I do as much as I can to limit the trips and the cost of transportation.
Commissioner Houpt – so if you have
Doug Mochrie – we'd actually generate more trips by me allowing them to take the trucks home, they can hold fewer people.

Commissioner Houpt – okay, just wondering
Commissioner McCown – plus that would have to come back by the warehouse to pick up supplies to go onto work.
Commissioner Houpt – just wondering how you got to 38 since you don't have deliveries everyday and
Doug Mochrie – well with the UPS delivery every day, there is 3 office personnel, all this averages out around that number.
Commissioner Houpt – okay. Is that all during the same period of time or is that spread out.
Doug Mochrie – yeah, and that gets back to our hours, we do start earlier, we work 10 hour days, we only work in Aspen, we've been keeping these hours for 20 years now. Everyone is gone at 6:30 a.m. and do not return until approximately 5 in the evening. This site is virtually empty for 2 – 3 people for 10 hours during the day so there is, to address the noise, there is no noise, there's no vehicle traffic except for UPS and an occasional delivery.
Commissioner Houpt – so it's okay to say no noise as a condition.
Doug Mochrie – yes.
Davis Farrar – if I may, no noise means you can't walk out of the building and sneeze. But I'm just saying we're – I think there's some scrutiny here so reasonable levels – vehicular noise.
Doug Mochrie – there's no production or anything that goes on there during the day, it's a warehouse only. We do everything in Aspen on site. I guess we're just trying to do everything we possibly can do to accommodate everyone. We want to live in a friendly neighborhood also and we're in this position between the commercial and the residential and that's all happily agreed to all the restrictions as they be so we are a buffer between the two zones. I'd love to live within that range. I don't want to abuse our privileges either.
Chairman Martin – other questions.
Commissioner McCown – I have none.
Chairman Martin – back to staff, anything else?
Mark Bean – no.
Chairman Martin - Ms. Dahlgren?
Carolyn Dahlgren – no sir.
Chairman Martin – anything in closing, Davis?
Davis Farrar – no sir thank you.
Chairman Martin – did I miss anyone in the audience? Back to the Board, final questions, or motion to close.
Commissioner Houpt – make a motion that we close the public hearing; Commissioner McCown second.
All those in favor – McCown – aye; Martin – aye; Houpt – aye.
Commissioner Houpt - I'd make a motion that we approve the Special Use Permit for Capital Construction LLC with conditions as recommended and a few that I'd like to adjust. On B, we'll take our the first portion of that sentence up to a maximum of and staff had 36 trips in there, is that, well we can't talk to you, I'm going to leave that in there, 36 round trips per day and that will include delivery and employee trips; On 1- F, I'd like to add no retail or wholesale sales traffic to site; and I thought maybe terms have been changed since I'm not working with BLM anymore, maybe they are called "wildlife friendly" garbage receptacles now, so I think we all know that means "bear proof, " [Mark asked if we were staying with "wildlife friendly"] we can say with bear proof [Mark - I'm not sure that it makes a whole lot of difference] [Commissioner McCown – why don't we just change "friendly to proof"]. Let's do that. [Mark – wildlife proof, okay]. And I'd like to add number 15, no noise production, no noise created by work production other than traffic to and from the site; [Commissioner McCown - Tresi, in you motion on E there was a request to insert "and" after the lower bench to allow for them to load vehicles at the site.] [Chairman Martin – that's under 1 – E] [Commissioner McCown – 1-E, company trucks parking shall be located on the lower bench and adjacent to the structure] okay. [Chairman Martin – that's included in your motion?] Yes, I'll amend that.
Commissioner McCown second.
Chairman Martin – I have a motion and a second, discussion?
Commissioner Houpt – I think this is a very difficult area and we purchase residential property with the feeling that it should be secure and that it shouldn't be a transitional area and I think that any business in this area has a responsibility to make sure that they understand what the residents are dealing with living in a transitional area I think it's a huge responsibility, I don't think it's one that businesses should feel frustrated about or upset by, I think it should be a given that you want to do the very best you can to your

neighbors. And everyone should recognize that there are difficulties in transitional areas but I truly do believe that there's a special burden on commercial sites to make sure you live well with your neighbors.
Chairman Martin – all right. Larry do you have any comments?
Commissioner McCown – no.
Chairman Martin – I'm going to stay true to what I did in the original hearing which Davis knows what I did and that is that I think we need to draw our line in the sand, not that this isn't a great project, not that this doesn't employee people, etc, but I do need to stay consistent which I've done throughout and I'll vote my conscious there. Call for the questions, all in favor?
Houpt – aye; McCown – aye; all those opposed – Martin – aye, not that I'm against you its just that I drew my line in the sand on this particular issue way back when and I'm staying with it.
Doug Mochrie – I understand.

CONSIDER A CONDITIONAL USE PERMIT TO CONSTRUCT A COMMUNITY BUILDING OF 1,200 SQ. FT. WITH A MULTIPURPOSE ROOM, WORKOUT AREA, TWO RESTROOMS, MECHANICAL EQUIPMENT AREA AND AN OUTDOOR SWIMMING POOL. APPLICANT IS CERISE RANCH, LLC. – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, Doug Pratt, Planner and Art Clinstine from Cerise Ranch.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; and Exhibit F – Staff memorandum.
Chairman Martin entered Exhibits A – F into the record.
This is a request for a Conditional Use Permit for a multipurpose room, workout area, two restrooms, mechanical equipment area and an outdoor swimming pool at the Cerise Ranch.
The proposed building and pool are neighborhood amenities and will not detrimentally affect the overall character of the community.
Staff recommends the Board of County Commissioners **APPROVE** the Conditional Use Permit for Cerise Ranch L.L.C. to construct a Community Building of 1,200 sq. ft. with a multipurpose room, workout area, two restrooms, mechanical equipment area and an outdoor swimming pool with the following condition.

1. The Owner shall be required to gain any and all applicable land use permits for any additional construction on Lot 1.
2. The Applicant shall landscape and screen the proposed use as shown in the proposal layout plan in the application and as shown in Figure 1. of this report.
3. The approval of the Community Building and Pool on Lot 1 does not affect the existing approvals for residensial buildings on Lot 1, and that all previous approvals remain in place for Lot 1.

Carolyn added to make the record clear that she did not review the underlying Cerise Ranch application and was not familiar with the conservation easement. Did you review that and make sure these uses are consistent with the conservation.
Doug Pratt – actually there's not a conservation easement; there's an open space easement that is held by the homeowners association. It's held as open space and recreational opportunities of which there's a picnic gazebo already built, volleyball, some other recreational amenities in this vicinity as this community building. It is consistent both land use and with the open space easement. Jim, at our request had added the clarification that the uses proposed here do not diminish the uses of the primary residential envelopes. This is a salable lot and Habitat for Humanity is considering purchasing this lot in order to build a spec house on it to fund some of their programs. This just needs to be clear by them, this is use by the community, it's an easement area for use by the whole Cerise Ranch neighborhood and they will still have their rights on the residential envelope.
Doug Pratt – This is a salable lot – clear with the community – for use by the entire residential area.
Commissioner McCown asked if there would be a clear easement identified on a map somewhere so that it doesn't infringe in the building envelope.
Doug Pratt – the Cerise Ranch plat has an open space easement across all of those areas where open space and recreation can occur and this lies within that easement area. The envelope is outside of that easement area. There is not a conflict with the building envelope and the location of this.

Jim said there was a clear 400 feet separation of the building envelope and this proposed area.
Doug Pratt for Maureen Morris – homeowner of Lot 3, left earlier but came in support of the application.
Karen Choate, marketing broker for Cerise and had conservations with the owners that are currently living in each one and contracted them to see if they wanted to come today. 80% of who currently live on the property all have children and look forward to the community pool and house addressing something they have really wanted to support and endorse; not one adverse reaction to this proposal.
Art Clinstine – wanted to reinforce strictly internal recreational community center for the 68 lots in the Cerise Ranch development.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Conditional Use Permit to construct a community building on 1200 sq feet with a multi-purpose room, work out area, two restrooms, mechanical equipment area and outdoor swimming pool with the three conditions as listed by staff in the staff presentation. Motion carried.

Mosquito fogging – CR 352
Ed Green brought the attention of the Board that the Mosquito spraying proceed north of the Airport on County Road 352 based on information from our consultant, the Colorado Mosquito control. They are recommended half mile to a mile stretch of the road, it is a major breeding ground and they found enough that they need to go ahead and do an adult fogging.
The Board approved and gave direction for Ed to go forward.
A motion was made by Commissioner Houpt so moved; Commissioner McCown seconded; motion carried.

Board of Equalization – No Hearings set this week
Clarification was made for the record concerning the Board of Equalization hearings next week. Don said one is scheduled for Tuesday morning; the others are set for Monday and we should be completed by noon. The Board agreed that Tuesday at 9 a.m. was fine.
Shannon requested some dates for next year in order to schedule the AG and Commercial Hearings. 2005 is a re-evaluation year.

Executive Session – Continued - Pending notice to claims
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried.

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

ADJOURNMENT
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

AUGUST 2, 2004
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 2, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

REGULAR WORK SESSION

COUNTY MANAGER UPDATE: ED GREEN

a. Community Corrections Board Appointments – Dale Hancock and Ruben Hernandez

Dale Hancock presented. Ruben Hernandez submitted a letter to the Commissioners requesting to fill not only the one vacancy, but to appoint two citizens members who have shown a definite interest in joining the Community Corrections Board. Those are: Kristine Stinson and Ken Jaynes. In order to appoint both members, it would require an amendment to Resolution 2003-43. If the Board does not choose to amend the Resolution, the request before the Board is appoint at least one of these recommendations for membership.

Dale said the screening boards have quite a work load in reviewing the applicants and two additional members would be helpful.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to amend the Resolution 2003-43 to allow an additional citizen board member and to appoint Kristine Stinson and Ken Jaynes to the Community Corrections Board; motion carried.

b. Approval of final draft of Housing Fund IGA – Colin Laird

Colin Laird was present requested this to be rescheduled until August 9, 2004 due to the fact that he did not get the final draft to Ed in time for the Board's packets.

c. Qwest to bury cable in County ROW on CR 229 along with several bores – Kraig Kuberry and Marvin Stephens

Marvin Stephens, Kraig Kuberry and Gary Gibson from Quest were present.

Kraig stated the procedures they have worked out with Quest and assured the Board this would be completed according to procedure.

Don clarified what Quest would be doing about posting bond or security for reformation of the County Road. The Board has waived this before and needed this clarified. Gary requested to waive the surety bond.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to waive the security on this project and allow Quest to move forward with the installation in the County Road right of way; motion carried.

d. WIC Contract with CDPHE – Mary Meisner

Mary Meisner submitted the WIC Contract for $171,077.00 for the renewal term of one year, ending on September 30, 2005.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the new WIC Contract; motion carried.

e. 4,000 gallon vacuum water truck for Landfill – Kraig Kuberry

Tim Arnett, Marvin Stephens and Kraig Kuberry submitted the award request to Transwest Trucks for providing a 4000 gallon United Vacuum Tank mounted on a Sterling LT8500 chassis for $81,100.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Transwest Trucks for providing a 4000 gallon United Vacuum Tank mounted on a Sterling LT8500 chassis for $81,100.00; motion carried.

f. Annual Probation Contract – Guy Meyers

Guy submitted the annual Probation Contract for Probation effective July 1, 2004 through June 30, 2005 to provide lower risk offenders supervision. $46,000 estimated as revenue this year.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the agreement with the Probation Department for Probation for the year 2004-2005. Motion carried.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario gave his monthly report to the Commissioners saying the department will be back to full staff in the jail. 2 deputies are graduating and there are 3 openings in the patrol division.
"Game Penalty – Fine"
The man that shot the ram is serving 4-months at the County Jail and has a $25,000 fund. The funds are earmarked to the County and the Forest Service. Lou's recommendation was to pass these funds to the Division of Wildlife as it was their case and they did the work.
The Board didn't have a problem with this.
Update on Animal Licensing
Lou said they have been working with the interested parties on this and it will be back before the Board soon. This has been a good process.
Lou said they will be glad to do a concentration of Cattle Creek and will watch Silt Mesa once the paving is completed.
The Board complimented the Sheriff on the concentration efforts on Four Mile.
Remodel of the Jail Space– Lou met with Chuck Brenner last week and Lou will present this to the Board next month. This is planned for this year. Tim has also been working on this. Lou didn't have the final numbers to present. Written approvals have been received from all elected officials regarding the storage area.
Safety Council – Ed reported this is moving along and plans are to fill the position this year as long as all the IGA's are received.
Update on Animal Licensing
Lou said they have been working with the interested parties on this and it will be back before the Board soon. This has been a good process.
Thursday, National Night Out – Centennial Park, Glenwood Springs Police Department sponsoring it.

Silt Mesa Road, Wallace Creek and Cattle Creek Road were mentioned as potential for additional patrol.
Lou said they will be glad to do a concentration of Cattle Creek and will watch Silt Mesa once the paving is completed.
The Board complimented the Sheriff on the concentration efforts on Four Mile.
Remodel of the Jail Space– Met with Chuck Brenner last week and Lou will present this to the Board next month. This is planned for this year. Tim has also been working on this. Lou didn't have the final numbers to present. Written approvals have been received from all elected officials regarding the storage area.
Safety Council – Ed reported this is moving along and plans are to fill the position this year as long as all the IGA's are received

BUDGET
Budget – Ed and Jesse have been working on the budget and if the Board has feedback to let them know.
Retaining Wall by Westbank **–** this needs to be in the Budget this year. Ed assured the Board the project was included in the 2005 budget.
Drainage on Four Mile – this has to be addresses but how to do this since the City of Glenwood Springs has changed their plans. The Board felt it would be best to wait and see what the new City Manager does.
Dry Park – Ed said this is not in the plan. This was postponed until after the Primary Election.

West Nile – Mary Meisner reported that Mesa County has the highest numbers in the State. They think for every one case there are 20 unreported. In Garfield County calls are down and mosquitoes are down. Three spots where 100 female mosquitoes were trapped. Parachute, Silt, and down below the Airport where spraying has taken place. Delta has some mosquitoes as well.
Arizona has a similar problem like Mesa with irrigation ditches.
Steve Anthony will be coming before the Board with his report.
The Board was pleased with the Mosquito Control and has seen their presence in this County.

COUNTY ATTORNEY UPDATE: DON DEFORD
Executive Session –Construction of County Administration Building on proper process and staff direction leading to Construction; EnCana hearing in front of COGGC and Schedule Board of Commissioners on the 16th and 17th of August.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
EMAIL – LYLE DESCHANT – FIRE DISTRICT OUTSIDE OF DEBEQUE
Mildred stated that she has been notified about a Ballot Question.
Board Meetings – August
August 16 @ 11:00 a.m. – this will run into the 17P^{thP} and the Board should be planning on this. One item is set on August 16th and staff requested direction for scheduling.
Commissioner McCown made a motion and Commissioner Houpt seconded to hear the one item on the 16P^{thP} – the SUP for the Circus in Rifle and convene the BOCC on August 17 at the regular time and hold a regular meeting. This was due to the EnCana hearing scheduled for Monday, August 16. Don will be at the hearing and the Commissioners wanted to attend as well. Motion carried.
Direction – Procedure for selection on Contractor for the Human Services Building in Rifle - the selection committee is made up of department heads and is a two step process; the Commissioners will only be involved at the end of the process.
Commissioner Houpt – throughout this process she has been asking the question when the BOCC enters into this. Looking at the design, a multi-million project, she feels it is important on how the Board comes to the understanding of awarding the contract. She added that understanding the process and the review committee was important but because there is a two-level process, she would like to see the Board be involved in the second phase of the contractor selection. She recommended that the entire Board be involved in this process for two reasons: 1) it's the Board's responsibility and 2) to open the presentations up to the public in order to give the public an understanding of what is being considered in the selection process.
Don read a couple of provisions in the Purchasing Code and reiterated that this is not technically a bid but rather a competitive sealed proposal. A design build is both a service contract and a construction project. Two things: 1) the registry that is prepared containing information on the proposals received and other associated information shall not be disclosed until after the award of the contract; 2) the identity of competing offers and associated information derived from the RFP responses shall not be disclosed to any competing RFP respondent prior to the award of the contract. After award of the contract bid information received from all vendors who responded to the RFP shall be considered public information and shall be made available for public review from any concerned citizen. The reason for that and the difference between a bid is that when you have this hybrid with a service contract, there is still the strong likelihood of negotiations after you have identified the final responding party that you want to focus on. It's not a given that those subsequent negotiations will be successful in fact it's quite possible that you will enter into those negotiations expecting to achieve a desired result, not achieve it and have to move to the next responding party on the list. That's the reason you don't want to disclose the proposals and identify of the proposers until you've made the final award. That's why this is included in your Procurement Code.
Ed said if this process is in the open you run the risk of disclosing proprietary data and you have the situation where the other proposers can sit in on the presentation and it greatly improves the prospect of protests.
Commissioner Houpt recognized it couldn't be a public session but it would be valuable for the Board to sit in on those presentations in order to have the background information.
Ed said the Board would then become the selection and the approval authority at the same time and the appeal authority as well.
Commissioner Houpt still did not see the conflict with that.
Chairman Martin – prior to these rules and regulations that the Board adopted, it was chaos but after that it worked very smoothly and there hasn't been one filing of a protest. Timing is of the essence and the other is that we have faith in our Procurement Manual as it's gone through several revisions and were fine tuned. This will be the 6P^{thP} building that we've used through this process and he has been very comfortable in and has faith in the engineering folks as well as the Procurement Process and staff. Also, the folks affected by the building are in there and they have input as well.
Commissioner Houpt has a totally different perspective with how Boards work with staff and what she has seen in the past they work more closely than what happens in this particular county. You can work side by side with staff and have the Board bring that global perspective to the discussion. That's not a legal conflict with that concept but perhaps this County is not ready for that.

Chairman Martin said he thinks we are actually ahead of that by the process we have because we went through that with chaos and that's why this was put in place.
Commissioner Houpt said what you're doing is rubberstamping a decision that comes before you because you don't have any of the background information.
There was a 100% disagreement between Chairman Martin and Commissioner Houpt. Commissioner Martin felt the Board has the review material that's presented prior to your decision. This includes all those that come through the team reviewing the RFP's. "If there's only one contractor that makes it through their evaluation criteria"; Commissioner Houpt wanted to clarify this.
Ed said there will be two reports to the Board. The first report will be an evaluation of all the proposals and the team will describe the strengths and weaknesses of each and how they arrived at the competitive range. Second report will basically reiterate that process again based on direct interaction and evaluation of their design approach and construction approach.
Chairman Martin said the Board can ask questions of the team in reference to these reports and clarification of their findings and if the Board is unhappy with it, then we are unhappy with that, we reject the overall proposal, we start again.
Commissioner McCown said he has an extremely high level of comfort and confidence of the Procurement Process in place and the one that we've followed in the last several years; it has worked well and he doesn't want to change it. He clearly supports the ongoing procurement process that's in place and carry it out with this building; if that high comfort of level is not there that we're getting a quality building for that price at that time, he will voice it when that comes before the Board for approval and take appropriate action then. Getting to that point, he has no problem with the process in place.
Commissioner Houpt said obviously we're not ready to look at new ways to approach decision making in this County so we will call a majority of the Board to get the position recognizing on record that she would really like to see a more pro-active approach where the Board has more participation in the selection process.
Chairman Martin so noted and with the caveat that we've gone through that and it turned into chaos.
Don requested the Board verify the process by motion.
Commissioner McCown made a motion that we follow the present Procurement Process in the design build of the Human Services Building at the Cooper Field in Rifle; Chairman Martin seconded for discussion.
Don said as part of the discussion, does the Board wish to include in that motion a specified minimum number of final proposers for the Board's consideration.
Commissioner McCown did not and neither did Chairman Martin.
McCown – aye; Martin – aye; Houpt – nay.
Commissioner Houpt requested that it is noted in the motions the way the Board has voted.
Mildred assured Commissioner Houpt that the vote is noted. If all agree, it simply said vote was unanimous it says, motion carried. If there's a dissenting vote, it is then noted how each one voted.
Chairman Martin noted it was the same way on all Resolutions.
Consideration of renewal of Fire Ban – Resolution No. 04-046.
Emails were received from the Fire Chiefs requesting that the Fire Ban remain in place and to renew the Resolution.
Commissioner McCown moved to continue the fire ban until Monday, August 30 at which time the Board will meet via telephone to review the fire ban. Commissioner Houpt seconded; motion carried.

COMMISSIONER REPORT:
Commissioner Houpt –received a call this weekend on a grant proposal going to DOLA for impact funds and they have been in contact with Kathy Shipley on the health portion of their program and their letter of intent is due today. This information was emailed to her and the purpose is to create a collaborative care network to connect physicians, business partners and patients electronically from Aspen to Parachute and through that network, citizens could request appointments, medication refills, ask about insurance and billing questions, get on-line consultations and enhance the health capabilities in place in the rural area. She asked the Board to be either a project partner or the actual primary applicant. This is Roaring Fork Community Health Plan, a non-profit organization. Pitkin County will take the lead if Garfield County doesn't. She submitted it for the Board to review.
Discussion: The people who could use this have to have on-line ability to the Internet. This could be done at the libraries so there is public access. This is under the Energy Impact Funds under the Healthcare Grant.

A project partner is a flow through. Decision was to support it in concept if there's no unknown obligation on the County's part as project partner in concept and let Pitkin County take the lead.
Commissioner Houpt continued with the report saying that Routt County adopted a Resolution on the RS2477 and suggested to put this on a future agenda. Tresi will make a copy for the Board.
Personal Property hearings – 8:30 a.m. on Tuesday.
Meeting at Carbondale Town Hall to discuss Thompson Creek at 7:00 p.m. Jury Duty on August 5P^{thP}. CCI meeting on August 6, Legislative Sessions.
Commissioner McCown – Picnic on Thursday for the County Employees; Fair Horse Show; Silt Hey Days, 7:00 p.m. EnCana next Monday, County Fair.
Chairman Martin – County Picnic 10 a.m. Parade at the Fairgrounds.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign the resolution of approval of a text amendment to the Zoning Resolution of 1978, as amended to include "Group Residential Facility for Children and Youth" as a Special use in the ARRD zone district. Applicant is Bill Evans. – Fred Jarman
f. Authorize the Chairman to sign a resolution of approval of a Special Use Permit for an "office, plumbing material storage and warehouse, and associated vehicle parking" for a property located at 0566 County Road 113 owned by Capital Construction, LLC. – Fred Jarman
g. Authorize the Chairman to sign a resolution of approval for a Special Use Permit for a "Group Residential Facility for Children and Youth" for a property located at 1359 County Road 294 owned by Bob Lay. – Fred Jarman
h. Liquor License Renewal for Kum & Go in Parachute. – Mildred Alsdorf
i. Authorize the Chairman to sign an Acknowledgement of Partial Satisfaction, Subdivision Improvements Agreement, Sun Meadows Estates. – Mark Bean

A motion was made by Commissioner Houpt to approve the Consent Agenda removing Item c; Commissioner McCown seconded; motion carried.

Election Judges Training – Mildred reported on the training for Election Judges and noted that every judge has to attend; it was a very good session and the judges gave positive feedback on the method of training.

PUBLIC MEETINGS:

TRAILS AND TRANSPORTATION SALES TAX – TRÉSI HOUPT

Commissioner Houpt proposed that the Board of County Commissioners request to the RFTA Board the opportunity to include in the November Ballot question a provision for a general trails and transportation tax. This would provide a revenue stream to meet the needs of trail projects outside of the RFTA corridor, as well as funds for augmenting public transportation opportunities in Garfield County.
The proposal included: Request a 0.2% sales and use tax, added to the 0.4% sales and use tax we will be seeking for RFTA. She said in her memo that the .0.2% would be transferred back to Garfield County from RFTA for use specifically on trails and public transportation projects. This would address future LOVA needs, as well as other projects like the trail along Highway 133. Additionally, it would give us a stable revenue stream for other public transportation needs, i.e. potential contracting with ECO for bus service from Glenwood Springs to ECO's western edge, future support for Parachute's transportation needs, the Traveler and other similar non-profit transportation organizations.

The cost to the consumer:	0.4% = 4 cents on a $10.00 purchase, or .40 cents on a $100.00 purchase.
	0.2% = .2 cents on a $10.00 purchase, or .20 cents on a $100.00 purchase
Total cost proposed:	0.6% = .6 cents on a $10.00 purchase, or .20 cents on a $100.00 purchase.

The additional 0.2% tax would generate a revenue stream of approximately $177,000 annually for additional trail and public transportation projects in Garfield County.

The total 0.6% would generate a revenue stream of approximately *$530,000 annually for RFTA and other trail and public transportation projects.
*These dollar amounts were calculated with RFTA's original equation, using 2003 tax revenue figures.

The request to the Board today is to talk to the RFTA Board to see if they would be willing to add a 0.2% additional tax on the Ballot Question.
Discussion was held.
Don contacted Renee Black, the attorney for RFTA and she felt that RFTA could do this, however, that expenditure would have to part of the expenditures of RFTA trails.
Commissioner Houpt – it would be very specific that the 0.2% would be turned back to the County for Trails.
Don – this is one Ballot question with two issues. The 0.6% tax and the other is the IGA to join RFTA. Would RFTA enter into this is a question for the RFTA Board. This would have to be proposed to the RFTA board if this is the way the Board wants to go.
Chairman Martin noted the tax questions on the November ballot. History tells us when you have 5 – 6 tax questions on the same ballot, they all lose. Therefore, he wondered if we should move forward on this.
Commissioner Houpt supports the tax and feels it would be economic development. It offers a mode of transportation that many want to choose. She is looking for the opportunity to
Commissioner McCown would like to hear from the RFTA Board as this may jeopardize their .4% tax question. He would support it if there was willingness. Under the present formula it would only include the unincorporated area of Garfield County.
Don framed the question to the RFTA Board would be similar to Commissioner Houpt's memo: "Request a 0.2% sales and use tax, added to the 0.4% sales and use tax we will be seeking for RFTA. Request a 0.2% sales and use tax, added to the 0.4% sales and use tax we will be seeking for RFTA. She said in her memo that the .0.2% would be transferred back to Garfield County from RFTA for use specifically on trails and public transportation projects."
Commisisoner McCown – the question needs to be made clear if they have the authority to fund trails outside of their jurisdiction because that's clearly what they will be doing; we will be expecting this .2% back in a lump sum form. They are only the collecting entity.
Don – "outside of their jurisdiction" – Don said it has to be within their jurisdiction geographically in order to do an improvement, statutorily. If it passed, it would be within their jurisdiction but outside of their control – service area and control. With that said, does the Board wish to authorize the Chair to sign a letter making a request of the RFTA Board to alter the IGA with RFTA?
Commissioner Houpt so moved; Commissioner McCown seconded.
Discussion
Chairman Martin – the question is will they change their agreement, will they increase the tax question to .06% instead of .04% and in that governmental agreement will they allow the distribution of that .02% come back to Garfield County to control on trails that deem necessary to improve their unincorporated areas or join other trails as we've got several other trails that are going. This would be at the discretion of the County.
Motion carried unanimously.
Russ Custow – Town Trustee of Carbondale, pointed out that they have recently had 3 surveys done in Carbondale; trails and open space as rated in the public opinion as the highest rated priority. They passed an extension of their tax last Spring that with trails as one of the highest things on there. The interest in trails is economically speaking with all national studies pointing to that trend.
David Farrar – commented the Commissioners for the visionary of the RFTA funds. There isn't much debate on trails and recognized that there is on transit. Red Hill Council since it was formed outside of Carbondale and they counted over 50,000 user days a year because trails are desired. Wholeheartedly support and hopes RFTA will go forward with this.
Mike Sawyer – Silt Town Council and on the LOVA Board – thanked the Board for their motion to move forward to ask RFTA to include the additional .2%. Feels this trails tax would be extremely beneficial and thanked the Board for their leadership.
Chairman Martin said despite the interest in trails, the folks he talked to feel this tax will not pass due to the over taxation.

TREASURER AND PUBLIC TRUSTEE SEMI-ANNUAL REPORT. – GEORGIA CHAMBERLAIN

Georgia Chamberlain and Jean Richardson submitted the semi-annual report to the Commissioners that included the first 6-months of 2004 and the 2P^{ndP} quarter report of 2004 for the Public Trustee. She included the Sales Tax report of July 2004.

During the 6 month period, the Treasurer total revenue was 137,510,140.11 with disbursements of $125,832,023.46 leaving a balance of $38,562,560.04.
The Public Trustee Income report was $56,776.18.
Sales Tax generated to the Library for the ¼ cent tax was $932,157.00.
Sales Tax generated to the County for $2,796,470.00.
Releases have gone down.
The Commissioners requested that the Treasurer publish the report in the Newspaper as required by Statute.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept it authorize Georgia to publish this in the Glenwood Post/Independent. Motion carried.
Sales Tax Report – Georgia asked for feedback on the report layout. 15% increase over last year. Jesse predicted this due to the Wal-Mart in Rifle.
Compliments were given to the Treasurer's office for the good report.

CONSIDER A REQUEST FOR A PLAT AMENDMENT FOR TRACT 32, ANTLER'S ORCHARD DEVELOPMENT. APPLICANT IS PAUL RINKER. – FRED JARMAN

Fred submitted a request to amend the plat on Tract 32, Antler's Orchard Development. This is to incorporate an additional 1.45 acres into Antlers Orchard. The additional acres will be purchased from Jeffery Craw and it will allow Mr. Rinker to extend his irrigation system (Grand River Ditch) and increase the parcel's usefulness.
Staff Recommendation:
The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following recommendation:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the Country Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.
3. Jeff Craw shall be required to complete a Lot Line Adjustment application obtained from the Garfield County Building and Planning Department to reflect the change in the larger parcel. This shall be completed and the necessary documentation recorded in the Office of the Clerk and Recorder concurrently with the recordation of the final plat for Amended Tract 32 of the Antlers Orchard Development.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat on Tract 32, Antler's Orchard Development for Paul Rinker with the 3-recommendation by staff; motion carried.

REQUEST A LETTER OF SUPPORT FOR A STOP LIGHT ON HIGHWAY 82 ON THE SOUTHERN EDGE OF GLENWOOD SPRINGS FROM DAVID HICKS. – MARK BEAN

Mark Bean and David Hicks were present.
Mark submitted a memo to the Board regarding the request. David Hicks, President of Prince Creek Construction requested the Board support his efforts to place a stoplight at the entrance to his company's proposed development on the south side of Glenwood Springs. He has already received approval for a new highway access permit that will serve 20,700 sq. ft of warehousing, 32,100 sq. ft. of general office building and 22 apartment units. The permit did not include provisions for a stoplight.
The proposed stop light will be just under .0.3 miles south of the stop light located adjacent to the McDonald's restaurant and Wal-Mart entrance. The Buffalo Valley/Red Canyon road intersection is approximately 1.0 mile south of this entrance. The entrance to this property sits at the beginning of a concrete wall separating the north and south bound lanes of Highway 82 that extends sits to a point just north of the Buffalo Valley Restaurant/CR 154 intersection.

In conversations with the CDOT highway access engineers, they indicated that the proposed light will be reviewed based upon the same criteria used for any stop light. They indicated that the local political support would not be a basis for any approval or denial of a proposal. Additionally, CDOT indicated that they will

review existing and proposed signalization one mile in each direction from the proposed site. Approximately one mile south of this site is the proposed Red Canyon/Glenwood Springs Airport bridge intersection.
Since there is no requirement or real acknowledgement of local government support for this type of application, staff would suggest that the County Commissioners not comment on it. Garfield County has already indicated support for the improvement of the Red Canyon/Holy Cross Election/Buffalo Valley Restaurant Intersection through the TRP process.

David Hicks brought this before the City of Glenwood Springs and the reason he is bringing this before the Board is because they have the warrants. The Consultant suggested bringing this to receive a letter of support for the light going in. The CDOT access is based on the speed limit and this is a hazard with the traveling speed limits where not all travel at the posted speed. The letter he is after is for public safety. David doesn't want a fatality to occur; he would rather put the money up front.
Chairman Martin stated another request was made by Bruce Christenson for a group home and the engineers went out and there isn't enough right of way.
Commissioner Houpt felt if we interfere with CDOT's procedures we would move out of our partnership. They have established a process for regional planning. She would not protest David's moving forward with this but should work within the TPR process as a County.
David – there are two prongs to approval by CDOT. 1) is purely mathematical and thinks he there on this prong. The other one is subjective call by the Jim Knoll where he'll go through all the mitigating circumstances of why there should be alight there anyway. The situation was created by the relocation of Hwy 82 and not due to a private party. This goes to Phase 2 – if they disagree with some of his traffic consultant's data, here is side two and the reasons and a show of support by the governments. The City Council did the same thing. City Council approved a letter of support.

Direction: A motion was made by Commissioner Houpt and seconded by Commissioner McCown to allow the process to go forward with CDOT with no objection or support; motion carried.

COUNTY POLICY ON CDOT PROJECTS SPONSORSHIP - RANDY RUSSELL AND MARK BEAN

Ranch at Roaring Fork and LOVA Trails prompted attention to this County Policy. All of these partnerships with CDOT are solely at the County's discretion and the Board can elect on a case by case basis. Once the county does participate they assume all liability.
Randy Russell submitted a memo in draft version to the Commissioners saying the recent policy and procedures developed by the CDOT now allow for retrofitted noise barriers to be put into place on CDOT right of way if a case can be made for demonstrated need and effectiveness and if the design is approved by CDOT. CDOT will not provide funding for such projects and will require the County or other unit of local government with land use authority to be a Local Agency Applicant on behalf of the project proponent and enter into an IGA assuming project management, ownership and liability responsibilities.
In summary, Randy said no set of policies or guidelines will meet every individual circumstance or project. This set of policies in the draft is designed to provide guidance for what are very complex and complicated projects, with a variety of regulations and expectations coming into play. For a complex project to be successful, a myriad of issues and concerns need to be taken into consideration in advance.
Project proponents need to understand that costs to them to cover those aspects of a project which aren't just "pass through" elements by the County may be substantial, and that negotiating the role of the County and determining the role of a consultant will involve determining tasks and responsibilities on a wide range of issues in advance of an agreement being achieved.
The check list was discussed and in the case of LOVA if it is funded, they will be back to go over the check-list.
Form 1243 – Randy identified the things the County would be responsible for if we become a partner. Randy estimated an approximately 12% of an FTE per project. He requested feedback and if the Board wants to move forward these need to be incorporated into the Regulations. This allows a written statement about what the County is willing to do. It puts the burden on the applicant to have the funding to get the project completed at their expense.
Chairman Martin favored the process.
Mark emphasized that any of the projects, we take them on, and CDOT will be looking to us to keep the records and made it clear that the County is liable.

Don on coverage for this, CAPP as it relates to the sound wall and LOVA we have coverage for the County and will provide coverage for CDOT. CAPP will consider this on a case by case. Trails and sound walls are okay but if we have different kinds of projects they will all need to be before CAPP.
Mark – procedurally there is a dilemma. The Ranch at Roaring Fork would like to have the Board involved and there is a requirement that you make a determination that this is the best alternative for the sound wall they are proposing in the right of way. The Ranch provided some documentation to discuss that issue but the dilemma is that we don't have a regulation to deal with the areas outside of the public right of way. The way the regulations are written it would appear that they would not be allowed to do this even if it was on private property. We need to make an amendment to the Regulations. Incorporating this into the Code Rewrite is not going to meet the Ranch at Roaring Fork's time frame. The wall would be paid for by the Ranch.
Chairman Martin favored moving forward with getting this into the Rules and Regulations. P & Z would review this.
Mark clarified that these regulations would be generic and not just tailored to the Ranch at Roaring Fork sound wall.
Don –this is an agenda item - consideration of a policy, the first step for the Board would be if you want to adopt the policies in front of you is to authorize the Chair to sign a Resolution adopting the Policies presented by Randy Russell to the Board on July 19, 2004 concerning CDOT Highway use applications. Commissioner Houpt so moved; Commissioner McCown seconded. Motion carried.
The second thing, Don said there are specific projects he discussed with CAPP – LOVA Trail, the sound wall at the Ranch at Roaring Fork and the proposed trail design project on Highway 133 and those three projects have been presented to the CAPP pool and within he scope of the contract Don presented to them, CAPP will provide insurance. This is important. The contract that CDOT recommended we use and he obtained from Eagle County was a recent one that Eagle County had used with CDOT for trail development at the Arrowhead Golf Course in Residential Development for Trail purposes. CDOT has approved that contract and the terms of that contract were acceptable and insurable by CAPP. As long as CDOT uses this same form of contract, we do have coverage.
The land use question – Mark said our direction previously was to incorporate into the proposed Code Amendment; timing wise the Ranch at Roaring Fork would like to get an answer soon so if the Board answers it we need to accelerate that process and incorporate into existing regulations.
This was okay with Commissioner Houpt.
Commissioner McCown raised concerns on the long term aspects on some of these like the sound wall; once the project is closed out; we are free and clear of it.
Don – no. The liability and maintenance responsibilities stay; CDOT will give us a permit and no title to the property as such and we have on-going permit responsibilities for maintenance, upkeep and liability. If this was transferred through an IGA the County would be free.
Don said the LoVa Trail is unique and no other agency or entity will provide on-going maintenance and stops with Garfield County. Conversely, with the sound wall there is an on-going to whom we could by contract attempt to shift both the liability and maintenance responsibilities. CDOT will always look to the County and could have a contract with the Homeowners Association at the Ranch but we would have to enforce this.
Commissioner McCown – doesn't see any difference in the consulting fees, legal reviews, the accounting, all those costs that are incurred by the County being passed onto the applicant, so should the maintenance. Any IGA we enter into the maintenance cost of whatever this project is, have to be incorporated into an IGA and the applying entity assumes that. The County, ff we aren't careful, will be maintaining all the State highways; the state can't do it now and are passing that liability off and we are not going to be able to do it. Our own roads will have to suffer to maintain projects and state highways and he cannot support that.
Commissioner Houpt prefers to look at it on an individual basis. All of these projects will be different and all the resources availability will be different, tax in November if passed the revenue will be different.
Commissioner McCown - $179,000 tax generation is not going to build and maintain a trail network in Garfield County.
Don referred to Randy's policy on page 3, would the Board want to consider adding to this policy a number 5 that would require that the requesting party present at the time of application present to the County a proposed agreement under which the proposing entity accept responsibility by contract for liability and maintenance.
Commissioners Martin and Commissioner McCown agreed it was a good policy.

Randy pointed to No. 2 and said he felt this language is there and we just don't enter into it if we can't come to terms on liability.
Commissioner Houpt agreed with Randy and wouldn't want it to be more specific.
Don agreed with Randy that this language certainly allows the Board at the time it comes in front of you to make the requirement of maintenance and liability.
Randy - This is a guiding framework and one concern Randy has and that is a project that calls for this kind of partnership/relationship and they don't trigger a land use process. In picking the trails in South Canyon it's a use by right and he doesn't want the Board put in a position of having an applicant coming in front of the Board having already spent hundreds of thousands of dollars on engineering and design and be at the end of essentially that process and asking permission to be a co-applicant. We need some mechanism to make sure they come in early with a sketch or concept plan and surface any public concerns about that project before we ask them to go spend hundreds of thousands of dollars on design. This is a heads up for this and will incorporate into our thinking about Code Amendments.
Commissioner McCown – looking at an equity thing – how can we treat one group of people who are citizens of Garfield County that are trail proponents and accepting the maintenance and liability for that and another group of people who are citizens for Garfield County that want a sound wall adjacent to their living and we say, well we'll approve this one and maintain it and this one will approve it and be partners but you maintain it. There's no continuity there.
Commissioner Houpt – trails serve an undefined number of people.
Commissioner McCown – so does the wall.
Commissioner Houpt disagreed because it was a group of people the sound wall serves and the Homeowners Association made the determination.
Mark said this will be one of the issues negotiated and discussed because it is a concern of the homeowners.
Russ Criswell – Town of Carbondale – in your thinking, he asked for the Board to give serious thought to larger projects such as the by-pass from the Airport out to Hwy 82 in conjunction with CDOT regulations. That kind of project would be worth more study and more debate than just rushing through to satisfy someone from the Ranch at the Roaring Fork. Especially in conjunction with CDOT's 20/30 lists, etc.
Commissioner Houpt made a motion to authorize staff to expedite the writing of this regulation incorporating it into our current regulations. Commissioner McCown seconded. Motion carried.

PUBLIC HEARINGS:
REQUEST TO VACATE PORTIONS OF COUNTY ROADS 352, 319 AND 333 AND ACCEPTANCE OF DEEDS AS NEW PUBLIC ROAD ROW FROM AIRPORT LAND PARTNERS, LTD AND GRAND RIVER PLAZA DEVELOPMENT, INC.
CONSIDERATION AND ACCEPTANCE OF CONTRACT FOR USE OF PROPERTY - COUNTY ROAD 319 – AIRPORT LAND PARTNERS, LTD.
CONSIDERATION AND ACCEPTANCE OF CONTRACT FOR USE OF PROPERTY - COUNTY ROAD 319 – GRAND RIVER PLAZA DEVELOPMENT, INC.
Notification – Don said if the Board waives any process under the Resolution 2003-07 the only required notification is by state law and that again is if you are vacating the entire width of the roadway. Also the only individuals under that process that you are required to notice are those joining the road to be vacated and those are the ones who signed off on the deeds.
Don requested that the two references to County Road 319 be removed from the Agenda today. All action on CR 319 is dependent upon entering into agreements with Grand River Plaza Development, Inc. and Airport Land Partners. Those agreements have been sent to those parties but have not received input let alone executed agreements.
CR 352 and CR 333 were considered.
The deeds and copies of a Resolution were in the Board's packet which will vacating portions of public road right of way and also accept the deeded right of ways as public roads. For that purpose, Don pointed out that the Board adopted a policy for vacating County Roads; it allows the Board of County Commissioners to waive all of those processes if the road proposed for vacation is not for the entire width of the roadway. All of the proposed vacations are for very small portions of ground adjoining the existing County Roads and clearly not approaching the entire width of the roadway and actually assisting the flow of traffic. Don asked that under Resolution 2003-07 you waive any requirement to comply with the terms

of that Resolution and proceed to vacate. This is purely for realignment of the Road due to utilities and other issues.
Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion to approve the Resolution concerned with vacating a portion of public road right of way otherwise known as a portion of CR 333 and acceptance of a quit claim deed as a new public road right of way from Airport Land Partners and that Resolution 2003 – 07 be abandoned for this purpose and that the Chair be authorized to sign. Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion to approve the Resolution concerned with vacating a portion of public road right of way otherwise known as a portion of CR 352 333 and acceptance of a quit claim deed as a new public road right of way from Airport Land Partners and that the same situation apply with Resolution 2003-07 and the chair be authorized to sign; Commissioner Houpt seconded motion carried.
Don said the other motion required is accepting temporary construction easements for CR 352 and CR 333.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

DRAWING OF POSITIONS ON THE BALLOT FOR NOVEMBER
COMMISSIONER DISTRICT 2 –
GREG – 1
JOHN – 2
COMMISSIONEOR DISTRICT 3 –
KEITH – 1
LARRY – 2

ABATEMENTS FOR PAUL WOLF, STANLEY J. & CAROLYN J. KIEBAN, CHESTER, LILLIAN CIEZAK AND CHRISTINA KOLAT, MARJON CORPORATION, TODD FUGATE. – SHANNON HURST
Paul Wolf - parcels changed from vacant to agricultural showing receipts of what they've done with their property - $3884.35; Stanley J. and Carolyn J. Kieban - 50% of the residence was complete in 2003 and the difference in assessed value requires that an abatement be processed for $1,697.02; Chester and Lillian Ciezak – Homestead Inn commercial and residential use and the abatement for $2,893.53; and Marjon Corporation similar to Ramada that was a BOA case stipulated on and in order to be equitable we needed to adjust this one. The abatement is $8,421.06. Todd Fugate this was vacant land in 2003 – 50% completed and the abatement of $1,697.02. Shannon requested approval of these abatements and stated they all have to go to the State for approval.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close Public Hearing; motion carried..
Commissioner McCown made a motion and Commissioner Houpt seconded to approve the abatements for Stanley J. and Carolyn J. Kieban Schedule No. R450029 for $1,697.02; motion carried.
Commissioner McCown made a motion and Commissioner Houpt seconded to approve the abatements for Paul Wolf Schedule R200640 for $3884.35; motion carried.
Commissioner McCown made a motion and Commissioner Houpt seconded to approve the abatements for Todd Fugate pending Schedule No. for $1,697.02; motion carried.
Commissioner McCown made a motion and Commissioner Houpt seconded to approve the abatements for Marjon Corporation Schedule No. R312110 for $8,421.06; motion carried.
Commissioner McCown made a motion and Commissioner Houpt seconded to approve the abatements for Chester and Lillian Ciezak for $2,893.53 regarding the Homestead Inn Schedule R020388; motion carried.
COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Pat Tucker, Division of Wildlife – The Sheriff submitted the request for the "game penalty" and in additional, he submitted an article from the Grand Junction Sentinel from a citizen regarding a limited bull elk hunting area. The desire is to increase the elk units. On Thursday, the Commission will take a look at the units out there and decide whether to go forward. This is a publicly driven process and it has not been in front of a lot of people. His boss asked that he attend the meeting and inform the Commissioners of the proposal. Gunnison County Commissioners are commented on this. There is a meeting on August 5, 2004 in Craig to hear this. Any recommendations should be sent to Pat and he will pass them on. There were 1600 bull hunters in this area last year.

REGULAR AGENDA: BUILDING & PLANNING ISSUES
PUBLIC MEETINGS:
REQUEST THE REFERRAL OF A SPECIAL USE PERMIT FOR A "COMMERCIAL RECREATION FACILITY/PARK" TO OPERATE A MOTOCROSS TRACK FOR GREG MCKENNIS TO THE PLANNING COMMISSION FOR RECOMMENDATION.
Planner Jim Hardcastle, Greg McKennis, property owner and Steve Capal owner's representative were present. This is a request for consideration of a SUP to the Planning Commission. The use proposes to create a Commercial Recreation Facility /Park for the operation of a Motorcross Track.
Staff Recommendation: Because of the (1) unique nature of the request, (2) potential adverse impact on the surrounding community, staff recommends that the Board of County Commissioners refer this SUP request to the Planning Commission for recommendation back to the Board.
Greg stated that Steve and some of his friends and a whole lot of kids have been using a piece of property that he owns, the Canyon Creek Interchange for some years and on an informal basis just for practice runs, etc. along the railroad tracks. Steve approached Greg at the end of last winter and proposed this facility to him. Greg was interested but the property is not zoned correctly and you can't do this on a commercial piece of ground. Greg showed Steve the other piece of ground that he owns. This is a terrific idea and doesn't believe this will require a lot of money if any. These kids are going to ride these bikes no matter what, it's a big sport, it's getting bigger and it's ESPN, it's in the X Games and like boarding, kids do this. To have a track that would accommodate this and to keep it where people can come and ride and not be wherever tearing up public lands or someone's vacant property somewhere, to him it's a real benefit. Ultimately, this property will be developed. For an interim use it's a terrific benefit. It's a kid thing for the most part.
Kids are using this property now and to have a track to ride would be a real benefit. Ultimately this property will be developed and for an interim use this would be ideal. The location is ideal, it is buffered by the Interstate and Railroad tracks. He requested the Board allow this to occur. This is a non-profit
Steve Capal said they will add some dirt, cut some trees and adding a fence to keep spectators off the field. The request is to have the Board hear this and not go through the Planning Commission.
Discussion was held and a decision to refer this to the Planning Commission.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to refer the request for a Commercial Recreation Facility /Park for the operation of a Motorcross Track to the Planning Commission for recommendation. Motion carried.
PUBLIC HEARINGS:
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR MATERIAL HANDLING FOR AN 8-INCH WATER LINE FROM THE CITY OF RIFLE TO THE HUNTER MESA WATER TREATMENT FACILITY. APPLICANT IS ENCANA OIL & GAS (USA), INC. – FRED JARMAN
Fred Jarman, Carolyn Dahlgren, Jimmy Smith, and David Grisso were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Emails from the City of Rifle dated July 26, 2004; Exhibit H – Email from County Oil and Gas Auditor dated July 22, 2004; Exhibit I – Email from the County Road and Bridge Department dated July 26, 2004; Exhibit L – Approval from West Divide Water Conservancy for 350 acre feet; Exhibit M – Letter from the Division of Water Resources to Leavenworth & Karp dated 12/31/2003; Exhibit N – Supplemental Amendment to the Application to the Army Corps of Engineers dated May 21, 2004; Exhibit O – Proposed "Ditch Use" Agreement between the Loesch & Crann Ditch Company and EnCana; Exhibit P – Letter from Resource Engineering dated July 28, 2004 and Exhibit Q – Letter from Steve Anthony to the Building and Planning Department dated August 2, 2004.
Chairman Martin entered Exhibits A – Q into the record.
Fred said this is a request for a Special Use Permit for "Material Handling" for an 8-inch water line for EnCana Oil & Gas (USA), Inc. from Buckhorn Drive in the City of Rifle in a southeast direction to the Hunter Mesa Water Treatment Facility 5.87 miles of an 8" water line with access on CR 319.
The Applicant proposes to construct an 8" water line and related facilities that will deliver fresh water from the Last Chance Ditch in the City of Rifle to the Hunter Mesa Water Treatment Facility in Garfield County. This water will be used, along with water processed at the Hunter Mesa Water Treatment Facility, for

continued well drilling and completion work in the area. The line is proposes to convey approximately 504,000 gallons/day (350 gallons per minute, 12,000 barrels per day, 1.547 acre-feet per day). The purpose of the line is to transfer water more efficiently while reducing the reliance on heavy water hauling trucks in the area. The water line will cross seven private properties and two tracts of public (BLM) property. This proposal will eliminate the trucks that are presently pulling water from the Last Chance Ditch on County Road 346.

The proposed pipeline will begin at the proposed pump station located at the Last Chance Irrigation Ditch at 700 Buckhorn Drive in the limits of the City of Rifle. The EnCana River Water Pump Station will consist of an electric-motor driven vertical turbine pump within a small building (approximately 20' X 20') located on private land in the City of Rifle. The building will be designed to enclose the water pump and associated electrical controls. The pump building will protect the control systems from weather and corrosion as well as providing sound damping for the water pump. This pump building is presently under review by the Rifle Planning Department.

The proposed 8" pipeline is approximately 31,024 linear feet in total length; approximately 9,812 feet is located on federal land (BLM) and approximately 21,212 feet on private land for a total length of approximately 5.87 miles. The proposed pipeline will be constructed with of 8", O.219-inch wall thickness, Grade X-42 steel pipe with a maximum allowable operating pressure of 740 psig.

The Applicant plans to use a 70-foot wide corridor for construction purposes. Once the construction is complete, the Applicant intends to adjust the easement to a permanent 50-foot wide right-of-way governing the operational and maintenance purposes for the waterline. As of the time of submittal of this application, verbal surface use agreements with the appropriate private property owners have been made. Since that time, this office understands those formal surface use agreements have all be signed and will be delivered to the County.

The Applicant has flagged and surveyed the proposed route. The route will run from the Last Chance Ditch at 700 Buckhorn Drive in Rifle generally east toward the Garfield County Airport, then turning south through Section 23 generally parallel to West Mamm Creek Road (Garfield County Road 319). The pipeline route leaves West Mamm Creek Road in the NW/4 SE/4 of Section 26 and follows an existing field road into Section 36, and then parallels existing pipelines and roads to EnCana's Hunter Mesa Water Treatment Plant in the SE/4 NE/4 of Section 1, Township 7 South, Range 93 West, Garfield County, Colorado. A minimum distance of 25' from the centerline of existing foreign pipelines and 10' from EnCana pipelines will be maintained at all times. All sections of the proposed pipeline will be buried at least 5' below grade, except at road crossings where the depth will be increased to 6'.

EnCana shall comply with all applicable federal, state and local laws and regulations as they relate to public health, safety and environmental protection in the construction, operation, and maintenance of this facility. No toxic substances will be stored or used on the right-of-way. All safety measures have been considered in the design, construction, operation and maintenance of the facility. EnCana will have inspectors present during construction. All associated road and utility permits will be secured from the appropriate regulatory agency prior to construction. The necessary permits to be submitted for the proposed pipeline include:

V. Colorado Department of Public Health and Environment: “Storm Water Management Plan”
VI. Bureau of Land Management: Form 299: “Application for Transportation and Utility Systems and Facilities on Federal Lands.”
VII. U.S. Army Corps of Engineers: “Nationwide Permit 12 Section 404”
VIII. City of Rifle: “Site Plan Application” for pump building
IX. City of Rifle: “Watershed District Permit”
X. Garfield County Road and Bridge Department: “Road Crossing Permit”
XI. Surface Use Agreements: “Agreements providing permission to cross private property”
XII. EnCana and Last Chance Ditch – Loesch Crann Ditch is the owner of the last Chance Ditch.

The Board allowed the permits to be submitted and concurrent with this Special Use Permit.

RECOMMENDATION

Staff recommends the Board of County Commissioners approve the Applicant’s request for a Special Use Permit for “material handling” for an 8-inch waterline for the special use permit, with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing

before the Board of County Commissioners shall be considered conditions of approval, unless specifically altered by the Board of County Commissioners.

2. The Applicant shall provide surface use agreements that clearly show that the Applicant has obtained all necessary approvals to cross all subject private properties along the proposed waterline route prior to the issuance of a Special Use Permit from Garfield County.
3. Prior to the issuance of a Garfield County Special Use Permit, the Applicant shall provide all applicable approvals from the Bureau of Land Management (Form 299) and the Army Corps of Engineers (Nationwide Permit 12 Section 404).
4. The Applicant shall obtain a Watershed District Permit from the City of Rifle for the construction of the pipeline as it falls within the City's jurisdiction under the Watershed Ordinance and regulated activities prior to the issuance of the Special Use Permit from Garfield County.
5. The subject pipeline shall be used to deliver water solely for the Applicants or their successors in interest for the use in the extraction of gas. Any secondary taps to the water line by third parties or secondary use by the applicant shall require an amendment to this special use permit and proof that said third parties possess rights to water being distributed through the pipeline.
6. In order to comply with the requirements of the County Vegetation Manager, the Applicant or their successors in interest shall provide a written commitment to inspect, monitor, and be responsible for the management of any of Garfield County's Noxious Weeds that may emerge on private lands that are disturbed by the pipeline. This commitment shall be in effect for the life of the pipeline and shall include a commitment to respond to any complaints by landowners regarding pipeline noxious weeds in a timely manner. This commitment shall include cooperation with the Bureau of Land Management in developing a weed management plan for any noxious weed infestations that occur on the pipeline within BLM land.
7. The Applicant shall post a revegetation security for the portions of the pipeline that are not located on Bureau of Land Management property. The Applicant shall quantify the surface area disturbed (in acres) on non-Federal lands so that the County Vegetation Manager may determine a security amount. 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 shall be the responsibility of the Applicant to contact the County, upon successful revegetation establishment, to request an inspection for security release consideration. No Special Use Permit shall be issued until this security has been posted.
8. The Applicant shall provide an approved Storm Water Management Plan Permit from the Colorado Department of Public Health and Environment prior to the issuance of any Special Use Permit from Garfield County. Fred said this needs to be revised as there is no actual permit to be issued.
9. The Applicant shall adhere to the "Construction, Operation, and Maintenance Plan" which is included in the permit application for Storm Water Management Plan for all activity on private land as well as public lands.
10. The Applicant shall provide a construction schedule and indicate where staging areas are to be located to be used during construction to the Planning Department prior to the issuance of a Special Use Permit. (This includes the revegetation schedule and the staging of equipment.)
11. A draft agreement between the parties dated July 26, 2004 was submitted. The agreement contemplates a seven (7) year agreement with the right to extend the agreement another seven years. As a result, the Applicant shall be required to maintain a legal water supply and approval to use the Last Chance Ditch for the proposed life of the water line of 30 years.
12. The Applicant shall prepare and submit a formal fire protection plan to the Rifle Fire Protection District which includes a phone list of supervisory personnel, as it relates to construction activities. This list should also contain phone numbers, office and cell. This plan shall also include measures that address the potential impacts of any fire bans that may be enacted by the County.

Jimmy Smith, Wagon Wheel Consulting – The overall purpose is two-fold – provide the economic benefit to EnCana to eliminate the need for truck transporting water; and to eliminate the trucks as well. The traffic will be eliminated if not significantly depleted by this pipeline.

Condition No. 5 – Agreement with the City of Rifle. EnCana was approached by the City of Rifle about supplying municipal water and is in negotiations as we speak. The City of Rifle saw a financial benefit in this pipeline. The reclamation and revegetation is in line with other proposals, approximately $1,000 per acre. The watershed permit has been submitted, July 6, 2004, and will submit it when in hand.

Fire Protection Plan – this is something we have been doing and will proceed to work with the Fire District and submit the plan.
Construction of the pipeline, Mr. Grisso has a commitment to do as little boring as possible and avoid surface damage.
Commissioner Houpt – a lot of discussion in aligning the pipeline along the boundary of that property.
Jimmy Smith – yes this was taken into consideration. The pipeline will always be ditch water and not potable water, strictly ditch water.
David Grisso, EnCana Oil and Gas - The City of Rifle is offering potable water but that agreement is not in hand.
Jimmy – for EnCana's use only, if water became available from the City of Rifle it would not be for resale.
The Engineer Drawing of the vault set was entered as Exhibit R.
Jimmy explained about the vaults. These will be on public right of way. This is for hydro-testing and if this pipeline were ever to be taken out of service and used for any other service such as gas, EnCana would be in charge of testing the line before it was put in service.
Public Testimony:
Jimmy Sills – landowner that the pipeline will go through. EnCana has worked well with the property owners. He has a lease of 25 acre feet and hopes to work out an agreement to have it pumped to it.
A motion was made by Commissioner McCown and seconded by Commissioner to close the Public Hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use permit to allow for a material handling for an 8 inch water line, applicant EnCana Oil and Gas USA Inc. with conditions 1 – 12 adding the $26,000 amount to number 7 for the amount of bond to be posted; striking permit in No. 8; simply stating that a storm water management plan, an approved plan for the CDPHE has to be there prior to issuance.
Fred clarified No. 11 – eliminate the sentence "parties and insert Loesch Crann Ditch". Commissioner McCown so amended.
Commissioner Houpt amended her second. Motion carried.

CONSIDER A SPECIAL USE PERMIT REQUEST TO BUILD 9 SEPARATE BUILDINGS FOR CENTRAL OPERATIONS OF GAS AND OIL RELATED DEVELOPMENT COMPANIES FOR STORAGE OF OIL AND GAS DRILLING EQUIPMENT, STORAGE, OR MATERIAL HANDLING OF NATURAL RESOURCES. APPLICANT IS ROBERT T. LAZIER – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, Jimmy Sills, Tim Thulson and Don Scarrow and Bill Collins and Jeff with High County engineering were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Commissioner McCown asked if the applicant wanted to continue this for a complete application.
Jimmy Sills – Mr. Jarman said they were to include all building structures and it was hard to address but believes the applications is complete and if a 3P^{rdP} building then they would be required to come back – feel they did provide a complete application.
Jimmy said he identified 9 buildings but only two today.
Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Review Memo: Colorado Geological Survey; Exhibit H - Review Memo: Garfield County Road and Bridge Department; Exhibit I - Review Memo: Garfield County Vegetation Management; and Exhibit K - Review Memo: Garfield County Engineer, Chris Hale of Mt. Cross Engineering.
Chairman Martin entered Exhibits A – K into the record.
Jim said this is a request to build 9 separate buildings for central operations of gas and oil related development companies as a Special Use Permit of storage of oil and gas drilling equipment, storage, or material handling of natural resources. Jimmy Sills is the applicant and Robert T. Lazier is the property owner. This location is approximately 1 mile south of the Garfield County Airport on County Road 319 and Grass Mesa Road on 38.18 acres of land.
Jim noted page 2 – in giving us the proposal, failed to submit vital and pertinent information for all 9 uses. There isn't a thorough quantifiable use.

U**STAFF RECOMMENDATION**U

Staff recommends **DENIAL,** for the following reasons:

1. The Applicant has not shown the application to be in conformance with the County Land Use Maps.
2. The Applicant has not considered nor demonstrated the social and environmental impacts of the proposed industrial use.
3. The Applicant has not considered nor demonstrated the compatibility of the proposed uses with adjacent land uses of mitigation of impacts.
4. The Applicant has not demonstrated the how the location of the proposed use will reduce visual, noise, air quality, and infrastructure impact. (Because specific uses are not identified).
5. The Applicant has not demonstrated consistency with the long-term land use objectives of the county based on the lack of information that describes the proposal type, size, and scope of industrial development.
6. The Applicant must demonstrate the proposed use is not on an illegal split of property.
7. The Applicant has not demonstrated the ability to provide required water rights that would adequately serve the proposed use for daily office and industrial uses or for fire protection.
8. The application has not demonstrated the existing infrastructure can accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use.
9. The proposed use has not been described in enough detail to provide staff information to determine whether the proposed use was designed and organized to minimize impact on and from adjacent uses of land in such a manner as to protect the perceived and proposed neighborhood character.
10. The Applicant has not discussed impacts on wildlife and domestic animals, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.

Discussion was held with respect to the application and the reason staff requested denial. Tim Thulson commented on the application however, Jim Hardcastle argued the 9 separate buildings were not addressed in this application quoting from the zoning regulations.

Tim Thulson identified what this covers and stated the applicant will seek no more than 7 more buildings.

Commissioner Houpt favored a continuance to allow staff move forward on a revised application.

Jimmy Sills stressed that the important issue is giving commitment to the two people who need to get this rolling. Letter of June 28, 2004 – Attachment A – Jimmy does discuss the information for the first two applicants. If this isn't adequate, but this does state what these two companies do and are part of the application

Commissioner McCown referenced what the problem concerned with respect to this application as the Board doesn't know what the proposed buildings are going to be used for, how many people, vehicles in and out, will there be semis, basically what will happen at these two buildings. For us to take action on a Special Use Permit, we have to have this information. The Board is not saying the application is not complete, but it will behoove you to come back with a complete application.

Chairman Martin suggested the applicant continue this to refine the information and to be able to make a decision on the facility itself.

Carolyn voiced a concern for the publication noting it was for 9 buildings. If this is going to be a pared down application for a SUP, we have the issue of whether or not that notice is adequate.

Tim Thulson stated they will handle the notice argument because he's been through many projects where they were reduced in size. He would agree if they noticed two and asked for nine buildings.

Jimmy Sills said they will identify the exact uses of the 9 buildings prior to next week.

The Commissioner didn't want to rush staff to review the new information and preferred to continue this until August 17, the Tuesday meeting and the deadline for staff to receive this information was set for August 9, 2004 by noon.

Commissioner McCown made a motion to continue this until August 17, 2004; Commissioner Houpt seconded; motion carried.

CONSIDER A CONDITIONAL USE PERMIT REQUEST TO CONVERT A SINGLE FAMILY DWELLING UNIT INTO A BOARDING OR ROOMING HOUSE. APPLICANT IS DUANE STEWART – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, Larry Green, Duane and Elizabeth Stewart, and Robert Fergerson contractor and operator of the proposed use, were present.

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

Chairman Martin swore in the speakers.

Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G - Review Memo: Carbondale & Rural Fire Protection District; Exhibit H – Letter representing adjacent land owners: Leavenworth & Karp, P.C. Exhibit I – Letter: Heather Baker Sullivan; Exhibit J - Letter:: Pamela Glassoff; Exhibit K - Letter: Richard and Alison Whittaker; Exhibit L - Letter: Sarah Baker; Exhibit M - Letter: Kate and Elliot Hayne; Exhibit N - Letter: R. B. Veit; Exhibit O – Book 0918 Page 059, Agreement and Protective Covenant; and Exhibit P – Book 589 Page 960, Exhibit Q – Community Residents of Red Hill, County Road 107 in opposition to the application. Chairman Martin entered Exhibits A – Q into the record.

This is a request to convert a single family dwelling unit into a Boarding or Rooming House located at 1413 County Road 107 on 10.01 acres with access from State Highway 82 at State Highway 133.

The applicant proposed to have 6 – 10 guests, 2 full time with on residing on site and 1 to 2 part time employees all of which will maintain a presence for support, direction and program management on site 24 hours a day, 7 days a week.

Applicant has not seen Exhibit Q – it was supplied to Attorney Larry Green.

Staff recommends the Board of County Commissioners approve the request for a Conditional Use Permit to allow for a "Boarding or Rooming House" on a property located at 1413 County Road 107, 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. This permit granted is for this specific use only as presently described. In the event any representations made in the application for which this permit is granted change and are no longer consistent with the representations in this application, the applicant shall be required to submit a new permit application to the county addressing the changes.
3. That the applicant obtains any and all future building permits and inspections consistent with the adopted rules and regulations of Garfield County for all development within the Boarding and Rooming House use. Any and all further expansion of the use will require an additional Conditional Use Permit be submitted through the Garfield County Building Department for approval.
4. A final engineered plan for an Individual Septic Disposal System (ISDS) with an appropriate capacity septic tank and corresponding appropriate size infiltration field for 6 bedrooms at double occupancy and all associated and supportive uses of a Rooming or Boarding House and those as stated in this application shall be installed and approved by the Building and Planning Department prior to issuance of the Conditional Use Permit.
5. The Applicant shall improve the access road on the proposed property at the point of a gravel area at the hairpin turn (on the outside of the curve) adjacent to the pavement as per the requirements and specifications of the Carbondale & Rural Fire Protection District and obtain approval of said improvements prior to issuance of the Conditional Use Permit.
6. The Applicant shall construct a turnaround at the end of the driveway (at the dwelling unit) for emergency vehicles as per the requirements and specifications of the Carbondale & Rural Fire Protection District and obtain approval of said improvements prior to issuance of the Conditional Use Permit.
7. The Applicant shall submit a thorough traffic impact analysis which describes how the proposed use does not adversely affect the surrounding residential uses; said analysis shall be reviewed and approved by the Garfield County Engineer prior to issuance of the Conditional Use Permit.
8. All exterior lighting shall be the minimum amount necessary for normal use of the proposed use and all exterior lighting shall be directed inward, towards the interior of the conditional use, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

Applicant:

Bob Fergerson – comes to this project a professional background in chemical dependency field and from a personal background as a recovering alcoholic. There is a public health crisis both nationally and in this community in substance abuse and a lack of resources to address the problem. Privately funded solutions are far between and in Colorado we are ranked 2P^{ndP} out of 50 states on the alcohol problem index according to Colorado Substance Abuse Study group and the ADA commission; and 1P^{stP} in Marijuana. Colorado ranks 50P^{thP} in 50 states in per capita spending on education, prevention, and treatment for alcohol and substance abuse. This would be a privately funded resource for people to take up residence in

early recovery – the condition being that we find a place where they can have sanctuary and seclusion of privacy. Among the many properties that were considered, this was chosen because of the privacy. Accountability, responsibility, privacy, time and for these reasons the lodge is a private rooming and boarding house for individuals who have chosen a happy and holistic lifestyle. Residents are volunteered commitments. They are motivated 30 days sobriety before admitted. Clients have made a commitment to live free from mood and alteration drugs. No criminals, no court order, no court orders, house manager living on premises at all times. This is not based on a right to do this, rather where is the right place to locate the resources we need to address this lifestyle.
Bob said he contacted the neighbors and provided a narrative. He met with the residents, answered all the questions of the residents of Red Hill. This is about moving forward.
Applicant: Larry Green – addressed the comments on the staff report. The neighbors have raised concerns and the perceived impacts to the properties. Mr. Fergerson addressed these and there will not be impacts as the neighbors have indicated. The sewer system was sized when built, no problem with enlarging the septic system nor making improvements to the access per the Carbondale Fire Department. Condition 7 – no problem; Larry also submitted the traffic impact analysis. He addressed the misconceptions.
Public Testimony:
David McConnahey – for the adjacent landowners commented on a short outline of points and introduced an engineer and asked clients to limit comments to 3 – 4 minutes. This is in the Red Hill area, and the terrain is rough, steep dirt road that doesn't meet county standards.
Exhibit R – engineering report from Schmueser Gordon Meyer; Exhibit S – two additional letters from Ken and Donna Riley; and Exhibit T –letter from William Calvin and Susan Malby
Chairman Martin entered Exhibits R, S, and T.
David – this is residential area and noted in the staff report there are restrictive covenants. Relevant as here and the zoning district and covenants providing this is a residential neighborhood and the crutch of the complaints. The application is called a Lodge and is excluded from the definition under which this was submitted. They are trying to fit this into a narrow definition and asked the Board to look carefully at what is being proposed. He referenced the Black's Law Definition of a residence as being where someone lives. No one is denying the need for this. A residential area is not for this kind of facility. If you get past that hurdle, the criteria under SUP require adequate road, water and sewer. They agree with the condition and when you add all this up, it gives the Board reasons to deny this application. The well permit in the application states it is for a single family dwelling. He addressed the traffic concerns; and impacts. Photos of the dire condition of this road were shown. The access crosses her property and what will it take to make the improvements and he doesn't think they can obtain legal access.
Greg Schrader from Schmueser, Gordon Meyer. – engineering report. Assessment on some of the points in the application such as the road issue, drainage and erosion, and access to BLM property. Safety was a major concern.
Jack Pike – purchased his property in 1970; his concerns were the fallout rate in the first 30-days of recovery; potential for robbery; they generally smoke cigarettes to overcome the withdrawal and that was related to the potential for forest fires.
Dick Veit – is one house removed from the location of this proposal. Issue with the planner, first of all the photo is very deceptive, it's taken sideways. Planner had a choice of accepting a valid Boarding House – some very weird Boarding House and referenced the zoning as being for a convalescent home. If the BOCC grants you would be making spot zoning as it belongs in a C/L district.
Alex Swarm – most families are extended families and some in this area are 4 generations. Close residential area but in some ways not close due to spacing.
Rick Brothers – two objections – he purchased a single family for houses – this facility doesn't qualify under that zoning. Mr. Fergerson is not licensed. Employees are not licensed. Facility of this nature would require licensing and qualified people, not recovering alcohols.
Jane Baker Veit – owns property adjacent and a guest house. She has 6 daughters, 11 granddaughters. Concerns about the tenant character. No permanency here. 18 years as a psychiatry nurse. This is not the area for this kind of situation. She granted the landowners an easement and under the premise of a single family dwelling. Feel it should be turned down for safety and good of the area.
Paula Taylor echoed the same things of the neighbors.
Chris Broathard – adjacent landowner told of a car that was stolen and the amount of time it took for the sheriff to respond reiterating the concern for this type of use in the neighborhood.

Jonnie Pike purchased her home 33 years ago. This type of use is not suitable for the character of the land; suggested they find another place for these people to recover.
Kate Hayne – related to the Viets and she and her children stay in the guest house. The kids wander in the meadow and driveway and since this application is not for a locked facility, the people can walk around and makes her concerned. She reiterated the response time of the sheriff. This is a health care facility and these people need support and may be a need for response from a law enforcement agent in a timely fashion. She also asked if the Conditional Use Permit would resort back to residential if these people went broke or failed.
Frank Alexander supported the proposal and gave a great character reference for Bob Fergerson stating he was a model neighbor.
Dick Veit spoke against this facility being located in the neighborhood.
Rick Broker – Mr. Fergerson will not reside there. He has employees there. No contract with a fitness center. Answers were not defined and he was concerned there was no smoking policy. Fire Department can't get to the property should a fire start.
Jane Baker Viet – high end private paid clientele. Definition requested for this facility.
Joseph Scott – supported Bob Fergerson and his efforts. He moved here in 1972, owned a home in Glenwood but spends most of his time in Denver. He spoke on
Bobby's professional half. He is the Chairman of the Board of New Beginnings Treatment Center in Waverly, Minnesota – a 60-bed unit and Chairman's council of the Betty Ford Center; and went on to give more credentials. He's known Bobby and he is a professional, very respected person in the field. Lucky to have Bobby Fergerson in the valley and unique and special to have Bobby in this valley. Bobby Fergerson uses licensed professionals for treatment.
Charles Kennedy is a recovering alcohol and voiced fear is his reason for the drinking. He defined FEAR as Future Events Appearing Real.
Ken Russo – Level 3 addiction's counselor who has worked for 14 years with Bob Fergerson – this is a man of high ethical standards and no reasons to think that any thing should be questioned. The public has voiced concern like robbery, strange people, and would like for people to step back that these are stigmatizing stereo types. Betty Ford was in a treatment center similar to one like this; men who have been to the moon and back and our current president have been treated for alcohol abuse. Supported the application. Ken addressed Commissioner's Houpt concern as to whether the neighborhood should be worried about a person going through this period in their lives i.e. smoking 5 packs of cigarettes per day and having a transit nature. He said a chemical dependent individual needs structure. There's a way in which good extended care needs specific things and their time is well scheduled. This is the opposite of what people have in their minds. Structure is the foundation of good treatment.
Brad Osborne – Colorado West certified addiction counselor – this project has been thought out thoroughly. Outward Bound is a good project for our valley and our industry. Feel for the neighbors – the problem is that there is no perfect place and will not find one – accept it somewhere – this place is an awesome location and pointed out the Nimby attitude.
David McConnahey – commended the noble goal and applauds Mr. Fergerson adding it's not a question of good or bad but does it belong here in this residential area. He reminded everyone that these people are not behind locked doors, and this is not a boarding house; rather it's a treatment house and should not be located in a residential neighbor. If the Board of County Commissioners approves this, it will end up in a law suit.
Bobby Fergerson – apologized for being evasive and said he was just as concerned as others in this room. In his years of experience working in this field there's no connection with robbery and strange stereo types. This is a hot-button term – halfway house – we're talking about a recovery residence where healthy and holistic living where people come together for the common purpose of staying sober together another day. Structure is the key and tried to talk about this when he met with the neighbors. Most of you are renting out properties to tenants and there is an awful of non-owner occupied residences in this pristine valley. How do you enforce smoking rules and regulations that you have but he will meet or exceed the neighborhood standard. Smoking is a concern which is why he met with the Fire Marshall and talked about some remediation efforts to establish a buffer zone and Bobby said he will address this issue in a way that's consistent with the best interest and safety of the neighborhood. To address Jane's question about high end cliental – since 1995 Bobby has been in the field working at Hazelton Center and the cost is $20,000 for 30 days. Promises Malibu for two years and the cost of treatment is about the same; Crossroads Antigua and the cost for treatment is about $14,000 for 30 days; we will be getting our clients from these places. Most

have completed 30-days of documented sobriety and they need to be site stable, and he will have fully licensed professionals in this recovery residence. The participants need and time to stay sober and a place to do it. He addressed David McConnahey statement that the real issue is traffic – the real issue is we love what you're doing Bobby, please go do it somewhere else. Nimbys. There are kids and grandkids in this room and there were no concerns about driving on the road. Clearly what we're talking about is using an instrument like road safety, zoning, etc. to remove and turn away people whose lifestyles you find frightening and offensive; so we're going to take it a day at a time, turn the process over to you guys and trust that you'll put the greater common good before my needs or the neighbors.
Larry Green commented that David McConnahey has indicated that in his view this is not a residential use and doesn't belong in this residential neighborhood; he doesn't believe this is the particular forum to discuss the state of the law and residential uses but it's pretty clear both in Colorado Case Law and cases decided elsewhere under the Federal Fair Housing Act and American's with Disabilities Act that this is determined to be a residential use and one that should be allowed in a residential zone district. The type of use that Bob proposes for this residence is in fact meets the definition of rooming and boarding house under your code; there will be a full time resident person living there full time, it's a residence and there will be 4 or more coming, staying there for compensation so I believe it meets the zoning code. This is a proper CUP application and that the County Commissioners Board can issue a CUP can impose conditions and believe the staff has addressed the conditions and asked the Board to approve.
Further discussion was held with the adequacy of water, private easements, safety of the road etc.
Larry Green said there is a document that was supplied by Mr. McConnahey that is an easement agreement between the Stewarts and three other property owners agreeing to talk about the maintenance of a road and as he reads the agreement it is dealing with maintenance and not an easement itself and doesn't present any limitation and talks about how the costs are to be shared.
David McConnahey does not share the same opinion. It's an exhibit, a grant of easement for 20 foot access; it's silent as to the scope of the access as too whether it's residential or something else but it was recorded after the restrictive covenants that say residential and as Ms. Baker-Viet testified that was her intent. We believe the court would find it was limited to residential use.
Jim Hardcastle said in terms of the road review as referred in this use, there was no particular comment and posed the impact when he drove up there. In terms of the fire buffer zone, the staff hasn't seen anything yet. In terms of the conditional use approval itself, the title does follow the title of the land and not necessarily to just the owner. There could be a use in the future similar to this but it must fall within the confine and perimeters of the CUP as it would be approved and presented. Someone indicated engineering for the road and this review would be seen by an outside consultant and not just necessarily an internal approval that wouldn't be shared with anyone else.
Carolyn asked if the Commissioners were to approve this, they should be prepared to make a specific finding as to rooming and boarding to include the use as described.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.
Commissioner Houpt made a motion to approve the Conditional Use Permit to allow for a boarding and rooming house for the Duane and Elizabeth Stewart with conditions provided by staff and added a condition addressing the fire buffer zone, thinks this is important that this request be taken seriously and that particular condition be fulfilled with the help of the Carbondale and Rural Fire District; there is a paragraph in the staff report as a condition that I would like to include as a condition found on page 2 there will be no allowed facilities where processing and management of detoxification, crisis intervention, incarceration or corrections and all residents required by the applicant to undergo a background check and random drug and alcohol testing to maintain status within the voluntary program. This is perhaps redundant because we're talking about a boarding house but in light of the concerns that came forward to day, I want to include those. Don't we often with our CUP and SUP ask for a 6-month review to make sure?
Chairman Martin – one year. Commissioner Houpt added a condition that would allow for a one-year review for the Conditional Use Permit.
Commissioner McCown seconded for discussion.
Executive Session – Legal Advice on the Motion
A motion was made by Commissioner McCown to go into a brief executive session to obtain legal advice of the motion made by Commissioner Houpt. Commissioner Houpt seconded; motion carried.
A motion was made by Commissioner McCown to come out of executive session; Commissioner Houpt seconded; motion carried.

The motion on the table. Call for the question:
In favor - Houpt – aye; Opposed – McCown; Opposed – Martin.
Chairman Martin – my finding is that I don't feel that the definition of boarding house is met because the use changes to more of a controlled environment above and beyond what a boarding house would allow. It's a fantastic project but unfortunately under this I think a zone text amendment is what really needs to be done to change that particular use and go forward on that change and then have the zone text amendment meeting the definition of boarding house or treatment facility.
Commissioner McCown concurred primarily that we do need and not faulting applicant for anything that they've done, we just need a zone text amendment to better identify this use. I think we found ourselves today trying to put a square peg into a round hole and I just don't think it fits, so I would encourage your program Mr. Fergerson, it is absolutely noting of a personal nature against your program it is a simply land use decision.
Commissioner Houpt and I obviously felt as if there was a fit simply because what I heard was that the people who would be staying at the boarding house, rooming house would be people who had already gone through programs for sobriety and for people who wanted to stay in a particular setting for a period of time. And I thought that fit, but I understands the other view as well.

Chairman Martin said that was a decision of the Board because it does not meet the definition of boarding house because it goes beyond the scope; we feel that a zone text amendment is necessary to actual use that as a boarding house. It's a fantastic proposal.

Scheduling of RFTA IGA.
RFTA – Renee Black changed position and feels two public hearings are needed to adopt the IGA – RFTA's position is that this needs to happen quickly.
Don clarified that the Board does not officially sign the IGA until the ballot question is approved. The additional tax question for trails will be discussed at the August 12; Don will get the additional trail question to her.

RFTA's first public hearing was scheduled for August 17P^{thP}; and the second hearing for August 30P^{thP} – 8:00 a.m.

Executive Session for the purpose of discussing oil and gas litigation and a public discussion
A motion was made to go into an executive session to discuss the aforementioned items by Commissioner McCown and seconded by Commissioner Houpt; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of executive session; motion carried.

Adjourn
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

AUGUST 9, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
PERSONNEL COMMITTEE – Rescheduled for August 30, 2004

COUNTY MANAGER UPDATE: ED GREEN
AIRPORT - UNITED COMPANIES BID AWARD – BRIAN CONDIE
Brian Condie, Airport Manager requested the County award the contract for the AIP Project No. 3-08-0048-13, general aviation apron expansion phases one and two contingent on federal funds being made available. The low bidder was Oldcastle SW Group, Inc. dba United Companies of Mesa County (United). Brian heard Friday $300,000 plus $165,353 and thanked Chairman Martin for going to Denver and getting some more money for this ramp. This work will be scheduled for next month and the ramp should be completed before the ski season this year. Brian said it is a 3-4 week project. In the budget we have $715,000 for the project some of which we will not spend. The money has been put aside for that. With Olson, the engineering costs, which have already been approved contingent upon funding, leaves about $25,500 for the County to pick up. We get $465,000 out of it.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid for Phase I and Phase II to Oldcastle SW Group, Inc. dba United Companies of Mesa County (United) of $422,822.75 for the AIP Project, general aviation apron expansion phases one and two contingent on federal funds being made available from FAA. Motion carried unanimously.

APPROVAL OF FINAL DRAFT OF HOUSING FUND IGA – COLIN LAIRD
Colin Laird presented revisions to the IGA to create the Roaring Fork Community Housing Fund, a collaborative effort between Garfield County, the City of Glenwood Springs, the Towns of Carbondale and Basalt to finance more affordable housing the Lower Roaring Fork Valley.
Colin initially presented the IGA earlier to the Board and met with members of the project steering committee and town, city and county managers discussing the next steps of the final revisions to the IGA. He explained fully those steps and what was involved.
Of the five original involved, four have at the point have allocated some reason resources – Garfield County - $23,000, Basalt $13,000, Carbondale $23,000 and Glenwood Springs $27,000 for a total of $111,000. This is a fund that cannot administer, own or operate affordable housing units. The Fund is a financing mechanism and will work cooperatively with each member government to help them plan and achieve affordable housing goals specific to their jurisdiction.
Colin submitted in the draft, the 2004 – 2005 work program including to recruit and hire an Executive Director, finalize Board recruitment and conduct training sessions for the board; continue fund raising efforts, establish underwriting and grant parameters. Colin projected a couple of years before anyone would be moving into the housing.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the upgraded Roaring Fork Community Housing Fund authorize the Chair to sign in Intergovernmental Agreement by and among Town of Basalt, Town of Carbondale; Garfield County and City of Glenwood Springs with the Healthy Mountain Communities; motion carried.

COUNTY ATTORNEY UPDATE: DON DEFORD

INFORMATION ON A CONTRACT FOR A RODEO
Carolyn Dahlgren and Dale Hancock presented. Mr. Brendis cannot be provided insurance under the CAPP and the request is to request an RFP to cover this portion of the Fair. The County is insured. A secondary medical insurance coverage for volunteers and kids is a cost of $2.95 per volunteer. If Mr. Brendis is at fault, then without insurance, it would fall to the County. The question is if the County wants to go out and search for insurance for Mr. Brendis.
Carolyn reminded the Board that the County is covered, however, if Mr. Brendis doesn't have insurance, doesn't have any assets and he is negligent, the County will pay the bill.
Chairman Martin stated the bulls and other items are assets.
Mr. Brendis – the event provider does have insurance but the problem is making Garfield County also the insured and the reason is we can't get anyone to provide this type of insurance.
Don reiterated this argument has been ongoing since 1995 when this event was provided at the Fairgrounds. The Board favored Dale going out for an RFP at the end of the year; however, the last time Dale did, there wasn't any type of insurance available for the Rodeo and with that requirement we didn't have anyone submit a proposal.
Commissioner McCown felt sure that Mr. Brendis has liability insurance but the problem he is having is making Garfield County an additional insured and no insurance carrier wants to make a governmental entity an additional insured.
Jesse suggested for Dale to check through the International Fair Exposition Association because we could check with them to see if they have coverage for their members and it might be worth us joining if they do. Coverage for these kinds of events.
Don said the problem that has arisen is not coverage for Garfield County it's the requirement of the contractor that we provide him with insurance and that's the rub that we can't do under our CAPP pool insurance. Whether or not we can buy him a policy.
This is where Jesse was referencing, they may have a special event policy that covers this kind of situation.
Commissioner Houpt favored researching the insurance issues because this is a situation where we have a contractor over the years has said he won't do it if we require insurance and yet we require others to have insurance for the same facility – the Fair.
Commissioner McCown made a motion and Commissioner Houpt seconded for discussion to authorize the Chair to sign the contract with Brendis Rodeo Company in the amount for the scope of work as stated for 2004.
Commissioner Houpt said she is not in favor of bringing this contractor back with the same concerns. Dale was directed to look into finding insurance for the contractor. McCown – aye; Martin – aye; Houpt – nay.
Purchase the volunteer insurance - $2.95 per volunteer
Commissioner Houpt made a motion to approve purchase of the volunteers' insurance for those participating at the Fair; this will be covered by the TULIP insurance. Commissioner McCown seconded; motion carried unanimously. This will come out of the Fair Board budget.

Executive Session – Litigation Update and Legal Advice
Don requested an Executive Session to discuss the Airport property, oil and gas litigation, the status of RFTA, the DeBeque Fire District and DDA;
Ed stated he had a personnel issue and also wanted to discuss the missing youth at Emily Griffith.
Brian Condie, Lynn, Jesse, Don, Mildred Dale, Board and Ed were to stay for at least portions of the session.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items. Motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
AUTHORIZATION TO PARTICIPATE IN THE DDA ELECTION.
The Downtown Development Authority (DDA) will be conducting a mail ballot election on November 2, 2004 to levy a 5-mil ad valorem tax on all real property within the DDA. Colorado Revised Statute 31-25-802 (9) provides that business lessees, property owners and residents within the DDA are eligible to vote. All who believe they are within the boundaries and meet the qualifications to vote are to notify, in person, the City Clerk's Office at City Hall during regular business hours on or before August 27, 2004. The is separate from the Presidential/County/Local election to be held on November 2, 2004.

Don DeFord framed the motion saying he would request authorization to participate in the DDA election and obtain necessary ballot information and that the Chair of the Board to be the authorized representative of the BOCC.
Commissioner Houpt so moved; Commissioner McCown seconded; motion carried unanimously.

COMMISSIONER REPORT:
Commissioner Houpt – Tuesday, Healthy Beginnings Foundation meeting – Wanda Berryman resigned and will be teaching at the High School; I-70 Coalition Ex. Meeting at Summit County; Human Service Commission on Wednesday, Thursday – presentation at the RE2 District Office on Tabor and Amendment 23 given by a woman involved very intricately; RFTA on Thursday; GVCA picnic on Friday; judging the Parade on Saturday.
Commissioner McCown – County Fair this week; tonight is the Jim Cannas; 9:30 am meeting in the morning; 2:00 pm meeting tomorrow afternoon in Battlement Mesa at the Services Association; 10 am Wednesday, the swine show; 6:00 pm Wednesday night is the Championship Drive; 1:00 pm Thursday is sheep; 3:00 pm is goats, 6:00 pm is the Championship Drive; 1:00 pm Friday following the Commissioner's cookie jar is the beef show, Championship Drive at 5:30 pm and Saturday is the parade; Auction is Saturday at 1:00 p.m.
Chairman Martin – Circus special use permit next Monday and then to the EnCana Meeting at Ramada.
Ed – feedback on the Picnic - a lot of employees told him it was a great event. Guests from Italy were amazed at the County allowing the employees to have so much fun.
CONSENT AGENDA:

- **a.** Approve Bills
- **b.** Wire Transfers
- **c.** Inter-Fund Transfers
- **d.** Changes to Prior Warrant List

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Items, a – d, absent b and c. Motion carried.

Clarification on the Identification requirement for voting in the election 2004.
Mildred stated that everyone has to have ID but not photo and it will be posted on the doors of the polling places. She also stated she has sent numerous public announcements.
PUBLIC MEETINGS:
CITIZENS CAMPAIGN TO SAVE ROAN PLATEAU – GREGG CASSARINI
Gregg Cassarini, Colorado Environmental Coalition, West Slope Field Engineer and Claire Bassin with the Colorado Mountain Club. T
Claire said the Wilderness Society and the Citizens' Campaign to Save Roan Plateau presented a video depicting several development scenarios that could negatively impact the Roan Plateau if allowed on the top and cliffs of the plateau.
A power presentation of a video showing potential simulated oil and gas development showing the different spacing. This is the theory of spacing of wells commonly seen. 40 acre, 120 acre, etc. The draft wasn't available for them to see but the presentation depicted the best (what is now) to the worse scenario. 20 acre if on private property and 40 acre on BLM property.
BLM representatives have seen this – Greg Gernow has been at one of the Community Meetings. Jamie McConnell has not seen it. The report is supposed to come out in August or September 2004.
Chairman Martin commented that the critical areas have been identified; no one has seen the final draft. Credence should be given on the drafts. No final plans on the areas to be protected. The management plan will be released this week. Private lands and mineral right's owners have to be taken into consideration. Spacing or down hole were suggested to be depicted in the presentation by Commissioner McCown.
Claire mentioned that the public is eager to see the five alternatives when they do come out.
Chairman Martin stated the agreement with BLM is that the County will be the entity for the public hearings; he's been participating on this since 1997.
Claire – no occupancy on top of the Roan Plateau should not be allowed on public lands.
Chairman Martin – oil shale and coal development should also be looked at and not just focusing on oil and gas. He suggested having some alternatives and then revise them, the system is allowing that to happen but don't throw it into chaos with a thousand different scenarios and expect someone to choose.

Commissioner McCown – referenced a comment made early and said it has been contradicted many times by the industry, it is physically possible from the perimeter of the plateau to access all of the proposed sites. He didn't think the technology allows them to drill horizontally far enough for them to return vertically to reach those areas. The mere weight of the drill stem going that far prohibits that. They can go down, jog over, go down again, but from a horizontal bore, the technology exists now to allow that. At any conservation with the Northwest Oil and Gas Forum or any of the forums where the industry is present, they do not say this is even a possibility. They have no way to get that far into the plateau, underneath it. They can go from the top down, jog over approximately ¼ of a mile.
Claire said Barrett has done it for a long time did it a little bit further actually. They are trying to find out this information as well because of the technology growing ever increasingly but where they are getting their information is for some foreseeable development document which does shay that in plain terms that 86% of the gas harvested that is foreseen to be developed in the next 20 years can come without drilling on the top.
Gregg some reports say that they can drill 2 ½ miles horizontally. The area such as the Roan Plateau needs to be protected. The trust is that certain areas shouldn't be drilled.
EnCana purchased 2,000 acres from Unocal.

Gregg acknowledged BLM is in the process on their management plan.
Commissioner Houpt - BLM has noted they haven't had the magnitude of challenge and she appreciates all the work done by this organization.
Chairman Martin - Rio Blanco, Parachute, Rifle and Garfield County are participating.
Agenda for City/County Meeting – Tuesday, August 17, 2004 – at the County
Glenwood City Council didn't have anything for the Agenda for Tuesday. The Commissioners put together a list of things they were interested in discussing. Mildred will fax it to Robin.

REGULAR AGENDA: BUILDING & PLANNING ISSUES*:* PUBLIC HEARINGS
CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR A HOME OCCUPATION USE TO STORE, SELL, SIDE AND INSTALL GARAGE DOORS WITHIN TWO SEPARATE BUILDINGS, 960 SQ. FT. AND 2400 SQ. FT. APPLICANT IS GREG WILLIAMS – JIM HARDCASTLE
Greg Williams, Jim Hardcastle, and Carolyn Dahlgren were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; and Exhibit F – Staff memorandum.
Chairman Martin entered Exhibits A – F into the record.
Jim stated the applicant is request a conditional use permit to operate a home occupation consisting of storage, selling siding and installing garage doors within two separate buildings of 960 sq. feet and 2.400 sq. ft. on a property south of Wilt in the Sierra Vista Ranch off County Road 331 on 46.88 acres. The applicant resides on the property and owns a large parcel of property, however placement of the pole steel construction building is appropriately placed so future subdivision on the lot may occur.
Staff recommendation:
Staff recommends that the Board of County Commissioners approve the Conditional Use Permit for Greg Williams to operate a home occupation as presented with the recommendations as follows:

1. That applicant shall be required to gain any and all applicable land use permits required for the building used for the proposed use.
2. The applicant shall not operate the proposed use in such a way as to generate any excessive nuisance or hazards as defined in Section 5.03.07 and 5.03.08 of the Garfield County Zoning Resolution of 1978 as amended.
3. The applicant shall have no inside or outside sales and no customers visiting the site and shall only be used as a staging area for the applicants business.
4. The applicant shall do no work preparing, building or constructing items for delivery and installation outside of the pr9posed and existing storage buildings.

5. There shall be no more than two (2) deliveries a week of building materials to the proposed use by all materials vendors and no more than three (3) pick up truck deliveries by the Applicant to client's job sites.

Greg said this is a staging area.
Commissioner McCown inquired about truck deliveries, are these pickup deliveries by Greg?
Greg said his partner and he haul the doors away in pickup trucks whereas they show up on delivery trucks. And it should say 3 times a day. This was noted. Two deliveries from outside vendors twice a week and then three trips per day by the applicant.
A motion was made by Commissioner McCown and seconded by Commissioner McCown to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Conditional Use Permit for Greg Williams to operate a Home Occupation with the recommendations of staff 1 – 5, correcting it to "no more than (3) pick up truck deliveries per day by the applicant" etc.; motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW AN ACCESSORY DWELLING UNIT WITHIN AN ACCESSORY BUILDING. APPLICANTS ARE KIRK AND TRINA SWALLOW. – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, and Kirk Swallow were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; and Exhibit F – Staff memorandum.
Chairman Martin entered Exhibits A – F into the record.
Jim stated this is a request for a Special Use Permit to allow an accessory dwelling unit located at 2170 county Road 321 on 4.28 acres for a portion of a proposed 60x40 steel building to be used to build inside an additional dwelling unit totaling 432 sq. ft.
Staff recommendation:
Staff recommends approval, with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. The applicant shall apply for a septic permit and receive a final inspection prior to issuance of the Special Use Permit.
3. The applicant shall only allow leasehold interests for the use of the Accessory Dwelling Unit.
4. If any further expansion of the use be attempted, the applicant shall readdress the proposal with and obtain the necessary building and land use approvals from the Board of county Commissioners.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit for Kirk and Trina Swallow for an accessory dwelling unit with the recommendations of staff 1 – 4; motion carried.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR THE USE OF AN ELECTRIC UTILITY LINE (RELOCATION OF A PORTION OF AN EXISTING LINE). APPLICANT IS ROBERT M. PERRY – JIM HARDCASTLE

Jim Hardcastle, Larry Green attorney for Robert Perry, Perry Sopris Ranch Partnership, Ltd., Crystal River Limited Partnership, and Holy Cross Energy with Bob Daniel a representative of Crystal River Limited Partnership and Walt Durman representing Holy Cross were present.
Carolyn reviewed the noticing requirements for the public hearing.
Larry Green clarified the owners and how the public notice was referenced stating with the caveat that we described the subject property as a 500 foot wide corridor where the line is being relocated, not the entire Perry Sopris Partnership Ranch Property. Carolyn noted for the Board the one imperfection of the notice, there should have been noticing given from 200 feet of the entire Perry Ranch but Larry Green explained and the generally the notice should have been noticed within 200 feet of the Perry Ranch. Attorney Larry Green clarified. The Board finds the notice was adequate.

Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum and Exhibit G – a letter that discusses sound and noise abatement.
Chairman Martin entered Exhibits A – G into the record.
Jim stated this is a special use permit request for the use of an Electric Utility line located south of the Town of Carbondale adjacent to River Valley Ranch on 42.145 acres. The applicant proposed to relocate and reconstruct an existing line through non-operating 69Kv electric line on property owned by Perry Sopris Ranch Partnership, Limited Partnership. This is somewhat confusing but generally this is a replacement of an existing, but not currently connected 69kv utility line. It is adjacent to River Valley Ranch and will be moved entirely onto the Perry Property and in terms of the review of the zoning sections that he has cited in the staff report, 5.03.07.08 but also to include .01; staff finds that there are no inconsistencies that would generate any problems within the review. The approval has three conditions, the recommendation for approval has three conditions that, number one citing specifically to the hours of operations for the construction, the exhibit are the hours of acceptable time and noise generation for the City of Carbondale and since we're adjacent to them, Jim included this with these times and come to a best scenario for acceptable use of the construction date and time for those. Item two indicates that the construction will apply to the industry standards and that speaks to how, when and what they will do reclaiming whatever else needs to be done and item three just indicates that operation shall comply once construction is finished with Colorado Revised Statutes. Other than that, staff has no other comments.
Staff recommendation:
Staff recommends Approval with the following conditions:

1. All activities associated with the relocation of the proposed use shall be limited to Monday through Friday between 8:00 a.m. and 5:00 p.m.
2. All construction activities associated with the proposed use shall be done in accordance with the best and standard practices within the utility industry and shall have a minimum impact on the natural environment.
3. Upon completion of the installation of the relocated overhead electric line, operations shall comply with Colorado Revised Statutes.

Commissioner McCown asked – I know that we often times require a revegetation bond on our private property crossings on pipelines, has there been any discussion on a revegetation bond to ensure that the area disturbed is revegetated to the owners satisfaction.
Larry Green said there has been no discussion between the applicant and staff on that issue. This whole arrangement to relocate the power line is a written agreement between Perry, Holy Cross and Crystal Limited Partnership and the obligation to revegetate disturbed area is contained in that written agreement.
Larry continued to explain the project saying the area with platted lots is the southern most portion of River Valley Ranch and that part of the subdivision was acquired from the Perry family prior to its platting. It turns out that there is an existing overhead power line that's been there since 1974, actually was more toward the field off of the toe of the slope than the easement and it is shown on that map and marked OE. The historical deeded easement was actually up the hill a little ways and it is marked starting at the left hand edge of the paper as RF and then it goes off of the hill and out south. That's the historical easement. So as you can see the existing line is not really close to the historical easement. What River Valley Ranch wants to do is to relocate the existing power line, we're going to take that line out and then we're going to relocate it to the begging of the route, the RF is within the historical easement and then here it diverges from the historical deeded easement where it will hook back up to the existing line and this is all an arrangement between the Perry's, Holy Cross and River Valley Ranch where when the line is reconstructed the historical easement will be abandoned so we'll clear up part of the title issues on the Perry property, we'll relocate the existing line, removing an impediment to the market ability of a few of the lots in River Valley Ranch and then create a new deeded easement with a line as it will be relocated.
Commissioner McCown asked if the new deeded easement will be this rectangular portion as we see it here with the RF…
Larry, with the RF all the way out and then we're actually going to clear it up further south too.
Commissioners McCown – but this dotted line that we see around that is that the easement itself.
Larry – no that's the 500 foot corridor that we created for purposes of notice.
Commissioner McCown – okay, just notice only.

Larry – the easement itself is only going to be a 100 feet wide. The other idiocies is that we are asking that the special use permit be valid for two years, ordinarily your regulations only have a shorter lifetime before the work can be accomplished. But here because of the lead time and designing the new line and also the workload of Holy Cross, with their Brush Creek/Snowmass Village project, it's likely that the relocated line won't be completed until next year, so we'd like two years for them to do this work.
Chairman Martin asked if the new line was going to be underground or overhead.
Larry – overhead – 69kv the same as the existing line although it will be on steel poles instead of wood poles.
Chairman Martin – the overall height is?
Larry – 70 feet.
Commissioner Houpt – when are you taking the existing one out?
Larry – immediately.
Commissioner Houpt – so it's not in use right now?
Larry – that's right, it's not energized. Holy Cross wants to make sure that if they needed to energize the line in the future, it would be there.
Bob Perry said it was 1958 and not 1974 when the original one was signed. The other is, our main purpose here is to ensure us that this 500 foot corridor width will not go down on the deed as a right of way. The 100 feet we will live with, the 500 feet is out.
Larry stated the easement itself is only 100 feet; we just took a 500 foot corridor for purposes of notice to make sure we got everybody in.
Bob Perry – it doesn't say that in the document.
Chairman Martin – that is correct, it says 100 foot easement.
Bob Perry – it says 500.
Chairman Martin – for notification purposes, but not for.
Larry Green – and if it would help Mr. Perry we will be more that happen to add a condition that the easement to be granted will be only a 100 feet wide.
Bob Perry – that's just what we want.
Larry Green –the condition regarding the noise – Mr. Hardcastle recommended hours from 8 am – 5 am; I think his concern is the residence within River Valley Ranch and the Town Carbondale, so what I gave to you at the end of last week was Carbondale's noise ordinance which limits noise between 7 am to 7:00 pm and this has even more narrow limitations on other days, weekends, and I would suggest that given that the concern is the Town of Carbondale we simply abide by the Carbondale noise ordinance.
Commissioner Houpt – well this says Monday – Friday exclusively.
Larry – yes.
Commissioner Houpt – so we would be expanding it if we.
Larry – if it's only Monday – Friday that's fine, it's more the hours of 8 to 5.
Commissioner Houpt – is that problematic for you because this says, are you suggesting 7 to 8, why?
Larry – yes, so we can in and out there and get it done.
Chairman Martin – and it does limit it on Saturdays and Sundays.
Larry – and we're happy to limit it to Monday through Friday, and I would go from 8 to 6 too probably.
Commissioner Houpt – okay, you want one more hours in there.
Larry – yeah.
Commissioner McCown – you still have to meet the noise level restrictions to the Town of Carbondale.
Larry – correct.
Carolyn – Mr. Martin, that's what I wanted to discuss so I'll wait until there's a motion on the floor. If you wish to incorporate Carbondale's rules, you just need to say, "shall be limited such that the City of Carbondale's noise ordinance is met and reference Exhibit G, if that's the way you're leaning.
Larry – Mr. Daniel points our correctly that one of the concerns about the limited hours is that these crews, for the most part, come in from out of town to do this work, they're not local folks, contractors, so we would like to maximum their efficiency.
Commissioner Houpt – how long do you think it will take to take the line down? Are you requesting weekend time, or is Monday through Friday sufficient?
Walt Durman – Monday – Friday is fine. It will take about a week to tear the line down. It will probably take about a month to rebuild it. But we couldn't rebuild it this summer, it isn't even designed yet. And after it's designed, it will take 6 months to get the poles and it'll be a 105 reconstruction. The tear down can

occur as soon as this is approved and the agreements signed amongst all three of us so that we all know what we're going to do and then we can go ahead and take it down.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.
A motion was made by Commissioner Houpt to approve a Special Use Permit for an electric utility line on the Perry Ranch with the conditions as presented altering the hours in number one to read Monday through Friday, between 8 am – 6 pm and adding a 4th condition stating that the easement that will be granted will be a maximum of 100 feet wide. Commissioner McCown did you want to include the Carbondale noise ordinance. Commissioner Houpt – on the noise levels. Certainly but I want to maintain the hours that we've set forth. Commissioner McCown – yeah, that's fine. Second.
Mr. Hardcastle added that the 100 foot easement is adequate for the post construction use but during construction – fully inclusive.
Larry Green – yes.
I guess I'm not sure what the Carbondale noise ordinance is but the pole will set with a helicopter
Commissioner McCown – we've close the public hearing.
Chairman Martin – we can't take anymore testimony Mr. Durman, but the counsel has agreed to that and has submitted that as Exhibit G and
Commissioner McCown – it's actually more liberal than the State requirement. I think you're okay.
Chairman Martin – so if not, you'll need a change and you'll have to come back.
Commissioner McCown – it's 5 decibels higher than the State level actually, so I think you're okay.
Mr. Durman – I hope so.
Motion carried unanimously.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT REQUEST FOR A "COMMUNICATIONS FACILITY" FOR A PROPERTY OWNED BY CHAD AND KRISTIN CAMPBELL EAST OF PARACHUTE. – FRED JARMAN

Michael Gamba, Britt Kelley with Gamba and Associates and Jim TerLouw, General Manager of Marantha Broadcasting, Fred Jarman and Carolyn Dahlgren were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Supplemental application materials, Exhibit H – Verification of Licensing from the FCC and Exhibit I – additional photograph.
Chairman Martin entered Exhibits A – I into the record.
Fred said the property is bordered by BLM to the south and east and by private lands to the north and west. It is located just east of the Battlement Mesa community. The 40-acre property is presently improved with a single-family dwelling and water tank the remaining portion of the property consists of relatively flat open land with some mature pinion vegetation and sage brush / scrub oak used for the grazing of horses. The south portion of the far rear of the lot where the tower is proposed sits at the toe of significant slopes that stretch southward and eastward into BLM.

Staff recommendation:

1. That all representation of the applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be considered conditions of approval, unless specifically altered by the Board of County Commissioners
2. The applicant shall continuously remain in compliance with the requirements of the Federal Aviation Administration (FAA), as stated in the "Determination of No Hazard to Air Navigation: including:
    a. Based on this elevation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA advisory Circular 70/7460-1 AC70/7460-1K.
    b. This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and

frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

c. This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall no exceed the overall heights as indicated above. Equipment, which has a height greater than the studies, structure requires separate notice to the FAA.

d. This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State or local government body.

3. That all colors used on the tower, if any shall not make the tower reflect light or stand out form the surrounding and background vegetation.
4. The tower shall be available for additional users to co-locate on the tower at a reasonable rate and the owner of the tower can only deny co-location requests for technical reasons.

Commissioner Houpt asked if the property owner understands the co-location condition.
Applicant indicated yes.
Michael Gamba assured the Board that Fred is thorough and he will answer questions from the Board.
Commissioner McCown – the tower on Red Mountain and the reason it had to be changed was the FAA required the tower to be lifted so that the bubble of influence was off the ground; is there a problem with the radio frequency waves with this one.
Exhibit J - Mr. TerLouw, General Manager – put together a memo in that regard stating the radio frequency extends 19 feet and because it is 60 feet tall will not reach the ground.
Chairman Martin submitted Exhibit J into the record.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner and seconded by Commissioner to approve a special use permit for a communication s facility for Chad and Kristin Campbell with the 4 recommendations of staff; motion carried.

CONSIDER A SPECIAL USE PERMIT REQUEST FOR "STORAGE OF NATURAL RESOURCES" FOR A PROPERTY LOCATED AT 0738 CR 113 (CATTLE CREEK ROAD) OWNED BY ADA RAYMOND. – FRED JARMAN

Fred Jarman, Robert Raymond, and Carolyn Dahlgren were present.
Carolyn reviewed the public notices and notification to property owners within 200 feet of the property.
Bob Raymond informed Carolyn that he did not notice BLM within 200 feet stating the property is all privately owned. He said he did not identify any separate minerals owners within his mother's property and as near as he can tell, she owns all the mineral rights. They went back all through the deeds and could find no exception where it accepted out the mineral rights. Certified mail receipts were sent to all those on the list and mailed them out in the proper time frame and all but one green slip was returned as delivered. In the public notification Ada Raymond was identified as the property owner. He identified the property both by legal and practical description. He used the same document when he published and it was in the Glenwood Post Independent posted June 25, 2004 and he posted the property the same day with the posting material provided by the Building Department. The posting was on CR 113 and last checking, two weeks ago, it was still posted.
Carolyn reviewed the paperwork and advised the Commissioners that two weeks ago when he last checked the posting on the property needed to be confirmed as okay with the board.
Fred Jarman questioned the noticing – in reviewing the Assessor's map, it shows that County Parcel 250 which is Ada Raymond's property is identified, it shows to the south that her property borders BLM property.
Bob said that the south parcel is a different parcel that this one here that we're talking about.
Fred noted that he had one tax parcel that goes from CR 113 directly south bifurcated by Cattle Creek and then the southern portion of that borders BLM.
Bob – on the far south end of her property is BLM but it is far greater than 200 feet from this thing.
Fred said the activity that Bob is seeking a special use permit for today is on the northern one-third of the property. The terms of notice require the applicant to notice from the entire subject property, so the legal

description of your mother's property as tax Number 250, not 250 feet from just the area where Bob wants to do his use.
Bob stated okay, he did not notice the BLM.
Commissioner Houpt asked if he noticed the other property owners.
Bob confirmed that he had noticed all the neighbors around his property – north, east, and west.
Chairman Martin asked the Board's comments regarding the notice and how to rule?
Commissioner Houpt – the signing hasn't been checked for two weeks, a long period of time.
Commissioner McCown – comfortable with the notice, the intent was there with the sign being posted.
Commissioner Houpt – by not noticing one of the adjacent property sign, she questioned notice; she challenged the noticing.
Chairman Martin informed Bob that because he did not notice BLM, the notice could be questioned as not complete.
Carolyn Dahlgren – this is not on an application package that would have been sent out to the BLM and the question to consider in the imperfection is there something that BLM could bring to the notice. It could make your decision challengeable.
Chairman Martin – it could be from BLM an action under 106 or anyone. He feels the intent was there through the publication and posting as well, plus it's been talked about extensively.
Chairman Martin – notified the applicant that the Board will accept notification but informed Bob that any questions on notification would be at his risk.
Mr. Raymond asked for a continuance for 45 days until October 4, 2004 as he hasn't had the County packet more than 2 days and there are some issues that he would like to address.
Carolyn stated Mr. Raymond can contact BLM and bring their comments to the table.

Public Testimony was taken:
Calvin Lee will be available for testimony on October 4, 2004.
A motion was made by Commissioner McCown to continue this public hearing until October 4, 2004 at 1:15 p.m.
Commissioner Houpt would hope Mr. Raymond would perfect his notice. She seconded the motion; motion carried unanimously.

Housing Authority- Affordable Housing – requesting modifications to the qualification guidelines for Regulations for the Housing Authority for Affordable Housing. Those guidelines are referenced in the Zoning Resolution and Mark requested to refer to the Planning Commission and refer the request to the Planning Commission.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried unanimously.
Calvin said it was in the "grievance procedure" only and questioned if it needed to be referred to the Planning Commission.

Western Slope Energy Solutions – Ralph Cantafro & Rosanna Slingerland

Rosanne Slingerland, new consulting firm out of Craig, Colorado, gave a presentation of the services offered. They are going to all Commissioners. Their mission is to understand that the development of Natural Resources and the essential nature of this to the economy of Western Colorado.
Their goal is to promote the economy of Northwester Colorado including Routt, Moffat, Rio Blanco and Garfield County by increasing jogs, increase landowners' benefits from the industry, and increase revenue to local governments without impairing the quality of living and natural endowments for which individuals who reside in Western Colorado.
Coal is being de-emphasized as an energy source because of pollution and other environmental concerns – natural gas is on the other hand a cleaner energy source in abundance in Northwest Colorado.
They attended the Oil and Gas Forum and started talking to owners and found the need for consulting services for education of their rights was important.
Ralph Cantafro is an attorney and has an office in Steamboat and Craig. Rosanna has a background in geology.
The services offered are:

Education to independent concerned parties such as surface, mineral, un-severed landowners, ranchers, etc. as to legal rights and obligations involving natural resource development affecting their interests; organization assistance so that those interested in any aspect of natural resource development can participate in an informed fashion, legal notification assistance; mediation, arbitration and alternative forms of dispute resolution; coordination of professional support so that problems can be identified and resolved in a timely manner; and custom land mapping for land owners through a Geographic Information System. They also are willing to provide education for Energy Advisory Board and be able to come answer questions. Do presentations or a certain issue they will put on educational forums for private and public forums.
The Board thanked them for coming and providing the information.

Executive Session – On-going Litigation with the OGCCG – new developments
Don DeFord requested that the Board reopen the Executive Session
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commisisoner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Don requested to continue the meeting or set a special meeting for 9:30 a.m. Friday at the Conference Room of the County Attorney's office.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Recess

Attest: Chairman of the Board

_____ _____

AUGUST 13, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The continued meeting of the Board of County Commissioners began at 9:30 A.M. on Friday, August 13, 2004 with Chairman John Martin and Tresi Houpt present and Commissioner Larry McCown via telephone. Also present were County Attorney, Don DeFord, Oil and Gas Auditor Doug Dennison and Marian Clayton, Deputy Clerk & Recorder for Mildred Alsdorf.

CALL TO ORDER
Chairman Martin called the meeting to order at 9:30 A.M.

EnCana Violation and Hearing Scheduled with the Oil and Gas Commission in Glenwood Springs – Monday and Tuesday, August 16 and 17, 2004
An Executive Session was requested to discuss ongoing litigation, especially the OGCC enforcement proceeding involving EnCana Inc.
Needed to be present included Doug Dennison, the Board members, Don DeFord and Marian Clayton and by conference call, Dr. Jeffrey Fine.

Commissioner Houpt so moved to go into Executive Session; Commissioner McCown seconded; motion carried.

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

No action was taken.

City/County Joint Meeting – August 17, 2004
The meeting was canceled and Commissioner McCown referenced the letter Mildred received from the City.
The other Commissioners had not checked their mail and had not read the letter.
Commissioner McCown noted this would answer the question as to why the meeting was canceled.

A motion was made to adjourn by Commissioner Houpt and seconded by Commissioner McCown; motion carried.

Attest: Chairman of the Board

_____ _____

PROCEEDINGS IF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GLENWOOD SPRINGS, COLORADO

AUGUST 16, 2004 AND AUGUST 17, 2004

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 5, 2004 with Chairman John Martin and Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Shannon Hurst – Abstract of Assessment is due this week and she requested the Chair to be authorized to sign it.

Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Report on the County Fair

Garfield County Fair - Fairgrounds – 4,000 people in attendance at the Fair for the Chris LaDue concert.

PUBLIC HEARING:

CONSIDERATION OF A REQUEST FOR A SPECIAL USE PERMIT FOR A PUBLIC GATHERING (CIRCUS) ON THE OLD UMTRA MILL SITE, SOUTHWEST OF RIFLE, OFF OF STATE HIGHWAY 6. APPLICANT IS CITY OF RIFLE. – MARK BEAN

Mark Bean, Carolyn Dahlgren, representative from the City of Rifle John Hier, City Manager and Barry Miller from the Rifle Lions Club were present.

Carolyn reviewed the public notification and determined they were in order and advised the Board they could proceed.

Chairman Martin swore in the speakers.

Mark Bean submitted the following exhibits: Exhibit A – Mail Return – Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield county Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Project Information and Staff Comments; Exhibit F – Special Use Permit Application; Exhibit G – City of Rifle fax with attachments dated 7-18-04; Exhibit H – Fax with attachments from Barry Miller dated 8-6-2004; Exhibit I – Fax from Barry Miller dated 8-9-2004; Exhibit J – Memo from the City of Rifle responding to the Rifle Lions Club in support of the SUP; and Exhibit K – Letter from PETA (People for the Ethnical Treatment of Animals) dedicated to animal protection.

Chairman Martin entered Exhibits A – K into the record.

This is a request for a Special Use permit to allow a public gathering at the Old UMTRA Mill site, located south of Rifle off of State Highway 6 on 131.36 acres. The City of Rifle is requesting approval for the public gathering for Rifle Lion's club sponsorship of two circus performances by Carson and Barnes Circus Company on Tuesday august 17th at 4:30 and 7:30 p.m. Performances will be in a "Big Top" that is 144 feet x 350 feet stakeline to stakeline. 2,000 to 2,700 people can be accommodated in the Big Top.

Access to the site will be off of State Highway 6 and then across the Denver & Rio Grande Western Railroad Company. The City has a Public Utilities Commission Order granting them a public crossing at railroad milepost 388.06. The application indicates that the City Police department will be assisting in traffic control. Parking of cars will be on site, but no specific location for the parking area on the site, since the site plan provided is a generic site plan the circus company provides to people sponsoring their show.

Recommendation:

Given the short time between the actual shows and the hearing, and the fact that a local service club will be the beneficiary of the proceeds from the show, staff recommends approval of the SUP for a public gathering, provided that the Baord is satisfied with the information submitted by the City and Lion's club representative regarding public safety issues. At a minimum, the following conditions of approval should be imposed:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. The applicant shall provide to the Board a new site plan showing the location of the proposed circus facilities and parking in relation to the highway and railroad tracks.
3. An emergency services plan and highway access control plan will be submitted to the Board for their approval. The emergency services plan will identify how ambulance and fire protection services will be provided on the site.
4. A plan identifying the number of portable toilets to be provided for the shows and the method of transporting water from the City fire hydrant to the site shall be provided. Additionally, the method of storing domestic water on site will be identified.

Barry Miller said he contacted Gould Construction and they will do some dust control for the parking lot. The also mowed the lot for weeds.
Barry Miller addressed that they would have flaggers along the tracks all day. The parking is about 300 feet from the railroad tracks.
Additional Exhibit was admitted; Exhibit L – Berry's site plan.
Commissioner Houpt – asked a question for peace of mind, the information send by PTEA on animal rights, was it followed up. She felt it was something that should be checked into.
Mark said it has nothing to do with the land use item and he had not followed up.
Barry Miller said it will depend tomorrow on the amount of protestors for animal rights.
John said the letter from PETA was a fax and there wasn't a video as indicated.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown to approve the request for a special use permit to allow a public gathering for the Rifle Lion's club at the old UMTRA Mill site for August 17, 2004 with the recommendations by staff 1 – 4; Commissioner Houpt seconded; motion carried.

Contract with Nurses at Health Beginnings
Carolyn referenced the previous contract with the Nurses for Health Beginnings – renewal contract. She said since they moved Health Beginnings under the Colorado Mountain Health there was no contract; ValleyView Hospital has taken this over. Commissioner McCown moved that the Chair be authorized to sign the letter noting Carolyn's remarks. Commissioner Houpt seconded; motion carried.

Letter from Glenwood Springs – Cancellation of Meeting Tuesday, August 17, 2004
No need to meet with the Glenwood Springs tomorrow on Tuesday, August 17, 2004 was the response the letter covered regarding the proposed agenda items to be discussed tomorrow.

Recess until Tuesday, August 17, 2004

Attest: Chairman of the Board

_____ _____

PROCEEDINGS IF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GLENWOOD SPRINGS, COLORADO
AUGUST 17, 2004

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Tuesday, August 17, 2004 with Chairman John Martin and Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Public Hearing:

Enclosed cabinet for the recording system with funds out of the Commissioner's budget

Mildred submitted a proposal for a cabinet at an approximate cost of $1500.

The Board requested that Mildred check other sources as this was very expensive and come back with other suggestions.

RFTA – Consideration to enter into IGA

Dan Blankenship, Renee Black and Carolyn Dahlgren were present.

The latest draft of the IGA concerning a vote to join the Roaring Fork Transportation Authority was submitted containing all the changes that the Board suggested.

The proof of publication was submitted as Exhibit A.

Chairman Martin swore in the speakers.

Carolyn – not amending the existing IGA but enact a new IGA.

Renee Black – after looking at the legislation she recommended the public hearing should be held and they decided to go that way. They were in favor of doing the .6% with .4% for RFTA and .2% returned to Garfield County for trails. Renee said RFTA presently reverts .1% back to Carbondale for special projects and were in favor of letting Garfield County have the .2% for their trails. In regard to this they are suggesting that the County pay 1/3 of the ballot cost, which could cost as much as $4,500 based on the numbers Mildred gave Dan Blankenship.

Commissioner Houpt was at the RFTA meeting and she supports the concept that the County pay for 1/3rd of the costs to put this on the ballot; she thought it was good since 1/3rd would be coming back.

Dan Blankenship – the estimate at $1.50 per voter would be $14,000 cost for the ballot and 1/3 would be $4,500 approximately for Garfield County.

Carolyn – this is not being asked for the Board to adopt today.

Renee said that the plan is to bring the ballot language at the second public hearing, August 30, 2004.

Commissioner McCown requested to have a draft of the ballot question in advance as this shared 1/3rd cost of the ballot was a surprise to the Board excepting Commissioner Houpt who had attended the RFTA Board meeting as the Commissioner's representative.

The second public hearing will be noticed.

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

Executive Session – Personnel Issue

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

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

Continuation of a public hearing for consideration of a Special Use Permit to allow the operation of two buildings for oil & gas related industries. Applicant is Robert T. Lazier. – Jim Hardcastle

Attorney Tim Thulson, Jimmy Sills, Jim Hardcastle and Carolyn Dahlgren were present.

Chairman Martin swore in the speakers.

New Exhibits were submitted: Exhibit L – Packet from Scarrow (received at 8-02-2004 meeting); Exhibit M – Packet for Commissioners (received at 8-2-04 meeting); Exhibit N – Packet for Staff from Applicant (received at 8-02-2004 meeting); Exhibit O – Review memo: City of Rifle; Exhibit P – Items for use within the SUP, from Jimmy Sills; Exhibit Q – SUP uses and Legal Split discussion letter – Tim Thulson; Exhibit

R – Traffic Study, High Country Engineering; Exhibit S – Review Memo: Colorado Division of Wildlife: Exhibit T – Review Memo: Rifle Fire Protection District (re-review); Exhibit U – Review Memo: Colorado Division of Water Resources – July 26, 2004; Exhibit V – Review Memo: Colorado Division of Water Resources – August 9, 2004.; Exhibit W – Revised Staff memo, dated today.
Exhibits L through W were admitted into the record.
This was originally heard on August 2, 2004 and continued until today in order for the applicants to answer specific concerns in the application.
Jim said this is a request to build 2 separate buildings for central operations of gas and oil related development companies as a Special Use Permit of storage of oil and gas drilling equipment, storage, or material handling of natural resources. Jimmy Sills is the applicant and Robert T. Lazier is the property owner. This location is approximately 1 mile south of the Garfield County Airport on County Road 319 and Grass Mesa Road on 38.18 acres of land.
Jim met with the applicant and they are going to request a continuance in order to address the water issue.
Tim Thulson stated they understand the Board's requirement for a water supply plan, and they are augmenting commercial uses through the West Divide Contract to add two commercial uses, however they don't meet until August 26, and therefore asked for a Continuance until August 30, 2004.

Staff has agreed that the conditions for denial could be changed to approval with modifications.
The merits of the proposal are that only two sites are being requested. No more than 9 uses but the other 7 will come back to the Board with new proposals, the entire project will be up for review, and there is no expectation that this will be approved piece meal. Each proposal will stand on its own merit. The City of Rifle is in favor of this SUP as well as it will minimize the traffic and fill a need to serve the oil and gas industry.

Mark clarified that the Board, if approved, is only agreeing to two buildings. They have amended their application. They will come back with a new application.

A motion was made by Commissioner McCown to continue this until 8:00 a.m. on August 30, 2004. Commissioner Houpt seconded; motion carried.
Consideration of a request for a Special Use Permit for a modification of a previous permit for Natural Resource Processing on property located north of Parachute, off of County Road 215. Applicant is American Soda LLP. – Mark Bean
Mark Bean, Carolyn Dahlgren, Charlie Yates and Ed Cooley were present.
Carolyn reviewed the public notification and determined they were in order and advised the Board they could proceed.
Chairman Martin swore in the speakers.
Mark Bean submitted the following exhibits: Exhibit A – Mail Return – Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield county Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Project Information and Staff Comments; Exhibit F – Special Use Permit Application; Exhibit G – Letter from the Town of Parachute received 7-28-04; and Exhibit H – letter fro American Soda LLP dated August 10, 2004.
Chairman Martin admitted Exhibits A – H into the record.
This is a request for review of an amendment to a Special Use Permit to allow a change in operation of the existing facility on approximately 1,000 acres. American Soda proposes to change the operation of the industrial processing facility for soda ash. The existing process relies on liquid solution produced at a mine in the Piceance basin in Rio Blanco County. The liquid solution is presently transported to the processing activity via a pipeline from the mine. The facility produces Sodium Carbonate (Soda ash) and Sodium Bicarbonate (Baking Soda) from the liquid solution.
The proposed change in operation is a change in the source of Soda ash. The Soda ash will be shipped to the facility by rail car from out of the State and the CO2 will be purchased from adjoining Williams Production RMT Natural Gas processing plat site or purchased from other suppliers and trucked to the facility. The new feedstock will be placed in storage and then transported to a dissolver where the dry soda ash will be combined with water to create a liquid solution. This solution is fed to a crystallizer vessel where CO2 is added to convert the soda ash into baking soda crystals. After further drying, the crystals are screened for size and either stored for rail car shipping or packaged in 80 lb. bags or one ton super sacks for shipment by truck.

Mark continued to review the proposed changes and additional equipment added to the processing facilities at the neighboring Williams Production RMT Natural Gas processing plant. Williams Production will be making an application to modify in a future application.
Staff recommendation:

1. That the existing resolution shall be replaced by a new resolution of approval containing all the original conditions of approval, plus any new conditions of approval deemed appropriate by the Board of County Commissioners.
2. That all representations made by the applicant in the application for the modification, or at the public hearing, shall be conditions of approval, unless specified otherwise by the Board of County Commissioners.

No input from the applicant; they are satisfied with the staff report.
Charlie Yates, American Soda**,** said there has been a reduction in staff and minimal truck traffic. Staff is down from 100 to 25 to 30; most transporting is by rail and the same truck traffic will occur.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request for an amendment to a Special Use Permit to allow a change in operation of the existing facility for American Soda, LLP, at 2717 County Road 215 with the two recommendations by staff. Motion carried.
Public Meetings:
Liquor License – White Buffalo modification of premises and Sunlight Inn transfer of ownership. – Mildred Alsdorf
Sunlight Inn
Tom Jankowsky, Mildred Alsdorf and Carolyn Dahlgren were present.
Exhibit A – Proof of Publication; Exhibit B – Application; Exhibit C -
Mildred stated that Sunlight Inn, Pierre Dubois is transferring ownership to Sunlight Inc. who will lease the operation located just below the Sunlight Ski Area.
Chairman Martin swore in the speakers.
Tom stated the liquor license was under Rainbow Hospitality with owners Gretchen and Pierre Dubois who still have some ownership in the property along with Tom. Tom stated the majority of use is in the summer is for weddings and special occasions; the winter is an extension of the current Sunlight Inn.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Transfer of ownership of Sunlight Inn; motion carried.
White Buffalo
Exhibit A – Proof of Publication; Exhibit B – Application; Exhibit C – Photos.
Mildred explained the proposal is to serve alcohol in the area where the White Buffalo is now, it is seasonal and the request is to serve liquor outside.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the liquor license with the modifications to White Buffalo; motion carried.
Request for BOCC consent to the formation of DeBeque Fire Protection General Improvement District. – Ed Sands
Carolyn Dahlgren, Ed Sands, Donald Cramer, Nicholas Marx and Michael Lorsung were present.
Attorney Ed Sands, for the Town of DeBeque, submitted the Town of DeBeque's request to form a Fire Protection General Improvement District pursuant to Part 6, Article 25, Title 31, C.R.S. and explained the purpose for doing so. The current fire protection services and emergency medical services provide services within the Town of DeBeque and also in the unincorporated areas within Garfield county and Mesa County surrounding the Town. The cost to the Town in providing such services has escalated in recent years; therefore "an improvement district that is a taxing unity may be created by any municipality in this State for the purpose or acquiring, construction, installing, operating, or maintaining any public improvement or *for the purpose of providing service…..*" In Section 31-25-603, C. R. S. it does permit a governing body of a municipality to establish a general improvement district within the municipality <u>as well as within the unincorporated territory of a county, if the county consents by resolution to the establishment of such district.</u>

The Garfield County Attorney has raised questions concerning the proposed District's authority to provide fire protection services in unincorporated areas lying with Garfield County, including the authority to adopt and enforce a fire code.
The Board of Trustees of the Town of DeBeque fully recognizes that a general improvement district has not previously been formed in Garfield County.
The cost of providing the proposed services is one hundred twenty-four thousand six hundred fifty dollars ($124,650.00) and there are 200 eligible electors with the proposed District. The proposed District proposes to assess a mill levy on taxable real or personal property within the District at an initial rate of five (5) mills.
The Mayor of DeBeque spoke on the purposes of the formation of the district to cover them legally.
Ed Sands passed out a map showing the proposed boundaries of the district.
Nick Marx – Fire Chief – no white map and they are following their boundaries, working with the Fire Chief of Parachute/Battlement Mesa.
Ed addressed the enforcement of the International Fire Code. The point is to extend those powers beyond the existing fire boundaries. The language is adequate to allow them to adopt their own fire codes and to adopt the County's as well.
Commissioner McCown – the Board's concern is adopting the International Fire Code on its face when the County adopts it not by Resolution but by Ordinance, it is County wide just by the mere adoption of it and the enforcement of that falls to the various districts that might be empowered in the areas of the County and then the remainder falls to the Sheriff and we did not want an island in and of itself in the DeBeque area where we weren't sure who was doing the enforcement, or if there was any, devoid of any enforcement powers. That was his concern as well as Don's in looking at this.
Carolyn requested to wait until Don DeFord was back to talk about the possibility of going to District Court and whether or not Don would advise the Board that this is something that is necessary or advisable to do. Don's major concern is under the County's police power statutes, where it's stated that certain kinds of districts shall enforce the County wide IFC that you are about to adopt sometime in the near future and the kind of district that these gentlemen are talking about is not included in the list of districts that must enforce your Code but what Mr. Sands has presented to you, is even though the Statute doesn't require this District to do it, they would be willing to agree to do it through an IGA. The question being may they since they don't have to. Mr. DeFord has concerns about whether or not they could even if they wanted to and Mr. Sands has addressed that today and Mr. DeFord will be looking over all of that material and believe if he has any more questions, will be advising the Board to get that declaratory judgment and advisory opinion from the Count. But he might, after reviewing everything that Ed has presented, not feel that is a necessary action move forward with this. Today what you're being asked to do is to tell the County Attorney's office to create a resolution that gives consent under the Statutes under which DeBeque is proceeding.
Commissioner McCown asked if there was anyway to get that judgment of the Court prior to the formation of the District.
Carolyn – no, the District has to.
Commissioner McCown – so in essence we could possibly be creating a District even after the Court's opinion in enable to enforce our Fire Code.
Carolyn – yes and then they'd have to start all over again with the Title 32 District.
Commissioner McCown – that would be a huge void acreage wise in the County; he supports this 110% but wants to make sure it works once we get it.
Ed Sands is relatively confident that we would have these powers and agrees with Carolyn that we're probably not obligated to under the Statute but through an IGA I think we can agree to enforce your Fire Code. It's not an issue in Mesa County because they haven't adopted a Fire Code or intending to adopt a Fire Code but leave it up to the individual districts to adopt codes. It is an issue here because you are trying to adopt that Code.
Chairman Martin – trying to standardize all of the departments.
Commissioner McCown – that's been a cooperative effort with all the Fire Districts so we have some type of uniform policy in place not only for their but the building department perspective as well.
Commissioner Houpt – we'll have a County base policy that you can build on.
Ed Sands commented that he would not like this contingent on the consent Resolution because of the Statutory language that simply says each County has to consent by Resolution and again this is the first step to forming that, must get voter approval, have public hearings, but he said they are willing to commit that,

if a Court were to rule against this, or we determine we don't these powers we may very well then dissolve these districts and come back with a Title 32 District.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the County Attorney's office to move forward with the Resolution authorizing the formation of this District and be prepared for the Chair's signature. Motion carried unanimously.

Proclamation commemorating the 40th anniversary of the Wilderness Act. - Hal Sundin - Wilderness Workshop

Hal Sundin presented the Proclamation stating that on September 3, 1964, President Lyndon Johnson signed the Wilderness Act into law thereby creating the National Wilderness Preservation System (NWPS) and designated the first individual Wilderness Areas that make up that system. It has since grown from its original 9 million acres to encompass approximately 106 million acres of federal public land found in our National Forest, Parks, Refuges and lands managed by the Bureau of Land Management. Areas such as the Maroon Bells-Snowmass and the Flat Tops have become an essential part of this region's natural heritage and have served as a vital part of our landscape. These Wilderness Areas play an important role in providing the recreational opportunities, scenery, wildlife, clean water and pure air that contributes to our area's high qualify of life and maintain its attractiveness as a tourist destination.
On June 22, 2004, the United States Senate passed Resolution 397 to commune rate the upcoming 40th anniversary of the signing of the Wilderness Act.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt the Proclamation commemorating the 40th Anniversary of the Wilderness Act; motion carried.

County Manager Update: Ed Green

Ed announced that we received $1,000,000 from DOLA; the County will receive $900,000 and the City of Rifle $1,000 for the new Human Services project from DOL

Focus Group Presentation – Jesse Smith

One of the goals this year was to commission staff to survey the citizens of Garfield County with suggestions and recommendations for improving the County services.
Jesse Smith noted that this information will be posted on the County website.
This was an attempt to find out what the taxpayers feel are the issues to address over the next 5 years.
The residents were hesitating at first but at the end the group was enthusiastic and expressed appreciation to the Commissioners for holding. Each group was unanimous that these sessions should be continued.
Jesse's comments are based on the citizens' comments and not his.
Jesse explained the methodology for selecting the participants noting the use of the property tax roles to select the groups. Shannon provided all property owners who live in the County; they eliminated businesses for duplications; they used a process to obtain the sample size. 11,926 parcels spread over a number of taxing entities. The number selected was 137 people. These sessions were held in Parachute, Rifle, Silt, New Castle, Glenwood Springs and Carbondale - 13 sessions in all. Each participant was sent a package of information and when they arrived, they were asked if they had time to review the information. A power point presentation that paralleled the printed material sent out. Then the information; then the questions as to what to focus on. Responses were recorded on flip charts. Each session was taped and minutes were taken for a record.
Once issues were identified, they discussed the issues, then into a prioritization with red sticky dots. The priorities were posted and the staff led the group to try and combine certain priorities. At the various times, the sampling was given red, green and black dots to focus on what extend they felt about a given issue.
Additional tax – some said no, the majority of the group said yes and then determination was made as to where additional tax dollars should be allocated. The 4% for RFTA and the number from the unincorporated areas of the County were given and then Jesse asked how many would support.
The final end of the session, they asked if this was worth their time and they agreed it was worth 2 hours of their time. The margin of error was 4.2%. The topics were limited to 10 top issues.
Road Maintenance, Oil and Gas, Environmental/Water; Land use planning; Wild Fire Suppression; Mass Transportation; Law Enforcement; Human Resources were among those.
Road Maintenance: the vast majority placed the emphasis on maintenance of current roads with the exception of CR 115 and Elk Creek. They didn't want to see any new roads and were positive that no road improvements made that access the public lands.
The Board would like copies of the Power Point and Jesse said he was going to type up his comments.

Ed said this is the first step in developing a long-range strategic focus for our County.
Commissioner Houpt – staff will identify which departments can address which issues and discuss this with the Board and bring those forward and bring to the Board for opportunities to add input.
Linda Morcom – attended all but two of the sessions and she very impressed with the enthusiasm and their appreciation but for this whole process to be effective is to take action. Communication was stressed; the newspaper could be the answer but it is extremely important. We've heard what you said and this is what we've done.
Jesse said what the citizens would like to hear back is where we have allocated funds.
Commisisoner McCown there is going to be a huge perceptional problem; the number one issue identified was Road and Bridge and if the people that reside in Carbondale don't see what they believe is a significant amount of improvement to the roads in their area, the people in Battlement Mesa may see the same thing, but realizing we've got almost 900 miles of road in the County, we can't improve all of them.
Jesse said they would like to see a master plan.
Commissioner McCown – master plan, whatever, getting that word back to those people**,** the only way to do is to hold and advertise Public Town Meeting where the three Commissions would be at a specific location and feel free to come and ask them questions. Turnout is yet to be seen. He doesn't have any confidence in the press because 2/3rd of what happens is not printed properly and you don't recognize when you read it. This is not media and he doesn't agree with televising the meeting, because it does not reach all of the people, only a select few that happen to have Comcast as their TV server. The people that live in Comissioner District 3 and the major part of those people would not have privy to that information. It's not fair to discriminate. Just get your feet on the ground, have public meetings and get the people to come. There's a lot of mis-information and he knows when you guys were doing your meetings, you weren't in a position to inform; only to gather information. There were things that were perceived that were not true – he saw them today. If people don't realize we have a Comprehensive Plan in Garfield County, there's the number one problem.
Jesse – one of the problems, with 192 people who were sent a post card to attend today and only a few showed up because the daytime sessions are hard to attend.
Commissioner Houpt realizes that the daytime meetings are hard for folks to attend. We've talked about changing the schedule and maybe it's time for us to look at that as well.
Commissioner McCown and maybe meeting from 6:00 p.m. until 3:00 a.m. in the morning is what people are looking for because that's what it would take.
Chairman Martin – including the staff time.
Commissioner McCown – we've met through lunch today, so that's what we're looking at if you want to have night sessions, or we meet every night.
Judy Osman – attended the Battlement Session and she heard a lot of appreciation for someone listening to those in the west end of the valley. They felt like the step child of the County. We as a County, employer and BOCC need to listen that the County is changing – different amenities – balancing act – not easy and communication is the key. Employees want more communication as well.
Ed – this is parallel with the roundtable discussion with staff.
Erica John – communication is a huge concern; a lot of people's concerns could be answered with general statements on the Internet – example regarding the oil and gas industry. Information as to what we are doing already. Comprehensive Plan – give the basics and agrees the newspaper is not getting the correct information.
Commissioner Houpt said the oil and gas have a website and they include updates, issues and are getting information out.
Commissioner McCown noted there was more internet capability than the cable TV.
Judy Osman said when the Coal Seam fire was going on, staff acted as curriers with information to various places and supplied updates all the time.
Jesse Smith said the focus groups represented great group of people and they love living here. The participants were very conscious and conveyed that they proud of their County and were glad to know that we were willing to listen to them.
Erica – didn't feel it was needed to pay people to come but they should view it as an opportunity to come and express themselves. If they didn't have a car, then offer transportation money.
Commissioner McCown commented that you will have very contrasting opinions will as the outcome.

Terry Mitchell – Clerk II to Clerk III

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize classification of Terry Mitch from a Clerk II to a Clerk II; motion carried unanimously.

Linda White – Budget Coordinator, Grade III, Administrative Assistant – Grade IV

Lou supported the promotion saying Linda deserves to move up; she's the Financial Coordinator for the Sheriff's Department. He has restructured her responsibilities.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the pay grade for Linda White to an Administrative Assistant, Grade IV. Motion carried unanimously.

Proposal for the Capital Improvement Project to the Detention Facility. – Lou Vallario

Lou Vallario submitted the construction modifications and the design development estimate totaling $435,820.

Lou said the need for this doesn't have anything to do with the building being effective, it's a very good building but the focus was on jail cells which should have been. But Lou has added professional staff and the focus is that we have vacant empty space in the basement and Lou's perception on how the department should be run – three areas in this proposal. Area one – area within and adjacent to existing main Courthouse basement - $180,800; Area two – area within existing jail - $46,560; and Area Three – Owner provided items – furniture and equipment for 124,660. Alternatives for $61,100 with a grade total of $435,820.

Discussion was held on the proposal.

Letters were presented with respect to approval for this from the Courts, DA, and the City of Glenwood Springs, and verbal approval was obtained from Mildred regarding her space.

Reality Check

Ed presented the direction saying our capital plan through 2009. Originally, the best guess to accomplish this remodel was $240,000 in capital. With the now estimate at $435,000 it will take up the entire amount. Chairman Martin – prioritize the space and then make hard choices in upgrading. This needs to be more involved with administration. Lou's proposal makes sense but based on the current projections, we will be hurting on capital in 2008 – 2009. Must protect the general fund. One advantage we have is replacing facilities.

Lou would like to get this done this year. The evidence room is needed to get the job done. He doesn't see any fluff in this proposal. In response to Commissioner Houpt's question, Lou said this is meeting the needs of the jail for long term. With the exception of storage, he can't envision needing anything else; this gives some open office space upstairs. (2) Offices vacant and he has room for expansion. For the future, the Courthouse in Rifle, the Sheriff would have a presence there.

Commissioner Houpt said we need to fund this and made a motion to budget as presented by Sheriff Vallario and authorize the funding of the jail improvement modifications in an amount not to exceed $435,820. Commissioner McCown seconded. Discussion – does the motion include funding this year? Motion carried.

FAA Grant Award – Airport Ramp Expansion. – Dale Hancock

Brian Condie presented the ramp extension grant offer for $465,500 of FAA funds matched by $24,500 of County funds making the 95/05 percent split.

In accepting these funds the County assures and certifies that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines and requirements including the 34 Grant Assurances as outlined in the grant. The duration of this obligation is 20 years from the acceptance of the grant offer for project with no limit on the duration of any real property acquired with federal funds. The summary of assurances was included in the Board packets.

The award to United Companies was consummated at the August 9, 2004 BOCC meeting contingent upon the receipt of the FAA funds. United Companies is scheduled to start this project September 13, 2004 with a completion date of October 1, 2004.

Ed requested a motion by Commissioner McCown and seconded by Commissioner Houpt for the chair to be authorized to sign the sign the FAA grant upon review of legal staff once we get it. Motion carried unanimously.

Consent Agenda:

a. Approve Bills

b. Wire Transfers - none
c. Inter-Fund Transfers
d. Changes to Prior Warrant List - none
e. Authorize the Chairman to sign a Special Use Permit and Resolution for Patrick and Marilyn Fitzgerald – Jim Hardcastle
f. Authorize the Chairman to sign a Resolution for a Preliminary Plat for Battlement Mesa Partners. – Jim Hardcastle
g. Authorize the Chairman to sign the resolution for approval of the Callicotte Ranch Preliminary Plan. Property owner is Rocky Mountain Mansions III, LLC – Fred Jarman
h. Authorize the Chairman to sign the resolution for denial of a request for an Exemption from the Definition of Subdivision for a property owned by Mahan Properties. – Fred Jarman
i. Authorize the Chairman to sign the resolution for approval of the Rock Gardens Planned Unit Development. Property owner is Kevin and Kathleen Schneider. – Fred Jarman
j. Authorize the Chairman to sign the resolution for approval and the Special Use Permit for a Special Use Permit for a Communications Facility. The property owner is Chad and Kristin Campbell. – Fred Jarman
k. Authorize the Chairman to sign a resolution of approval correcting a scriveners error found in resolution 2004-60 which approved a SUP for Capitol Construction, LLC – Fred Jarman
l. Authorize the Chairman to sign a Mylar of an amended plat Tract 41 and Tract 42, Antlers Orchard Development Company's Plat No.1. Applicant is Michael Langhorne – Jim Hardcastle

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda items a – l, omitting b and d; noting Chairman Martin's vote against the plumbing facility Cattle Creek - Capitol Construction LLC item k; motion carried by a vote of 2 – 1.

Commissioner Report

Chairman Martin thanked Commissioner McCown for his unbelievable activity at the County Fair; Dale Hancock as well as Bob Compton, as well as other folks that were there, the volunteers that came in, he was extremely impressed with what they were doing. John talked with some of the Fair Board members and suggested debriefing after State Fair with 4H and everyone lese to see what we can do with the rough spots and not the highlights.

Commissioner Houpt – Immigration Program tonight at Glenwood Community Center that Randy Russell has been instrumental in putting on starting at 5:30; Thursday, flight over various areas i.e. Roan Creek; Tuesday, Tour of the Thompson Creek leasing locations that Pitkin County is sponsoring 8-24-04; next Thursday she has two conflicting; not able to make it to the oil and gas forum due to Rural Resort and Northwest COG annual planning meeting.

Commissioner McCown – CCI meeting on September 8, 2004 addressing Oil and Gas; RS 2477. Lunch meeting – Republican Wednesday; Board of Realtors dinner Friday evening at Lakota Golf course; Northwest Oil and Gas Forum next Thursday; BOCC on 8-30-04.

Chairman Martin – pedometer challenge starts on the 27th. Personal project and will be out Wed, Thurs and Fri.

Commissioner Houpt will be gone Friday and Monday.

Ed – asked the Commissioners to talk about networking on Retirement Plan and ways to improve the Board.

REGULAR AGENDA:

Human Services Commission

County Grant Allocation Budget & Membership – Kay Vasilakis

Kay Vasilakis and Jane McCauller were present.

Kay submitted the proposed allocations for the following:

Advocate Safehouse	$	15,000
Alpine Legal Services, Inc.		15,000
Alpine Resort Ministries		-0-
Aspen Foundation		-0-
Catholic Charities		12,000
Center of Independence		-0-
Colorado West Detox		20,000
Colorado West Recovery		25,000

CMC Even Start		2,000
CMC Nutrition		10,000
CMC RSVP		18,000
CMC the Traveler		35,500
Columbine Home Health		10,000
Columbine Homemakers		8,000
Computers for Kids		-0-
Cooper Corner		-0-
Family Visitor		25,000
Food Bank of the Rockies		2,000
Girl Scouts		1,000
Lift-Up		15,000
Literacy Outreach		11,500
Mountain Family Health		-0-
Mountain Family		35,000
NW Youth for Christ		-0-
Planned Parenthood		3,500
RF Family Resource		3,500
Roaring Fork Hospice		-0-
Salvation Army		-0-
Sopris Therapy Services		6,500
VVH Sexual Assault		-0-
Youth Zone		24,000
Total	$	298,000

This was difficult as there were more requests than funds available.

Ed said the revenue projections were over $260,000 and applied $296,000 so as a solution they projected the revenues as $298,000. Five organizations didn't request this week. In looking at the equity position of the grant request, some grant funds were reduced.
The Commissioners reviewed the report submitted with the allocation requests.
Kay was surprised that Salvation Army didn't request. Ms. McDonald contributed a large sum of money to the Salvation Army.
Jane is a citizen representative on the Board that made these decisions. She said they had some concerns with the request for Alpine Resort Ministries. This was not due to it being a religious organization; it was inappropriate use of the funds. Catholic Charities has a successful track record.
A motion was made by Commisisoner Houpt and seconded by Commissioner McCown to approve the allocations as presented; motion carried.
Jane thanked the Commissioners for appointing her as a citizen representative on the Human Services

Commission.

The new joint Social Services and Board of County Commissioners rule went into effect as of August 1, 2004 and this was the first meeting.

SOCIAL SERVICES

Carolyn Dahlgren, Lynn Renick and Janice George were present

Approval of July 2004 Disbursements

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the July 2004 disbursements in the total amount of $80,900.27; motion carried unanimously.

Discussion on Colorado Benefits Management System

Lynn Renick said the Pilot II (non-Production) has been completed and the State Executive Committee reviewed the outcomes on August 10, 2004 in order to determine if the statewide rollout should occur as currently scheduled for September 1, 2004. She included a copy of their Contingency Plan and explained the procedures on the system implementation.

Two letters were submitted – one to the Governor from Weld County Commissioner Dave Long, Chair of the CCI Health & Human Services Committee representing the 63 counties stating that he should not permit this computer conversion.
Janice George said they are as prepared as they can be; the staff is doing mock interviews this week.
Lynn said if this doesn't go through on September 1, 2004, it won't go at all.
Janice said this is a poor system.
The other letter was from Vivianne M. Chaumont, Director of Medial Assistance Office stating that presumptive eligibility for Medicaid for pregnant women will no longer be available beginning September 1, 2004. Lynn said this is a major thing for prenatal and clients. This is Healthy Beginnings and means they will have to come through Social Services before they could be qualified. Janice said this was set up for non-emergency eligibility and can be delayed up to 45 days. Healthy Beginnings will lose money. This is now under Mountain Family.
Janice will meet and work with them and make sure the applications are completed and submitted to Social Services. They can't do the billing for the undocumented at all.

Discussion on State Fiscal Year Close-out

The following is a summary provided by Lynn Renick as to close out and preliminary allocation for SFY 05.

- *County/Regular Administration*

  ($68,339) – over expense with Allocation of $381,119. 100% covered by Surplus Distribution; 27 counties had a remaining deficit in this area.
  SFY05 Preliminary Allocation - $382,865

- *Colorado Works*

  +$585,043 under expense with Allocation of $1,633,987 – Approximately $145,000 will be transferred to Child Welfare; and the remainder should be transferred to Child Care.
  SFY05 Preliminary allocation - $1,454,870; State will not receive additional Out-of-Wedlock Bonus in 2005.

- *Expedited Permanency Planning Core Services*

  ($17,269) over expense with Allocation of $82,892 – 100% covered by Surplus Distribution. 100% SFY05 is reportedly the last year this allocation will be available.

- *Core Services*

  ($74,888) over expenses with total Allocation of $421,830 – 100% covered by Surplus Distribution; This category absorbed 2 additional staff for Life Skills and Home Based Therapist in order to lessen the impact to SB80/deferred revenues.

- *Child Welfare*

  Combined 80/20 expenditures: ($22,866) over expense with Allocation of $2,382,897 –
  100% administration: - 0- with allocation of $287,509.
  RTC Expenditures: ($318,213) over expense with allocation of $704,090
  CHRP Expenditures: +$81,719 under expense with allocation of $126,017
  100% covered by Surplus Distribution/Mitigation $
  SFY05 Preliminary allocation totals $3,258,139; a total decrease of $25,000 SFY04.

- *Child Care*

  ($309,573) over expense with allocation of $461,992
  $29,011 covered with Surplus Distribution; Use of additional $280,562 SFY03-TANF Transfer monies covered the remaining deficit.
  SFY05 Preliminary Allocation is $509,313; representing a 10% increase.

- *SEP Contract*

  +$1,825 with contract amount of $440,925
  Department will need to reimburse HCPF the $1,825 under expense.
  Contract amount for SFY05 is $414,470

Child Welfare Audit/Site Visits

Colorado Department of Human Services staff will be conducting a site visit on September 14th to look at our Adolescent Mediation Program; a Core Services Expansion grant, that the Department received funding for in SFY04 and again this year. Also, the State's Administrative Review Division is scheduled to conduct a program audit of approximately 60-70 child welfare cases from September 20 – 23.

Program Reports

Lynn submitted the regular program reports for the Board to review.

Discussion and approval of contracts
Mountain BOCES – Adolescent Day Treatment
This is for a total amount of $25,650.00 with fixed monthly payments of $2137.50 during the July 1 – June 30, 2004-2005 SFY.
Colorado West Regional Mental Health Center – HCBS-MI
This is to pay $75.00 per day per youth receiving services under the terms of the agreement.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the two contracts and for Colorado West this includes signing the business contract and the Chair authorized to sign; motion carried.
September 20 and 23 a Child Welfare Audit
BOARD OF HEALTH
Mary Meisner, Director of Public Health
Colorado Department of Public Health and Environment Prenatal Program Contract
This is the Limited Amendment No. 1 for the sum of $79,320 to perform the work described in the original contract signed 9-29-2000 and ending on September 30, 2005; basically to administer the prenatal services program in accordance with the "Prenatal Care Guidelines."
952 Trust with Georgia – Mountain Family will bill CDEHP and Georgia will pay the bill.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the CDPHE and Environmental Prenatal Program Contract for $79,320.00; motion carried.

Letter of Agreement between University of Medicine & Dentistry of New Jersey & Garfield County Public Health Nursing
This is an agreement for supervised clinical services for 128 hours the months of September through December 2004 for students performing supervised clinical experience of pediatric dentistry. ***Michelle Hosack - intern***
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the contract between University of Medicine & Dentistry of New Jersey and Garfield County Public Health Nursing for a student working her internship. Motion carried unanimously.

West Nile – Mary called the local labs and there have been 52 tests and all are negative. Mesa has 75 confirmed cases and one death. August through September will be the largest concentration.

Mile Pond is still a concern and they are spraying again. There is a salvage area and Mary's concern over tires and cars stored may be a breeding place.

Program Reports

Clinics are busy – Head start Physicals and Back to School Immunizations

WIC has 1,004 clients.

Transition process continuing between Mountain Family. $750.00 is as low as possible for the pre-natal care.

The Commissioners can be very proud that they kept the nurse/evaluations in place.

Slated to move in Mid-October into the new space at GMA – the entire downstairs will be devoted to them. Healthy Beginnings will be moving out of Mountain Valley Building. The WIC clients will move to the former Healthy Beginnings area and the exam rooms will become WIC interview room.

Carolyn Dahlgren – asked if the Commissioners wanted the"rent wash" to end when they move out of the building. Upon termination of the lease, the grant money will stop.

Mary Meisner stated the Board should be proud to of the arrangements they made for the space. They will be taking the furniture over to the new space. Mary would like to donate some furniture to Healthy Beginnings and be used in prenatal care.

Commissioner Houpt – noted when this was being discussed and the furniture would be going with them.

Carolyn said for County owned purchases, it depends upon the funds allocated. Vesting will be looked into for private industry. She suggested talking to the funding sources and projected a lot of research will be needed. Carolyn said the furniture that belongs to the not for profit Solution – allow them to move across the street and let them just use it. When it becomes outdated, or broken, it will be discarded and taken of the inventory lists.

Adjourn
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

PROCEEDINGS IF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GLENWOOD SPRINGS, COLORADO
AUGUST 30, 2004

The special meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, August 30, 2004 with Chairman John Martin and Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

COUNTY MANAGER

Public Hearing:

RFTA – Consideration to Enter into IGA

The Amended Intergovernmental Agreement concerning the vote to join RFTA together with revised ballot language concerning that membership together with the revised ballot language concerning that membership was submitted for the Board.

Don determined that notice was adequate and timely and the Board was entitled to proceed.

Dan Blankenship and Renee Black were present.

Don presented the IGA for discussion; this is an agreement to enter into a vote by the voters. Split the cost was open for discussion. Don pointed out that as part of it; the Board is to agree with the ballot language with RFTA. The Ballot Question in order to be on the November Ballot requires the Board pay for the election upfront and then obtain reimbursement with RFTA. The next meeting is the latest we can go in making a determination of the Ballot language. However, the Town of Silt and Don is convinced that the Ballot language submitted by RFTA is sufficient.

Commissioner McCown – noted there was an $80,000 disparity in the two ballot questions.

Don – Dan did some recalculations and the amount should be raised per his most recent calculation. The first fiscal year is estimated at $723,000.

Commissioner Houpt – if we agree the paragraph to split the cost – paragraph 16 ….

Renee requested to remove the paragraph 14 regarding holding a public hearing. This is not needed.

Don was aware of this request; it may be a requirement for the RFTA Board and does not agree as he feels RFTA needs to hold a public hearing but it is not a requirement for the Commissioners. If they want to take the risk it is theirs.

Dan – Exhibit A – RFTA proposed Ballot Language

Status of the STB August 16, 2004 Order – why the option to reactive the Rail.

Chairman Martin – brought up the old rail issue. We're now revisiting the 1998 discussions.

Dan – there are two major points to make: 1) Going back to the purchase of the rail line – it was active. When it was purchased, they had the right to run freight. Orison demanded that rail be used for freight. They also filed "rail banking" or abandoning the corridor and when you want to reactive, RFTA had the right to reactive rail services. After 2000 when the RFTA was formed, all rights and obligations were assigned to the RFTHA and RFTA assumed all those obligations. As part of that Resolution there was a section, officer and employees take whatever measures to ensure all the assets, privileges, and obligations. This was on November 15, 2001 – it was not clear that when you assign all the things and change the ownership, the right to reactive didn't automatically transfer. They had to file; it turns out that you have to put you name of the title, latest offers. Charles Montane, based on recent precedent, the right didn't automatically occur and you had to file, showing assets, had to be transferred. This is similar to a water right – 20-30-50 years down the road, and as Dan, an officer – make sure this right was transferred.

2) we're not as RFTA to construct a rail system without a vote of the people but it might be possible to request RFP/ Excursions , short line operations have generated interest, owns and operations - Canon City, Georgetown Loop service. RFTA is looking at all of its options, some type of operation to occur between Glenwood Springs and Carbondale, and if so decisions need to be made. They don't want to do that, when you salvage that rail the options are closed. They don't want to do this, maintain the corridor – A & K – saved by the public in 1998 and don't want to make a mistake and foreclose any option. The Board is trying to make a decision that will affect the community – a suggestion in 5 years, fuel is projected to be $5.00 per

gallon, when you want to reactive the rail, it's easier to upgrade the current rail. Technicalities, RFTA board trying to do the right thing. A & K offered $900,000 for the salvaged rail the same as in 1998. Cost of steel raises that price 3 times.
Commissioner Houpt – County Attorney affirmed that the issue is cleared.
Chairman Martin – October 2003 – Charles Montane, why are we hurrying before the election?
Dan - this is well within our bounds and this is when it happened.
Chairman Martin - With discussion of dinner train, this Board offered $30,000 to $40,000 – CR 100 to Blue Creek – now not able to do that. Not the right use for that sales tax. He holds his position on RFTA.
Commissioner Houpt – like to say that the question is before us as to whether we are going to offer this to the Voters and not assume the rest at this time. For as long as RFTA and RFHTA, the rail corridor has been in place and not surprised that they simply want to muddy the waters today. Great confusion – some confusion – lack of understanding on the County's side of the IGA, what kind of protection will be in place and our opportunities to draw from RFTA and those safeguards are in the IGA and as Commissioners have looked into that and making sure that GARCO is not paying for Pitkin and thinks we should move forward. Our constituents have received service – we should have a voice at the table and that the voters agree we should be on how transportation moves forward.
Chairman Martin – These are old issues that have been brought up; the responsibility is to do the best for Garfield County. The residents have contacted us and this is not the question on bus service; it's a rat hole filling up with sand and not the way our tax dollars should be handled
Commissioner McCown made a motion to close the public hearing. Commissioner Houpt seconded; motion carried.
Commissioner Houpt made a motion to adopt the language in the IGA concerning a vote to join RFTA deleting par 14, and revising 17 to read "where as RFTA agrees to pay the proportional share". Chairman Martin opposed; McCown – Houpt aye. This does include authorization for the Chair to sign.

Ballot Language
Commissioner Houpt made a motion that we approve the ballot language as referred to Appendix A submitted by RFTA with the change in the financial amount indicated to $723,000 versus $642,000 and the typo corrected in County. Commissioner McCown seconded.
Don – this is an unknown territory – this is uncharted and relies on bond counsel and what we would generate, it would have to fund debt and RFTA has the greatest risk.
Martin – opposed; McCown and Houpt – aye.

3rd motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the chair to sign the IGA with Clerk and Recorder to place this item on the agenda and be reimbursed; Houpt – aye; McCown aye; Martin – nay.

Consideration of Renewal of Fire Ban- Resolution No. 04-46
Commissioner McCown moved to continue the Fire Ban until September 20, 2004; Commissioner Houpt seconded; motion carried.
EXECUTIVE SESSION – Board of Adjustment, Oil and Gas litigation issue, DeBeque Fire Protection District
DeBeque Fire Protection Resolution
Carolyn Dahlgren said we haven't discussed whether the BOCC would be willing to except the cost of a failed election on that and for her to be able to let the DeBeque Fire Protection District to know your decision.
Mildred projected the cost of the vote in that district to be around $1.50 per vote. This is in one portion of district and only one precinct would be affected.
Commissioner McCown moved to accept financial responsibly for a failed election cost of the DeBeque. Commissioner Houpt seconded; Carolyn will notify the fire district of their decision. Motion carried.

Commissioner McCown moved to go into an Executive Session to discuss EnCana; Commissioner Houpt seconded; motion carried.
Competitive Ranch Determination for Human Services Building – Tim Arnett and Randy Withee
Ed Green, Tim Arnett, Randy Withee, Jesse Smith and Don DeFord were present. The evaluation team recommends that CMC Group, Inc. be considered the only firm within the competitive range for this

procurement and that negotiations be conducted with CMC Group, Inc. for the purpose of providing Design Build services for a new Human Services Building in Rifle, CO. Members of the evaluation team consists of the following: Jesse Smith, Dale Hancock, Mary Meisner, Diane Watkins, Mark Bean and Randy Withee.
Don and Ed had a brief discussion and this needs to be handled in Executive Session initially.
Don elaborated that he and Ed discussed this and the County's purchasing code provides that the identity offers and any information they submit by offers in regard to competitive sealed proposals needs to be kept confidential until a final award at which time all of that information becomes public. In a similar manner, the Colorado Open Meetings Act provides under 24-6-402(2)(a) that you are entitled in Ex Session to discuss the purchase acquisition of any sale in Ex Sess. This is discussions, the board is not entitled to make the final decision on any item in Ex Sess. Don does anticipate out of any Ex Sess any discussions you make today, and in a confidential manner give direction to the staff to proceed with contract negotiations. But most of that discussion will have to occur in Ex Session to comply with purchasing code because of necessity it will involve discussion of information submitted a number of offers.

Action taken
Don framed the motion – we need authority for either the Chair or all members of the Board to sign a letter to EnCana expressing concern about their management structure as drafted by Ed and Doug. Commissioner McCown so moved; Commissioner Houpt – second. Chairman Martin – would like to see all three Commissioners sign; all three agreed this was fine. Motion carried.

Authorize the retention of Steve Carter to act as the representative of the BOA and to continue forward with the next phase of the hearing. Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.

Ed has asked that the Board reassemble in Executive Session and it is under the provision 5.02 of the Purchasing Procurement Code to present confidential information on the proposal process for the new County Administrative Facility in Rifle – this is strictly to provide information in the process and provide direction to the staff for contract negotiation, if any action is taken, the Board would come out of Ex Sess to do that.
Commissioner Houpt moved to go into Executive Session; Commissioner McCown seconded; motion carried.
Commissioner Houpt moved to come out of Executive Session; Commisisoner McCown seconded; motion carried.
Action taken
The evaluation team made the following recommendation:

- CMC submitted a complete and fully responsive package with a proposal that included a cost estimate within the stated budget range;
- Three (3) other firms submitted responsible packages that provided adequate completion for this RFP;
- Based upon the independent evaluations of the evaluation team, there appears to be a clear separation between CMC's proposal and the others.
- It was the unanimous conclusion of the evaluation team, that the other three (3) proposers, even with further extensive discussions and negotiations could not remedy the deficiencies in their proposal to the point they could be considered a part of the competitive range.
- Based upon the conclusion of the evaluation team no other proposal could have their proposal cured to the point of being in the competitive range. Therefore, it is the evaluation team's recommendation that CMC be considered the only firm in the competitive range.

Commissioner McCown made a motion that we authorize staff to move forward with the negotiation with CMC as the contractor for the Human Services and Public Health building in Rifle at the Fairgrounds. Commissioner Houpt - are you going to include in that the 15% base expansion. Commissioner McCown – only if the budget will allow it that will come in with the scope and size of the work that will show up in the negotiations. Commissioner Houpt – I will second that if it's understood that needs to be part of the discussion. Commissioner McCown – well if the 15% puts the building over budget, we will not be able to build it.

Don – one approach to that and Ed may not like this, is to bring that type of proposal back as an alternate.
Ed agrees.
Commissioner McCown – we can do an alternate but as long as it is within the budget.
Commissioner Houpt noted for the record that she really appreciate the work that staff has done on this process to the point, but also believes that anytime we're making decisions in the millions of dollars, that will be with this County for a number of years, that we should have a system to allow the County Commissioners to be involved in the process as well and have not seen that at an appropriate level with the scope of this building.
Chairman Martin – to let you know I have full confidence in our staff, the selection committee, our Purchasing Code and everything has been finalized through that and that we have also had a hearing saying that we will not deviate from our Purchasing Code, etc. and that we have followed that verbatim so, I'm very comfortable with the way we're going about doing things and have in the past.
McCown – aye – Martin – aye – Houpt – aye

Randy Withee – hold at $1,000,000. Basically this is the contract language typical.
Commissioner McCown - $100,000 of which goes to the City of Rifle.
Randy – basically this contract will be between the County and DOLA. This is a separate deal with Rifle
Commissioner McCown – I know that we're getting $1 million dollars but $100,000 of it has already been allocated to the City of Rifle, no matter which pocket you take it out of.
Ed said it may not come out of the $1 million that we get from DOLA.
No matter, we will only receive $900,000 from the DOLA grant.

Brochure from CSU – Pat McCarty submitted this to Commissioner McCown last week. CSU at Ft Collins is doing the normal thing that the State of Colorado is doing, they are cutting funding and keeping their mandates in place, placing the issue on Pat's shoulders to come up with an extra $5,000 in funding this year to replace mailing that's been handled by CSU – they are no longer going to handle. Pat asked if we could see fit to allow half of that to come from his budget and he will try to implement in the meantime methods of raising funds i.e. charging for services that have long-time been given and has been expected by the constituents of the County for Extension Office providing those services. They are now going to have to try to come up with a fee schedule to generate some funding. Apparently, his budget is in good shape – he is not utilizing all that they have received this year so it will not be an impact to the County.
Ed said he'll leave $27,000 on the table this year. This will come in during budget discussions. This is a heads-up – Pat thought he had a year to deal with this and try to implement some fundraising but it took effect in July.

Sutank Bridge
John Hoffman rec'd the letter from Don; this comes to the Board on the 7th. John Hoffman will contact the State and we'll hear this on 9-7-04.

Sweetwater Building
Commissioner Martin met with the Community of Sweetwater and would like to finalize that and move the building and fund $10,000 and will need authorization for IGA

COUNTY ATTORNEY
Private Activity Bonds
More information was needed and this was continued until September 7, 2004. Email from a deputy – 20 mph and Marvin updated.

Rifle Village South – had 35 mpr and moved to 20 mpr – everyone is fine with that – this is at the exit.

Strategic Planning – Hotel Colorado – 8:30 a.m. September 20th.

DDA – Ballot Question
Mildred took over a copy of Chairman Martin's Drivers license and a copy of minutes and Robin will be sending a copy of the Ballot.

PUBLIC HEARINGS:
CONTINUATION OF A PUBLIC HEARING FOR CONSIDERATIONM OF A SPECIAL USE PERMIT TO ALLOW THE OPERATIOHN OF TWO BUILDINGS FOR OIL AND GAS RELATED INDUSTRIES. APPLICANT: ROBERT T. LAZIER – JIM HARDCASTLE
Jim Hardcastle and Carolyn Dahlgren were present.
Exhibit W – West Divide Water Conservancy District – Application – Amend Water Lease.
Chairman Martin entered Exhibit W into the Record.
This is a continued public hearing.
Chairman Martin swore in the speakers.
New information was submitted and a discussion was held since. The following is a list of the staff's recommendations.

STAFF RECOMMENDATION
Staff recommends **DENIAL,** for the following reasons:

1. The Applicant has not shown the application to be in conformance with the County Land Use Maps.
2. The Applicant has not considered nor demonstrated the social and environmental impacts of the proposed industrial use.
3. The Applicant has not considered nor demonstrated the compatibility of the proposed uses with adjacent land uses of mitigation of impacts.
4. The Applicant has not demonstrated the how the location of the proposed use will reduce visual, noise, air quality, and infrastructure impact. (Because specific uses are not identified).
5. The Applicant has not demonstrated consistency with the long-term land use objectives of the county based on the lack of information that describes the proposal type, size, and scope of industrial development.
6. The Applicant must demonstrate the proposed use is not on an illegal split of property.
7. The Applicant has not demonstrated the ability to provide required water rights that would adequately serve the proposed use for daily office and industrial uses or for fire protection.
8. ~~The application has not demonstrated the existing infrastructure can accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use~~.
9. The proposed use has not been ~~described in enough detail to provide staff information to determine whether the proposed use~~ is designed and organized to minimize impact on and from adjacent uses of land in such a manner as to protect the perceived and proposed neighborhood character.
10. The Applicant has not discussed impacts on wildlife and domestic animals, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.
11. The applicant shall provide a Wildlife Report to the Colorado State Division of wildlife with response sent to the Garfield County Building and Planning Department noting satisfactory compliance, or mitigation actions recommended by said agency which shall be in place prior to issuance of the Special use Permit.
12. The applicant shall provide a Vegetation Report to the Garfield County Vegetation Management Department with a response sent to the Garfield County Building and Planning Department noting satisfactory compliance, mitigation actions, security or any other requirements recommended by said department which shall be in place prior to issuance of the Special Use Permit.
13. A site obscuring Landscaping Plan showing proposed full screening, which may include berms, landscaping and sight obscuring fencing or a combination of any of these methods, for all outdoor storage areas. Additionally, all storage of heavy equipment shall b3 enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. This plan shall be submitted to the Garfield County Building and Planning Department and approved prior to issuance of the Special Use Permit.
14. Hours of operation shall be 24 hours for all activities internal to the proposed structures (not including outdoor storage) and any operations that would generate excessive noise will be limited to 8 am to 6 pm Monday through Friday.
15. The applicant is proposing to operate two separate buildings of 1500 to 10,000 sq ft in size for oil and gas industry related companies in or near the Grass Mesa area allowing for storage of oil and gas drilling equipment storage and striking handling of material handling of natural resources as staff has not received any information discussing this particular item. It was included because it was part of the original request from the applicant, but we are requesting that be stricken at this time. There shall be a total of 8 employees allowed for each of the two buildings, for each of the 2-acre building envelopes, the use shall only allow

one building for the oil and gas industry vehicles of various sizes as submitted to the planning department related to the oil and gas industry. A repair shop and maintenance facility with materials related to the oil and gas industry in a warehouse and office facilities as noted in the application.

16. In accordance to Section 9.03.05 of the Zoning Resolution of 1978, as amended, this Special use Permit is subject to periodic reviews not less than every six (6) months. The purpose of such review is to determine compliance or noncompliance with any performance requirements associated with granting the Special use Permit. The periodic review is limited to the performance requirements and conditions, of this Resolution, imposed at the time of the original issuance of the SUP.

The recommendations were reviewed.

Commissioner McCown would like to have Condition No. 16, your six month review, it's not limited to one 6 month, the way it reads it would be a review for perpetuity as long as this SUP in place. I would not have any problem with an administrative review at 6 months but I don't think we want to get into a situation where we're noticing and reviewing this particular building every six months.

Jim – clarified that the intent was for one 6month review.

Applicant: Tim Thulson said that this is the 3rd hearing on this application. And as you recall after the first meeting, we were continued with instructions to come back with more specific delineation of the uses that we were planning at these two sites. We have done that and then at the last hearing we continued for purposes of receiving an amended West Divide contract allowing the commercial use even thought it's not defined the same as commercial zoning and we have done that. We've worked with staff quite diligently and believe that the conditions of approval are satisfactory to us and urge that you adopt it with the following amendment that I did talk to Jim about this morning and that's regard to Condition 15, right now it's a total of 8 employees for both building for each and we will like to increase that to 12 at each building and 24 total and the reason that we were towing with these number is there's this regulation out there with a water quality control commission and there's some confusion in that regard but the primary issue is the system capacity and this is also required for permitting water systems, the jurisdictional basis is if it serves over 25 different people over a period of 60 days or has greater than 15 taps and we wanted to keep that number and willing to keep it under that jurisdictional limit and the reason we want to go to 12 at each site, that would allow the most flexibility as possible on the applicant's part. As stated we come in with any further buildings, we will have to amend the SUP to allow that and we'll have to address that issue at that time. But right now at 12 each with 24 total, we're not under the jurisdictional requirements of system capacity and also some of the reasons we'd like to change those numbers from 8 to 12 and from 8 to 24. With regard to the well, the well that serves this property was drilled under an exempt permit, we have an application that has been with the State Engineer for approximately a month to change that to a non-exempt and the only consideration they will be looking at in that regard is whether there is another well within 600 feet and there is not a well within at least ½ mile. With regard to the landscaping plan, we did submit a plan, staff had some comments regarding the adequacy of that plan and rather than re-do it under the short time table we were under, because it's talking about the outside storage of equipment, we're willing to comply with all those conditions as a permit of issuance. Closing comment – everyone knows what's going on, the Commissioners know of the oil and gas boom and this addresses a large need in the county, and in this regard, Tim noted that he was at the City of Rifle on behalf of another client last week and south Rifle has quite an issue with the number of contractor yards being put up in south Rifle. It's my understanding just talking to Matt Surgeon and Jason Nash, the Planning Department in Rifle there's upwards of 20 properties that in violation of their light industrial zoning because of the oil and gas support companies coming in and putting in their contractor yards and that is quickly becoming a large issue. This application will have the effect of placing more of these contractor yard type storage areas in the vicinity where they're going to be used; it will be a benefit to the County.

Commissioner McCown – 6 months review, do you feel comfortable to finish this project for review in 6 months?

Jimmy – yes sir.

Commissioner McCown – and that would include the screening and landscaping and everything.

Jim – yes – prior to the end of this year with landscaping.

Commissioner Houpt – will that give it sufficient time to have it up and operating so that we really get a true understanding of what's going on.

Jimmy – yes. We plan to have the first two buildings actually up and running prior to the end of this year with the landscaping in place.

Commissioner Houpt requested the applicant to explain why you need a 24 hour schedule of operation.

Jimmy – well it's been requested most of these folks do work in this industry 24 hours, they won't need to be working on their outside equipment but they do in fact come in and out for 24 hours. The potential for running the business operations 24 hours a day, not necessarily on this site. But it could be, mostly they're out in the field.
Commissioner Houpt – has a concern for this period of time with mixed use area with a planned residential area and it doesn't makes a great deal of sense to have an industrial site running 24 hours
Jimmy – regarding the original comments for a PUD by Commissioner McCown, the landowners of this 38.8 acre parcel is now working with the other three land owners on the 168 acre, we are going to attempt and it has to be an effort from all four landowners to submit a PUD to address your concerns and actually create a PUD on the project rather than doing it with SUP. The Dalbo may very well join this application. As far as the residential, known as the Mamm Creek Commons, LLC. Those residences on that plat, which you haven't seen yet, it goes to P & Z on September 8th, those residences are really situation on the West side of the hill and over on the Grass Mesa Road, which are really two separate areas from where this development is going, and Jimmy is the owner of the Mamm Creek Commons, LLC. and we believe the mix can be obtained very well.
Commissioner Houpt doesn't agree with that. An industrial operation 24 hours a day, 7 days a week impacts other uses.
Commissioner McCown – you're aware that this is immediately adjacent to the power plant that runs 24/7 and it's mostly industrial.
Tim – addressed this, given the growth of the oil and gas industry, this is, I believe the master plan outlines residential and this is A.R.RD zoning and as you are aware, the zoning codes and master plans always like defined what's going on especially when you have a growth spurt in the industry like right now. I think the primarily character of that area right now is industrial, it's primarily heavy truck traffic going to and from the wells, the drilling operations are running frac trucks 24 hours a day, the drilling is going on 2 shifts 24 hours a day. It's a real misnomer to state that this is residential area at this time. It is primarily industrial.
Commissioner Houpt – it is residential, they are drilling in a residential area Tim and it's very offense to those landowners for people not to recognize it is residential. It's not industrial, it may have industrial usages in it right now, but it is Ag/Residential and those people are living in their homes while that drilling is going on and I think there needs to be recognition that maybe it shouldn't be 24/7 on the heavy activity. We shouldn't have truck running these roads 24 hours a day, that's why we're putting pipelines in so that we can ease the impact in the evening hours for the people who are living out there. There are a lot of people living in this area, not adjacent to what you want to put together, but my point is, is that I don't believe this industry should be actively running equipment up and down roads through these residential areas 24/7 – people are living there. .
Tim – what we're talking about is during the outside the hours of 8 – 6 we'd be inside the building and it can't be a noise activity and there are a lot of people that agree with the 24/7 operations with oil and gas and unfortunately that's more Oil and Gas Commission and there's not really anything we can do to address that but we are limiting it to those hours to inside activities.
Commisisoner Houpt – but you're promoting the 24/7 by having the 24/7. I think your statement of the activity going on in an industrial area is wrong, they're drilling in areas where people live and I think that needs to be corrected.
Tim – we're trying to recognize it by limiting our activities inside to those hours.

Commissioner McCown moved to close the Public Hearing; Commissioner Houpt seconded; motion carried.
Commissioner McCown made a motion to approve the SUP with corrections noted by staff including the comments of the applicants changing the number of employees to 24, 12 for each of the two buildings and an administrative review of compliance in 6 months, failure to meet that compliance would result in a public hearing and status of the permit. Commissioner Houpt – second.
Commissioner Houpt – I have grave concern over the 24 hour activities that we're allowing on this site. I don't think it's in the spirit of working to ensure that this industry is compatible with the folks who live in the area and anyone who is working in connection with this industry I think should be part of the solution.
Chairman Martin – that goes along with a lot of the industries, along with the railroad to the highway to the supermarkets, to all of the shipping folks and what have you and where they're located and how it affects the immediate neighborhood. It is a concern to a lot of us around many of the issues. We're an animal that

seems to adapt and to make our way through so we'll see how it goes. It's reviewable within 6 months so Jimmy the burden is on you.
Martin – aye; McCown – aye; Houpt opposed.

Adjourn
A motion was made by Commissioner Houpt and Commissioner McCown seconded to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS
SEPTEMBER 7, 2004

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 7, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Accounting and Human Resources presented the next milestone in the conversion of the Accounting system

Jesse Smith said this is the latest milestone in the computer conversion. Recognized Linda and JoAnn presented the "rock" symbolizing the step that the staff is doing which is the general ledger, the accounts payable and accounts receivable. Patsy Hernandez accepted the "rock" and the mark on the thermometer was moved upward toward the goal of completing by the end of 2004.

Funds from the COGGC

Leslie Robinson representing United Way addressed the Commissioners regarding the allocated $371,000 by the Oil and Gas Commission with respect to EnCana's violation and dollar penalty. Where it will go? United Way did apply for money from the proceeds and would like a second consideration because they represent many agencies that help people who are impacted by disasters. Very few of the projects recommended as the top priorities affect the people that were affected.

Peppi Langegger spoke on the COGGC money and expressed that some of the funds should help the people that were directly affected. The water is the big issue. EnCana has been fined for procedures they didn't follow and for damages to the environment. It is irresponsible to spend the money on anything other than studies to prevent this for the future. Studies like LaPlata County performed were referenced that focused on the affect the drilling really has done to our land and to Garfield County. The warning signs are out there and a lot of people were not affected as much as his land as he was in the middle of it in Divide Creek. What happened to him and the others will affect all of the County. The money should be spent on the problem.

Chairman Martin noted that this will be on the agenda this morning and discussion will be held.

Alan ____ representing the Grand Valley Citizens Alliance asked the BOCC to delay this decision until October. There are 37 requests and it makes sense to delay the process and look at these projects. Discussions with Doug Dennison were to have some kind of studies or on-going monitoring that should be started. It makes sense to use common sense to obtain baseline studies to see how we are affected. Take time to look at the proposals. He would like a time set where the organization could sit down with the County and have a workshop.

Commissioner McCown – asked Alan if they were going on their on to present a proposal through the Western Congress; Grand Valley Citizens Alliance didn't get the allocation into the county for consideration.

Commissioner Houpt said she has received calls from people who were in attendance at the COGGC meeting. We were given a short time and this surprised her to see there were 37 requests. She supports time to review these request.

Chairman Martin – the projects were given to the Energy Advisory Board to prioritize and these will be discussed.

COUNTY MANAGER UPDATE: ED GREEN

EAB Recommendations on COGCC Public Projects – Sam Potter and Harlan Hansen

Sam Potter and Harlan Hansen of the Energy Advisory Board (EAB) were present.

Ed handed out a list of recommendations for the Board's review and discussion.

Harlan Hanson, Chair of the EAB stated in Doug's anticipated absence that they tried to come up with some kind of rating program and decided that points would be assigned to these requests

Sam Potter – citizens representing Rulison, Hubbard Mesa, and Taughenbaugh on the EAB said they they had to follow the rules given and the direction to them was to prioritize these for the Board's consideration. He felt the EAB did a marvelous job of prioritizing these.

Harlan said there were 13 voting members present on Thursday. 5 citizen representatives, 4 industry representative and 3 government representatives. One citizen representative present was Peggy Uteush for Grand Valley Citizens. They started on the process and spent 3 hours trying to evaluate these proposals. Ed and Don were present at the meeting. They had 4 criteria and used a 10 point question to evaluate. They gave the projects a 30 point cut off to go further into the process. When it became clear that the 7 projects listed in the report given to the Commissioners were the qualifiers, a motion was then made by Walt Lawry and seconded by Peggy Uteush to present these 7 projects without ranking to the Commissioners. He said these 7 things were identified that are of interest to the EAB. They are comfortable presenting these 7 projects today. These seven projects are:
West Divide Field Waste Water - $20k
Hydrological Characterization Study - $300k
Community Health Risk Analysis $55k
Soil Conservation Service – Weed Cost Share - $50k
Energy Forum -$15k
Well Site Restoration - $120k
Hazmat - $370k

Sam said everyone on the EAB was frustrated with the amount of requests and material. Harlan had time to review the material in advance and doesn't think that more time would be needed; they used the criteria that Sam stated and made it clear what requests could be considered. He agreed that if they had the material a head of time it would have been helpful. There was one dissenting vote to present these 7 projects to the Commissioners.
Commissioner Houpt asked for their opinion if this decision should be postponed.
Chairman Martin stated that he felt the EAB concluded they were finished and now it was up to the Board to make the selection.
Harlan felt these 7 were the ones. He was comfortable requesting approval today of the $15,000 project to start an Energy Forum to educate the public on the Oil and Gas Industry and State Regulations. He's given 4 presentations to organization on the Oil and Gas Industry and people are hungry for information. This is reasonable and then deal with the other 6 projects. He stated that a lot of work went into the prioritization of the project and the EAB thought it was done.
Sam hasn't had any feedback.
Commissioner McCown thought it best to be cautious as we need a very clear choice when making the recommendation, which it is, to the State and now we're reluctant to have a recommendation on the 24th for the COGGC. He added that the Oil and Gas Commission would not be able to grant a postponement until the meeting date and then it would be too late to have a recommendation.
Commissioner Houpt clarified with Don that the Western Colorado Congress proposal could be given separately.
Don said they can go in individually but felt it was better to have them included.
Sam said Peggy was in favor of the 7 projects and didn't want it separate. After we give people deadlines and tell people we are going to have a decision and then change the rules later, is not good. To reopen the examination of these projects with the EAB would be beneficial. They did prioritize the projects.
Commissioner Houpt recommended that the Board take time to review these 7 projects from the EAB and the one from Colorado Congress and invite Western Colorado Congress and EnCana to meet with the Commissioners to make a final determination.
Sam Potter commented that EnCana and Peggy Uteush were active participants at the EAB meeting and to a certain extent they have been active in the presentation.
Chairman Martin asked for the Board's input to have this placed on the agenda, meet and go forward.
Commissioner McCown would like to make a decision next Monday and not hope for a continuance to be granted by the OGCCG.
Commissioner McCown so moved to put this on the agenda for next Monday during the 8:15 a.m. time.
Commissioner Houpt seconded; motion carried unanimously.
Approval of Revised Policy regarding Use of Computers and Electronic Communication
The policy is applicable to all employees utilizing the County's Internet and Internet email technologies. The email and internet service is intended to be used for county business purposes only however it is not intended to disallow minimal personal usage during an employee's meal period or break time, such as

purchase of travel tickets or ordering prescription medications through the County's health plan. The policy 5.13 will be submitted to all employees.
Brian and Judy Osman and Carolyn worked on this policy.
Brian suggested limiting this to County use only but was outvoted. There are new viruses and now you can get a virus by just visiting a site.
This is a County policy and clarification was made that all elected officials will sign off on this.
Mildred said they were in agreement with this policy. Carolyn said it would be very hard to enforce no personal use. Brian – this is to try to make sure the policy is abided by; it's a tool to monitor personal usage.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt the policy governing the use of computers and electronic communication. Motion carried.

DOLA Grant Contract for Human Services Building – Randy Withee
Randy Withee presented. The contract was submitted.

Revenues		Expenditures	
Energy/Mineral Impact Grant -	$1,000,000	Engineering Design, survey, testing	$ 142,572
Contractor Funds	1,472.887	Service Center Construction	$2,330,315
Total	$2,472,887	Total	$2,472,887

Randy asked for the Chairman to be authorized to sign this contract.
The ballfield funds will come out of another fund and not under the DOLA grant.
Don remarked that our obligations to Rifle are with them separately.
Commissioner Houpt so moved to authorize the signature of the Chair on the DOLA grant. Commissioner McCown seconded; motion carried.
Morgan County Request for Cattle Sale at the Fairgrounds
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to donate $100 out of the Commissioners fund; motion carried unanimously.
TREASURER
Jesse Smith presented and said that Georgia reported she had received the revenue payment for "game penalty" in the amount of $25,700.62 of which $25,000 was to be paid as a pass through for that fine. She requested Jesse to advise her of the correct agency or person to issue a check.
This was before the Board on August 2 at which time the Sheriff recommended the payment of $25,000 be paid to the Division of Wildlife; therefore, Georgia should forward the check to Pat Tucker at DOW.
Georgia presented the Garfield County 1 cent Sales Tax Report for August 2004 showing the gross amount of $4,407,787.
COUNTY SHERIFF UPDATE: LOU VALLARIO
Unable to be present to provide an update.
COUNTY ATTORNEY UPDATE: DON DEFORD
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Private Activity Bond – 9-12-00 – code enforcement on Raymond property; ongoing litigation with EnCana; contract with DOSS and the CA; and material updated rule 106. on Pine Stone – litigation update.
Mark Bean and Lynn Renick was requested for Code Enforcement and DOS respectively.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session to discuss the aforementioned items; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken
Don requested that the Chair be authorized to execute a letter to Oil and Gas Commission informing them of Dr. Thyne review of the latest from 127 Remediation Collective Plan and his request for alterations in that plan and include the request on the additional safety training put on by DuPont as a recommendation. Don said he will attach to a pleading that will refer them too the appropriate statuary sight so they can modify their existing orders. Commissioner McCown so moved; Houpt seconded; Motion carried.
PRIVATE ACTIVITY BOND RESOLUTION
Don submitted a memo addressed to the Board with respect to the carry forward of Private Activity Bonds. The Board must address this issue on an annual basis. Under specific circumstances, we are allowed to carry forward our allocation for a period not to exceed 3-years. This is our 3rd year for carrying forward the

allocation if this is what the Board wishes to do. The IRS form was submitted as well as the draft Resolution.
Don stated that if the Commissioners wanted to proceed to carry forward the Private Activity Bonds, then he needed a motion to authorize the Chair to sign.
Jesse discussed the Resolution saying the 3 year amount that we will have if we carry over this $1.9 million is a total of $5,271,291 and we will have to commit and actually complete a bonding initiative by the end of 2005 or we will lose $1,642,163 at the end of 2005 unless we have a bond issue in place. With the carry forward it automatically restricts these monies for multi-family projects only. It cannot be used for single family projects. The question is can we have a bond initiative completed by 2005 and if not he is being advised by DOLA that a precedent would be set that we are allowing money to – CHAFA can use it for single family and put it to use right away and it would stay in Garfield County. If we carry it forward, it is for multi-family. CHAFA – any private developer can apply. Common walls constitute multi-family housing.
Don commented on CHAFA saying that the statute and the regulations do allow the Commissioners to direct these funds to CHAFA. In terms of directing this to Garfield County the statutory provisions are silent on restrictions you may put in place and so while CHAFA may very well honor your request, it is not legally binding on them. The funds have to be a bonded indebtedness. CHAFA can use it more flexibility and that's why this fund has been built up. CHAFA has a lot bigger pot of money to go after a bigger bonding issue that what the county would have. They have a lot more flexibility.

Commissioner McCown made a motion to divert $1,897,640 to CHAFA and authority for the Chair to sign both the transmittal letter and a Resolution specifiny the matter in which you're directing the use of these funds. Commissioner Houpt seconded the motion; carried unanimously.
Discussion of DSS Contract
Held in Executive Session
COMMISSIONER REPORT:
Commissioner Houpt – Wed. CCI western meeting in Montrose; Library ribbon cutting in Parachute; and another meeting in Parachute on 3 issues that the City of Parachute would like to have the County Commissioners meet with the newly elected officials on transportation; oil and gas impacts and communications. Thurs. morning is RFTA; 11:30 a.m. the I-70 Corridor Executive Committee meets in Summit County; and Friday CCI and Sat. is Club 20.
Commissioner McCown – same agenda as Commissioner Houpt except Associated Governments on Thurs in Palisade.
Chairman Martin – New Castle Town meeting tonight on a RFTA discussion; same meetings in Parachute as Commissioner Houpt; Two Rivers at 11:00 a.m. for CDOT appreciation asked for a letter to present thanking them for cooperative efforts on frontage roads, etc. Invited to Two Rivers at 4:00 p.m. on Thursday for Martha Kettle retirement to Washington for the Wilderness Society. Request of subcommittee for Club 20 to have a Caucus meeting. This is the 18th of October and requested to do this after the BOCC. There are a number of proposed and amended Resolutions. Marian Smith would like to call a Caucus – Board agreed okay.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign the contract and notice to proceed for United Companies for Airport Apron Extension. – Brian Condie
f. Authorize the Chairman to sign the Acknowledgement of Satisfaction of Subdivision Improvements Agreement and the Reduction Certificate for the Ranch at Coulter Creek Planned Unit Development. Applicant is SLC – Lawrence , LLC – Fred Jarman
g. Consider a request for a 1-year extension to file a final plat for the Callicotte Ranch Subdivision. Applicant is Rocky Mountain Mansions, LLC – Fred Jarman
h. Authorize the Chairman to sign an Acknowledgement of Partial Satisfaction Subdivision Improvements Agreement, Sun Meadows Estates, Sun Meadows Estates LLC. – Mark Bean

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the consent agenda striking item b; motion carried.

PUBLIC MEETINGS:

PERSONNEL COMMITTEE DISCUSSION

Dissolution of Committee

Georgia Chamberlain, Shannon Hurst, Mildred Alsdorf, Marvin Stephens, and Lynn Renick were present.
Mildred stated at the last personnel meeting, some members had talked and suggested disbanding the committee. Since the committee recommends things to the BOCC they felt this should be before them. The elected officials sign off on the policies.
Georgia expressed that the personnel committee is no longer an effective committee and they haven't been signing off on a pay plan and this is important. The other thing as far as recommendations wasn't aware of how this is flowing. She felt the Human Resources and EPIC committee should be the committee.
Commissioner Houpt – in the EPIC meetings, elected officials invited when something would affect them. Specifically asked for the input.
Marvin Stephens – before HR it gave a voice to everyone. The issues are mostly HR and could be dealt with Elected Officials. A lot of the meetings are HR issues. We have the EPIC and they mirror us. He favored disbanding the Personnel Committee.
Lynn Renick said the communication lines have changed with the growth of the County and the HR with a more structured department, the PC faltered in what they were to do. There is a monthly staff meeting with Department Heads, the Elected Officials meet and then the BOCC, more can be accomplished.
Shannon Hurst – The main thing was that HR issues are brought before the committee and it needs to be. Originally it was set up for pay grades and job descriptions. It was the only place where elected and department heads had meetings. The EPIC meets with Ed and they have been pleased.
Marvin Stephens complimented Ed on the Green Acres newsletter and said that this keeps everyone up to date on issues.
Chairman Martin and Commissioner McCown agreed on the disbandment as well.
Jesse – this discussion occurred between three members – Lou was one of them and he favored leaving the EPIC and continuing to improve the communication lines.
Mildred – EPIC will give their communications to HR. As elected officials they still need to be meeting with Ed. The elected officials also need to sign off on the Personnel Policies and be present when these are being discussed.
Chairman Martin - The BOCC needs to meet with the Elected Officials – this opens it up for that
Mildred commented that Ed and the BOCC have been meeting with the Elected Officials.
Commissioner Houpt favored that as well.

September 15 – Strategic Planning – Rifle Town Hall – 8:00 a.m.

Ed said this reflects that the organization is changing meaning we need to let go, and stop those meetings that are necessary anymore.
Carolyn stated there are two sign offs that need to occur here. One is statutorily mandated and that's the elected officials signing off on the pay plan and that has not formally happened although the elected officials have certainly had opportunity to talk to the board and in personnel committee each year about the pay plan. Judy and Carolyn discussed briefly with Don, but no chance to talk to administration about developing a formal process where this would occur each year at one of Ed's meeting with the elected officials. She asked if the Board wants that process formalized and turned into a Resolution whereby the BOCC says this is how it shall happen because the Statute requires that; the second is the Personnel Policies and Procedures and there is a tie here, but they are two different things, the Statutes don't say we have to have one Personnel Policies and Procedures manual and we've had experience with multiple ones in this county, so a pattern has established where we just do one Resolution at the end of each year updated the Personnel Policies and Procedures manual rather than doing one each time something has changed. That also requires a sign off by of each of the elected officials who wish to participate in the general personnel policies and procedures manual. However, as to the pay plan, that has to happen each year.
Chairman Martin – Strategic Plan – they will discuss the pay plan.
Carolyn was anticipated to be present to present this particular issue for Strategic Planning so the Board could make that discussion.
Commissioner McCown – when we're saying a pay plan are we saying the % of increase that we're going to approve in the budget and then how it's expended amongst the different elected officials and the county department heads through our evaluation process.

Ed – the bigger concern of the other elected officials is the matrix that emanates from that process and they have expressed an interest is seeing that matrix before we proceed with it.
Commissioner McCown - and that matrix would be deciding if it's a 4% increase.
Ed – basically how it's distributed using the individual's performance and their job descriptions. You basically take the individuals performance and peg that against their compo ratio and that becomes the entire matrix profile and it's just assigning the percentage increase numbers to that matrix profile.
Shannon – she is aware that Judy is working on something new this year in bringing up the salaries and she would like to be at that Commissioner's meeting when we review that. She wants that information before hand in order to review.
Ed – said we basically have a bi-mobile distribution in our pay right now and we've got situation where a lot of new employees are hovering at or just slightly above the 80% ratio. So whenever you hire somebody in you immediately have a salary compression problem. The dilemma is what to do with those folks that are stacked in that 80% range.
Commissioner Houpt would like this to be an Agenda Item for the Strategic Planning Meeting and from that we could end up with Resolutions to formalize the pay plan.

A motion was made by Commissioner Houpt to dissolve the Personnel Committee as recommended; Commissioner McCown seconded; motion carried unanimously.
CORERA – Ed asked the pleasure of the Board in doing further research for an alternative to COHERA and wanted to revisit this with the Board. He said COHERA is working on allowing counties to withdraw their funds. The Board prefers this.
Vendor Solicitation in County Buildings
Mildred Alsdorf said this started due to a difference of opinion. It was due to vendors coming into the office and approaching employees at work. In some of the buildings we've had the Mountain Man lady, Schwans, ordering Cookies from employees helping their children; some go into the office and approach the employees when at work. In the Clerk's office they come in and go back into the break room. She spoke to Eagle County sets up a place when vendors can come in. If this is done, you can't have individuals come in.
This means all vendors and if we do this you can't have somebody come in with all the different things that employees bring in such as cookie sales for Girl Scouts and all those different things. They didn't know if this come before the Commissioners and correction made as to what could happen in the buildings or should it be left up to the elected officials and the departments would go along with what the Commissioner say.
Shannon feels this is a distraction and interruptive and results in lost productivity; it should be one place, one time.
Georgia – it isn't a problem in her office.
Carolyn – the complaints came from this building about having vendors go from desk to desk, office to office during work hours. Our offices are not public forum and we don't have to let people come into our office for either commercial or religious speech or any other kind of speech. In the personnel committee discussion of this looking like there might be a distinction that each elected official may want to make a separate policy from what policy the Board makes for the administrative departments and we have discussed should the elected officials create a forum for commercial speech that would then also be a forum for all other kinds of speech. The elected officials have discussed this and they understand that they can't distinguish between different kinds of speech.
Shannon said as an elected official she would go with the decision the Board makes to the other department heads because it's important to have one decision, but think about also employees themselves go around desk to desk with catalogs and selling things and when you look at the amount of time that goes on in an office, it's a lot of lost productivity and that's what she looks at and not only singling out somebody but how much time is spent if you want to allow it, she would be prone to have it at one place at one time and they use their breaks to go In there.
Jesse –there is morale issue raised; when an employee approaches an employee because their son or daughter is selling candy for the school and he buys $5.00 worth and then another employees' son or daughter comes to me and selling Girl Scout cookies and he buys $10 worth, does it mean he likes one employee more than the other employee. All of a sudden you have morale problems. If it applied to everybody that they had the post up at a given location or appear at a given location and people voluntarily and purchased, that avoids some possible morale issues that do occur.

Georgia addressed the safety issue both in the Sheriff's department and the Road and Bridge department such as being interrupted in their work; they would have to address that.
Commissioner McCown wanted to discuss this and try to come up with something agreeing wholehearted it should be done, if it's allowed at all, done on their own time on a break time. She favored a specific time – only fair way to do this. Discuss this and come up with something. The Board will let everyone know.
Jesse suggested it might have to be a multiple locations.
It would be at one time at that location on that day.

DISCUSSION AND ACTION REGARDING SATANK BRIDGE GRANT AWARD

Carbondale John Hoffman and Don DeFord were present.
Letter from the State Historical Society
Sign this letter placing Garfield County as the owner of the Satank Bridge. After that, they will then send out an actual contract to review. Covenant – unique situation, a lien on County property and in this case this structure is listed with the State Historical Society.
The contract and the covenant have Tabor issues but most were undertaken more than 20 years ago.
Specific action on the $31,000.
John Hoffman – ready to go ahead with the plans and rehabilitation.
Russ Grizwell, Carbondale Town Council – in principal they agree with everything and may administer the grant themselves.
Commissioner McCown said when this was brought up the $31,000 was in-kind work.
Don stated this is in-kind work according to the minutes; the initial plan was placing footers requiring concrete work. Question on appropriate design as to proper engineering designs. John Hoffman was to develop additional plans but not clear if the County was going to provide the in-kind or contract.
John – the original grant was written as a cash grant.
Chairman Martin noted that the $30,000 was coming out of Garfield County Road and Bridge budget.
Ed clarified this was referenced in the October 2003 budget meeting and placed in the R & B Budget.
30,000 cash only and no other in-kind work.
Commissioner Houpt noted that the County will not be involved in future maintenance of the bridge and asked if we want to be.
Chairman Martin and Commissioner McCown said no.
Don said according to the minutes of 2/7/04 when John Hoffman was present in front of the Board, he specifically represented that it would be $29,000 worth of work from the County but what Gloria told us specifically told us from the State is that this letter was written for Carbondale because Carbondale was the only grant applicant..
Chairman Martin – that has been changed; now we're partners.
Commissioner McCown said he distinctly remember the conservation on the in-kind work and how it came about he wasn't sure, but mysteriously the money has been put in the budget and it's in the Road and Bridge budget and made a motion to approve the $30,000 expenditure and move forward. Commissioner Houpt seconded the motion but said that we never talked about this $30,000 on a County level and she is glad it is budgeted and we can move forward with it. In the future we need to be better informed so we don't have to have this kind of a discussion at the last meeting on an issue.
Chairman Martin said he felt it was a wise use of public funds and encouraged it and appreciates it placed in the budget. The motion includes the IGA and the Chair authorized to sign the letter to the State Historical society. Motion carried unanimously. Carbondale will forward that letter to the state.

30 year anniversary for Georgia Chamberlain

CONSIDERATION OF CONTRACT FOR USE OF PROPERTY – C.R. 319 – AIRPORT LAND PARTNERS, LTD
CONSIDERATION OF TEMPORARY CONSTRUCTION EASEMENT AND AGREEMENT – C.R. 319 – AIRPORT LAND PARTNERS, LTD.

Don DeFord and Randy Withee were present.
Don DeFord said this is another in a series of agreements and deeds the Board has seen on right of way for improvement of CR 319 as well as CR 352 and requested the Chair to be authorize the execute a contract for use of property rather than a deed and also a construction easement. The reason the agreement instead of a deed with Mr. Howard is that there is still a dispute on actual property ownership as it concerns right of way. A border in the east side of the proposed new county road (relocated county road) both Gould and

Howard have claims to that property; this allows us to go forward and utilize that property for reconstruction of a road without actually having to get into nuances of their property fight. It only relates to Mr. Howard and Don said he was still trying to get Mr. Gould to finalize his agreements but in terms of Mr. Howard, this would finalize the issues for him. Today, Don would like to have authorization for the Chair to sign an agreement with Airport Land Partners for use of property for reconstruction of the road as well as a temporary construction easement.
Commissioner McCown made a motion to approve the contract for the use of property and the temporary construction easement agreement and the Chair be approved to sign both agreements. Commissioner Houpt seconded; motion carried unanimously.

ADOPTION OF RFTA BALLOT TITLE RESOLUTION AND RFTA ELECTION RESPONSIBILITY IGA

The IGA for performance of Tabor obligations, IGA for the Coordinated Election with attachments, IGA concerning a vote to join the Roaring Fork Transportation Authority, Resolution calling an election on November 2, 2004 to authorize the imposition of a Roaring Fork Transportation Authority Sales and Use Tax; and the Roaring Fork Transportation Authority Ballot Question were submitted for discussion and motions.
Don explained the differences between the Ballot languages that he submitted and RFTA. The only alterations they've made that the Board approved at the last BOCC meeting on this issue are required by TABOR. Don agreed that the changes are appropriate and should be put in place. They do not affect the substance of what the Board wanted to do with the Ballot Question.
Don asked that the Commissioners authorize the Chair to execute the Resolution in for form presented by Mr. Blankenship today with the Appendix A as modified and direct the Clerk to sign the Certification as set forth.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adopt the Resolution as presented today and authorize the Chair to sign including adopting all changes made in Appendix A and authorize the Clerk to sign Certifications. Commissioner McCown – with the incorporation of this tax language, the $723,000 number does not in any way obligate Garfield County unless it is collected from the sales tax and that number may or may not be achieved.
Don – if for some reason the $723,000 was less than was collected, that's all you can collect and there would have to be a rebate to the tax payers of any amount over that. If you do not collect that amount, you are not obligated to fulfill it. This is the amount to be generated by the sales tax. Dan Blankenship agreed this was correct. This gives the public a general idea of the tax to be collected in the first year. Chairman Martin - If there is an adjustment, RFTA has to come back to the Board up or down depending on the revenue and expenditures under TABOR. Dan Blankenship said if it goes over, they would have to adjust it downward by the difference between the actual amounts collected that was over $723,000, by that percentage. If it comes in under this, this Ballot Question is really asking for these revenues to be DeBruced so we have to keep track of them but there's no need to modify the tax rate if they go higher. Don agrees with that, in the first year you would have to rebate it but thereafter no. If they increase the percentage amount of the sales tax that has to come back to the voters, but if the actual revenue goes up they do not because this contains the same type of DeBrucing provision that the Garfield County has adopted.
Commissioner McCown – but we do have publish and go out every year if we exceed the 5.5%. Don said yes, that's a statutorily limitation, correct. Commissioner McCown – and they will have to abide by that? Don – yes he said he felt sure they are bound by that. Statute 29.1.301. Dan will review it and make sure, they haven't yet had a situation where we exceeded, and they are about 20% under where they thought they'd be.
Vote: McCown – aye; Houpt – aye – Martin - nay

The second agreement is an Intergovernmental Agreement with RFTA and it's very limited in scope. The agreement that Garfield County signed and the Chair has already been authorized to sign requires that the Board of Commissioners undertake fairly extensive TABOR Compliance obligations rather than have the clerk have to perform those as a Coordinated Election Official. That's true of every government entity that signs an Agreement with the Clerk for this or any other election. Don said as he went through that, the County has no ability to perform some of those TABOR obligations because this is a RFTA tax and RFTA revenue that's at stake and therefore Don drafted and submitted a second Intergovernmental agreement that except for the funding question, shifts all the performance responsibilities in the Agreement with the Clerk

to RFTA so that they have to perform those agreements. It does not shift the funding because your other IGA with RFTA requires that you put it on the Ballot, you pay the bill and then RFTA reimburses you with their 2/3rds under that agreement. RFTA has added some language in here that really relate to the Garfield County Clerk and while Don said he was not sure they are entirely appropriate in the agreement between the County Commissioners and RFTA; nevertheless it doesn't require the Clerk to do anything that she is not already required. Mildred said she wanted this.
Dan Blankenship has been authorized to sign this agreement.

Agreement

Commissioner Houpt made a motion that we approve the Intergovernmental Agreement for performance of TABOR obligations between the Board of County Commissioners and the Roaring Fork Transportation Authority as presented and authorize the Chair to sign. Commissioner McCown seconded.
Vote: McCown – aye; Houpt – aye; Martin - nay

PUBLIC HEARINGS:

DISCUSSION OF THE 8TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 8TH AMENDED APPROPRIATION OF FUNDS – JESSE SMITH

The notification was reviewed and determined to be timely and accurate; the Board was entitled to proceed.
The Resolution was submitted by Jesse.
Chairman Martin swore in the speakers.
Jesse presented and explained the supplement.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Resolution and the Chair authorized to sign the 8th supplement to the 2004 approved budget and the 8th amended appropriation of funds; motion carried unanimously.

Four Mile Property - Update

Ed reported that there hasn't been an appraisal; they are asking less than ½ of the proposed purchase price. Still exploring the issues on water and this is what is holding this up.
Jesse said it protects the easement to their water system and protect their water system.
Chairman Martin suggested negotiating and tendering an offer. He has received numerous conservations regarding this property.
Jesse – the water issue has gone to the subdivision board as it is their water we would be asking for. Conversations have taken place and the understanding is they are willing to provide it under conditions. It was suggested to enter into discussions with the Homeowners Association as well.

Ex Session on legal advice – Agenda item

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

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

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Plaza Landscaping

Arlene Stabenau resident - 829 Pitkin – inquired about the Plaza area and money that was for trees when the proposal was being discussed. The four buildings are constant reminder that the monument is there for our correctional institute and should not be located in a residential neighborhood. She saw the architectural concept with the landscaping and it looked more like a park area. Now it is bare and the buildings are very distinct.
Commissioner McCown said the first architectural rendering for landscaping was estimated at $400,000 including the clock tower. This was a landscape architect and the County was to pay ½ of it.
Arlene said money was found for the build outs in this building and she didn't like this passing this back and forth between the City and the County and nothing getting done.
Commissioner Houpt said she thinks we can do more than that. The Commissioners have had this discussion 2 – 3 times with the City and it is time to cooperate with each other.
Arlene mentioned the sales pitch of the City and the Detention Center being here in the first place.

Commissioner McCown reminded Arlene the City was there because they didn't have any land and an agreement was reached with the City for us to build the Detention Center and the County would give them the land to build City Hall.
Arlene just wanted to remind the Commissioners that in this residential neighborhood, it is down to 2 occupied home owners in this block. The rest is rental property. The traffic is a problem.

PUBLIC MEETINGS:

CONSIDER THE APPROVAL OF A RE-STATED DECLARATION OF PROTECTED COVENANTS FOR THE FOUR MILE SUBDIVISION. THE APPLICANTS ARE CSA 2 LLC AND CSA 3 LLC – MARK BEAN

Edward Oblszewski – Leavenworth and Karp, Mark Bean and Don DeFord were present.
Mark Bean stated the applicants are requesting that the County approve the proposed Restated Declaration of Protective Covenants for the Four Mile Ranch subdivision. The County is a third party beneficiary of the covenants due to existence of a public hiking/biking trail on the open space easement contained in the development. County staff and the County Attorney have reviewed the proposed amendments and recommend that the Commissioners approve this for the Four Mile Ranch Subdivision.
Mark called attention to one change that deals with this issue and this it a specific in Paragraph 4 under building permits which said "an owner may apply for a building permit from the Garfield County Building and Planning Department at any time provided however that the plans approved by the Building Department shall not differ in any substantial way from or be less restrictive than, the plans approved by the architectural committee." The "the wording approved by is not appropriate" here. We feel that the plans submitted to the Building Department shall not differ in any substantial way or be less restrictive – that does not put us in a position of necessarily enforcing differences of opinion; their second sentence in that paragraph give them the "Authority as a Homeowners Association to litigate the issue" or whatever action would be on their part to keep anybody from building outside the Architectural Control Committee requirements. Staff recommends the Board be authorize the Chairman to sign the proposed restated declaration of protective covenants for Four Mile Ranch Subdivision with the one change paragraph no. 4 – Building Permit that is on page 10 of the copy showing all the various changes and page 7 of the proposed new covenants.
Don added that the changes being proposed as represented by Mark Bean, Mark and Don will require no alterations to the existing plats that the Commissioners have approved, so those would remain as recorded. Don added the changes being proposed will make no alteration to the currently recorded plats.
Edward Oblszewski submitted a relined copy so the Board could see the changes are not really substantive and are more restrictive and more accurately reflects the Subdivision as it stands now. It has changed from 58 to 57 lots because one of the lots is owned now by the Fire Department and there is a fire station on that lot, it has been pulled out of the subdivision. Again, the use restrictions are more restrictive than they were before. One thing that was deleted that's of note is on page 12 of the redlined copy where we discuss fire retardant materials for siding, that was deleted, it is not a County requirement it was added and we don't know why; no other subdivisions have it, there is a fire station right in the subdivision and saw no need for it. He requested the County's approval to record these restated Declaration of Protective Covenants, Provisions and Restrictions.
Commissioner Houpt confirmed that Edward was fine with the wording change in paragraph 4.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the restated Declaration of Protective Covenants for the Four Mile Subdivision and authorize the Chair to sign with the changes proposed. Motion carried unanimously.

PUBLIC HEARINGS:

CONSIDER A REQUEST TO AMEND THE TEXT OF THE LAKE SPRINGS RANCH PLANNED UNIT DEVELOPMENT. APPLICANTS ARE BERKELEY FAMILY LIMITED PARTNERSHIP AND MARIAM BERKELEY – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Dr. Berkeley, and John Schenk were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Staff memorandum dated 9-07-04; Exhibit D - application materials; and Exhibit E – Lake Springs Ranch PUD Phasing Plan.

Fred stated that the Lake Springs Ranch PUD was approved as a PUD in 1979 and the rezoning approved a plan that envisioned a total of 195 single-family dwelling units. The PUD was slightly amended in 2002 and in 2003 the Board approved a 1-year extension to file the first final plat by November 12, 2004.
The request is to amend the phasing plan in the PUD to reduce the number of lots required to be platted in the first final [plat therefore, rather than plat 25% of the 194 single-family units (48.5) the applicant proposes to plat 10.8%

PLANNING COMMISSION & STAFF RECOMMENDATION & SUGGESTED FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

The Planning Commission and Staff recommend the Board approve of the proposed amendment to the text of the Lake Springs Ranch PUD finding that:

That the meeting before the County Planning Commission and the public hearing before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard.

The PUD text is consistent with the efficient development and preservation of the entire PUD [and the modification] affects in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person.

That the proposed PUD Amendment has been determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.

That the application has met the requirements of the Garfield County Zoning Resolution of 1978, as amended, specifically Sections 4.12.03.

John Schenk said this is a way to move the project forward.
Commissioner McCown supports the request but asked about the other phasing and what triggering has to happen.
Fred said in the preliminary plan it has the phasing plan. This plan didn't have a timeframe but the entire plan has to be in place in 15 years.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to amend the text of the Lake Springs Ranch Planned Unit Development with the findings of Planning and Zoning included; motion carried unanimously.

CONSIDER A SPECIAL USE PERMIT REQUEST FOR PROCESSING & MATERIAL HANDLING OF NATURAL RESOURCES TO UPGRADE AN EXISTING WATER EVAPORATION PIT. APPLICANTS ARE BENZEL LIVESTOCK, LLP AND ENCANA OIL & GAS (USA) INC. – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, and representative for Benzel Livestock, LLP Compliance Services and EnCana Oil and Gas representative David Grisso were present.
Carolyn asked the applicant to explain the two pieces of property that we're dealing with today. The applicant explained that one is the Benzel Livestock property where the facilities are located and a 20-acre parcel where an existing 1996 approved evaporation pit with a SUP was build. EnCana has a surface use agreement with Benzel.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. This was published August 9 as August 8 was a Sunday; there was also a staffing change and this was supposed to be published August 6, but wasn't. She advised the Board the publication was one day later, the notifications were within the timeframe. The Board didn't have a problem with the one day late.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – application; Exhibit E – Staff memorandum; Exhibit F – Email from County Oil and Gas auditor dated July 13, 2004; Exhibit G – Letter from the County Road and Bridge Department dated June 24, 2004; Exhibit H – Letter from Resource Engineering dated July 7, 2004; Exhibit K – Letter from the Division of Wildlife dated July 22, 2004; Exhibit J – Letter from County Vegetation Manager dated September 1, 2004; Exhibit K – Permits from the

COGCC for original evaporation pit; Exhibit L – Resolution 96-21; and Exhibit M – Water Quality Analysis conducted by Vernal District Laboratory dated 1/95.
Chairman Martin entered Exhibits A – M into the record.
The applicant requests the Board approve a SUP for Storage and Material Handling of Natural resources in order to make certain upgrades to the Benzel Water Evaporation Pit currently operated by EnCana Oil and Gas, USA. The upgrades will improve the ability of the pit to evaporate "produced water" which is a by-product of natural gas well drilling operations in the area also referred to as Exploration and Production Waste by the Colorado Oil and Gas Conservation Commission.
The property is 18,000 plus acres; this is a small parcel on that property.
Fred reviewed the plan of 1996 when the Special Use Permit was then operated by Snyder Oil Company.
Fred reviewed the obligations that the staff didn't feel had been met. See Fred's email where they are adding additional buildings.
The annual water quality test reports; security and landscaping plan were not met in Resolution 96-21. This is a new application as to date there is not amendment process to the Special Use Permit.

STAFF RECOMMENDATION

Staff recommends that the Board **approve** the Special Use Permit for "Storage and Material Handling of Natural Resources" for EnCana Oil & Gas, USA with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the National Fire Code as the Code pertains to the operation of this facility.
4. The construction of the new structures at the facility shall be constructed in a manner to mitigate any existing problems which may occur due to the possibility of shrink-swell characteristics in the soils at the property.
5. The issuance of the SUP shall be subject to an annual review of the water chemistry contained in the evaporation pit at such time when free standing water is within the pit and water samples collected fro the ground water monitoring well. These analyses shall be submitted to the Building and Planning Department on the first day of July for every year the pit is in operation. The cost of this analysis shall be born entirely by the Applicant. If this water is determined, through these analyses, to be hazardous or toxic based on applicable standards, the Applicant or owner / operator of the facility shall be required to submit an additional SUP to specifically address / mitigate any detected potential hazards.
6. The County reserves the right to retain outside expertise, at the expense of the Applicant / operator of the facility, in order to conduct tests or analyses of the physical nature, water chemistry or groundwater properties on or away from the site.
7. That the Applicant shall submit proof that a site reclamation security of $50,000.00, as required by the COGCC to ensure proper reclamation / rehabilitation of the site has been accepted by the COGCC.
8. That this facility is for the sole use of the Applicant. If any other entities are to be added as users, then they would be subject to an additional SUP as well as rules and regulations as administered by the COGCC.
9. The Applicant shall submit a landscaping plan that provides a natural visual buffer effectively shielding the operation from the people traveling CR 319 using a combination of bushes and trees such that the facility will be at least partially shielded year round. No Special Use Permit shall be issued until such plan has been implemented.
10. That all out-of-state vehicles and equipment associated with the operation of the facility be properly licensed within Garfield County.
11. The Applicant shall submit a fire emergency plan with the City of Rifle Fire Protection District that is consistent with the requirements of the COGCC.

12. The Applicant shall complete the following requirements in order to mitigate adverse affects of this operation on wildlife:
    a. The Applicant shall construct a wildlife ramp in the pond that will allow animals to escape should they become trapped in the evaporation pit. Specific design details may be obtained from DWM Brett Ackerman for details on how to construct such an escape structure. No Special Use Permit shall be issued until such structure has been installed.
    b. The Applicant shall retain the pond netting already existing on the facility, rather than removing it as proposed in the application which would help prevent migratory birds from resting and/ or foraging on the ponds particularly during the winter months.
    c. The Applicant shall report any deaths of migratory birds or other wildlife attributable to this facility to the Colorado Division of Wildlife and the United States Fish and Wildlife Service.
13. That the Applicant shall obtain a Watershed District permit from the City of Rifle. This permit shall be approved and submitted to the Building and Planning Department prior to issuance of a Special Use Permit.
14. Prior to the issuance of a Special Use Permit, the Applicant shall submit the following items to the Count Vegetation Manager for approval:
    A. The Applicant shall map and inventory the property for the County Listed Noxious Weeds.
    B. The Applicant shall provide a Weed Management Plan for the inventoried noxious weeds. Weed management should occur prior to soil disturbance.
    C. The Applicant shall augment the site reclamation plan by providing a plant material list and planting schedule for the reclamation.
    D. The Applicant shall provide a Mosquito Management Plan that will address how they intend to monitor and manage this site for mosquitoes.

The Applicant shall install a stop sign at the entrance / exit to the property and the driveway and shall apply sufficient amount of gravel to the site so that mud is not tracked onto CR 319. These improvements shall be completed to the satisfaction of the County Road and Bridge Department prior to the issuance of a SUP.
The watershed district was formed in 2000 after this original sup was approved.
Applicant: David Grisso, EnCana Oil and Gas – Rifle – When this was started, it was brought to our attention that Snyder Oil was not in compliance. Trees were planted in February and more replanting is planned. Noise Analysis – David said they could abide by the standards.
Wildlife Mitigation – proposed the same as on the Hunter Mesa facility. Site Reclamation Security – agreed to name Garfield County on the bond. The facility on Hunter Mesa was $100,000 but in 1996 it was $50,000 – this was with the Oil and Gas Commission and if it is not there, it will be in place. Fred proposed $50,000 on this one; the water quality monitoring – samples have been taken and these will be provided to the BOCC. This is contracted and will be done every July. Working with the Rifle Watershed District to get the permit and this has been started.
Exhibit N – Landscaping photos were entered.
Chairman Martin inquired about the net for wildlife protection in the pit.
David - The evaporation rate is lower and makes the operation better. They propose to do the same thing as they did with the Hunter Mesa facility and stated there have been no issues at Hunter Mesa. The DOW agreed they could mitigate the ponds without nets. David suggested the water cans which has movement to keep the foul away. There is wire across the pit. The big game issue is not one, around the pit there will be a 8 foot chain link fence and keeps everything out. The aeration is similar to what is used in a waste water system.
Commissioner Houpt asked if they can you tell if a bird has dropped in?
David said they have decoys and have surveillance cameras plus the site is manned 24 hours a day 7 days a week. EnCana is actively seeking a new system and moving away from the evaporation pits. They recycle every bit of water and these are used in last resort.
Fred clarified if the applicant would speak to the water monitoring facility and what they do there. In the staff report Fred said he discussed the ground water monitoring well and asked for a clarification on record. David said to his knowledge there is a perforated monitoring device that beneath the pit but was unable to find drawings on what happens after it goes in the pit whether is a deviated well or if it just goes under and monitors any leakage out of the liner. He believes that's what it does. It's in the fill side and the actual visual devise comes out on the eastern side of the pit and it goes at a 45 degree angle underneath the pit. He

was unable to confirm if it was an actual well that's deviated under the pit or just a perforated leak detection device that goes underneath the pit. Whichever way it will indicate if you are leaking under your line regardless of how deep it is. He agreed with Fred that a well would be something that would be bored into the earth versus just lying underneath the liner but they both serve the same purpose. You can look down and see if there's any fluid – it's a 4 inch piece of PVC and you can see by looking down. There is technology to send a camera down there; it would just be to determine where it goes and how far. He would make the assumption that there is a horizontal run under there and it is perforation and you could see any fluid sitting in there because that is the lower gradient of the pit.
Fred – on the water issue, if the Board wishes to add the same condition that was on the Special Use before with respect to water quality and testing that, we would only ask that the language in there be adjusted in the report that comes to us be readable there isn't any real issues here rather than just giving raw data and a summary of what this means.
Commissioner McCown said we want more of an analysis that a report with the allowed limits and what is in there and what it means.
Fred stated he brought over the verbatim language in the Condition from the 1996 Resolution – Condition No. 5 – "The issuance of the SUP shall be subject to an annual review of the water chemistry contained in the evaporation pit at such time when free standing water is within the pit and water samples collected fro the ground water monitoring well. These analyses shall be submitted to the Building and Planning Department on the first day of July for every year the pit is in operation. The cost of this analysis shall be born entirely by the Applicant. If this water is determined, through these analyses, to be hazardous or toxic based on applicable standards, the Applicant or owner / operator of the facility shall be required to submit an additional SUP to specifically address / mitigate any detected potential hazards."
Commissioner McCown asked Mark if this was more than drainage a mile from their intake. He doesn't recall one on the big pond up there – a watershed permit.
Fred – on the Hunter Mesa; that's outside the district itself.
Commissioner McCown – so it would not be in a watershed, it would just be a mile from their intake.
Mark – a certain distance from the watershed that feeds certain water supplies.
Commissioner McCown – because it's clearly on the same Mesa it's just at the other end of this farm.
David – it's actually a 5 mile limit and in Hunter Mesa they are correct, the Hunter Mesa water treatment and compressor are just outside the watershed.
Commissioner Houpt – on the noise analysis, is that a condition in here.
Fred – it is not a condition.
Chairman Martin – the applicant said that they felt confident they could meet the requirement and would do so.
Carolyn – there is a general requirement that the facility would meet all federal and state regulations, that's number two and it includes the noise statute.
David said that will not be a problem and they can provide that in their annual report.
Commissioner Houpt asked Fred if he included a condition for an annual County review to determine compliance with all the terms of the SUP.
Fred – no but the Commissioners clearly have that authority to do a review. The language for that is on Page 17 that speaks to periodic reviews.
Commissioner Houpt said she would like to add that as a condition and has no doubt that EnCana is running it in compliance but you did find issues of concern while you were going through the old SUP and we've required that for other industry uses that have impact on the area.
Carolyn clarified if she was suggesting one review or an annual review.
Commissioner Houpt – for the life of the use.
Commissioner McCown – that could be administrative. Agreed, and no notice.
Carolyn noted in Paragraph 12 having to do with wildlife and might need to make changes if they go forward. It's different than what the applicant stated.
Chairman Martin – it's what DOW wanted and they will comply with rams on through except for the netting. He will meet those requests from DOW.
Fred noted this was in Exhibit O – it does provide the Board with the mitigation rather than the netting.
Exhibit O was admitted into the record.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

Commissioner McCown made a motion to approve the SUP for storage and material handling of natural resources with the recommendations of staff, Number 12 striking that and entering Exhibit O in its place as a Condition of approval and adding Number 16 that an annual administrative review for compliance will take effect and there is no problem with that taking effect in July when the water samples were submitted so that everybody's calendar date is set on the same time. Commissioner Houpt seconded.
Fred asked for clarification on the noise; the Board stated that Condition No. 2 handles that.
Motion carried unanimously.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO ALLOW AN ACCESSORY DWELLING UNIT. APPLICANT IS JOHN AND SANDRA ANDERSON – JIM HARDCASTLE
Jim Hardcastle, Jan Shoupt, and Sandra Anderson were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. One imperfection – special users then changed to conditional and then shows it as an additional instead of an accessory dwelling. The Board accepted the notification.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G - Garfield County Road and Bridge; and Exhibit H – a second well permit to clarify all water rights.
Chairman Martin entered Exhibits A – H into the record.
Jim stated this is a request for a SUP for an Accessory Dwelling Unit located on 5.745 acres at 1332 County Road 119, east of State Highway 82 in the Spring Valley area.
Staff recommendation:
Staff recommends approval with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. The applicant shall obtain a septic permit from the Garfield County Building and Planning Department prior to issuance of the SUP.
3. The applicant shall be aware that the ADU will require building permits from Garfield County.

This is a home for her elderly mother and may need someone to stay longer than just a few hours, perhaps overnight. Her general health is good at age 80. They did not want only family members can reside at this home.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit to allow an accessory dwelling unit for John and Sandra Anderson with the 3 conditions of staff as recommended of staff including the sentence "other than family member"; motion carried unanimously.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR APPROVAL OF A RESORT. APPLICANTS ARE RICHARD AND CAROLYN MCKINLEY FOR THOMAS G. MCKINLEY (VERTEX L.L.C.) AND ANN M GIANINETTI (MITCHELL CREEK LTD.) – JIM HARDCASTLE
Jim Hardcastle, Carolyn Dahlgren, Carolyn and Thomas McKinley were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A – Mail receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – application; Exhibit F – Staff memorandum; Exhibit G – Review memo – Glenwood Springs Fire Department; and Exhibit H – Review Memo: Garfield County Road and Bridge.
Chairman Martin entered Exhibits A – H into the record.
Jim stated this is a special use permit for a Resort located on 26 acres as 1246 County Road 132 north of Glenwood Springs and Interstate 70 directly south of the Colorado Division of Wildlife fish hatchery on Mitchell Creek.
At full capacity, this would facilitate 10 guests and a maximum of 14 capacity including caretakers.

5 bedrooms in the main house and one above the garage total of 14.
This is for Bed and Breakfast operation but due to the two buildings the resort was the proper sup use.
There are six bedrooms, one has two beds in it and one may be included later.
Page 4 speaks to the ADU usage. This is a long existing use but the applicant will be required to go through the process and that it does meet the requirements and obtain a CO.

RECOMMENDATION

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

1. That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. That the applicant shall obtain all required and necessary building permits, sign permits and inspections, among others, consistent with the adopted rules and regulations of Garfield County for all development within the resort area.

3. If any further expansion of the use is attempted, the applicant shall readdress the proposal by obtaining the necessary approvals from the Board of County Commissioners.

4. The Applicant shall apply for a septic permit and receive a final inspection prior to issuance of the Special Use Permit. The existing septic system capacity shall be elevated and expanded requiring Garfield County standards of performance for a 7 bedrooms ISDS of the separate dwelling unit and single-family dwelling unit which shall also meet Colorado Department of Health and Environment ISDS setback standards.

5. The applicant shall make application to the Garfield County Building and Planning Department for a building permit for the detached dwelling unit, allow inspections, and ultimately gain a Certificate of Occupancy consistent with the adopted rules and regulations of Garfield County prior to the issuance of the Special Use Permit. Also, a Registered Colorado Engineer or Architect shall certify all of the construction within the detached dwelling unit complies with Garfield County Building Code Requirements.

6. All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward, downward and towards the interior of designated cabin sites, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

7. The Applicant shall demonstrate how wildfire hazard fuels have been mitigated around structures and adequacy of vehicle access for emergency services to the Glenwood Springs Fire Department prior to issuance of the Special Use Permit.

8. The Applicant shall comply with two (2) requests required by Garfield County Road and Bridge Department, which require the Applicant to;

   i. either remove the vegetation which impairs visibility or place a convex mirror at the ingress/egress point of the Resort, and

   ii. improve the surface of the driveway apron from the current ¾ inch base to a chip and seal, asphalt or concrete material surface

9. A water test shall be conducted which include the following items used to determine physical water supply;

1. That a four (4) hour pump test be performed on the well to be used;
2. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
3. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
4. A written opinion of the person conducting the well test that this well should be adequate to supply water to the proposed use on;

5. The water quality shall be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates.

Carolyn and Thomas McKinley gave a history saying they obtained the property in the late 60's and it had a main structure on the property and the structure we're proposing the use for now was strictly a guest house, there was no kitchen facility in this house. In 1969 the main house was destroyed due to a propane leak that led to an explosion and then they converted one of the bedrooms of this house into a kitchen to make a full residence usage. There has always been and apartment above the garage, it is not a new apartment but it has been updated and has always facilitated renters as well. The property has always been a highly used vacation/second home with the McKinley original family and then as their family grew and expanded it has always been highly used in that manner. Of recent it has been rented and the families have moved so it has become a rental unit and in that use we don't feel that it does the property true justice. They will give the property the care needed. This does the property more justice and with this option will benefit many. They propose to operate in a traditional manner as a Bed and Breakfast. Traffic use being concerned with the word Resort was a concern to the neighbors.
One issue to clarify that it is not an additional dwelling, it's been there. The original house was built in 1907. The maid quarters in the garage was built in approximately 1939 to 1940. The large home we lost was built in 1945. The water supply comes from two springs. The use of the word well and a pump test they are asking us to meet and a well completion, she is not certain how to address those whereas it is not a well, it is a spring. Thomas and Carolyn are not the owners; they have permission of the owners.
The sewer for long term use is obvious and they are aware that the current system won't work and Schmueser is working on that for them.

Carolyn Dahlgren – water court documents were reviewed. She informed the Board that there are two water court cases, going back to 1936, the McKinley and Jones trust and Rudy Steele, and Emily Cantifax, all entities own these water rights. DOW also uses this for the hatchery as well as domestic uses. 3 different property owners litigated, then Steele, and with DOW got their water rights blessed. They have rights to take water out by the water court. So to tell you if there is enough water, she can't say between Mitchell Creek, Steele and Cantifax. They put in a cistern and take water out of Mitchell Creek.

Carolyn McKinley – the first spring is the Cantifax spring; 22 gals per minute is referred to as irrigation for 5 acres – ½ acre to Steele, etc. Then the water is for 5 single family and 3 are allocated to the Mitchell Creek Property. On page 3 – describes the use in 5 single family dwellings. Steele residence with one, Dupree with one and McKinley has 2 existing dwellings. The testimony is that it does get 3 water rights.

Commissioner McCown said there are three owners using this 22.5 gallons plus spring plus water out of the creek. We're putting in at least a 2,000 gallon a day system for this Bed & Breakfast and Steele and Dupery residences, is that going to deplete their available water – are they guaranteed so many gallons.
Thomas – under the water agreement each dwelling, Rudy Steele Estate and the Dupree Family Estate is guaranteed their percentage of water that the well produces. And also in addition to that there is the Cantifax pipe system which is for another 100 gallons per minute on top of that that's available for irrigation for each property as well. Diversion points that if the pipeline system ever is not able to operate for any type reason, then each resident can pump out of Mitchell Creek to take care of the needs as well. The water system is augmented.
Suzette Steele Lauden – 1426 Mitchell Creek – we do share the spring water with the McKinley and Dupree's; the agreement between the three of us has not come to a conclusion, we're still working on that agreement. Her concern is the water, not the B & B and wants to make sure that they get their percentage of water shares and come to the conclusion and finalize our water agreement between the three of us before we proceed further.
Stan Rachesky said he just went through the permitting process with Planning and Zoning here because their house burned down. Rudy died about a year ago. When we lived in that building that's 1246 Mitchell Creek Road now for almost a year and did a lot of repairs there. The room over the garage was planned for 6 – 8 people, not 4. He was in on the planning and did a lot of the physical work up there. All he could remember is that when we got their CUP, they could have gotten away without having a CUP because we said we were only going to use one bedroom but the county wouldn't approve because we had two

bedrooms available and the County was afraid we would cheat. So this is not 14 people that are going to be staying in that bed and breakfast, it's going to be 16 to 18; and if you multiple that times 75 and then with the factor that state says 1.5 and there's two laundry's – one in the out building and one in the house but they need at least 2200 to 2500 gallon septic tank. They put in a 1,000 gallon septic tank without a permit and when he had to put in a septic tank, the County wouldn't' allow him to use his old septic tank because it didn't comply with the code so he had an engineered study and have it at least 50 feet from the stream and their septic tank and field is not 50 feet from the stream. It cost a lot of money to do that. He had to have the appropriate size and pay an engineering company. For those reasons he thinks that this facility should have to comply with those and also the flow of water. When he had his Irrigation for plants he was always under the impression that we got 40 gals per minute. However, it only came out to be 12 gallons and there are 4 people on our spring; one has a separate pipe that goes to the Hubbard, Cline, Rader and Rachesky – we all have plenty of water. The Steele house has been doing this for years, the guy at the end when it comes time in the winter to put your bleeder on so pipes won't freeze, and it has to be regulated so all of us get water. If the bleeder is on too much, then the Cline doesn't get enough pressure. When they lived in the McKinley house, the pressure was so low we had to put in a pressure tank to shower. The pressure tanks may take care of the problem but he didn't know if there was enough water to fill that pressure tank on a regular basis if you have 5 bedrooms. He'd like to see permits pulled for the septic tank. When he lived there one of the deals was that they were going to receive compensation for working there and the structure over the garage had major surgery with regard to supporting the roof, etc. It has all new electric and plumbing and didn't know if permits have ever been pulled for that either. Planning and Zoning should also look into that as well.
Commissioner Houpt pointed out that many of those concerns are in this application and have been requested to be conditions if we approve it.
Carolyn called to the Board's attention that we have a discrepancy in the testimony that at least one party, Mrs. Steele is saying there is not an agreement among the three on how the water is to be used. Carolyn's review of the water court documents, the water court documents do not, except for the irrigation, determine how the water is to be spread among the three. This needs to be done.
Commissioner McCown – Condition No. 9 in the recommendation for approval, if we strike the verbiage of the well test and include a water sharing agreement be in place prior to the issuance to this permit that this would be adequate to cover your concerns.
Stan Rachesky – we don't have an agreement between the 3 actual house that took off our spring, it's just a common courtesy thing; it's a cooperative effort. Our pressure coming down the mountain 700 feet and their pressure is greatly reduced from our pressure.
Commissioner McCown – told Stan we are not talking pounds of pressure, we're talking about gallons for usage and that's the concern of this board that there is an equal sharing of producing gallons; they make measuring devices to do that.
Thomas McKinley – There is an agreement between the three property owners, the Steele family, Dupree family and the McKinley's for that agreement right now that's being circulated between them for approval. And the comment on no. 9 is appropriate.
Carolyn Dahlgren– ISDS – to keep the record clear, indeed there will have be a separate permit – Condition No. 4 addresses that.
Commissioner McCown they would have to apply to the State for the set back issue and it would also be in compliance with the County's application.
Carolyn – what is not clear is the number of bedrooms and the number of people we're talking about.
Commissioner Houpt noted it was represented by the applicant that there would be a 14 maximum. The SUP will be for 14 max and measurements will be for that 14 max.
Stan – how can you be sure it will be 14; you weren't sure with me that it was going to be two, so how can you be sure it's 14. You have to go with the max don't you.
Chairman Martin – the applicant has declared there will be a max of 14.
Commissioner McCown said it doesn't matter if they have 20 bedrooms, the most people that can stay there any given night is 14.
Stan – how do you police that? That was the whole issue with us.
Mark –basically it's a matter that they have identified rooms, the issue we had with Stan was there was an additional bedroom that we basically said max could be in that one or very easily two and in that case we identified two; they've identified use in all available rooms to be a maximum of 14.
Chairman Martin – the building inspection and make sure that is done.

Carolyn McKinley asked to restate what is there, what our wishes are for the property as far as usage. There is currently a 5 bedroom house that if you had 2 people per room, there are 10; there is a dwelling above the garage that will facilitate, gauged on us, we have put beds up there for 4 people. 14 people. One out of the 5 bedrooms is currently being as an office; the other one is ours so we are going to rent 3 bedrooms plus the dwelling above the garage. We would rent 10 spaces there.
Stan – when he was doing work there, the plan was for 6 to 8 people over the garage plus the 5 bedrooms and in my book it comes out to 16 – 18.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the request for a special use permit to allow special use for a resort for Vertex LLC and Mitchell LLC with the conditions as presented revising condition 9 to delete the wording "presented" and require "a water sharing agreement to be presented to the County prior to the Special Use Permit being granted."
Carolyn requested in Condition No. 4 where it talks about a 7-bedroom ISDS that we make the representation with the applicant that there will not be more than 14 people a part of this so we won't have difficulty in the future figuring out how many people we're talking about. Commissioner Houpt approved this. Commissioner McCown amended his second. Motion carried unanimously.

Executive Session Oil and Gas – County Attorney
Don DeFord – Ex Session to discuss on going litigation and provide legal advice.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session and adjourn; motion carried.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

SEPTEMBER 13, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 13, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
EnCana Fine
Jimmy Banks, South of Silt said they were directly and indirectly impacted by the gas seep and the explosion at the Arbaney well. They had never been aware of the Energy Advisory Board until a friend called and informed him. He said there was not enough a response from those directly affected, but learned since that it has to be a government entity that applies for the funds. EnCana cannot be allowed to govern itself and would like to see this money used and returned to Garfield County. Liked the way that Don DeFord handled the hearings on August 16 and 17, 2004 and also complimented Doug Dennison for his efforts in controlling this situation. He suggested the Board set aside funds to assist Doug. Since Doug has been following up on the citizen's behalf, he said the violations have decreased. He suggested setting up a general fund and getting another employee to work with this industry. The March 9th incident hurt them. He claimed that EnCana was denying their error. They submitted a letter to COGGC stating the crew was not untrained or unfamiliar. It's not the landowner's responsibility to police the industry. They were not affected by the water by for the fear that the gas is leaking into their water they do not drink it.
Commissioner McCown stated that by statute the fine has to be used for environmental projects and cannot be used for personnel. The Board is going to ask that this money come directly to Garfield County.
Jimmy Banks – if this can be applied to environmental, and then perhaps it can go for policing. The industry has destroyed our property and our lives. Two properties sold out to EnCana. His well has been tested and they have found nothing harmful. They don't drink their water due to fear.
Commissioner Houpt recognized that he made some good points and the Board is in the process of working on the budget for next year.
Jimmy Banks – they have tried for 3 years to get EnCana to give them an air quality monitoring system that's mobile to test the air. He complimented Don DeFord once again for his demeanor at the hearings.
Code Enforcement – Air Strip
Dave Force had been before the Board before regarding a potential air strip on his property. Now that he has this in place within a meadow, the Code Enforcement Officer, Steve Hackett has given him notice of non-compliance. The property in question is on Three Mile about 7 miles up the road. He was in attendance at the meeting on Mr. Rudd's airport on Missouri Heights, and listen to the Commissioners regarding laws. Steve sent him a letter stated he had created a runway on his property. A copy of the letter was submitted. Steve Hackett was inspecting his home a year ago and saw the field. It's a meadow and not a paved air landing strip.
Chairman Martin – the Board will search this and try to determine the situation.
EnCana Fine
Claire Bastille, Carbondale – appreciate the time and efforts on dealing with the EnCana fine issue and stated why it's important to have an Energy Education Forum. This is something the community needs and it's coming to Carbondale. People call and ask questions and Claire said she doesn't have the answers. She was in attendance at the Club 20 Forum this weekend and they would like to see the $15,000 go for the Energy Education Forum. The $15,000 is small compared to the other requests.

REGULAR WORK SESSION:
County Manager Update: Ed Green
Letter to Pat Tucker to sign to Division of Wildlife
This was previously approved.
Request to use County Road 114 for a CMC sponsored event.

Don said under the road use permitting adopted earlier this year, there is a special process that is under the Road and Bridge Office. Sheriff Lou Vallario has been in contact with these people.

CONTINUATION – EAB RECOMMENDATIONS ON COGCC PUBLIC PROJECTS – SAM POTTER AND HARLAN HANSEN

Sam Potter, Harlan and Doug Dennison as well as the other members of the EAB and representatives for the projects.

The projects recommended to the Commissioners for consideration were not prioritized but included:

West Divide Field Waste Water for $20,000 providing for re-use of water from gas drilling operations distributed to landowners. The objective is to conduct a study to provide recommendations and determine feasibility. The $20,000 was the project cost with matching funds from West Divide Conservancy.

Hydrological Characterization Study for $300,000 provides for full assessment of groundwater quality and quantity and the impact of drilling on groundwater. To develop a resource model; develop a database of background levels, and implement a public outreach and education program over a two-year period.

Community Health Risk Analysis for $65,000 provides for a comprehensive assessment of the health risks to the public as a result of oil and gas activities. The project consists of community focus groups identifying public perceptions, health risk assessment including air and water, health status survey to determine general health and health risks of residents with the outcomes projected to be to help clarify public concerns, identify risk that need to be addressed by the industry and assist residents in identifying specific risks and health issues. This would be over an 18 month period.

Soil Conservation Service – Weed Cost Share for $50,000 provides for a pool of grant funds to assist landowners in fighting weed infestation caused, in part, by Oil and Gas Operations with a focus on Russian Knapweed in Divide Creek and Dry Hollow over a two-year period.

Energy Forum for $15,000 provides a comprehensive look at energy and associated issues in Garfield County with experts in energy and land issues, partnerships with locally based organizations, and local school curriculums.

Well Site Restoration for $120,000 provides for design and restoration activities to fully restore five well pads in affected areas with Dr. Ed Ridente conducting an evaluation of each site and design a specific restoration; restoration materials would be purchased and installed under Dr. Ridente's direction over a three month period.

Hazmat for $370,000 provides for equipment and training of response personnel for technical rescue operations with equipment and training for a team of 12 Hazmat Techs and 60 Hazmat operations personnel, staffing will come from existing Garfield County Public Safety Council Members of an 8 – 12 month period. (Can effectively use partial funding.)

Don explained and laid a basis on what will be discussed including some conversations held this week with the parties. We're here as a result of the order that the Oil and Gas Commission entered on August 17, 2004 and provided us as it relates to this hearing today that EnCana shall be assessed a find of $371,200 which fine is suspended until the Commission's next hearing on Monday, September 20 to give the parties an opportunity to purpose a public project in lieu of the fine. The Commission will hear and consider the proposal of the public project, and may approve, modify or condition the proposal or reinstate the fine. That order is important because normally in a contested violation hearing you would not be considering a public project. The rules provide for a public project in the context of an administrative consent order in which the Commission and the violator agree on what project should go forward and it really doesn't involve any other parties. That is not this case and so this is a hybrid proceeding and the rules are unclear. However, assuming that the references to the public projects set forth in the rule, the rule provides that in lieu or reduction of a fine amount, the order may provide for the initiation of or participation in operator projects which are beneficial to the environment or public health safety and welfare and the Commission encourages orders which so provide. Because of that order and direction Don received from the Board of County Commissioners, Don contracted all of the parties involved, those being the interveners, Western Colorado Congress (WCC), Grand Valley Citizens Alliance (GVCA), the respondent EnCana and did speak with Trish Beaver and Brian Mackey at the Oil and Gas Commission. Don wrote a letter which the Board should have seen a copy of to the all of the attorneys informing them of this meeting today and specifically talked to Dianne Bleasner with EnCana and asked that they be present because of the rule provision that it is an operator project. From discussions with Brian Mackey and Trish Beaver that the Oil and Gas Commission would very much like to see EnCana, Western Colorado Congress, Grand Valley Citizens Alliance, and the County come to them with one project but they understand that if we do not all

of the parties have an independent right to submit their own projects. One package versus one project was clarified. Brian Mackey was clear that they would consider multi-projects as long as they were within the scope of the fine amount. The important part was that it be something that the parties could agree on if possible. Talking with Carolyn Lamm, the attorney now acting for Western Colorado Congress and Grand Valley Citizens Alliance and also Deanne Wilson, so they were fully informed and invited to be here. The objective of this meeting was to discuss projects and hopefully reach an agreement. The matter is set for the 20th and some discussion of a continuance and through the letter he sent, he informed all parties that this Board would not take a position on a continuance until after today's meeting at which time the Board could decide if it was necessary to continue or not. Trish Beaver told Don the agenda for the 20th and 21st if very full and this matter is set for late in the afternoon on the 20th and from a staff perspective, it will proceed if they have to but unless there is an agreed project it could be difficult to fit it into the agenda.
Cher Long – EnCana Community Relations – stated she was here today to be supportive of any discussion and answer questions. EnCana is not going to be any part of the decision making process and feel strongly that this should be a community process and support the Energy Advisory Board (EAB) and the recommendations they have made and EnCana certainly support the position coming out of the Board of County Commissioners made here today to the OGCCG.
Chris Williams - EnCana – commented further on Cher's comments and that is what we believe is it should benefit public health and safety. As far as some of the recommendations, air quality, water qualify and also emergency response or some of the atoms that they fully support but although we will support the Commission with whatever recommendations they come up with.
Western Colorado Congress – Deanne Wilson – organizer in Grand Junction and a member group is Grand Valley Citizens. They did not initially present their proposal to the EAB. Hoping they will consider their proposal. Whatever project is selected it should address: 1) accumulated impacts to the landowners affected and 2) continued education for the community. They have held forums and publications, one being your land, your rights and these have been distributed in Parachute, Rifle and Silt.
Peppi Langegger – handed out information as well as a photo where cattle used to graze stating this is not to ask money for ourselves but hopefully the fine money is being spent on the problem the way is was created. When asking the County to do an impacted study it will encompass everything. The land is impacted and if everything were to continued like that, he would like to find out with the study, if the short term gain justifies the long term damage. 100 years ago, 20 years ago – we need to learn from history. Learn from the impacts as they are now and we should not close our eyes but does everything possible to have the future generations use the land. Heed the warnings and not be reckless. With the study like LaPlata did we can achieve most of it – going for the environmental impacts? EnCana can help by spending the money where the problem was started.
Herman Stauffer - 311 Road – would like to second what Peppi said earlier about the economic impacts study and it would help everyone to realize the affects that could occur down the road if we don't watch what's going on out there. The monetary gain which the county experiences right now on the additional revenue coming in from the oil and gas industry, in the long road we've seen what happened with the Oil Shale in Parachute and impacts on the land. This Hydrological Characterization Study which Doug Dennison wrote and hopefully the Commissioners will see what it takes to really monitor all the stuff. The seep still occurs and how we should correct. The bubbles are still coming out. He was amazed that the last testimony shows faults on the ground east to west, dozens of them going on for miles and where it could go into the water supply. Where they are drilling, is it safe? This is an amazing impact and what will happen to the water. Unless we have a study as to whether we should drill in that water, then we are unsure and he recommended this money be spent on a study and educational meetings down the road. He suggested the Commissioners throw in up to $1,000,000 to make sure we can live here and drink the water. He purchased his property 10 years ago, and he planned to enjoy breathing the clean air and drinking the water and wants this to be provided in the future– but what happens now. Something is happening to our water. There is an aquifer 300 feet or more from where they are drilling. Whose aquifer is it impacting? They're taking water out at 6,000 feet. To him this has never been explained; where do our water rights stop and minerals take first right? This has never been determined by our courts so he recommended that this study should be done. Roger Brown, who has lived in the valley for years, has made wonderful films, some for the industry and some tell us that the impacts we see will last for a lifetime or longer. It's not worthwhile for the short term monetary gains if was sell out. The report Roger gave in the Vail Daily, September 9, 2004 was handed out.

Carol Bell – representing the Grand Valley Citizens Alliance (GVCA), lives south of Silt and it not directly impacted by the seep, but she is within the 9 mile area that is now being tested by EnCana who has sent a letter they will be doing soil tests. There could be seepage through their soil. She is a member of GVCA for many years and their planner Alan Rolance asked if she was interested in the STEP Foundation and if so if she would talk to the Board about it. She is familiar with them through the American Soda Fine they helped administer. They did the administration and oversight for that fine and it was successful. She brought information about the STEP foundation and suggested consideration of the Board for using a 3rd party as the project manager versus EnCana being the project manager. If the industry handles the program, trust may be damaged. If a 3rd party administrator handles it, it could be helpful for community relations. The STEP foundation charges 18% of the project funds to administer the project.
United Way of Garfield County – Correspondence - Leslie Robinson - A letter was submitted to the Commissioners regarding an award for United Way for $50,000 in funds for the COGCC paid by EnCana. Representing 20 agencies. Help with the human environmental of the oil and gas development. Leslie was present and once again gave her pitch for some funds to be distributed to United Way for those personally affected by the development.
Sam Potter – stated that the EAB has not met since they submitted the proposals to the Board and questioned if the EAB is out of the loop for administering the project. The 7 projects they recommended are independently administered by the program. Garfield County would be administering the Hydrological Characterization Study and the EAB has the Soil Conservation folks are involved, but this hasn't come to his attention that it was even an issue.
Chairman Martin – the project funds are controlled by the Oil and Gas Commission at the present time; the project comes forward and the Commission and EnCana agree for the project and then …
Don DeFord commented that repeated what he said at the meeting, because this is a hybrid between the rule and the order it is not entirely clear who does what but the rule provides that the operator, EnCana, must initiate or participate in the project by given the projects we've looked their participation would be one in terms of contracting for the project and funding the project according to the representatives he's talked to at EnCana.
Commissioner McCown said his assessment of the proposals that were given and what he feels as a combination of the projects that he feels will do as much good for the affected parties in the area. The Hydrological Characterization Study is important to everyone in that area, like Herman said, we need that information on the ground and then with the remainder of the fund, he likes the Community Health Risk Analysis because that is a primary concern and probably one of the bigger questions Doug gets and one that he gets - is this smell when they are drilling a well, is that harmful, will that make my children be born with one eye, is it making all my lambs be born dead, those are the questions that come to us. That is an important risk analysis to take on and get some answers to those questions. Those two studies - Hydrological Characterization Study and the Community Health Risk Analysis will eat up $365,000 of the $371,000 but he wasn't sure these are all hard numbers, most of these are estimates. Those two studies will benefit the people not only of the Divide Creek, Mamm Creek area but future people who live in Parachute, Rulison and DeBeque especially on the health risk analysis. The aquifer study wouldn't go that far but it will give us an idea and then the Community Health Risk Analysis will be applied anywhere. That's his suggestions after reviewing all the proposals,
Commissioner Houpt – thanked the EAB for the job and they all were very worthy proposals as was mentioned at the last Board meeting, it gives the County and other stakeholders a list of what needs to come to the forefront in this County as we continue to see activity in Garfield. It also shows us how much money we could put into some very valuable studies and programs. She had as her top two projects the Hydrological Characterization Study and the Community Health Risk Analysis; and also stuck the Energy Forum in there hoping we could push that in and find additional funds to make this happen as this is a critical component to really start addressing the issues that need to be addressed in this County. It would be a helpful forum for people to understand what studies and analyses are going forward at this time and what we need to work for in the future and where we can identify monies for that. There hasn't been a project discussed today that shouldn't be top on everyone's list. With the amount of money we have to work with, she would put those as her top three.
Commissioner McCown said he did not choose the Energy Forum because he felt it was redundant of our Energy Advisory Board is doing. It would be a continuation of exactly what they're doing, any of that information can be brought to this board and that's why we put it in place – it's diverse based, it's geographically diverse in it's location and thinks that is what the board was formed. There is nothing to

prevent people from Carbondale or wherever from getting representation on that board. It's the best venue out there, if it isn't we need to take at why it's there, if we're going to create another one.
Commissioner Houpt agreed that folks need to be represented from Roaring Fork Valley; this Forum is for the public to be educated. When we put the EAB together we decided it was important to crate a small representative base of people who could sit around the table and talk about the local issues and concerns and educational needs. She could see the EAB being a great consultant for the Energy Forum but it's a different kind of program as she read the proposals.
Sam Potter – the EAB has an educational component and Walt Lowry gave a short report at the EAB meeting about what they hoped to accomplish with education on the subject and there would definitely some overlap with the Energy Forum but if the Board wants to consider some funds in the budget and give the EAB some target ideas, they could perhaps accomplish those.
Harlan Hanson, representing Battlement Mesa, a spokesperson for the EAB subcommittee on the educational piece said he has given 4 – 5 presentations and people are really hungry for information and felt it can be done through the EAB because they have a combination of energy people, landowners, mineral owners, and this needs to be a balance of everything that going on. The educational program is his number one property with EAB as the prior sponsor. The educational piece is cheap and we can get it done and get it into the schools and have it as part of their curriculum and do a broad base program with the EAB as the prime sponsor.
Sam Potter introduced Garland Anderson and Orlyn Bell as citizen's representatives EAB members.
Orlyn Bell – represents south of Silt in the Divide Creek/Dry Hollow area. For background, the EAB has (4) committees – information committee, protocol committee dealing with problems, education committee and a specific impact committee. We have a challenge out there and he is on several of those committees but the specific impact committee have addressed the fact of looking at and get information out there on what's going on in this County, how are we going to be impacted. The laundry list included: access roads, pipeline construction, where are they located (EAB has no idea, but EnCana does), no GIS information overlay of any of those kinds of things, drill pads, where are they; what's the implication of the tax revenue, or we really selling a short time/long time future on tax, property values go down; what's happening out there long term, operator plans, what really are the energy companies planning today, tomorrow, 10 – 20 years from now; noxious weeds, water quality/quantity, air quality, property values, social service impacts, traffic, law enforcement, temporary housing, storage of equipment, laundry list goes on. All this will take some studies. The $15,000 would go a long way to forward the education piece. Some of the projects are studies; some are to fix the problem. $3,000 to $5,000 for this year may take care of the weed problem from the people south of Silt. Water – wonders about a study on the geological out there and the $300,000 is attached to that, how hard is that, what could be done for $150 to $250,000 and asked if we are moving too soon without enough hard figures on what we really can get for the bang for the buck. He would like to see someone look at these projects – all the projects seem beneficial. Water out there is being dumped – EnCana is using water canons to disburse that and get rid of it right now; the West Divide proposal seems very appropriate to him to see there can be some benefits fed back into the county rather than just negative.
Commissioner Houpt – on the impact list that the subcommittee put together, the majority of those issues are projects the county needs to evaluate as we go through our budget process so that we know what kind of impacts to plan for and would like to see the Board go through that kind of analysis – short and long term impacts.
Orlyn Bell– they are drilling today and started two days ago on his place – he knows he's impacted and if he puts the place up for sale it will not bring the true value but the whole county is in that same kind of a situation and what are the questions we should be asking and where should we be putting our efforts into solving some of these issues. A lot of things on the list, probably some experts in this valley and for a few bucks or free gratis give us some information. This will take a county-wide effort to par this out.
Garland Anderson – EAB representing the Grass Mesa folks – he added that the Energy Forum could be blended in with our Energy Advisory Board education committee goals. The EAB has experience and an expertise and a very broad considering the WCC, a total of 9 organizations from the GVCA and others and their broad base to work from and the limited resources and personnel involved in the EAB can't begin to touch. But he would like some consideration to blend in the energy forum funds in to mix in and coordinated with the education committee.
Doug Dennison – gave some insight on the Hydrological Characterization Study saying it came from the expert hired for the COGGC Dr. Jeffrey Fine from the School of Mines. At this point he said it was hard to

put dollar figure on it, being a scientist himself, we could easily spend $300,000 on a study. Dr. Fine felt strongly that the $300,000 would be sufficient to do a good thorough review of the information that's currently out there – nobody has taken the time to compile it and evaluation it; the industry does a lot up front monitoring before they ever drill wells but most of that is based on reporting information to a landowners, having the information if there is an issue but no one has taken the next step – take all the information, pull it together, figure out what does this mean, what does it tell us about the ground water and surface water conditions in the area. The $300,000 is a little fuzzy but Dr. Fine feels that we can fashion a very comprehensive program that would give us some good answers.
Commissioner McCown – wondered if there may be some overlapping in the mitigation that may be applied by the Colorado Oil and Gas Commission and has not seen the final plan and wasn't sure if an ongoing hydrological study is part of the mitigation or not. Are we overlapping dollars there again as well that could be better spent for something else?
Doug Dennison – in the discussions so far, any work being done to directly monitor or mitigate the seep is separate from this fine. EnCana is responsible for the on-going monitoring and mitigation. Where there would be an overlap is to pull in the information they collect as part of this study, but not to replicate anything that is being done but to try and get a bigger picture, not just of the West Divide Creek area around the seep but the whole area. The aerial extent is undefined at this point. Need to look at the geological looks like with Dr. Fine and see what makes sense to incorporate into a single study. It would not overlap what is being done.
Commissioner Houpt – moving fast with this process. The proposals were estimated costs and the exact numbers were not available. Would it be beneficial and possible if we did support the notion of holding the process in Denver until October, would we have a better idea of the numbers we're looking at?
Doug Dennison– more time is always a good thing and part of the issue with this entire process is that we've been under the gun to get a lot accomplished in a short period of time. Whether we would come with a different end result he wasn't sure we would.
Commissioner McCown – if this is laid over and we to Dr. Fine for a number are we going out for an RFP or are we doing something out our Procurement Code.
Don DeFord –clarified that this is a professional contract and no RFP would be need since we are looking for specialist's expertise. The Oil and Gas Commission will not be the administrators and want to know who the administers are and comments made here today reflect that EnCana may not be the first choice of an overseer.
Chairman Martin - he looked at three projects his priorities are the Energy Forum needs to be with the EAB and if we need to work on that, Doug needs to make a submittal to the Board. We helped him the last time he asked for help and we want to make sure this EAB Board is the best informed, most educated and willing to share all this information – that was our mission and why we have all the different subcommittee. Therefore, it is extremely important to get the education out. Dr. Fine's study and the water study, etc. a lot of this information is out there and feels it is extremely important to put that together and out to the public so everyone has the safety factor, the trust in their own water systems and the industry that we're not polluting everything. One of the projects, he has been working with the Department of Local Affairs (DOLA) Mr. Russ George and also the realtor's association, the lending institute as well as the property owners that have come forward, not just his month, not just last month, but a year ago. We've been talking and trying to put together some kind of proposal that will bring in the Assessor as well on the issue of what is the cumulative impact of all the oil and gas – what does it do to your property values, our lifestyles, our economic gains, or loses, etc. The state is very interested in that but they feel the County needs to take the lead on that and get it going, and so when he reviewed the proposal from Western Colorado Congress it played right into to what we've been trying to put together. Linda McKinley has been very well informed and is doing research for John as well as the realtor folks and some service groups. What's really going to happen and that's his position. Those three but defined – the accumulative impact is the most important and the secondary is that water study getting all of the facts together, bringing it forward, combining that and having the third the most educated public possible on oil and gas as well as having a partner, and that's going to be the oil and gas industry to say, you are a part of the community – what you destroy or what you create you live with as well as we do because you're not going anywhere – you're part of our community and we have to accept that – he said he didn't think they were going away very soon – 20 – 30 years maybe it'll decline. Say hey guys, what's the overall study, what's going to happen to us; where's our water going; and how do we educate each other – so those are my choices?

Sam Potter support from his proposal from West Divide and appreciates Harlan bringing it up – it's aimed exactly at what Chairman Martin was talking about – our feels is that a lot of these people have been impacted up there, surface owners and one of the ways that some of that economic impact might be mitigated would be providing some water up there and there is some non-tributary water being generated as Orlyn pointed out through these operations up there and in talking to the water resources people it is non-tributary, potential that a water right could be obtained for those waters generated from these processes and used to benefit everyone up there and have a positive impact on their economic values.
Chairman Martin – Archuletta County tried that a year and a half ago and the State Engineer said no you can't because it byproduct. But it is a continuing battle, been in court and there's also a filing on the water which was denied, but it's still worth pursuing. They need to make an overall statewide decision.
Herman Stauffer – while the Board is in their budget process, perhaps the Commissioners could match the fine and then all of those could be accomplished that have been discussed here.
Commissioner Houpt - asked WCC how does your proposal fits in with the list that Orlyn brought forward and with the Health Risk Analysis?
Deanne Wilson - Western Colorado Congress – referenced the LaPlata impact study (on disk) and it is extensive talking about traffic, public health and safety issues, it doesn't get into the geological part of it, but the landowners they've spoken with are most interested in WCC doing the economic – the property values study. This is just an appendix, one small portion of the cumulative impact study. She suggested doing the geological study that is put forth by Doug Dennison and then pealing off that one property values study and doing something like that in Garfield County- those two things we get at what WCC is most interested in. At some later date it behooves the County to look at more of the impacts as well.
Commissioner Houpt –not having seen the LaPlata study; did they study health risk?
Deanne Wilson - yes they did and submitted the Table of Contents.
Peppi Langegger said it takes courage from the County because what you just said it will affect the County in the long run if it affects property values and would like to see the Hydrological Characterization Study – with the money left over, maybe the County can add more money because the economics will not go away. He is in the eye of the hurricane and if property values go down just 20% like in LaPlata County, we'll lose about a lot of money in valuation.
Chairman Martin agrees.
Commissioner Houpt – Deanne's submittal is a impressive study.
Deanne Wilson acknowledged that it was in partnership with DOLA and BLM. This study cost $250,000 not the original $40,000 that Commissioner Houpt thought.
Jimmy Banks - on the 2 mile moratorium, will that be left up to the County Commissioners.
Chairman Martin – No sir.
Jimmy Banks – it will be OCGGC all the way.
Chairman Martin – we requested that it continue, but the Oil and Gas Commission and EnCana are the ones that put that in place.
Claire – listening to the comments and it's a fantastic idea and would support the EAB and the educational component. She is a support member of the EAB and goes to all the meetings. This would be a good way to get the information out. With respect to Commissioner McCown's comment of having the Board take that on, it takes money and she supports adding money into this as it gets expensive to put forum's together. More discussion was held with respect to the Educational Forum and the projects presented by the EAB.
Commissioner McCown focused the group on the fact that today we are here to pick the projects for the $371,000 fine and not here to talk psychological; today we are here to dispense the fine money. During budget time is where the Board will have to make those critical decision of what and where to cut funding perhaps in the Social Services or Sheriff's budgets to fund these other projects.
Commissioner Houpt wants a level of commitment to make sure these projects are completed even if the Board has to allocate more funds to complete them.
Carol Bell – part of this process is to be certain that as much as possible that the processes can be completed within the budget estimates given. Does this look like a realistic project?
Sam Potter – said the EAB was given the criteria that this has to be a stand-alone project. This was a critical issue when they were evaluating the projects.
Orlyn Bell – on these proposals, he looked closely at what is EnCana's obligation outside of the fine money and one of the projects was an EnCana problem period. He has worked in the water all his life and there is a gray area between water qualify control commission and the State of Engineer's office, the Water Conservation Board and even locally the River District on water issues and you have the Oil and Gas

Commission sitting out there who is in charge of minerals. It's gray and cloudy and thinks we need to pursue what obligations those entities may have to put forth to put the ground water study talked about together. There's a source and obligation outside this fine funding to look at that study independently and feels we should look at funding this some other way.
Commissioner McCown – noted the $2 million in budget cuts and they will not fund it.
Harlan Hanson – thinks the Board needs to make a decision today. And while Commissioner Houpt, these are preliminary numbers, he didn't think by waiting 30 or 60 days or 90 days you would get any better numbers. And he didn't think if the Hydrological Study comes in at $400,000 and you have approved that, you're not going to start the project until you know the exact numbers. Let's get the process started. Number two, when EAB recommended these projects to the Board, they were without prejudice indicating that they would support the Board's decision no matter what it was. And only hope the interveners will also support your position, no matter what it is so that you can present a united front to the OCGGC.
Cher from EnCana said she will support the Board's decision.
Commissioner Houpt agrees that the numbers may not get that far in a month's period of time, so I'm going to make a motion that we propose to fund the Hydrological Characterization Study, the study proposed by the Western Colorado Congress, the WCC Landowners education project for $40,000 and direct remaining funds to the Energy Advisory Board to support Energy Forums.
The WCC's landowner's project was $250,000.
Carol Bell said there are two WCC proposals – one for education; one for the cumulative study.
Based on the $250,000 amount, Commissioner Houpt withdrew her motion.
Motion
Commissioner McCown then made a motion to fund the Hydrological Characterization Study for $300,000 in the 9 mile area; the Community Health Risk Analysis for $65,000 and any funds left over after contracts come in for both of those would be used for the Education Forum through the Energy Advisory Board and there's a $6,271 cushion there that we would be working with and that would money would be applied to the EAB for education purposes; Chairman Martin seconded.
Discussion:
Commissioner McCown as initially presented them, still feel that these are the two critical projects not only to those in the Divide Creek and Mamm Creek but to Garfield County and the idea of the on-going informational forum and responsibility I think clearly deserves to be handed to our Energy Advisory Board with its base of attendees and expertise and it needed some funding and that's where I recommended any left over or residual funding from this fine go. There are the three crucial projects that everyone has addressed and there's your funding source.
Commissioner Houpt said she is not ready to vote on a decision.
A short break was taken. Additional comments were taken.
Chairman Martin asked for responses from all the interveners and responders.
Deanne Wilson - Western Colorado Congress said she likes part and doesn't like other parts but she will go back to the members but feels they will submit their own cumulative impact study or just portions of it for not as much money. But wants to go in with the board still and hopes to work something out. She has no strenuously objections to the Hydrological Characterization Study.
Sam Potter said they did not evaluate the proposal from WCC at their request.
Don DeFord asked for clarification of Deanne to be clear with Trish Beaver with Oil and Gas Commission, did she say that you were not objecting to this motion but if it goes forward and if it's approved, you would still want to submit your own project.
Deanne Wilson – we would support part of your motion if it went forward, they would support the Hydrological Characterization Study and then submit a pared down impact study on our own.
Commissioner Houpt didn't know what the timing of her discussion on this should be whether it was before or after our vote but thinks she should share this before – wanted to take time about how to work to work through this and independent of Deanne was looked at the table of contents and of the opinion that if we funded the Hydrological Characterization Study project and spent the balance of that money on beginning the cumulative impact study and identifying those issues that locally landowners are concerned about and we could get a good start and for that reason I am not going to be supporting the motion on the table because I think we can move further than where we would be moving with that motion.
Chairman Martin even this isn't my most favorite motion, I do support the project I've been working on the several months, almost a year now and that is to do the overall cumulative effect and think that falls on this Board right here that we need to fund that if we can't through this fine money. Want to stay united, don't

hear real strong objections, probably support it but wants to make sure that this is only the beginning. This is not the end of our issues and this is to go ahead and use that fine money for what it is designed for as a standalone project not to interfere with the mitigation on the ongoing EnCana issue but to come united and work toward a goal and that is to solve the problems we have and that's another creation of the EAB, the education, it's all wrapped up into one – we're all I this together and we're all going to have to make decisions together, let's make the right ones, let's not just tear each other apart and continue the bickering – but let's move positively forward.
Don DeFord – while waiting for EnCana, the discussions Don, EnCana indicated to him that the projects that went to the county they did not have any particular position but were concerned that they would want to have some say about the contracting party for the entity or parties providing materials – reviewing the hydro study or who would be doing the analysis and number one that may affect how the Board views this, again we're talking about contract administration.
Commissioner McCown once more stated his projects in the motion: 1) Hydrological Characterization Study for $300,000 2) Community Health Risk Analysis $55k. leaving $6,271.00 to be applied to the Energy Advisory Board and to be used for educational purposes for community information and education.
Deanne Wilson felt that if we could postpone it until October then there would be time for a united voice. Feels the rush to use the money.
EnCana – Cher – No strong opposition and would support the board in their decision.
Chairman Martin – there is another project on air quality monitoring that Doug is also doing which is a different issue but that is a grant request pending to take care of that above and beyond what is being discussed in this study.
Commissioner McCown as a point of clarity, in the overall community impact study, Western Colorado Congress would be the vendor?
Deanne Wilson – no, the county would be.
Commissioner McCown – no, the county would not be. Who is submitting this bid?
Deanne Wilson – WCC would be proposing it but it would going through the County's study so you could chose which parts you would want to do.
Commissioner McCown – who is going to be supplying the information?
Chairman Martin – a consultant hired on the RFP.
Commissioner McCown – so the numbers we got from her are without basis because not contacting the consultant, they are based on the LaPlata study.
Chairman Martin – correct and that would be the vendors, there's an amount they charged LaPlata County on the table of contents and hopefully they would do the same for us.
Commissioner Houpt asked if Larry had looked at this. It covers a great deal and you could say we will put $70,000 toward the cumulative impact study and focus on those issues that most concern the landowners who are being impacted and you can always continue from there – we can find other monies, we can potentially budget in the future, we can use in-house resources. There are different ways of moving forward on this type of study and it would not harm the process by not funding it in full at this point.
Commissioner McCown said he had not seen the LaPlata report but sees a lot of this information trying into the group we're meeting with tomorrow – the Growth Group because this has to be a key factor plugged in with that growth study – how can they actually do a growth study and projections on Garfield county for the next 20-years without accumulating these numbers. We've got studies studying studies.
Commissioner Houpt but we don't have specific studies that the landowners who have been impacted are concerned about and that's we're talking about using this money for and I think it's a very viable recommendation and don't think it has to be fully funded but identify the immediate needs and move forward and it takes money – the group we're meeting with tomorrow would have the funds to do it.
Chairman Martin – if nothing else we could do this ourselves, it's been a number one project that we need to do get and deserve to take this under advisement, strategic plan it, try and budget it, and to come up with a product that we'll all proud and understand and have trust in and if we follow again the Table of contents knowing exactly what we have in front of us, the information needs to be gathered up and we do an RFP and get a consultant to bring it in and put those in play, that's on our shoulders to do that.
Commissioner Houpt and this would give us seed money to make sure that it happened.
Chairman Martin – well it's not a stand alone project and even though that's my number one project trying to get this done, the cumulative effect of all this from economics to the actually living on the ground and drinking water in the future, we need to have that done, no doubt about it but I think also the fine money is

very specific and it needs to be a stand alone and we're going to have to have many partners on that and take the lead on it as well.
Commissioner Houpt said you can make it a standalone project and focus on the immediate issues in the area; we disagree and we won't get beyond that today.

Claire point of clarification, it sounds like you said that this Energy Forum is a good idea and we really like it and thought you said take your proposal and money you're asking for and give it somewhere else and she just wanted that Harlan and Claire talked during the break and would like this frames as a collaborative effort since it was their proposal between the CMC who has done these forums before and has all the materials do to the forum and to put this into curriculums in the schools after that and so that it was noted that it was to be a collaborative effort and they have the materials to make it happen so that they need to be seen as part of this project with the EAB as our advisors on how it gets done. It takes money to do it.
Commissioner McCown – doesn't care how it's collaborative but wants it under the Energy Advisory Board. You should deserve full credit if that's what you want but still under the EAB.
Chairman Martin said they realize that and put it upon Doug's shoulders while he's working on his budget.
Sam Potter reiterated that it doesn't matter where the money goes, where the expense goes to do this project is where the money will end up.
Herman Stauffer – thanked the Board for letting the public speak once the motion is on the floor, it would take another month to clarify a position but the most important part is that we go down to Denver on a united front, if it takes another month to do that he recommended the Board do that. If we're split, the only way to win is to divide and conquer – we need to go there and make sure what we want and stand by it.
Chairman Martin wants to get the money to the EBA Board of education funds, to take the responsibility for ourselves as a government in representing the citizens and do our cumulative effect study keeping that in house working with the Department of Natural Resources, who is very interested, as well as the realtors, the citizens, and the lenders. The Assessor very important, but we need to do that study and do not need to paddle this out through this fine in my opinion. So the motion is and called the question:
In Favor: McCown – Aye; Martin – aye; Opposed: Houpt - aye
Commissioner Houpt stated she opposed the motion but not because the projects were relevant or important but because we came into this process with the idea of really spending some time making sure we could go to Denver with a united front and think there have been some suggestions made today that would have made that possible and I'm disappointed we didn't take time to get to this point. Thanked EnCana for allowing the intervening parties to actually discuss this and come up with projects and the Colorado Congress brought forward a really critical project and heard from John today that we need to fund a minimum of $250,000 to make sure this happens this year so I will hold him to do during our budget discussion.
Chairman Martin – not only that but to involve many other people in that funding source and information that is out there and we just need to find out and have the guts enough to find it out and give it to the people.

Severance Tax - Clarification
Jesse Smith – a newspaper article that identified $2.68 million dollars that was coming to Garfield County through mineral severance. It did not really clarify that of that $2.68 million most of it goes to Municipality entities that are impacted; only $447,000 goes to the County; Rifle is getting $1.68 million so the County doesn't have this huge windfall. Comments from the focus group people that the county had this huge windfall but it is not. We had budgeted $150,000 that we thought we would receive and yes we are receive more than what was budgeted, but we also have an Air quality impact study submitted to DOLA for additional funding and if they do not fund it and we feel they may not, the county will have to put in $200,000 to carry out that air quality impact study. This windfall that he keeps hearing about is already pretty well committed.
Sam Potter clarified that Steve Colby told of how these funds roller coaster, if there's constant production and development in the County why should they roller coaster.
Commissioner McCown said they do because this particular portion of the severance tax is 50% of the total amount garnered by the State; the other 50% goes to the State school fund and out of that 50%, 85% goes to the DOLA, 15% is refunded directly back to the communities where employees live. We had a gas price affect it, oftentimes we have companies that report their taxes in error and get a rebate and may get an $8 or $10 million rebate in one year and that drops the fund down. There is one pool of money for the entire state

of Colorado and they average the workers in the energy fields, not only oil and gas, but coal and then they assign a number to that individual worker. Then is simply goes down to math with the companies like EnCana, Williams, Calpine, etc. reporting the number of production workers only, not exploration, so the number of production workers living in Rifle times that factor which was $2970 per employee is how Rifle got that money – same with Parachute, etc.
Chairman Martin said, out of the 900 jobs in Garfield County in that particular formula, 564 lived in Rifle City Limits. If they should move to Parachute to Silt, that number goes with them and it decreases in Rifle unless they're replaced.
Sam Potter suggested talking to Rifle about funding the impact study.

Discussion of Policy clarifying noise control regulation – Doug Dennison
Doug submitted the draft policy regarding noise regulations:
As specified in Rule 802a, any operation involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation shall be in compliance with the maximum permissible noise level for industrial zones. The industrial zone noise level shall apply for these types of operations at any location where the noise levels are measured.
If an oil and gas operation is located on the same property as an occupied building unit, the operation shall be in compliance with the maximum permissible noise level for residential zones. The noise level shall be measured at the occupied building unit as near as practicable to the exterior edge of the occupied building unit closest to the operation radiating the noise.
If the noise source is located on a separate property, sound levels shall be measured as follows:
a) On property located within a county approved platted subdivision:

1. Should levels taken anywhere on a lot without a residence [as described in Rule 802.a. (1)] shall meet light industrial noise standards.
2. Sound levels taken anywhere on a lot with a residence [as described in Rule 802.a. (1)] shall meet residential noise standards.

b) On property not located within a county approved platted subdivision:

1. Sound levels taken 25 feet from a property line [as mentioned in Rule 802.q. (1)] shall meet light industrial noise standards.
2. Sound levels taken at a residence [as described in Rule 802.a. (1)] shall meet residential noise standards.

If the COGCC staff, after investigating a noise complaint, decides not to issue a Notice of Alleged Violation, a complainant may file an application with the Commission requesting an Order Finding Violation hearing as specified in rule 522.1.(4).

Don DeFord will clarify these issues at the next Oil and Gas Commission meeting.

Don talked to Brian and it had been their policy to apply noise regulations to pipelines 802.a – it has been their policy that the noise regulations are imposed. Compressors as well if they are an integral part of the pipeline. They don't define pipelines in their regulations. They will look at it in the future.
Commissioner Houpt – the proposed policy doesn't respond to contiguous landowners.
Don – correct
Doug – and when he questioned Brian about that several months, he was told that's no different from any other construction operation. If someone is building an apartment building next to your home, during the construction phase they are required to comply with industrial standards. The big difference is that this is a 24 hours-7 days thing rather than an 8 – 5 when building an apartment. Pipeline is not but the drilling operation.
Don –agreed that Doug was correct as to the construction phase. If there is an occupied residential structure it had to meet the residential noise standard.
Doug and Don will clarify this at the Oil and Gas meeting.
County Sheriff Update: Lou Vallario
Memo from the Sheriff was submitted regarding a Block Grant to procure equipment such as for emergency management. It is an $8890.00 with a match of $889. He requested authorization of the Board to submit the application.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Block application; motion carried.

Community Corrections Board –Chairman Martin stated we need a representative from the Sheriff department to be a consistent member and attend the meetings.

County Attorney Update: Don DeFord
Executive Session – Discuss the EnCana Litigation with OCGGC and DDA Litigation
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive session; motion carried.

Commissioner Report:
Commissioner Houpt – Planning Meeting – LoVA site tour with CDOT; Strategic Planning on Wed. I-70 to Boulder on the projects; CCI on Friday
Commissioner McCown – Growth Seminary 1:00 – 8:30 a.m. Strategic Planning – City Hall in Rifle.
Chairman Martin – Apple Pie Day in Rifle – How the Fair got started – 2-days Friday and Saturday;
Western District – Montrose – Resolution from Club 20 – Caucus on 18th of October – CCI on Friday.
Ed – All Hazards Day 2 pm; it entails grant funding and how to get that. Ed will be gone on Friday.
Jesse – participation in Emergency Coordination - $4,000 – turned it down.
Consent Agenda:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign a Resolution and a Permit for a Conditional Use Permit for Cerise Ranch, LLC – Jim Hardcastle
f. Authorize the Chairman to sign a Resolution and a Permit for a Special Use Permit for Robert M. Perry. – Jim Hardcastle

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda a, d, e, and f. Motion carried.
Public Meetings:
Bookcliff Southside and Mount Sopris Conservation District Annual Report – Don Smith, Charles Ryden, and Brett Jolley
Don Smith - The annual report was submitted for the Board's review and a thank you to Garfield County for their generations.
One project: help Dennis with administrative funds. The EQUIP Incentive Program has brought $700,000 in cost share dollars to the local economy in the last two years. The Districts provide education programs for youth and adults throughout the years and these services are always offered free of charge.
Brett Jolly – south canyon area – the big push is the weeds. They do weed cost share through county weed board. This year they used up all the funds.
Charles north of the river – thanked the Board for helping with the weeds; they sponsor an annual ag day with different topics; sponsored a 6th grade poster contest on erosion; Camp Rocky sponsorships; grants for local teachers to fund projects; conservation education on weed, water, hay, and water measurement. They have a riparian trailer that shows water flows; and held the Farm Bureau where 350 students attended. Thanked the Board for their support.
Dennis November 12 – Annual Dinner Meeting
Soil Conservation Annual Meeting on Nov 13 - 14 in Glenwood at Hotel Colorado.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Nancy Jacobson – came before the Board regarding the water wells and problems still occurring in the area with seeping from the EnCana well.
The Board encouraged her by saying the hydrological study will handle a lot of these issues.
Nancy questioned if drilling can be done safely in this area.

BUILDING & PLANNING ISSUES
Public Meetings:

CONSIDER THE APPROVAL OF A RESOLUTION CONCERNED WITH THE AMENDMENT OF RESOLUTION NO. 2002-32, REGULATION OF FUTURE CONSTRUCTION AND ALTERATIONS OF DWELLINGS, BUILDINGS, AND STRUCTURES, TOGETHER WITH PLUMBING AND ELECTRICAL INSTALLATIONS THEREIN, OR IN CONNECTION THEREWITH, AND THE ADOPTION OF PORTIONS OF THE FOLLOWING CODES: 2003 INTERNATIONAL BUILDING CODE (IBC), 2003 INTERNATIONAL RESIDENTIAL CODE (IRC), 2003 INTERNATIONAL MECHANICAL CODE (IMC), 2003 INTERNATIONAL PLUMBING CODE (IPC), AND THE 2003 INTERNATIONAL FUEL GAS CODE (IFGC).

The Resolution concerned with the approval of the 2003 International Codes was presented. A public hearing was held on June 7, 2004 at which time the public was invited to make statements for or against adoption of the proposed code; and the Commissioners determines that all previous building codes of the County should be repealed and a new Code enacted for the purpose of providing the orderly incorporation of the aforesaid energy conservation standards, as well as other amendments to the prior Building Code deemed to be appropriate since its enactment. It applies to future construction or alteration of all dwellings, buildings, and structures in the entire unincorporated area of Garfield County, Colorado together with plumbing, mechanical, and electrical installations therein or in connection therewith. The date this will become effective is October 1, 2004 and all Building Permit Applications submitted on or after this date shall be subject to all of the provisions of this resolution including but not limited to any fee schedule changes.

The Board reviewed this over a month ago and Mark noted that the one code not incorporated is the Fire Code and is being worked on by the Fire Code Committee. If necessary we will come back and adopt the Fire Code by reference.

This is a follow-up to the Public Hearing.

Commissioner Houpt questioned the kitchen definition based on the conservation by the Board. The Board had requested the definition of a kitchen be identified. The definition we had was not in line with trends in homes today where you could have a family room with an area where you had a refrigerator, a microwave and a sink.

Mark said this was addressed in the definition of a wet bar as opposed to a kitchen. It goes from the difference of a full size appliances.

Chairman Martin stated that all the changes in this submittal were in line with what our discussion had been in the public hearing and what we had decided to do.

Mark said the wet bar cannot have full sized appliances.

Don asked about fees.

Mark said there is a schedule attached at the end here, this fee schedule is the same that we have had in the past, the only change would be there's an evaluations chart would note that this is one generated by the International Code Council, the present evaluations chart would move a single family residential square footage value from a little of $69.00 a square foot to $74.00 a square foot so there would be slight increase in valuation charts. But this is the same sliding scale we've use previously so there's really no change there; the hourly in terms of the different types of inspections are different. We have added because the new code does cover permits for elevators and elevator permitting system. We recognize that the Northwest COG will do the inspections themselves and they're paid directly. We've added also a provision for grading permit review for those who are required to get a grading permit, separate from a building permit.

Commissioner McCown – we're collecting the elevator inspection permit and then passing it through to Northwest COG?

Mark said this is for the fee for the installation itself; as far as the building code and the separate code requirements. The actual inspection on an annual inspection is something that would stay with the Northwest COG.

Chairman Martin and Commissioner McCown agreed with Mark that this Resolution is compliant with the testimony and discussion by the Board.

Mark identified the changes per the discussion with the Board.

Don stated the Fire Code will be expedited.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Resolution and the Chair authorized to sign as corrected; motion carried.

CONSIDER A REQUEST FOR AN EXTENSION TO FILE THE FINAL PLAT FOR AN EXEMPTION FOR THE DEFINITION OF SUBDIVISION FOR REX COFFMAN. – FRED JARMAN

Fred Jarman submitted a request to extend the time to file and stated the regulations are silent regarding recourse if an applicant fails to submit a final plat after the deadline. Staff is very aware that the applicant has been working towards submitting the final plat for several months but understands the applicant was uninformed as to the deadline. Based on this knowledge and progress that has been made, staff recommends the Board extend the deadline to file the final plat until April 19, 2005 which is equal to a one-year extension.

This was before the Board previously. Rex knew he was supposed to be present. The Code is silent on this extension. Fred said the staff recommends the extension.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the extension to April 19, 2005.

Public Hearings:

CONSIDER THE APPROVAL OF A REQUEST TO PUD AMENDMENT AND PRELIMINARY PLAN FOR THE BAIR CHASE SUBDIVISION AT SANDERS RANCH. APPLICANT IS LINKSVEST/BAIR CHASE, LLC – MARK BEAN

Don DeFord, Mark Bean, Ron Liston Land Design Partnership, Jim Wells with Bair Chase, and Attorney Jim Lockhead were present.

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

Chairman Martin swore in the speakers.

Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Project Information and Staff Comments; Exhibit G – Bair Chase Subdivision at Sanders Ranch PUD, PUD Amendment and Preliminary Plan application; Exhibit H – Letter from the Division of Wildlife dated February 5, 2004; Exhibit I – Letter from the Division of Water Resources dated January 22, 2004; Exhibit J – Letter from the Colorado Geological Survey dated February 2, 2004; Exhibit K – Letter from the Carbondale and Rural Fire Protection District dated January 30, 2004; Exhibit L – Letters from RFTA, dated January 27, 2004 and April 16, 2004; Exhibit M – Memo from Steve Anthony, Vegetation Management dated February 2, 2004; Exhibit N – Letter from Chris Hale, P.E., Mountain Cross Engineering, Inc. dated February 20, 2004; Exhibit O – Letter from SGM addressing Chris Hale comments dated 5-26-2004; Exhibit P – CDOT Highway Access permits No. 304060 and 304061; Exhibit Q – Letter to Kurt Wigger from Dan Roussin, CDOT, dated 6-15-2004; Exhibit R – Letter to Mark Bean from Dan Roussin, CDOT dated 6-29-2004; Exhibit S – Letter to Craig Lis, Division of Water Resources from John Currier, Resource Engineering, Inc. dated 6-25-2004; Exhibit T – Letter from Chris Hale, Mountain Cross Engineering, dated 6-28-2004; Exhibit U – Letter from Terry Classen to the Planning Commission, dated 6-9-2004; Exhibit V – Letter from Craig Lis, Division of Water Resources to Mark Bean, dated 7-13-2004; Exhibit W – Letter from John Currier, Resource Engineering, Inc. to Mark Bean, dated 7-9-2004; and Exhibit X – Amended Phasing Plan for the Bair Chase Subdivision at Sanders Ranch PUD.

Chairman Martin admitted Exhibits A – X into the record.

Mark submitted a new exhibit – a Letter identified with HP Geotech 8-19 and 9-8-2004 regarding – Exhibit Y.

Chairman Martin entered Exhibit Y into the record.

Mark gave the staff report – this is a PUD Amendment and Preliminary Plan for the Bair Chase Subdivision at Sanders Ranch on a 281.38 acre tract of land. The tract is identified as high density residential or less than 2 acres per dwelling and low density residential or 10 acres + for dwelling units. The applicants propose to amend the PUD approval given to the Sanders Ranch in Resolution No. 2001-27 and additionally they would subdivide the property into a total of 230 residential units with approximately 218 acres of land dedicated to open space through a Preliminary Plan application submitted at the same time. There are three residential districts and one Open Space District with fourteen residential units. The Conservation District is 54.417 acres of land adjacent to and including the Cattle creek and Roaring Fork River bottom lands. The Recreation District is 175.920 acres of land that includes an 18 hole golf course, a golf clubhouse with 14 lodging units and a fishing cabin.

In-bound access issues – Mark said access heading south into the Sopris Restaurant so there would be a single lane and then a single out but on the north side of the Sopris property. He noted there has been an appeal of that rescinding of those permits on the Sopris property by the owner of the Sopris Restaurant; he talked to Dan Roussin today about that particular issue and he told Mark while that is correct about the appeal, it does not affect the status of the permits for this particular project. These are still valid permits for their access purposes. Whether or not the Sopris Restaurant uses the proposed easements to gain access to their property or whether they maintain the same easements is subject to further discussion and would be a part of their appeal but at this point the State has issued the access permits to the Sander's Ranch applicants and considers those to be valid permits in place. All engineering issues have been resolved and approved by the County Engineer.
Water for the golf course: HP Geotech, Steve Pollack stated they are dealing with potential sink hole areas – concerns for set backs for this and now the set back has been reviewed and approved by the State Geology.

Staff notes that in terms of suggested findings and recommendations, one change to no. 11.
Planning Commission had an additional condition and added a change to No. 11 – on page 20, and that basically would say "~~the railroad crossing"~~ and say "the formal license issuance grant for construction of a trail, a weed eradication plan, and a maintenance access between RFTA and the applicant would be signed before the final plat." That has been resolved. Also, Conditions No. 4, 6, and 8 – these were original recommendations by the Planning Commission for approval, they have been resolved and documentation to that effect was provided. Incorporated other suggested conditions – Mr. Liston pointed out to me that the Planning Commission did have an additional condition they added into the application, it says basically and this goes to the issue of the access to the Sopris Multi family area, "the applicant shall show on the final plat for the Sopris Multi family area, a joint access to State Highway 82 for the Sopris Multi family area and the Sopris Restaurant properties at the time of completion of the access that is the subject of the State Highway access permit No. 304060 the applicant shall convey to the owner of the Sopris Restaurant property an easement deed, an easement for vehicular access over and across the joint access to State Highway 82." That was basically providing access for the adjoining property for the Sopris Restaurant to gain access to that. Back up and related one more thing related to the access, "part of the proposal to improve this access point next to the Sopris Multi family area is also try and move the access on the east side of the highway further south so that they both cross at the same point and eliminate some of the conflicts they've had in that one area where there is a little rise where the Sopris Restaurant properties and those that come out of the professional park there had conflicts and has been an area where they've a number of fairly bad accidents and would like to move it to a more visible area further north. That is another part of the suggested changes that still need to be resolved with CDOT but it is part of the proposal being discussed.
Recommendation:

1. That all representations of the applicant, either within the application or stated at the hearing before the Planning Commission, shall be considered conditions of approval.
2. Prior to the recording of covenants for the development, the following issues will be addressed in the document:
   A. Covenant 3.41, Engineering and Soils reports needs to state that the plans are "stamped by an engineer registered in the State of Colorado", if they are only going to allow engineers to sign the plans.
   B. Section 3.9 needs to make it clear that property owners are responsible for noxious weed management.
3. The applicant will provide a plat note and covenants requiring engineered foundations for any building and that the building plans submitted as a part of any building permit will include foundation plans stamped by an engineer registered in the State of Colorado or a letter stamped by a qualified geotechnical engineer stating that no special foundation design is necessary for the structure.
4. Prior to the construction of the proposed water, sewer and natural gas lines, the applicant will obtain Floodplain permit from the County.
5. The following information must be provided to the Garfield County Vegetation Management Director and approved, prior to the filing of any final plat.
   a. Provide a weed inventory and commitment to a weed management plan that

addresses the County Noxious Weeds this upcoming growing season.

b. A list of activities to be included in the revegetation plan.

6. Prior to Final Plat approval, a copy of the Colorado Department of Health and Environment letter of approval of the Bair Chase Lift Station Site Application.

7. Prior to Final Plat approval of any of the multi-family housing, the Applicant shall provide all construction plans for the water system to the Carbondale Rural and Fire Protection District for review. Any modifications to the system required by the District will be included in the construction plans submitted as a part of the Final Plat for the area.

8. The formal License Grant for construction of a trail, a weed eradication plan and maintenance access between RFTA and the applicant will be signed before the final plat is signed and a copy of the license be provided as a part of the first final plat submission..

9. No irrigation water ponds will be filled and maintained full prior to a water court decree being entered, allowing the use of the water in any ponds. A copy of any final decrees will be provided to the Garfield County Planning Department prior to the filling of any ponds.

10. The applicant shall pay the cash in lieu of land dedication for each final plat, per the formula identified in Section 9:81 of the Garfield County Subdivision Regulations of 1984 as amended or a formula approved in any subsequent regulation amendment.

11. The applicant will be required to pay the applicable and Rural Fire Protection District impact fee prior to any Final Plat being filed

12. There must be full disclosed to prospective buyers that subsidence geologic hazards exist on this property. That disclosure must state that sinkholes exist on the specific lots where they are mapped.

13. All excavations in this development must be examined by a GeoTech consultant with knowledge of evaporite subsidence, with the inspections and evaluations of over lot and infrastructure grading, utility trenches, or foundation excavations to reveal adverse subsurface conditions related to subsidence and require any mitigation or development plan changes be completed before release of any security for subdivision improvements.

No. 13 was changed to read: The applicant shall show on the final plat for the Sopris multi-family area a joint access to State Highway 82 for the Sopris multi-family area and the Sopris Restaurant properties. At the time of completion of the access that is the subject of State Highway Access Permit No. 304060, the Applicant shall convey to the owner of the Sopris restaurant property by easement deed, an easement for vehicular access over and across the joint access to state Highway 82.

Commissioner Houpt – some concern raised by Steve Anthony for the riparian area and would that impact some of the plans in place?

Mark said a buffer area has been included. DOW has signed off.

Don pointed out a numbering issue to make the record clear. On page 20 it is shown going to Recommendation No. 14; and the hand numbered one shows 16.

Ron Liston – copies what was in the Planning and Zoning Commission meeting and it would be 16, but there is also a condition that was deleted that moved the numbers up, today it should be 15 conditions.

Mark said these numbers will change; all in the conditions themselves due to the deletion of 4, 6, and 8.

Ron Liston – CDOT removed the signal light requirement.

Applicant:

Ron Liston stated Mark covered the history and Bair Chase properties – Bair Chase Properties, LLC.

Ron pointed out the ponds for the golf course is covered in Condition No. 12 and asked Steve Pollack to clarify some of the sink holes that have basically been resolved.

Steve Pollack –with HP Geotech – calculations used for the setbacks are the same as Aspen Glen – they investigated the depth of the over burdened soils, calculated what draw would be under the worse case scenario and recommended the building envelopes not go any closer to it. The only condition and Jonathan agreed with it in his correspondence and that would be that the actual set back would be staked in the field prior to any site grading of the property.

Ron – agree with Mark's comments to eliminate 4 – 6 and 8 (see the staff report and my notes).

Jim Lockhead stated the history of the access; the PC identified a number of conflicts and the 3 accidents occurring there. There would have been four access points and entered in an agreement with Mr. Wigger essentially the way they are. Bair Chase's accesses expired and new access permits – CDOT issued new access permit to them and also new access permits to Mr. Wigger that basically took care of that agreement

by administration of the permits. Essentially what CDOT did was provide for our access to the Sopris Multi family for the closure of two of the access points at the Sopris Restaurant and to facilitate that, we told CDOT and we also told P & Z that we would agree as a condition of final plat approval to construct that access through to Mr. Wiggers and also convey by easement deed to the owner of the Sopris Restaurant an easement so he could have access through that multi-family development in a way that facilitates both the safety of both properties. They have written to Mr. Roussin confirming to him that this is the plan and asked for a condition of that nature to be put on this in order to make sure they get it taken care of and will resolve the issue satisfactorily. The condition was passed out and Mark will include that in the Resolution.
Jim Lockhead said Mr. Wigger will not lose his access until the new intersection is completed. CDOT will not close Mr. Wigger's access point until the new access is constructed.
Mark clarified, the proposed development schedule, Sopris Multi family will start next year and before the actual project it will not affect Sopris Restaurant until 2006.
Jim Lockhard said they had to submit changes to CDOT.
Carolyn irrigation water in the covenants – Mark said this issue had been resolved by Chris Hale – verified in writing.
Jim Lockhead – the agreement with the Roaring Fork Sanitation District does allow for up to 3 acres for lawn and irrigation through the potable system. The remaining portion of the property would be irrigated through the non potable system and our intent to include provisions within the covenants that would outline the responsibility for the homeowners for maintenance of the non-potable system and also make sure that not more than 3 acres irrigated out of the potable system.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request to the PUD amendment and Preliminary Plan for the Bair Chase Subdivision at Sanders Ranch with conditions striking 4, 6 and 8 adding the one supplied by the applicant, changing the verbiage in No. 11 as denoted by the planning department and including all testimony of the applicant. Chairman Martin said he hopes we resolve the issue with our neighbor and that is a number one key that you've got to do, otherwise I'm sure we will all hear about it in a different venue.
Martin – aye, McCown – aye; Houpt – aye.

CONSIDER AN AMENDMENT TO THE TEXT OF THE SPRING RIDGE II PLANNED UNIT DEVELOPMENT. APPLICANT IS S&S RANCH LLC, SBJ RANCH LLC, FREEMAN RANCH LLC, GSB RANCH LLC, AND WILD MOUNTAIN RANCH LLC. – FRED JARMAN
Fred Jarman and Patrick Fitzgerald were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – application; Exhibit E – Staff Memorandum; Exhibit F – Email from DOW dated June 26, 2004; Exhibit G – Letter from AVLT dated June 27,2004; and Exhibit H – Letter from AVLT dated August 9, 2004. I – rec'd Friday – letter from Leavenworth and Karp dated 9 –11- 2004.
Chairman Martin entered Exhibits A – H into the record.
Fred said in May 2003 the Board approved a four-phase site specific development plan providing for 81 residential lots on 150 acres of property. 308 acres +/- will remain as open space (Reserved) and has been placed in a perpetual conservation easement and deeded to Aspen Valley Land Trust (AVLT).
The applicant proposes two changes to the text of the PUD which includes the following:

1. Adding "grazing and keeping of animals, including stables, barns, and accessory uses" as a use by right in the residential area; and
2. Changing "grazing and keeping of animals" from a conditional use to a use by right in the Reserved Area as well as adding "stables, barns, and accessory uses: as a part of that same use.

Staff recommends that we approve the request to add "grazing and keeping of animals, including stables, barns and accessory uses; as a use by right in the reserved area so long as the stipulation by AVLT acres strictly followed and deny the request to add "grazing and keeping of animals including stables, barns and accessory uses as a use by right in the residential area."

Pat Fitzgerald – zone text amendment and was supposed to talk to Martha at AVLT and what she wanted and Spring Ridge II have been resolved. The property has been used for grazing throughout history.
The request for horses on some of the lots is different from the original presentation and this stems from marketing. 13 lots are appropriate to have a horse on their lot. This doesn't involve AVLT as it is on private lots. Pat said he feels that horses could be monitored and controlled.

Planning Commission Recommendation:

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the Public Hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the request to add "grazing and keeping of animals, including stables, barns and accessory uses; as a use by right in the reserved area so long as the stipulation by AVLT acres strictly followed and deny the request to add "grazing and keeping of animals including stables, barns and accessory uses as a use by right in the residential area."
Martin – aye, McCown – aye; Houpt – aye.

CONSIDER AN AMENDMENT TO THE FINAL PLAT FOR LOTS 5, 6, 19 AND 20 OF BLOCK 11 OF THE TRAVELERS HIGHLANDS SUBDIVISION. APPLICANT IS HARLAN MCELROY. – FRED JARMAN

Terry Kirk, Carolyn Dahlgren and Fred Jarman were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Memorandum and Exhibit H – Proposed Site Plan. Exhibit I – letter from Beattie & Chadwick regarding the Casteel family in violation of the covenants; public use of public access and public streets, septic system and drainage.
Chairman Martin entered Exhibits A - I into the record.
Fred stated the purpose of the proposal is to vacate the lot lines between the four adjacent lots having 5,000 sq. ft each to create one 20,000 sq. ft. lot. These lots are located in the Travelers Highlands Subdivision which is a subdivision approved in 1962 located west of Parachute between I-70 and the Colorado river with public access to the property off of State Highway 6 & 24.
This subdivision is Commercial Limited. Lot lines creating one lot.
Exhibit H was discussed and a request for a metal building that would cross lot lines and it wouldn't meet zoning. Therefore, the applicant submitted this request to remove the lot lines.
Staff raised the question of the roads within the subdivision. Fred read no. 3 into the record.
Of note this property is in the Grand Valley Fire Protection District.

Staff recommendation is to approve the amended plat request with the following conditions:

I. <u>PLANNING COMMISSION RECOMMENDATION</u>

On Wednesday, August 11, 2004, the Planning Commission, by a unanimous vote of 7 – 0, forwarded the following recommendations to the Board of County Commissioners:

1) Recommended the Board <u>deny</u> the request to add "grazing and keeping of animals, including stables, barns, and accessory uses" as a use-by-right in the Residential Area because the Planning Commission felt that individual lots were not suitable to contain individual horses based the impracticality of the small lots to adequately serve the needs of horses as well as the findings made by Staff; and

2) Recommended the Board <u>approve</u> the request to add "grazing and keeping of animals, including stables, barns, and accessory uses" as a use-by-right in the Reserved Area so long as the stipulations by AVLT are strictly followed which includes that only one structure shall be allowed in the irrigated meadows which is defined as a hayshed with attached, unenclosed loafing sheds on the sides consisting of no more than 3,000 square feet.

Exhibit I – clients represented to Beattie and Chadwick that the Board hear 1) the violation of covenants and in this the idea is that when this was originally approved there was a set of covenants also approved that does not contemplate the use that the applicant is proposing for this and they've outlined the language for the Board as well as provided the covenants that are recorded in the County's records. This is on page 2 of 4 - The key to the language here is for extending and or dissolving.
Private access and streets – the clients own the majority of lots and are asserting the applicant has placed material on their property and the septic system of adverse affects.
Terry Kirk – should zoning be adopted, these covenants would be preceded. Therefore, he maintains the covenants went out in 1974 when the County adopted zoning and determined this property to be commercial. The drainage is in and for what they are doing, the culverts are in and the roads are put in.

A locked gate is not in place but the jersey barriers are in place but not closed or locked.
Terry received a state access permit and Dan Roussin was concerned if anyone else wanted a permit, they would have to come back and request one.
Page 3 of 4 – Terry maintains he is not using any other lots but there are vehicles parked and stored on the road.
Terry stated the plat was recorded in 1962 and the County has accepted it as Commercial Zoning. His operation is in full compliance with the zoning.
Carolyn stated on the road issue – if there is not an acceptance, a viable acceptance they are private roads unless the objectors can show there was an acceptance - Marvin doesn't have any knowledge of these being public roads.
Terry Kirk – roads are recorded as private rights of way – they are platted as access to the subdivision.
Glen Chadwick – attorney and represents the Casteel property. The Casteels own 70% of the lots. His understanding that Mr. Kirk represents Mr. McElroy. He understands the applicant wants to build a metal building and his clients do not have any objections to build this but for the use by the concrete barriers. The placement of the locked gate from 6 & 24 as what are designed as streets – the fact that the applicant comes in and has access via the Scarrow roads, posting on Scarrow which may or may not be a public street.
Exhibit I – Exhibit 3 – agreement with Mr. Kirk and A & S – giving access. Questioned if the County should go forward and approve this application. Accept the staff's recommendations and drainage but the staff doesn't state anything. Would like to see a condition express use should be commercial and with zoning. Some of the issues raised are private concerns, some the County should be aware of and consider. At a minimum, important for County staff to investigate what is going on.
Applicant described what he is doing on this property.
Terry Kirk – on the last page of Exhibit I – This map is totally incorrect. The haul route – he gave A & S permission to go through – his access. Precasting and the type of business with rentals – Mark has agreed this is okay. He makes concrete bird baths, jersey barriers, pours liquid concrete into forms, a multitude of projects and he runs the equipment. No building but some sheds to lock up his expensive products. C/L – he has boom trucks, back hoes, bob cats, saws, all on the property in and out.
Fred –the vehicle rental is a use by right in the Commercial Limited zoning, but the question is, is this fabrication. Terry said he manufactures some products and he does welding.
Mark – Mr. Kirk is right, he went to the Board of Adjustments and there was a considerable debate over another piece of property he owned near the Silt area and the decision was and a record it was issues on manufacturing/fabrication versus rental, etc. Mark would have to go back to the file, and verify but what Fred is saying is this issue is in the zone district all fabrication is to take place indoors.
Terry Kirk – this property is also commercial limited in the County in Silt; the hearing at that point was about they wanted to put a concrete business and make their own concrete and that, according to Mark didn't work out. So they went back to buying concrete and they are allowed to make concrete on site for our products but not allowed to sell the concrete is the way the hearing finally came down. They can make the concrete and make fabricated products and sell those but can't sell it as concrete.
Fred – back to Carolyn and then back to the Board – there's a ping pong on this road issue. There was a dedication, but no receiver. Marvin doesn't include this on his road maintenance plan as part of the county road system, so it appears in function these may be private roads by defacto.
Terry – the roads were dedicated to the public by covenants.

Executive Session – legal advice on this issue

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of executive session; motion carried.
Commissioner McCown made a motion to continue this hearing to review the minutes of 1962 public hearing when this particular issue was being discussed regarding access and the road issue until October 11, 1:15 p.m.; Commissioner Houpt seconded; the motion carried unanimously.

Division of Natural Resources – works with Russell George – Shane Henry
Meeting – public projects – early this morning.
Looks forward to work with the state – Martin informed the Board.
Assessor, Division of Natural resources; Wednesday – take this up. Colorado Congress said if this was committed to then they would join us in the projects recommended.
Issues – Dr. Fine – mitigation plan was acceptable and will respond back to the Oil and Gas Industry –

Post the meeting – City Hall – Rifle – 8:30 to 4:00 p.m.
ADJOURNMENT

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

SEPTEMBER 20, 2004
PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 20, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
REGULAR WORK SESSION:
COUNTY MANAGER UPDATE: ED GREEN
Energy Impact application for Mountain Family Health Center – David Adamson
David is proposing a DOLA grant with Mountain Family Health Center – July 2004 Governor allocated $6million called Health Care Initiatives. They intent to submit a proposal; met with Tim Sarmo and Tim thinks they have – install electronic medical centers to increase access by increasing productivity. It enables them to with the prenatal program connect to the medical records for those privy to the information. It integrates the entire system and also helps in the outlying communities to access information while seeing the patients. They have been working on $350,000 and $150,000 from Mountain Family Health and other contributions so they will be requesting $155,780 from DOLA.
The request is for the Board of County Commissioners to be the sponsor.
Three other entities are contributing funds. Money would have to come through the County and sign a private agreement with those matching funds as well as Mountain Family Health Center.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Mountain Family Health Center Energy Impact Grant Assistance application; motion carried.
Will Source enterprises release of road bond – Mike Vanderpol
Mike presented the letter from WillSource Enterprise, LLC as a formal request to have the road bond permit released/or canceled. Effective July 1, 2004, WillSource Enterprise, LLC transferred operations of its projects in the Divide Creek Extension located in Mesa, Pitkin and Garfield County, Colorado to Delta Petroleum Corporation. Delta Corporation has informed the Road and Bridge department they have a road bond in Garfield County - #B000955.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to release the road bond for WillSource Enterprise, LLC. Motion carried.

Will- Power LLP to bury a pipeline 6.37 miles along Parachute Creek with three road bores – Marvin Stephens
Mike VanderPol and Marvin were present.
Marvin Stephens attached 8 maps identifying the proposed pipeline through Parachute Creek
Tony Kenai with Will-Power was also present.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the implementation for Will-Power LLP to bury a pipeline 5.37 miles along Parachute Creek with three road bores; motion carried.
COUNTY ATTORNEY UPDATE: DON DEFORD
Contracts for Maintenance on Forest Service Roads
Don stated there were three agreements included; it is to reimburse $13k.
Commissioner McCown moved to authorize the road maintenance with the Forest Service on Coulter Mesa and Beaver Creek roads; Commissioner Houpt seconded; motion carried unanimously.
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE
EnCana Oil and Gas Hearings today in Denver; CBMS installation and potential litigation; and advice on contracts with CHFA and Sweetwater Community Club.
Commissioner McCown made a motion to go into an Executive Session; Commissioner Houpt seconded; motion carried.

Commissioner McCown made a motion to come out of Executive Session; Commissioner Houpt seconded; motion carried.

Direction

Policy Statement on CMBS System

Don started with the position on the implementation of the Policy Statement on the CMBS system in the Department of Social Services statewide concerning potential litigation.

Lynn Renick stated the recommendation from the department is that we provide full support to the litigation regarding the implementation of the provision of benefits

Commissioner Houpt so moved; Commissioner McCown seconded.

Clarification on the motion: it includes with other counties in the existing Denver Court Cases.

Commissioner McCown said he supports the other counties but going in litigation not sure – this is the initial stages but cannot support.

Don – there is a legitimate question to sue State of Colorado – always an issue. The request is limited to the instance where other counties are initiating it.

Houpt – aye; McCown – aye; Martin – aye.

JBC – presentation tomorrow – no other action needed.

Action

Pending litigation Oil and Gas Commission

1) the staff of the O & G Commission has indicated they would like to have this matter continued to allow their staff and county reps to discuss the merits of the hydrological study and to discuss the proper administrator of that project – the staff is currently taking the position that EnCana administrate it and supervise by O & G Commission.

The board approved a continuance.

2) as part of the day's hearing, it will be helpful if the Commission itself would give some direction concerning appropriate projects including appropriate administrator for projects given the position they have stated and the information given us, the question is for the Board – should you change the position that the county be the administrator.

The BOCC said no.

Don requested a motion to authorize the staff including Don and Doug Dennison to agree to a continuance for the purpose of discussing public projects and indicating that County Commissioners any public project should be administered by Garfield County.

Commissioner Houpt so moved; Commissioner McCown – seconded; motion carried.

3) in terms of participation – Doug and Don are prepared to leave for Denver – appearance or by telephone. BOCC join or participate by telephone.

Don stated there is power in being present. Commissioner Houpt advised them to go. They could have a conference call with Don and Doug.

Chairman Martin – agreed that a face to face meeting is better and they could give verbally and non-verbal information.

Two other matters – ***Dietrich Well*** –we received this morning communication OCGGC staff that they intent to cite EnCana for an additional violation of their regulations regarding the protection of Williams formation gas and the Dietrich well. As you know from the background on this case, the Dietrich well was one of those that are expert believed was impacted by the Swartz well seep. Do you want to authorize Garfield County to intervene as a party in that case?

Commissioner Houpt made the motion that we do intervene as parties. Commissioner McCown seconded for discussion.

Commissioner Houpt – this is a continuance of the case that we intervened in and it's the same seep and is an extension and more violation than recognized. She wants to be involved.

Commissioner McCown – has concerns and a question; during the hearing that the contamination in the Dietrich well is from the initial violation and were the property owners of the Dietrich well be victims in this and as we all know now, that isn't EnCana and can you be liable to yourself if there is no damage outside of that and if it does not come to light that the isotopic fingerprint of this gas in the Dietrich well has not traveled beyond that area, I don't know that there would be any position for us to intervene on. If they find the Swartz well gas in the Dietrich well, EnCana becomes the victim.

Chairman Martin –there is still violation of the operating rules on oil and gas.

Commissioner McCown – the focus would be the violation on the Dietrich well or on the Swartz well? Only if they don't take action.
Agreed.
Don – the contamination at the hearing is evidence of violation which first started at the Swartz well; the violation is contamination of the drinking water supply which is a violation of the regulations. As Chairman Martin pointed out, it makes no difference whether or not it's EnCana, it's a violation of the regulations. The difference in this case is if they sustain a violation does it expand the scope of the impacted area and the Dietrich well is beyond the area for which they are liable.
Doug – it is within the area and they are doing the monitoring. Another potential well, other than the Dietrich well is the concern and that would be the culprit.
Jamie Atkins – additional testing is being done.
Commissioner Houpt still thinks it is important to remain involved.
Chairman Martin – postpone decision – table the motion pending further discussion.
Table until further information

Doug – Jamie told him that since the gas seep, all wells in that area are being monitored. EnCana did the cementing a week go. They asked EnCana to do more testing or maybe this is Wasatch gas breaking into the hole – gas previously released – potentially into the bore holes and not in the creek. Topical tests are in – additional reports within another week or so should have this pinned down.
Motion back on table
Motion – Commissioner Houpt still wants to intervene.
Vote – McCown aye; Martin aye; Houpt – aye.
Consideration of Renewal of Ban on Open Fires.
Guy Meyer submitted the report pulled off the Internet this morning. The fuel moisture is still low and the Fire Districts were in support of leaving the ban and issuing permits.
Don said you can reenact it or repeal it at any time.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to keep the Fire Ban in effect until the 18th of October at 10-18-04 at look at it again on October 4, 2004. Motion carried.
Consideration of Assignment of Private Activity Bond allocation to CHFA.
Previously authorized the resolution on the private activity bond allocation to CHFA. However, Jim Roberts submitted that the form of resolution was not correct, a new resolution and a form letter was submitted. These would effectively assign the PAB to CHAFA and the Board is required to act.
Opinion letter – not in the formal and Don was to sign; redrafted to and authorize the Resolution and agreement allocating PAB in the form by CHAF.
Commissioner McCown so moved; Commissioner Houpt seconded; motion carried.
Consideration of Agreement with Sweetwater Community Club.
This is an IGA between the Sweetwater Community Club and the Board of County Commissioners for the development of a Fire Station with county assistance. There are three primary issues to be considered and addressed if the Board's considers the request; those are:

1. Inclusion in the Gypsum Fire Protection District
2. The status of an agreement with the Sweetwater Community Club;
3. The substantive contents of an agreement with the Sweetwater Community Club.

Don stated that Chairman Martin provided us with an executed agreement with the Sweetwater Community Club and asked that staff be authorize to complete negotiations once we receive proof of proper incorporation of the club, incorporate an agreement with all the items described items 3a – 3e.
Commissioner Houpt so moved; Commissioner McCown – seconded.
Bill Stevens said they are working on the incorporation with the state but failed to bring the policy. Sweetwater appreciates your help. We will erect the building.
Motion carried unanimously.
COMMISSIONER REPORT:
Commissioner Houpt – GoCo tour on I-70 for trails – we did agree to stewardship and maintenance – need this to go along with their grant application. Watershed growth scenario – thanked Randy Russell – great links regionally and the Northwest GOC and Rural Resort – this week – procurement workshop 9-22; Rural Resort on Thursday. Friday – interviewed the finalists for the housing project – hearing from Colin.
Commissioner McCown – access at Forest Service at 10 a.m.; speaking at Kiwanis in Battlement Mesa at 7 a.m

Ed asked that you hold sometime the following week for a special meeting – CMC and may be in a position to place that contract; September 27 is a possibility; it's the 4th Monday.
Commissioner Martin – Thanked Randy and on-going watershed planning – pulled two other counties; 10-25 CCI last Friday; thanked for being invited to Rifle Pie Days – great event held on Sat 9-18; Wednesday – 9-22-04
Fall Arts Festival – Wednesday through Sunday

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign the Turgoose Ranch Rural Land Development Exemption Plat and Resolution of Approval. Applicant is Ranch Savers, LLC – Fred Jarman
f. Authorize the Chairman to sign Eagles Point First, Final Plat. Applicant is Battlement Mesa Land & Development Company LLC – Jim Hardcastle
g. Authorize the Chairman to sign a Resolution and a Permit for a Conditional Use Permit. Applicant is Greg Williams. – Jim Hardcastle
h. Authorize the Chairman to sign a Resolution and a Permit for a Special Use Permit. Applicant is Todd Gressett. – Jim Hardcastle
i. Authorize the Chairman to sign the Amended Plat of Lot 28, Oak Meadows Filing No. 2. Applicant is Oak Meadows Homeowners Association. – Jim Hardcastle

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda absent b, c, and f. Motion carried unanimously.
Discussion on the item:

j. Authorize the Chairman to sign Eagles Point First, Final Plat. Applicant is Battlement Mesa Land & Development Company LLC – Jim Hardcastle

Tom Beard, Debbie Dooley, and Attorney Chris Coral were present.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the final plat with the stipulations of the County Attorney and the agreement of the attorney and the Clerk hold it. Motion carried unanimously.

Human Services Commission
Youth Services – Deb Wilde
Debbie Wilde, Indra Bredis, Ray Combest – 9th judicial district were present.
Coalition for Families.

YouthZone – doing okay – 2/3 of what they were before the State budget cuts. Core Services very strong; state and federal budget cuts they used to be able to fill in social services and sheriffs – having impacts from the budget cuts.

Coalition for Families – Community Evaluation Team – deal with issues particularly with out of home placement issues – criminal justice and human services – the issues of all services are on very intense kids and she showed the cost. Issues before them now are growth, problems with placements, intoxicated juvenile and a center to put them.
Youth – when you place youth out of area they go a-wall in a facility.
The focus is on how to keep kids out of these placements.
Amount of resources once they get into the juvenile court system is low – they only have 7 beds allocated.
Indra Bredis – CET – collaborative effort working together to provide resources for kids having trouble in school, failure in school, or a lot of delinquency behaviors at school. There are the typical at-risk youth. Troubles in home or in school including drugs and alcohol. This is a brainstorming group to avoid detention. The group does staff referrals – mental health, come up with a list of recommendation – goal is to come up with a list of supportive services – link with resources – money to fund families. $30,000 available for offering services. Money comes from Garfield County and the Dept of social services under the WRAP grant. The value of this was that once the funds were gone, WRAP was to prevent out of home placements to prevent these enormous amounts of dollars going to these diversions.
Juvenile Diversion is from District Attorney's budget and they are looking at probation and division of youth corrections and work to keep kids out of the court system.

BOARD OF SOCIAL SERVICES

Approval of August 2004 Disbursements
Lynn Renick presented the disbursements and requested approval.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the EBT Disbursements in the total amount of $80,300.07 and the Chair authorized to sign; motion carried unanimously.
Update on Colorado Benefits Management System Implementation
Lynn submitted a list of problems the CBMS is causing within the County; Janice George went over the points.
New cases not being approved in a timely manner – pending 214 cases; recertification's of food stamps and predeterminations for public assistance; babies born and mothers in some cases can remain on Medicaid for 60 days and this system will no allow them to close; SS number called 810 – a problem; help desk help not responding; interviews for Food Stamps has increased from 15 minutes to an hour; cleansing cases active as of September (3000) cases; Child Support to reimburse TANF monies is being counted as income and deducted from the grant amount even though the client doesn't receive the funds; technicians not having time to return calls and also staff time in front of a computer with stress and health issues.
Lynn stated the rollout occurred on September 1, 2004 and as anticipated it has been a rough start with many procedural changes to try and minimize and/or offset some of the major obstacles in the system. Also overtime is a problem and increasing daily to try and get the work done.
Carolyn – make sure you are keeping good records on tickets going to the help desk. An actual log – yes they are.
Lynn from the meeting last week with CBMS – one of the big issues over the days is waiting on response time and can wait up to 3 minutes to go from screen to screen. State put in some kind of computer software. Showed a graph showing the bogging down in the State system.
Janice said they anticipated things to be slow but gain speed when the operators are trained.
The Board gave the assurance that they are behind the department in addressing the State.
Discussion on Plans for Child Care Capacity/Quality Enhancement Awards
Lynn stated the Department is planning to provide assistance to child care centers and family day care homes in order to increase the capacity and/or the quality of their individual programs. The funding will be available to providers through an application process that must specify use of the funds, and the requests must meet certain criteria in order to utilize Child Care Transfer Funds. They anticipate providing assistance up to approximately $44,000 prior to December 31, 2004.
Carrie Podl-Haberern submitted a handout dated August 2004 showing the family home care update, center report and other interesting components of the Child Care Program Recruitment/Retention Report.
Ed was complimentary of this program – good bang for the buck.
Program Updates were submitted for review by the Board. Interestingly the Child Support collection goal for 2004 is $4,528,278.00 and as of August 2004, they have already collected $4,274,894.00.
YAMPAH TEEN PARENT PROGRAM
Received accreditation and there was an article in the Post Independent
BOARD OF HEALTH
Contract with Mesa College for Nursing Student Rotation
Mary explained the short notice of this contract.
This is for a student getting a degree in nursing and it lays out that she is not a county employee, and the school is not taking out all liability, the County's takes on some liability. There is no money with this contract and goes on as long as is needed. Mary sets the schedule, but the college is the supervisor.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the affiliation Contract with Mesa College for Nursing Student rotation; motion carried.
Children with Special Health Care Needs Contact Update
This contract was one the Board signed in July, 2004 – some money coming from the Federal level on brain injury dollars – some things that should be addressed, Mary didn't need to bring this but chose to bring it to the Board – an encumbrance number was changed. Request to change this encumbrance number only. Also added to the contract is HIPPA and asking Mary be allowed to sign the business HIPPA MOU.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept the CDPHE recommended changes to the MCH/HCP contract language and further that Mary Meisner, the officer for Garfield County be allowed to assign the HIPPA business associate MOU and the Chair be authorized to implement the agreement as the privacy officer and that the County Attorney be allowed to

fill in the information on page 10 and authorize Mary to implement the document. Motion carried unanimously.
Mary said this is new money and it's for $25,123.00.
Public Health Program Updates
Mary handed out the updates.
Flu Schedules were handed out. The cost $15.00 for the shot.
1,500 for Glenwood; 1800 for Rifle – 3,300 dozes for Flu Vaccine; and 500 dozes for kids focus on children 6 months to 6 years and high risk and asthma.
They will start seniors – October 18, 2004; employees November 2, 2004 Courthouse Training Room.
Community Safety fair – September 11, 2004 involved with car seat checks and childhood health. They did 93 car seat checks and found a number of those improperly installed.
PUBLIC MEETINGS
REQUEST FOR RIO GRANDE TRAIL CONSTRUCTION FUNDS – MICHAEL HERMES RFTA
Jeff Jackal from Carbondale and Michael Hermes, Director of Properties and Trails for the Roaring Fork Transportation Authority presented a letter of thanks to the board for the $30,000 dollar grant in 2004 to assist RFTA with the completion of design/build plans for the Rio Grande Trail in Garfield County. The plans have been completed and a set has been delivered to Randy Russell along with narratives describing the terrain and construction challenges of each trail section.
Construction has begun on a 1 ¼ mile section of trail in Eagle County funded by $50,000 from Eagle County and the Mid Valley Trail Committee; $122,230 from GoCo and the State Trails program and $128,000 of RFTA funds. Completion of this section of trail is scheduled for mid-October 2004.
The next section of the Rio Grande Trail to be constructed begins at the intersection of Main Street and CR 100 in Carbondale and continues east to the Catherine Store road. RFTA hopes to begin construction on this section of rail in 2005. RFTA staff and the staff of the Town of Carbondale are recruiting partners to help fund construction of this trail section.
The Town of Carbondale will be able to contribute a minimum of $25,000 towards this project from proceeds of a recreation tax that was extended and increased by the citizens of Carbondale earlier this year.
Construction plans were submitted to Randy Russell.
The request for $50,000 was made.
Ed clarified that this was from Conservation Funds – zero dollars in that line item at present.
The Board would need to process this request.
6% of the RFTA budget is their target and for construction they would get about $100,000 a year. If the vote is approved, they could get about $4.5 million toward construction through 2005 to 2010. Goal is to complete the trails by 2010.
Commissioner McCown asked if this would still include the commitments from the local communities or would this be a free standing entity then and able to meet your legal requirement to build it and provide those trails.
Michael said that would be about 70% of the money to complete the trail; he would still have to raise $1.5 million to $2.0 million to do this and we'd be looking to local governments to help fund that, also applying for grants to GOCO and private individuals; we are starting a private donation process to see is we can go around to businesses, etc.
Commissioner McCown – that commitment was made publicly to complete this, if it passes, is only is if you can garner up the other funds.
Chairman Martin asked if they received the CDOT Enhancement Funds in reference to the Buffalo Valley to Carbondale. He served on the selection committee. We have a problem with Rifle because they turned down their Enhancement Funds because they couldn't meet their obligations of matching funds – so we may have to go back and reallocate some of that. So there may be some more money for you.
Michael – no we didn't get that and he applied for three projects in the Enhancement Funds and let him know that he will get $120,000 for the section from CMC to Buffalo Valley.
Randy – one of the products that you accomplished for the $30,000 was a final costing out of the balance of trail remaining.
Michael said Tom Newland put together estimates and the final cost is not known. Depends on the RFTA Board's policy quite a bid, these were based on the policy of using the rail bed at wetlands and pinch points. $5 to $6 million is a good ball park figure; we're still looking at $50.00 per foot. The RFTA Board has authorized Michael and

Tom to put together a real comprehensive report on the cost of the trail based on using the rail bed not using the rail bed and also there's a proposal for using the track between Glenwood and Carbondale for a dinner train or site seeing. They've told the groups interested in that to bring some proposals to the table over the next couple of months or they are going to make some decisions.
Randy wanted this clarified as many numbers have been given about completing the balance of mileage on that trail and that's very helpful to at least have a ball park figure.
Chairman Martin asked if they ever received the proposal the County submitted using the Glenwood Ditch easement that runs from Glenwood to Carbondale as a trail. This is an abandoned ditch now which is a clear path all the way.
Michael said he'd never seen this.
Chairman Martin – that was one of the ones that apparently gets throw out simple because that's from Buffalo Valley on through – you could sure go along way if you had that easement.
Michael agreed it would solve problems with using the rail bed, etc.
Chairman Martin – it raises it off the valley floor and you can go ahead and do that. The Glenwood Ditch Company abandoned their ditch it's still in place and it's flat and it runs all the way– it's an easement now, goes through public lands and above private lands because it's a historical ditch. The easement is owned by the Glenwood Ditch Company, they just don't run water in it anymore. No one's ever looked at it, it's a good 10 to 20 foot wide in different areas.
Michael said this would be an interesting proposal to look out.
Chairman Martin said we have talked about it for years but no one seems to want to pick that one up – everybody seems to want right next to the river instead of up high so they can see the valley. It's not steep and it runs downhill all the way. The Contact – Ray Thompson, recording secretary for the Ditch Company. The Board will take this proposal and put it into the budget request.

REVIEW CODE VIOLATION FOR JOASIA SMITH – STEVE HACKETT
Steve Hackett submitted an alleged code violation of a guest house occupied by non family members on a permanent basis as a rental unit and an alleged illegal salvage yard. 2/4/2002 minutes concerning approval for a SUP on the Smith property. Approval was granted for a guest house in the second level of the garage – Resolution 2002 – 16 for the Guest House.
The compliant was received from members of the Christeliet Subdivision Homeowners Association on June 6, 2004.
Some additions on the violations were submitted – letters etc.
This case involves Jo Jo Smith up CR 115 and the allegations include with a zoning violation concerning an illegal salvage yard as well as a guest house being illegally occupied.
Jo Jo Smith was present. She said this is being rented by college kids going to CMC. Further there are some junk cars on the property.
Steve took some photos.
Exec Session – advice on the issue
Advice to obtain legal advice on pursuing the action requested by Steve Hackett.
Mark Bean and Steve Hackett present.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into a short executive session to obtain legal advice on pursuing the action requested by Steve Hackett; motion carried.
Mark Bean and Steve Hackett were to be present.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
In a public meeting there may not need a motion.
Direction to staff: In lieu some significant covenants and are there clearly violations – one vehicle doesn't mean a salvage yard. Illegal use of the guest house – going to consider the information – alluded to people they were renters, lights being on, neither violations – can rent to individuals in our zoning code. There is no violation of the zoning code to prevent leaving the lights on – the mere presence doesn't mean renters but guests can be there up to 30 days at a time if they are family members, immediately, can be there indefinitely in that guest house. This isn't a revocation hearing and the speakers would have been sworn in – not enough information to move forward. This doesn't prevent the HOA from civil action.

Susie Carlson – wanted to bring up the county regulations for the septic system and set backs.

Steve – we will investigate those and determine if the building and the septic is legal and will report to the HOA and owners. If not legal, they will take action to permit a new legal septic
Notifications would be given.
Commissioner Houpt – Ms. Smith, from today's information it's really apparent that the balls in your court – our regulations won't allow us to do anything but we all have a responsibility to live well with one another and it's a great way to avoid a civil suit and this kind of hearing. Water is a big issue and encouraged her to move forward in a more positive way.
No direction to staff. Other than to check on the septic and setback – there were two new allegations. Steve will accomplish this and report back to the Board.

KIDS VOTING COLORADO – RICHARD DORAN & BRENDA BUCHANAN
Brenda Buchanan – Three Rivers taking Dick Doran's place.
Dick Doran submitted a request for funding not what they have an official designation – Three Rivers Region. He is requesting a monetary contribution range between $1000 and $4000 for participation that will be recognized and publicized as "Major Program Sponsors."
Report – Kids voting will be in polling places from Parachute to Basalt – 10,000 students – kids voting booth at 27 precincts and 4 in Basalt/Redstone area.
Dick's efforts have raised $10,000; cost is $1.50 per student.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the request for Kids Voting Colorado in the amount of $4000 expenditure to complete the funding; motion carried unanimously.
COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Calvin Lee, David James Robinson and Steve Kenny (not present) were present to address the lack of enforcement when it comes to zoning violations of Special Use Permit regarding Cattle Creek Road as it specifically relates to 3 incidences: Raymond property, plumbing company, and the Pine Property.
Calvin addressed the Board with the concerns for his clients, The Robinsons.
Raymond property has been operating for over a year now without a special use permit. Cattle Creek was storing stone and having heavy equipment in and out of there dealing with the stone; he issued a compliant and the response he received was that the Raymond's were applying for a SUP. Once the application was incomplete and the second time was also incomplete; now the third application was made and the hearing was continued. John Martin sent a letter that the Raymond's had applied and no permission for them to be operating; Mr. Raymond assured Mr. Martin they weren't going to be operating but several weeks ago observed the Raymond's were operating. Two weeks ago the BOA upheld Planning Department to only have a maximum of 10 trucks going in and out. County Attorney told by Pine's they will appeal the decision and Calvin was told it's up to the BOARD where Pine is having more than 10 trucks and whether an appeal should be challenged. Calvin's opinion from the statutes – in each of the instances it's thoroughly appropriate to have the County Attorney file an immediate injunction and he most strongly recommended this be done. The Raymond's equally don't have a SUP and neither do the Fenske's and they are operating while the application is pending; with the Pine Stone there is a disputed Special Use Permit that actually allows them to do business and perhaps not undo the burden but there's a basis to favor the one applying for a special use permit. Why is this? Is there a lack of resources, staff or is it just willingness to let it go. They have made the 4th complaint to Road & Bridge about the Pine's truck being 10,000 pounds overweight. Calvin asked why the Raymond's continue to operation when he requests action; why aren't you taking action?
Chairman Martin stated that Bob Raymond was informed at the last hearing when he requested a postponement what was expected of him.
Calvin stated that your staff is not acting on that.
Chairman Martin – if they do make the request for a Special Use Permit, but thus far we're had no written request to do so; notified Raymond's to consider his actions and what ramifications would be taken.
Commissioner McCown – reminded Calvin that there a 30-day time period for a hearing. As for the Fenske property, this is only 8 days old – BOCC haven't heard the request yet.
Champion Plumbing
Calvin insisted that the Raymond's have been saying for over a year now that they were going to file for a SUP and staff has agreed; to him it appears as staff bending over backward to help Raymond's.

Commissioner Houpt responded that she sincerely hope it isn't and doesn't want to address this. Our staff will bring the information on the Fenske application and suggested Calvin be present on October 4 and talk more with the staff.
The road weight limits on Cattle Creek will be discussed at next meeting as well.
Staff and the County Attorney have been generally been very helpful to him in SUP's and reviewing PUD's and whatever litigation. In this area of enforcement, there is a breakdown when there's a violation. Calvin is asking and telling the Board that the Communication is not good.
The process of Code Enforcement was explained: Steve receives the complaint; if he can't solve it within his authority the he files with Department Head of Building and Planning then it is reviewed by the County Attorney and a recommendation made to the BOCC who makes recommendation based on the evidence. No action is taken because of no recommendation given to the Board, but the Board and staff gives the Raymond's or whomever warning. After the case is filed with the Count, then everyone is at the mercy of the court. A civil action can take as long as a month to a year.
Raymond's should have been a violation and since they haven't it has created a great deal of frustration. Chairman Martin stated the Board is trying to rectify that without going to court.
Calvin – a year is plenty of time and a final decision is anticipated on October 4 as to the action the BOARD takes.

Recess

The meeting resumed for a conference call with Don DeFord and Doug Dennison who were in attendance at the Oil and Gas Commission Meeting in Denver over the seepage in Divide Creek and the EnCana fine.

ADJOURNMENT
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

SEPTEMBER 27, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The Special meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 27, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

Don called the meeting for a review of the amended scope of services for Geoff Thyne. Don said he asked for the meeting for three items and there is a fourth listed for Strategic Planning.

Dr. Thyne is the expert we retained to assist in reviewing the EnCana violation of the OGCC regulations that came to hearing in August. There are two general items in which Doug and Don would like to continue to use Dr. Thyne. One is contracting for services to assist us in the development of an RFP on the Hydrogeological study that we have proposed as a public project to the OGCC and the second general area is to continue to assist Doug and Don on on-going claims of violations of the rules and regulations by EnCana. Those items are contract and litigation and can be discussed in Exec. Session if the Board wishes. The other two items is the Audit and it is a contract issue and an advice issue and it concerns development and enforcement of an agreement to provide additional audit services for the 2003 audit that is culminated this year. Lastly is a litigation item involving the CBMS installation problems.

Lynn Renick has asked for an Ex Session as to item number three and anticipated Carolyn and Lynn would be present for that discussion.

On the first two items, Don suggested that these be commenced in executive session and take public action on both.

Executive Session

Commissioner McCown moved to go into an Ex Session to discuss the items listed by the County Attorney; Commissioner Houpt seconded; motion carried.

Doug Dennison for the Oil and Gas issue; Lynn Renick and Carolyn Dahlgren for the CBMS; and both Jesse and Ed for the Audit.

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

AUTHORIZATION TO AMEND THE SCOPE OF SERVICES WITH GEOFF THYNE

Doug Dennison discussed the scope of services. The OGCC asked that we refine the scope on the Hydrogeological Characterization Study that we've proposed and get back with the OGCC staff to hold a work session to make sure they are comfortable with where we're heading and in order to do that we need Dr. Thyne to help us work up a draft RFP for that study. We need the BOCC's authorization to move ahead with that.

Don stated they are requesting authorization the chair to execute a professional services agreement with Dr. Thyne to cover the area that Doug just described as well as to provide on-going advice to Don and Doug concerning on-going alleged violations of the OGCC rules by EnCana. Don would like a not to exceed amount of $10,000 set forth in that agreement to be charged to his normal hourly rate and he does not anticipate reaching this dollar amount but in order not to have to come back to the Board on a weekly basis, he would like it set at that $10,000 amount. We still have some left in the original contract where we did not reach the level we thought we might, and there is at least $5000 left in that agreement that we would roll into this one for a total of $10,000. Right now we're operating on simply a letter agreement that Don signed with Dr. Thyne and wants it formalized in a normal scope of services agreement.

Commissioner McCown – and it was made clear to Dr. Thyne once the project does come to fruition and goes out to bid that he would not be qualified to apply.

Doug held this discussion with Dr. Thyne last week that it was a concern of Don and Doug's and it would be perceived as a conflict of interest and he understood that and doesn't have an issue.

Commissioner McCown made a motion that we authorize the Chair to sign a contract with Dr. Geoff Thyne for an amount not to exceed $10,000 for the further develo9pment of this project and work in formulation as an advisor to Garfield County on some other possible litigation that may arise. Commissioner Houpt

seconded. October 25 is the date they go back to the Oil and Gas Commission with the project recommendations. Don stated that Trish Beaver's normal schedule is that you have to have all material to her the preceding Thursday before that meeting in order to be considered on that agenda. Then we have to back up for that for a Worksession from which written documentation would emanate and Don suggested at least a week before that Thursday, so now that puts us in the middle of October – October 14th, but Don is hopeful by the middle of this week to have a fully scope of services ready to go. Motion carried.
There are no other concerns for the others – the Human Health Risk Assessment has a good definition of scope and cost and the Energy Forum is not real detailed but there was no concern.
Commissioner McCown stated that was contingent on the formulation of the first one because that was left over funding.
Don said this is a unique process for going through the meeting; there are two other proposals encompassed within the Thyne amount and Don views those as being unique proposals for this project. From the discussion with the Oil and Gas Commission is Garfield County will be the stakeholder and receive the funds from EnCana to be segregated and for which we will have to account to the Oil and Gas Commission so that in this hybrid process Don would anticipate contracting directly with CMC and the Colorado Mountain College for those projects even though that's not directly within our purchasing policy. The lighter project, we're anticipating that would be a normal RFP process for which we would receive proposals.
Commissioner McCown – in the motion where we prioritized the three projects and it was voted on, the money that was left to go to the Forum side of it was to be turned over to the Energy Advisory Board and they were to administer the information side of that.
Don said the Baord can decide to do that but still have to account to the OGCC for those funds. The EAB is your group and strictly an extension of the BOCC.
Jesse received a voice mail from Deanne Wilson from Western Colorado Congress and she apparently was in possession of a newspaper article that sounded like it had enormous information in it – it was saying that they Hydrogeological Study had been totally thrown out and that the cumulative impact study was being substituted for the fine money; Jesse suggested that Doug might want to be in contact with her and clear that up.

UPDATE – 2003 AUDIT – GASB 34
Jesse Smith updated the Board on the audit saying 2003 was the year in which Garfield County because of its size was designated to comply with an edict from the GASB, Governmental Accounting Standards Board to convert our accounting and financial reporting to their standard new reporting system under GASB 34 and in order to accomplish that we had to do two things: 1) conduct our standard audit of 2003 and then 2) take those audit numbers along with the information in our KVS system and convert that to the format required by GASB and we cast our financial statements accordingly and those are the ones we had to release as a final audited report. To compound it further we knew we would be in the middle of a conversions from the KVS to the NWS that we were converting account numbers, our whole chart of accounts to a different system so we decided it might be more expedient instead of having our existing auditors who we have no guarantee that will be our future auditors since we go out for bid this year, so instead of having them do all this conversion that we go outside and bring in someone who could do it and be available to the auditors in 2004. We settled on an individual who had chaired the GASB 34 that re-wrote all of the standards. We figured he would know better than anyone how these had to be recasted and we approached him and he was willing to do it. He was doing it for other counties, so we retained him to convert our financial reports. He needed the audited statements in order to do that in final form and they were not totally available until July. We asked and received an extension of filing our audited statements from the State until the end of September of this year. The problem we have encountered is that the auditor who is recasting these financial statements had suffered three hurricanes because he lives in Central Florida he lost his hard drive on his lap top and had to rebuilt that and consequently he has been delayed in trying to get us our final reports. In order to file these officially they need to be reviewed by our current auditors once he has completed his work so they can attest that all of the numbers in it are correct. We have contacted the consultant and we have kept pushing on him to get these reports to us; he will be in Glenwood next Monday and Tuesday, he is teaching a course on GASB 34 for the municipalities and he has agreed that he will stay in Glenwood until he finishes our reports however long that takes. He estimates he can have it done by the weekend. Jesse talked to our current auditors to see if they would be available to take over this task if necessary; they could not do it at all until October due to prior commitments but felt

they could do it in October and get it done. Our decision is to go ahead and ride with the consultant even through he's well over his deadline date since he will be here next week instead of trying to get the entire process started all over again. The downside is that we are technically going in non-compliance with filing our audited financial statements with the State as of the 1st of October and if we do not have them filed by the 1st of November the State could theoretically come in and notify the Treasurer to not pay bills. Once the consultant is finished, we will get them to the State in an unaudited draft format, get them to our auditors to check the numbers and sign off and then get the State a signed copy.
Commissioner Houpt stated if he's unable to complete the task and the contingency would be to have our current auditors do it, who would check their work?
Jesse – the auditors sign off that it's accurate.
Commissioner McCown – it is safe to assume if Monday morning he is on this?
Jesse assured the board yes.
Chairman Martin – the plan is to follow Jesse's plan and come back to the Board if this should not work out. Jesse is to update the Board Monday.

UPDATE – CBMS

Lynn Renick and Janice George gave the Board the update on the conversion and everything is still very frustrating. Lynn and Janice gave concrete examples of why the problems that the Counties are seeing are much different from what were addressed by the Governor in his press release this week. It's not an issue of speed, it's an issue of accuracy and design flaws. October 1,2004 – the impact and concern is that we may have around 268 Medicaid only clients (children and pregnant women) shut down and they would not have access to Medicaid. Old Age Pension and Aid to Needy and Disabled cash payments and Medicaid payments should not be impacted except for maybe 3 or 4 and the problem is these are not new cases, these are existing cases where they're redeterminations or required the prior months. The impact on food stamps as of Thursday is that we are looking at 48 existing food stamp clients either denied benefits or something and there isn't the time available to figure this out. Food Stamp cases used to take the staff 10 minutes, last week it took a technician 2 hours. An over the shoulder support person from the State who is here in this County helping with some of these issues and there has been several cases where it's taken them an unbelievable amount of time to try and figure what it is that we haven't done correctly or what the system itself is not allowing us to do. This is more a case of the clients not following through and should not have an impact on that category. They have a freeze flag until February 28, 2005. Staff is keeping a log of the time spent, the cases being rejected, and hopefully there will be a ruling from today to allow Social Services to return to the Legacy Program until these things are straightened out.
Don said some of the Counties are refusing to go ahead and institute the "work arounds" in this part of the current litigation and one of the reasons it's been contested is that the State has refused to indemnify the county staff. Hopefully we'll get a resolution of that today.
Lynn is also concerned about new cases. New applications come in every day and there are somewhere around 240 new cases. As of October 1 these cases, the clients will not be getting benefits, however by statute Counties have 30-45 or 60 days depending on what the case is, to process the application. This will be discussed again.

STRATEGIC PLANNING

Ed reported on the scheduling for the Strategic Planning sessions.

ADJOURN

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

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PROCEEDINGS OF THE
GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS
OCTOBER 4, 2004

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, October 4, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE: ED GREEN

County Fair Results 2004 – Dale Hancock

Dale submitted the preliminary profit/loss statement for the Garfield County Fair for 2004 showing the total revenue of $21,011.60 and expenses of $19,182.13. The total fund balance in the Fairgrounds account is $116,973.47.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to have Don DeFord draw up a Resolution and the portion of the sales tax for the Fair and Fairgrounds be designated for Human Services and hold this is a fund for those request outside the normal grant funding process; motion carried unanimously.

Renewal of Agreement for Providing Inmate Medical and Dental Services – Lou Vallario

Tim Arnett and Lou Vallario were present.

Lou submitted the renewal agreement for a one-year contract beginning January 1, 2005. This includes a 4.7% increase in the total amount of the agreement for a total cost to $439,115.99.

This doesn't include anything out of the ordinary such as extra dental or pre-natal care.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair's signature on the Renewal Agreement for providing Inmate medical and Dental Services for a total cost of $439,115.99; motion carried unanimously.

Renew Agreement for Acquiring Bulk Motor Fuels for 2005 – Marvin Stephens

Marvin Stephens and Tim Arnett presented the renewal agreement with the recommendation that Western Petroleum, who is offering the original bid amount for 2005 as was submitted in 2004, be approved. That included: Unleaded, Diesel delivered to both Road and Bridge facilities in Rifle and at Cattle Creek.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the renewal agreement with Western Petroleum for Motor Fuels for 005 with the fuel prices as submitted by the Contract Administrator. Motion carried unanimously.

Renewal of Purchase of Services Agreement for providing countywide office supplies – Tim Arnett

Tim Arnett recommended the renewal Contract be awarded to Sandy's Office supplies for a not to exceed price of $150,000.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the renewal agreement for 2005 for providing countywide office supplies for a not-to-exceed price of $150,000. Motion carried unanimously.

Sole-source request for official county newspaper

Tim Arnett presented the recommendation for the Glenwood Post Independent as the newspaper with the broadest circulation of any newspaper published in Garfield County and requested the Board approve the renewal contract.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the renewal agreement with the Glenwood Post Independent identifying it as the official county newspaper; motion carried unanimously.

Renewal of County Wide Custodial Services – Richard Alary

Tim Arnett and Richard Alary submitted the renewal contract for Dan Moriarty, owner of Cardiff Cleaning Services and recommended the award be made in the total monthly price of $18,315.00. This includes a 5% increase effective January 1, 2005.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to authorize the Chair to sign the renewal contract for Dan Moriarty, owner of Cardiff Cleaning Services and

recommended the award be made in the total monthly price of $18,315.00; motion carried unanimously.

Don clarified that all these contracts were with the understanding that they would be appropriated in the 2005 budget.

Renewal of Countywide trash removal and recycling services – Richard Alary

Tim Arnett and Richard Alary submitted the recommendation to renew the Contract to Waste Management for countywide trash removal and recycling services for a price not to exceed $1,546.12 per month. Tim is going to propose to them to pick up all the newspapers as well.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to renew the Contract to Waste Management for countywide trash removal and recycling services for a price not to exceed $1,546.12 per month. Motion carried unanimously.

Performing lawn & grounds maintenance for Taughenbaugh, Courthouse Annex and Henry Building – Richard Alary

Tim Arnett and Richard Alary submitted the recommendation to award the bid to Barbara Gold for the maintenance for the not to exceed price of $13,296.00 effective January 1, 2005.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Barbara Gold for the maintenance for the not to exceed price of $13,296.00 effective January 1, 2005; motion carried unanimously.

Performing annual and semi-annual maintenance of heating and cooling systems – Richard Alary

Tim Arnett and Richard Alary submitted the recommendation to award the bid to Climate Control Company for the 2005 year for a not to exceed price of $34,716.00 for the Courthouse Plaza, Courthouse, and Detention Center, as they submitted the lowest bid.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to award the bid to Climate Control Company for the 2005 year for a not to exceed price of $34,716.00 for the Courthouse Plaza, Courthouse, and Detention Center; motion carried unanimously.

Review and approval of Groundhog Gulch Unit Agreement, EnCana Oil & Gas (USA), Inc. – Doug Dennison

Doug Dennison – guidance in how to handle these things in the future in the last five months. This is a federal unit with Contex Energy to form for 15,000 acres with the bulk in Mesa County. Garfield County holding is 3.9 acres on CR 344.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to sign the agreement; motion carried unanimously.

Weed cost share program increase request. – Steve Anthony

Steve said this year we have requests from 78 landowners in the County for the Weed Cost Share Program totaling $79,000. The program reimburses eligible landowners up to 50% for their noxious weed expenses. In order to supplement the landowners request we will need an additional $17,000.

Steve requested the following Vegetation Management budget:

$5,000 from Weed Sprays

$5000 from Professional Services

$7000 as a supplemental request

An additional $11,000 from landowners who live on Owens Drive and EnCana will pick up the cost for Knapweed control in this area. Steve did a site visit for all of the request.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to supplement the landowners request we will need an additional $7,000 as a supplement; motion carried unanimously.

South Canyon weed management area designation request – Steve Anthony

Steve presented the application for the "Pulling Together Initiative" (PTI) for a grant that would provide an opportunity to initiate working partnerships, demonstrate successful collaborative efforts, and develop permanent funding sources for the maintenance of Weed Management Area partnership. The program timetables are as follows: October 29, 2004 – Basic information submitted in a pre-proposal form; November 15, 2004 – full proposals and supplemental information for must be submitted; January – February 2005 applications will be reviewed by the PTI review committee and federal funding partners. Projects recommended to receive funding will also be reviewed by local Congressional delegations. In May 2005 formal announcements of award recipients will be made.

Steve submitted a map of the noxious weeds in the Coal Seam Fire Burn area in South Canyon, which is the target of the proposal. The City of Glenwood and the railroad will be invited to participate.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to declare this as an official weed management area designation and authorize the Chair to sign a Resolution; Don will check to see if this is something the Weed Board can do, otherwise the Resolution is authorized; motion carried unanimously.

West Nile Virus update on Grant from Colorado Department of Public Health and the Environment. – Steve Anthony

Steve submitted the grant proposal for WNV activities in Garfield County under the ELC grant. Garfield County has 45,000 residents spread out over almost 3000 square miles. The request is for a laptop and power point projector dedicated to the Garfield County Public Health Department to provide presentations regarding WNV education.

We've had 5 cases of West Nile and it has been the fever type only.

Weed Board Appointments. – Steve Anthony

There is one vacant position as a regular member on the Weed Board and Steve submitted two applications.

Steve presented a request from Judith R. Hayward who is willing to serve on the Weed Board representing the Parachute area.

Steve represented a request from Bob Elderkin, as a regular who is willing to serve on the Weed Board representing Silt. Replacing Doug and one vacancy.

Tom is interested in being reappointed.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Judith R. Hayward, Tom Whitmore and Bob Elderkin to the Weed Board for the various positions; Bob being a regular member and Judy and Tom as ex-officio.

Motion carried.

Comments from Citizens not on the Agenda

Weight limits on CR 113 – Marvin Stephens

Marvin Stephens explained the current weight limit load is at 70,054 and they are suggesting moving it to 84,054 thereby moving the sign up the road a short distance. HP Geotech is doing an analysis of the road. The road is mixed with chip seal and asphalt. It may need to be built up to handle the State legal load.

Commissioner Houpt inquired as to what an additional load limit would do to our roads; she also like to consider the safety issues on the Cattle Creek Road.

Marvin stated that the size of the truck is the same; it will require additional trips. This used to be a primary haul route for a gravel pit and haul road.

Chairman Martin – the speeding issue is with the residential use and not the trucks.

Mark – Jim Robinson wanted to be here for this – he's on his way down here.

Commissioner McCown stated that we're talking two different things – cut back the weight limits back to where the commercial can't function or does it make sense for us to allow our other roads to handle the State load limit.

Marvin – HP Geotech is doing the test.

Don – that's not that simply of an issue. The question is will it support if continually. What's the proper subsurface to allow this to occur continually?

This is a three-quarter mile issue.

Marvin - For every ten trucks it will require an additional truck.

Jim Robinson – is concerned about trucks delivering at odd hours. Parking on the County road with the truck running all night. Could the County impose a no-parking restriction? They have abandoned cars in the shoulder and is creating a lot of neighborhood concerns. The noise is a different issue.

Photos were submitted.

The Board decided to table this until next Monday until we have the report from HP Geotech.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou updated the Board on the Animal Control Resolution – 4 meetings and a final version complete with all the changes and hopefully to Don for next month and have a public hearing scheduled. It's been a great discussion and the committee has added a lot but it has to be reviewed by the County Attorney's office.

Animal Control – the needs have not been met as they have exceeded their limits at CARE. The issue has come up again as a west end shelter.

Lou said this is a wait and see issue and the scope of services need to be defined.
Ed – we have the land out by the Airport and recalled Randy provided the Board with an estimate 12 months ago of about $450,000 to build such a facility. The real issue is the recurring operating costs. Commissioner McCown said he sees us being the entity if we develop the shelter bring them in, process them, hold them x number of days and then the CARE people take over. The enforcement part of it is our responsibility and whatever our Resolution that we adopt implementing this regulation. The adoptive care would be for CARE and hopefully that would give enough a cushion to them to pick that up.
Lou agreed with Commissioner McCown in that this would truly mean being a partner; they know they are the people better at the adoption process; the reality is dollars and sense as far as how much service they are providing to the County that we should be paying for; can we hold the animals in our facility and the costs to doing that is something we can work out. Everyone coming to the meetings on this issue are ultimately wanting to somehow partnership and work together. We do have property and Rifle has suggested they may have some property they may potentially get into some kind of partnership. Budget wise there isn't a solid number but Lou anticipated an increase in dollar requests and a decrease of services that could be provided just because of the baseline we established this year.

Consideration of Renewal of Fire Ban.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to lift the Fire Ban. The fuel moisture content has improved and fire conditions have improved running from 15 to 19. Motion carried unanimously.

COUNTY ATTORNEY UPDATE: DON DEFORD

OCGC Policy – Trish Beaver's policy statement was discussed; these are guidelines the OGGC.
Brian and Trish are addressing this as a general policy regarding a public policy to adopt and manage; one is of general applicable. In the original draft they both talked about the violator in developing funds for a public project and the second issue Don raised is who will manage the funds and the project. Because of that Don wanted it clear for our case that it would be Garfield County as the manager of the project. Don asked them to include language "shall manage the project with the oversight of the OGCC". Brian didn't have a problem with County management. Don's language changed from should to may. It did seem too restrictive to have the word should.
In the same respect, applied to project costs – OCGC, if they elect to have the County as the management entity then the funds would be to the County so we can protect the public's interest. We don't have Tabor issues. Don recommended alterations and proceed to adopt these policies. Formally adopted set forth for October 29, 2004.
A good set of recommendations per Commissioner McCown.
Don reiterated that a public entity is required to accept the funds.
Doug and Don will be addressing these issues on October 15; Dr. Thyne, Doug and Don will be present to address the project. Doug reported that Dr Thyne is starting the scope of services today. Don – the OGCC will not be present at October 15.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Oil and Gas – pending consideration of contamination issues in Divide Creek – provide advice in Executive Session – may be a public discussion.
Provide status update on the CR 318 and discussion concerning the Coulter Creek Road 121.
Doug Dennison, Marvin and Bobby were requested to remain for the session. Don stated the OGCC discussion will be in a public session
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to discuss the aforementioned items.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action taken:
Board asked a discussion on the terms on the Violations in Divide Creek.
Doug Dennison – the Notice of Violation was issued to EnCana because of some gas wells in the Arbaney site north of Silt. Jamie Atkins is investigating the bubbles on that pad; the Dietrich well – time to test these

various incidents to see if they are related in any way. It could take several months. Brain Mackey is the contract person for the technical details.

Consideration of Grant Contract – Satank Bridge

John Hoffman, Carbondale Trails Committee
The State forwarded us the proper form of contract. We are not the fee owner of the real estate; we own the structure and the right of way. This will be referred to as a Contract and when the County addresses this issue in the future. Don reviewed the changes in the contract. We must accept the contract – The Bridge is already registered on the State Historical Society.
The way the contract is written, they will record the entire document. It will come to this Board; then to Carbondale to sign and then to the State.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the Contract and the Chair authorized to sign; motion carried.

COMMISSIONER REPORT:

Commissioner Houpt – Meeting with Williams to talk about Special Use Permits but now just the status of what they are doing. Planning on Wed. Denver CCI on Thursday and Friday
Commissioner McCown –last week Strategic Planning on Tuesday; Tuesday Lions Club at 7 am; interview with Valley Journal and Glenwood Post later on Tuesday; candidates night in Rifle at 6:30 at City Hall.
Commissioner Houpt - CCI – we were not well represented with the concern; the Commissioner from Weld County stated that the County was having problems.
Commissioner McCown suggested we write a letter to Mr. Kallenberger and stress getting some policy changes. Breakdown in the lobbyist to the legislature. This is an important part of the County's payment to CCI and if we're not getting what we're paying for them we need to adjust what we're paying or their method of operation, one or the other.
He made a motion that we draft a letter from the Board to Larry Kallenberger advising him or our concerns and making him aware of what we've heard from legislators and they should be pro-active.
Don – on that issue there were two issues that came before his Board last year, one was the Gunnison County on Road issues that is still pending that we're looking for legislation on and the other was a real perceptive action concerned on a land use statute under the Colorado Land Use Act where there were substantial amendments to that that may have gutted some of our land use authority, particularly on the 1041 Regulation. In both of those areas, County Attorneys ended up taking measures to the State Legislature that CCI and couldn't get them to move on.
Chairman Martin stated that was Bill 215 and he met with both sponsors of the Bill and reiterated this County's position on that and what it did to zoning. They heard us directly. However there was a steering committee from CCI that met with them directly as well and still the sponsors didn't want to change so they actually attempted to do it in the last day of session but withdrew it to bring it back and discuss is again.
Commissioner Houpt – part of the problems is that CCI tries to cover too much basically and so when you do that you don't do a good job on anything.
Commissioner McCown – the last session was the worst he's seen; there were some staff problems, a real divided house, etc. and CCI wasn't very effective. Discuss legislative issues but they never get them addressed. On the 22nd of October – Glen Valley Care and Rehab – Commissioners judge the costumes at 11:30 a.m.
CCI this week is to iron out their problems.
Commissioner Houpt seconded the motion on supporting the letter; this is a legislative week and it would be an appropriate time to bring this up; motion carried unanimously.
Chairman Martin – Meeting with the Division of Wildlife and Wildlife Commission on Tuesday at 5:30 pm discussing the challenges with I-70 and a few other issues on the Grey Wolf and Canadian Wolf as well as the other items in front of them including Area 43 which may be considered for trophy hunting only; also guiding hunters issues; also he is doing the program for Sopris Elementary on the history of Garfield County; he will have his horses there – this is an all day event starting at 8:00 a.m. Friday.

Executive Session

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go back into an executive session to discuss Road issues on CR 121 and CR 315; motion carried.

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

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign the Resolution and Exemption Plat for the Kelly Exemption. Applicant is Nan Kelly – Fred Jarman
f. Authorize the Chairman to sign the Resolution for the text amendment to the SpringRidge II Planned Unit Development. Applicants are S & S Ranch LLC, SBJ Ranch LLC, Freeman Ranch LLC, GSB Ranch LLC, and Wild Mountain Ranch LLC. – Fred Jarman
g. Authorize the Chairman to sign the Resolution and Special Use Permit for Pat Musich. – Fred Jarman
h. Liquor license for Sopris Restaurant and Buffalo Valley Inn – Mildred Alsdorf
i. Authorize the Chairman to sign the Resolution and Plat for the Latham Subdivision Exemption. The Applicants are Kenneth and Marilyn Latham. – Fred Jarman
j. Authorize the Chairman to sign an Acknowledgement of Partial Satisfaction, Subdivision Improvements Agreement for improvements of the Sun Meadows Estates subdivision. – Mark Bean
k. Authorize the Chairman to sign an Acknowledgement of Partial Satisfaction, Subdivision Improvements Agreement for improvements of the Valley View Village subdivision. – Mark Bean
l. Consider a request for an amended plat of Oak Meadows filing number 4, phase 1, F4B. Applicant and owner is Oak Meadows Homeowners Association. – Jim Hardcastle
m. Authorize the Chairman to sign the final plat and related documents for Valley View Village subdivision at Battlement Mesa PUD phase B. Applicant is Darter, LLC. – Jim Hardcastle

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda removing b and c and m; motion carried.

REGULAR AGENDA:

Public Meetings:

APPROVAL OF DESIGN BUILD CONTRACT WITH CMC TO BUILD THE NEW GARFIELD COUNTY HUMAN SERVICES FACILITY – RANDY WITHEE

Richard Brenis, CMC, Leon Hurley, Radium, Randy Ludwig, CMC, and Randy Withee presented.
Randy Withee submitted the scope & cost report for the new Human Services Facility and the recommendation to award the design/build to CMC Group, Inc. for the amount of $2,434,857.00.
In July the Board authorized proceeding with the RFP and next July the building should be completed.
Randy Lucas, CMC – addressed the location at 14th and Railroad – where the current race track is located. The ball park will be removed and the 3rd base site is where the race track will be moved. 65 cars in staff parking and spaces in front for client parking as well as handicapped.
Randy Withee addressed moving the track.
Commissioner McCown made reference to the fact that he did not approve moving the track and a short track would serve no purpose.
Randy stated he thought it was direction by this Board to move the track.
Discussion included the fence being moved and open to overflow parking.
Commissioner Houpt asked if this meets the need for the next 15 years.
Public Health is projected as a 20 year build out; Social Services is a 15 year build out. The floor plan was increased.
Commissioner Houpt - if we want to expand the building.
Randy demonstrated on the plan how the building could be increased. It would be cheaper to build a new addition.

Commissioner McCown – if the need arose, a single use could accommodate both of these structures and another be build in the area for a parking lot. If Social Services outgrows their room they could absorb the Public Health area and Public Health get a new building and a parking which would probably be the most practical way to expand. If you were going to expand these buildings it would seem that you would go west into the parking area given the utilities and everything.
Randy Ludwig – explained the Energy Systems – mechanical systems – high efficiency roof systems and with two stage heating better comfort and cooling systems are rated by a system they will use – all thermostats will be individual and different ones can be shut down at different times. Installing energy efficient measures. LEED rating on efficient building – scoring for green architecture. Landscaping will be Zeroscaping; some trees in some areas. Trees along the race track area, but not overdo.
Commissioner Houpt reserves the right to discuss landscaping as the project moves along.
Chairman Martin wants to stay within the guidelines that the City of Rifle laid out – similar to City Market Landscaping.
Randy Withee – reviewed the changes in the proposal; the budget summary; and noted a surplus was at $41,333. This is an 8% contingency.
Commissioner Houpt asked to discuss how we are paying for the modulars and wanted to better understand how this will happen. If it comes out of Social Service's budget, it could impact programs and doesn't think we should any of our department in the position of purchasing office configurations that will take away from programs.
Ed discussed this with Lynn and suggested holding this decision in abeyance until we get a better picture of what the end of year looks like. The advantage talked about is we may get a 33% recovery from the State if it comes out of the Social Services budget.
Commissioner McCown – agrees to wait as Lynn suggested.
Commissioner Houpt reiterated as long as we're not impacting program, she agrees.
Ed suggested letting administration monitor that and come back to the Board with a recommendation as the picture becomes clearer.
Commissioner McCown – the site plan is troubling to me given the funding that's proposed for trying to reconstruct the race tracks, holding ponds for drainage and not sure where all this is going to occur.
Randy pointed out where these would be located.
Commissioner McCown noted that the natural occurrence is through the middle of that building and cautioned there was a waste water and storm drain in the south end of that Arena area that was never unplugged from the last time of the great flood event. So it is inoperable but it is still there going out of the south end of those pens under the race track off into the creek. The natural occurrence from Fravor Reservoir is through the middle of that building.
Randy gave his impression and stated this is where the elevation will be bumped up to compensate for any flooding potential.
Ed said that's another project, the improvement of the outdoor arena, the subsequent drainage down through there.
The amount of space between the proposed track and the building is estimated 150 feet to the fence line.
Ed said they will include a project for the improvement of the outdoor arena in the budget presentation next week, we've programmed about $250,000 for that.
Tim submitted the packet for the Board's review when making a decision.
Diane Watkins – depends upon how many folks we relocate and space wise, if they can truly fit on just the 3rd floor or will they retain some of the 4th floor of the Courthouse Plaza, she imagined they purchased the furniture when they moved in here and it would either be.
Jesse corrected saying the County purchased not DSS. The County purchased the modular units. The Board can make that determination.
Ed asked if any new equipment could be purchased through DSS.
In Tim booklet it includes computers and equipment and modular program. Diane stated the computers are through a State program so as needed they would take everything with them.
No new computers; copies same, phones would be part of this. Some offices will have doors due to the HIPPA regulations. Very positive feedback from the staff.
Randy recommended the bid award the design build of the Human Services Building to CMC group for $2,434,857; and this isn't including the contingency. This will not be in the bid price. CMC doesn't have a contingency built in their bid price.

Ed commented it was the same as with Road and Bridge, if we stay out of their way they will give us the building for that price.
Any change orders, the County will pay for.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to award the design/build to CMC Group, Inc. for the amount of $2,434,857.00, not including the contingency; Commissioner Houpt thanked CMC Group for the long meetings and the plan; motion carried unanimously.
Commissioner Houpt thanked the staff for all the long meetings they've had, the reconfigurations, working with everyone, they all have come up with a good product and hope that everyone in the building will be happy with the end product.

Contingency – Don asked if this was to be a project budget.

Jesse suggested it could be budgeted as part of the budget that they will submit next week, put $150,000 in there and the BOCC could approve it with everything else. 8% of the construction price, but there's $41,000 surplus in this project. This would be in addition to the $41,000 – a total of $191,000.

Jesse requested a number as to what, out of the total expenditure might occur in this fiscal year. Then he'll budget the remainder in the 2005 budget.

Permits from the City of Rifle

Ed said he talked to John Hier on Friday and told him CMC was coming and asked him to be sure that it would be a smooth process as was characterized earlier in the summer; the City of Rifle has guaranteed a smooth process and would get this done in 30 days.

Ball field
Randy updated the Board - he said the ballfield is at subgrade and they were trying to put the irrigation system in place. Sod in there next. They are a little behind. The sod is new.

REGULAR AGENDA: BUILDING & PLANNING ISSUES
Public Hearings:
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR APPROVAL OF A RESORT. THE APPLICANT IS 7W GUEST RANCH LLC. – JIM HARDCASTLE
Jim Hardcastle, Carolyn Dahlgren, and Terrill Knight, representative to the applicant were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F - Application materials; Exhibit G – Staff memorandum; Exhibit H – Garfield County Road and Bridge; Exhibit I – USDA Forest Service, Eagle Ranger District; and Exhibit J – Letter from Michael Erion, Resource Engineering.
Chairman Martin entered Exhibits A – J into the record.
This is a request for a Special Use Permit for a Resort in the A/R/RD zone on 35 acres with access off County Road 151 located in the Sweetwater area of north Garfield County, applicant Mark Wilhelm.
This guest ranch has been operating as a resort since 1947 and has complied as a SUP granted by Resolution #95-045 and approved on June 5, 1995 until the construction of the barn on the west side of the compound. The current owners purchased the property in October of 2002. The existing SUP was for a total of approximately 253 acres, however, this SUP will be applied to a single 35+ acre parcel with the remaining acreage being divided into the 35-plus acre tracts.
The purpose of this SUP application is to bring the current uses, proposed improvements and non-conforming changes into compliance with Garfield County Regulations, through a new SUP that addresses all uses on this site.

The new owners have continued to use the Guest Ranch in the historical manner since their purchase of the property. Construction of a new Barn was begun in 2003, which ultimately led to a notice of violations as a violation of the existing SUP. At that time, it was agreed that the barn would not be used until an appropriate new or revised Sup was issued by Garfield County. This commitment has been met; therefore, they are submitting a new application for a new SUP.

RECOMMENDATION

Staff cannot recommend approval given the issues surrounding the lack of information regarding the sewer and physical domestic supply of water.

Staff suggests the Applicant either (1) ask for a continuance of the public hearing or (2) withdraw the application and resubmit at a later date when more information is a available to allow the Board to make a decision.

Jim received a document from the applicant on Friday and late last week when he received the question on the sewer and physical domestic supply of water and requested a continuance.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to continue this until November 15, at 1:15 p.m. Motion carried unanimously.

CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. THE APPLICANT IS TIMOTHY JENKS. – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, and were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F - Application materials; Exhibit G – Staff memorandum; Exhibit H – Review memo – Burning Mountain Fire District; Exhibit I - Review Memo from Army Corp of Engineers; Exhibit J – Review Memo – Garfield County Vegetation.
Chairman Martin entered Exhibits A – J into the record.
This is a request for an exemption from the definition of subdivision on a 36.52 acre site located in West Elk Creek Ranches, Mountain Parcels off of County Road 245 and Elk Ridge Drive.
The applicant proposes to split the property into two lots and has indicated that CR 245, which bisects the property, prevents joint use.

Timothy Jenks - is this a County road or a Forest Service road and there is a discrepancy and in talking with the engineer with the Forest Service, she brought to the attention it was a County Road – Craig at Road and Bridge states it is a Forest Service Road and therefore he's had trouble determining the ownership of the Road.
Jim was going to meet with the Forest Service to determine if this is their road. He requested a continuance.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to continue this until November 15, 2004 at 1:15 p.m.

CONSIDER AN AMENDMENT TO THE TEXT OF THE BLUE CREEK RANCH PLANNED UNIT DEVELOPMENT AND TO CORRECT A SCRIVENER'S ERROR FOR RESOLUTION 2002-82. APPLICANT IS BLUE CREEK LAND HOLDINGS, LLC. – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Sarah from Balcomb and Green, and a representative for Blue Creek Land Holdings, LLC. were present. **1-51-30**
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.

Fred submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Subdivision Regulations; Exhibit D - application materials and Exhibit E – Staff report.

The Board of County Commissioners approved the Blue Creek Ranch PUD and Preliminary Plan on August 5th, 2002 which is memorialized in Resolution 2002-82 (the Resolution). The Board subsequently approved the Final Plat on February 18th, 2003. The Board approved the PUD as a site specific development plan which was proposed and intended to include a total of 48 single-family residential lots. Lot 1 was designed to include the existing original ranch house as well as an existing accessory dwelling unit (ADU). Due to a scrivener's error, the Resolution refers to 49 residential lots rather than 48 residential lots as well as neglected to specifically include a reference to the ADU on lot 1 which was contemplated throughout the review process as an existing unit which would continue to exist as a lawful use on Lot 1.

Additionally, confusion has recently arisen regarding the intent of the term "barn" which was approved as a use-by-right in the private common open space district within the PUD. The Applicant intended the barn to mean "storage barn" for the benefit of individual lot owners in the PUD where owners in the subdivision would be able to store personal belongings in the barns as a private amenity provided by the Homeowners Association (HOA). Because this specific intent was never discussed during the review process, Staff maintained a more agricultural understanding of the term "barn." As a result of that understanding, building permits had been submitted by the Applicant for one of the proposed barns which, by design, resembled a traditional "barn" design on the exterior while the interior was designed as "storage" units which was contrary to Staff's understanding.

REQUEST

The Applicant requests the Board approve a request to amend Resolution 2002-82 to 1) correct a scrivener's error effectively changing 49 residential lots to 48 residential lots while including the existence of the ADU on Lot 1 and 2) to clarify the definition and intent of "barn" as it is contemplated as a use-by-right in the private common open space zone district within the PUD.

Staff finds the request to correct the scrivener's error is warranted simply on the basis that it was an oversight in preparing the Resolution. Clearly, the number of single-family lots proposed, discussed, and approved was 48 rather than 49 and the ADU on Lot 1 was also contemplated throughout the approval process and inadvertently left out of the Resolution.

The clarification of the term "barn" to mean "storage barn" to contain storage units for the specific benefit of lot owners within the subdivision is consistent with the primary residential nature of the development as well as the general intent of the PUD as a shared amenity. Staff agrees that cluster design incorporated into Blue Creek Ranch contemplates smaller lots while preserving larger tracts of open space. A separate storage barn for the benefit of the lot owners affords additional storage space without compromising the intent of the small lot concept. The PUD does not include any time-share or fractional ownership units. Staff finds the proposal is consistent with the efficient development and preservation of the entire PUD [and the modification] does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person.

PLANNING COMMISSION RECOMMENDATION & SUGGESTED FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

On September 8, 2004, the Planning Commission unanimously recommended the Board of County Commissioners approve the request to 1) correct a scrivener's error to Resolution 2002-82 and 2) amend the text of the Blue Creek Ranch PUD to clarify the intent of "barn" in the private open space to mean "storage barn" finding that:

1. That the meeting before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard;
2. The PUD text is consistent with the efficient development and preservation of the entire PUD [and the modification] affects in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person;
3. That the proposed PUD Amendment has been determined to be in the best interest of the health,

safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County; and

4. That the application has met the requirements of the Garfield County Zoning Resolution of 1978, as amended.

Sarah wanted to make it clear that the request is for approval for up to 4 storage barns.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried unanimously.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request to 1) correct a scrivener's error to Resolution 2002-82 and 2) amend the text of the Blue Creek Ranch PUD to clarify the intent of "barn" in the private open space to mean "storage barn" and to build 4 barns; motion carried unanimously.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR "MATERIAL HANDLING" FOR A NATURAL GAS PIPELINE SOUTHWEST OF RIFLE. APPLICANT IS CANYON GAS RESOURCES, LLC. – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Brian Peters, and Brenda Tertian-Herrman for Western Slope for Trigon EPC, LLC. were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following exhibits: Exhibit A –Proof of Mailings; Exhibit B - Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E -application materials; Exhibit F – Staff Memorandum; Exhibit G – email from County Oil and Gas Auditor dated September 24, 2004; Exhibit H – Letter from Resource Engineering dated September 21, 2004; Exhibit I – Memorandum from County Vegetation Manager dated September 22, 2004; Exhibit J – Memorandum from County Road and Bridge Department dated September 26, 2004; Exhibit K – Letter from the Town of Parachute dated September 13, 2004 and Exhibit L – Memo from Steve Anthony.
Chairman Martin entered Exhibits A – L into the record.
This is a request for a Special Use Permit for "Material Handling" for a 4.3 mile long 12-inch natural gas line for Canyon Gas Resources, LLC represented by Trigon EPC, LLC located in an area known as Buffalo Basin south of the Colorado River between Rifle and Parachute. The site is 4.3 miles of a 12-inch natural gas line crossing BLM and 1 private property with access off CR 317 (Beaver Creek Road), CR 329 (Porcupine Creek Road), CR 325 (Spruce Creek Road), and CR 350, in the ARRD / OS (BLM).
The Applicant proposes to construct a 4.3 mile long 12-inch natural gas pipeline to transport existing and future natural gas produced by Tom Brown, Inc in an area approximately 6 miles southwest of the City of Rifle and approximately 4 miles south of the Colorado River. Approximately 3.5 miles of the line will cross Bureau of Land Management (BLM) land and the remaining line will cross 0.8 miles (approximately 4,369 linear feet) over one other private property owned by Joan Savage. The right-of-way width for the proposed line over BLM is 50 feet and 30 feet across private property (with a temporary 50-foot wide construction easement). The pipeline will be installed using the standard open cut method which includes clearing, grading, trenching, pipe stringing, pipe bending, welding, joint coating, padding, lowering, backfilling, pneumatic testing, cleanup, and revegetation. Once the line has been installed, the Applicant proposes to clean the interior of the line by passing poly pigs through the line, then pneumatically testing the line with air. The project construction schedule indicates the project can be completed in 4 to 6 weeks sometime this fall.
In general, the proposed site reclamation / revegetation activity shall begin immediately after backfilling the pipeline trench. The right-of-way corridor will be re-graded back to the original contours and natural runoff and drainage patterns will be restored. Stockpiled topsoil from the original excavation will be redistributed over the trench as well as over other portions of the right-of-way that have been disturbed and the area will then be reseeded with seed mixes approved by the BLM, private property owner, and the County Vegetation Manager.
A portion of the pipeline will either parallel or cross county roads along the route. The Applicant proposed a plan for how those crossings are to work such as depth and location of line which are all reviewed are to be approved by the County Road and Bridge Department. The line will also cross Porcupine Creek, one intermittent tributary to Porcupine Creek and two intermittent tributaries to Spruce Creek. All of these crossings occur on BLM land and are regulated by the US Corps of Engineers.

In 1991, the Board approved a Special Use Permit for a 6-inch natural gas pipeline for Northwest Pipeline Company which is memorialized in Resolution 91-101. Canyon Gas Resources, LLC (the Applicant) now owns and controls that gas line and existing easement. This application proposes to locate a new 12-inch natural gas line next to the existing line in that same corridor.

Resource Engineering reviewed the proposal stating "the existing county and state roads in addition to the right-of-way are adequate for safe and convenient access for the project. The temporary construction traffic does not require any road improvements from a traffic volume perspective."

The County Oil & Gas Auditor reviewed the proposal and recommended that CR 320 (Rifle / Rulison Road) also be identified in the list of roads to be used to access the corridor during construction of the pipeline. In addition, it is assumed that the Road and Bridge Department will require all large truck access for the project to be via CR 320 from Rulison and not Rifle. This is due to several tight turns and steep grades that are too difficult for large trucks hauling equipment and materials coming from Rifle. Based on the forgoing, it appears that any impacts to the county road system can be mitigated so long as the Applicant commits to adhering to the comments listed above.

The Applicant states that no water depletion will occur as a result of the project. The submittal states that dewatering, if any, will occur in accordance with the Colorado Dewatering Industrial Wastewater Permit which includes measures to control to control how and where dewatering occurs. The Storm water Pollution Prevention Plan includes measures regarding the control of storm water, erosion, and sediment pollution to avoid or reduce the impact of soil erosion, sedimentation, and storm water pollution on or adjacent to the proposed project right-of-way. The Applicant also commits to complying with any conditions associated with the Colorado General Construction Storm water Permit.

The use of the pipeline itself will not generate any vapor, dust, smoke, noise, glare or vibration. During construction and installation of the line, noise levels will increase as a result of heavy equipment during daylight hours but will cease once construction is complete. There will be some fugitive dust during construction but will be mitigated through the Fugitive Dust Control (Dust) Plan and any conditions attached to the Colorado Air Emission Permit. No burning or open fires will be allowed during construction of the project. The Applicant submitted a Fire Prevention and Suppression (Fire) Plan to be implemented to minimize the risk of fire danger and, in case of fire, provide for immediate suppression. The Applicant has included the Fire Control Plan and Dust Control Plan in the Plan of Development as appendices D and G respectively.

The project includes cutting, clearing, and/or removal of existing vegetation and the resulting loss of cover, nesting, and forage for the 50 foot right-of-way. This impact appears to be less significant due to the fact that this is an existing pipeline corridor that is in the process of revegetation rather than clearing away more mature / virgin native vegetation. The Applicant commits to revegetate the right-of-way so that vegetative cover, nesting, and forage will return to pre-construction levels. The pipeline, since it is buried, will not result in the creation of hazardous attractions, blockade of migration routes or use patterns.

While traffic will increase on CR 317, CR 325, CR 329, and CR 350 during construction of the line, it will cease once the project is complete and the line has been installed. The Applicant states that the "construction of the project will not result in substantial impacts from traffic to and from the site and that the County roads will be maintained and repaired as necessary and that fugitive dust will be controlled as indicated in the Dust Control Plan.

The Application states that the pipeline, once installed, will not damage abutting property. Further, the project is located within an existing gathering field and pipelines, well pads, and aboveground appurtenances are already located within and adjacent to the project area.

The application proposes a variety of site rehabilitation measures for the pipeline corridor once construction has been completed. These measures include plans for post construction cleanup as well as a plan for re-grading the disturbed right-of-way followed by an extensive revegetation plan.

The pipeline itself will not result in the production of vapor, heat, glare, radiation or vibration. During construction, the will be an increase in noise levels due to operation of heavy equipment during daylight hours which will cease after construction is complete. The Applicant commits that all volume of sound generated from this project will comply with the standards set forth in the Colorado Revised Statutes at all times. Dust will be generated during the construction portion of the project but will be minimized by the proposed Fugitive Dust Control (Dust) Plan as well as by conditions attached to the Colorado Air Emission Permit. The application also states that no burning or open fires will be allowed

during construction of the project. Further, the applicant's Fire Prevention and Suppression (Fire) Plan will be implemented to minimize the risk of fire danger and, in case of fire, provide for immediate suppression.

The proposal does not include the permanent storage of any materials or equipment on any part of the pipeline right-of-way. The proposal specifies several "temporary use areas" (TUA) along the corridor for temporary staging areas during the construction of the pipeline. There are two TUA on the portion of the pipeline that crosses private property owned by Joan Savage. Both TUA's are located on existing well pads.

Because the construction of the project requires the use of certain potentially hazardous materials such as gasoline, diesel fuel, lubricating oils, hydraulic fluids, paints, and solvents, the applicant states that these materials will be stored in the construction storage yard and not on the right-of-way. The Applicant submitted a Spill Prevention, Containment and Countermeasure Plan that addresses the transportation, storage, inventory and disposal of all hazardous materials.

It appears that the applicant has submitted certain plans (Spill Prevention, Containment and Countermeasure Plan) that are specifically intended to protect any potential impacts to groundwater. The Applicant is required to construct and operate the use within the parameters set out in the Colorado General Construction Storm water Permit, the Colorado Dewatering Industrial Wastewater Discharge Permit, and the Army Corps of Engineers Nationwide Permit No. 12. The Applicant submitted Storm water Pollution Prevention Plan which contains very specific measures using best management practices that are intended to reduce / eliminate the risk of storm water, erosion, and sediment pollution.

Additional Permits

The County recently changed its requirements so that the various local, state, and federal permitting processes can occur at the same time rather than requiring that they all be delivered to the County "in-hand" as part of our review for our Special Use Permit. As a result, note that the following additional permits required for the project have been awarded and have been submitted to Staff.

1) Colorado Department of Public Health and Environment
    a. Colorado General Construction Storm water Permit
    b. Colorado Construction Dewatering Permit
    c. Colorado Air Emissions Permit
    d. Environmental Assessment
2) Bureau of Land Management
    a. Right-of-Way Grant with Stipulations and Notice to Proceed
3) Surface Use Agreement
    a. Agreement providing permission to cross private property
4) U.S. Army Corps of Engineers: Nationwide Permit 12

The Applicant remains obligated to obtain and provide this office with copies of the following permits for the project:

5) City of Rifle
    a. Watershed District Permit
6) Garfield County Road and Bridge Department
    a. Road Crossing Permits

RECOMMENDATION

Staff recommends the Board of County Commissioners approve the Applicant's request for a Special Use Permit for "material handling" for a 12-inch natural gas pipeline with the following conditions:

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

2. The Applicant shall ensure that copies of the following plans are kept at the work site during the entire construction of the pipeline:
    a. Spill Prevention, Containment and Countermeasure Plan;
    b. Fugitive Dust Control Plan; and
    c. Fire Prevention and Suppression Plan
3. The Applicant shall comply with the following conditions asserted by the County Road and Bridge Department:

a. The County will issue utility permits for the trench section and the road crossings that pertain to the portion of the road that is County upon approval of the SUP. These permits contain guidelines specific to the utility permit and location of the installation;
b. Dust control shall be required as needed at the discretion of the road foreman on the roads impacted by the equipment used in the construction of the pipeline. Damage to the surface of the roads shall require replacement or reconstruction for that portion of the damaged road;
c. All vehicles used in the construction of the pipeline shall abide by the County's over size / weight permit system and follow approved haul routes to move equipment and materials to the job site. Prior to the commencement of the project, a supervisor with the construction company for the project shall meet with Garfield County Road and Bridge Department to be advised of these requirements prior to starting the project;
d. Garfield County Road and Bridge Department reserves the right to close roads during inclement weather to prevent damage to the roads and limit periods of construction that fall into the time frame when freezing could occur and compaction could not be achieved; and
e. It is the responsibility of the contractor to find a location outside of the established ROW to discard oversize excavation material (such as rock over 10-inch diameter). Permission will be required to dump on private land and proof of permission should be submitted to the County Building and Planning or Road and Bridge Department.

4. Because weed problems on pipelines and their revegetated corridors tend to occur after there is maintenance activity on a section of pipeline and the ground has been disturbed, the Applicant shall respond to any complaints by landowners either private or public, regarding noxious weeds in a timely manner.
5. Prior to the issuance of a Special Use Permit, the Applicant shall submit a copy of the proposed seed mix that is acceptable to the County Vegetation Manager to be included in the revegetation plan.
6. Prior to the issuance of the Special Use Permit, the Applicant shall post a revegetation security for the portion of the pipeline on private property (4.73 acres) in the amount of $4,730.00. This may be in the form of a letter of credit, if deemed appropriate by the County Attorney's Office, or the funds maybe may deposited with the County Treasurer. 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.
7. Regarding storm water, erosion and sediment control measures, the Applicant shall only use straw bales as sediment barriers so long as they are certified as weed-free.
8. Prior to the issuance of a Special Use Permit, the Applicant shall submit the following approved permits to the County Building and Planning Department:
    a. <u>City of Rifle</u>: Watershed District Permit
    b. <u>Garfield County Road and Bridge Department</u>: Road Crossing Permit
9. The Applicant shall comply with the following Industrial Performance Standards in Section 5.03.08 of the Garfield County Zoning Resolution of 1978, as amended including:
    a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes;
    b. Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;
    c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards; and
    d. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
10. As a result of potential vehicle / traffic conflicts associated with large truck traffic heading westbound on CR 320 from Rifle to the project area, the Applicant shall provide the Building and Planning Staff with a "road roster" that identifies roads and haul routes to be used for the project that are acceptable to the County Road and Bridge Department.

Applicant: Submitted copies of the permits excepting City of Rifle, County Road and Bridge (road crossing permit) and the Special Use Permit being requested today.
Commissioner Houpt - Scars due to the nature of our environment – any discussion on how to get the rest of the vegetation to come back?
Fred it's tough to address to get Pinon Pine to grow back and in 10 years it will not happen. Weed Manager addresses this. Seed mixtures have changed and a vegetation bond was not required, etc. Revegetation takes a while and if it's not monitored. Fred said this was better to have the scar re-disturbed rather than having a new scar. This is on Federal ground and they have the review criteria as well.

The applicant stated they will do everything they can to reveg with the native grasses and other native vegetation to that area. In BLM's opinion, the revegetation on this was fairly good.
Brenda stated the visual impacts were addressed in the environmental assessment; two things they are doing to minimize visual impacts is that they walked the entire line with BLM and flagged certain trees for avoidance where they could in order to have a feathered effect on the edges of the right of way, not a straight line disturbance; and BLM has asked them when clearing the vegetation and brush, to re-spread it randomly back across the right of way in order to make it less of a contrast. Sources for the water for dust control – will use municipal water source for dust control.
Commissioner McCown noted that the private landowner has been known to sell water to avoid truck transportation.
Brenda – there will only 1/1000 of disturbance of the Penstemon.
Canyon has a full time construction manager on the job and his job is to make sure the job is built with all stipulations addressed.

Mildred requested that motor vehicle license in Colorado be obtain for subcontractors.
Fred noted the following conditions – No. 5 could be eliminated; the County Vegetation Manager has approved the seed mix and either eliminate it or amend it – and suggested adding one that speaks to the seed mix to make sure that takes place.
Carolyn – would like to have a letter of credit versus a cash deposit.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP for a material handling 4.3 miles long, 12" natural gas line with the recommendations of staff amending no. 5 to allude to the tag from the seed at the time of revegetation be presented to the County Vegetation Manager for verification and all other conditions and testimony of the applicant; motion carried.
Chairman Martin thanked the applicant for a fine application and suggested this could be used as an example for others requesting similar types of requests.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR STORAGE OF NATURAL RESOURCES FOR A PROPERTY LOCATED AT 0738 CR 113. APPLICANT IS ADA RAYMOND. – FRED JARMAM

The applicant stated he was withdrawing and all commercial stone would be removed by November 15, 2004.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Mark submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C –Garfield County Comprehensive Plan of 2000; Exhibit D – Project information and staff comments; and Exhibit E – Letter with attachments from Calvin Lee, dated July 6, 2004.
Chairman Martin entered Exhibits A – E into the record.
This is a Zone District Text Amendment to Sections 4.14.11 and 5.10.11 of the Garfield County Zoning Resolution, affordable housing regulations grievance procedure.
The Board of County Commissioners has been asked by the Garfield County Housing Authority Board to approve zone district text amendments to the Affordable Housing regulations. The purpose of the amendments is to amend the grievance procedure for affordable housing applicants contained in Sections 4.14.11 and 5.10.11 of the zoning resolution, to deal with the time periods in which a person can file a grievance.

CONSIDER THE APPROVAL OF ZONE DISTRICT TEXT AMENDMENT TO SECTIONS 4.14.11 AND 5.10.11 OF THE GARFIELD COUNTY ZONING RESOLUTION, AFFORDABLE HOUSING REGULATIONS GRIEVANCE PROCEDURE.

Mark Bean, Carolyn Dahlgren, Calvin Lee and Geneva Powell were present.

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

Chairman Martin swore in the speakers.

Mark submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C –Garfield County Comprehensive Plan of 2000; Exhibit D – Project information and staff comments; and Exhibit E – Letter with attachments from Calvin Lee, dated July 6, 2004.

Chairman Martin entered Exhibits A – E into the record.

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The Board of County Commissioners has been asked by the Garfield County Housing Authority Board to approve zone district text amendments to the Affordable Housing regulations. The purpose of the amendments is to amend the grievance procedure for affordable housing applicants contained in Sections 4.14.11 and 5.10.11 of the zoning resolution, to deal with the time periods in which a person can file a grievance.

ZONING ISSUES - The existing grievance procedure is contained in Sections 4.14.11 and 5.10.11 and is written as follows:

Grievance Procedures

A grievance is any dispute that a tenant or purchaser may have with the Garfield County Housing Authority with respect to action or failure to act in accordance with the individual tenant's or purchaser's rights, duties, welfare, or status. A grievance may be presented to the Garfield County Housing Authority Board of Directors (herein after referred to as Board) under the following procedures:

(1) Filing a Grievance

(a) Any grievance must be presented in writing to the Garfield County Housing Authority. It may be simply stated, but shall specify the particular ground(s) upon which it is based; the action requested; and the name, address, and telephone number of the complainant, and similar information about his/her representative, if any.

(b) Upon presentation of a written grievance, a hearing before the Garfield County Housing Authority Board of Directors shall be scheduled for the next scheduled Board meeting. The matter may be continued at the discretion of the Board. The complainant shall be afforded a fair hearing providing the basic safeguard of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

(c) The complainant and the Garfield County Housing Authority shall have the opportunity before the hearing, and at the expense of the complainant, to examine and to copy all documents, records, and regulations of the Garfield County Housing Authority that is relevant to the hearing. Any document not made available after written request may not be relied upon at the hearing.

(d) The complainant may be represented by council at their own expense.

(2) Conduct of the Hearing

(a) If the complainant fails to appear at the scheduled hearing, the Board may make a determination to postpone the hearing or make a determination based upon the written documentation and the evidence submitted.

(b) The hearing shall be conducted by the Board as follow: oral or documentary evidence may be received without strict compliance with the rules of evidence applicable to judicial proceedings.

(c) The right to cross-examine shall be at the discretion of the Board and may be

regulated by the Board as it deems necessary for a fair hearing.

(d) Based on the records of proceedings, the Board will provide a written decision and include therein the reasons for its determination. The decision of the Board shall be binding on the Garfield County Housing Authority which shall take all actions necessary to carry out the decision.

The proposed amendments were developed by the Housing Authority Board and staff. Given their direct involvement and experience in the process of filing an application for affordable housing, County staff defers to their expertise in identifying an acceptable procedure.

RECOMMENDATION

The Planning Commission recommended **APPROVAL** of the proposed zone district text amendments as requested by the Garfield County Housing Authority.

Since Affordable Housing has been made a requirement and the HA has taken over the request. They have had a lottery and each time those who submitted applications that they were not qualified and then what would they do as a grievance. Geneva called Calvin and he looked at the procedure and there was no time frame to file, etc. He drafted the amendment giving the number of days they could submit a grievance and what the staff and members of the HA would have to do. Later he amended it to include para 6. If they were wrongly dismissed from the lottery, the only remedy would be to put them in the next lottery or the next unit. Calvin will draft a form waiving their right for money damages and by the time a court rules, they will long gone.

Geneva said the Housing Board has reviewed the grievance procedures.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Zone District Text Amendment to Sections 4.14.11 and 5.10.11 of the Garfield County Zoning Resolution, Affordable Housing Regulations grievance procedure. Motion carried unanimously.

Vacancy position on the Housing Authority Board

Calvin Brook was appointed in a motion made by Commissioner McCown and seconded by Commissioner Houpt; motion carried.

ADJOURNMENT

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

OCTOBER 11, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN
9:00 a.m. Tuesday – Budget Hearing
Rural Resort – Dues and Memberships - $100 has been placed in the budget.
Mike Powell – Lift Up – wants to refurbish that one building there and it will cost $20,000. Mike wanted to know if we would support them in a DOLA grant. Last week we added $15,000 to the Human Services Grants and that is one way we could help them.
Commissioner McCown was under the impression they had the money for a building.
Ed said they still intend to build a new building and this is another issue.
They have to have a government sponsor and the City of Rifle could do this since they are located in Rifle.
They Board requested additional information.
City of Glenwood – City Council – Emergency Coordinator – Fire District
Ed and Jesse attended the City Council meeting and they voted once more to not support the Emergency Coordinator.
We have a total of 12 including Garfield County and Ed recommended we proceed absent the City of Glenwood Springs and Silt who is still deliberating.
The City controls the funding of the Glenwood Fire District. The City approved this based upon the approval of the County. The city council controls the Fire District purse strings.
The Fire District goes beyond the boundaries of the City Council. More on this during the discussion later today.
Don suggested today we need to ask the structure on this today regarding approving this Fire Code because what they are asking you to adopt today has to be approved by the governing authority of the fire district..
There's a rural protection district and the City of Glenwood Springs, and the funding for the whole district apparently contingent upon what the City does.
Ed requested a Personnel issue be discussed in Ex Session – it is the filling of a vacancy with legal ramification; it involves a former employee.
COUNTY ATTORNEY UPDATE – DON DEFORD
Consideration of Purchase of Services Agreement – Mary Ellen Denomy
The Purchase of Services Agreement was submitted for Mary Ellen Denomy, a certified public accountant to act as a consultant for auditing services to the Garfield County Assessor, under the direction of the Assessor, or the Assessor's designated representative as needed regarding property tax obligations of operators and owners of producing oil and gas properties. The time of performance is to be completed by the 31st day of December, 2004.
Don discussed this with the Assessor's office and an exchange of contracts with John Savage's office. At one point Mary Ellen signed off on a contract but after that John Savage and used a March date. For a public discussion, Don felt that John Savage and Mary Ellen should be present. Don asked this be deferred until next week. He would like to discuss this in Executive Session. Deferred until next Monday at 10:15 p.m.
Executive Session: Litigation Update; Legal Advice
Personnel – OGGC litigation; Denomy; Fire District; update on CBMS and code violation.
A motion was made by Commissioner McCown seconded by Commissioner Houpt to go into an Executive Session; to discuss the aforementioned items; motion carried.

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

Authority to vote – DDA Ballot Question

Ballot has been tendered in the tax election questions because the County owns buildings in the City. The Chair was authorized to vote but in the abundance of caution Don brought it back for additional discussion.

Glenwood is experiencing some growth and she would support this ballot question.

It doesn't limit the City for what it will be used for and limited for the downtown businesses. This is a mill levy on businesses.

Commissioner McCown faced this same issue in Rifle. They don't allow property owners to vote unless you are resident in the area. He can't support it. Better if we oppose it.

Commissioner Houpt sees it as being separate. They need other opportunities to allow them to survive as a downtown.

Chairman Martin – if they wish to go ahead and do their own mill levy in the City that would be fine; we are only one vote.

A motion was made by Commissioner McCown to bring this to a close to vote no for the ad valorem tax. Chairman Martin stepped down as Chair due to the lack of a second to second the motion.

Vote – McCown – aye; Martin – aye; Houpt – nay.

COMMISSIONER REPORT

Commissioner Houpt – CCI on Thurs and Fri – agendas were submitted; Tues. – Budget at 9:00 a.m.; Wed is Human Services Commission 10 a.m. at City Hall; Thurs I-70 Corridor meeting in Idaho Spgs; Kids Vote Program on Friday at the elementary.

Commissioner McCown – Thus – Chili cook-off; service club circuit this week; Battlement Mesa Grand Valley Citizen Alliance on Thursday night.

Chairman Martin – same schedule as Commissioner McCown except Intermountain TPR.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Resolution approving an amendment to the text of the Blue Creek Ranch PUD and a correction to a scrivener's error in Resoltuion 2002 – 82. Applicant is Blue Creek land Holdings, LLC – Fred Jarman
f. Authorize the Chairman to sign a Resolution concerned with the approval of the Preliminary Plan for the Bair Chase Ranch Subdivision at Sanders Ranch and Amended Planned Unit Development Plan and Text for the Sanders Ranch PUD – Mark Bean Postponed until 1:15 p.m.
g. Authorize the Chairman to sign the Resolution and Special Use Permit for an additional dwelling unit – Applicants: John and Sandra Anderson – Jim Hardcastle
h. Authorize the Chairman to sign a final townhouse plat of Valley View Village, building M, a re-subdivision of Lot 46 – Applicant: Terry Lawrence – Jim Hardcastle

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

PUBLIC MEETINGS

REQUEST FOR OPERATIONAL FUNDING FOR LOVA TRAILS 2005 – TODD TIBBETTS

Jeannie Golay, Todd Tibbets, and Larry Dragon were present.

Todd Tibbets presented the request for operational funding for 2005 to the Board. The letter clarifies the purposes for which LoVa is seeking contributions from Garfield County. In conjunction with Garfield County and LoVa's joint application to Great Outdoors Colorado (GOCO) to fund the construction of trail segments in South Canyon and Rifle, LoVa has asked the County to contribute $150,000 over a three year period to help meet the grant's matching fund requirements. LoVa is also seeking $35,000 from the County to assist LoVa with operations and development of the LoVa organization.

With the County's continued support for operational funding in 2005, LoVa hopes to build upon the successes and in addition continue to apply for appropriate grants for construction of trails. This operational

support will allow the LoVa staff to work with firms in the Oil and Gas Industry companies to define and implement their expressed desire to help build trails in Garfield County.
They provided seed money to the Town of Silt for the Coal Ridge High School and they are submitting a planning grant – either to the feasibility study or the trail.
Motion made by Commissioner Houpt to budget an additional $35 and the $50,000 – staff get creative on the $35,000 and use the $50,000 from the Conservation Trust. If we pass the RFTA question, we will have the funds needed for matching funds.
Ed suggested the $35,000 come from the Conservation Trust funds. Conservation funds are part of the motion.
McCown seconded; motion carried unanimously.

CITY OF GLENWOOD SPRINGS FIRE DEPARTMENT REGARDING INTERNATIONAL FIRE CODE
– RON BIGGERS AND FIRE CHIEF PIPER
Mike Piper and Ron Biggers presented the IGA – they stated that the district contains 64 square miles. The district has two distinct districts. City has passed the International Fire District. Ron Biggers has been meeting with the County and it is important to get this adopted.
In September of 2004 the City of Glenwood Springs adopted by Ordinance the 2003 International Fire Code with amendment and a permit fee schedule. In order for the Glenwood Springs Fire Protection District to have a consistent fire code throughout the Fire District they request that at the Board of County Commissioners' public session on October 11, 2004 to approve and adopt by Ordinance the 2003 International Fire Code along with the amendments contained in the City of Glenwood springs ordinances number 18 and 19. This request is for approval to use the Code and Amendments in the Garfield County portion of the Glenwood Springs Fire District only.
Fire District Board District meeting on November 1
Commissioner McCown – what we need is a Resolution from your district on fees if they adopt them, then to us.
November 1, 8th or 15th.
Get on the agenda and we can do this administratively.

Public Meeting
REVIEW CODE VIOLATION FOR NATHAN AND ALINA KING – STEVE HACKETT
Steve Hackett, Christopher Bryan of Beattie & Chadwick and Nathan King were present.
Steve Hackett presented the alleged violation and investigation information regarding the installation of a modular home based on a complaint dated July 23, 2004 by a neighbor. No compliance action has been taken. The address of the alleged violation is 120 Comachero Trail
Commissioner Houpt agrees with Commissioner McCown that Mr. King needs go though for the permit for the ISDS and appreciates the willingness for the inspection and hope to get this resolved.
The Board requested that Mr. King and Chris Bryan bring them back at the next discussion.
September 28 is the date of the violation
Steve reviewed the packet of information he submitted.
Mr. King's attorney - Christopher Bryan, Beattie & Chadwick stated there was some additional foundation work on his original structure.
Steve reiterated the compliance measures needed which was to convert the modular for agricultural use by removing the kitchen facilities and submit engineering specifications for the ISDS.
At the end of the meeting Steve was convinced that Mr. King was in agreement, he came in and signed it but would not give Steve a copy.
Witnesses – Norma Fix, current address is 22302 Highway 141 in Whitewater. She owns the property at 0258 Comachero Trail in New Castle and the daughter resides in that residence. He has come to the Commissioners before to get a subdivision and he was turned down for very obvious reasons. The stability of the soil mainly and it was a major concern to Norma when he was wanting to subdivide. When it rains if that soil has been disturbed, it runs down and in the past has filled the ditch which then runs down on the properties below. The property does not leach very well; she didn't think most people could get a septic system up there at this point because of that soil. It came to her attention when her daughter noticed people working behind her property. Norma looked into the situation and this modular has sat back there empty for couple or three years and nothing has been done with it. Now all of the sudden it has a deck built on the

front, it has a fence put around, landscaping and she called the city because he has no water for that; however there is a hose coming off the main house so it's either a hose to provide water for the house or to use for watering. The city told her that there had been no water tap for that. So if he's using any water, that's also illegal. This is when she called Steve Hackett, the Code Enforcement officer. There were no notices of a special meeting for him to get a special use permit. She is suspecting someone dwells there, but not sure. There's a motor home also on the property all summer and it has moved and there are lights in it and some plays loud music and sings almost every night until 11:30 p.m.

Christopher Bryan – Attorney for Mr. & Mrs. King – 932 Cooper Avenue – Glenwood – This is vindictive of the misunderstanding that has occurred so far - no one has been dwelling in the building at issue here; no has and no one is and no one will be. In 2001 the Valley View Hospital allowed Mr. King to take this modular building they were no longer going to use and move it to his property. He moved it with a permit from the County; he received Mr. Hackett's approval and consent to move the building there that was in May 2001. It's been used as an agricultural and storage building in the intervening years; it has no kitchen facilities and in that respect it's not being used as a residence, whatsoever. In 2004 as Mr. Hackett mentioned was that was an alleged violation citing regarding this issue that's before the Board right now. And with regard to Norma Fix's statements, it's interesting that she says that she doesn't know if anyone's been living there but she suspects and although she doesn't live at the adjoining property she owns it and for the record the Board should be completed apprised of the fact that no one is living there, so her suspicions, while in good faith are not really valid. Mr. Hackett's comments, even as late as last week, indicate there might have been a mistake on the County's staff with regard to how this matter was handled. In the same regard that emails received from Ms. Dahlgren, the assistant county attorney and from Mr. Hackett, the main issue that was solely for this proceeding was whether or not it was being as a residential building and Chris said in all good faith and honesty that is not the case and we believe that a legal abatement action would be improper under the circumstances.
Commissioner McCown – asked if Chris has any pictures or documentation that the building that the building is considered an agricultural building and has been rendered uninhabitable by the removable of all the sanitary facilities, fixtures and cooking fixtures.
Chris referenced photos for the Baord to review.
Chairman Martin noted these were informational gathering and not for purposes as an exhibit.
Chris –too this extent, if the only issues are whether a deck in the construction thereof constitutes a dwelling, that's not prima fascia evidence that there's someone actually living there.
Chairman Martin – if it's above 32" you need a bu8ilding permit.
Chris – sure and those issues we would like to work out with the Board if there are issues such as the ISDS issue that Mr. Hackett references. We would be willing to find a mutually acceptable resolution to this.

Chris noted in the Photos that there's no stove top, no kitchen appliances, there is a sink.
Commissioner McCown – I see a dishwasher, a sink.
Chris acknowledged there was a sink and a dishwasher, but no cooking appliances, no range, no stove.
Commissioner McCown - None visible in this picture.
Chris noted there was no date as to when these were taken but he guess in July after the alleged violation citation was issued. Chris did not take the photos.
Commissioner McCown – there are still some questions in his mind as far as the livability of the building and that can not be satisfied until either Steve or a member of the Building & Planning went out and did a physical inspection. Looking at the pictures, I do not know what's not there.
Chris for the Board's reference, the things that are being kept there are agricultural and horticultural supplies, it's also being used as storage, no one's living there, there are no walls and the rooms are not separated and you can see clear through and it wouldn't be very much privacy if someone were attempting to live there. And with regard to Ms. Fix's comments about loud music, he didn't know of any action by the county to enforce a noise ordinance.
Commissioner McCown – 55 decibels – we do have a noise ordinance and that is what it can be measured at. So what is your client's position as far as negating this problem? Are they willing to allow for an inspection by the building department and the code officer to see if in fact this building is uninhabitable or is it still you can't come on my place situation, or where are we at?
Nathan King – 0120 Comachero and in regards to the building, it has never been a manufactured home, it was built by Valley View Hospital as a building in which children occupied as a day care. It was never built

as a home. When we received the building, VVH gave to us at no cost. I went into the building department which I received a $10.00 permit to transport the building legally to 0120 Comachero and the building department knew that the building existed. We have paid taxes on it for two years, we used it as an agricultural building because we were told that was all that it could be used for and when we asked for a permit they said you don't need a permit for an agricultural building so we went through the steps and we complied; we've had no intent to have anybody else live on the property as a resident presiding at this structure, no body has, no body will be in the future, my wife is now a US citizen as of last week, and came to this country to do an agricultural development, which we met and got married and have 5 children. And in which on the property there are an enormous amount of fruit trees, in which we harvest and sell, food off the property and keep a legitimate bookkeeping system, we're registered with the State of Colorado. We assume that we've applied ourselves as citizens in trying to do and meet the codes. We've never wanted to comply with any code and so the situation came up that Mr. Hackett came upon the property unannounced, uninvited, took pictures of my children and my family without my permission and I felt at that point, my constitutional rights under the 4th Amendment had been violated. And I was upset that after spending all this money and compromising my family to achieve a goal over a couple of years, we now go up in smoke in front of the Commissioners as making me a criminal for just trying to comply. I sent a certified letter out of being desperate. To Mr. Hackett and the Commissioners saying I've not yet been told, will you please inform me; and I felt that I didn't have the information I needed to make the decisions and that Mr. Hackett openly knowingly knew that the structure had been on the property for two years and now comes back and says, you know, it can't exist and what you're doing is illegal and you know I'm taking these actions which will compromise the financial position and political position of your family in this community.
Chairman Martin – with the information that was gathered here, your attorney supplied us as well as your self, the question still remains again, counselor, you need to ask your client if he wishes to go ahead and do that, it's only a request – would he allow just to check to verify the photographs that there's no living quarters within there and there has been rendered unlivable through the request. And the answer is yes from the property owner.
Chris – yes that is the answer and the position that we welcome Mr. Hackett or another county staff member to come out to the property to view the facility so they can see first hand and if they like, take their own pictures of the interior of the dwelling, or the building, to see that it is not a dwelling – that it is being used as an agricultural storage facility.
Commissioner Houpt – there's still the question of compliance with ISDS.
Chris – we would be willing to apply for a permit to have the ISDS.
Commissioner McCown – I'm unclear on that one is that specifically for this building or for the initial.
Steve Hackett – Mr. King stated to me that he put a new septic system to serve this modular home.
Commissioner McCown – confused if there's no one living there and if it's not occupied, why would it need an ISDS system.
Steve Hackett – I'm also confused about that.
Nathan King – Mr. Hackett informed me that an agricultural building can have a shower, can have a bathroom, can have sinks to wash, I assumed, when I came in on another occasion, listen you know, I'm a mechanical contractor in this valley and I normally ask for permits when I install gas and went into the County and they told me they said absolutely Mr. King, you don't need a permit, this is an agricultural building and in regards to gas, we don't care what you do. So I said fine, once again I've come and asked the question and I'm responding accordingly to what I've been told – I have to depend on what people is the word is their bond.
Chairman Martin – and that's what you're using the agricultural building for is for a shower and wash up facilities.
Nathan King – I'm saying that existing because the building had a shower and sink when he got it – but our usage for it is predominantly for agricultural storage. Yes, my wife runs a little day care in which the children go into the building, we plant a couple of plants to they know that fruit trees – you don't get a peach at the store, they don't come from a store, they come from the ground, this is how we do it, this is where we start and we teach predominately natural agricultural understanding to children and yes, we ask them to wash their hands when they're done.
Don DeFord – the building is supplied with water then?
Nathan King – yes it is.
Don DeFord – and it has its own ISDS system?
Nathan King – yes it does.

Don DeFord – heat?
Nathan King – yes it does. But we only use it seasonally. The building is shut down because we do not have any intention to use it during the winter other than it has in it right now, the storage of lawn mowers, tools and equipment that are involved in the actual development of agriculture on the property, irrigation for the fruit trees, drip systems that are on board in which we use all these things to try to produce fruit and food on our property.
Commissioner McCown – the water that's supplied to this building, is it supplied by a garden hose off of your tap or is there a separate tap for this building?
Nathan King – the water is supplied by my water tap already existing.
Commissioner McCown – is that legal?
Chairman Martin – in your permit are you allowed to use it.
Commissioner McCown – with your usage with the City of New Castle, supplying the water, is multi-dwellings on one tap an allowable use for that tap?
Nathan King – I was just told with regards to the city, they said a blank to me that once the water has traveled past the meter, you've paid for it and what you do with it is your own business. If you want to throw it up in the air, or hose the gravel road down, whatever, you write the check because anything that goes past the meter, you'll pay for. And I have agreements with the City, they have been more that willing, after we gave an easement on Road 12 for them to run a new water facility and a new water tower up in back of our property, they've given me access in which they have said we will even sell you water, raw water that will be pumped from the station from lower New Castle up through Eric Williams Ranch up to the red rock ditch which is on my property in which they will sell me raw water so I can have further development and expansion of agriculture on the property. So it was important that we achieve the building that could support the dream that me and my wife had in developing the property in the first place.
Commissioner Houpt – so they know about the two structures and the use of water in both?
Nathan - they know about both structures. They would have to at this point, in which the water meters that are read for the entire subdivision is on my property, so where the City now also is the custodian of the ditch and maintains the red rock ditch because they are going to be receiving water from the new water infrastructure that has been developed in which we gave the easement so that we also could receive raw water from the City of New Castle. There are multiple city vehicles brought upon the property in which we have pioneered roads in so that the City could have greater access to certain locations including the fire department which was recently on the property in which the Fire Chief of New Castle had pointed out that at the end of Navajo and Comachero had been blocked in which ingress was being violated by the fire department by homeowners of Elk Creek Subdivision and that at the end of the road Navajo there was an illegal structure in the county right of way in which there was also a removal, illegal removal of my easement to my property that had been done – an illegal altercation of county road. A couple years back I had addressed Mr. Hackett in regard to those roads and the illegal structure on it and he chose not to do anything so, my business dealings with Mr. Hackett has not assured me as a citizen that his interest and his venue has been in my behalf.
Commissioner Houpt – it's not whether city employees have seen the structures, but whether you have a permit in place for supplying water to both structures.
Nathan King – there was no requirement that was discussed with me in regards to the city; they said there was no requirement. In that we had supplied and they were building right behind us with water and while he was living in a manufactured mobile home, while he was building it, we supplied him water and there was no complaint by the city; there was actual complaints by Elk Creek Subdivision and Norma Fix that I was supplying water and nothing came out of it, in fact when they came onto my property to turn my water off, they called the Mayor and the mayor said that you can't turn off a private citizens off – he's not in Elk Creek Subdivision, Lot 12 is but his property is out in the county and is not part of any subdivision, so that my water tap was in agreement exclusively with the City of New Castle.
Don DeFord – Mr. Hackett has stated today that you were in his office and signed an agreement. Is that your perspective as well?
Nathan King – no sir, I did not sign the agreement.
Don – Did you sign anything?
Nathan King – I initialed an agreement in which I asked for back because it had not been signed and when I looked at it because I didn't have my glasses at the time, and another building official there had explained to me what he though the understanding of the document was, at that juncture when they demanded me to give back the document that I had not signed yet, that I had initialed, I had felt that the document was not

representing my best interests in that because I was under duress at the time in which I was coming in to sign this and I looked at it as a time sensitive document, in which I wasn't given adequate time to review, look or understand. No reading glasses in that I had felt that this document didn't represent my interest, in fact I was told once again that this building could only be used as an agricultural building and when I went for a permit, they said I didn't need one.
Don – regardless whatever was in that document does not form the basis for any agreement with the County today, is that your position?
Nathan King – yes that is the position.
Chris and also with regard to that document, it seemed like the language and crafting of that agreement seem to presume that the structure was being used as a residence, which you can understand would seem prejudicial and given the fact that Mr. King wasn't allowed to have his attorney review it might have been under duress.
Chairman Martin – the staff has made a recommendation to go ahead and proceed for a zone violation, etc. and you are willing to go ahead and have your clients' premises inspected to resolve the issue showing that it is not a residential use and it is not in violation and that's a mutual agreement, was that acceptable?
Commissioner McCown – wanted to make sure everyone's clear because I'm not clear on this - if it's an agricultural building with a facility that allows the use of a septic system, that septic system, thee had to be a permit and that has to be approved by an engineer regardless of whether it's agricultural or not, if an ISDS system is being used, we have to have a permit for that and it has to be inspected by an engineer. Now, I also understood that there would be an agreement that would allow, if not Mr. Hackett, a building inspector to come out and review and take a look at the facility to see if it's able to be occupied.
Chris – with regard to that, it's my client's position that we do agree that a permit would be appropriate for the ISDS and we would be willing to take those steps; furthermore as we've stated previously but for the record, we have no objection to a compliance staff officer or someone else from county staff coming out to view the property to ensure that not only is it not being inhabited but it's unlivable and therefore does not fall under the violation that's been alleged.
Commissioner McCown – schedule wise, is 30 days adequate for you to make the rounds and do an inspection. I would like to continue this to November 15 for a report back from our code enforcement officer and the planning department. Hopefully all this can be alleviated.
Don – asked - by that date should they be there also be an application for the ISDS permit together with any engineering evaluation of that?
Steve – yes there should be an application submitted by that time since Mr. King has told us it's in the ground and the application will need to be accompanied by a letter from a Colorado registered design professional which certifies to us that the system is installed in accordance with our individual sewage disposal system requirements. There will be some question about what we base that on – one other concern I have is that Mr. King has now advised us that the building is occasional used as day care and I'm very concerned if this is to be used an agricultural building which is not for occupancy other than agricultural purposes and Mr. King has expressed his wish to have the modular home left where it is and not done with a building permit or put on a foundation then that buildings use has a day care adjunct or whatever would not be legal. In addition a conditional use permit for day care is required in Garfield County and to the best of my knowledge no such permit exists for Mr. King.
Commissioner McCown said he was going to give Mr. King and his wife the benefit of the doubt on this one up to a point Steve and seeing this no different from taking some day care kids out to the chicken house or barn to pet the animals if in fact that's what's taking place. If we find out that is not, then I would completely support your request, but on its face we'll give the Kings the benefit of the doubt but we do need to make sure all of this other has taken place whether the kids go there to pet the trees is irrelevant.
Chris – it's not being used as an adjunct – that characterization may be a little unfair.
Commissioner Houpt – and depending on the size it may not; a home day care doesn't require a permit for 8 or less kids doesn't
Nathan King has the permits for day care.
Commissioner Houpt agrees with Commissioner McCown that Mr. King needs go though for the permit for the ISDS and appreciates the willingness for the inspection and hope to get this resolved.
Bob Provo – 461 Silverhorn Drive – it seems and sounds like to me that Mr. King already has the permit for the house or this particular building and it was given to him several years go, why does he have to start the process all over again?
Chairman Martin –because there's a claim that it is not being as a dwelling; he's willing to go ahead and

show us that it is now.
Bob Provo – he just stated that it is not and it looks pretty good that he's not, why does he have to start this all over again?
Commissioner Houpt – mainly the ISDS system has to be installed properly.
Bob Provo – he's already stated in the original set up he wasn't required to do that, but now he is?
Chairman Martin – an ISDS system must be inspected and must have a permit so that's what he's brought forward and we just want to make sure it was installed property and can be used properly.
Nathan King – being that the ISDS system is not being used at this time, more that I felt it was an extreme necessity to have a wash sink to wash kids hands outside, would it be in the best interest just to remove the ISDS system and not have than an issue and make this..
Chairman Martin – that would be a decision between you and your counselor and what you decide to do and what you've offered to supply one way or the other.
Nathan King – then we can accept the building as what it's being used as an agricultural building without a permit – I pull the septic, solve then problem.
Chairman Martin – you need to talk to your counselor about that particular issue right now.
Chris – we will so advise the County staff of appropriate action.
Chairman Martin – and what action you've taken and at that point you'd be subject to the inspection of any other and set up the date to review the building to make sure and verify the photographs with the date, etc.
Chris agreed.
Back on this subject
Don said the photos were supposed to be part of the record and asked Chris to return them and they refused to do that.
Chairman Martin – that's because we said it was a public discussion issue and we were going to verify those photos through Mr. Hackett or someone else visiting and taking the photographs, dating them and what have you.
Don – this is your record and you're saying you don't want these photographs as part of your record?
Chairman Martin – we want to take the pictures through the Code Enforcement officer giving us the date and time of when they visited and the actual photographs. Those photographs were not dated, they do not show who took them, when taken, etc.
Don – without getting into the merits of the case, they are part of your record. Commissioner Houpt – said she would like to see us keep them
Commissioner McCown – if the Board had taken any action.
Chris said Mr. Martin stated they didn't have to be submitted.
Commissioner Houpt – what the pictures are also representing is the current status of that building, it might be helpful to have them on record.
Don - The photos are supportive of their statements.
Chris agreed to make a full copy.
The Board requested that Mr. King and Chris Bryan bring them back at the next discussion.

RAISE WEIGHT LIMIT TO 80,000 POUNDS ON CR 113 – CATTLE CREEK – MARVIN STEPHENS

Marvin Stephens and Bobby Brandon were present.
Trevor Knell of HP Geotechnical - A letter dated October 4, 2004 was submitted to the Board. They evaluated the subgrade conditions and measured the existing pavement section along the subject portion of road. Three borings were drilled in roughly the center of the east bound travel lane to a depth of 18 inches. The existing traffic loading information was not available at the time of the analysis. The existing roadway appears to be in relatively good condition. Based on the subsurface conditions encountered and the surface drainage conditions observed, the evaluated portion of the roadway appears stable under the current traffic loading and dry subgrade conditions. The report goes on to say we see no reason to restrict vehicle load weight at this time. The roadway should be periodically monitored to identify any signs of distress or poor surface drainage.
Marvin asked the Board for direction. He also made the recommendation that the road was able to handle the 80,000 lb loads. He stipulated that the report and he agreed with it to do adequate monitoring; however this is the same on all roads and increasing the load limit.
Commissioner Houpt expressed her concern of allowing heavy loads on our roads and wanted to understand the cost of that the technical differences on highway weight on a State highway and county

roads.
Marvin said it's the same on both; the request was to have HP do the analysis; this report was submitted and the department is following their recommendation.
Chairman Martin noted that the present road surface in place has been there a long time and very little deterioration; it has good drainage.
Bobby said there are no pot holes; the road is in good shape and he submitted Photos for the record.
Discussion included e axel loads of 45,000 lbs; the departments' full load of cinders weighing more than 70,000 lbs and others have the ability to obtain permits to haul 80,000 lbs including concrete trucks delivering to new home construction, etc.
Lee Leavenworth, representing Pine Stone Company. Pine Stone received their Special Use Permit in 1972. If the Baord doesn't allow them to haul 80,000 lbs to their operation, the Board would be destroying their operation. They talked about brining in semi loads in 1972 and this could possible be a "taking". The road is in good shape; all roads require monitoring. Pine Stone reports the County has never taken any maintenance on CR 113 in the 12 years they've been operating and he urged to follow the recommendation of staff and consultant.
Marvin said he understands delivery trucks have been parking on the shoulder of the road and he would like to put a no parking from 7 pm to 7 am on that road.
Chairman Martin would like to address no abandoned cars and the no parking 7 pm to 7 am.
Commissioner Houpt reminded Marvin that the road was narrow and why would we allow parking on the roadway during the day.
Marvin wanted to address the issue of trucks parking and running their motors during the time that neighbors are sleeping. He hasn't witnessed trucks parking overnight but has been told they do. They are waiting for gates to open so they can deliver the load.
Chairman Martin – there are some pull out areas that have been there historically. If you want to do away with those it would be a recommendation of the Road and Bridge Department. If you put no parking signs on the road, you will eliminate guest parking as well and that could be a problem.
Mitch Urer 0082 CR 113 – FunLand Property – he has 11 acres, commercially zoned property. He has a construction company and hauls equipment in there and needs the 80,000 lb rating. He has a tenant Cross Propane amd they bring in their trucks and they need that rating also. If the road is good now, if it deteriorates he would just expect the county to bring it back up to handle 80,000 lb loads.
James Watson – owns the old JY property and he's been here 27 years in this valley and has traveled cattle creek many times and while now he's a property owner and will be running his salvage opration and truck operation out of there and as it grows, it is possible that the trucks he sends in and out of there would be in the 80,000 lb range. But he wants to have the BOCC keep in consideration that there is still is the agricultural aspect of going up and down that road. Numerous cattle trucks, not many logging trucks anymore, but he brings this up because the cost of commerce is already extremely high and imposing weight limits brings up the cost of commerce and the road degradation will go up because now you're going to increasing traffic with decreased load weights. You're not even going to be able to take a load of concrete up that road without an overweight permit.
Marvin – said he's been with Road and Bridge for 31 years and there haven't been any large amounts of work on this road.
Mitch said he purchased commercial property and expected it to access appropriately and accordingly. If he had brought the property with a weight limitation to a piece of commercial property, he would have priced it and that is what he did when he bought the property; he agreed to it with the current situation and a reduced load limit coming on in the near future, will cause his family an unjust and unwarranted hardship. What can you take up the road he isn't aware of all the political implications, he just wanted to state the facts and concerns.
Bobby commented with regard to cattle trucks that do need to access the Spring Valley and Missouri Heights area; we do have a designated haul route which consists from State Hwy up to CR 100 to access those Mesas; and that continues on across upper 113 to 115 and then over to 114 and back down to 82. There is a designated route as far as getting trucks up there at 80,000.
Chairman Martin – the recommendation is to take the 80,000 lb limit up how far?
Bobby – ¾ of a mile. The rest of the road would be 70,000 – 45,000.
Commissioner McCown – the current weight limit is 70,000 and 45,000. What do we give up to make this road interstate legal all the way to the end so the County can go up it legally and plow snow in the winter? He doesn't want this Board or the public to think we're generating a land use issue with a weight

restriction. There are two separate things we're talking here – one is land use that people may or may not agree with, the other is the condition and the drive ability of the road. If that road will handle 80,000 lbs to the upper end of it, it should be allowed to travel on it. No matter what the land use is on both sides of that road, from the mouth of it at 82 to the end of it. We're talking road condition and land use – let's don't mix the two. He wants to talk about weight limits today and we'll talk about land use some other day. It could be a concrete truck, a load of lumber going to build a house, it could be someone hauling a load of cattle out of there – it doesn't matter what it is, it weights the same. And either the road is capable of handling an 80,000 lb load and a 54,000 lb 3 axel load or it isn't and from the results I've seen in the test area, it clearly is.
Marvin – if the Board wants to make it 80,000 the full length it's fine.
Commissioner Houpt – wouldn't that change that haul route – we're not talking land use.
Marvin – there are three access points up to Missouri Heights and we can still recommend a haul route.
Martin – there are no bad spots all the way up the road and he doesn't see any sense of money wasting money until we do.
Commissioner McCown – it isn't going to increase additional uses, it's just going to allow them to happen legally.
Marvin – it will reduce trips.
Jim Robinson – 912 Road 113 – one thing that we haven't talked about are safety issues on CR 113. We've talked about it before and everyone's aware that this is a terrible intersection, and it hasn't changed. That's one of my issues. There no real shoulders on this road, no guard rails, there's blind corners. And we're talking about bringing the biggest heaviest loads allowed on road up a county road. So it's clearly not designed for this and thinks looking at the soil samples, the chip seal surface is ½ inch to 1 and ½ inches thick and doesn't think the County would build a road today for those kinds of loads with those specifications. There would be asphalt surface with a 6 – 8 " base course; there's some ditches issues when we get big rains and the ditches do plug and that's part of the monitoring that they talk about. If the subsurface gets wet, it's going to fail. If we go back to a more normal rain cycle we'll have more moisture on that road and it could cause problems. He rides his bike on it and the section above his house, the surface is cracked and doesn't agree with the weight limit on the entire road. The 70,000 limit makes sense, the County obviously had a reason to buy the 70,000 signs and put them up. The cost estimate runs $300,000 and $400,000 a mile to bring it to current specs for an 80,000 lb load. Businesses have to be able to bear the brunt of this cost – it's not a given to provide them with roads. It was 70,000 when JY Ranch was sold and he would like to see it remain 70,000.
Calvin Lee – represents Jim Robinson and Steve Kenney. Lee Leavenworth stated in Pine Stone they represented they would be semi's; however in the transcript of that meeting, semi's not used in that hearing referenced page 9) Pam says "yeah, so we have a few people with their pickups coming in to order stuff and on an average day I guess there's one big truck in a week and ours rolls in two, three, or four times a day, I don't think the truck traffic for as much as we on the road going in out for JY, we'd ever be anything more than about what they do." So when the SUP was granted to Pine Stone there representation was, well what I just quoted you, they are now asking the District Court to overturn a ruling by the staff to allow them to have even more traffic and semis than what was granted in the application here. And when their application was granted it 70,000 and so the fact, they need to live by the conditions granted in their SUP. And so to say that some condition on that road, if it's not changed will put them out of business is not a valid argument; they are required to live within what was represented by them in the SUP granted. Louis Meyers could not be here because tomorrow he's leaving on vacation; he did tell Calvin that there's basically two kinds of roads in the county chip seal and asphalt and what you do when you design a road is you come up with a pavement design which consists of evaluating the subgrade, the sub base and the base core. It's his impression that anytime you have truck traffic going on a road that in your evaluation for truck traffic, usually the recommendation for pavement design for truck traffic is asphalt not chip and seal. The report by HP Geotech, what they really need to do here is state or evaluate and make a recommendation about what happens when the weight limited to 70,000 versus what happens when the road is limited to 80,000 tons; how much faster will the chip and seal road deteriorate if the truck traffic allowed on that road is 80,000 rather than 70,000 because what you're really talking about is how much will this cost the county, and they really haven't answered that question. If in fact it's accurate what Jim Robinson said that a mile of road cost $300,000 to repair, then that's a significant amount of money and you really want to know, if we raise this limit all the way up Cattle Creek Road to the top to 80,000 how much sooner will it deteriorate with 10,000 more – it could be 20-years and maybe you won't care in 20

years because you won't be the County Commissioners and somebody else has to worry about it, but what if HP GeoTech says it may be 5 years from now that if you increase it to 80,000 given the amount of truck traffic that's predicted by the people that just spoke – these property owners and the amount of traffic they expect to be on there, especially Pine Stone, if the Court rules in their favor and they're allowed all these semi's and trucks up there, what's it going to do the road, how much sooner is it going to deteriorate the road. It's fine to say the road right now is okay, but is it going to be okay three years from now at $300,000 per mile to repair. What I would like to see happen is that you continue this hearing, have HP GeoTech give some more accurate figures rather than just a general fuzzy wuzzy, feel good, as George Bush would say, fuzzy math kind of evaluation that it's okay now you need to monitor it, it's stable now, that doesn't tell you much.
Chairman Martin – thinks that Louis Meyer missed about ¾ths of the roads in Garfield County, those are graveled. So there are 3 kinds of roads. Also repairing roads are not $340,000 per mile maybe rebuilding totally could be that, depends on what you had to do.
Ed Green – we're doing a 1.1 mile stretch resurface at $90,000 at the Airport.

Richard Dally – 3838 Cattle Creek Road – that's about 3 miles south of the Road from where we're talking about; has been here before to what people have agreed to be the most dangerous intersection in the world. Just recently somehow it became even more dangerous because of a paved or asphalt yet one more access road leading over from the intersection by the beloved Fun Land over to the Rudd property, so we have even more large truck traffic. Has a feeling that an 80,000 lb trailer has something to do with more weight and more difficult in maneuvering and lots of other increase stress than a 70,000 lb thing. This whole idea of taking this location and putting all this political and governmental power into expanding this scene to greater stress and greater potential for a coming tragedy at that location is beyond me. I don't know how many of you know this, 3 miles up the road, the speed limit on this road goes to 25 mpr and then for a short little one time bakelite spot 15 miles per hour. Every vehicle that travels that road violates every speed limit along the way. I live too close to that road. All of the talk about road and bridge or some other governmental effort to restrict the use of the road is laughable. Everyone who uses that road in the commercial field that I'm aware of flaunts not only the speed limits, but the type of vehicles that are there. The idea that there's some governmental restriction on some cattle trucks going up 100 road, up and over Catherine Road or the extension of it and using that to get up to Missouri Heights is honestly laughable – the road is becoming a speedway. I suppose none of that is in your jurisdiction but ought to be part of your concern is a human safety factor of what's going on. This application to extend it and now I hear today, all the way is the wrong direction. Mr. Louis Meyer live in a homeowners association and we're the residents; and the lower half of the road, all the commercial pressure it seems to be naïve to think that these 80,000 lb trailers are going to just appear there in this little segment of section. They're not, they're going to come through that intersection, slower, more difficulty and they're going to park on that road at some of the most incredible hours of the morning when the rest of the commuters and pick up trucks are going up and down the road at 50 mpr at times. We object to increasing the stress on the road whether it's an 80,000 lb item or whatever it's called and most assuredly the speed, which I understand is not your jurisdiction.
Commissioner Houpt to Marvin – we have talked about this intersection before and wondered if that has this been a topic along with the raising of the weight.
Marvin – it has been with CDOT; there's already talk about trying to get that intersection squared away because it is such a dangerous intersection. How long it will take or when it will be done, he doesn't know.
Commissioner Houpt – what kind of impact do you believe heavier trucks will have in ……
Marvin – we're talking about 5 ton, we're talking about more trips per day, so if we're talking about a safety issue it'll take an extra truck to haul part of that 5 ton, so if you're talking safety, there'd be more trip, if you're talking stress, there's probably a little more stress being it's 80 and no 70 – it's kind of a toss up.
Commissioner Houpt – we're talking about raising it to 80,000 for this commercial area. Are we just trying to make people legal?
Marvin – that's what my intent was for that short stress right there is to make people legal if they come in from wherever legal and we're making lawbreakers out of them. That's my concern.
Commissioner Houpt – and that's what's going on right now anyway.
Chairman Martin – I think we need to base it upon the information we have and the recommendation; as far as the intersection going there was a land use issue that was across the roadway and it is going to address that particular intersection and it has been granted and it's up to the development to meet those

requirements, but that's into the future when that development takes place, it is their responsibility and it will be addressed at that time.
Commissioner Houpt –but are we impacted that intersection by making people legal. The whole thing appears to me and it's one of the things this County has a habit of approving things without what I believe is appropriate infrastructure in place and understands the arguments we heard from the property owners who have commercial holdings in that area.
Marvin – that's why I went to HP Geotech.
Commissioner Houpt – but we don't the intersection in place to carry the type of traffic now that's on this road and it's not your responsibility, it's a true frustration I have. We're facing this after the fact; let's try to make these people legal.
Chairman Martin – what it amounts to it's a CDOT intersection and we do need to work with them, it has been worked and it is an application that there's a requirement to do so and kind of remind you there was a plumbing operation that is right next door to these two commercial operations that you approved that allows that commercial use to continue. There were concerns and we voiced those concerns but again the majority voted yes. We're all guilty of trying to make things work; we have to make them work one way or the other.
Commissioner McCown – there is just a complete misunderstanding when we're talking about 80,000 lbs; 80,000 lbs is a number that everyone has always hung their hat on that is impassioned and oh my gosh that's 40 ton and it's dangerous, the reason that you lower the weight limit it to get the per axel weight down. It's not the overall gross comes into play because you've reduced the axel weight. So by going to 70,000 lbs you're reducing your 3 axel trucks to 40,000 lbs – they can't function; you can not get a concrete truck up that road if somebody wants to pour part of their driveway – you are shutting down activity or you're creating violators out of them. The reason that weight limits are imposed is to reduce the axel weight on vehicles on that road, thus reducing the impact. We spent the money to get HP Geotech to tell us that that road will carry 80,000 lbs structurally. So what are we arguing about if we lower it to 70,000 lbs. we've got to lower the 3 axel weights accordingly? We can't allow 70,000 lbs on 5 axel trucks and 54,000 lbs on 3 axel trucks. That is defeating the County's purpose if road preservation is the mode behind the weight limit. If it's another factor completely, we wasted our time doing this.
Lee Leavenworth – Pine Stone has been operating up there for 12 years, none of their trucks ever been in an accident; if there is a speed limit that's an enforcement issue not a weight limit issue. And the same is true of the intersection, we're not going to change the pattern of truck traffic that's occurring on that road, what we're doing is legalizing it and it has been doing occurring all these years. Improvements are needed at the intersection, that's a different issue than what the weight limit is. Commissioner Martin pointed out as part of the Sanders Ranch development, that intersection will be completely rebuilt. The road has not failed in 12 years, it's in the same shape it was 12 years ago when Pine Stone opened their business and the County has never even resurfaced it. It is clearly
Structurally capable of handling the loads that are on it.
James Watson – 484 CR 113, Cattle Creek - new in the entire commercial scene up thee and what all's going on. He's known Pine Stone has been there for a very long time and in listening to Road & Bridge and everything else and the gentlemen that live 3 miles up the road, I know that section of Cotton Wood trees and it is literally 12 feet wide going through there. With the HP Geotech report, one thing, and it may tremendously unpopular thing but I don't know if there's any no commercial properties, how far it goes up the road, any past his place, any three miles, five miles, the only thing he would be concerned about and not aware of an agriculture haul route that was circumnavigate in some of the tighter restricted tighter roads in access sup there, I might at this time make a simple suggestion here that perhaps wherever the commercial properties, that is where semi's are legally stopped and turned around. I know that that is going okay, you're being discriminated against, but there mitigating circumstances above there that does not safely in all intents and purposes, safely allow for trucks to travel through herb because I do know of the speeding down Cattle Creek, have seen that time and time again. But perhaps this is as simple as this is as far as you go and it can be signed, it can before, no semi truck and trailer traffic past one mile or ¾ mile or whatever it is and that is allowing concrete trucks, dump trucks, construction trucks, and the County to utilize normal access on that road. There is a way around this and it can be worked out. Just because we have a higher weight limit on the road, Tresi, doesn't mean that all of a sudden all the trucks using 100 road would want to start using Cattle Creek Road. Doesn't think that what we're doing here is increasing traffic at this intersection. He will probably never be at the level of 2 –3 trucks a week. It's not going to absolutely kill me but there is Pine Stone up above there and don't know what size trucks the plumbing place is going to

bring in, but know that things can't be tailored to certain circumstances without allowing one section of the trucking industry to utilize the entire length of the road. As far as parking along the side of the road, he's 100% in agreement and offered to personally pay for the signs of "no abandoned cars" because I don't want them.
Jim Robinson – asked what on the weight limits signs, it says to call the county if you need an overweight permit. How does that process work? And can't that be utilized for a homeowner that needs to get a heavy truck occasionally up that road. Or moving a piece of equipment? Or Pine Stone. But we're talking about someone who wants 80,000 lbs on unlimited traffic to a specific location.
Chairman Martin – to use the County Road at 80,000 lbs. no matter where the location is – it needs to be posted, etc. and it's based again upon the science or information that the Road and Bridge and the consultants do and the subsurface as well as the surface and if that level is a level of service they wish to keep, or if they need to improve, through projects or priorities, then they bring that through. We put that on the Road and Bridge Department to use their best judgment and their scientific data to establish weight limits and that's what their call is.
Jim Robinson – when HP did their report, were they away of where the road is currently a 70,000 lb road so they were recommending keeping it there or where they thinking it was already 80,000 and that it would be okay to continue to use it that way.
Bobby – said they advised HP Geotech that the road was currently at 70,000 and that we were looking at raising the limit to 80,000.
Calvin Lee – that does legitimate my concern that the report done by HP was based on 70,000 and we really don't have any information from HP Geotech of what would happen if there was 80,000 on it.
Commissioner McCown – Bobby answered that the current weight on that road for 3 axel is 45,000 so the axel weight is actually higher than it is at 70.
Commissioner Houpt pointed out that she reads this to indicate that the road would carry more weight, because they say we see there would be no reason to restrict vehicle load weight at this time.
Chairman Martin –clarified that was the basis of the Road and Bridge to move from 70,000 lbs to 80,000 lbs in the areas they specified, ¾ miles. And could you support what Commissioner McCown has mentioned, 80,000 lbs on the entire road.
Marvin – we do have a permitting system that anybody that needs to go up there can obtain a permit and a bond from us.
Commissioner McCown made a motion we approve the increase in weight to 80,000 pounds on the section of road as designated by the County Road and Bridge, it looks like a three quarter mile portion, will that encompass the needs that you see and that the road be signed to allow no parking anytime on the shoulders of that road and I will not support a sign no abandoned vehicles as it is illegal to abandon a vehicle anywhere.
Marvin asked about the time there. Commissioner McCown – period. No parking anytime, period.
Commissioner Houpt – where does ¾ mile end?
Bobby – just beyond Pine Stone's entry way.
Commissioner Houpt – so that would be the last business.
Marvin - Any other business would have to come back in front of the Board. There would be a land use issue or an overweight permit process.
Commissioner Houpt – where does the commercial portion of that road end?
Bobby – just before Pine Stone. Pine Stone is on a Special Use.
Commissioner Houpt – do we ever attach special use of roads with a special use permit? If Pine Stone goes away, then the end of the commercial use will be just before then, so it wouldn't make sense to continue that and I know how hard it is to change roadways. Would that be a possibility to make the Pine Stone are a special use for 80,000?
Don DeFord – you would have to bring their existing Special Use Permit back for a public hearing process and amend the existing permit.
Commissioner Houpt – they'd have to start all over again.
Don – yes.
Commissioner Houpt – I don't want to do that. I'll second the motion.
Jim Robinson asked for clarification – where do the trucks turn around?
Chairman Martin – that was for clarification and information to be gathered.
Jim Robinson – if we do move the weight limit sign to where you're proposing to move it, that means that any truck that gets to that point and wants to actually comply with the regulation backs down CR 113,

there's no place to turn around. There again, if you're going to say the road's good for 80,000 then it needs to withstand the test all the way to the top and it can't do that.
Marvin responded to Commissioner Houpt's question as to how to respond to that by saying we would have to approach Pine Stone to see if they would allow truck to turn around in their yard.
Lee Leavenworth suggested signing it at the bottom of the road that after ¾ of a mile the weight limits drops.
Chairman Martin – and that there is no place to turn around.
Lee Leavenworth – we have not gates, so people will probably turn around right in our yard anyway.
Don DeFord – questions for clarification of the motion and that was one of them, if the motion included posting to indicate the length for which the weight limit applied, so that would be noticed; did the motion also include direction to alter the official County weight restriction map?
Commissioner McCown – yes.
Don DeFord – and also to sign necessary Resolutions regarding posting weight restrictions and parking.
Commissioner McCown – yes.
Chairman Martin – for clarification that has been made and seconded. It is a concern about turning around and making sure those are posted so that would have to be secondary issue that you're going to have to do.
Commissioner Houpt – it's a huge issue because they'll be maneuvering the intersection trying to read all the signs trying to figure out what to do.
Chairman Martin – I don't think we're going to see much new traffic going up there, believe me.
In favor: Martin and McCown; opposed – Houpt. I understand the dilemma, I just don't think we have all the answers. It's a burden on your shoulders, Bobby.
Chairman Martin – I don't either, I think that we're going to have to work with the neighbors to get that.

CONSIDERATION OF RESOLUTION VACATING A PORTION OF PUBLIC ROAD RIGHT OF WAY OTHERWISE KNOWN AS PORTION OF CR 315 AND ACCEPTANCE OF A QUIT CLAIM DEED AS NEW PUBLIC ROAD RIGHT OF WAY FROM MAMM CREEK RANCH CO.
A Resolution was submitted.
A quit claim deed and Resolution and showed the map of this location. Mr. Wheeler is the property owner. Don explained the new road and showed the existing road – the turn forces a turn at a very steep slow and what this does is move the turn back so it is not at this section. Mr. Wheeler is allowing the road to be changed.

This is an agreement between EnCana and the property owner. Could this mean Mr. Wheeler that he will come in and state this road separates his land and then it's a land use issue?
Road and Bridge states this is a safer. Don said it doesn't look like there's a problem, by the deed it doesn't create a split of the road.
Marvin was in agreement with it.
Board would like the engineer to look at it as well.
Commissioner McCown wants to get it off the crest of the hill but not improving the safety issue.
Don – EnCana has seen it.
Submit this to Engineer for a safety issue.

PUBLIC HEARINGS:
CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT TO CONVERT A SCHOOL BUILDING TO A COMMUNITY BUILDING IN BATTLEMENT MESA, CO. APPLICANT: GRAND VALLEY HISTORICAL SOCIETY – FRED JARMAN
Judy Hayward, Carolyn Dahlgren, Bob Stirling, Architect and Fred Jarman were present.

Carolyn reviewed the noticing requirements with Jim Wells for the public hearing and determined they were timely and accurate. There was a one-day imperfection on the publication. The Board agreed to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum; and Exhibit E – Application Materials.
Chairman Martin entered Exhibits A – E into the record.

This is a request for review of a Conditional Use Permit for a "Community Building" by the Grand Valley Historical Society located at 7201 County Road 300, Battlement Mesa on a 4-acre property containing the "Battlement Mesa Schoolhouse".

DESCRIPTION OF THE PROPOSAL

The Applicant, the Grand Valley Historical Society, was recently awarded a significant grant from the Colorado State Historic Fund for the purpose of rehabilitating / restoring the old Battlement Mesa Schoolhouse originally constructed in 1897 to its original condition. Once the restoration is completed, the Applicant proposes to use the structure as a Community Building containing meeting space for the communities of Parachute and Battlement Mesa. Use of the building would occur between 8:00 AM and 10:00 PM and would provide meeting space to accommodate a maximum of 20 persons at any one time. The Applicant has hired Stirling Architecture to draft the architectural plans for the restoration and has also hired Cornerstone Construction to perform the work on the structure.

Low level landscaping has been designed.

RECOMMENDATION

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

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. The Applicant shall submit a site plan that correctly indicates the parking area for visitors to the property prior to the issuance of a Conditional Use Permit.
3. That the Applicant shall submit an approved well permit for the proposed use to the County Building and Planning Department prior to the issuance of the Conditional Use Permit.
4. That the Applicant shall obtain a septic system permit from the County Building and Planning Department prior to the issuance of the Conditional Use Permit.
5. That any expansion of this use shall require an amendment of the Conditional Use Permit.

Bob Stirling stated that electrical service has been installed on the site in order to light the building and get some public exposure. Other than that, there are not utilities.
Judy said all the historical monies received have to go toward restoration. Heat, lights, etc. are not included in the restoration grant. The Valley View Development has met and offered to give irrigation rights so they are trying to find a source of water for green grass.

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

A motion was made by Commissioner and seconded by Commissioner to approve the request for a Conditional Use Permit for a "Community Building" with the 5 recommendations made by staff as presented; motion carried unanimously.

CONSIDER A REQUEST TO AMEND THE FINAL PLAT FOR LOTS 5, 6, 19 AND 20 OF BLOCK 11, TRAVELERS HIGHLANDS SUBDIVISION. APPLICANT: HARLAN MCCLROY – FRED JARMAN

Fred Jarman, Terry Kirk and Carolyn Dahlgren were present.
Christopher Bryan for the Casteels was present.
Chairman Martin swore in the speakers.
This is a continued public hearing from September 13, 2004 so the County could further investigate issues related to the nature of the roads within the Traveler's Highland Subdivision.
This is an amended plat continued hearing
On Monday September 13, 2004, the Board opened and continued this matter to October 11, 2004 so that the County could further investigate issues related to the nature of the roads within the Traveler's Highland Subdivision. The County Attorney's office will discuss this issue with the Board as it is a separate issue unrelated to this plat amendment request.

The purpose of the proposal is to vacate the lot lines between the four adjacent lots having 5,000 sq. ft. each to create one 20,000 sq. ft. lot. The lots are located in Block 11 of the Travelers Highlands Subdivision which is a subdivision approved in 1962. It is located west of Parachute between I-70 and the Colorado River. Public access to the property is State Highway 6 & 24.
Fred noted Item B in the staff report on page 2 requiring all lots created will have legal access and they do not have access. This is the issue before the Board. The roads are controlled by the ownership in this subdivision. Several individuals own several of the lots.

The subject of the discussion in the back, the rear of the subdivision, the subdivision itself has public access from 6 & 24. It appears in our research with the County Attorney's office, once you get off 6 & 24 then those are no longer public roads because they haven't been dedicated and accepted by a proper public authority, is what the case law requires. So in this case, they are not public roads, so those four lots don't have public access. The roads indicated on the original plat while they are platted, were never accepted so that really is the issue before the Board today. It does not meet that standard, these are defacto private roads, but ultimately they're controlled by the owners within this subdivision who that is or those people are – it's a fragmented ownership now within Traveler's Highlands. There's one group that owns quite bit of the lots that are in there, there are other individuals who own maybe just one, two, three or four lots. Staff is unclear what this means now since it's not a public road, these internal lots don't have public access, so it doesn't meet that standard. With that, this is the only one that doesn't meet the requirements as far as the standards go for amending the plat.

Carolyn Dahlgren – the standard in your regulations is this: "the board shall not approve an amended plat unless the applicant has satisfied the following criteria. And one of the criteria is what Fred quoted in his staff report. There are not public roads because there's been no formal acceptance either on the face of the plat or by deed or by minutes in the BOCC Minutes Book or any other kind of written acceptance by the BOCC. There also had not been what is usually called a common law acceptance. We've not expended any county money on the roads; they've never been improved by the County or maintained by the County. But I can't tell you what these folks have because they only way they're going to know is by going to court and getting a quite title suit or by agreeing among themselves as to what they've got in that subdivision. So as of today, Mr. Kirk cannot show you that that one lot he wants to create has public access. I don't know if he has a private right of way that came along with the owners' interest in the four lots, I don't know if he has an easement by prescription, I don't know what he's got. There's many options for how the owner of the property could go about fixing this issue and all of the folks who own lots in the subdivision could come back to you with an amended plat and ask you now in 2004 or 2005 to formally accept those roads and make them public roads but there are not public roads today.
Chairman Martin – this puts this in a dilemma to me, it means this Board has already approved private roads both with Aspen Glen, Coulter Mesa, and Prehm Ranch that are not dedicated to public use other than the people that are there. These are private roads, the development is allowed and people are able to buy property and have access through there. That's a dilemma, with the rules and regulations in place. So if he has access to a subdivision and the property is sold, this Board has a problem because they're saying that you can't have that unless they're all dedicated to the public. We don't have that consistently throughout the County. It is something for us to consider.
Commissioner McCown – I think there are access easements available on all those plats and I think she's getting some historical advice as we speak. Even though those roads may not have been dedicated to the public and accepted by this Board, I think there are platted access easements that get them to a public thoroughfare.
Carolyn – I can't tell you that. A court would have to tell you that.
Commissioner McCown – no, I'm talking about other instances in the County at the ones John referred to, for instance.
Carolyn – and those instances, at least in the newer subdivisions, the BOCC would have formerly approved private roads through the PUD process. And in this instance it was in 1962.
Commissioner McCown – this is philosophical, but we had one go through here not long ago where the developer was reluctant to declare this a public road and we forced him into that situation even though it's going to be maintained and controlled by the homeowners and is not accessing a county road.
Chairman Martin – that's the dilemma I have.
Carolyn – it's a philosophical dilemma but the problem is you have the very words of your regulations.
Mark Bean – we have and do any part of a subdivision action, use the Board approve and accept on behalf

of the public any of those public roads when you sign the final plat. This particular plat was a pre 1972 plat that had not dedication and acceptance statements by the County at all in any form. Sorry, there was a dedication statement but not an acceptance statement by the County. All of our plats since 1973 have an acceptance statement by the Board of County Commissioners. It has exceptions to what we accept but as a general rule we are accepting on behalf of the public even through they may be privately maintained, the roads you're referring to are the same thing. They're accepted on behalf of the public recognizing that we will not maintain them which has been our position since 1985 for all subdivisions anywhere even though some of them now are private that are part of PUD's.
Commissioner McCown – and those homeowners or associations can control access even though they've been accepted as public roads?
Mark – with the exception of PUD, the answer is no. And as part of a PUD approval you can and have approved private roads in which they can and do control access.
Carolyn – thus gated communities.
Chairman Martin – which I've never supported.
Carolyn – but that's not the legal issue, it may be a policy issue and in this instance I don't even think there is a lot owners association, I don't know, but the owners do have themselves in a fix because it's not clear what they've got in that subdivision. One of the fixes would be to come back to you with an amended plat, but you don't have that in front of you where all of the owners have….
Chairman Martin –there was also evidence presented which was a CDOT access permit granted and that's a consideration also, that's a dedicated approved access agreement that comes of the State highway to the State freeway and goes through the subdivision, that's not open to the public as well, it's a private access agreement?
Mark – only the access point. The access point is all they've approve
Carolyn – if there were rights given to the platted roads within, again a court would have to say whether or not Mr. Kirk or any other grantor had anything to give.
Commissioner McCown – without there being a public access, why would there be an access needed?
Carolyn – the point is whether or not there's public access to the lot not to the subdivision as a whole. CDOT can grant an entry way into the subdivision but that's all they do. They don't have any jurisdiction, if you will, over the internal roads.
Commissioner McCown – I'm aware of that.
Carolyn – it really is an anomaly and it's an issue with some of our ancient subdivisions where there was no acceptance either formally or by the behavior of the county to change the roads into public roads.
Chairman Martin – and it's also a reflection upon how the rules have changed since 1972 and also prior to the turn of the century on how those rules apply and that they must be accepted at that time and as the rules change, then we also have to recognize ancient history and procedures as we do today.
Carolyn – the rule on formal acceptance by the public entity, a proper authorized public entity hasn't changed – it can be statutory, it can be common law, but your predecessors on the BOCC had to do something, they either had to sign the plat, accept the deed, throw gravel on the road, dig those roads up, and I have checked with Road and Bridge and there has been no such common law acceptance by the BOCC through the Road and Bridge Department. Commissioner McCown – was the original plat signed?
Carolyn – there was a dedication but not an acceptance.
Commissioner McCown – but was the plat signed by a Board of County Commissioners?
NO
Commissioner McCown – then is this an official subdivision.
NO.
Carolyn – it is just recorded.
Commissioner McCown – do these lots exist.
YES
Commissioner McCown - Why if the plat was never recorded?
Carolyn - Because that's the law in Colorado that says any plat that filed of record and lots got sold.
Commissioner McCown – I can just go out and pick a piece of property and draw up a plat and go file it?
Carolyn – no, not any more. You used to be able to do that.
Mark – prior to 1973 you could.
Chairman Martin – so that's the issue that we have and that's why I refer back to what the rule was at the time that we have and now we have rules and the changes that we have to live with, we also have to recognize the other procedures from prior administrations and rules and changes, etc. It presents us with a

dilemma.
Carolyn –this is a particularly interesting situation because it's my understanding that nobody is really too distressed about making these bigger lots. It's just in this particular instance Mr. Kirk can't show you what's he's has public access to the one lot he's trying to create out of four.
Commissioner McCown – doesn't seem to me the size of the lots is the issue, he can't get to them anyway, so they could be 60 acres, it wouldn't matter. But no one else can so it looks to me it would be in the common interest of all of the lot owners to come back with a uniform plat.
Terry Kirk – agreed.

Carolyn – that doesn't help Mr. Kirk today and his property owners.

Chairman Martin – have there been any improvements on the subdivision itself at the present time, right now?

Mark Bean – you mean that we've approved building permit? No.

Chairman Martin – any improvements that you've even supervised, or looked at, or anything.

NO.

Terry Kirk – I've built a road from the public access from State Highway 6 & 24 to the lots.

Chairman Martin – that's the only improvement on those lots.

Terry Kirk – well we've fenced these lots in that we're asking for a lot line adjustment on. And other owners have …

Chairman Martin – no sewer, plumbing, anything like that.

Terry Kirk – several wells have been drilled. No ISDS yet. Terry reiterated that he's here for a lot line adjustment on lots 5, 6, 19 and 20 of Block 11, Travelers Highland Subdivision, representing Harlan McElroy in doing so. The public access to the property has been granted by CDOT through an access permit included in your packet. It's my opinion that the roads are mine and accessible to the lot, the public access needs to get to the subdivision which is where I am, and I have access to my property through the subdivision road easements by way of public access from State Highway 6 & 24.

Christopher Bryan for Glenn Chadwick – our clients have always believed the roads are public, the dedication was accepted, offered, and therefore valid, however we haven't done the legal research that Ms. Dahlgren's office has conducted so we remain silent as to her legal opinion in this situation. I will defer to her having done the research that the roads are not technically public. And the discrepancy regarding the unresolved issue whether they are public or not implicates a host of other issues that probably need to be resolved before the application for an amended plat can be granted. That includes whether or not the rights of way for egress and ingress are subject to easements as the Board's discussed earlier. Whether or not there's a road whatsoever, if there's not a road, then lots become contiguous, that is they border each other instead of being separated by a right of way and that's an issue that is also unresolved given the public road issue. County Regulations say a plat cannot be amended unless the lot being created is shown to have legal access to a public roadway and while there is a CDOT permit and has been referenced in Mr. Jarman's staff report; it is not specifically applied to the lots under consideration which is in the packet. And it's our position that until the applicant demonstrates legal access rights, this Board doesn't have sufficient evidence proving the applicant has a legal right access to the lot and therefore the Board cannot approve the application to amend the plat. Basically the position that the Casteel family is taking on this matter, is that we don't want to put the cart before the horse. We think it would premature and improper to amend the plat before resolving this primary issue of the roads whether or not they're public or otherwise and therefore it is our legal position that the application for an amended plat should be denied until the public road issue is resolved as well as the ancillary issues that are attended to that issue. Also my client is concerned about other issues about impropriety of approving the application to amend the plat, I believe that's been made aware to the Board in previous meetings in particular September 13th BOCC meeting. A memo written by Glenn Chadwick was in the packet that was sent to Mr. DeFord and Mr. Jarman in which he sets forth in about 4 – 5 pages several concerns regarding other issues including possible violations of covenants, private use of public access and proportioned public streets. There also might be some issues in which the applicant is using private property owned by the Casteel family without authorization, there's also septic

tank issues, septic systems, the drainage concerns that were listed and the possible jurisdiction on defect with the matter with the Town of Parachute and I believe that Mr. Hackett has zoning issues that need to be addressed. In sum, the Casteel family's position is that the application for an amended plat should only be approved if the issue of whether the roads are public has been resolved decisively. If there's full compliance with County code regulations and if there's full compliance with other legally controlling protocols such as private agreements, covenants that would run with the land, etc.
Joe Casteel – Carbondale – on this property as you can tell you're confused; I'm confused. That's why we all love attorney's. I view it as if it's like the roundabout in Aspen compared to a traffic light compared to a stop sign. Each one of these in a period of time historically has provided some sort of controlling force. And as we progress through certain things, certain groups change their concept of what that controlling force is. When this property was platted out it wasn't as if my father decided that it would be great to own a subdivision, he consulted with the attorneys at that point and time and he also paid the attorney's for their outstanding legal advice and he complied with those rules and regulations outlined to him by those legal forces. Now all of a sudden I'm sitting out here in the audience, Terry Kirk wants to get on with his project and then somebody thrown out that these types of traffic controls are no longer legal because the new board and new reality has set in and we're going to go back and just forget about old board members who have passed away and what the standards are and we're going to require the people to comply with today's standard. I can imagine what you're thinking right now, that there are a lot of things historically that what chaos we could get into in this State if this is allowed to happen by this Board. I do not want this legal fight; I can't afford this legal fight. All you attorneys and planners may enjoy these kinds of thins but as a citizen and on the lower economic end of things, I can't afford these types of games. So I personally appeal to this Board and legal staff and to planning staff please get together and do this in a reasonable manner so Terry Kirk can get on with his project, we can get on with what we have to do and not try to set an outstanding legal precedent in the State because you would love to have your name on some court case or go to your planning meetings and say we did this and we did that and they can give you a golden award. My problem as a landowner is that we have a problem with land and we would like to use our land as best as possible. So I would ask this Board and the different departments to use reasonable grounds of discussing this and grant a historical right to his property as was set up on legal advice at the time it was platted out.
Commissioner McCown – I assume you folks are the major shareholder of the subdivision. How many other owners are there?
Joe Casteel – that's a question I can't really accurately answer.
The Casteels own approximately 70% of the ownership with multiple owners on the other lots.
Commissioner Houpt – confused because what we've been talking about is the old law and the notion of retaining the manner in which it was established. And it's that law that's somewhat different to deal with now because it was in place prior to some new regulations. So we're not talking about applying new regulations to an old scenario, I think what this discussion has been about has been how we deal with recognizing the old scenario and helping the owners move forward with the constraints that are already established.

Fred – a question for Carolyn on this very issue, did you say that the action of the Board at the time in 1962 regarding dedication is the same that it would be in this case today, some action had to happen for the County to accept the road.
Carolyn – I'm sure your attorney will tell you the same thing. I'm not presenting you with a new rule. The rule of law in 1962 is the same as it is today.
Mark – there was no acceptance or action by the Board of County Commissioners required in 1962. And prior to 1972 all someone had to do was to file a plat with the Clerk & Recorder, there was no acceptance other than what was filed in the record in 1962 and some of or 1912 subdivisions. They all have similar statements on them and the surveyor that surveyed out the lots, that is strictly filed at the Clerk & Recorder's office. The Board of County Commissioners in power at that time took no action whatsoever one way or the other.
Commissioner McCown – this is where I'm confused- in taking no action, the lots are legal lots.
Mark – correct.
Commissioner McCown - But the roads are not legal roads; I have a problem understanding the difference.
Mark – I can't speak to that.
Commissioner McCown – it either is or isn't, either the lots aren't legal because they took no action and the

roads aren't legal because they took no action; or the lots are legal because it was pre-1962 and the roads are there.
Carolyn – well that's not how the case law goes. The road case law is a separate set of case from a subdivision stamp on it and the road law is absolutely clear from prior to 1962 forward, and referring to the particular case that if there was no former acceptance one way or the other, it didn't happen, or a common law acceptance by maintaining the roads.

Commissioner McCown – it being the roads didn't happen, but the subdivision, the lots happened but the roads didn't.

Carolyn – the roads didn't happen, as long as the lots got sold, if someone actually sold something. The lots happened but the roads didn't. So more than likely these are private roads.

Commissioner McCown – and there's also a law prohibits the sale of a lot without access to that lot. Which law predates the other?

Carolyn – but that didn't happen until the Subdivision laws in the 70's. So when folks were out there before that platting subdivisions, it was sort of Johnny Appleseed.

Chairman Martin – that a dilemma we have.

Carolyn – that's why we ended up with Subdivision Statutes.

Commissioner McCown – what's the least intrusive to get these people out of this mess?

Carolyn – for all of them to come back and together do an amended plat and ask you know to accept these roads, public roads, not county roads, that's not your policy, but public roads and create some sort of an Association that would be responsible for the maintenance of those roads.

Commissioner Houpt – so the current landowners can negotiate that and bring it back to us.

Carolyn – absolutely, right. I can imagine but I don't know this, I imagine that no body came up with money to help Mr. Kirk improve that road.

Terry Kirk – that's correct.

Carolyn – but were they to come to some agreement, they might spread out the cost of improving the roads.

Commissioner McCown – but it sounds to me like the Casteels are in the unenviable position of owning 70% of the lots and unable to sell them because they can't get anybody to them.

Carolyn – and they need to spend some time with their lawyer because obviously I can't give them legal advice. He's going to have to research the case law and see if the Casteels own everything that's the roads or if the abutting property owners own them – I can't advise him as to what his lawyers going to find.

Commissioner McCown – and it sounds like no matter how pure his intentions were, Mr. McElroy during whatever kind of a deal he cut with Mr. Kirk, misrepresented the situation on the roads too unbeknownst to him I'm sure.

Carolyn – I think in general the people see a dedication on a plat, they don't know county road law, they don't know county subdivision law, they think all you have to say, it's public, but that's not the law. It's like a gift to the public, it has to be accepted.

Joe Casteel – where I get a little confused is the fact that we keep shifting from roads in general to subdivision rules and regulations and then we also shift from one inch past an access granted by the State authorities to your property and then we go right back into private ownership. I feel just like the advertisement for direct TV, I'm a little bit confused.

Terry Kirk – the CDOT permit that I applied for and received was specifically for Block 11 which includes these four lots of 5, 6, 19 and 20 that public access is not for any of the other lots; I specifically requested Block 11 because I own the lots and that's what this request that I'm here for today is about. I do have public access from Highway 6 & 24 granted by CDOT permits which you have to these four lots that we're talking about.
Carolyn asked Terry if the CDOT permit go up 3rd street.

Terry – CDOT permit goes from US Hwy 6 & 24 to the property.
Carolyn – How? Over what, 3rd Street, over 4th Street, over Scarrow Avenue, over Walker Avenue?
Terry – Carolyn it doesn't go over anything; it just goes across the State Highway permit at 4th street, is that your question? Where does it access the subdivision?
Carolyn – Yes.
Terry – at 4th Street.
Carolyn – because CDOT cannot give anybody any right to over those subdivision roads.
Terry – that's correct. It's private at that point to lots 5, 6, 19 and 20 of Block 11, which is what we need this subdivision lot line adjustment.
Carolyn – So you're saying the subdivision as a whole does not have access to 6 & 24.
Terry – that's correct. Not through the permit that I applied for and received, that would be correct.
Carolyn – that brings up an even bigger issue as to whether CDOT would grant permission to the entire subdivision to get onto 6 & 24 and we don't know the answer to that.
Terry – well that's why we're here talking about Lots 5, 6, 19 & 20 of Block 11 that's the issue today.
Commissioner McCown – well, lots 5, 6, 19 & 20 cannot be reached unless they go up an imaginary 4th street that isn't there, according to road law.
Carolyn – and may be there according to easement law, or the law having to do with conveyances of property of easements, but we can't decide that – that's a District Court judge or it's all of these folks getting together coming to an agreement and doing a friendly quiet title suit and getting blessed that way; or coming back to you with an amended plat.
Commissioner McCown – why can't they just come back with an Amended Plat as a group.
Carolyn – absolutely they can.
Commissioner McCown and then go wow, these roads mysteriously appear, we accept them
Carolyn – because we'd accept them and besides that now the lots all meet zoning and will be a lot more sellable.
Terry Kirk – I don't understand why he issue of a private road is a County's concern Larry, my access is from the highway to property and my property across private lands.
Commissioner McCown – that road doesn't exist – it's only a figment of your imagination.
Commissioner Houpt – there's just this wording place and our regulations are tying our hands, and so it sounds like there are three options: one is the amended plat, the other is cooperating with all of the land owners; and
Carolyn – end up with a quiet title action.
Commissioner Houpt – and the other is to take it to District Court for determination.
Commissioner McCown – what is with the quiet title, what are they going for quiet title against?
Carolyn – I'm not in a position to talk about that because that would be an action between private parties and as you well know I can only give you legal advice. They need to spend some time with Mr. Chadwick and I don't know if Mr. Kirk is wanting to hire somebody or not, but they can figure it out, but we can't affect their private property.
Chairman Martin – they're all in the same boat at this present time, they have no roads to their lots, they have no agreement and those roads don't even exist even thought they were dedicated in 1962 and plotted and surveyed, etc. and put down on a plat. And we take common sense, we throw it out the window and say your roads don't exist, you've got to go see an attorney, you've got to come back here, etc. That's hard for me to swallow. Because based upon common sense, that is a road that was dedicated as roads, they may have a covenant violation but that's between them and again we were here to talk about lot line adjustments, but we can't get there.
Commissioner Houpt – well we're rewriting our Codes.
Commissioner McCown – it's real scary if we're rewriting our Codes and we do a bunch of things that we've put in place in the last 8 years that might just mysteriously disappear too when it was the full intention when we did them, we did them right, we did by the best law and the best advice we had from our staff, and now they're no longer valid.
Carolyn – it's not just your Code, it's State Law.
Commissioner McCown – it wasn't State Law in 1960 that when they platted that that there was an assumption by the people that platted them that the road accessed those lots?
Terry Kirk – yes there is and it's in writing and filed with the County.
Commissioner McCown –the part I can't understand Carolyn is how John Q. Citizen could go in and file a subdivision because there was no land use codes, I'm perfectly fine with that, but how they could file that

plat with the roads included and the lots are there and the roads aren't – that just mystifies me.
Carolyn - I agree.
Commissioner McCown – and I don't care which legislature came up with the law, it's wrong if it allows one to happen and not the other one.
Carolyn – I think probably what generally tended to happen was that there was public use or the county threw money at it, if you will, the county went in there and maintained those roads, something happened that could be interpreted as the public acceptance. In this particular situation, we simply do not have that. The Road and Bridge Department has never maintained these roads, these roads, some of them are staked out as I understand it, these roads haven't even been built, there's nothing to show public use acceptance, except what Mr. Kirk has done right now but that's not public he's built a road for himself.
Commissioner McCown – we can go back even further – some of the Antlers Orchard Roads, let's add more to the nightmare. Some of those were developed, some weren't. None of them were accepted, so they're not roads?
Mark – well, I'm getting a little out of my purview here but there are a lot of the Antlers' Orchard Roads that are in fact county roads because the County has historically maintained them, like we have a large majority of our roads are prescriptive right of ways and a lot of the Antler's Orchard Roads are just that – prescriptive right of ways, those that we maintain and accept.
Commissioner McCown – but there are others that have been developed on the map where Antlers Orchard roads were designed but the homeowners that access property for sale, 10 acre lots, we didn't develop them, we didn't improve them.
Mark – no, but they've been historically used by all those folks who are there, some kind of historical access was created at that point.
Terry Kirk – I live on one of those roads. If I may in 1962 in Mr. Casteel's wisdom he knew that sooner or later there was going to be zoning, or issues staked out for this piece of property because in 1962 there was no zoning, but what I understand in 1972 is when zoning became in effect. So Mr. Casteel set out a set of covenants with access and everything laid out to get to these four lots at that time and they're no longer in use since the county zoned it, but the intent and access to these lots has been forever on – it was a two tract and now it's a gravel road to those lots, but the full intention and there again, that was recorded August 15, 1962, Reception No. 21847 to get to those four lots – it was clearly the intent of the developer and clearly filed with the County to have these roads get to these four lots that we're talking about.
Carolyn –the problem is we don't have anything to show the intention of Board of County Commissioners and the road law then and now, is if you write on a plat, dedicated to the public, all you've got is an offer; the public entity has to somehow accept it by behavior or by an actual signature.
Chairman Martin – who hold your title insurance on your lots?
Terry - There's different companies. The issue isn't whether or not the county owns these road, we clearly understand that, I clearly understand and Harlan McElroy clearly understands that we have access through the original 1962 recorded covenants to this property by these private roads and that if its up to use, even Charles Casteel at that time granted public access through these roads, whether or not the County has any issue with that, I'm not clear but it's clearly recorded in black and white that this was the intent then and was the intent after zoning took effect in 1972 and clearly today that those roads are private roads to these four lots we're taking about and that the access is there. The only public access not there at the time, or before by way of permit was the CDOT access to the property line, which has now been approved. So, we're not saying that these are public roads and it's not the issue that I'm faced with, and I'm not asking the County to accept them or maintain them. Or even name them; they've been named for over 40 years.
Carolyn – I guess the issue would them be are all of the owners of every other lot in that subdivision present, and will they all stand up and say, we will give you by a writing an easement so that you can prove to the Commissioners that you've got access. I'm not sure the folks in the audience, No. 1, they're not all present, No. 2 I don't think that they're ready to do that.
Terry – the covenants I submitted with my package proving the intent and at that time access to those four lots is in the packet. Whether or not, there's approximately 25, 26, or 28 owners of the lots throughout the subdivision. My four lots are 5, 6, 19 and 20 that when we need the lot line adjustment onto to proceed with our building but it's clearly laid out to that effect.
Carolyn – it's up to the Board.
Terry Kirk – one thing here, in 1972 County Subdivision Regulations specifically address the Roadway Improvements in proposed subdivision, Section 9.30 Garfield County, these regulations however would not apply to Travelers Highland Subdivision platted in 1962.

Carolyn – that's not really the issue, we're not talking about width of road or whether it's going to be asphalted, that's what those are about.
Terry – well it's in the access issue is where I'm headed with this. It's through that Reception Number quoted early 218477, the office of the Garfield County Clerk and Recorder, the streets and alleys were platted as dedicated to the public use, not public roads. Not asking Garfield County for acceptance.
Chairman Martin – and Ms. Dahlgren has taken this one step beyond that saying that we must go ahead and accept that gift. We haven't received any of that, we can't find any of that, and that ties our hands, and that's what blocks out common sense saying even through the intent was there we failed to do so.
Terry Kirk – that's the part that recorded, but no acceptance, is that what you're saying?
YES.
Commissionrer McCown – you're signing to the choir actually Terry.
Chairman Martin – and let me tell you, the Casteels aren't going to be real happy either, casue they're going to be locked out as well and that at that point, every owner is going to be locked out because there are no roads that existing there and they sold the lots to someone that doesn't have a road.
Terry – well once again, some of these lots were sold in 1962, 63 and 64 with access through that set of covenants at that point. We've accepted purchase of the lots –
Chairman Martin – I understand that and Chick was there and Chick was alive to make sure that things went well and he sold those through his corporation and everything but he's not here with us anymore. And again, the circle hasn't been completely closed in reference to your roads.
Commissioner McCown – it sounds to me like the least intrusive thing you can do is come back with a revised final plat – everybody, an amended plat to dedicate the roads to the public and make this property accessible to everyone who owns the property.
Terry Kirk – my question is why do we want this property accessible to everyone.
Commissioner McCown – because the ones that own the property by law cannot access it. You can't get to yours legally, because that road is not there, when I made the joke that that an imaginary road, I wasn't joking I'm serious. That road was never accepted as existing, the lots were, the law superceeded the acceptance of that road.
Terry – but it's illegal at that time as is not to see land locked land and that land was sold by Chick Casteel at that time with access.
Chairman Martin – if he were alive and he could go ahead and regulate that and also control the in and out as a private road but the County didn't accept it.
Commissioner McCown – back to my original question, how the road law got so far away from the lot law.
Terry – well probably in 1962 people used common sense and their word was their word.
Commissioner McCown – you're Singing to the Choir again.
Terry Kirk – I don't think so, I'm just trying to get these lots combined into one.
Commissioner McCown - we're trying to let this happen as well.
Terry Kirk – but the 25, 26, 28 owners are in about 11 different states so of them haven't even seen this property, they've inherited it from other people and it's not something that can be done in short order and the Casteels aren't cooperating, well I guess they are we haven't had anything to uncooperate about. They've raised some issues that evidently have been platted and recorded and has public access at the County. It's my understanding and my attorney understands that when a legal public access has been recorded at the county it is in fact the legal access to the property. Is that not true?
Carolyn – There's a whole body of road law that has not been taken account of, I think is what's happened but I obviously can't comment.
Terry – we're not calling them roads, I have access to that property through the easements on the property, and maybe we're calling them roads and shouldn't be.
Commissioner Houpt – well this regulation uses the word right of way instead of roads.
Terry – and the right of way is from the State highway by access permit to the property.
Carolyn – the question is how do you get from 6 & 24 to Block 11 and that is what's totally ambiguous in the law. But at least we have a group of people here who all have something in common; they want to get it figured out.
Chairman Martin – we'll have quite a few old subdivisions that have the same issue and I wonder if we're going to have that revisited.
Carolyn – and folks would just go as is, except that they wanted to change the lot lines so that's how it gets to you. If they don't make any changes, it doesn't get to you.
Commissioner McCown – if those lots stay in the same configuration and he built within the footprint of

that lot, how would he access his existing lot?
Carolyn – the issue would never have come up.
Commissioner McCown – so is there a road there or not?
Carolyn – depends upon whether or not we're fighting about it. It remains a cloud on the title, if you will and did look at the title insurance and there is an exception on the title insurance; so the title insurance company would probably say hey, not our problem.
Terry – so we have to build on a lot which doesn't meet the County Building square footage of 7500 sq. feet you're saying that, if you had a 7500 sq foot lot and you built on it you wouldn't have to go through all this?
Commissioner McCown – that's what I asked, it didn't make sense to me. That's what I was told, it wouldn't be an issue. If you did it that way the roads were there, if you do it another way, the roads go away and I'm having trouble understanding that.
Carolyn – that leaves aside the building permit issue in this lot size and zoning and all that.
Chairman Martin – so does he have legal access to get a building permit so they can do inspection and the answer is Carolyn – does he have access that a title insurance would insure, or would they exclude it.
Commissioner McCown – has that been tested, none of our business.
Carolyn – it really isn't.
Terry said he can grant access to the building inspector to inspect the property.
Chairman Martin – you may but will the rest of the community that have either ownership or no ownership or ability to access agree to that or not because it's an imaginary street called 4th street that doesn't exist in reality.
Terry – I agree that 4th street is an imaginary name but I don't concur that there's no access to lots 5, 6, 19 and 20 Block 11. I don't know what I need to do to change that; I'm not clear now, I wasn't clear at the last meeting; I wasn't clear June 4th when I applied for a building permit.
Commissioner McCown – Terry, you bought these lots?
Terry – yes.
Commissioner McCown – what did your title company say when it came to access?
Terry – I don't know I'd have to look. Some of them we just quit claimed, some we didn't get title policies.
Carolyn - The title insurance is subject to the easements, right of way and other matters set forth on the plat of the subject property recorded August 5, 1962 under Reception No. ------. We don't know if they're public or private but
Commissioner McCown – that's their acknowledgement.
Terry – yes they acknowledged them as easements and access.
Commissioner McCown – so that leaves the land owner with nothing.
Carolyn – yes, correct.
A motion was made to close the public hearing by Commissioner Houpt. Commissioner McCown seconded. Discussion
Commissioner McCown – not sure we should close the public hearing; we need a solution to this. He'd have to renotice and go back through the public hearing with everything involved is only pouring salt in the wound if we move forward with this.
Commissioner Houpt - I'm fine with that, we'll have to continue it for a very long time because the process they have to go through is going to take some time to complete. Christopher Bryan – point of information – if the roads are not public, then are the publications noticing the public hearing valid or void?
Carolyn – that's an issue but the Commissioners accepted the notice; however were there a Rule 106 review it's possible a court could say it was invalid notice and therefore throw out the whole hearing process.
Commissioner Houpt - She agreed to take motion off the table; how long does this need to be continued to?
Commissioner McCown – from what I've gathered from the testimony, all of the owners have to apply for quiet title which Carolyn was talking about or get together and for the benefit of the entire subdivision, the landowners as a whole, getting together coming back with an amended plat would be the least intrusive.
Terry – what do you mean by an amended plat?
Mark – to help both of you a little bit - another possibility sort of a smaller version of that that we've done in the past, Antlers Orchard a good example, is an amended plat of certain portions of the entire plat. I don't know who owns the lots that surround or close to Mr. Elroy's and Mr. Kirk's lots here or Mr. Casteels but perhaps they could all could just do an agreement as opposed to and amend a portion of the plat to gain access or at least clarify this access issue, maybe that's a possibility too. An amended plat is

what you're doing right now. You're amending the plat to essentially erase common lot lines between the lots that you have, the subdivision portion, the amended plat in this case would go beyond just the lot lines, you would amend the plat, if you chose to erase other lines or whatever the case may be, but also include the roadways so that those were dedicated to the public and accepted by the Board of County Commissioners – that would resolve at least that portion of it. It would not necessarily deal with the whole subdivision is there are 27 or so lot owners.
Terry – are you saying the road has to be dedicated to the County?
Mark – no, to the public for public use. As I understand this road law issue that's what leaving open is the question as to whether there is legal access. The plat says what it says; I don't dispute that at all.
Commissioner McCown – what happens if we look at the 1962 filing and go "we accept the roads".
Carolyn – well, you've got a problem because the subdivision doesn't meet your zoning standards today, so you have public roads, but folks still can't do anything in there.
Mark – No. They can build in 5000 sq ft. lot, the less than minimum lot size because they're technically non-conforming lots, the catch we ran into in the issue that Mr. Elroy was the fact that the building he wanted to place on the lots had to use the set backs from the property lines as they created, to make it larger they had to erase the common lot lines.
Commissioner McCown – that was my original question, if we just go "hey folks we accept the roads" of the subdivision that was filed in 1962 and then they come in or anybody else comes in with an amended plat to amend the lot lines.
Carolyn – you'd probably have to a re-offer of the roads to you because the road law says that it has to be accepted in a reasonable time and if not the offer goes away. It's just like an offer of marriage – but if you don't accept it isn't happening.
Commissioner Houpt – so what process would that take to re-offer those roads.
Fred – amend the plat.
Commissioner Houpt – who would be reoffering them?
Carolyn – all the current owners. There is no association.
Terry - Mark what I heard you say was I can build on 5,000 sq feet lots because they were subdivided before 1962 but I have to meet the current setbacks?
Mark – that's correct.
Terry - And I have to go through all this? So I can build 4 little 1,000 sq. ft. buildings without going through all this, and that's okay?
Mark - I can't speak to that, the building permit process requires legal access to that.
Chairman Martin – what it amounts to is there is a motion on the floor and there's been a second. This is a discussion and for clarification, not any more testimony can be taken.
Commissioner Houpt – I said I would withdraw my motion to close the public hearing; Commissioner McCown withdrew the second.
No motion on the floor.
Commissioner Houpt made a motion to continue but we really need to find out from the applicant how much time he wants to get an amended plat or something else together to create these roads.
Chairman Martin – rededicate these roads.
Terry – I'm at a loss as to what an amended plat is, is this something the Casteels can do today. No. Is this something I have to go call 24 different states to find the different lot owners to see if we can get it together.
Commissioner Houpt – you could look at Mark's idea and figure out who owns lots in the affected area and find those people.
Commissioner McCown – and if that is the Casteels, you strike an agreement with them and you get your access to your lots.
Terry – so what you're telling me what I'm hearing the County telling me is that I don't have legal access to my property. So all I have to do is sue everybody that sold the property to locked land and I'm out of it we don't need a building permit.
Chairman Martin – you could do that.
Commissioner McCown – basically that's – we can't give you legal advise.
Terry – right, or the other alternative is to just build smaller buildings on the 5,000 sq. foot lots.
Carolyn – or sit down and talk about the other owners and
Terry – I applied for this building permit June 4 and it was in building department for 34 days before the issue of a lot line adjustment came up; I then came in here and whined and whined and whinned and then I

came back on the 11th of last month after doing another $4,000 worth of research and postings and now I'm here again today on 11th of October going through the same thing again. So what it appears to me to do is just to build a whole bunch of small buildings and not care. If the county would rather have 236 individual septic systems instead of 10, I guess….
Mark – so he doesn't go away with that impression, based on what's occurred here, this road law issue to be very candid from a staff point of view was new to Fred and Mark, it came about as a result of this application. It's not something that we as, from our point of view from subdivision were aware of it being an issue; but from a building permit issue now they are aware of this road law issue and the question of legal access, No, I could not just issue a building permit for each one because you have to have legal access to each lot for us to issue a building permit. So we still have it, so I'm – and at this point we are caught that way.
Terry – and my other alternative is to just go ahead and build the building.
Everyone – NO.
Mark – that's not what I'm saying.
Terry – at this point after 120 days of this and still not getting anywhere, the alternative is to just build a building without a permit.
Everyone – NO.
Mark – that would not be a good idea.
Terry – I agree, but I've gone through 120 days of this stuff so far, but I'm to the point where….
Chairman Martin – can I give you another scenario Terry? To show that you're not the only one in this boat. There's a subdivision that's was called TeKeKi and for 30 years tried to get it resolved and no one really built on it because they didn't have legal access. What we want you to do is resolve the issue, sit down with the Casteels and the affected property owners around you, see if you can come up with an agreement, do an easement, dedicate it so it would go through and resolve your issues. If you have covenant issues or whatever, that's up to you guys, at least they can at least use the property as well as you. Right now everybody's in the same boat, not just you, but everybody because of this particular issue. These guys didn't realize the problem either so they should say thank you for doing that and you just spent some of their money as well because they're going to be most likely looking at you as a partner to get this done.
Terry – stated he appreciates everyone's time they put into this, but the outcome isn't what he wanted and what I'm here for is nothing to do with any of the stuff you've brought up. The fact that this thing was recorded in 1962 and for 40 years people drove across those roads on those road easements in two trucks with nothing ever brought up even accessing the property over 40 years, Dean Knox has been raising sheep on that property with the other guy down there, accessing at that point for over 40 years and it just seems to me that the County has this map or plat hung on the wall with a zoning issue that's said it's zoned commercial in 1972 and they accepted not only the subdivision at that point through that but they also accepted it like it is and now with 2004 laws it seems to me like we're going through a bunch of stuff that isn't at issue in 1962. The property has been accessed on these roads for over 40 years for two trucks.
Chairman Martin – I've seen road issues with the same situation over 100 years old with someone objecting somewhere along the line that it's just not a public road; you have to prove that it's a public road before it's a public road even through you've used it for …
Terry – it's not a public road, it's a private road
Mark – you have to prove you have point of access even thought you may have used it.
Terry – and that's what these covenants that were filed and accepted by the County, when they zoned it….
Mark – no, they were not accepted.
Terry – by zoning the property, by rezoning the property I 1972 the County accepted that subdivision.
Mark – no we did not.
Terry – you don't believe that?
Mark – No sir, I do not.
Chairman Martin – no we can't accept that.
Commissioner McCown – that's where the hic-up came in.
Terry – it was certainly worth a shot.
Commissioner Houpt – so we need to see if you'd like to continue this public hearing to a later date.
Terry – if I don't get shot this afternoon by Mr. McElroy – sure why not. It's up to Casteels as to how long it will take, not me, the adjoining land owner are the Casteels. The other people, some of them don't even know they own the property.
Chairman Martin – open up the lines of communications.

Terry – if we could continue this to the first available hearing when I could get something in writing that says there's
Chairman Martin – legal access. You have to go ahead and work with the Casteels because they don't have legal access either.
Commissioner Houpt made a motion to continue this until Nov. 15th 1:15 p.m. Commissioner McCown seconded; motion carried unanimously.

Resolution - Bair Chase/Sanders Ranch
Mark Bean submitted the Resolution taken earlier off the Consent Agenda saying this is a Condition the Board had originally approved that the applicant's had proposed to deal with an issue dealing with the Common Access points between the Sopris Restaurant and basically the condition was the "applicant shall show on the final plat for the Sopris Multi Family area joint access to the State Highway 82 for the Sopris Multi Family area and the Sopris Restaurant properties at the time of completion of the access that is subject to the State Highway Permit No. 304060, the applicant shall convey to the owner of the Sopris Restaurant property by easement deed, an easement for vehicular access and across the joint access to Highway 82." Mr. Wigger, the last time Mark heard was appealing the decision that would affect that, but basically what these folks are doing is they are giving Mr. Wigger the right to use that access providing his access appeal is unsuccessful and he chooses to use it.
Chairman Martin brought up the point that that access ends December 31, 2004. If there is no access permit or easement in place, yet there is an approval….
Mark – there is an access in place presently.
Chairman Martin – I agree but it's going away.
Mark – It may.
Chairman Martin – unless they renew it.
Mark – agreed, I guess we'll have to see what happens there, I'm not sure about the process. Presently there is an access permit in place, at this point this is making sure the easement is there so if all those negotiations and appeals fall through for whatever reason, then…
Commissioner McCown – he's applying for himself and CDOT may disallow two access points.
Mark – this is the present proposal, to have him join in with these folks, he keeps on of his accesses there, he loses two of his three.
Commissioner McCown made a motion to approve Resolution concerned with the approval of the Preliminary Plan for the Bair Chase Ranch Subdivision at Sanders Ranch and Amended Planned Unit Development Plan and Text for the Sanders Ranch PUD and authorize the Chair to sign the Resolution. Commissioner Houpt seconded; motion carried unanimously.

ADJOURN

Attest: Chairman of the Board

_____ _____

OCTOBER 18, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Robert Jones – Glenwood Gymnastics Academy requested the Board's support against the RE 1 Bond proposal to support them in 86 million ballot issue. The School will use emanate domain to take over the property where the Academy has functioned over the years. He currently has a 10 year lease that will be no good. He would have to relocate and there's no place to go. True Value is in the same situation as well as many homeowners and other businesses. The owner of the property where Rob leases doesn't want a hostile take-over of his property. These are parents and taxpayers against this. Rob teaches over 200 children a week.
Commissioner Houpt could not support his request; rather she favors the school bond issue saying when they wanted to move the high school out of town it was fought by parents and community people. People are being impacted but it's one component with this bond issue and suggested Rob go back to the School Board with solutions. The space is limited.
Rob said if it's been good for 30 years, why not now. The numbers enrolled are shrinking.
Commissioner Houpt said there are a number of ways of partnering and if Rob talked about this with the school bond and perhaps they would build a gymnastic facility.
Rob took issue saying telling him to go away is not the answer.
Commissioner Houpt said she would not be able to support that request from
Miles Roebeck – Roaring Fork Citizens investing for the School Bond. He is a citizen voicing an opinion about the bond issue as well. He had children who went through the school; the time has come to do some major changes in the school district. The buildings need work to bring them up to standards needed. They need to do some replacement of schools. The Glenwood Springs High School has been in place for 50 years. Time has come to change the structure and they are looking to garner support from all citizens.

GASB 04 is in place and Jesse requested a special meeting later in the week to present the audit. The meeting was set for Wednesday, October 27 at 9:00 a.m. with a promise to be a short meeting.

COUNTY MANAGER UPDATE – ED GREEN

a) Garfield County Emergency Communications Authority2004 budget approval resolution request – Carl Stephens

Carl Stephens presented the Resolution concerned with the acknowledgement of the receipt of the Garfield County Emergency Communication Authority's budget for the year 2005.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept receipt by Resolution the acknowledgement of the Garfield County Emergency Communication Authority's budget for 2005.
Don clarified that there is a requirement for them to present this and Carl is meeting their obligations.
Motion carried unanimously.

b) ***Roaring Fork Community Housing Fund IGA – Minor change in wording – Colin Laird***

Colin Laird submitted a memorandum the word change in the IGA "The Glenwood City Council thought "shall" was too strong a word and preferred "should." They approved the IGA on condition that the word is changes.
Commissioner Houpt made a motion to accept the change. Commissioner McCown – seconded.
Don – okay to represent their private interest.
Commissioner Houpt – said it takes away from the whole concept of partnership.
Motion carried unanimously.

Support Letter for RFTA
This is a non-profit organization garnering additional support. They are attempting to assist RFTA in obtaining the grant from the State Trail Committee.
Same money but different trails and in different locations – based upon the funds the Board granted upon budget review to RFTA.
The letter New Century Transportation submitted to the Board was a request to encourage the State Trails Committee to approve the worthy grant proposal submitted by RFTA. They are an independent entity and need the support of the County as well as number of organizations to garner the support for the funding. Last year RFTA was denied, thus the reason for the outside effort
Commissioner Houpt made a motion to approve the letter presented by the New Century Transportation Foundation's grant request for state trails funding to help the Roaring Fork Transportation Authority complete a 2.85 mile segment of the Rio Grande Trail between the Town of Carbondale and the Catherine Store Bridge and authorize the Chair to sign; motion carried unanimously.

Conservation Trust Funds

Ed informed the Board there was a balance of $15,000 in Conservation Trust yet to be committed. To date there has been $135,000 committed in a budget line of $150,000.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice - (a) (b) – advise of DDA litigation; Oil and Gas litigation in front of the Commission; role on ballot issues and the election; update with Coroner, Discussion of a Code Violation and authorization for litigation; Item 2a adopting of a certificate on Private Activity Issue and CBMS system - Social Services.
Lynn Renick on CBMS; Doug Dennison for Oil and Gas litigation and Mark Bean on code enforcement.

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

Action
Commissioner McCown made a motion to authorize Don to continuance of the Public Project consideration by the Oil and Gas Commission currently set for October 25, 2004 continuing it to November 29th. Commissioner Houpt seconded; Houpt – aye; McCown – aye; Martin – aye.
Consideration of Certificate of Garfield County concerning assignment of private activity bond volume cap allocation to the Colorado Housing and Finance Authority and that the Board be authorized to sign.
Don Private Activity Bond – Don reviewed the certificate and Don said it does not require a representation that others can rely on this for any specific purpose and the statements set forth in the document are accurate based on the facts and requested the Board, all three Commissioners authorized to sign this document.
Commissioner McCown made a motion we approve the certificate of Garfield County concerning assignment of private activity bonds capped allocations of the Colorado Housing and Finance Authority and that the Board be authorized to sign. Commissioner Houpt seconded; Houpt aye; Martin – aye; McCown – aye.

COMMISSIONER REPORT
Commissioner Houpt – last week – update on I-70 Corridor Meeting; John brought forward an IGA for this group this year for us to join in and that is moving forward, a decision was made this week to request that CDOT postpone their final draft PEIS so this group could come up with an preferred alternative to be hopefully added to the draft. Discussion of project contributions, calculation was put together for all the participating governments and we're at $16,900 range. The goal is to raise $100,000 from governments for this project and $100,000 from private funds. The project was to create a preferred alternative for the

CDOT draft PEIS for the I-70 corridor. John Martin stated this has already been drafted and alternatives put in; we did participate in that since 1997 and fought that constantly and they've actually taken us out of the PEIS and stopped at Eagle Vail and then we did an addendum to what we felt was right and we also belong to the CITKA board that tried to do the same thing and that $2 million in private funds – you can consider it but he didn't think that they will accept your alternative. Commissioner Houpt – if they won't consider it, then to postpone it. Commissioner McCown – questioned the need for a study since they blew off the effort. Doesn't want to spend money and the project stop at Eagle. Chairman Martin – added more comment Commissioner Houpt - the $16,900 commitment would come out of general fund. Commissioner McCown not ready to commit – who are we donating this do. The Governor will be at the Buffalo tonight. Commissioner Houpt – I-70 – Rural Resort will be the umbrella project but it's under the I-70 Corridor IGA. A part of that is going to be too to help us interpret the PEIS. This is the original group being formalized and trying to get immediately with CDOT to slow them down to submit an alternative. Commissioner McCown – there's no money anyway.
Chairman Martin – they disagree with the CDOT and Eagle and Vail are upset. CDOT is looking at no alternative except adding lanes. This group says it is not good enough. This group disagrees with the Governor, the CDOT and others want to submit a different alternative and have a stronger voice. Commissioner Houpt felt there is a stronger and formal alternative to present. The reality is if we want to move forward with a professional alternative. Time window; postpone until July 05. The group has been in discussion on this for so long. Chairman Martin – there was an alternative and it was supported by all groups and CDOT rejected. $16,900 will go to Rural Resort to go after an alternative. The dues calculated are the Rural Resort are dues and the project assessment. Commissioner Houpt is the Chair of the Rural Resort. Thursday in Denver, Mexican consultant talking about immigration; Rotary at noon for RFTA ballot issue; creating of a bike and ped region on the 21st.
Commissioner McCown – Glenwood Rotary at 7:00 a.m.; 10 a.m Budget Meeting for Associated Governments; meeting at the Silt Fire House Friday at 7 p.m. another candidates forum sponsored by the Farm Bureau..

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers b and c
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the support letter for LOVA State Trails Grant – Randy Russell

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

Titles of Vehicles

Commissioner McCown made a motion to sign the titles to vehicles going to auction. Commissioner Houpt seconded. Motion carried.

REGULAR AGENDA

PUBLIC MEETINGS

DISTRIBUTION OF TAXES TO SCHOOL DISTRICTS – CHRISTY HAMRICK

Christy Hamerick, and Doug Dennison were present.
A Power Point Presentation on Oil and Gas Revenues for Local Governments was provided. The objective was to review the three main local government revenue sources from the Oil and Gas Industry and summarize which local governments receive these funds, and how counties and municipalities differ from school districts.
OIL AND GAS REVENUE SOURCES

- Mineral Lease Revenues
  - Relates to funding received from federal land leased for mineral production.
- Severance Taxes
  - This is a tax on oil/gas production to make up for the lost wealth from harvesting nonrenewable natural resources.
- Local Property Taxes
  - Property Taxes are based upon the assessment of oil/gas production and related assets.

MINERAL LEASE REVENUE

- Garfield County School Districts have not seen a significant increase in mineral lease revenues
  - Payments to school districts are set by statute but can be increased by the county commissioners. This current structure sets a distribution to schools at $300,000 county-wide. Therefore, Garfield County school districts have not seen an increase in mineral lease revenues (FY 02 = $300k, FY 03 = $170k, FY 04 = $300k)
- The distribution calculation is complex;
- Returns 50% of rentals and royalties revenue from federal lands to the state of origin
- Within the 50%, the State's school fund receives the largest portion, which pays for part of the State's portion of funding for the School Finance Act
- Department of Local Affairs and the Water Conservation Board also receive a portion of this funding.

SEVERANCE TAXES

- School Districts do not receive severance taxes.
- 50% goes to the State Trust Fund for a Perpetual Fund and to fund DNR operational account
- The other 50% goes to the Local Impact Fund
  - 85% of the Local Impact Fund portion goes to local government grant projects
  - The remaining 15% is directly distributed to local governments, including counties and municipalities.

OIL AND GAS PROPERTY TAXES

- Oil and Gas assessed valuation increased $317.1 million from $251.2 million in 2003 to $568.3 million in 2004. $212.1 million of this increase was in RE-2's assessment area.
- The total increase in assessment for Garfield County in 2004 was $33.1 million (or 36%). The largest increase was in Garfield RE-2's region.
- School Districts do not receive additional monies when assessed valuation increases. Due to Amendment 23 and the school finance act calculation, school districts must lower their mill, and can only receive a property tax increase equivalent to inflation + growth. School District general fund mills are calculated by Colorado Department of Education and certified by each local school district's Board.
- When assessed value increases beyond TABOR limits, counties and other municipalities may be allowed to "float" their mill, and therefore would be able to collect additional property taxes as assessed valuation increases.

IN SUMMARY:

- Severance Taxes, mineral lease revenues, and assessed valuation changes may have a significant financial impact on counties and municipalities.
- School districts are not significantly impacted by oil and gas fluctuations, because ….
  - Assessed valuation fluctuations do not affect per pupil funding due to a formula initiated at the state level
  - School districts do not receive severance taxes
  - Mineral lease revenues are capped at $300k total for the 3 school districts in Garfield County

SOURCES/CONTRACT INFORMATION

- Mineral Lease Revenues & Severance Tax Revenues – http://www.dola.state.co.us/LG/FA/EMIA/miner/index.htm.
- School District Finance

  Cary Kennedy (author of Amendment 23) – 303-839-1580 x226

  Mary Lynn Christel – CDE school finance unit 303-866-6818 (click on school finance icon)

Mineral Lease Revenue

Garfield County School Districts have not seen a significant increase in mineral lease revenues.

Chairman Martin noted the County is capped as a whole under the same formula. There is no way to get around this, the County doesn't receive anymore even we get $50 million dollars off of public

lands, we still get the same amount and you still have the same formula. The state school funds get more because through the deBrucing issue, it causes the school a lot of grief, which the County did deBruce and it doesn't give the county as much grief as the schools. $41 million dollars out of the $62 million dollars that came to the state and in 2003 went to the state school fund, but the statute alluded to for the Board to do adjustments on everything, and John said he did look it up and under that statute we have an option to go ahead and take the money that comes to the county government itself, and can set up a fund and give 50% to the school district and the rest in a fund for one year; the following year we would give 50% to the school districts and 50% to the municipalities and we wouldn't have anything – that is what you're asking us to do if you ask us to redistribute it. The Board looked into that as well and wanted to see if there was any way the County could help but it's cutting our own throats. There is also another provision in the Department of Local Affairs says the money that you receive directly from the federal government or as a pass through doesn't have to be reported on your TABOR because it could be a federal fund that is being given to you directly. Therefore, if you're recording you, you are cutting your own throat under TABOR.
Christy – we don't do that but our mill calculation is done at the state level.
Commissioner McCown – given the increase in revenue and the cut back in your mill levy, what percent of your student allocation is paid by local and what is still paid by the state?
Christy – it's approximately in the upper 60%, close to 70% is paid by the state.
Commissioner McCown – even with the increase in valuation and cutting back on the mill levy, so if this trend continues, do you see the mill levy going away?
Christy said it will keep reducing itself.
Commissioner McCown – yet the amount that's being paid by the state fund is increasing. They fund the 1%. Amendment 23 inflation plus growth plus 1%, that's basically the calculation and because TABOR can only affect or basically fund the inflation plus growth, the state actually always picks up an additional percentage of that.
Chairman Martin – locals are probably $10 million dollars, the state is approximately $13 million, which is going to their general revenue sources. That's for RE-2 on total revenues.
Jim Evans and Steve Colby are probably the only people that understand the allocation process.
Steve said in 2002- 2003 and put every penny it was $50,000,000 but they lose a lot due to TABOR and they do not get to use these funds.
Vicki Vanderbeger – check with Mildred; at the state level, the more the state backfills, the more they want to take away local control in the school districts. They are paying for more than 50% of educating the students.
Commissioner Houpt – it's a question of semantics and if all of the funding goes to state to be reallocated, then they are really taking local money and reallocating it across the state; so she said she would still content the local taxpayer is still paying for public education and it's not the state, it's just the reallocation of that to help districts that wouldn't otherwise have that opportunity.
Vicki – they are seeing districts that are paying excessive funds and that's going into the state fund to help districts that don't have so much, so you can look at it both ways.
Commissioner McCown – you're going to see Garfield County approaching one of those counties quickly. If you look at the assessed valuation and at the current rate of growth, depending on what the industry does, Garfield County will be one of counties. This is Larry's concern; are we going to reach a point where our mill levy goes away and our property tax goes to the state at the same rate on our property tax payers, that goes into the state fund and is redistributed statewide. We have argued since day one that we would like to see our proportional share come back to the local governments where the impacts are, where the funds are being generated and there is a move a foot this year to try through the legislature to change that balance where it will not affect the school fund but over on the 85-15 portion of that state fund to see if we can get a little bit more of that brought back to the local government. We know the legislature every year attacks that energy impact fund, they see it as a pot of money to try to make up for that $250,000, 000 deficit they have going in this year. So the energy impact fund may or may not be there at the end of this year. We know this every year and fight the same battle. We are tying to get percentage changed so a little more of that 15% of the severance tax will come back to the County. The communities benefit from it.
Vicki – agrees and it has to be worked out.
Chairman Martin stated that a constitutional amendment needed.
Vicki knows the Commissioners understand the issue but they just wanted to educate the public.

Commissioner Houpt noted that RE-2 doesn't receive the money directly and people have been under the impression that the school district greatly benefits from all of the activity in this county.
Commissioner McCown said to stop and think, if that portion on your tax notice is labeled RE-2 the treasurer collects that and it goes to RE-2 if it's labeled RE-1, the treasurer collect that and it goes to RE-1 and if it's District 16, etc. For a point of clarity they do get what is collected on that sales tax.
Commissioner Houpt – the state determines how much they receive and they aren't any better off than they would be if we didn't have oil and gas in the County, and that's the point.

CONSIDERATION OF PURCHASE OF SERVICES AGREEMENT – MARY ELLEN DENOMY
John Savage, Shannon Hurst and Don DeFord were present.
The agreement will begin November 1, 2004. Don submitted the agreement and reviewed the changes submitted.
John Savage – noted this was to be completed by December 1, 2004 but this work being started this late would not be completed by this date.
Don said the Board understands this. Commissioner McCown understands that as of January 1, 2005 this contract will be extended. Nor do we anticipate spending $100,000 this year.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt that the chair be authorized to execute the agreement with the changes for professional services with Mary Ellen Denomy. Motion carried unanimously.

HUMAN SERVICEWS COMMISSION
DEVELOPMENTAL SERVICES – BRUCE CHRISTIANSEN AND SHELLY HANAN
Shelly Hanan and Sally Balboa presented the program review for the 2004 years- focus on Children and Families. Report from Colorado Children's Services and how it is affected by TABOR. Early intervention is very important in developmental delayed children. Two children's programs; early intervention and family support a monetary reimbursement to offset the additional costs. Last year they served 80 children and families. Insurance is not tailored to their needs. Some of the issues Mountain Valley is struggling with are the budget cuts by the State. Numbers continue to rise and dollars do not. Spanish speaking population continues to grow.
Sally Balboa – early childhood connection coordinator. Birth to 3 years of age. They are a support system for families to help navigate all the resources available. Follow federal law and funded by federal funds to provide support for our families. Prenatal care, physical care, mental health, dental and nutrition – WIC, food stamps, child care for children, Juds Fiurst, DOSS, all resources available and Families who children are little different – Developmental Services – Education piece – pre-school for kids at risk, Head Start, Yampah Teen Mothers program.
Together this builds a healthy child. A lot of things are impacting us – human services are stretched and it can impact the quality. There is gap in children that are at risk and are seen in elementary school. Support is needed for all children at risk. Since this is federally funded they are not seeing funding cuts.
See handout
BOARD OF HEALTH
CONTRACT WITH CDPHE VACCINES FOR CHILDREN PROGRAM
Mary Meisner presented the amendment #02 stating the department will receive $10,138.00 ending on December 31, 2004. This goes back to December 2003. This did happen and the contract was amended.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to sign the amendment to the existing contract for the Colorado Department of Public Health for the Immunization Program for additional federal monies for $10,138.00. Motion carried unanimously.

PUBLIC HEALTH PROGRAM UPDATES
FLU information was submitted. The campaign is underway and 1,000 dozes were distributed last year. They are working with providers including local doctors and Valley View Hospital. There is a walking at-risk clinic both in Rifle and Glenwood Springs.

Some counties did not get allotments; some did not get the full shipments.

Security is not an issue and it has been great cooperation. Our supply is not at risk, the refrigerators are locked.

People with children are bringing in the physicals slips however, at present they are accepting the person's

word.

This County is very fortunate to have received the flu vaccine. There is a medication available for those who get the flu. This will be there next campaign and they are encouraging people to get a pneumonia shot. Flu Mist – looking at this for county employees since the County employees will not be able to have the shot.

The press has been great about getting the information out as to how to prevent the Flu.

Mary is issuing tickets to help if long lines start to build. Those who have a ticket will get a vaccine.

The Board appreciates the efforts of the staff and asked Mary to pass along the compliments on a job well done.

BOARD OF SOCIAL SERVICES

- **SEPTEMBER 2004 DISBURSEMENTS**

Due to the CBMS reports – the department is unable to provide a total monthly payroll amount for certification.

- **OUT OF STATE TRAVEL REQUEST**

Dana Damm, Child Care Licensing Specialist, attended and presented a class at the National Association of Family Child Care providers in Kansas City, Missouri. The conference was 7-29-04 – 8-1-04. An out of state travel request has not been authorized and the request is to approve payment of $420 in lodging expenses for this work-related trip.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out of state travel request for Donna Damm in the amount of $420.00; motion carried unanimously.

- **APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACT**

State ID #L346094 – not to exceed $166,830 and State ID #Y221508 not to exceed $10,116.54 at Smith Services for Developmental Services to get our kids in a less restrictive environment.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the out of home placement contracts: State ID #L346094 – not to exceed $166,830 and State ID #Y221508 not to exceed $10,116.54; motion carried unanimously.

- **CORE SERVICES SUBSTANCE ABUSE CONTRACT WITH COLORADO WEST REGIONAL MENTAL HEALTH CENTER DISCUSSION**

This is regarding issues with the new Substance Abuse Services Contract. A revised contract is being drafted for the Board's consideration that increases the not to exceed amount from $20,000 to $27,500.00.
Carolyn Dahlgren requested to have the Chairman sign this.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair's signature on the Purchase of Services Contract for the County Agreement for the Core Services Substance Abuse Contract with Colorado West Regional Mental Health Center not to exceed $27,500 with the corrections noted by the County Attorney; motion carried unanimously.
Direction to Child Support - Nationwide Services – Maximus contract is a fee for service basis – Help Government Serve the People. Get the child support folks into Equifax and Experian – asking support for the Child Support services to use this service.
This is a Virginia based program and there is no other option.
Commissioner McCown requested an amount defined and bring it back to the Board.
Joy Davis will explain this at a different meeting.

- **UPDATE ON COLORADO BENEFITS MANAGEMENT SYSTEM CONVERSION (CBMS)**

Lynn Renick gave a verbal report saying there is a conference, statewide meeting in Junction and went to get support and glean some information of what works and doesn't. At this point, we're looking 864 cases of the 1569 cleansed.
The State is putting on emergency central data system in place located in Denver and Colorado Springs and will train and can sent our cases down there to convert. They have dealt with confidential. Lynn will go to the Director's meeting in Denver and at this time the smaller counties are going to figure this out for themselves. This is a non-paying service being offered.

Commissioner McCown voiced a high level of confidence in the staff to get this done if the system will allow them to.
The Share Calculations are running behind and the settlements are late due to CBMS. Lynn has talked to the audit manager and they understand the financial reports can not be generated yet.
They are talking about the mail cost with multiple amounts of notices going out. Each county will be billed but no current way to determine this. September it was $87,000 and the State will break this out to the Counties.

Collaboration Efforts – Friday, October 8, the department co-sponsored a Regional Resource meeting with the Center for Governmental Training. Approximately 40 representatives from various areas of services attended. The Center will be reporting the results of the survey to attendees. Social Services plants to host a work group meeting on November 12 to continue discussing the issues and the next steps.

PUBLIC HEARINGS:
RESCIND RESOLUTION 2004-76 APPROVING THE 8TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 9TH AMENDED APPROPRIATION OF FUNDS AND DISCUSS THE 9TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 9TH AMENDED APPROPRIATION OF FUNDS – ED GREEN
Ed submitted the notification and the Board accepted it into the record.

Jesse made some clerical errors and it is not substantive.
Motion to close the public hearing was made by Commissioner McCown and seconded by Commissioner Houpt motion carried.
A Motion to approve the 8th and 8th amended and the 9th supplement and the 9th supplement and chair authorized to sign was made by Commissioner McCown and seconded by Commissioner Houpt;. Motion carried.

Design of the Kiosk – less than $10,000
Sprinkler System - Leaking
City did a test of sprinkler system and found some leaks. Addressing the affected areas and dealing with this leak will prevent further problems.

PUBLIC MEETINGS:
REQUEST FOR EXTENSION OF CONSTRUCTION OF TIME, UNDER SECTION 9.01.05 OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978 AS AMENDED, SPECIAL USE PERMIT #2004-85. REQUESTED BY ROBERT M. PERRY, REPRESENTED BY LAWRENCE R. GREEN.
Larry Green submitted the draft minutes of the August 9, 2004 meeting regarding the 2-year period of time in which the utility line could be constructed.
Mark Bean, Larry Green and Carolyn Dahlgren were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.

Mark submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Project Information and Staff Comments; Exhibit E – Policy regarding Garfield County serving as a Local Agency application for CDOT Highway and Related Projects and Exhibit F – Letter from the Ranch at Roaring Fork HOA- dated 10-18-2004; and Exhibit G -Staff memorandum dated 9-07-04.
Chairman Martin entered Exhibits A – G into the record.
Carolyn made sure the board was aware that this is not an amendment to the SUP; this is a delegation of authority from Mark's office to management this SUP.
Holy Cross – Durman Walt, requested the two year time period; no problem if it can be unlimited to whenever it is completed.
Commissioner McCown – no problem granting the two year.
One is the SUP is additional to the land and the other is the permit, if you don't start the SUP or something

doesn't happen, Carolyn – would like it in the SUP. For clarification – to verify – specific to this SUP.
Larry – after hearing this, the permit as it is fine.
The record will reflect that you have the time.

REVIEW A CORRECTION RESOLUTION REGARDING THE ADOPTION OF THE 2003 INTERNATIONAL BUILDING CODE AND OTHER ASSOCIATED CODES – MARK BEAN
Mark Bean submitted a Resolution intended to Correct Resolution 2004-86 which adopted the International Building Code and other associated codes. The correct fee schedule was not attached. This is the purpose of the amendment is to add those fees. Mark made mention that there were no changes in the fees from the previous building code.
This was done because it was contemplated that the fees would be included and this is viewed as a correction to add the fee schedule.

PUBLIC HEARINGS;
CONSIDER THE ADDITION OF SECTION 5.03, NOISE BARRIERS, TO TH GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED. ADDITIONALLY, CONSIDER ADOPTIO OF A POLICY ON GARFIELD COUNTY INVOLVEMENT WITH NOISE BARRIERS IN PUBLIC RIGHTS OF WAY, NOT OWNED BY THE COUNTY – MARK BEAN
Randy Russell presented.
The Board of County Commissioners is proposing to amend the Zoning Resolution to clarify and create new regulations dealing with the permitting of privately owned and funded "Noise Barriers".
Continue or get from Mark
Randy Russell submitted the notification. Don clarified that there are two issues: 1) amend zoning code and 2) adopt a policy of the Board to consider the addition of noise barriers.

Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Project Information and Staff Report; Exhibit E – Policy regarding Garfield County serving as a local agency application for CDOT Highway and related projects; and Exhibit F – letter from the Ranch at Roaring Fork HOA dated 10-18-04.

Chairman Martin submitted A – F into the record.

Zoning Code Amendment

The Board of County Commissioners is proposing to amend the Zoning Resolution to clarify and create new regulations dealing with the permitting of privately owned and funded "Noise Barriers." The Board needs to amend the Zoning Resolution to create a process and definition for noise barriers or sound walls, as the Colorado Department of Transportation (CDOT) refers to them. This regulation would deal with noise barriers located entirely or partially on private land, built and paid for by the private land owners.

I. <u>PROPOSED AMENDMENT</u>

The Board of County Commissioners is proposing to amend the Zoning Resolution to clarify and create new regulations dealing with the permitting of privately owned and funded "Noise Barriers".(See attached language) The Board needs to amend the Zoning Resolution to create a process and definition for noise barriers or sound walls, as the Colorado Department of Transportation (CDOT) refers to them. This regulation would deal with noise barriers located entirely or partially on private land, built and paid for by the private land owner.

There is a separate CDOT Policy Directive that identifies the process for placing a privately funded noise barrier on CDOT right-of-way. This policy was developed as a result of the Ranch at Roaring Fork Homeowners Association desire to build a sound wall along the CDOT right-of-way that is adjacent to western portion of the development. There will also be a sound wall built entirely on the Ranch at Roaring Fork property along the eastern side of the development, that is adjacent to Highway 82. As a result, the sound wall will be partially on private land and partially on public right-of-way. CDOT requires that a local government be the "Local Agency Applicant" for any non-CDOT funded sound wall or noise barriers and for that local government

to make certain findings and representations. The Board of County Commissioners has previously approved the drafting of a policy to deal with the sound walls that will be on public rights-of-way. As a result of further discussions, the original policy was modified to better deal with the CDOT requirements tied to ownership, construction and liability. (See attached draft policy) Please note that this policy also covers the possible location of trails in public right-of-way, such as the proposed LOVA trail along I-70.

A. Zoning: Soundwalls or noise barriers are not defined in the Garfield County Zoning Resolution. One of the CDOT requirements for approval of a noise barrier, is that the County make a finding that the proposed structure is in compliance with the zoning resolution. Since soundwalls and noise barriers are not even contemplated in the zoning resolution, they are by definition not allowed. Thus, by creating a process to permit noise barriers, the County can make a determination of compliance or non-compliance with the zoning resolution.

As proposed, a noise barrier proposal will be a Special Use in any zone district and will be subject to the same review process that any Special Use Permit application has to go through. The definitions and standards for a noise barrier are all included in the proposed new section of the regulations and can be transferred into the new proposed land use code.

B. Staff Comments: These regulations have been created to deal with the immediate desire of the Ranch at Roaring Fork HOA's to build a noise barrier partially on CDOT right-of-way and partially on their own property. The HOA has been working with CDOT for over a year to establish a way for them to build the noise barrier. Their effort was initiated as a result of asking CDOT to build a noise barrier at State expense and being told that would not occur after a highway project has been completed. Unfortunately, the State has taken the position that they will not fund noise barrier projects that are not a part of a larger highway project. As a result the Ranch at Roaring Fork residents have to either live with the highway sounds or figure out a way to fund their own construction of a sound wall. The HOA has sold a portion of their property to fund projects for the Ranch property owners. This funding is proposed to be the source of the funding for their proposed noise barrier. Now they need a process that will allow them to get the County's assistance in building the noise barrier they want to construct.

C. Ranch at Roaring Fork HOA Comments: The Ranch at Roaring Fork Homeowners Association has provided a letter with comments on both the proposed policy and zoning resolution amendments. They feel that some of the language in both the policy and proposed zoning amendment, needs to be modified slightly. In general their concerns are related to flexibility in project management, ownership of the sound walls and some technical aspects of the application requirements. The following are their comments, with staff comments after each one:

IV. RECOMMENDED FINDINGS

1. The hearing before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested parties were at the meeting;
2. The Garfield County Planning Commission recommended approval of the proposed text amendments
3. That for the stated and other reasons, the proposed Zone District text amendments are in the best interest of the health, safety, morals, order, convenience and welfare of the citizens of Garfield County

Recommendation:

The Planning commission recommended approval of the addition of the proposed Section 5.03.16 to the Garfield County Zoning Resolution of 1978 as amended.

The Ranch at Roaring Fork thanked the Board for allowing them to be involved. He read into the record the position of the Ranch at Roaring Fork (read from the submittal). Proposed the following changes in the

language:
Tom Neal went over the proposed changes in detail and submitted a draft as Exhibit G.
The hope is to go through this with the County and hope to go through this with the most cost effective way possible.

Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.
Zoning Regulation Motion – Commissioner Houpt made a motion we approve the noise barrier regulation 5.03.16.5.2.b ending the sentence to read "a reduction in at least 5 dba for the majority of the targeted noise sensitive recipients of the project and to add to 5.03.16.57b "wildlife migration". Commisisoner McCown – seconded saying thank goodness we can come back and re-amend – he doesn't feel real good about this one. He said he sees us creating a 600 pound Gorilla. Chairman Martin stated we are the first county in the state of Colorado with a new procedure to go forward; if we approve this we've broken new ground. We will have to come back. We'll work on the policy next.
Houpt – aye; Martin – aye; McCown – aye.

Policy Directive

There is a separate CDOT Policy Directive that identifies the process for placing a privately funded noise barrier on CDOT right of way.
Randy called attention to the fact that this policy also covers the possible location of trails in public right of way. This policy also covers the possible location of trails in public right of way, such as the proposed LOVA trail along I-70.
Fewer than 9 subsection d – assumption that the owner of the noise barrier is responsible for the maintenance.
By the BOCC moving forward and go to the policy side and accept the entity applying for this wall.
Don – probably correct, this could be shifted to CDOT, but they probably wouldn't. If a semi ran through it, the County would repair. Something to make sure it is safe and the County would have to do it – also look at on-going security. The liability insurance would cover it.
Chairman Martin – it depends upon the agreement with The Ranch at Roaring Fork, it would be their responsibility to fix any problem.
Don – two issues here – the CDOT right of way and the Ranch at Roaring Fork.
We rely on the regulations and have to tie down the private or public entity that's building the improvement.
Don is confident that this policy gives the Board that assurance.

The only way this is going to work if for those parties to have conservations early on.
Under E – add joint responsibility and trust staff with the language.
This will be on the November 8th agenda.

CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION FOR A PROPERTY ON SILT MESA. APPLICANT: MARIA GLORIA WILKS & EDWARD JACOB WILKS – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, Barbara Burwell, Attorney for the Wilks, Maria and Edward Wilks were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Fred submitted the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Garfield County Subdivision Regulations of 1984 as amended; Exhibit F – Staff Memorandum; Exhibit G – application; Exhibit H – Email from the County Road and Bridge Department dated 9/23/04; Exhibit I – Email from the City of Rifle dated 9-20-04; Exhibit J – A memorandum from Steve Anthony dated 10-14-04; and Exhibit K – Letter from Lee Copland dated 10-17-04.
Chairman Martin entered Exhibits A – I into the record.

Fred stated this is an Exemption from the Definition of Subdivision for Maria Gloria Wilks & Edward Jacob Wilks represented by Stuver, LeMoine & Burwell, on an 81 acre parcel located approximately 2 miles west of Silt, north of I-70.

DESCRIPTION OF THE PROPOSAL

The property is generally located approximately 2 miles west of Silt and approximately 1 mile north of I-70 in the Silt Mesa area. The property's topography is undulating with steep hillsides as well as relatively flat and fenced pasture areas. The Silt Pump Canal, located within an 80-foot wide easement traverses the lower half of the property. A single family residence which has been converted to an Accessory Dwelling Unit (ADU) and various agricultural outbuildings as are located north of the canal and a single family residence is located south of the canal. Both portions of the property have direct access from CR 233. Both residences share an existing well and each has an individual sewage disposal system (ISDS) for wastewater.

The Applicant proposes to formally split their 81 acre property into two lots (Lot A having 70.86 acres and Lot B having 10.6 acres) stating that the Silt Pump Canal (located in an 80-foot wide easement that traverses the property) effectively splits their property into the two lots and as a result prevents joint use of the property.

Prevents Joint Use

The Applicant states that the Canal prevents joint use of the property. However, the original dwelling on the property (constructed in the early 1900s) has continued to serve as the main house on the property even after the Canal was constructed because of a bridge that was installed over the Canal that provides the driveway access to that house. Since the construction of the Canal in 1968, the Applicant has enjoyed unobstructed access across the Canal for 36 years.

Further, the present owners recently obtained a Special Use Permit to convert the original house into an accessory dwelling unit (ADU) so that the owners could construct a larger dwelling unit on the portion of land that lies south of the Canal. This dwelling unit has been constructed and gains access from CR 233 on a separate driveway than the original house. By the very nature of the definition of an ADU, it is accessory to another primary use which ties them together.

[Regarding the accessory dwelling unit on the property, a split would, by default, render that dwelling a primary dwelling unit. Should the Board approve this Exemption request, the resolution of approval would need to rescind or vacate the Special Use Permit and deem the unit to be a primary dwelling unit on Parcel A.]

Regarding utilities / shared services, the application states that "…each home has been operated independently from the other with no sharing of services." Actually, both dwelling units obtain their potable water supply from the well which is located to the north of the Canal. The waterline begins at the wellhead and crosses the Canal to provide water service to the newly constructed house. Further, the tract and new unit south of the canal obtains irrigation water from a different ditch located north of the Canal where the water is piped across the Canal. As a result, there appears to be shared irrigation and potable water service between the tracts.

Lastly, the portion of land where the Canal traverses the property is one fenced area presently used for grazing of horses / lamas. The Canal is not fenced and the animals presently freely cross back and forth across the Canal as well as drink directly from the Canal. In this way, the Canal has not prevented grazing of the entire fenced area as one lot.

Therefore, based on the forgoing, Staff cannot find that the Canal prevents joint use of the property. Both the staff and the applicant have addressed this. The Hills owned the property and the Silt Pump canal; an 80 foot ditch was formed. Canals, ditches, streams are not included in the regulations today and curtailed in 1996. Staff sees the examples as for public rights of way with the difference being that certain folks can access it. This canal was created by a public entity but not for the public. Second; does this canal prevent the joint use of the two tracts. The bridge was put there in 1968 for the Hills to cross their property. A

couple of years ago, the Wilks came in for a SUP for a guest house and leaving them the ability to construct a new residence on the lower end of the property.
The canal is not fenced and they have several horses and a Lama that can drink from and cross the canal. This is Ag and residential and has not separated the uses.
Commissioner Houpt – where would the line be between the two prices of property.
Edward Wilks – on the road on the side that goes by the canal. Fence on the south side of the canal and road.
Commissioner McCown – the use of the land would not change from the accessory – the 10.6 acres transfer by deed to someone else.
Barbara Burwell – on the issue of the easement, there's an 1890 3-40-42 – in 1065 when Congress gave the notice to build – it's actually a right of way for the government. Subsequently, agreements and the amount of compensation, it's not related to a conveyance. The second point is essentially this exemption qualifies in terms of lot size, etc.
Also, if you consider this canal as a public right of way – didn't think there would be a lot of people coming in for the same thing.
She disagrees with the staff report, the state of county, state or federal public right of way. Must pay a fee to go on. She has a letter proposed an alternate. Something that's a public right of way. Avoids overhead power lines and under that definition – it does provide for the
Exhibit K – Letter from Lee Copland was submitted.
Exhibit L –Barbara Burwell's letter was submitted.
See and get some information. She reads from it. It is for the benefit of the public. Next point – preventing joint use of the tracts – staff is general misconstruing that language and eliminating everyone from having this – culverts – farmers without fences. Seems to her to limit it to only an incidental – limited track – small canal. Ditch is actually 10 feet across – can't drive over it, walk over it, exit go over the County Road and go to the other side.
Barbara's – how you - bridge – there is a bridge across the canal – based upon a driveway when the canal was constructed. Any sort of a bridge – have to get a permit and go to the Silt Conservancy to get a permit.
Edward – property use – requesting a paper boundary – everything is there – it would be a matter to have a legal designation – two separate properties.
Ms. Wilks - Financing – appraisals – no – loan goes to the underwriting – beneficial to get their property –
Edward – 80 acre property with two homes – not one like it for appraisals.
Commissioner McCown – it would allow them to see the other property. No plans to get rid of anything.

Fred –the language in the land use code has been an interesting debate. Mahan – they couldn't even qualify until the County agreed that Black Diamond Road had been there – walk across that road but the Board did content this was not denying
Commissioner Houpt – is there another way to accomplish what they're after.
Fred – if the parent parcel qualifies, then they could – came a day late and didn't take advantage of the exemption. Look at ADU's – then you're getting around. 2 – 35 acre parcels.
Ms. Wilks – look at the property – a big hill – difficult to subdivide the 35 acres.
Commissioner McCown – a legal remedy and not recommending it.
Edward – we looked at it – 5,080 (70 feet) feet hill and impractical to do this.
Terry Kirk 1500 CR 259 – adjoining property owners – letter from Lee, Exhibit K – think it's a wonderful thing however with the 3 inclusions – no security lights; no modular homes (manufactured trailer houses) not allowed; and designate an equestrian easement for public use. No motorized vehicles.
Commissioner McCown – Terry, we're not in a position to place that type of restriction.
Edward – no intention of building any other homes.
Barbara – would like to say this property does qualify for an exemption – Regulation 8.52 – the Silt canal does qualify and asked the BOCC to consider.

I. <u>STAFF RECOMMENDATION</u>

Staff recommends the Board deny the application as proposed due to the inability to make a finding that determines the Silt Pump Canal 1) qualifies as a public right-of-way and 2) prevents joint use of the tracts that comprise the Applicant's property. Therefore, Staff finds that the application does not comply with Section 8:52 of the Garfield County Subdivision Regulations of 1984, as amended, which is stated here:

"No more than a total of four (4) lots, parcels, interests or dwelling units will be created from any parcel, as that parcel was described in the records of the Garfield County Clerk and Recorder's Office on January 1, 1973. In order to qualify for exemption, the parcel as it existed on January 1, 1973, must have been larger than thirty five (35) acres in size at that time and not a part of a recorded subdivision; however, any parcel to be divided by exemption that is split by a public right-of-way (State or Federal highway, County road or railroad), preventing joint use of the proposed tracts, and the division occurs along the public right-of-way, such parcels thereby created may, in the discretion of the Board, not be considered to have been created by exemption with regard to the four (4) lot, parcel, interest or dwelling unit limitation otherwise applicable. For the purposes of definition, all tracts of land thirty five (35) acres or greater in size, created after January 1, 1973, will count as parcels of land created by exemption since January 1, 1973."

II. STAFF RECOMMENDED FINDINGS

1. That proper posting and public notice was provided as required for the meeting before the Board of County Commissioners.

2. That the meeting before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at that meeting.

3. That for the above stated and other reasons, the proposed exemption has been determined to not be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.

4. That the application has not met the requirements of Section 8:52 (Exemption from the Definition of Subdivision) of the Garfield County Subdivision Resolution of 1984, as amended, finding that the parcel is not split by a public right-of-way and that the Silt Pump Canal does not prevent joint use of the tracts that comprise the Applicant's property.
5. Fire Protection
6. School fees

Section 8:60 (I) requires the following statements be placed as plat notes on any subdivision exemption plat and other plat notes are standard for rural areas:

7. Plat notes:

"Control of noxious weeds is the responsibility of the property owner."

"One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries."

"No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances".

"Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County."

"All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries".

Severed mineral interest will be noted on the plat.
No further subdivision by exemption.

Commissioner McCown - The applicants would work with the neighbors to pursue this easement to allow public use, foot or horseback through their property onto other property to allow access to BLM, however there is other access to BLM.

Fred clarified if they can't reach an agreement, they don't have to come back to this Board.

Carolyn Dahlgren noted that this is in the representations made by the applicants.

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

Motion – Commissioner made a motion that we approve the request for an exemption for subdivision with recommendations. Commissioner Houpt seconded; motion carried.

Commissioner McCown stated he didn't want staff to feel he's not respecting their opinion but remembered a year ago when we had a neighbor to the east with a similar application before us and we found at that time that this particular ditch was a severance of the property and Larry said he still agrees that it is and will follow it on down the line. Under the circumstances given no substantial change in the use of the property, the accesses are both there for both parcels since there is an additional dwelling in this instance; the infrastructure ISDS, water is all there, this is an appropriate setting for an exemption agreement.

Carolyn asked if the motion includes the signing as well.

Fred – also wanted to clarify that the finding is a matter of practice which say that the property is split by a public right of way and does prevent joint use.

Commissioner McCown – yes, that was the basis of his motion.

Chairman Martin goes back to a public right of way which anticipated in 1902 and prior especially when there was a paten on the land and homesteaded and that was put in there to let people know that there was going to be canal through there for public purposes and it was irrigation and you have to look at the definitions are more than what we have today. The definitions of a public right of way was also a water way and also intended as being a public right of way as a water conveyance and so that's why he say's it is a public right of way, used for irrigation purposes and may not be what we think of a right of way road as constructed, but it was constructed it was a 1902 provision and definition and it was complete in that it hauls water – it's a physical barrier.

Houpt – aye – Martin – aye; McCown – aye.

Boulder Court of appeals – thru out all of Boulder's 1041 Powers. They had not been reviewed by the land board.

A motion by Commissioner McCown and seconded by Commissioner Houpt to adjourn: motion carried.

ADJOURN

Attest: Chairman of the Board

_____ _____

OCTOBER 27, 2004
SPECIAL MEETING
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The SPECIAL meeting of the Board of County Commissioners began at 9:00 A.M. on Wednesday, October 27, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

GASB 34 – AUDIT RESULTS FOR 2003 –Jesse Smith

Jesse explained the situation once again. All the former information about GASB have been received as of Tuesday of this week and will be submitting them to the board for acceptance. There are two different documents – one is the official 2003 financial statement, general purpose financial statements from the independent certified public accountants in the folder and Jesse provided a cover for the Board including a summary of major issues that the Board can note. This is an exceptionally good audit; very clean, no concerns exhibited by the auditor, no recommendations made by the audit for changes based on their examinations. The Board will also not that our financial position improved in 2003 so that the county weathered a recessionary period very nicely and that is something we can be very proud of.

If there are concerns by the Board these can be brought back in open session. The State also has to review it and if they have comment we'll have to do the research and be able to justify and if we can't, that's what we do.

Ed said this is the best audit we've ever had. With GASB is gives opportunity to do ratio analysis of the financials and it's a first step towards the balanced score card that we have been seeking.

Jesse noted the concern in getting the information back from the consultant, but once provided, it was a very well done document.

Commissioner Houpt was disappointed that she didn't have time to review this before having to accept it.

Georgia asked about a management letter and Jesse responded it was included in the financial statement itself and the comments are interdispursed throughout.

Jesse stated there was a statement that they did review the accounting procedures and internal controls and found no problems or exceptions. Page two, second paragraph was referenced.

Georgia wanted to make sure there was nothing that she needed to address.

Don commented that the Board's requirements are limited at this point; the BOCC is required to accept the report and submit the report of the auditor to the appropriate state agencies. You have very little authority to request changes or alteration in the audit itself for the very reason it is intended to be an independent audit. Your role is simply to verify that the person performing the audit is properly qualified and the audit meets the statue which is to review the financial statements and make comment on those. This is the final report of our auditor and they do not intent do make alterations to this document.

Commissioner Houpt – my assumption would be that we would not be able to make alterations, it's just nice to know what we're sending out.

Jesse called attention to Page 104 at the very back, a letter from Chadwick, etc and it speaks specifically to compliance and internal controls over financial reporting and bottom line they fine no material weaknesses or changes required.

Ed said similarly in compliance with A133 page 108, they say that Garfield County complies in all respects.

Don called attention to Page 108 and 109 and in the summary of that is really the conclusion of the entire report in which the audit enters an unqualified opinion in regard to all items set forth in the audit. With those comments, the contents of this you appear to meet state statutes.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept the general purpose financial statement and report from the independent certified public accountant of Chadwick, Steinkirchner and Davis; Houpt - aye; McCown - aye; Martin – aye.

CONTRACTS:

CONTRACT RENEWAL OF INTEGRATED MOSQUITO SERVICES – Tim Arnett and Steve Anthony

Tim Arnett presented the contract to Colorado Mosquito Control, Incl. for integrated mosquito services. The renewal begins January 1, 2005 and ends December 31, 2005. Michael McGinnis has asked for a 4.5% increase effective January 1, 2005 which makes the not to exceed cost of $104,500.00.

PROPOSED 2005 ENGINEERING AND ENVIRONMENTAL SERVICES FOR WEST GARFIELD COUNTY LANDFILL – Tim Arnett and Kraig Kuberry
This is a professional service agreement for the calendar year 2005 with Walsh Environmental Scientists and Engineers, LLC for the not to exceed price of $28,151.00 to provide engineering and environmental tasks at the West Garfield County Landfill.

PUBLIC HEARING:
ABATEMENT – TRI J LLC – Shannon Hurst
This is abatement Schedule R006446 for TRI J LLC in the amount of $1279.15.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the abatement for TRI J LLC in the amount of $1279.15 and authorize the Chair to sign; motion carried.

ADJOURN

A motion was made by Commissioner Houpt and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

NOVEMBER 1, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
a) Letter of Support for Crystal River Trail – Randy Russell
Dale Will was present.
Randy submitted a support letter for the Board's consideration for the Crystal River Trail application to the State Trails Committee. This is the third support letter from the County to this particular funding source for projects this funding cycle.
Randy explained that Dale Will did not request support for a specific dollar amount, nor did he give us specific expenditures which he understands the Committee wanted to see endorsement for in the letters, so, this letter is necessarily generic.
The letter indicates that this letter is in support of an application for funding for the Crystal River Trail, which extends south from Carbondale up the Crystal River Valley to Redstone and beyond. This is a very short segment of three miles approximately depending upon alignment of the proposed trail that exists in Garfield County for the extent between the Carbondale Town Limits and the Pitkin County line.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to sign a letter of support to the Colorado State Trails Committee for the trail; Houpt – aye; Martin – aye; McCown – aye.
Buy-Out of Leave
We've had that as a trial for the last two years and wondering if you want to continue that. Each year it has cost about $20,000 but we buy the leave for about 40 cents on the dollar. It turns out to be an effective way to reduce the overall liability to the county.
In order to qualify for the buy-out, employees have to take at least 3 weeks PDO or they aren't eligible. It does force employees to take leave.
The Board favored continuing this program.

COUNTY ATTORNEY UPDATE – DON DEFORD
Executive Session: Litigation Update; Legal Advice – Potential for litigation on Oil and Gas and potential for 1041 ruling
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
1041 Action
Don said in regard to current litigation involving Boulder County and the University of Colorado in the Boulder County's 1041 Regulations; at this juncture we've been asked to participate in an appeal of that case to the Court of Appeal and does the Board wish to do that as an individual County, as a member of CCI or both. There does seem to be some significant impact potentially.
Motion – Commissioner McCown made a motion to authorize the County Attorney to pursue the litigation amicus brief with the group Boulder County and any other county, LaPlata, Gunnison may be directly affected and pursue this and also follow up with CCI at the Legislative and Governor's level.
Commissioner Houpt seconded; Houpt – aye; Martin – aye; McCown – aye.

Oil and Gas
Jamie Atkins and Brian Mackie were present. Russell George is the new boss and asked Brian to make sure the staff at the Oil and Gas Commission are always available to answer questions.

Last week EnCana announced they reduced their number of active rigs in the by 1/3.
Speaking of accelerated development in the area, we're seeing about ½ of the drilling rigs in the State concentrated in Garfield County.
As for EnCana enforcement we have increased enforcement by increasing local presence in the area and advised the Board that the other field inspector, Jay Graybacker over here. He's been leaving in Grand Junction for a number of years. Now they have two over here – Jamie and Jay.
They are moving forward with the budget and going for yet another inspector for this area.
Jamie – having Jay move to the area and prior to that Jay has focused his efforts on the Mamm Creek area. In July, if the budget request works out, there will be an increased presence.. Moving Jay from GJ to this area will allow him 2 more hours per day. Since Jamie moved over to the area it is nice to be able to visit with folks and feel the impacts they are experiencing.
Brian said they are working to reduce the
The 33 rigs being reduced will be operating in this area where Jamie and Brian's area; this is reducing the impact on Mamm Creek. They will be working in Rio Blanco and Moffat Counties. A lot of the concerns are the proximity of development to those homes. These 33 rigs will be in areas of less population.
Jamie updated the BOCC on development giving updates on the Arbaney and Swartz wells. The Swartz well is not still leaking so he'll like to dispel that rumor. More surveys have been done and no gas has been demonstrated to be flowing. Arbaney well – they are using some additional squeeze work – they have been trying to determine the reports and it's very technical.
Arbaney well – hasn't been totally completed. Lloyd well – some changes as well. We required some additional investigation.
Continually testing on all the neighbors wells. No one anticipated that it would suddenly go away. We haven't established how wide that ban is.
Commissioner McCown asked the feasibility and legal impacts on all monitoring especially on the isotopic gas and get a fingerprint of it.
Jamie – yes. Good virgin fingerprint. Important to recognize if it is Wasash Gas. Do additional science – doing some pouring – great project – data that will uphold. This is one of the most scientific studies in this area.
Another draft later will be ready later this week.

Quick update – inclusive – redrafting the noise regulations. Engineering Dave Hill is heading up that issue.

COMMISSIONER REPORT
Commissioner Houpt – Healthy Beginning Foundation on Friday; Judge Ossola leaving and new judge swearing in also on Friday.
Commissioner McCown – this week – leaving Wed for S. Dakota – out of pocket – pheasant hunting.
Chairman Martin – quiet week

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Consider a request to extend the Preliminary Plan Approval for Spring Valley Ranch Planned Unit Development for one (1) year. Applicants: Spring Valley Development, Inc. and Spring Valley Holdings, USA, Ltd. – Fred Jarman
f. Authorize the Chairman to sign the Amended Final Plat of Antlers Orchard Development Tract 322. Applicant: Paul Rinker – Fred Jarman
g. Consider a request to extend the Preliminary Plan Approval to re-subdivide Lot 28 into Lots 28, 29 and 30 of the Stirling Ranch Planned Unit Development for one (1) year. Applicant: Stirling Sun-Mesa, Inc. – Fred Jarman
h. Authorize the Chairman to sign the Special Use Permit for "Industrial Support Facility which includes Warehouse/Staging Facilities" on a property owned by Beverly and Douglas Teter – Fred Jarman
i. Authorize the Chairman to sign an Acknowledgement of Satisfaction of Subdivision Improvements and a Reduction Certificate for the Roaring Fork Preserve Subdivision

j. Authorize the Chairman to sign a Resolution and a Special use Permit for an Additional Dwelling Unit. Applicants: Kirk & Trina Swallow – Jim Hardcastle
k. Authorize the Chairman to sign an Authorization of Partial Letter of Credit Reduction, Certificate #1, for First Eagles Point Subdivision Plat. Applicant: Battlement Mesa Land and Development Company, LLC – Jim Hardcastle.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – absent b, item e - Spring Valley, notice to remove item h and item m - no special use permit yet - Teter; motion carried.

Item e – Spring Valley – Extension

Fred stated that this is a request to the BOCC that came before them last year. The Board approved the amendment on November 3, 2003 and here we are today, the one year time deadline. The applicant has the ability to request a one-year extension and it has been common for this BOCC to approve the request.
Michael Sullivan – we have a rumor that SVD has been purchased – Jeffery Sofer and son of Don Sofer - part of the Florida – Los Vegas Development Company and not sure where this fits into the process and this request but brought it to the BOCC attention. Information was obtained off the Internet regarding the company.
Michael Gamba – representing SVR – the property is still owned by the parties requesting the extension; there has been an offer and rejected and there is no imminent sale – Jeff Sofer has noting to do with this project.
Fred In the event the ownership changes, unless the entitlement changes everything would be the same.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to extend the Preliminary Plan Approval for Spring Valley Ranch Planned Unit Development for one (1) year until November 3, 2005. Motion carried.

Adrianne Crouch – Sun Mesa/Stirling Mesa stated that she was not notified and requested that be noted for the record. She has never been noticed on any of these processes; the road is still on my property and requested to be notified in writing. She also requested help from the Commissioners to get this resolved and help her be notified.
Chairman Martin – it is a public meeting.
Don – no notice required and the reason under the amendment – minor adjustment on the road and under the regulations no notice.
Adrian stated that the road is completely on her property and there are many issues that she would like the Commissioners to review. This has been going on since 1995. To her it's a very serious issue for my property with roads, easements so please help me get a handle on this.
Don – the decision is with the BOCC – may disagree with staff that this was a substantial change.

REGULAR AGENDA
PUBLIC MEETINGS:
TRANSPORTATION ISSUE AND FUTURE PROJECTS – CDOT DIRECTOR – ED FINK

Ed Fink, CDOT Director and Doug Hayden were present.
Thanked the Chairman for the action taken at the Employee appreciation and a letter and plaque to the employees and it was very much appreciated.
Booklet passed out "Annual County Meetings – 2004 – 2005" and Ed went through the report in detail. The financial situations – revenue sources and how the funds are distributed. The entire revenue as a source is $1.186. billion –from the Highway Fund; Federal fund source of $322.9 billion; Motor Fuel tax - $577.7 billion; Miscellaneous - $72.8 billion; Other $212.9 billion. There is nothing for Senate Bill 1 in revenue. Ed explained how these revenues are distributed. Obligation limitations are put in place by the Legislature. The 2005 FY Budget has a budget of $789.1 Million to be distributed as follows:

Maintenance -	$192.8 million
Surface Treatment -	$ 95.1 million
Bridge -	$ 38.3 million
Strategic 28 Projects -	$100.8 million
Federal/Local Regional	$ 70.1 million
Operations – TC	$ 77.6 million
Operations – Legislative -	$ 22.4 million
CDOT Regional -	$144.5 million

Safety and Other $ 37.5 million

Region 3 is the largest CDOT region of 30,000 square miles and includes 14 counties with over 50 municipalities. There is 4,524 Lane Miles of State Highways; 591 Bridges, 11 Mountain Passes, 7 Tunnels, and 11 Rest areas - there are no funds allocated in 2005 for this Region. In the Intermountain TPR Region the current STIP includes: SH 82 Intersection @ Mile Post 3.7; I-70 EBY Creek Road (round-a about) and SH 24 Bottom of Tennessee Pass.

Contained in the 20year plan 2001-2020 projects include: SH 82 Midland Extension; SH 24 DOWD Jct to Minturn; SH 24 Eagle-Lake County Line (North); I-70 West Vail Frontage Road; I-70 Pedestrian overpass; and SH 24 Eagle-Lake County Line (South)

Ed said they are seeking additional funds and the Senate Bill 1 funds were critical to put into special projects.

He noted the frustrations of the local governments in the projects that have been standing in line. Any resource allocations will be made evenly distributed. Ed touched on the tolling shown in the 2007 budget and pointed out that tolling is shown in and out of the budget. New lanes could be subject to tolling. All tolling allocations and revenues are preliminary, based on a rudimentary study. A more defined traffic and revenue study is presently underway. Discussion has included a new bore at Loveland Tunnels and that designated as a tolling lane. All allocations are subject to change based on performance measures and economic conditions.

Weldon Allen – Maintenance Supervisor and Adam Padea the local supervisor for maintenance presented the schedule. In physical year 04 we actually spent $4.5 million in Garfield County maintaining roadways.

Weeds – they enjoy the Noxious Weed Programs with Garfield County – they have trained several CDOT folks and obtained 2 applicator units. He projected they are doing well with the program. Tamarisk is one of the worst enemies and they are dedicated to eradicate this weed. Russian Knapweed has been reduced in significant amounts in the last 3 years.

Tunnels – WRAP Funds – 38 people assigned to Hanging Lake Tunnels. This is not restricted to the tunnels and Weldon explained the other functions included in the expenses.

The Commission has come to the determination that the bridge funds need more allocations. There is more bridge work on the schedule for the 2005 FY. He alerted the Commissioners to some lane closures while bridge work is being completed. Glenwood Canyon is at the age where some areas need repair. Hot slurry was put in the tunnel only. Within the bores themselves it has been cost effective. Weldon said they are looking into other methods to lengthen the longevity of the roads. The communication with the Road and Bridge is most helpful and appreciated the lines of communication.

Karen – the surface treatment project for 2005 on Hwy 13 from the Interstate through mile marker 6 through town, around the by-pass route and basically it will be an overlay. We are looking at a bid option where they can do the nova chip or another method. That project skips from mile post 6 up to 18.5 to mile post 26 on Hwy 13 and working with the City of Rifle as they have other roadway projects coming up as well as we're working with them on getting roundabouts installed. A series of them at the interchange. Looks like the area close to Avon where there's a series of 3. Continue the slab replacement and major repair of West Rifle on the concrete there.

Skip – Traffic Management – Update to One-Stop Shopping was submitted to the Board. An update on the efforts they've completed in signals, stripping, etc. The summary page of the report shows a detailed report on work previously accomplished plus some projections. Garfield County gets a lot of access permits and the 20% change in traffic is a generator for signalization.

The Board thanked the CDOT staff for coming and presenting the report.

CONSIDER A PLAT AMENDMENT TO THE FINAL PLAT FOR LOT 23 OF THE STIRLING RANCH PLANNED UNIT DEVELOPMENT. APPLICANT: STIRLING SUN-MESA, INC. – FRED JARMAN

Andrianne Crouch, adjacent property owner, Carolyn Dahlgren, Don DeFord, Fred Jarman, and Mark Hamilton from Caloia and Houpt were present.

Adrianne approached the Board previously in the meeting requesting notification of a meeting as this involves her property, the road is on her property and she requested help from the Board on her behalf.

Commissioner Houpt excused herself as her husband is an attorney with the law firm of Caloia and Houpt.

Fred Jarman submitted in his report that in November 2003, the Board approved the resubdivision Lot 28

into three new lots within the Stirling Ranch PUD. A condition of approval of the Preliminary Plan for this resubdivision required the applicant to slightly relocate a portion of County Road 162A so that it would physically be located in the County road easement as the road provided access to the PUD at its main entrance. This road relocation was to occur prior to final plat approval by the Board.

As a result of this road relocation, a short length of the internal portion of the road as it enters the Stirling Ranch PUD (also known as Skipper Drive) also needed to be relocated so that it would be aligned with the newly realigned CR 162A. This internal realignment of the physical roadway (and the gate post) encroached slightly into the adjacent Lot 23 which needed to be addressed on the final plat.

Based on the forgoing, Staff recommended the Applicant amend the final plat for Lot 23 so that the newly realigned portion of the internal roadway would continue to be located within the easement dedicated for the road and not encroach onto Lot 23. As a result, the applicant submitted an application for a plat amendment that effectively expands the right–of-way of Skipper Drive so that it encompasses the physical road and gate post and thereby slightly reduces the area of adjacent Lot 23 by 0.035 acres (1,524 sq. ft.).
Recommendation:
The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. Therefore, the Planning Staff recommends that the Board of County Commissioners, pursuant to Section 6:10 of the Subdivision Regulations of 1984, as amended, approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield county Subdivision Regulations.

Fred – the applicant, Sun Mesa represented by Mark Hamilton of Caloia and Houpt, and the request before you is to amend the Lot 23 of the Stirling Ranch PUD. The whole reason we're here is originally as the board will recall, the applicant came before you last year to resubdivided Lot 28 or Stirling Ranch into 3 lots. As part of that one of the conditions that the board required of the applicant at that time was to fix an exterior road relocation of CR 162A as it came and met the entrance of Stirling Ranch PUD so that the physical roadway was in the right of the County Road Right-of-Way. They have been working to do that as was on the consent agenda this morning, there was a request to continue that Preliminary Plan so that they can finish up the last pieces of that. So they are working towards the ability to finish that project – they are close by need just a little bit more time. As that relocation of 162A comes to the entrance of this subdivision, it was apparent that they also needed to relocate an interior, slightly relocate or expand the right-of-way as it comes in the subdivision so it aligns, so it makes sense from a roadway perspective and so that's what they've done. They came to us and said well here's what the plan looks like and we noticed as the road came into the subdivision the physical roadway was slightly outside of the easement right-of-way within the subdivision. And we need to make sure that our physical roads are still within the easements. And so we suggested that they go back and amend Lot 23 because the way they had it configured, the gatepost and a portion of that physical roadway as it came into the subdivision encroached slightly onto Lot 23. So we suggested that they go back and fix this problem and that's what's before you – an amended plat to do that. What we're talking about physically, it is a segment of the existing Skipper Drive as you come in – it is about 20 feet in width and 50 feet long and that's they piece of the road that's expanded. So truly this isn't even road relocation, simply amending or expanding the road that's there now to incorporate that physical roadway and that's in the very top corner of the plat. It's about 1500 square feet of change. It seems like a lot of dance to go through but here we are. That is the request before you, is to allow this road amendment or relocation of that road. As far as the authority, the BOCC has the authority to grant this, the criteria for this application before you can either be in a public meeting or a public hearing and staff felt this road amendment was of such a minor nature that it would certainly be classified as a minor relocation of road rather than a major relocation of road – the road is still in the same place – it's simply enlarged. So with that we recommend that the Board approve the plat amendment for this and then

you should be seeing in a very short order the final plat documents for the resubdivision for Lot 28 into 28, 29 and 30. Commissioner McCown – In this area where we're showing the new alignment, what does this road intersect with?
Fred - CR162A.
Commissioner McCown – and there is a specific jog in 162A? 162A is not shown on this plat at all.
Fred – no, it's an exterior road.
Commissioner McCown – what the configuration of it at this point? So, 162A would run directly into Skipper Drive.
Mark Hamilton added the historical context. On the north side of the subdivision is a county road and on the south side of that boundary road is a dedicated private road for the benefit of the Stirling Ranch homeowners. When this issue first came up, Mark actually proposed merely an easement dedication by the owner of Lot 23 to the homeowners of a perpetual non-exclusive right of way to use that area for the road and when staff suggested no and in speaking with Fred and Don they preferred the plat amendment and we went ahead and did that. The whole impetus for this change to the alignment near the gate resulted from concerns raised by Ms. Crouch regarding a potential encroachment of the County Road, not the road that we're looking at on this plat but north of there about a 10 foot encroachment of the as-built road on to her deeded land and outside of the right of way for CR 162A. So that has now been corrected as has the alignment of the road south of the entrance as described by Fred. The resulting change to Lot 23 in terms of square footage is about 1500; that's less than half a percent of the entire Lot 23 of 8.8 acres. So it's just a tiny portion and the reason it doesn't have to go to a public hearing with associated notice requirement as I understand the Code is that it meets two conditions, one of which is that no new lots are being created, there won't be any increase in traffic as a result of this particular proposal and second that there's no major relocation as Fred just explained. The bottom line is that this was requested by County staff and the request has been met by my client and it makes no sense in delay and that we're hopeful that this new plat is now clear to everyone including the future owner of Lot 23 and it would be approved.
Adrianne Couch – 12-44-10 – stated that she was in the Courthouse and noticed that the Stirling Ranch was once again was on the docket without my notification. On the record, I've had no notices of this; there is no legal easement to the Stirling Subdivision. I've now gone back through Stewart Title, through my attorney's in Denver and Stirling Ranch has continued to encroach into the Crouch property; I believe now by about 400 feet. So there Subdivision is one, if they've had 40 public meetings then the Crouches, myself and also my family has not been notified once, then how do I come up with this situation. I would particularly like the Commissioners to go back to day one, I've spend the last 14 months in the Courthouse reviewing all of the Stirling/Crouch deeds in, deeds out, I've done now the title policies, title searches through my 3- 40 acres that is next to the Stirling Ranch, my family had one mile worth of connection to the Stirling property, we still have ½ mile next to it. I've not had any notices, there is no legal access into the subdivision which I believe the Stirling and the Commissioners have known about for the last 10-years. I am asking and requesting one more time to be notified on any changes. Just an addition, I have not seen this plat, however, just a year ago, the Stirling changed from the Sun Mesa Plat to the Stirling Ranch Plat of which they got 6 more lots just in the last year out of Lots 23 and 28 without notification of any of my neighbors. In other words these lot splits continue, they've encroached into my neighbors, I have now quit claimed deeded land I don't own in benefit to this subdivision through the 162A that was supposed to be a private road, I don't know how it's become a public road, but there's no legal access into the subdivision. I have my attorney's which would be present if I had been notified. I've spent about $75,000 in the last 1 ½ years going through additional surveyors, additional lawyers, I used private planners, I used local lawyers in the past for exemptions for my family. I would like to see some support on my side here because there's wells that the Stirling have taken over from the Barnes, which my family purchased from; water, ditches – there's not enough water up there and that's another sideline but even their surveyor through the water courts have shown they have water problems to the north and to the west which is still my property. So please, I would like a review of the whole subdivision situation, it started out with 240 acres, it's expanded and my abstracts for my family's property has some serious issues with the Stirling Ranch and the subdivision that's supposed to go in and I can't fight this by myself – I've spent way too much money trying to just figure out where is the Crouch property and I have. Coincidentally my lawyers in Denver which I was with last week was planning to write the County a letter and he hadn't just gotten it off yet to say, CR 162A is completely on the Crouch property, if you go back to the Subdivision Improvement requirements, agreed upon by Stirling, you can't have a private road going into a subdivision I don't believe, I'm not a lawyer. But the bottom line is there is no access into that subdivision which I think you

guys know and please help me to get this straightened out so I can move on and quite spending money on issues that should have been resolved with communications with my family.
Commissioner McCown – Don, Ms. Crouch alluded to CR162A – is there any doubt that this is not a public road she alluded to. He said he was under the impression that it clearly was a public road that came out in the initial hearing that legal access was available for this to happen. He said he was concerned when this changed, if it did.
Don said he doesn't know that it has changed and can't do this from memory. He didn't know since this application didn't technically involve the legal adequacy of that right of way he didn't do any preparation for it. However, from memory there are portions of that road that had to be acquired in order to reconstruct it for the alignment into the subdivision. I think it involved acquisition of right of way along the entire course of the road. From memory I believe that this was done but would have to pull the files on it and see.
Chairman Martin – better do that, but that's what I remember.
Commissioner McCown – agreed he remembered it that way as well.
Adrianne – again, not to get into it today, but with my work in the last 14 months in the courthouse just unraveling this, there was a number easements given to Stirling where they did not own the property to give the easement. And I think a year ago I showed that in the documents that were recorded by you guys but I will be happy to work through the Abstract that I have spent a year commissioned outside of this area – it cost me about $40,000 now to show all the legal easement of at least my 40 acres and there is no legal access that I know of into that subdivision at least by the Crouches.
Mark Hamilton – briefly stated on the record that this issue with Ms. Crouch has appeared before your board in various forms for many years and to allege that she wasn't provided with notice is not entirely accurate as the Sun Mesa Plat was a final plat and done in accordance with county requirements, in May of 2002 I personally brought the Stirling Ranch plat before this Board following the notice requirements and providing 200 foot statements and that is the forum in which the adequacy of legal access is appropriately addressed. It's been addressed, my client has been selling lots, these lots are being insured as to access by Land Title, if there are issues, via fence lines beyond the issues we've dealt with here forthrightly as requested by staff, there are private methods for resolution of those issues but this for this project to be held hostage to a number of suspensions that I don't believe are supported by firm's research or Don DeFord's opinions would be truly unfortunate. With that I would request that this particular minor plat change be approval
Don – nothing to say without looking at the information that Ms. Crouch has that is new.
Adrianne Crouch – What my understanding of the resolution a year ago was that the road had to be completely moved off the property to go with any changes to the final plat. I'm sorry that the Stirling Subdivision has continued to sell lots up in that subdivision but there are no, I would request that nothing be done on any more lot splits until the subdivision requirements are completed as they signed in '92 and continued to in '94. Mark is saying that I knew about these notices, the Crouches, my parents who are deceased, and my two bothers and I myself who now has 35 acres that I received in August of '89 have never received written notice one over this subdivision. Now if you can show proof that would be wonderful but one mile next to this subdivision without any notices is just completely bizarre to me and it's – I can't do this on my own and I need some help.
Mark Hamilton – no more to add.
Fred Jarman – it's my understanding when we came back last year looking at the resubdivision Lot 28 that we did do some research from a staff perspective. This wasn't in front of Fred today but the issue of legal access to the subdivision in his recollection was put to bed and in fact that was the case, there was a legal access to the subdivision. The issue before the Board is a minor plat amendment, which is slightly on the side of some of the discussion here today.
Commissioner McCown – agree that what we are doing today is solely and totally on Lot 23 and made a motion that we approve the amended plat as presented and the Chair be authorized to sign.
Chairman Martin – seconded the motion. Discussion. Looks like there is more to it that, obviously you are correct, this action today is to take care of the property itself on Stirling Ranch. The other issues are still looming in my opinion and I don't think we did put it to rest in reference to legal access and I still had questions on that as well as well as the private road. That needs to be looked at further but again that's not an action we're taking today. If that information comes forward, I guess we'll have to review it. There would have to be a request by the property owner claiming that or through 106 action saying there wasn't legal access – that would be up to the other person who supplies the information for our legal staff which we would then have to give direction to review. But that is not what is at hand today. I do recognize that is

going to be one of the issues in the future.
Commissioner McCown – I remember and was trying to get it brought into testimony, the discussion of the 162A and the need to acquire, provide, whatever additional right of way to make it meet the standards that was required. Not following up personally, but I was under the assumption that this happened prior to the signing of the original plat and even of this amendment. So I was fully confident that that had all taken place or staff would not have allowed this to come to this point. This is simply a realignment on Lot 23 which has nothing to do with access at this point, if there's an access issue I think it needs to be addressed but I don't think it would have ever gotten, this subdivision would have ever gotten to this point, had there not been a level of comfort that that access was legal.
Chairman Martin said I don't have that comfort but we'll take action on this particular issue on the adjustment of this lot that is supported by staff.
McCown – aye; Martin – aye; Houpt had excused herself from the discussion previously.
Chairman Martin – but I still feel the legal access needs to be addressed in different format.
Andrianne – I just wanted to protest what you just approved because these lots are, when you're moving the property by 1500 feet which is what was just expressed, that 1500 feet has to do with the road access, so it is in my opinion very much so, lot 23 and lot 28 have 100% to do with the road access and also for the record, again any lot changes were supposed to be required with the road information approved or finalized, not to be in a separate issue, that's what the Planning and Zoning people told you guys one year ago and that was on the record. In addition to that I would again emphasis please go back to the subdivision improvement documents that you guys pass all the time because there are things like fall back, set backs where the turnaround for the buses is supposed to be on Stirling Ranch is actually on my neighbor Denise Henderson's property and I don't believe should be taking place, so a lot of things that are happening are with my land and the people adjacent to me as well as wells, that are associated that have been taken over for the subdivision that are clearly the Couches.
Chairman Martin – now wells would be the water engineers issue, not the County because we have no authority in that particular area.

Public Comments from Citizens Not on the Agenda
319 Properties LLC – Mamm Creek
Mark Bean, Jim Hardcastle, Jimmy Sells, Don Scarrow representing 319 Properties LLC. and Attorney Larry Mincer were present.
Don Scarrow stated they are trying to get their Special Use Permit and it has been extremely difficult to get everything to the B & P Department; there are a couple of agencies that have drug their feet in getting what is needed for the SUP - Rifle Fire Department and DOW. They finally had a meeting with the DOW on Friday and a meeting is scheduled for the Rifle Fire Department today. There are no issues and the problem is if we don't have some sort of performance by the end of this week, we will lose the contract. Mr. Mincer talked to Mark Bean and they would do their review within 24 hours once we get the papers they need to them. If they do this, is it possible to get the permit tomorrow.
Chairman Martin – the B & P Department has to be satisfied that all recommendations have been complied with and it has been approved and been before the BOCC. The actual permit gets issued from the B & P; then it usually goes on a consent agenda.
Carolyn stated that Mr. Martin would have to be authorized to sign it today.
Chairman Martin could delegate authority to Mr. Bean.
Commissioner McCown even thought they review it if there were any issues, then it could be held up.
If it was just the two letters, then Jim Hardcastle could bring this to the Board today.
Mark stated that this is an administrative review; the two letters were just reviewed this morning.
Commissioner McCown stated they would lose a lessee this week if nothing is complete. If the chair is authorized to sign upon your review would that work?
Mark – assuming these letters state what we need is fine. We can authorize the building permit if all conditions have been met. If this is an issue of a building permit then it's fine. This has been done before as long as it is administratively. Jim and Mark spoke this morning and there was only the two letters needed. The Board approved the issuance of the building permit. The SUP can be on the agenda later.

CONSIDERATION OF A REFERRAL TOO THE PLANNING COMMISSION OF A SPECIAL

USE PERMIT TO ALLOW THE OPERATION OF AN INDUSTRIAL SUPPORT FACILITY FOR NATURAL GAS PROCESSING. APPLICANT: WILLIAMS PRODUCTION RMT CO. – JIM HARDCASTLE.

Phillip Vaughan – with PMC Planning and not in the capacity as the Planning Commission member but is the Williams Production RMT CO representative, Carolyn Dahlgren and Jim Hardcastle were present.

Jim Hardcastle – Building and Planning staff request the Board to determine if the proposed project shall be referred to the Planning Commission for a recommendation to be routed back to the Board of County Commissioners.

The site in question is the Williams Production RMT, Parachute Creek natural gas plant. The applicant has proposed a substantial increase in the size and capacity of the existing facility.

The proposed project is a Special Use Permit that would allow the expansion of the existing Industrial Support Facility for natural gas processing which was approved by previous Special Use Permit approval, Resolution #2002-67.

The zoning code provides the Board with the option of referring Special Use Permits to the Planning Commission for their recommendation in a public hearing as per Section 9.03 of the Zoning Resolution of 1978, as amended.

Commissioner Houpt made a motion to refer it to the Planning Commission. Commissioner McCown seconded; motion carried.

PUBLIC HEARINGS:

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO OPERATE AN INDUSTRIAL SUPPORT FACILITY FOR CO2 PRODUCTION. APPLICANT: WILLIAMS PRODUCTION RMT CO. – JIM HARDCASTLE

Ed Cooley, American Soda, Kevin Green both from American Soda, Jim Hardcastle, and Carolyn Dahlgren were present.

Carolyn reviewed the notification requirements and noted for the record that there was a ***support facility and a pipeline*** in this hearing. She determined they were timely and sufficient and advised the Board they were entitled to proceed.

Chairman Martin swore in the Speakers.

Jim presented the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Application; Exhibit G – Review memo – Town of Parachute; Exhibit H – Review Memo – Grand Valley Fire Protection District; Exhibit I – Review memo – Garfield County Road and Bridge; Exhibit J – Review Memo – Garfield County Vegetation (Steve Anthony). Jim noted that the Comprehensive Plan wasn't part of this review and that exhibit should be taken off.

Chairman Martin entered Exhibits A - J into the record.

This is a request for a Special Use Permit for an Industrial Support Facilities – Processing and Pipeline at the former American Soda site located at 4289 County Road 215, 4 miles north of Parachute on .89 acres on a total of 1333.01 acres. This processing facility and pipeline is on a small portion of the land and will be managed and operated by American Soda, LLC.

The purpose of the application is to allow the construction and operation on an industrial support facility to compress carbon dioxide gas (CO2) and a 6 inch pipeline to transport the compressed carbon dioxide gas to an industrial processing facility which was approved in 2004 as the Parachute Industrial Processing Operation located less than one mile south on County Road 215. The end product will be used a feed stock in the production of Sodium Bicarbonate. No more than 3 visits on the site per day were anticipated.

Recommendation:

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

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval, unless specifically altered by the Board.
2. The Applicant shall comply with all applicable requirements of the Garfield County Zoning Resolution of 1978, as amended.
3. The Applicant shall comply with all State and Federal regulations and standards, such as Noise Abatement, Water and Air Quality.
4. Vibration, emission of smoke and particulate matter, and the emission of heat or radiation shall comply with applicable Federal, State, and County laws, regulations and standards.

5. Any signage installed on-site shall comply with the County's sign regulations.
6. Any changes to the Special Use Permit for all uses as listed in the application as amended and the exhibits as attached shall require a new Special Use Permit.
7. The applicant shall submit a Watershed Permit to the Town of Parachute and obtain an approval, which shall be submitted to the Garfield County Building and Planning Department, prior to issuance of the Special Use Permit
8. The Applicant shall produce a signed "Grants of Easement" found in exhibit A of the application to the Garfield County Building and Planning Department prior to issuance of the Special Use Permit.
9. The Applicant shall prepare and submit a Fire Protection Plan for the proposed facility and submit said plan to the Grand Valley Fire Protection District for approval which shall also be submitted to the Garfield County Building and Planning Department prior to issuance of the Special Use Permit. The Applicant shall also submit information indicating whether all access points meet the standards of Section 902 - Fire Department Access of the 1997 Uniform Fire Code for the proposed facility and submit said information to the Grand Valley Fire Protection District for approval and to the Garfield County Building and Planning Department prior to issuance of the Special Use Permit.
10. The Applicant shall identify all ingress/egress easements to the proposed use on the maps included in the application with the appropriate book and page recording information of the legal description of said easement(s), and the recorded easement(s) granting documents(s) shall be submitted to the Building and Planning Department prior to issuance of the Special Use Permit.
11. The Applicant shall paint the deceleration (D-cell) and acceleration (X-cell) lanes on County Road 215 and shall notify the Garfield County Road and Bridge Department for inspection when said painting is complete prior to issuance of the Special Use Permit
12. The Applicant shall provide a plan for berming or containing and ultimately diverting storm wash from the Williams gas plant away from the proposed use. This shall be submitted, reviewed and approved by the Garfield County Building and Planning Department and their Contract Engineer, Michael Erion, P.E. prior to issuance of the Special Use Permit.
13. The County Contract Engineer, Michael Erion, P.E., shall also review the ESA and return recommendations which shall be considered conditions for approval. These recommendations shall be satisfied by the Applicant prior to issuance of the Special Use Permit.
14. The Applicant shall maintain and observe that all bi-products produced, waste streams consisting of spent desiccant, used oil, used lubricants, spent carbon and waste water as well as potentially, other waste materials yet to be determined, but not exclusively limited to those listed or within the application, shall be properly removed from the site and stored, recycled or disposed of in a manner that is a best management practice and considered an industry standard.
15. The Applicant shall provide a plan for industrial spill containment which includes prevention measures for all facilities within the proposed use and submit said plan to The Garfield County Building and Planning Department for review by the County Contract Engineer, Michael Erion, P.E., and Garfield County Emergency Services prior to issuance of the Special Use Permit.
16. The Applicant shall provide a weed management plan with a written commitment to inspect, monitor and be responsible for the management of any of "Garfield County's Noxious Weeds" that may emerge on private lands that are disturbed by the pipeline which shall be in effect for the life of the pipeline. Said plan shall be submitted to the Garfield County Vegetation Management Department for approval and the Garfield County Building and Planning Department prior to issuance of the Special Use Permit.
17. The Applicant shall also respond to any complaints regarding noxious weeds within the same growing season that result from the installation and management of the pipeline.
18. The Applicant shall amend the application to include the location of a pipeline easement and a powerline easement (also showing appropriate recordation information) on the submitted maps. Applicant shall submit updated maps with this information to the Garfield County Building and Planning Department prior to issuance of the Special Use Permit.
19. The Applicant shall submit information regarding plans for site rehabilitation upon abandonment of the proposed use to the Garfield County Building and Planning Department prior to issuance of the Special Use Permit.

20. The Applicant shall submit a revegetation plan that includes a plant material list as per the requirements of the Garfield County Vegetation Management Department for approval prior to issuance of the Special Use Permit.
21. Additionally, the Applicant shall quantify the surface area disturbed by the pipeline so that the Garfield County Vegetation Management Department can determine a security amount for revegetation and the Applicant shall post said revegetation security amount with the County for the pipeline prior to issuance of the Special Use Permit. 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.

Commissioner McCown – if we leave number 8 in as a condition of approval would that suffice then in taking out 10 and 18?
Carolyn – not as far as she's concerned; Jim confirmed that would be acceptable to him as well.
Jim suggesting changing those three in addition to 13 can be struck; 15 can be struck and replacing 15 with "the applicant shall adhere to all recommendations and requirements produced in the storm water management plan which includes a spill prevention maintenance plan.
Commissioner Houpt – during construction a port-a-potty is acceptable but are no long term solution as a portable toilet and if there is a need beyond the construction phase; this is very important as we have been very clear on this and if you find that you need a facility you're just going to have to go through the process for putting a bathroom in.
Ed Cooley – this is for convenience; we have a very elaborate facility at the main plant; it is no different than any other compressor station in Garfield County and questioned a need for a restroom.

Commissioner Houpt stated there are been other people wanted to do the same thing and we have not allowed it.
Carolyn noted in the list of conditions, Numbers 12, 16, 20 and 21 it's been recommended to the board that you delegate your authority to review certain documents for an administrative review and asked to make it clear if this is what you want to do.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the SUP to operate an industrial support facility for CO2 production for Williams Productions RMT Company and implementing the conditions striking 10, 13, rewording 15 and striking No.18 and included in the motion – include the appropriate bond to be held for the reclamation with appropriate security on site.
Houpt – aye; McCown – aye; Martin – aye.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A TWO-FAMILY DWELLING FOR A PROPERTY LOCATED AT 5154 COUNTY ROAD 214, WEST OF NEW CASTLE IN PEACH VALLEY. APPLICANTS: JUAN AND EDITHE AGUIRRE – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Juan and Edith Aguirre were present.
Carolyn reviewed the notification requirements and determined they were timely and sufficient and advised the Board they were entitled to proceed.
Chairman Martin swore in the Speakers.
Jim presented the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – letter from Road and Bridge and Exhibit G – letter from Coy Bretthorst and Mary Bretthorst dated October 27, 2004.
Chairman Martin admitted Exhibits A – D into the Record.
Fred stated this is a special use permit for a two-family dwelling located on approximately 7.7 acres west of New Castle in Peach Valley. The applicant proposed to convert the lower portion (basement) of a recently constructed single-family dwelling into a separate dwelling unit which effectively creates a two-family dwelling (aka duplex).
The property also contains what is referred to on the site plan as an "old abandoned house." This was discovered by the County Zoning Enforcement Officer because the ARRD zone district only allows one dwelling unit per property unless a SUP has been obtained for and Accessory Dwelling unit. In this case o permit has been sought. In a letter sent to the application on October 7, 2003, the Code Enforcement Office (ZEO) explained that the unit must either be removed from the property or converted to "storage" or other

permitted use before a certification of occupancy could be issued for the new dwelling unit being constructed on the property which is the subject of this application. After staff toured the abandoned house during a recent site visit with the applicant, the house is very dilapidated and all utilities needed to inhabit the structure have been either removed or are in that state of severe disrepair. The structure is clearly used for storage and would not be fit for human habitation without very significant rehabilitation.
Staff Recommendation:
Staff recommends approval with the following conditions:

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. The Applicant shall provide the County with the approved well permit that reflects the West Divide contract providing legal water for both units.

3. The two units combined shall not be allowed to have more than a total of 5 bedrooms unless the applicant can demonstrate that the septic system can handle the increase which shall need to be permitted by the County Building Department.

4. All lighting associated with this structure shall be the minimum amount necessary and all exterior lighting will be directed inward and downward, towards the interior of the lot.

5. The Applicant shall cut down the tree identified by the Road and Bridge Department that poses a future visual safety issue. This shall occur prior to the issuance of a Special Use Permit.

6. The Applicant shall be required to obtain a new building permit which conforms to the International Residential Code (IRC) requirements regarding the separation of two dwellings by a 1 hour fire rated assembly prior to the issuance of a Special Use Permit.

7. The Applicant shall not convert the "old abandoned house" on the property to a dwelling unit unless the proper land use permits have been obtained by Garfield County.

Applicants: they are conservative with the water and do not have any intention of using any more water than necessary. The fruit trees yield are given to friends and neighbors.
Public Testimony
Howard Stapleton – an adjacent owner to the property. Seen a lot of things happen, Peach Valley, Cedar Hills, people leaving and splitting their property. This property does have a house on the property that is dilapidated and no water or septic and is not usable; surprised that it hasn't been torn down. Opposed to this because of the precedent this would be setting for a two-family dwelling.
Ryan Murr – lives across the road and stated that his well is low producing – as more wells are put in it is a concern.
Richard Murr – questioned why he did receive a notice? This was brought to his attention today. He asked whether or not the 7.17 acre parcel can it be further subdivided.
Fred – yes, it can – it's in a zone district that allowed 2 acres; this is not before the board today.
Mr. Aguirre admitted that he did forget to notice Richard Murr. Yes, they will want to have a house available for their children so they may want to split the property.
Richard Murr – on the well situation – Peach Valley is not ready for a duplex zoning and the wells are a problem. This would rob the families of the water available.
The record reflects that he did not receive notice of this hearing by his presence here today.
Eldon Thurston – no notice received but he is not within 200 feet; his concern is if we start turning these houses into two family dwelling, then there will be added traffic on the Peach Valley road – roads are hazardous due to the narrow width. He had to drill a new well and the more well permits given, the more water problems. He's opposed due to traffic and the water and the precedent setting in Peach Valley.
Chris Vigil – neighbor to the East – property values and water are his concern. He hauls ½ of his water right now and this is not the right place to do this. If sewer is in there in the future okay, but not now. If we start letting people have two families in a place it is too much. Like to keep it as agricultural.

Howard Stapleton – hauled water all winter, there is irrigation water from the Roseman ditch.
Commissioner Houpt – for clarification – the number of rooms allowed does not surpass the amount in the original building permit.
Commissioner McCown – said you all are missing the point – it's a legal use as long as it's family – a use by right – merely for a family. If you are planning to sell the house and allow two families, that's different but there is nothing to disallow your children to grow up and live in the basement.
Mrs. Aquirre stated we are extremely conservative with water and did not have a garden this year as we didn't want to add impact. This is a future plan. There are accessory dwelling in the area; Howard Stapleton has an accessory dwelling. They are not doing anything differently.
They have purchased water from West Divide and an amended well permit is being requested by the State Engineer. The permit today includes 4 bedrooms and only one bedroom is proposed in the lower level. Staff suggests they stay with the 5 bedroom limit as the septic system will handle that occupancy.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special use permit for a two-family dwelling for a property located at 5154 County Road 214 for Jan and Edithe Aguirre with the conditions presented by staff. Commissioner McCown sympathies with neighbors in the area if in fact they think this is going to create a precedence but it sounds like there's clearly a precedence been set with accessory dwelling units. These are visible from the road, these clearly use additional water. The way this is set up he doesn't see a particular impact to the water and the thing that everyone has to remember is the state permits the water and as long as they permit the wells they can be drilled. There's no guarantee for water and not saying it doesn't impact the neighbors but we all have to remember that we are in the middle of a ten year drought but there's wells that have failed in the last few years that haven't failed for years so I don't know if allowing a bedroom in the basement of a house is going to create that much of an impact when in fact that house could have had that bedroom anyway. These boys are 10 and 11 year; I don't envision them being out on their own for the next 6 – 7 years at least. I don't see an immediate impact from permitting this and that's why I support it.
Chairman Martin – I don't even see a need for it because I think it's a use by right just to have your bedroom with your kids down in the basement and if you want to separate them and not have a stairway, that's they way I would go and not even apply for it. Also, I will tell you you're going to need a cistern to hold water in the winter if you don't have it already since I have property down there myself.
Houpt – aye; McCown – aye; Martin – aye.

CONSIDER A REQUEST FOR VESTED PROPERTY RIGHTS FOR THE LAKE SPRINGS RANCH PLANNED UNIT DEVELOPMENT (PUD) AND REVIEW OF THE FINAL PLAT SUBMITTAL FOR BLOCK ONE (1) OF LAKE SPRINGS RANCH PUD. APPLICANT: BERKELEY FAMILY LIMITED PARTNERSHIP – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, John Schenk and Miriam Berkeley were present.
Carolyn reviewed the notification requirements and determined they were timely and sufficient and advised the Board they were entitled to proceed.
Chairman Martin swore in the Speakers.
Fred submitted the following Exhibits: Exhibit A – Proof of Publication; Exhibit B – Garfield County Zoning Regulations of 1978, as amended; Exhibit C – Garfield County Subdivision Regulations of 1984 as amended; Exhibit D – Staff Report dated November 1, 2004; Exhibit E – Development Agreement; and Exhibit F – Final Plat.
Chairman Martin entered Exhibit A – F into the record.
Fred submitted a memorandum to the County Commissioners stating that the Board approved the Lake Springs Ranch PUD on June 18, 1970, memorialized in Resoltuion No. 79-63, which zoning allows 195 single-family lots, 3 multi-family residential cluster housing lots, and several large tracts of open space. Subsequently, the Board approved two amendments to the PUD which reduced the single-family lots to 194, increased the multi-family cluster housing units to 4 and reduced the percentage of lots to be contained in the first final plat form 25% to 10%. The PUD was approved with a 5-phase phasing plan. The request before the Baord is to plat phase 5 of the development.

On November 12, 2002, the Board approved the preliminary plan for Lake Springs Ranch PUD pursuant to the zoning established in the PUD, which is memorialized in Resolution 2002-109. Most recently the Baord granted a 1-year extension to file the first final plat with the County to November 12, 2004.

The request is for the Board to (1) grant vested property rights to the Lake Springs Ranch PUD pursuant to Section 14:00 of the Subdivision Regulations and (2) approve the final plat for Filing 1 of the Lake Springs Ranch PUD (Phase 5) pursuant to Section 5:00 of the Subdivision Regulations.
Vested property rights means the applicant maintains the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan for a three (3) year period without being affected by subsequent changes in County land use regulations.
Realignment of CR 119 – the applicant has committed to conveying right-of-way to the County for this realignment at the time of actual construction of the new CR 119. There will be no need to realign CR 119 and vacate the old road easement unless the applicant contracts to sell, sell or otherwise transfer the 21 lots.
Applicant:
John Schenk – CDOT has been working with us and we have something we can live with and the staff was helpful in expressing to CDOT their concerns with respect to the intersection of CR 114 and Hwy 82, it's a significant problem and we're a very small part of it – we've committed to becoming a part of it. One of the things we said to CDOT and certainly commit under our development agreement is that we're not going to peace meal the project so that we would always be under the 20% rule that triggers improvements, we would also cumulate that work. The notion of what was going to be done at the time of preliminary plat approval did not concern anything about a conservation easement. We have pursued this with staff and presented the Board with a document that does not require that as a condition of approval. It can't be or it fails because of the rules that you cannot make it a condition that this happen in this way – it's not set up that way. But on the side, John stated, as the agreement contemplates, is there is an incentive built into this project which will take it that way and very confident that will occur but that is not a confidence that you should just hold onto to, you should simply say is this project going to work otherwise. And we're going forward with this particular filing and this particular area because of the problems of the road relocation and it involves the Chenoa/Spring Valley Ranch project and the unsettled nature of that project and how we would do it in any other part of this project. In September the BOCC allowed us to amend the PUD to allow 10% to go forward, we brought a plat which has 10% and it was brought forward in that way. What he wanted to do and was very frank with the staff as they were with me, is we want to create a Subdivision Improvement Agreement that recognizes that if that did not happen, we would not have to built things we would not have to complete things, we would not have to have plat in place as long as that occurred. And we worked our way through this process. What you have before you is a little different but not remarkably different. John was trying to remember in the 70's there were projects that didn't have letters of credit attached to them, there were prohibitions against development. What you have in this project is and what we propose is that you would sign an SIA that has an absolute prohibition on lot sales, most offers want as soon as they leave here, in fact there is a band of realtors sitting outside with contracts in hand trying to sell those lots because that's where the money is and if they have a lot that's recorded, if that's plat recorded they can sell lot 14 to somebody and get their money and all of the sudden the developer's working on their nickel rather than on their own. You have had projects and one in New Castle at least a Preliminary Plan they just went ahead and did all the improvement and never came to final plat until it was all done because they didn't want it to go through that onion process. So there are ways to solve the problem. In this case, what we've done on the plat tendered to you is to put two conditions that are absolute pull outs of the SIA agreement that says you cannot market, you cannot do anything, you can't take a reservation on a lot until all the improvements are done. And in that case we can't sell it – there would be a prohibition. We put a hook in it that's even stronger than that on the development agreement and would like the Board to sign the vesting part is because it says, that we can't bring another plat to you until we finish this final, until we complete it, so that means we have risks, 90% of the lots and that approval process are limited to basically put those on the table, we'll finish this project, we'll finish these 21 lots and get them completed because we can't come back to you for a second filing on anything without that being completed. So that's to me a huge incentive for any developer no matter how greedy you might imagine to me. We'd never do that because he would shooting himself to 90% of his foot. That's what we have done in this process. We looked at that, we looked at other things and said the reasons there's a road impact fee, school fees, or whatever, is because they're going to be impact to the schools but if there is the conservation easement put on it, those impacts will not be felt, they will not be experienced any respect. If you don't create an impact we're going to encourage you not to worry about that particular fee. In this case it isn't a refund, it's a matter of credit to the future whatever the future might hold as far as the rest of it. It's not like we have committed to get the money back, you'll hold the money until filing no. 2 someday shows up for your consideration. Everything else through a lot of effort has been complied with as far as all conditions of

approval, all the conditions or your Section 5 of your Subdivision Regulations.
The no sell prohibition lets us not have to obtain a letter of credit or other collateral which is not insubstantial a lot of money and it would be particularly ill spent if the day after we got the LLC so we can record the final plat there was a conservation easement and came off, we'd enrich a banker but who would care about that.
Chairman Martin – who's holding that now – you hold that conservation easement.
John Schenk – we'd love to have the County hold it.
Chairman Martin – we don't hold them.
John and Don talked about that and explored that possibility. We would like to get this done and then we'll work on it – it would have to be a qualified conservation entity and we hope to get that done before the year is out. It has to be on the record that we're not looking for that as a condition as that would taint the process but you can see the incentive built it to us to do that.
Carolyn – there are two different forms on an SIA that have been provided you – one is the traditional one with the letter of credit in it, the other at the bottom you'll see the word processing signature on it, says LLR PUD SIA LOT SALE PROHIBITION, if you'll look at paragraph 11 of page 6 – that tells you what happens if a conservation easement is goes into place and what happens if the conservation easement fails. Also wanted the BOCC to know that the State Statutes do indeed have a place for using as security for an SIA a Prohibition on the Plat and of that document including a part of the statutes which say that should a sale of a lot go forward in the place of a plat restriction, you and other interested parties have the right to seek recession of that sale. The alternative SIA that's been presented to you we have worked it over and over again and Carolyn said she believes the security is there in line with state statutes.
Commissioner McCown – is this a tangible security.
Carolyn – no sir, the security is if they cannot sell a lot and they can't bring you another filing. Collateral – same thing – state statutes contemplate collateral being a prohibition on sale. The county could actually redeem that because the development is not going to happen.
Commissioner McCown – the only reason you would want collateral is a development gone bad.
Carolyn – what paragraph 11 says is that if in the future the conservation easement goes away, then the need for security in the tradition sense arises again and John Schenk added language at my request that says, the BOCC can require the developer whoever that is at that time, to give you new cost estimates at the future values and bring in you collateral in the more traditional sense at that dollar amount.
Commissioner McCown – only on this filing.
Carolyn – yes, all this has to do is with this one filing.
John Schenk – the term security in the statutes is a very broad term and it's not a matter of securities or bank instruments. In the old days actual deeds of trust on the property itself in notes were given by developers to the County as one form of security so there's a promissory note from the developer and he pledged the land to do it. The wrinkle has always been that the developer's half way through a project and fails and he's already sold lots to the public and then how to you get the thing fixed. Well that's what the letter of credit always did, but the issue is that he had sold lots. If he hadn't sold lots there's no risk so the security in that is that no one can sell the lots until that happens and additional security in this is the fact that you can't develop the balance of the property without finishing this up so the BOCC has that security as well.
Commissioner McCown – you're asking us today to vest your rights in the entire subdivision.
Carolyn – no, just this phase.
Commissioner McCown – so we're being asked today to vest the rights in a likely conservation easement?
Carolyn – no, you're being asked to accept alternative security in the event that a conservation easement may or may not happen.
Commissioner McCown – what we are going to get in our hot little hand as security.?
Carolyn - An SIA that says they cannot develop and a plat that says an absolute prohibition on selling lots.
There's no risk because they haven't started developing anything. This is very innovative and the Board applauded it.
John said the risk is that again the last project you approved, they could sell it as soon as that plat was recorded, they could sell lots and getting money from x, y and z. And that money went to the owner and he chose to use that money as he chose. If he blew it you had an engineering estimate and you had a letter of credit from the bank that the County would have to go and do that and that's how you let him go sell those lots early, but as the statute does say and has happened, there's no person to be harmed but it, then you can sit on there and say when you get this done and when the county engineer has agreed that all these

improvements are done, then you can start selling lots – no body got hurt. Then that owner had to build the roads, put the water in, and we could do all that stuff, we have to do it in a year, and if we do that, we come back to you and say we've done it all, here's Michael Erion's report that says you've done it all and then you release on the plat the prohibition on sales and we go ahead. We can do it the other way if you say we have to have a letter of credit or other security it can be done. It wasn't their asking that we can't get that, the entire property is free and clear right now. The LLC is obtainable it's just sort of like some of this other stuff, it's a profound waste of money and he was saying the statute allows it, got the staff to say it does – we haven't seen it and it's out of the ordinary but it's okay and that's all we're trying to do.
Commissioner McCown – almost seems like we're going to be in the second position on a note if there's a conservation easement.
John - No, what will happen is, we're going to place part of these lots and some additional open space that's covered in this plat will be placed in a conservation easement and the county still has a road in it, still has its rights, still has everything and what this says so long as that's in place and as long as it remains, you don't have to finish the subdivision and then it stays ag land as it is.
Carolyn – they'd be no improvements to construct.
Commissioner McCown – no but from a marketing standpoint there will be a vesting fee on this piece.
John Schenk – the PUD approval for this development/project says we have to bring this plat to you and the rest of the subdivision has to be completed in 15 years – it's a long time that the statute says, and the reason was to give the County another piece of paper/security that said you've got to get this finished and to give you more comfort to protect the whole issue that it will be done.
Chairman Martin – in reference to the realignment of CR 119, this states you will convey it to the county at the time if it is needed. Who pays for the realignment and the building of the road.
John Schenk – we do. Carolyn and Don both brought it up on the road was the idea is this road would be relocated along the current plat and it would be surveyed at the time, it's drawn on this but about $700,000 or whatever to rebuilt that road and then we would vacate the other one in the process and dedicate this one so there was a road in place.

Carolyn - Paragraph 5 clarifies that.
Fred noted that the cost is rolled into the Engineering cost estimate and included in both versions of the SIA.
Carolyn – Statute 30-28-101(11) does define collateral or security for an SIA to include restrictions on the conveyance, sale or transfer of any lot.
Staff Recommendations:
Staff recommends the Board grant vested property rights to the development as requested. Regarding the issue of alternative security or collateral proposed by the Applicant in the SIA, the Board has completed discretion to accept alternative forms of security. The Colorado Revised Statutes (30-28-137 (1)(a)) states that the security provided in the SIA must be "collateral which is sufficient in the judgment of the Baord to make reasonable provision for the completion of said improvements in accordance with design and time specifications…"

It appears that the access permit from CDOT remains the only unsatisfied issue before the Baord at this time.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the requested property rights for the Lake Springs Ranch PUD and authorize the Chair to sign the Developmental Agreement and the Mylar.
Don – the vesting procedure is to invest your right to eventually the entire PUD as approved.
Houpt – aye; McCown – aye; Martin – aye.
Commissioner McCown made a motion to approve the modifications of the subdivision improvement agreement regarding the terms of security and authorize the Chair to sign the SIA as modified.
Commissioner Houpt seconded. She clarified that the motion includes the second versus of the SIA as presented. – Yes and all the prohibition of sales, etc. Called Lot Sale Prohibition". Chairman Martin – it is new but sound comfortable. Houpt – aye; McCown – aye; Martin – aye.
Carolyn - The restriction is on the face of the plat and well as on the SIA.
Before they could sell anything they'd have to have an amended plat.

A motion was made by Commissioner McCown to approve the request to place the deeds on the open space and utility easement into an escrow account whose terms are governed by the document escrow agreement and authorize the Chair to sign said agreement. Carolyn – and that means that bottom line on that, one year from today, those deeds will be distributed by the escrow agent and sent over to the County Clerk to be recorded so that the HOA will own the open space and the utility easements. Commissioner Houpt seconded. Houpt – aye; McCown – aye; Martin – aye.
Commissioner McCown – questions on the crediting of the impact fees.
Carolyn said the developer will have to deal separately with the school system and the fire district; you're regulations as Fred said do not speak to it. That doesn't mean that you can't do it.
Commissioner McCown – in addressing number 5, I don't know that we can make that in the form of a motion.
Carolyn – does number 5 include all of the impacts?
Yes – it just says of the presently required impact fees paid to the County for Filing 1.
Fred – the reason this was in there was that was John Schenk's request.
Carolyn – in the SIA to the extent credible by the County.
Chairman Martin – the motion should say that as well.
Carolyn – all you can act on is your road fees.
John Schenk – the fire district fee was paid to Carbondale Fire District and they have the check.
Don DeFord – this is a new development and he wasn't aware that John Schenk was going to ask to waive fees; but the school site acquisition fee is statutorily required at the time of final plat.
Commissioner McCown – we're not waiving them, we're collecting them for this and holding them and if it goes into a conservation easement they would not apply and they want them to be applied for future lots that are developed.
Commissioner Houpt – but what we're also seeing is that we aren't going to make that determination for the school fees or for the fire district fees because that has to be separately negotiated.
Commissioner McCown – all we're doing is for the road impact fees. We would hold those road impact fees at this conservation easement comes through until there are 21 lots and then it would be applied then.
Don – for a number of reasons I don't think the road impact fees are a problem. One thing you haven't discussed for instance is they're required to make substantial road improvements actually and there's a provision in your regulations that allows those to be waived if those improvements equal the fees and Don is relatively certain that the relocation of CR 119 will equal the fees. The school fees are a concern and the reason he started off on waiver is that by law, I think those need to be paid at final plat and once they are paid.
John Schenk – no, they have been paid. They have a check.
Commissioner McCown – both, fire district, road impact fee, and school have been paid.
Don – right – once they are paid, the County loses control of those fees, they go to the Treasurer and then they are turned over on an annual basis to the school district by law, so I don't think there's anything you can do to affect that. The fire district impact fees are a creature of your creation. With those fees, again those are paid directly to Carbondale by the BOCC's direction so if you're following your policy, again, the County's lost control so you cannot say at this point what can be done with them.
Commissioner McCown – so we cannot make a motion on number 5 to adequately address anything other than our road impact. And if the actual road improvements done by the applicant outweigh the road impact fees they don't have to pay them anyway, so why would we hold them?
Carolyn – because all we're dealing with right now if Filing 1 and this is the only way we could handle it without knowing what will happen in the future. There will be road impact fees on Filing 1 and the BOCC has received that check.
Commissioner McCown – the Applicant testified under oath that they would pay for the improvements, the realignment of that road when it was necessary and convey it to the County – County Road 119 – yes.
Carolyn said you've got more than one County Road being impacted here.
Fred – it has to a specific request to exchange that, they're not saying that just yet, they could.
Carolyn – strongly suspect they will do in the future.
John Schenk – yes and he respects that. If we post the collateral for $700,000 of road stuff, you don't get the check for $22,000. So maybe that shouldn't be in the SIA. The staff picked up the fact that we needed to build CR 119 because the first SIA didn't have it in there so it went from $205,000 to $2.7 to do that and we've got that in there and in the bouncing back to get it done we didn't talk about the fact that that would

be a credit against the road improvement fees so left it in along the way to my shrink. So if it's in the estimate, then it would not be in the money. So if this is the case we're going to do that and ask that
Carolyn – confused. What about the other road? CR 114.
Fred – it's clearly at the discretion of this board whether they want a credit whatever obligations that a developer is willing to make against whatever fees are there. So, it's really their call. The specific request has never been made.
Mark Bean – the other road is not an issue. The impact fee is to all roads for that area that affects all roads not a road.
Carolyn – that's my point. So that it would only be in the future when the road was bonded, CR 119 that we could credit back or make any kind of an adjustment.
Mark – they're including security or agreement here as a part of that.
John Schenk – paragraph 2 of the approval of the preliminary plat required this amount to be paid and it was calculated but we never, staff and I, really never talked about if we built this much road, the credit against the construction against that fee, so that's where it was and we just brought it forward and really didn't pull it out so it's not in the SIA per se, the SIA as good as it is, is a matter of whether you have to get the $22,000 and have it.
Carolyn – that's a straight out condition of approval isn't it. Yes. And we can't be asking the Board today to amend the Resolution. Right.
John S. the resolution says any part of the submittal, the applicant shall include an analysis of traffic impacts include at least 50% of that fee at the time of platting and include any disclosure statements perspective and new property owners statement that they would have to pay the remaining 50%; it didn't say we had to pay that money no matter way, it said that we had to do the traffic analysis or impact and Don brought up the point that you're really entitled, if you do the work, you're entitled to the credit of the work.
Commissioner McCown – and number 5 is all about $22,000.
Fred – no, it's $45,000 altogether.
John S. – what I said in the SIA and Don wasn't part of that, but I said "to the extent credible." There's two different components there; number one you're the collecting agent and number two is we know we have to go deal with Carbondale Rural and the School District say we haven't built these units and would like these units credited across and we have to make our own peace treaty with them and didn't want anything in your regulations to take it out of your hands to be able to waive it. That they said no, so we've got to collect it instead because yours is an absolute duty to pass across and I wanted to say to the extent credible only in the sense that your regulations would require you to collect that money not that you have any say so about whether or not in that grey area and he was trying to think through that and "to the extent credible" we would get a credit. If it isn't credible, you get nothing.
Fred – Condition No. 2.
Carolyn – and include at least 50% of that fee at the time of platting.
Commissioner Houpt – so the commitment would satisfy that requirement?
Yes. So we don't need number 5.
No. 6 – Commissioner McCown made a motion that the Clerk and Recorder hold the final plat until such security in the form acceptable to the Board has been deposited with the County and at which time the Clerk may record the final plat and associated documents which include the SIA, the Developmental Agreement and the Document Escrow payment and the Chair be authorized to sign. Commissioner Houpt seconded. Houpt – aye; Martin – aye; McCown – aye.
Mark – you may want to go to a number 5 crediting them for the security that would normally be required through their commitment to make the improvements to CR 119 road to satisfy Carolyn's concern about their being some acknowledgement of this money not being paid.
Don – use the portion of the amount that it's going to cost to rebuilt CR 119 as payment of fees. Rather than paying you with a check they would pay for the road. That commitment is in their agreement. So recognize that meets their obligation. So then you're not amending the Resolution.
Commissioner McCown so moved; Commissioner Houpt seconded. Chairman Martin so that's understood. Houpt – aye; McCown – aye; Martin - aye.
Carolyn did the motion include getting authorization of the Chair to sign all of the different documents. Yes including the final plat. That was on each motion.

Oil and Gas Development – Executive Session

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

CEBT and How It Affects Our Budget

Ed stated we converted to a new health plan last year and the big difference between CEBT and the County health pool is that the County Health Pool implemented their increases on January 1st; CEBT does it on July 1st so there's a 6-month lag. From a budgetary standpoint that causes a real problem because you have to estimate what the increase is going to be and we've done that based upon discussions with CEBT so the County's covered. Ed is concerned about the employees and doesn't want to is guess what the increase will be and overestimate and cause the employees to be penalized by it. He suggested is that we lag the increase for employ– July – budgetary creates a problem. The County is covered. Concern the employees – don't want to guess the increase. Ed suggested to lag the increase and when CEBT announces in July what the increase is, we simply take that back to January of 2006 and apply it to employees at that time whatever that percentage increase is for their share of the cost of the benefit. What he is asking the Board to do is front that 6 month lag and the cost of fronting that 6 month lag would be $25,000.
Commissioner Houpt asked what would happen if we change companies again.
Ed said when we change the programs it will stretch to the July and we will simply. Employees won't get hurt by this lag.
The Board didn't have any problem with this.
Ed will incorporate into the budget discussions.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

NOVEMBER 8, 2004
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, with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Dave Farce- inquiry - Conditional Use Permit – Landing Strip
Dave stated the compliance officer issued an enforcement letter to him dated 9-18-04.
Chairman Martin stated on November 15, 2004 it will be before the Baord.
The Board will contact Mr. Hackett as well as Dave Forrester on the complaint issue.
Landing on a field and consistently using that field for landing are different things.
Don stated he was aware that these letters have gone out. This is Mr. Forrester's recollection.
Dave referenced Wayne Rudd and the Spring Valley landing strip and there are at lots of the ranches that have landing strips as well.
Don in that context – it would seem to me if someone lands incidentally – but if it's a continual use. He is not the only one. For whatever reason this came forward as a complaint – Mr. Hackett was up there – inspected two years ago. Mark Bean came in – before the Board enacted any enforcement action there would be a meeting with the Board to discuss this fully.
Steve will come in and explain why he feels it is a violation of the code.
Don – regular use of landing and take off does make it a landing strip – whereas one or two times do not.

COUNTY MANAGER UPDATE – ED GREEN
a) ***Employee Benefits*** –
a. Employee Assistance Program – CIGNA Behavioral Health's Privacy Addendum
Judy Osman and Carolyn Dahlgren presented.
This is an update of HIPPA.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the HIPPA and authorize the Chair to sign; Houpt – aye; Martin – aye; McCown – aye.
b. Gallagher Benefits Services – Letter Agreement/Consulting Services
Judy Osman and Carolyn Dahlgren were present.
This is the County benefits management consulting services. The term of the agreement is January 1, 2004 through December 31, 2004.
CIGNA has requested that the Commissioners sign an Agreement for consulting. This is under Illinois law.
This was held over until November 15, 2004.
Resolution from the Energy Advisory Board- CULMULATIVE IMPACT STUDY
This is asking that the Commissioners fund the Performance of the Cumulative Impact Study and Ed indicated to them at the meeting that it was indeed incorporated in the budget and that it looked likely that it would be supported.
Air Monitoring Proposal
Ed stated that Doug phoned him and told him that DOLA had voted against the Air Monitoring Proposal for two reasons: a couple of people on the committee felt that if it went ahead then both us and the Oil and Gas Industry would be on the hook for many additional costs associated with it.
Commissioner McCown stated we were given warning about how that particular grant application was going to be viewed.
Ed said the second reason for denial that they gave was they felt that it should be borne totally by the oil and gas industry.
Commissioner McCown – that's fine but we've down that road on the validity that the study is given when they do pay for it.
Chairman Martin wants to reconsider and see how we can go forward with it.

Commissioner McCown – they were also considering that we've submitted grant applications several times with a lot of money in the last year and they just didn't want to say that.
Ed said we have already programmed about $125,000 in capital for this project so now we need to decide if we want to take on the $189,000 and proceed.

Executive Session requested to discuss contract negotiations issue with CSU Extension.

COUNTY SHERIFF UPDATE: LOU VALLARIO

a. Consideration of Amendment II Emergency Fund Contract Agreement for Forest and Watershed Fire Control

Sheriff Lou Vallario, Jim Sears, and Ron Biggers were present.
The Colorado State Forest Service send participant counties an estimate of next year's cost for participation in the Emergency Fire Fund Contract Agreement for Forest and Watershed Fire Control. The advice letter this year has a dual purpose: conveys your 2005 assessment for budgeting purposes; and advises of an increase in assessments for 2005-2006. Therefore, Impacts on the EFF have increased dramatically since the 1999 fire season. The 2005 individual county assessments have been increased to bring $500,000 into the Fund, and the per county cap on annual assessments will be removed. In 2005 individual county assessments will increase to bring $1,000,000 annually into the fund.
The Garfield County assessment for 2005 will be $13,539.33 based upon bringing $500,000 into the fund. This adjusted amount is in the budget.

Lou submitted the EFF Contract Agreements amendment addressing the adjustment for 2005. He requested the Board sign this prior to January 1, 2005.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Amendment II Emergency Fund Contract Agreement for forest and watershed fire control in the amount of $13,539.33; Houpt – aye; McCown – aye; Martin – aye.

b. Discussion and Consideration of Request for Payment from Carbondale & Rural Fire Protection District

Sheriff Lou Vallario, Jim Sears, and Ron Biggers were present.
Lou submitted two separate billings received from the Carbondale & Rural Fire Protection District for costs incurred by that District in the suppression of the High Aspen Fire during the course of August 2004.
Lou stated they did apply for the EFP funds and he is still trying to put together a meeting. This was after the 24 hour period.
Don – this is a question of whether the County is obligated to pay this or should pay it. There is not a legal obligation to pay the bill but it may be appropriate to pay it.
Lou stated the EFP should pay for it but this more complicated. The property owner was charged, he filed a law suit and that is pending. The fact that the Carbondale Fire Department did come to the aid of the Sheriff and this is under $15,000.

Agreement with AOP

Lou stated the Sheriff is responsible for all wildland fires in the County and occasionally we have fires that occur on private property, state property is not within a fire district, we're responsible for the language says "control or extinguish" but we've been pretty much an extinguish type policy as there is nothing as a controlled burn. As a matter of contract along with our annual operating plan, we entered into a mutual aid agreement that all the fire districts have already which they provide 24 free services on a mutual basis and then after that they start charging and whoever calls for their aid pays the bill. We entered that obviously because we virtually no fire fighting equipment and this would be a good way to have assistance in helping with the fires. This has worked and they've never turned us down in offering to help with fires. We've always managed to collect EFF funds for these fires or go into a federal system. This one at the time when we applied for EFF it scored out as an EFF fire but EFF denied it saying it didn't meet certain criteria, so we're in the middle of resolving that disagreement. Before we go any further as to who needs to get paid for anything, wanted to let the Board know that we are trying to put together a meeting. It was an EFF fire and pending that discussion and going back to our agreement with the AOP, Carbondale Fire District came to us in the High Aspen Fire and they assisted us and occurred some costs with that so they've submitted a bill to us saying here's what the deal is after the 24 hour period and that's the discussion with Don and Lou

– who's responsible to pay; are we by our AOP there are alternatives in the statute that the fire districts can go after the property owners, something we can't do, so it's an awareness and discussion item.
Don sent a memo on this last week and it really comes down to a question of whether we're obligated to pay it or whether you should pay it and those are different issues. For funds you haven't appropriated and budgeted and under the statute there's not an obligation, legal obligation to pay the bill. There may be appropriate that you do that and you can do it, you're authorized to do it.
Commissioner Houpt suggested to wait until Lou has the meeting with EFF.
Lou said yes, some of the concerns they had generally is with the public property and structure danger and it this case it wasn't immediately.
Jim Sears said there were houses close by.
This opens up a discussion for future issues – this one is more complicated and we did cite the property owner for a fire ban violation, he hired a private investigator who determined that the fire didn't occur on his property so we've got that going on as well. What it gets down to is the statutory and the right thing and when we enter into an agreement with fire districts because we need help in fighting our fires, there is some obligation on our part to make sure we see that through. The fire district can go after the homeowner individually. This is under $15,000.
Commissioner Houpt – when she read through what the BOCC received on the annual operating plan, it looked like there was an understanding that we would pay under certain circumstances. The cost of litigation and everything would probably cost a lot more than the $15,000 and personally like to wait until Lou has the meeting with EFF but would support the idea of our looking closely at paying this instead of putting them in the position of litigation.
Commissioner McCown – has a philosophical problem – I don't Ron and his people to be out this money but don't think its fair to take the taxpayers money in the rest of the county for this group who doesn't want to become a part of a fire district and that's exactly what we're doing – we're paying their bill to fight their fire for them because they chose not to become a part of the fire district and we've had this talk along time about all of that area up there that is outside a fire district. Now whether no body wants it in their fire district, the bottom line those people haven't lined up at the door to form a fire district or become a part of Carbondale or Glenwood. That's what needs to happen. There's a huge block of property up there that is not covered by any fire district that this could be a recurring thing every year.
Commissioner Houpt understands that portions of that area have tried to get into the Carbondale Fire District.
Chairman Martin things the Carbondale Fire District is over extended in their distance and response time and Ron's made that clear in his discussions with us.
Commissioner McCown - Carbondale ended up fighting this fire and wanted paid for it and it's a justifiable bill, but that money is coming from everyone else in the County that has already paid that belongs to a fire district somewhere.
Lou agreed with Larry and would like the entire county to be part of a fire district.
Commissioner McCown – especially any private property owner.
Lou – going back to the statute of what the Sheriff is responsible for and that means budget and the other alternative is that we develop our own County Rural Fire Department and that's going to cost a lot more than what we're talking about here. If I chose to build on top of a mountain or forest, I should be aware of the possibility that my house is going to burn to the ground before anybody comes to help me – that's the homeowners responsibility as well.
Lou wanted to discuss this with the Board but hold off until the EFP decided. There were three property owners involved.
The EFF meeting is being put together and Ron understands the delay.
Commissioner McCown would like to wait and see but would support paying the bill.
The area was identified as Homestead Acres above Spring Valley.

c. Discussion Regarding Draft Contract Request for 2005 – Colorado Animal Rescue, Inc.

Leslie Rockey, Executive Director and Nancy Genova, President of CARE submitted a letter to the Sheriff and the Commissioners.
The letter was to clarify some operating procedures that have been problematic in our arrangement prior to now. The difficulty over whose responsibility it is to dispose of impounded dogs that are not adoption candidates has been addressed in the new regulations, but is spelled out here in more detail. Language has been added to address potential emergency situations, so as to avoid confusion of when such circumstances arise.

The exploring of the prospect of operating an animal shelter of its own, and in our view, both inevitable and highly desirable. Given the growth of the County over the next few years, CARE cannot possibly take on the task of providing all the animal sheltering services Garfield County will need, without radically altering the nature of our organization.
The figure of $130,000 for the year 2005 represents what we feel is fair, given the fact that accommodating Garfield County stray dogs has increased our costs to this extent. Realizing the limiting cost is a large motivator at this point in the County considerations regarding building, equipping and operating a shelter, nevertheless once the County begins to develop a serious plan, it will have to take into account people's expectations of a minimal euthanasia rate for adoptable animals and figure out how to finance a high-quality and humane shelter.
The number of days shut out is over 50 days and have had 9 – 10 homes act as foster homes. Some animals were turned loose hoping they may go homes.
If we enter into this contract with CARE there are limited services. More expenses with the veterinary.

Commissioner McCown - sees CARE being a part of this process. Sees us building a facility in the west end of the County and less than responsible if we don't include Rifle in that process and draw from their volunteer base. That would be the doggy jail for Garfield County. Hold an animal for 5 days – if CARE wants to step in and be the adoptive agency, they can come pick up the dogs and take over. Sees the two entities working hand in hand. The building of a facility is the cheapest part but the care of it is the expensive part. To have volunteers man the facility is the best method. Need to step up at the plate to handle our dogs.
Commissioner Houpt – agrees to bring partners into this process and make sure CARE is an integral part of the facility including planning. She is not at that 5-day limit yet. But would support working on a facility in the west end. Like to see us sit down with the communities and Care and plan a strategy for the type of facility.
Commissioner McCown – the CMC facility does not meet the County code and they built on the CMC school grounds.
Lou supports the facility in the west end. Rifle has said we both have the land and the possibility to build a structure; we have CARE now in a position that they can't handle our work load but are willing to help us design/build, work on an adoption program, etc. so we gave it a year, evaluated it and not it's time to step forward.
Silt, Parachute, Battlement Mesa may also want to be a part of this. Some could be in-kind. Need direction from the Board.
Commissioner Houpt favored doing something with CARE.
Lou – agrees.
$450,000 estimated for a facility; $600,000 if we go to 20 units.
Lou – Rifle would like to see 45-50 animals. Lou supports something like the jail to build on with the ability to add on with pods, etc.
Commissioner McCown favors moving forward with our own facility.
Lou will put this together and meet with the other municipalities.
Commissioner Houpt –asked Lou get some true indications of what the cost will be.
Lou will talk with CARE if we are moving forward and could be a pay as we go.
Commissioner McCown asked Lou when you talk to CARE – like to get a bill for services for pay as we go – rather than committing up front.
Chairman Martin - Authorization has to come from the Sheriff and not when a citizen brings in an animal. Treatment of an injured animal is a Sheriff's decision.
Ed – if we decided to proceed it would be summer before we could do this.
Care for this end of the County?
Lou said this would be something we need to discuss this with CARE.
Commissioner McCown – this will be in the big talk of where the animal control enforcement will go. CARE would be the adoptive side and the west end facility would be the enforcement side.

Licensing – task force has one more meeting to go before this is submitted to the Board as a final Resolution.

Ed – if we go forward with a facility we will need to put the police court facility forward one year.

Lou - No rate on the dog being spayed issue. This is a topic still under discussion. The fees are going to be kept reasonable. Lou is looking at several options.

Mildred – thanked the Lou and his staff for the security at Election.

COUNTY ATTORNEY UPDATE – DON DEFORD

a. Executive Session: Litigation Update; Legal Advice – Contract Negotiations – County Manager

DDA Litigation – update and two for personnel contract negotiations under Section 24-6-402(4)(e).
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session and invite Ed, Dale, Jesse, Carolyn, Don DeFord, Mildred and the Board; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
CSU on the Contract Position at the Fairgrounds
Direction – staff to finalize the contract next week and bring that back to the board.

COMMISSIONER REPORT

Commissioner Houpt – this week she was asked to sit on a State Housing Commission to look at the statewide concerns on affordability and that starts tomorrow in Denver; Thursday – RFTA Baord meeting; meeting with Cheryl Long on Friday. Went to the EAB meeting to hear what they were presenting on the Wyoming Bill on surface owner rights and they're interested in presenting that concept to our representatives and will be inviting them to a December 2nd meeting which will be a Town Hall meeting. This is Thursday evening at the Fairgrounds.
Commissioner McCown – tomorrow have a Northwest RAC doing a tour tomorrow afternoon on Colorado Escalante Canyon and an all day meeting on Friday for 9-4:30 at the Holiday Inn in Grand Junction; Friday evening the Soil Conservation Dinner for the three different soil conservations districts at Hotel Colorado, Saturday Mule Deer Foundation Auction.
Chairman Martin – Tuesday evening, Hal Terrill Book signing 7-9 pm in reference to the Veterans; Soil Conservation; Budget discussions December 16th 9-12 and 17th.
Ed said he has asked Randy Withee to see if we can integrate a space for the Veterans Offices there in that open area in the new Human Services building and it looks like we can do this pretty easily. He would just have the west office.
Jesse has the elected scheduled already for the morning session on 16th.

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 concerned with amending the Garfield County Zoning Resolution of 1978 by adding Section 5.03.16, Noise Barriers – Mark Bean
f. Authorize the Chairman to sign a Resolution and a Special Use Permit. Applicant: Robert T. Lazier – Jim Hardcastle
g. Authorize the Chairman to sign the Resolution approving a Text Amendment to the Lake Springs Ranch Planned Unit Development. Applicants: Berkeley Family Limited Partnership and Miriam Berkeley – Fred Jarman
h. Authorize the Chairman to sign the Resolution and Exemption Plat for the Coffman Exemption. Applicants: Rex and JoAnn Coffman – Fred Jarman
i. Authorize the Chairman to Sign the Acknowledgment of Partial Satisfaction of the Subdivision Improvements Agreement for Filing 4 of Aspen Glen Planned Unit Development. Applicant: CRG at Aspen Glen, LLC. – Fred Jarman
j. Authorize the Chairman to Sign the Amended Plat for Lot 5 of the Elder Subdivision. Applicant: Ernest and Robyne Thurber – Fred Jarman
k. Authorize the Chairman to Sign a Resolution for a Special Use Permit for a Resort. Applicants: Throm and Camille Toler – Jim Hardcastle

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – k, absent d and e; carried. Noise Barriers will be discussed later.

PUBLIC MEETINGS:

CONSIDERATION AND ACCEPTANCE OF EASEMENT DEED REGARDING PORTION OF PUBLIC ROW, CR 104, DEE BLUE AND ESTATE OF JEAN BLUE

Dee Blue was present and agreed with the transfer.

A draft Resolution was submitted with respect to the easement and restricting parking on CR 104 in appropriate locations on the Turnaround Easement. This is a transfer of right of way to the County.

A motion was made by Commissioner McCown and seconded by Commissioner to accept the easement deed and Resolution and the Chair authorized to sign; McCown – aye; Houpt - aye; Martin – aye.

CONSIDER A REQUEST TO APPROVE AND ADOPT BY ORDINANCE THE 2003 INTERNATIONAL FIRE CODE ALONG WITH AMENDMENTS CONTAINED IN THE CITY OF GLENWOOD SPRINGS ORDINANCES NUMBERS 18 AND 19. APPROVAL TO USE THE CODE AND AMENDMENTS IN THE GARFIELD COUNTY PROTION OF THE GLENWOOD SPRINGS FIRE DISTRICT ONLY. RONALD BIGGERS AND MIKE PIPER, GLENWOOD SPRINGS FIRE DEPARTMENT

Ron Biggers and Mike Piper were present and submitted a request of the Commissioners to approve and adopt by Ordinance the 2003 International Fire Code along with the Glenwood Springs Rural Fire Protection District's amendments stated in Resolution No. 2004-03. The request is for approval to use the Code and Amendments in the Garfield County portion of the Glenwood Springs Fire District only.

Don stated this is a request and stated it needs to be adopted by Resolution rather than by Ordinance. There are two processes that the County and the Fire District cooperate on adopting a fire code that would be effective in unincorporated Garfield county. One of those the Board initiated some time ago and Glenwood participated in fully was the appointment of a Fire Code Revision committee and once that committee has made a recommendation on a uniform fire code to be adopted throughout the County the County then proceeds by Ordinance to adopt that proposal. To my knowledge we don't have such a proposal in front of us. What you have in front of you is a request that's limited to the Glenwood Springs Rural Fire Protection District and the area in unincorporated Garfield county that's also within that district. There is a separate process to adopt a code under that circumstance and that's been existing for many years and you've done this for fire districts in the past where they adopt a code in the district formally and then come to you and if the Board confirms that adoption by Resolution then it is effective in the unincorporated area of the County. If you reject the Code then it is still effective in the Municipality but not effective in the County. That is the process he suggests the Board follow on this. Don has not reviewed all the amendments to the International Fire Code that they're proposing.

This was brought to us earlier and sent back for the Resolution; formally it was adopted.

Don doesn't believe the Board can adopt this by Ordinance because you don't have a recommendation from the Fire Code Revision Committee.

Each fire district can make recommendations to their own fire protection district and the County Commissioners can adopt those by Resolution. The reason he suggests the Board now adopt by Ordinance is because they do not have a recommendation by the Fire Revision Committee. Don sent a memo to the fire district explaining this.

Mike disagrees with Don's opinion. Mike Piper explained why they need it adopted by Ordinance versus Resolution.

The group is still working on the issue and getting the groups together is the big issue.

Mike – the lack of enthusiasm to move this forward is the hindrance. He believes in the fire code. They need the teeth of the law to enforce.

Don quoted the Statute.

Commissioner McCown – when the County adopts this County-wide it will be adopted by Ordinance.

Don said when this is adopted by Ordinance on a county-wide basis, then each fire district can adopt their changes needed for their specific circumstances.

Commissioner McCown suggested that perhaps we should go back and look at the Fire Code and determine if we should adopt it.

Fire permit is given to have for a location and they can put some restrictions on it.

Don – we have to seek injunctive relief and this is a cumbersome process. He can't tell the Board they have

authority to adopt something that is not in the Statutes.
Commissioner McCown clarified that from day one that the different fire districts in the County would be the enforcement entities for this Code.
Don – when you adopt an Ordinance that again the Statue provides that fire district is the enforcement entity but I think that it's anticipated that they will issue the citations. No one has contemplated an actual arrest in a fire code situation but in terms of a summons and complaint that would be a law enforcement issue.
Ron Biggers – he can use the Police Department and issue a summons for starting that fire.
Commissioner McCown – us passing an Ordinance does not mean the Sheriff can arrest a violator.
Don – the State Legislature has given the Board the authority to issue a Fire Ban. When you adopt the Fire Code by Ordinance, then the County Powers Act kicks in and any violation of an Ordinance adopted under the 30-15-400 series carries with it certain penalties, they are set forth as misdemeanor crimes – any violation.
Commissioner Houpt said we have to get this committee to come forward.
Mike Piper – each fire district, when they get their amendments done will have to come before the BOCC and request that we adopt it as an Ordinance, as amended.
Mark Bean –- the Ordinance when adopted will apply to the entire County. We have not been able to agree on the Code.
How to accomplish this – Fire Districts to come up with a minimum set of restrictions.
Mike – can't be held up by foot dragging. If we adopt the International Fire Code and have each one come back with their amendments. This is what they are proposing.
Mark – the minimum standard is what we need to start out with. The Code as written is too restrictive.
Ron Biggers – the biggest was the Airport. This is the sticking point.
Mark – my understanding is that some of the other districts didn't realize that they couldn't live with the Code as it was adopted because they didn't realize that they would automatically responsible for enforcing. There are districts out there that were not prepared to do that and did not understand that when that Resolution came to you.
Mike said that's their position; if they can't enforce it, don't have the manpower, the wherewithal, the ability, it should not be restrictive on other fire protection districts and municipalities within the County to be able to get this thing to move forward. Get us a date that says if you don't have the opportunity to come back here, this is your opportunity to say something, silence is acceptance and move on with this process. We drag our feet through this thing and we have this Code that's out there and the 2005 Code will be out before we have something finalized. That's why we have the 1994 Code here in the County still with referencing the 1997 Code.
Commissioner McCown suggested completely gut the enforcement issue, adopt it and let each individual districts come in and the County would adopt those amendments and the unincorporated areas outside the fire districts that we run. The Sheriff would have it anyway.
Don – again, the Statutes provide that the fire districts enforce the Code but if they don't have the personnel to do that then the Sheriff can under the Ordinance because the Ordinance provisions make it a misdemeanor offense. Enforce ofo any Code is discretionary. Two basic methods of action: if the BOCC wants to act by Ordinance you have to have some recommendation from the Fire Code Revision Commission that you'll act on.
Mike said they would be back here asking for an Ordinance to amend based on the amendments the City has.
Don said that's right depending upon what the Commission comes up with you may have more amendments you want than you are proposing now. One issue to move this on is there's no statutory requirement for consensus, while it may not be a pleasant circumstance for some of the fire districts, what it requires is a recommendation of the Commission and this Board acts frequently less than a consensus.
Action
Commissioner Houpt made a motion and Commissioner McCown seconded to approve and adopt by Resolution the 2003 International Fire Code along with the Glenwood Springs Rural Fire Protection District's Amendments stated in Resolution 2004-03 and authorize the Chair to sign it.
Commissioner McCown noted that this may generate some confusion because it has a specific burn ban date incorporated in it and that may not coincide with our County fire ban. This could affect noticing in the spring.
Chairman Martin – we'll have to specify that.

Houpt – aye; McCown – aye; Martin – aye.

CONSIDER A REQUEST TO EXTEND THE PRELIMINARY PLAN APPROVAL FOR PHASE 3, FILING 4, OAK MEADOWS RANCH PUD – Diane Delaney

Diane Delaney, Mark Bean, Don DeFord and Carolyn Dahlgren were present.

This is a request for a one-year extension of the approval of the Preliminary Plan for Phase 3, Filing 4, Oak Meadows Ranch PUD. The original approval will expire on April 5, 2005, if an extension is not approved prior to that date.

Staff notes that this request is within the timelines established at the time of approval and recommends that the Board grant to extension until April 5, 2006.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the request to extend the Preliminary Plan approval for Phase 3, Filing 4, Oak Meadows Ranch PUD until April 5, 2006; Houpt – aye; McCown – aye; Martin – aye.

Continued Consent Agenda Item e – Noise Barriers

Mark Bean - This is a two part discussion the BOCC went through a public hearing two weeks ago to consider the adoption or amendment to the Garfield County Zoning Resolution to add a section dealing with Noise Barriers that were on private or would be on private land. There is a process described there and is in essence generically a land use permitting process and subject to public review and approval. The Resolution that was part of the Agenda item is tied to that because part of this process could also result in and require the County to take action or make recommendation on the placement of noise walls within state highway right of way. In the case of Ranch at Roaring Fork which is the issue that has brought this your attention, they have part of the property that they want to have those sound walls on their private and a portion of it is proposing to use CDOT right of way. CDOT right of way portion of it has a certain procedure and process that is required of the County and we have to act as a local agency applicant because CDOT will not accept an application for a private ownership of a sound wall on their right of way from a private entity. In this case, we are co-applicants with the private entity for that portion of the right of way with Ranch at Roaring Fork. But as part of that process we also have to be able to make a determination of recommendation that is in compliance with zoning. We had no provision for sound walls in zoning.

This is the intent to deal with both of these issues – one is the public process for us to be a publicly sponsoring entity for a private sound wall on public land and the other is to deal with sound walls that would be strictly on private property regardless of whether it is a County Road or a State Highway – it addresses all of those for anyone wanting to put up a sound wall.

Commissioner Houpt noted this also addresses related projects, trails or specifically named.

Mark said the policy addresses trails because the issue with the Resolution is the State also will require if we go forward by way of example with the South Canyon Trail Project with LOVA, we're going to have to be the local agency sponsor for that particular project. The Resolution conditions dealing with not just sound walls but other types of projects too. Some of the enhancement programs too.

Carolyn said the bottom line is that this is not unlike the discussion you just had under which set of powers are you operating; under the change to your zoning code, you're operating from your zoning authority to say what uses can be allowed on private property. The other document is your authority to contract with other governmental entities and we are incorporating into that policy your zoning regulations.

A motion was made by Commissioner McCown to sign a Resolution concerned with amending the Garfield County Zoning Resolution by adding Section 5.03.16, Noise Barriers. Commissioner Houpt seconded; Houpt – aye; McCown – aye; Martin – aye.

CONSIDER ADOPTION OF A RESOLUTION POLICY REGARDING GARFIELD COUNTY SERVING AS A LOCAL AGENCY APPLICANT FOR CDOT HIGHWAY AND RELATED PROJECTS – MARK BEAN

Commissioner McCown made a motion that the Chair be authorized to sign a Resolution regarding the Policy of Garfield County serving as a local agency applicant for CDOT on highway and related projects; Commissioner Houpt seconded.

Chairman Martin noting that Garfield County is the first to go forward and try to do this, we'll probably revisit it.

Mark said we're assuming what we've done is acceptable to CDOT; they have been a party to a lot of these discussions but until we go through the process, who knows

Houpt aye; Martin aye; McCown aye.

News – Deliberations by Great Outdoors Colorado
Randy Russell reported on the recommendations for funding. The GoCo staff is recommending over $1.2 million in funding for the South Canyon Project for the trail. We won't know GoCo's final deliberative results on that until early December; should that take place suddenly we have an infusion of $1.2 million dollars into that trail which is on CDOT right of way with another state agency funding it – so it is very timely that we have this framework in place. One of our next mission statements working with the attorney's is trying to figure out the umbrella agreement where all these funding sources agree to one management structure for this project over its duration. We don't want to be hiring a bunch of consultants to manage a trail. This is a lot of background for a lot of future news.

Chairman Martin said Joe Elson, local CDOT person has a copy of this policy and resolution now.
Commissioner McCown still has a problem with state money on state property and the County being involved.
Ed said this is also federal money also.
Chairman Martin – if there's federal money involved then we have a different issue, they have contractual flow downs.
Randy said the Enhancement money does that – GoCo won't but who knows about the next funding source.
Chairman Martin – that's why we'll have to have more deliberation with CDOT.
Mark – we've created the vehicle and hopefully we can get the discussion going more formally.

CONSIERATION OF RESOLUTION AUTHORIZING THE REISSUANCE OF MORTGAGE CREDIT CERTIFICATES (CHFA).
Don submitted the Resolution and requested that the Board sign off on previously allocated funds.
Commissioner McCown made a motion to authorize the Chair to sign the Resolution authorizing the reinsurance of mortgage credit certificates (CHFA); Commissioner Houpt seconded; Houpt – aye; McCown – aye; Martin – aye.

PUBLIC HEARINGS:
CONSIDERATION AND COMMENTS ON THE PROPOSED 2005 BUDGET
Jesse Smith submitted the notification as published this in the newspaper. This is strictly for the public to come in and make comments.
Ed Green and Jesse Smith were sworn in.
No comments were received.
Commissioner McCown moved to close the public hearing; Commissioner Houpt seconded; motion carried.

RESCINDING RESOLUTION 2004-100 APPROVING THE 9TH SUPPLEMENTAL BUDGET AND THE 9TH AMENDED APPROPRIATION OF FUNDS AND DISCUSSION ON THE 10TH SUPPLEMENTAL TO THE 2004 APPROVED BUDGET AND THE 10TH AMENDED APPROPRIATION OF FUNDS - JESSE SMITH.
Jesse Smith and Ed Green were present.
Don submitted the proof of publication.
Chairman Martin swore in the speakers.
Jesse stated there was a typo location code put is as 2200 and should have been 2100. Rescind the 8th Supplemental to the 2004 Amended appropriation of funds and all the material was included in the 10th supplemental.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to rescinding the Resolution 2004-100 and authorize the Chair to sign; Houpt – aye; McCown – aye; Martin - aye

ADJOURNMENT

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

NOVEMBER 15, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA
Ron Meyers – Land Use Problem and requested guidance. He purchased what was 4 lots but these were combined into one lot prior to his purchasing them. He intended to build a shop on three lots and separate one lot where he would build a house and then sell the house and lot. This was Plan A. When he approached Building and Planning Senior Planner Jim Hardcastle, he was informed that under Section 9.18 of the Building Code, he would be unable to do this. Regulations prohibit lots that were combined to be re-split and sold off. The options he faced were to build a house and sell both the house and business as one entity; approach Glenwood Springs about the possibility of annexing the property who then may allow Ron to split the lot; tear down a structurally sound house already on the land and build multi-units, etc. The final answer however is that in the County code he cannot split the lots.
Mark Bean formally informed Ron that you cannot resubdivided an existing subdivided lot.
COUNTY MANAGER UPDATE – ED GREEN

a) ASMI Service Contract – Brian Condie

Brian Condie submitted the contract for aviation maintenance on the LOC, GS and DME at the Garfield County Airport in Rifle. The contract runs from January 1, 2005 – December 31, 2005 and is at a rate of $2500 per month.
Brian requested the Board approve the contract.
The change is a rate increase and other than that they come out every month and do maintenance.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the contract
with ASMI for aviation maintenance on the LOC, GS and DME at the Garfield County Airport in Rifle at the Airport at a rate of $2500 per month; McCown – aye; Martin – aye; Houpt – aye.

b) Fairgrounds Update – Bob Crompton

Bob Crompton submitted a proposed rate increase for the Garfield County Fairgrounds and referenced that this is the first increase in four years. He justified the request to increase the fees. He submitted a comparison of facilities at other counties. The lights for one day cost $40.
Dale added that we would lose $21,000 in sales tax due to the move of the sales tax to support Human Services grants and to offset this was another reason for the proposed increase as well as additional janitorial services will be needed to keep the meeting room clean.
Commissioner McCown expressed that he planned to support the request but had plans to backfill the sales tax in other methods. He expressed a concern if we raise our fees that we would out price the community and therefore shot ourselves in the foot. He did express the cost increase based upon the fact that the cost of business is increasing.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the increase in rates and monitor the use of this and if the feedback from the community is such that it warrants adjustments, that those will be considered. Commissioner Houpt added that she would like all non-profits treated the same. With that she seconded the motion; McCown – aye; Martin – aye; Houpt – aye.

Vehicle Title
Mildred submitted a vehicle for the Board to sign. She stated that there was a mix-up during the sale of Doug Dennison's county vehicle when sold and that two titles had been missed.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to sign the title to correct the mistake. McCown – aye; Martin – aye; Houpt – aye.

COUNTY ATTORNEY UPDATE – DON DEFORD

Discussion/Authorization to Execute Quit Claim Deed – Colorado River Island Park

Don submitted a quitclaim deed between the County Commissioners and The Town of Silt for property formerly owned by Rupert Sturm. The property is being transferred to the Town of Silt for the purpose of creating and maintaining a recreation area.

Don framed the motion to authorize the Chair to execute quit claim deed for the Colorado River Island Park for the Town of Silt.

Commissioner Houpt so moved; Commissioner McCown seconded; McCown – aye; Martin – aye; Houpt – aye.

Discussion RE: CR 162A

Commissioner Houpt excused herself from this discussion.

Don submitted a letter he faxed to Ballard Spahr Andrews & Ingersoll, LLP, Roger c. Cohen, Esq. in Denver regarding the correspondence he had received on November 2, 2004 to the Board of County Commissioners regarding CR 162A. On November 8, 2004, Adrianne Crouch attended and stated her position that the subdivision Stirling Ranch PUD did not enjoy public access by use of that road. Don reiterated in the letter that the Board was presented with a survey of CR 162A that demonstrates the location of the right-of-way and the existing paved roadway, together with a depiction of adjoining property ownership.

Don requested in his letter to Mr. Roger Cohen of the law firm referenced that he believes the CR 162 was relocated by a deed and vacation process in 2002. Therefore, in the letter dated 11-10-04 Don requested that supporting information or other documentation supporting the claim lie on property currently owned by Adrienne Crouch be presented.

Mr. Cohen requested a continuance to the first meeting in December, December 6, 2004.

A motion was made by Commissioner McCown and seconded by Chairman Martin to approve a continuance until December 6, 2004 to comply with the attorney's request; McCown – aye; Martin – aye. Houpt – did not participate in the discussion.

Executive Session: Litigation Update; Legal Advice Litigation update; Contract Negotiation – County Attorney BOCC as Board of Health – Potential Litigation; Contract ***Development for Sweetwater and Airport Property.***

Don requested that Carolyn, Ed, Jesse, the Board, Mary and Brian be available for the session.

Commissioner Houpt made a motion to go into an Executive Session; Commissioner McCown seconded; McCown – aye; Martin – aye; Houpt – aye.

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

Action taken

Approve annual contract in the form presented for the County Attorney

Commissioner McCown so moved; Commissioner Houpt seconded; McCown – aye; Martin – aye; Houpt – aye.

HIRING FIRM TO AUDIT ANNUAL FINANCIAL SERVICES – JESSE SMITH

Jesse Smith submitted the recommended board action which is to award the Garfield County Professional Auditing Services to McMahan and Associates, LLC. for a not to exceed price of $35,950.00 for audit and financial report preparation of fiscal year ending December 31, 2004. Experience in DSS and GASBY and well qualified to do the governmental audit. Based on the cost per hour McMahan was the lowest price.

A motion was made by Commissioner McCown and seconded by Commissioner to Houpt with McMahan for a not to exceed price of $35,950.00 for the 2004 audit. McCown – aye; Martin – aye; Houpt – aye.

COMMISSIONER REPORT

Commissioner Houpt – Budget this week; Thursday the I-70 and Rural Resort – Community Center 1 - 3

Commissioner McCown – Budget Tuesday 9 – 12 Wed 1 – 5 pm.

Chairman Martin – Budget – was in Moab this last weekend. Still waiting on the results of the election; final results.

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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 Special Use Permit for Log Timber Framing Business and Truck Equipment Storage, Parking & Repair Business for Bruce and Betty Collins – Mark Bean
f. Authorize the Chairman to sign a Resolution concerned with Amending the Garfield County Zoning Resolution of 1978, Sections 4.14.11 and 5.10.11 Affordable Housing Regulations Grievance Procedure – Mark Bean
g. Authorize the Chairman to sign an acknowledgement of partial satisfaction Subdivision Improvements Agreement and Reduction Certificate, #4 for the Sun Meadows Estates Subdivision – Mark Bean
h. Liquor License Renewals for Sunlight Inc. and rhino Liquors, Inc. – Mildred Alsdorf
i. Authorize the Chairman to sign a Resolution for a Special Use Permit for Williams Production RMT Co. (CO2 Production) – Jim Hardcastle
j. Authorize the Chairman to sign a Resolution for a Special Use Permit for Thomas G. McKinley (Vertex LLC) and Ann M. Gianinetti (Mitchell Creek LTD) – Jim Hardcastle
k. Authorize the Chairman to sign a Resolution and a Special Use Permit. Applicants: John Deer and Rita Harrington – Jim Hardcastle

A motion was made by Commissioner and seconded by Commissioner to approve the Consent Agenda Items a – k absent c and d; McCown – aye; Martin – aye; Houpt – aye.

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Item D – Christmas décor - discussion

Commissioner Houpt was concerned that the price increased from what was originally discussed.

Chairman Martin justified the increase by saying the original amount only included one building and not there are three buildings involved.

Commissioner Houpt made a motion to approve item d on the consent agenda. Commissioner McCown seconded. McCown – aye; Martin – aye; Houpt – aye.

SHERIFF VALLARIO
REQUEST - CHANGE IN CLASSIFICATIONS

Commissary Coordinator Officer – Terry Miller to Grade 3; and change the Receptionist to a Grade 2.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the changes in classifications; McCown – aye; Martin – aye; Houpt – aye.

Contract with Ed. Green

A motion was made by Commissioner McCown to approve the Services for Employment Agreement for Ed Green; Commissioner Houpt seconded. McCown – aye; Martin – aye; Houpt – nay - due to a wording issue.

REGULAR AGENDA
HUMAN SERVICES COMMISSION – EDUCATIONAL SERVICES – MARTHA FREDENDALL

Martha Fredendall, Carolyn Tucker for CMC Workforce Training Coordinator and Jenny Lindsay with Family Resource Center were present.
Letter on behalf of the Humanity Awards Committee. Planning for the 2004 awards – Hotel Colorado – request for $1500 for the award dinner.
A motion was made by Commissioner Houpt that we approve $1500 for the 2005 Humanitarian Awards Dinner in 2005. Commissioner McCown seconded. Houpt – aye; McCown – aye; Martin – aye.

Membership appointment:

Commissioner Houpt made a motion to appoint Laurel Little, Sandy Hanson, Greg Highammer, and McCala John

for the Health and Human Services Commission; Commissioner McCown seconded; Martin – aye; McCown – aye; Houpt – aye.
Adult Education Update – CMC – working on partnerships with Arapahoe Community College in the fall of 2004 to host paralegal instruction for CMC students. Another partnership with Valley View Hospital offering in April 2005 for advanced cardiac life support, trauma nurse core course and pediatric advanced life support. English as a second language and Spanish for Supervisors. In the workforce training, they do customized workshops for businesses, development industry-wide training programs, assistance to industry in developing a local workforce and partnering with government and local businesses to address workforce needs.
Some kids are destined for college and a lot of kids are not and they are developing some programs for kids.
Chairman Martin felt that apprenticeships are coming back and is very good for the young people.
Commissioner McCown asked if there was a possibility of developing programs for Energy production industry in positions rather than kids having to go out of state to obtain this knowledge.
Carolyn said they re working with industry to step up with assistance in being creative in developing educational components for diesel mechanics, compressors, etc.
Carolyn Harding for RE1 – three highlights – 1) the bond issue was approved - Glenwood Springs new high school; and Carbondale a new high school. 2) Mill Levy Override passed and teachers salaries can be increased and 3) standard based report cards implemented. This means the report cards are based on the requirements for each student.
Family Resource Center – part of RE-1 and proud of the evaluation – 1,095 clients, 12,061 contacts, 69% of the residents were in Garfield County; 98% provided with services they needed.

BOARD OF SOCIAL SERVICES

APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

Lynn Renick, Diana Watkins and Janice George were present.
Lynn presented a spread list of 2005 placement contracts and requested $574,235.65 for approval to fund.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the placements contracts for 2005 in the amount of $574,235.65. McCown – aye; Martin – aye; Houpt – aye.

UPDATE ON COLORADO BENEFITS MANAGEMENT SYSTEM CONVERSION – CMBS

Cleanse Case Issue – 4 temporary positions started today.
As of last week there were 4500 cases to cleanse. Janice has not heard what will happen if the cases are not cleansed by February.
Lynn – overtime is still an issue and looking at special needs cases on an emergency basis.
Janice – the Medicaid history is not connected to the Medicaid card and some showing they are not active.
Lynn attended with Michelle McMullen the audit training last week and although the numbers do not match between the two computer systems, she anticipates these will be fixed by the end of the year.
Lynn was unable to pull out report data from the CBMS system.
Janice reported that the questions submitted to the help desk tickets were only about ½ complete.

Quarterly Financials were not submitted. This is up and running but there are still items without answers.
The first quarter on our allocations and contracts with the State, they are on target for the Child Welfare allocations.
Caseloads are down overall and may be impacting the out of home placements, but Lynn felt it was a reflection on Core Services Programs and staff talking about services needed for the potential out of home placements.
Lynn ran a report on November 1, 2004 and adoption finalizations are down as well.
The one area of concerns that continues is our low income child care – presently they are 43% and should be at 25%.
County Administration is at 29.8% and they are over.
Single Entry 7% increase in numbers regionally since January 2004. Presently they are on target with the projections.
Colorado Works is fine and doing expedited permanency planning.

BOARD OF HEALTH

PUBLIC HEALTH PROGRAM UPDATES

Mary Meisner gave a program update.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into the Board of Health; McCown Houpt McCown – aye; Martin – aye; Houpt – aye.
200 dozes of vaccine for adults – they have given 280 dozes for children and over ½ allocated has been given out.
Mary has networked with providers and the community for high risk has been saturated.
Oversees immunizations have stayed consistent.
Mountain Family Pre-Natal Program is moving along smoothly.
Prenatal outcome data is looking good and the quality of service was met and exceeded. Classes for the prenatal clients have been set up.
WIC program – increase in clients and contract dollars. A waiting list remains.
Communicable Disease – reportable are up from last year.
EPSDT – this has been a challenging issue this year. This is a regional program serving Pitkin and Garfield County.
Busy year for her Health Officer and reflects the growth in the County.
Caring for Colorado grants – TB program is down to the final analysis and there will be a printed report made available to the Board.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of the Board of Health; McCown – aye; Martin – aye; Houpt – aye.

PUBLIC MEETINGS:
REVIEW ALLEGED CODE VIOLATION FOR DAVID AND KATHRYN FORCE FOR PROPERTY AT 0944 BLACK BEAR ROAD (MOUNTAIN SPRINGS RANCH) – STEVE HACKETT
Steve Hackett, Mark Bean, David Force, Carolyn Dahlgren were present.
Steve provided the Board with the correspondence between David Force and himself where he pointed out the violation of an Aircraft Landing Strip without a CUP and referenced a complaint regarding the use thereof.
Dave admits he does use his property for a landing strip and others such as BLM have also used it.
Zoning violations – Steve's contention is that according to the zoning, a violation has been determined.
Dave is adjoining Mountain Springs Ranch. He started using the dirt grass stip since 1994. He used a tractor to level out some ruts and they have cows grazing on it. The length of the field is 1300 feet and there's about 1100 utilized when landing. The feds have been contacted and they have no interest at all in a private landing strip.
Steve commented that he sent an email to the Federal Aviation and no response. Brian Condie was invited to discuss the issue of a private landing strip.
Brian reported that the FAA requires a 70/80 form to be filled out for landing strips so that they can monitor the air space. The do have an exclusion to that because they have a lot of helicopters that will land in the field and take off, that's technically considered a landing strip but they have an intermittent use exemption and this is if you use the landing strip 3 days or less per week and not more than 10 operations in one day, you're exempt from filling out the FAA form which I believe is the case here. The question then relates back to the County land use permit. So in this instance the FAA is not concerned about this issue; it's uncontrolled air space and you're not required to file a flight plan, you're not required to talk to anybody on the radio, you can go in and out of your own private landing strip as far as FAA is concerned. They kick it back to the County to say what kind of land use zoning regulations want to enforce. This is not a single instance, we have 30 to 50 grass air strips in the County. This is a county land use issue. There are a lot of people wanting to put in a heli port.
Commissioner Houpt – a conditional use permit for landing strip is an important factor to consider.
Mark stated the reference of 30 to 50 other strips and this one was made aware of by neighbors. As others are brought to our attention, they will be dealt with.
Steve said this complaint generated with one of the building inspectors in conservation.
Chairman Martin – what would satisfy a conditional use permit?
Dave said it requires posting, public notification, $400 up front. Spoke to Mr. DeFord in 1994 or 1995 that he broke no laws by letting him land.
Don said he didn't recall the conservation with Dave and could very well as said that an occasional landing is not a problem.
McCown – it also states a "benefit" – had to have some benefit to the owners.

Steve read the definition of a private landing strip.
The outcome of this discussion was to have Dave apply for a Conditional Use Permit.
Chairman Martin mentioned all the times that Dave has helped the County with his airplane, he was the president of Search and Rescue for years when it first started and suggested waiving the $400 fee for the CUP.
Commissioner McCown made a motion to waive the application fee; Commissioner Houpt seconded; Martin – aye; McCown – aye; Houpt – aye.

DISCUSSION OF NATHAN KING CASE RELATED TO ALLEGED CODE VIOLATION – PROPERTY LOCATED ON CAMANCHERO IN ELK CREEK SUBDIVISION – STEVE HACKETT

Steve Hackett, Mark Bean and Nathan King were present.
Steve submitted new photos of an alleged modular home.
Mr. King has complied. The photos are the interior – the modular home has been converted and it is a big open room and no kitchen except for a sink used in fruit and flower growing enterprise. This is an agricultural building. The septic system application has been received and paid for and engineers are studying the adequacy and certification. Steve stated Mr. King is in compliance and it will be complete upon receiving an engineering report.

PUBLIC HEARINGS

ABATEMENT FOR EDNA M. HENKE – SHANNON HURST

Shannon Hurst was present and submitted the details.
This is on a manufactured home and no notification could be made. The roof has caved in and need to remove it from the tax role. Edna Henke is in a nursing home. The abatement is for $34.62.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; motion carried.
Commissioner McCown moved to approve the abatement for Edna Henke for $34.62, Schedule No. M0015, Commissioner Houpt seconded; McCown Houpt McCown – aye; Martin – aye; Houpt – aye.

Executive Session continued
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session and invite Ed, Dale, Jesse, Carolyn, Don DeFord, Mildred and the Board; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.

CITIZENS NOT ON THE AGENDA

Bob Mayo, Citizens asked when the new Land Use Codes would be available. Answer next spring or early summer.
This is too late – will make a decision without it. Like to have some accountable for dragging their feet and not meeting the original deadlines.

REGULAR AGENDA

PUBLIC MEETINGS CONSIDER A REQUEST FOR A 1-YEAR EXTENSION FOR THE PRELIMINARY PLAN FOR THE GILEAD GARDENS SUBDIVISION. APPLICANT: BBD, A TRUST, DAVID AND RENEE MILLER, TRUSTEES – FRED JARMAN

Bruce Lewis, representative for BBD Trust and requesting an extension. Dan Kerst, legal counsel.
Fred said this is a request for a 1-year Extension for the Preliminary Plan for the Gilead Gardens Subdivision
Represented by Bruce Lewis, Boundaries Unlimited, Inc. The property is located between County Road 335 (Colorado River Road) and the Colorado River, approximately 3 miles west of Apple Tree Park and 3 miles east of the I-70 Silt Interchange.

BACKGROUND

As you will recall, on September 15, 2003, the Board approved the Preliminary Plan for the Gilead Gardens Subdivision which entailed subdividing approximately 35 acres of land into 9 residential lots. This approval was memorialized in Resolution 2003 – 89. This approval provided the Applicant 1 year from the date of Board approval to file a Final Plat application with Garfield County. This deadline was

September 15, 2004 and no such application was filed with the County. As a result, the Preliminary Plan approval has expired.

REQUEST
The Applicant missed the deadline to file the Final Plat and requests the Board approve a 1-year extension to file. (See the letter attached to this memo from the Applicant's representative explaining the reasoning for the request.)

STAFF COMMENT
Section 4:34 of the Subdivision Regulations states that "Preliminary Plan approval shall be valid for a period not to exceed one (1) year from the date of Board approval, or conditional approval, unless an extension of not more than one (1) year is granted by the Board prior to the expiration of the period of approval. The Applicant made no such request within the time frame contemplated in the Subdivision Regulations. Section 4:34 does not provide the Board with regulatory direction in the event an extension has not been granted. The Applicant is now in a position where they must resubmit a Preliminary Plan.

Dan Kerst – on behalf of the applicants submitted in support of the request – threw themselves on the mercy of the Board. The Resolution was dated November 3, and used that date. A significant amount of the infrastructure has been completed and recognize that the approval was on September 15, 2003. He stated that it makes little sense to require that this matter be started all over.
Two letters of support were received.
David Rippy – Alpine Court – probably 95% of the infrastructure has been completed and it is not in a position like Stillwater where extension after extension has been requested. He requested the Board grant the extension.
Commissioner McCown made a motion to grant a request until September 15, 2005 for the presentation of the plan.
Commissioner Houpt seconded. McCown – aye; Martin – aye; Houpt – aye.

PUBLIC HEARINGS:
CONSIDER A REQUEST FOR AN AMENDED FINAL PLAT FOR LOTS 5, 6, 19 AND 20, BLOCK 11 OF THE TRAVELERS HIGHLANDS SUBDIVISION. APPLICANT: HARLAN MCCLROY – FRED JARMAN
Fred Jarman, Glen Chadwick, Carolyn Dahlgren, and Terry Kirk were present.
New Exhibit – AA – letter from Daren Axthelm to Mark Bean – 10-21-2004.
Chairman Martin swore in the speakers.
This is a request for an Amended Plat (Continued Public Hearing) Harlan McElroy represented by Terry Kirk for Lots 5, 6, 19, and 20, Block 11 of the Travelers Highlands Subdivision, Situated in Section 28, Township 7 South, Range 96 West of the 6th PM, Garfield County, Colorado. This is the third hearing. The question still remains where legal public access existed and Carolyn Dahlgren elaborated at the last meeting on what needed to happen.

DESCRIPTION OF THE PROPOSAL
The purpose of the proposal is to vacate the lot lines between the four adjacent lots having 5,000 sq. ft. each to create one 20,000 sq. ft. lot. The lots are located in Block 11 of the Travelers Highlands Subdivision which is a subdivision approved in 1962. It is located west of Parachute between I-70 and the Colorado River. Public access to the property is State Highway 6 & 24.

BACKGROUND
On Monday September 13, 2004, the Board opened and continued this matter to October 11, 2004 so that the County could further investigate issues related to the nature of the roads within the Traveler's Highland Subdivision. No further progress was made at that hearing which the Board then continued again until today. The Applicant indicated he would work with the majority owners of Travelers Highlands to determine how proper legal access could occur.

The only new information provided by the Applicant in response to the issue of public access for all is a Title Commitment which states that the exception in the commitment is not an exception for lack of access to the lots; rather, it is an exception for burdens on the lots themselves. Further, the three "ancient" subdivisions referred to in said letter do not compare factually with Travelers Highlands. (See attached).

REGULATORY AUTHORITY

Section 6:10 of the Subdivision regulations states that an amendment may be made to a recorded plat, if such amendment does not 1) increase the number of subdivision lots or dwelling units, or 2) result in the major relocation of a road or add new roads. This request will not increase the number of subdivision lots or dwelling units and will not result in the major relocation of a road or add new roads. Based on this information, Staff finds these standards are met.

However, because this amended plat request will relocate property lines between more than two properties, it is required to meet certain additional criteria. The Board shall not approve an amended plat request unless the Applicant has satisfied the following criteria, namely:
All lots created will have legal access to a public right-of-way and any necessary access easements have been obtained or are in the process of being obtained.

Exhibit AA – Independence Title – exception, was admitted into the record.
Fred stated that he spoke to Mike Smith of CDOT on Friday in reference to this application and it appears that there is a CDOT permit to get from 6 & 24 into the subdivision and that part of the original submittal in Mr. Kirk's name, but it also appears that with a highway access permit it's a two-part animal, you also need what is called the notice to proceed. That has not happened and Mike Smith informed me that Part B of making a full permit happen has not occurred. That's a disclosure to the applicant as well that you ought to connect to Mike Smith on that issue. So that access is somewhat partly accomplished and not fully permitted. With that, again, the remaining issue is access and whether or not these roads are public roads as in a typical subdivision owned and maintained by a HOA perhaps but dedicated to the public for use. This means we sit in the same scenario we did on November 11, and the meeting before that. That also appears to be the only outstanding issue from a planning perspective for approval for the amended plat. Carolyn is also informed about the letter from Independence with respect to the exception.
Carolyn stated whether or not a title policy was issued as matter of contract between Terry Kirk and the insurance company, it probably is a fact that a Court would look at if a Court were looking at all of the facts and saying these are public or private roads probably look at. But, from her perspective the thing that has changed most since the time we were here before the Baord, and Mr. Chadwick chimed in on this, is were are no longer stuck on the issue of are these public roads. It is my understanding that at least some of the lot owners, obviously we don't have all of them are, are willing to say that whatever Terry's got, he can use those internal roads whatever it is, whether it's an easement, a private road system or whatever without a court determination. If that's the case and nobody's fighting the use of the internal roads, then the question still devolves down to under State Statute, does he have access to a State Highway system. He has a CDOT permit, a piece of paper which when I reviewed it today, talks about access through private roads interestingly. It does not reference a county road or a public road. So Terry will have to speak as to whether or not that permit is viable. And hopefully we will hear from other lot owners to hear if indeed they would say whatever Terry's got, he can use it. We can use them, but he can use it, we've got some kind of internal system. We're not demanding that this be a public road of internal roads.
Commissioner Houpt stated she thought it was more a question about access out of the area and not necessarily internal.
Fred said this is an internal road issue specifically related to the plat amendment. To get to those lots you can't jump from 6 & 24 and land on the lots which Terry has. Although the permit that the CDOT permit which gets you into the subdivision in general also appears to be somewhat in jeopardy.
Carolyn – both the County Road law and the Subdivision laws require and we're dealing with today's law, because we are giving an amended plat today and the Road law and Subdivision law say that all lots will have access to the State Highway system. So again Mr. Kirk is going to have to say what the status of his permit is, but she understands nobody is requesting that we come to a decision as to whether these are public roads or private roads. I would stay with my prior legal opinion that because there was no acceptance, these aren't public roads. But they may be a private road system. They may all have easements of each other's lots, only a court can make that decision.
Terry Kirk – not sure what Carolyn just said, so let me plead my case. Terry Kirk representing Harlan McElroy, once again for the amended plat for lots 5, 6, 19 and 20, Block 11, Traveler's Highland Subdivision, Garfield County, also known as 0067 Scarrow Avenue, Parachute. On October 11, 2004 meeting with the County Commissioners the question was raised is this public access, are these public roads, public access. Now I need to ask Carolyn, do you still want to know that?

Carolyn – the question I'm concerned about is whether or not these were dedicated county roads. We're probably talking different nouns.
Terry – as Mark Bean stated at the last meeting we had, there was no acceptance or action by the Board of County Commissioners required in 1962 and prior to 1972 also all they had to do was just say, here they are and that's it. But there was no acceptance other than what was file in the record in 1962 and that holds true today, these roads, the whole thing, the subdivision was pre-1972 and the current county subdivision regulations as amended in October 2001 don't apply to the Traveler's Highways Subdivision because it was recorded in 1962. On November 8th, Carolyn Dahlgren faxed me a portion on a public road law, and it starts out "public highways, the following are declared to be public highways" and then some scenarios given, one of those is "C – all roads over private lands that have been used adversely without interruption or objection on the part of the landowners of such lands for 20 consecutive years, makes it a road." The roads in the Traveler's Highlands Subdivision were surveyed and staked and in some cases labeled by name by Bob Scarrow over 40 years ago. So that the general public and people looking to buy these lots would know where the streets are and where the lots are in reference to those streets. Many of those stakes are still there today, and some still have signs of street names on them. Over the past 40 years, there's been a lot of non-contested access to this property. In 1959 Public Service accessed the property by way of 4th Street into the subdivision and then parallel to Scarrow Avenue across 1st, 2nd, 3rd, 4th and 5th Streets, which are platted on the map for the installation of a transmission power line which they have an easement for but they can't get to the easement unless they drive across 4th Street to get to the Scarrow Avenue which is where the lines are. In 1964 Public Service hired a company to come in and treat the telephone poles which is something they used to do. Each electric pole on this transmission line has a dated aluminum tag nailed to it as to when the pole was installed and what action had been taken to these poles throughout the course of time. In 1964 Public Service hired a company to come and treat these poles and accessed 4th Street and paralleled Scarrow Avenue and their electric easement but they crossed 1st, 2nd, 3rd, 4th and 5th Streets all the way down. In 1995 Public Service again accessed thru 4th Street to do some other work on the power poles; they're always treating them to keep them in shape. Other than the Jolly family, who grass sheep on this area, access through 4th Street also and they have the run of the place. The two tracts that are there currently are down Scarrow, Walker and 4th; 1st Street and Moser Avenue area all in there and all have been traveled. Other than the Jolley family who grass sheep on this area access through 4th Street also. In 1980-81 and 82 Korn Construction, owner of the gravel pit at that time on 300 road just south of the subdivision had a major portion of aggregate supply to the Interstate construction and freely used 4th Street, Moser Avenue, 5th Street and Walker Avenue to access I-70 non contested hundreds of trips. And for the last 30 years I've talked to various owners of various lots in the subdivision and they've also accessed the roads and their lots. Once again on different roads wherever their lots were, but basically 4th, Scarrow and Moser, Walker Avenue has a short two-tract on it, but because of the lay of the land, you can't drive on it, you can drive around it in which case they did. Recently, even our own Steve Hackett accessed the property to site me for a zoning violation, alleged. October 27 Garfield County Sheriff Deputy Alstead accessed 4th and Scarrow and wrote Mr. McElroy a speeding ticket in front of his property on Scarrow Avenue. In March or April of 2004, Garfield County Sheriff Department also accessed 4th and Scarrow to check into a burglary that had happened on 0047 Scarrow Avenue – these addresses were given to me by Steve Hackett and he said at the time those may not hold up. Access over the past three years which doesn't quite get us to 20 has been made by UPS, Fed X, several freight companies and as of late US Postal Service is delivering mail to 0047 Scarrow Avenue. So, for over 3 decades and probably 4 decades no one has ever objected to anyone driving on any of these streets that I can find and I go all the way as Dean Knox and he even went in there and still lives in Parachute. No one has said anything to anyone that he knows of either. I talked to Pete Mattivi who is the only surviving Commissioner from 1962 and as sharp as he is he didn't really pay too much attention to the west end of the county at that time, the Commissioners were pretty well busy but he said if it's filed, it's filed for what that's worth. There are some other landowners present who accessed the property, and previous landowners and perhaps they would speak. The CDOT permit – is good period. I have 60 days to install the access after I give notice to proceed. I'm not going to do that and spend another $4,000 not knowing if I even need it. I called Dan Roussin and asked Dan to call Carolyn because of her concern, can anybody else use this thing and that permit I have is for 20 trips an hour which is more than 300 Road has in total even counting the gravel pit, so Dan also said there may be some day if the traffic passes that amount that there may be more need to do something like a deceleration lane coming from Parachute; his concern is nothing west of the subdivision, only east. My claim is now even thought we're

not regulated by the new subdivision law and these are recorded and platted, the streets, and have been used adversely for 3 decades and probably 4, from what Carolyn tells me those are public highways.
Carolyn – to focus the testimony you're going to hear - the Board can make a decision without making a determination as to whether these are public or private roads, your Section 6 says that you must be convinced that all lots created and in this case Mr. Kirk wants to change four lots to one lot, will have "legal access to a public right of way". So it doesn't matter if those internal streets are public or private, the question is can those four lots get down on to 6 & 24. The second thing, to remind everybody, that the issue before you today is Mr. Kirk's amended plat, not the entire subdivision and last to the degree that Mr. Kirk was quoting Mark, not the intention of Mark's words, would be to say that in the 1960's there was no need for a approval of a subdivision; it was pre-subdivision regulations, pre the state law; that's a different issue than the need for acceptance of public roads. The law on the acceptance of a public road by a public body has been the same since the 1800's, but again you can make this decision today without saying whether those are public or private roads. The bigger issue is access onto the CDOT property.
Commissioner McCown – if we make the decision based on private roads, doesn't there have to be some type of a grant of easement or who is maintaining the roads, who do the private roads belong to?
Carolyn – that's really an issue for the internal owners.
Commissioner McCown – I know, but without us knowing that and knowing that it will continue, access will continue, we can't make that decision can we?
Carolyn – I think that's what you have to listen to testimony about today because since we're not accepting these into the county road system, you're not accepting them as public roads, and asking that there be an HOA to maintain them or whatever. That's what would happen today. But in terms of what these lot owners now all agree among themselves, I assume you will hear some testimony on that today.
Terry – if I might, on the amended plat, there's a statement by Mr. McElroy that says he is not asking the Baord to maintain roads, or accept them as roads, it's strictly that they're all to be done, anything that has to be done to the road to his property he will do it. And that's on the amended plat for the lot line. Read into the record: On the amended Plat it says: "today's date etc. for filing with the Clerk & Recorder, public dedications shown herein, subject to the provisions of approval -----down to where it says constructing of them - -- approval in no way obligates Garfield County for the financing or constructing of the improvements on lands, public highways, or easements dedicated to the public except as specifically agreed to by the Board of County Commissioners, in front of, said approval shall in no way obligate Garfield County for the construction, repair, or maintenance of public roads."
Carolyn – And I would caution you about signing that because it is a dedication to the public. But if we need to discuss that any further, there would have to be legal advice in Executive Session.
Chairman Martin – we'll go ahead and take testimony for the other folks.
Glen Chadwick, with the law firm Beattie and Chadwick, 932 Cooper Avenue, Glenwood Springs, representing the Casteel family, the children of Joseph P. Casteel that was the original grantor and creator of this Traveler's Highlands Subdivision around in 1962 and he and some partners that included Mercer and Larson got together and platted this property and they went through a bunch of marketing and they sold some of the lots but the Casteels still own about 170 out of the 230 some odd lots that are platted in that subdivision. The Casteels consider those roads that are platted on the map to be public roads and even if not they are at least they are private rights of way that afford legal access to the public road from every lot in that subdivision and that would include Mr. Kirk's lot, other individual lot owners as well as the 170 some odd lots that my clients still own. As far as I know, Mr. Kirk's right that no one has ever objected to the use of those roads or platted rights of way to reach lots from the highway and vice versa. Any other conclusion would leave a whole bunch of land locked lots out there that would create a lot of problems for lots of people. As to the CDOT permit, Joan Wright, one of the daughters of Mr. Casteel spoke to CDOT on Friday and was told a couple of things that maybe pertinent. One of them was that the CDOT gentlemen David Dradon as near as I can read it, said that the permit should have said "public access versus private access" on the permit form and as I say that I'm not trying to say that this depostive of any public versus private determination, but that's what he told my client; and the other thing that he said that any accesses that existed before 1979 were grandfathered in and that Mr. Kirk has applied for a separate application on his trucks etc, but he was of the opinion that this recorded plat was something they recognized the right to access. I just learned that on Saturday while reading my email from Friday night. The bottom line and what Ms. Dahlgren was saying I think we agree with, you don't have to decide the status of the roads in the entire subdivision today to resolve this issue, you can look at Mr. Kirk's application and determine whether he's shown you enough to convince you he has a legal right of way to get from his lots that he's proposing

to amend out to the public highway and I guess what I'm saying, is we think he does and we're not going to stand in his way on that issue. We would ask that you observe and enforce your zoning regulations as you see fit but we really take no position as to the merits of his application.
Chairman Martin – given to me was a Letter in reference to this item from Dana Gregory – Exhibit BB. Richard Byers and I am also a lot owner in the subdivision Lots 1, 2, 3 and they're adjacent to the property in question and I too would petition to the Commissioners that you do allow for this Harlan amended lot lines to be taken into effect. When I purchased these lots, I purchased some from the Turners who owned them originally 40 something years ago. And they were telling me also that this subdivision and the access to the subdivision is grandfathered in and they had obtained that information from their father, from the original owner of the whole subdivision, from the Casteels' father. So, again, I understand that there is no determination on the road whether public or private, I just feel that I think that the majority of the land owners in the subdivision agree with one another that as long as we have access to get into our lots, that's all we really care about right now and that that has always been available to us and if a determination is made in the future by public or private, that's fine, but we feel the lot line should be granted and that's fine as far as that issue goes and we address the roads in the future.
Frank Soderberg and I have owned 8 lots in the subdivision over the years and I have never been or seen any indication that I was locked out or kept out or told not to go in there. There's a big green gate, at the entrance to the subdivision and it's never been locked, and there's no trespassing signs or anything to that nature. It's a lonely place and full of Jack rabbits and sage brush and not a lot of people, but over the years I've been in and out of there and no one has said he couldn't be there.
Kenny Gardner – owns four lots, 5 lots, four together and one separately down through there and I've been in and out of that gate ever since I bought them from Frank and I haven't had any problem with anyone telling me to go in or stay out, just no body down there hardly at all except for Terry – he's my neighbor and he hasn't bothered no body and we've been working together putting some culverts in on some of those roads in through there and I don't have a problem with him coming in or going out. I really think that might consider helping him out too.
Terry said back to the State Access Permit, Mr. Chadwick is correct in that, access has been there forever and the State does not require anything to use that access to the subdivision the way that it is; my application if for paving that access so that we're not in the mud, the only reason I asked for a state access permit is so I could pave it but it's definitely right and Dan Roussin will agree with that also that that access has been there since Jesus was a pup.
Carolyn – I can't comment on whether or not CDOT's regulations allow them to grandfather in accesses. Again I don't think that's the issue before you – the issue is, is that Mr. Kirk's situation satisfied. I would ask that we be able to work with Mr. Kirk on the language of this dedication so you don't creating one public road today by acceptance.
Commissioner McCown – and that was my question, I thought we left this the other day is that Mr. Kirk and the majority of the other property owners were going to go out and come back to us with one amended plat asking that all of these lots be dedicated and that the roads be accepted as public roads. Wasn't that where we were going the last time we continued this?
Fred – that was one of the options they could do, yes.
Commissioner Houpt – I thought they decided that was the easiest way to go.
Commissioner McCown – I see this reoccurring every time someone wants to put two lots together in this same subdivision, we're going to go through this same exercise.
Carolyn – yes sir.
Terry – one of these things – that Fred gave me today says, "all lots created without legal access, public right of way and any necessary access easements have been obtained or are in the process of being obtained" the way we left it the last time, there's got to be a simple way and one of the thoughts was to have a completed redone plat and submitted by the majority of the landowners and accepted and all that. And that can happen, if that's what you want. It takes a great deal of time to get that done, it's all got to be resurveyed, this is so old that it's not on that it's not on anyone's disk where they can call up the surveyor, Scarrow and Walker, can do it and my surveyor who is Bookclift Surveyors can also do it at any point they have to go back out and refine the subdivision and start all over again with making sure there's no errors or anything changed in 40 something years. So if that is what you want I don't think there would be any problem doing that, we get a reason to do it, again, that's another $3500 for no apparent reason at this time since we have proof that all the streets have been accessed from the landowners, per the facts that Carolyn faxed me on access and there are no objections from the majority of landowners which we could do that if

you like to have a plat redone. If that doesn't hold up today's decision because it's in process we can certainly do that.
The letter that came in today from Dana Gregory, should that be read?
Chairman Martin – its part of the record. Fred's going to introduce that but we did give a copy out to everyone.
Exhibit BB was placed into the record.
Commissioner McCown has a personal concern that if these roads are being private, they have to be owned and controlled by some private individual or entity and once you give a private individual or an entity the right to control a road, they're going to control access. Now I don't know if it's going to be the majority of the lot owners, or if it's going to be somebody that's got the first lot on the road, but if that's a private road owned by whom? Who owns this private road?
Terry and that's why I said, if it's a dedication for public access that you want on a total amended plat, given that, is not a problem – the majority of the landowners which was suggested by Jan and Carolyn are represented here today by myself and by Glen Chadwick. So I would do that.
Commissioner McCown – Terry that is the cleanest way to make that whole thing whole.
Terry – I would do that and work with Glen and his clients, which all of a sudden we're all working together anyway, but I would do that and expend the money to have that done, if that's what it takes to get this done. Like everyone says, it's been used for over 4 decades as roads anyway so by what Carolyn faxed me they are in fact deemed roads, they're public access.
Commissioner McCown – that's still the stickling point is that they have been
Terry – I would say to you under oath today, is that if this doesn't hold up the decision, and that the lot line adjustment is granted, I will come back to the Commissioners at the next meeting with an amended plat and I think I could ask Mr. Chadwick if his clients would sign that now and being the majority owners between us designating this as public access.
Chairman Martin – I think that's a conference for attorney client.
Carolyn – it's a little more complicated than that too because all owners will have to be noticed, not just those present.
Terry – well it was said in a meeting earlier that it was the majority.
Commissioner McCown said he wasn't sure this could be done that way. But from sitting back here, that is definitely going to be the cleanest way for any lot owner that has a lot in this subdivision to clean up the access if they plan to merge lot lines, sell lots, whatever they plan to do with them, that's going to be the cleanest way back to us.
Terry – and if that doesn't hold up today's decision in the affirmative for the lot line adjustment I'm asking for Mr. Harlan McElroy, I have no problem spear heading that group. This is one that we just go in there from Dana Gregory; it says his family's been accessing these roads since 1962 freely without objection from anyone. And I get that from anyone that's got lots in there.
Commissioner McCown – Mr. Soderberg made a very wise comment that it's nothing but sage brush and dust but if you stop and remember in 1960 that's all Battlement Mesa was too. With additional use comes additional problems – we're trying to avoid that at the front end of this thing – at least I am.
Terry – and I fully understand that and I certainly don't need any glitches down the road either. Like I said I would be willing to do that with an affirmative recommendation from approval today and at the next meeting, I'll be here with an amended plat. Do we just need a letter from everyone stating they would sign it, or…
Carolyn – that's a different process so.
Terry – I will spear head that and
Fred Jarman – only one question for Mr. Chadwick, is there a lot owners association with this?
Glen Chadwick – no.
Request for an Executive Session for advice on this issue
Commissioner McCown made the motion; Commissioner Houpt seconded; McCown – aye; Martin – aye; Houpt – aye.
Mark Bean was asked to attend.
Commissioner McCown made to motion to come out of Executive Session; Commissioner Houpt seconded; McCown – aye; Martin – aye; Houpt – aye.
Chairman Martin stated no action took place, only legal advice. But I do have a question Terry and I need this before we go on. If granted in one way or other and this road issue comes up, is it your intention that you would lock everyone out simply because you have a CDOT permit that says private road?

Terry – absolutely not.
Chairman Martin – you intend to go ahead and share that?
Terry – I absolutely do.
Commissioner McCown - The permit is in you name right Terry?
Terry – yes it is. Only because somebody has to apply.
Commissioner McCown – right.
Terry – but it's not granted to me it's granted to a block of lots but it's also granted for 20 trips per hour which is more than 300 road uses.
Commissioner McCown – on a private road to a private applicant to a block of lots.
Terry – yes.
Commissioner McCown – sounds like a toll road coming to me.
Terry – no. Anyone that owns a lot in there to say you can't use the road would be useless because then they couldn't use the road, there's not anything to argue about for access if you have a piece of land you can't get to it's not worth a whole lot to anybody. To the owner or to anyone
Commissioner McCown – exactly. To the person that had the access it would become more valuable.
Terry – the permit is issued to the person installing it, I don't own the access, and the state owns the access. And once again, I don't even need that, I just did it so I could pave it and clean up the access to the subdivision. The permit is only issued to me to do the work. It doesn't mean that I'm the only one that can use it. And my intention is not be the only one to use it.

Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded. McCown – aye; Martin – aye; Houpt – aye.

Commissioners McCown stated there have been three different testimonies regarding the CDOT access issue, Terry, Jeff and Glen Chadwick however, having dealt with CDOT, he understands sometimes this is possible.
Commissioner McCown made a motion we approve the amended plat for lots 5, 6, 19 and 20 of block 11 of Traveler's Highlands with the condition that an easement, or proof of access be shown on the plat from Highway 6 & 24 from these lots and if it would be easier to contact all the lot owners, we would accept a completed amended plat and it would show all roads dedicated to the public.
Commissioner Houpt seconded and stated she was also uncomfortable about this process; feels as if there's enough undone at this point and not sure how she will vote on the issue. Larry stated there is great potential for people coming back to gain access to the permit. So if Terry doesn't feel comfortable coming back with the amended plat, there will be this issue all over again.
Commissioner Martin – the request is should we be adjusting lot lines. The access issue should be for everyone who owns a lot in the Traveler's Highland Subdivision. He would like to see every one bring themselves to the position of an amended plat. It's a major problem. Would like everyone to get together; we've had three public hearings to this board where we've discussed this issue.
Martin – Aye – McCown – aye; Houpt – aye
The Commissioners made clear that no building permits were to be issued until the amended plat is brought back to them.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR APPROVAL OF AN ACCESSORY DWELLING UNIT. APPLICANTS: SUNDOG ENTERPRISES, LLC. BRUCE AND JAN SHUGART – JIM HARDCASTLE
Jim Hardcastle, Carolyn Dahlgren, Bruce and Jan Shugart were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and adequate; therefore the Board was entitled to proceed.
Chairman Martin swore in the speakers.
Jim presented the following Exhibits for the record: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000 - ***removed***; Exhibit E – Application; Exhibit F – Staff Memorandum; Exhibit G – Review Memo: Garfield County Road and Bridge; Exhibit H – Letter – HOA consent; and Exhibit I – Glenwood Springs Fire Department.
Chairman Martin entered Exhibits A – I (removing Exhibit D) into the record.

This is a request for a SUP for an Accessory Dwelling Unit (ADU) on a 35.0001 acre parcel located at 0840 Faranhyll Ranch Road.
The 2nd floor of the barn is 1,632.0 sq. ft in size of which 1,347.0 sq. ft. is attributed to the ADU and the remaining 285 sq. ft is to be used for dry storage. The garage is not included within this ADU request and no part shall be occupied as part of the proposed ADU. The storage room will not have a closet, which is a characteristic of a typical bedroom. The proposed ADU use will also include one bedroom, two bathrooms, one dining area, one living room, one kitchen and one outside patio. Jim continued to review the staff report covering the main points.
Staff Recommendation:
Staff recommends approval with the following conditions:
1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. The Applicant shall be aware that the ADU will require building permits from Garfield County.
3. The proposed ADU will be no larger than 1,347.0 sq ft. in size and will include one (1) bedroom, two (2) bathrooms, one (1) dining room, one (1) living room, one (1) kitchen and one (1) outside patio. The dry storage room will not have a closet, and will not be converted to or used as a bedroom. The garage is not included within this ADU request and no part shall be occupied as part of the proposed ADU.
4. The Applicant shall apply for a septic permit and receive a final inspection from the Garfield County Building and Planning Department prior to issuance of the Special Use Permit. The septic system(s) shall be built to Garfield County required standards of performance for the total number of bedrooms within the ADU and dwelling unit, both of which are under construction at this time. The ISDS shall also comply with the regulations and standards required by the Colorado Department of Public Health and Environment.
5. The applicant must submit updated building plan information regarding the dwelling unit and pay new assessed fees for the current building permit for the barn, allow inspections, and ultimately gain a Certificate of Occupancy consistent with the adopted rules and regulations of Garfield County prior to any habitation. If the Applicant does not finish construction, the Building Permit is revoked, and the Applicant does not eventually receive a Certificate of Occupancy for the Primary Dwelling Unit, then this Special Use Permit shall became null and void. The Applicant shall also receive a Certificate of Occupancy for the primary dwelling unit prior to habitation of the ADU.
Exhibit I – Letter from Ron Biggers, Glenwood Springs fire Department for ingress and egress. There were three additional conditions requested by the fire department. Jim Hardcastle stated if this is approved, he would add a Condition No. 6 to incorporate the three concerns: Wildfire Hazard Fuels Mitigation Landscape Plan; Access – driveway; and Structure Exterior. Additionally Jim would ask that this certification from the fire department stating these conditions have been satisfied.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; McCown – aye; Martin – aye; Houpt – aye.
Commissioner McCown made a motion that we approve the Special use Permit for an accessory dwelling unit for Sundog Enterprises, LLC, Bruce and Jan Shugart with the 5 recommendations of staff adding Condition No. 6 including the letter from the fire department with the three additional conditions on this project. Commissioner Houpt seconded; McCown – aye; Martin – aye; Houpt – aye.

CONSIDER A REQUEST (CONTINUED PUBLIC HEARING) FOR A SPECIAL USE PERMIT FOR APPROVAL OF A RESORT. APPLICANT: 7W GUEST RANCH LLC – JIM HARDCASTLE
Jim Hardcastle, Mark Wilhelm, Terry Knight and Jerry Conner were present.
Exhibit K – discussing water issues.
Chairman Martin entered Exhibit K into the record.
Chairman Martin swore in the speakers.
Applicants would like to ask for a continuance.
A lot of people from out of area are present and wish to give testimony.
Terrill Knight – discussions with neighbors and would like to meet in their – work out as many issues as possible with neighbors. Some people have come a distance and would like to table this –
Mark Wilhelm –stated he purchased the ranch several years ago and nothing has changed. Neighbors concerned about some issues – his kids and their motorcycles. Built a barn and ended up with a violation.
Citizen's testimony

Janet Testweed – CR 151 – neighbors contiguous – 5 year landowner – piece of heaven – beautiful spot – the ranch became apparent he was going to build a Motorcross tract – wildlife migration – and not an appropriate land use. Want to be good neighbors and decided to see how things progressed and the sound etc. Gone from an area of quite sound to times when you hear motorcycles going round and round all day long. She doesn't understand how you take 35 acres – separate legally but not rationally. Now if he's granted resort usage – acceptable – it's doable and then to open it up to a resort using the cabins and no way to control who uses the track – the fire hazard – high fire hazard area – spark arresters – supposed to be on motorcycles – and they are the first to eliminate due to the increased powers.
How we separate the two uses and – forgotten step children – no services and if we have problem the BLM doesn't and DOW doesn't and if there's problems – it's a couple of days for anyone to come over. Concerned about granting cart blanche - and how to separate uses. – The noise situation
Want to be good neighbors – one sentence – an owners – laid out this tract is for the exclusive use of his family and his guests - as long as no one is paying to use the tract – no way of knowing – large conflict of interest – conflicts of interest and a tremendous impact to the neighborhood - impacts to adjacent property owners – isolated. All purchased land before Mark Wilhelm.

Bill Stevenson – CR 151 – some objections to the permit – said thank you for the surface on the road. Agrees with the rest of what Janet said.
Terrill – review the water – other than that – schedule with the neighbors – barn was built to store snowmobiles
Jim Hardcastle – motorcycles and tract – not as connected – identified and separated the Motorcross tract. Resolution shouldn't hinge on the eventually – continue merely the water issue.
Commissioner McCown moved to continue the Public Hearing until December 20 at 1:15 p.m.
Commissioner Houpt seconded; McCown – aye; Martin – aye; Houpt – aye.

CONSIDER A REQUEST (CONTINUED PUBLIC HEARING) FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANT: TIMOTHY JENKS – JIM HARDCASTLE
Jim Hardcastle, Timothy Jenks and David McConnahey were present.
Reviewed the noticing requirements for the public hearing and determined they were timely and adequate; therefore the Board was entitled to proceed.
Exhibits A – J were submitted previously. New Exhibits – K is new and L – Driveway permit is new.
Chairman Martin entered Exhibits K and L into the record.
Chairman Martin swore in the speakers.
On October 4, 2004 the applicant was present at the County Commissioner's meeting, It was decided that the applicant was deficient in several areas and requested a 30-day continuance to generate new information.
This is a request for an exemption from the definition of subdivision located on 36.52 acres on CR 245 West Elk Creek Ranches, Mountain Parcels. The parcel is on CR 245 approximately 14 miles northwest of New Castle and is divided across the eastern portion of the property by CR 245 and is bordered by USDA Forest Service land on the east and private lands on all other sides.
The applicant is in the process of building a single-family dwelling on the far western portion of land where there are no improvements on the portion to be divided east of the road. Both parcels contain moderate to severe steep hillsides and are predominately covered by aspen, gamble oak, grasses and other native vegetative typically found above 8,000 feet in elevation.
The applicant proposes to split the property into two lots.
On November 8, 2004 the applicant submitted new information in narrative and drawing form which attempts to argue the points of the staff recommendation for denial items:

1. The inability to make a finding that CR 245 prevents joint use of Parcel #2 from the parent parcel;
2. Parcel #2 has no identified building envelope of one contiguous acre with slopes less then 40%;
3. Parcel #2 does not have an identified area of less than 30% slope for ISDS;
4. No design for a water system demonstrating service capability of Parch #2 for the well on the Parcel #1 has been shown; and
5. Legal access from CR 245 has not been demonstrated.

Staff finds that the application does not comply with Section 8:52 of the Garfield County Subdivision Regulations of 1984, as amended.
Jim – On October 4 the Board discussed several issues and deemed and a denial was imposed.

The applicant has submitted new information and with this a new question –

Therefore, Staff recommends the **DENIAL** of the application as proposed due to the following 2 reasons:

1. The Applicant has not demonstrated that the construction of the county road, which occurred well before the creation of the parcel in question, has prevented joint use; therefore the parcel does not qualify for an exemption.

2. Additionally, the proposed access and internal driveway appears to be well in excess of the maximum allowed 14% grade.

Commissioner McCown asked if the 34 lots above 35 acres that were created are they all subject to a 4 lot split?
No per Jim Hardcastle. Interpretation of the Code, when there are splits above 35 acres there is no limitation specifically to this code section.
Mark – the answer is no. With the remaining 35 acre tracts would not be eligible for subdivision exemptions under this criteria; the only reason this particular tract is eligible to make this request is the fact that the property when it was created and put into a 35 acre configuration, included a part of it being separated by the County Road. As Jim mentioned there are four or five nearby lots that were created as a result of this that would be making the same type of request potentially. Mark clarified since the 34 lots were created outside the exemption – can be under the regular subdivision process as they were created after 1973.
Applicant: Timothy Jenks told the story to request this exemption. He purchased the tract of land, West Elk Creek Ranches to build a retirement home and have horses. When he purchased the lot he was talking to his neighbor up there and she has horses and does rides, etc. and was talking about using the trail at the bottom of his property and wanted permission to keep using this property for that use. He addressed that part of the property was split – she said the possibility would allow him to subdivide the property. He was informed of the exemption process and that's how he got to this point. No use for the property as it is currently, due to the elevation and grades – would like to deed the property to his kids and build a house on the 5 acres property across the street.
David McConnahey – comments on the subdivision exemption process and the issues raised – the only issue left is does the road prevent joint use. The fact that the 35 acre properties were created after 1973 – it is a quirk of the County Code and should have applied for a parcel split. A loop hope that rewards you for being clever. It wasn't a subdivision and the staff report does mention the road was there. Whoever drew up the plans was not thinking of a subdivision. Mr. Jenks brought the property as is. This section was in place and the real question is does it prevent joint use. An entirely different road to get to the parcel 2. What precedent set – does it mean than any parcel split by a road – the BOCC has jurisdiction to grant a request – case by case basis. The other concern raised about slope and well use – could be dealt with if the BOCC is inclined to approve.
Total impacts – this road goes all the way for New Castle to Buford. New Castle didn't comment it but internal the impact is not worth commenting on. Apply the section as it was written and look at the typography and see if this flies here.
Driveway design – we took the driveway design criteria which is a 30 foot flat pad at 3% and met that and found acceptable by Garfield County Road and Bridge. The driveway intro design does not exist at this time because we don't know what kind of house there will be or the location, but have identified it at 2.2 acre building envelope and there's a lot of areas we could build the driveway on. One of the things that Mr. Jenks and I have discussed is doing the garage under the house where you have a 10 foot elevation to drive your car into. There really isn't a 14% driveway we just cut the slope as fast as we could in order to minimize the drainage impacts to the site and we have erosion control on it.

Jim Hardcastle commented in terns of the applicant's presentation; number one an inconvenience, if the applicant is building a house on the top and is looking to access Parcel No. 2 on the far right, east, necessitates driving back around to the north driving on the County Road to access that split parcel proposed and don't think that truly is intended as a joint use prevention, which the applicant can content as far as this application is concerned because an inconvenience doesn't mean joint use is prevented. If you have to drive further it still is not making it impossible for the applicant to utilize it and that's further

supported that they could get a driveway access permit. By getting the permit and allowing access to that particular area, he would challenge the prevented use argument. The road design again would like to have a lengthy conservation as to what the planners of this particular development would have or could have done differently had they utilized the subdivision process. Most importantly they would have had to go thought a very stringent review process that would have placed or allowed those three lots in a more appropriate area than the various and random 5 other potential split areas we're looking at here. Topography which is causing the inconvenience is not particular criteria we look at, it's either 4 lots or a road preventing joint use and arguable topography does prevent direct joint use in requiring a route to circumvent directly using it. There again this is a decision for the BOCC.

Commissioner Houpt – Is it your opinion that the topography is the greater barrier than the road is for joint use?

Jim – it depends upon how you've observed preventative joint use before and that is directly from this side to that side of the property. In terms of that observation, yes, topography does prevent joint use. If we look at it with an allowance for an access albeit around about way does not prevent joint use then that would essentially be the way staff is interpreting the exemption code section.

Commissioner Houpt – you had indicated that if we did decide this to go forward you had conditions.

Jim – those are just standard conditions that you would have read in the staff report, review criteria that I do have prepared to work off.

Standard design issues, the road being adequately designed, water sharing agreements, and many things to be applied to the final plat.

Commissioner Houpt asked to hear those.

Jim – these were all design issues, road cuts and bore permits for the water line that is coming from a well that is on the far upside of the elevation of the property to the west, that would be again through the Road and Bridge Department, utility easements just to be placed on the final plat which shows an agreement between two potential land owners, the driveway permit has been issued there wre 6 items they had just as a standard for the pad in size, asphalt depth, clearing of vegetation for visual approach of 350' in both directions for this 25 mph road, constructing the pad with no more than a 3% slope away from the County Road, installation of a particular sized culvert, constructing the driveway to prevent drainage from accessing directly onto County road 245 and the driveway to be reviewed upon completion prior to the final plat recordation. Other than that, the fire department responded back with no particular issues however, they did response to a number of issues that the applicant had submitted in consent to a fire prevention plan as it were, fire protection plan and the fire department indicated if the applicant were to follow through on those issues and look at maintaining that those had been accomplished prior to recordation of the final plat that the fire department would be acceptable to this development.

1. All representations of the Applicant, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. The Applicant shall comply with the 1978 Garfield County Zoning Resolution and the Colorado Department of Health standards.
3. Upon successful approval and recordation of this proposal, no further subdivision by exemption will be allowed on any of the two (2) lots created.
4. A Final Exemption Plat shall be submitted, indicating the legal description of the property, dimension and area of the proposed lots (to be labeled Lots #1 and #2), all easements and any proposed easements, setbacks, building envelopes, and other customary items which shall be presented within 120 days to the BOCC for signature from the date of approval of the exemption.
5. Road cut or bore permits for a required water connection shall be obtained by the applicant and shall be submitted to the Garfield County Road and Bridge Department prior to Recordation of the Final Plat.
6. All Utility easements shall be placed on the final plat and submitted to the Garfield County Road and Bridge Department for review prior Recordation of the Final Plat.
7. A driveway permit has been issued to the Applicant on 11/8/04 by the Garfield County Road and Bridge Department. The Applicant shall abide by the requirements of said permit and successfully execute the following items prior to issuance of the Special use permit prior to issuance of a Building Permit;

a. construct the required pad (30'WX30'LX4"D constructed of asphalt).
b. clear vegetation along the ROW of CR 245 in 350' in both directions.
c. construct pad with no more than a 3% slope away from CR 245.
d. install a 30'WX30"L culvert.
e. construct driveway to prevent drainage from accessing CR 245.

f. Driveway to be reviewed upon completion.

8. The Applicant shall adhere to the self described fire protection outlined below and implement this plan for review approval prior to issuance of the Certificate of Occupancy of any structures erected on this lot.

a. Implementation of a 100 foot perimeter clearing around any structure of low growing fuel sources.

b. Removal of decaying fuel sources including downfalls around any structure.

c. Maintain 35 ft. definitive area around any structures.

d. Removal of all ladder fuel sources.

e. Ten (10) foot spacing from the crown of all trees.

f. Provide and maintain access road of a minimum of twenty feet width and have a gravel base.

9. Final Plat notes and covenants shall be added that states the following:

a. "Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations."

b. "No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances."

c. "All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County."

d. "All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries."

e. "One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries."

f. Final Plat notes and covenants shall be added that state the disclosure and nature of mineral rights.

Commissioner Houpt made a motion to close the public hearing; Commissioner McCown seconded; motion carried.

Commissioner McCown made a motion to approve the exemption from the definition of subdivision by the separation of the road creating this with the conditions listed by Mr. Hardcastle as conditions of approval. Commissioner Houpt seconded. Commissioner McCown – a brief comment, I guess there is no lot totally inaccessible if you look at helicopters with or various means of access, what we have to look with this board as practical access, what is usable, what is obtainable by not driving a mile and one-half around the road to get back across the road to your lot, we do look at these on an individual basis and still important that we do, but this one to me clearly stood out as being one of those that qualify. Commissioner Houpt agrees with Larry.

Chairman Martin – we do review these individually. McCown – aye; Martin – aye; Houpt – aye.

REGULAR AGENDA

REQUEST FOR APPROVAL FOR ENCANA TO INSTALL A PIPELINE ON CR 306 – WALLACE CREEK – MARVIN STEPHENS, JAKE MALL

Marvin Stephens, Jake Mall, Dennis Hanson for EnCana, and Cody Smith, Wagon Wheel Construction were present.

Jake said that EnCana wants to come down the County road for a total distance of 5,316 feet. The private property they will cross is under ½ mile.

After they obtain the Special Use Permit, the R & B can go forward. The SUP would only need for the private property – can't cross without a permit.

Discussion included allowing EnCana to precede the work on the County right of way and take a risk with the private property owners allowing them to complete it.
Dennis – they would be willing to take the risk.
A motion to approve EnCana to use a portion of the County Road to lay as laid out with Road and Bridge was made by Commissioner McCown and seconded by Commissioner Houpt. It was noted that this is not the proper protocol to bring in a request.
Dennis – we can get this section done and continue to work on the other part throughout the winter.
McCown – aye; Martin – aye; Houpt – nay.

DISCUSSION OF SCOPE OF WORK FOR PROPOSED HYDROGEOLOGICAL STUDY – DOUG DENNISON

Doug presented a scope of work for the study. The objective of this study is to address the potential impact of the planned drilling in Garfield County by better characterizing the geology in the area of current activity. The study area will include the 4 townships south of West and East Divide, West, Middle and East Mamm, and Dry Creeks. This project will involve compiling, analyzing and interpreting relevant information from County, State Federal, private and Non-Governmental Organization (NGO) hearings, EPA studies and any information related to the ongoing Divide Creek Seep investigations.
The project described in this Statement of Work will be considered Phase I of the study. The total budget for Phase I is $150,000. This work will be put out for bid by RFP from the County as soon as the SOW is approved by COGCC. Potential contractors will submit their bids by February 1, 2004. Interviews and selection of contractor will occur the following month and it anticipated that the contract will be awarded by April 1, 2005. Work will commence no later than May 1, 2005 with completion by November 2005. A timetable with detailed budget that includes all the components of the study is required with any proposal. The results of Phase I shall be used by the County to help design Phase II, which is anticipated to have a similar budget.
Project Components:
Well Drilling and Completion Review; Review and Compilation of State Documents related to Drilling Activities; Geological Data Compilation including structure, hydrology, hydrochemistry, outcrop studies of the aquifer, data analysis and interpretation and public outreach.
Doug said there is still some tweaking to do on the language. Two phases – 1) compile all the existing information out there on ground water quality – well drilling information that no one has pulled together from a water perspective as well as the oil and gas perspective. Phase II – collect additional data or expand –
Monitoring – all of the data collected is submitted to the oil and gas industry. One complicated issue is the pending lawsuit and they are somewhat tied in what types of information they will be able to release.
If the specter of the lawsuit they would be willing to share except things that would give them a competitive edge in the field. There is roughly $300,000 for this project and Dr Thyne has projected one-half will be needed for this first phase. The one area still being discussed with EnCana is to look at impacts from planned drilling.
Doug asked if the Commissioners want to see the draft before November 29.
Commissioner Houpt – wants to leave it up to Doug.
Chairman Martin suggested giving Doug a vote of confidence so he can more forward.
What we find in Phase I will determine Phase II but Commissioner McCown wanted Doug to give them some ideas.
Doug on Phase I the suggestions came from those two organizations, they had the idea of taking some cores and doing some monitoring wells, but recognize we don't know where to do that yet.
Commissioner McCown favored giving them some idea about Phase II.
Doug said what we've said to this point is that based on Phase I a Phase II sampling plan should be formulated to fill in any gaps in the existing data coverage and address any seasonal changes that are not presently measured and it has some additional information about being consistent with COGC's sampling procedures; or extend the length of it. And then monitoring wells that include coring of the Wasash formation may be considered as part of the Phase II. The other question that has arisen is what happens to this $300,000 – initially the COGCC didn't think they could hold onto it because it posed some Tabor issues. The last heard was that this may not be the issue and they could sit on this in escrow and have the money available when Phase II is started.

Commissioner McCown – there were several concepts and this Board from the discussion earlier, doesn't have a problem with EnCana holding the money as long as they pay on invoices. As long as it's Garfield County managing the program. EnCana is clear that the County will run the project.
Doug – on the 29th we re-present the three projects. He anticipates that these will all come to fruition on the 29th.

Executive Session – Health Issue
Commissioner Houpt made a motion to go into an Executive Session; Commissioner McCown seconded; McCown – aye; Martin – aye; Houpt – aye.
A motion was made by Commissioner and seconded by Commissioner to come out of Executive Session; McCown – aye; Martin – aye; Houpt – aye.
Action taken
Health Issue
Commissioner McCown made a motion to authorize Mary Meisner, the Public Health Director to investigate the potential health issue. Commissioner Houpt seconded; motion carried.
Motion to delegate authority to investigate on a potential health issue. Houpt – seconded. All in favor. McCown – aye; Martin – aye; Houpt – aye.

Recess – until 9:00 a.m. tomorrow for Budget Hearings.

NOVEMBER 16, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The budget meeting of the Board of County Commissioners began at 9:00 A.M. on Monday, November 15, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

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

The elected officials presented their budgets to the County Commissioners:

District Attorney

Mac Meyer and Colleen Truden were present.

CARE
Steve Smith – Elk Springs – adjacent to the Dog Facility
This has been ongoing for 4 years – neighbors in debate with dogs barking. He was speaking for the neighborhood – barking everyday. 2000 started; 2001 – 12 neighbors submitted a petition; 2002 – HOA with 45 neighbors signing; Pinon Pines and Elk Mtn. over the last 4 years roughly 10 times have called the Sheriff and filed official complaints; those complaints were closed off by the Sheriff; some closed by DA; $10,000 for justice – one case to court. Continuous barking for one hour every day. Everyone did say continuous. Judge said we didn't prove continuous. Testified to the Commissioners, City Council, CARE Board. CMC, Mark Bean, Steve Hackett, Sheriff, City and basically if the Commissioners does give to CARE, would they ear mark for sound mitigation. 14 dogs every day – put them out in the back yard – always dogs and many are problem dogs – no dog collars, no discipline, staff encourages them to play and bark. It's not like a neighbor with a barking dog. 3 acre parcel should be only one dog per acre. Neighbors don't want to spend thousands of dollars to fight CARE. No official lawsuit yet. Petitions – but this continues.
Commissioner Houpt – money we give is operational money. We can't bring any dogs to them if we don't pay operational costs. Do you want to see capital money for sound mitigation for CARE?
Steve – whatever you can do to encourage them to be a good neighbor. Seems very inappropriate to build a facility in a residential neighborhood. Real Estate forgot to tell him he was buying next to a dog pound. Like to see the BOCC put some pressure.
Chairman Martin – another situation – might want some input – Rifle for the impounded animals – meeting in Rifle on 11-23 -04 at 8:30 a.m. at Rifle City Hall.
Commissioner McCown – point of clarity – the CARE facility was built on school property and circumvented the County's review. We have rules that dogs must be kept inside. The one in Rifle will have to meet the County regulations and there will be no outside dog runs. It will have to built and designed with the County standards.
Steve – spend 100 of hours and the process is extremely frustration. Have met with CARE and it has not been productive. Some ideas for what it is – one big room – tin room – manager can't even talk of the phone – some sound mitigation – treated neighbors poorly – threatened twice by them – a lot of things have happened and ended in bad relationships. No dog is not out longer than 55 minutes since they have established the one hour rule.
Commissioner Houpt – has the neighborhood asked to have a neighborhood representative to the Board. Since this is on School ground there is nothing the BOCC can do. Raise funds for sound mitigation.
Steve – neighbor offered to help physically to lay a carpet on the ceiling – there is no longer communications. Officially the community has not asked to have a board member. They don't use barking collars – they say they don't work. Is it the dogs or the people. CARE doesn't care about the neighbors – given that presentation it is hard to ask them to have a member on their board.
Commissioner Houpt – if people work together they get further.

Steve – a lot of new managers and then we start all over again. There are a lot of places that are isolated. Why did they have to build a dog pound in a residential neighborhood?
Chairman Martin – economics. We will be looking for a location in Rifle.
Steve – wasn't sure he could be present.
Chairman Martin – he will take his message.
Steve – it's not the number of dogs – its management. The noise in the facility is painful. Sound travels up. All the pressure the BOCC can apply will be appreciated.

Library

Jaci Sphuler and Mindy was present.

Sheriff

Lou presented his budget.

CARE – after meeting in Rifle, Leslie and Board members get together – facility in 05 – could due to motivation. Will negotiate after the meeting. Some concerns, some things in the contract, Sheriff needs to control. Contact the Sheriff before a final decision. Flat fee for all abandoned dogs in Garfield County – perception. All agree they are heading down the right road.
Commissioner Houpt – facility – that's going to be a fairly complex decision and we need to look closely at what is being spent from capital funds – regional partnership with other regional money – for this year we need to look at the budget.
Lou – private donated money, have land, county has land – not footing the whole bill for operations, etc. DOLA and Tim found another source – listed by example dog pound.

Commissioner McCown – might find at animal facilities – some violations of conflict with county regulations.
Lou – go with Rifle's property or county property – not violate zoning.
Commissioner McCown – parcel on Mamm Creek – less than ½ mile – no houses around it.
Lou – the attitude is focused and no more fighting.
Commissioner McCown – Silt and Battlement Mesa may show up –
Lou – they have all shown some interest. Only question – some pop up in the building - $50,000 in building maintenance – dishwashers – over $10,0000 fan out that was $6,000 and these maintenance items – don't want to short change other areas in the budget – is there some contingency for these maintenance.
Ed – this already exists – capital contingency.
Lou – plead my case.
Agreed.

Motor Pool

Ed, Jesse and Tim presented motor pool – balanced the requirements and a predicable amount of vehicles turned over every year.

Assessor

Shannon Hurst presented an in-depth report and her budget request.

Continue Meeting until Wednesday – 1:30 p.m.

NOVEMBER 17, 2004
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The budget meeting of the Board of County Commissioners began at 9:00 A.M. on Monday, November 15, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 1:00 P.M.

The elected officials presented their budgets to the County Commissioners:

Treasurer
Georgia Chamberlain presented her budget.

Clerk & Recorder
Mildred Alsdorf presented her budget.

Coroner
Trey Holt presented.

Surveyor
Scott Aibner presented.

ADJOURNMENT

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

DECEMBER 6, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

a) Gallagher Benefit Services Consulting Services Agreement – Judy Osman and Carolyn Dahlgren

A confirmation letter that Gallagher Benefit Services Consulting Agreement was submitted with the term of the GBS' services commencing as of January 1, 2004 and remaining in full force and effect for a one-year period. A spread sheet was in the BOCC packet and Judy explained the savings.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the letter of agreement with Gallagher Benefit Services Consulting Services Inc. and authorize the Chair to sign; McCown – aye; Houpt – aye; Martin – aye.

b) Discussion of Staffing Needs for Criminal Justice Service and Community Corrections – Guy Meyer

Guy reviewed the program that has been opened for one year. The goal is to stabilize the individuals and eventually move them into the non-residential. The State is ready to move toward a new alcohol and drug therapy. He submitted a Power Point – Strategies for Self-Improvement and Change – Criminal Conduct and Substance Abuse Treatment. This is a program developed by Dr. Wanberg and Dr. Milman for treating criminal conduct and substance abuse in conjunction with Colorado Alcohol and Drug Abuse Division; Colorado Department of Human Services; Colorado Division of Criminal Justice and Colorado Department of Public Safety. This program is having a dramatic effect on the clients.
This is a 50 week program and while we have these guys in the program, we'd like to deliver the orientation and first phase of the program; Phase II when they move into non-residential. Phase III with outside consultants.
The program is used by Private practitioners, government offices, Residential Treatment Centers and especially Community Corrections.
The program concentrates on the main reasons offenders are in the program and the participants maintain the same treatment throughout their entire sentence, including non-residential. There are 50 sessions designed to be administered in 50 two hour sessions for 10-15 participants. There is an Orientation Phase designed as 4-6 hours of treatment.
Phase I – Challenge to Change is a 16 session
Phase II – Commitment to Change is a 21 session
Phase III – Taking Ownership of Change is a 10 session
Guy submitted a staffing comparison to Sheriff's Office jail staff showing 1 LS (line staff) to 3 inmates and Community Corrections has 1 LS to 5 clients.
The current staff at Community Corrections has 5 security staff that works 24/7 – 365 days and 2 case managers covering 10 hour shifts 7 days a week.
The funding source for the request would be each client would pay $30.00 per week for the services. All treatment would be completed in Residential Program. With 23 clients is would equal $690.00 per week times 52 weeks = $35,880.00 per year.
The ultimate benefit is that these offenders will be better prepared to be successful in society.
Dale said the first change order comes in May 2005. We will ask for additional funding.
Guy said 12 beds are in other facilities, such as sex offenders and females.
Dale said we are better off that what we budgeted last year. It will be better than a 100% impact on the budget.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve a position to the budget to get the program started using January 1, 2005 as the kick-off. McCown - aye; Martin - aye; Houpt – aye.

c) Discussion of Snowplow Route Signs for Battlement Mesa – Marvin Stephens and Jake Mall

A location map for snow plow route signs in 12 locations designation no parking from November 1 – April 1 was submitted.
Marvin explained the problem.
Lou was present and agreed they could notify them of towing if violations occur.
Jake said this is for 12 major entrances. They will notify the Association.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the snowplow route signage for Battlement Mesa as on the map and authorize the Chair to sign a Resolution; McCown – aye; Houpt – aye; Martin – aye.

Jesse – Budget Request

IT has been down to one staffing level. We operate 25% of Eagle and proposed we increase the IT department by 2 people. This would bring the staff to 4.
This would be a maximum $100,000 hit on the budget. This would come out of fund balance.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to add two additional staff people to IT to meet the current needs. Commissioner McCown would feel better able adding one staff and evaluate how we are doing. Every time we add a new position we are looking in the future about cutting another staff person. Commissioner Houpt favored two because of the growth of the department. The IT department also handles the Website.
Chairman Martin – this is a culture that is growing and agrees we need to have more staff available to assist with the technology.
Vote: Houpt – aye; McCown – aye; Martin – aye.

Ed requested an Executive Session item – CSU negotiations.

COUNTY SHERIFF UPDATE – LOU VALLARIO

Lou Vallario agrees with the board about the culture change and the technology is advancing to where we need support. He did have to cut a position in order to have a full time IT person.
Update – joint animal control – this went well with Rifle. New Castle, Rifle, and Silt, Battlement Mesa were supportive. This is moving forward. Subcommittees were formed and they are looking at grants, sales tax, etc. to see what money can be generated. This will be back before the Board on December 14, 2004.
Did an amended budget and will be presenting this next Monday. Ed noted the current budget includes $75,000.
Leslie from CARE and Lou have been discussing fees and the future of a shelter in the west end of the County.
The $130,000 is still in the budget for 2005. This is based on what CARE is telling Lou they need to handle the impact our needs are having on their facility.
Leslie Rocky, director of Colorado Animal Rescue said everything that comes is in from the County. Every kennel is full of County dogs.
The City's reclaimed percentage is 70% where the County is 30%.
The long range solution is a animal shelter in Rifle but for this next year it is a matter of reducing the number of dogs they pick up or look for a place to shelter them temporarily.
Leslie said CARE tries to accommodate the animals but some days there is no place to put another dog.
Lou said they could go more on quarantining the dog in the home.
Commissioner McCown said before CARE this was the method used when an animal needed to be quarantined.

Final draft on the animal resolution will be forthcoming and back to the Board in the next month or so.

Information – staffing issues in the jail. They don't seem to lose employees except in loads. The minimum section of the jail has been closed down once again until staffing is back to normal.

Private towing on private property – Commissioner McCown received a call regarding abandoned vehicles on private property. Laws have been passed and create an indirect problem where when the property owner

gets so frustrated with vehicles parked on their property, they tow it off to county roads. It then becomes a law enforcement problem.
Discussion: Does this need to be a legislative process or what can be done to solve the problem.

January 5, 2005 the County is hosting an abandoned vehicles session here in Glenwood. Mildred is sponsoring this and she is informing the towing companies.
Lou said the issue that needs to be changed is two fold: 1) lighten up the laws to tow on private property; and 2) hold the vehicle owner responsible but you can't do this in the current laws.
Unless there's a more restrictive way to make sure vehicles are transferred to others then we could go to the registered owner. With vehicles being abandoned in areas such as Wal Mart, you could be in the towing business. At present, there is not a way to handle this issue.
The problems are with zoning, legislative issues, etc.
After discussing, a determination made that it is a legislative issue.
Mildred said the towing companies will be brainstorming in two sessions on January 5, 2005, one in the day and one in the evening.

COUNTY ATTORNEY UPDATE – DON DEFORD

Executive Session: Litigation Update; Legal Advice

CR 121; Barrett spacing; Crowley litigation – Traveler's Highlands and Battlement Mesa and the relationship of Planning Commission for a joint meeting with the BOCC; Rose Ranch Board of Directors; Ed's personal item CSU; and discuss the liberty of documents by Randy Russell with Roan Plateau; and possibly an issue in Rifle Village South

Carolyn informed the Board regarding the Traveler's Highlands that another public meeting will be needed. Direction to staff will be given after Executive Session.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried unanimously.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried unanimously.

a. Consideration/Authorization for Chair to Sign Annexation Maps for Portion of CR 231

Leavenworth & Karp P.C. submitted a letter to Don DeFord regarding the Town of Silt County Road 231 Annexation Map/ELW Land Company, Inc. ELW has annexed and is developing a subdivision in the Town of Silt called Bella Vista PUD (fka Bookcliff Farms PUD). As a condition of approval for Bella Vista, ELW must annex and improve a portion of CR 231 adjacent to the property into the Town of Silt as an extension of First Street. The BOCC executed an Annexation Petition for this portion of the county road early last year and this is the Annexation Map for the BOCC's signature.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the annexation map for the Town of Silt; Houpt – aye; McCown – aye; Martin – aye.

Consideration of 2005 Contract Renewal – Mary Ellen Denomy

Shannon Hurst, Sean McCourt and Mary Ellen Denomy were present.
The renewal of purchase of services agreement between the BOCC and Mary Ellen Denomy was submitted. She is to act as a consultant for auditing services to the Garfield County Assessor regarding property tax obligations of operators and owners of producing oil and gas properties.
Mary Ellen has been providing other services outside the current contract and this is auditing advice to the auditor. Last week Don discussed this with Georgia Chamberlain over money received from county property and trying to find ownership to find who this money is owed. If Mary Ellen is going to provide this service it needs to be included in the contract.
Shannon submitted information.
Commissioner Houpt felt that Georgia needed to be here as it is a budget item.
Don said Mary Ellen has provided some information to Doug.
Mary Ellen – has to contact Mildred regarding leases. All departments are intertwined.
Commissioner Houpt – determined that Mary Ellen only wanted one contract.
Commissioner McCown commended Mary Ellen for this project and a specific amount of dollars and the Board didn't have a problem of Mary Ellen talking to other departments.
Don said after listening to this discussion, he suggested going ahead with the agreement as drafted. When Georgia is present next week, royalty payments may want to resolve this and amend the contract.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to renew the contract for purchases of services as written for 2005. McCown – aye; Houpt – aye; Martin – aye.
Mary Ellen felt it would not take more than 10 hours with the Treasurer.

b. Continuation of Discussion Regarding CR 162A

Don stated this is the road that accesses the Sun Mesa and was contacted by Roger Cohen and could not get documents to Don and requested a continuance until December 20, 2004.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign the Special Use permit for an Accessory Dwelling Unit for a property owned by Bernard and Martha Long – Fred Jarman
f. Authorize the Chairman to Sign a Resolution for a Special Use Permit for Williams Production RMT CO (O2 Production) – Jim Hardcastle
g. Authorize the Chairman to Sign a Resolution for a Special Use Permit for Beverly Klein – Jim Hardcastle

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a - g; Houpt – aye; Martin – aye; McCown - aye

REGULAR AGENDA
PUBLIC MEETINGS:
ROAN CLIFFS EIS ORGANIZATION ISSUES – RANDY RUSSELL

Randy Russell presented the information saying it was more of an advice asking today. The clock has start5ed for the 90 days review and public comment. December 3rd was the date. This will extend until the early part of March.
Randy is trying to assemble the County's comments for a formal response. He added that no decisions are needed today and there will be a partner's meeting with BLM to set public hearing dates.

- BM = 6 p.m. Activity Center on December 13th
- Rifle 6pm – Fairgrounds - December15th
- Glen Spgs 6 p.m.- Community Center on December 6th

These are BLM open houses – displays, models, etc. The Commissioners have been invited to be present at each one of these meetings.
The timing on deliberations and a final decision will not directly after the 90 days time limit.
Action item: Staff's concerns on issues: Road ownership and maintenance in the planning area. Randy suggested that we have our own internal review with vegetation, road and bridge, and planning and suggested December 22, 2004 to have the initial comments from Randy. Then in early January a meeting.
The Board agreed. First review December 22, 2004.
What BLM wants to see and our responses on what we endorse and want to see in the BLM draft. This is the framework Randy will take with staff by segmenting by specific topic area and larger context area that might need further discussions when the BOCC takes a position.
This report submitted to BLM could be several months after the 90 day process.

Chairman Martin – must take comments from other folks, then go ahead and resift everything and submit comments.

Staff is not going to submit a report with a final recommendation. Staff may submit some elements but not a final determination.
Commissioner Houpt – Randy is taking on the responsible to analysis this report and clearly as the process allows, at the end of the day, a new alternative and will be relying on Randy for his expertise. The time for creating a recommendation is after we've heard from everyone else.

APPOINTMENT OF DIRECTORS – ROSE RANCH METROPOLITAN DISTRICT (Ironbridge)

Don DeFord submitted a memorandum regarding the Rose Ranch metropolitan District Board of Directors

stating that on November 15, 2004, counsel for the District tendered correspondence requesting the appointment. It now appears that there are no eligible board members for that District; however this will not cause an interruption in services. In regard to this, the BOCC may appoint qualified Board members and a Resolution was submitted that includes the following recommendations for appointment:
J. Thomas Schmidt, Roger Hukle and Dirk Gosda. These directors would serve until the regular election; the Board authorizes the appointment of J. Thomas Schmidt, Roger Hukle and Dirk Gosda
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Resolution to appoint J. Thomas Schmidt, Roger Hukle and Dirk Gosda to the Board of Directors for Rose Ranch and the Chair be authorized to sign the Resolution and will be effective until May 2006; McCown – aye; Houpt – aye; Martin – aye.

DISCUSSION OF REQUESTS FROM WILLIAMS ENERGY SERVICES FOR CONSENT TO BOTTOM-HOLE LOCATIONS – MARY ELLEN DENOMY

Don stated this was a request for consent of oil and gas setback issue for Williams Energy Production RMT Company and Garfield County is one of the owners. The gyroscopic survey data indicates that this well has bottom-holed eleven (11) feet beyond the required setback. This is the RWF-343-29 gas well.
The purpose of the 600 feet setback is to prevent one area by being drained form another's well. 600' is probably an arbitrary number. This protects others wells reserve from being stolen.
There's only one perforation. No one would ever had know this had seismic testing had not been done. The technology used at the time was not used. Williams has done all 900 of their wells.
This is formerly in Commissioner Mackley's backyard.
Mary Ellen did an extensive review of the reason the setback issue was done.
DOE has been doing this for 25 years. The reasons for lenses - page 9 was referenced -where silt has been deposited.
Barrett talked about distances between wells several years ago.
Spacing Units: The O & G has established that the gas owners get paid within a specific area from a well drilled and gas extracted. When this has been done, everyone equally shares. Page 7, the second well the County is involved in it is only 10 feet within the ownership of the County's share of minerals. This is too close. 90% probably going to another's well. By giving consent we are giving up this 90%. The solution might be to drill your own well. Every well cost $1 million to put in. The County needs to make some choices. Waive your rights to the neighbor's next door and since this is being done for 6 years, there's not much left. This may not be a feasible option to put a well on County land. The other choice – two wells – actually there is one that has crossed the line and
Can we recoup the loss? One is very complicated, close the well, go back and determine the County's percentage.
She made the following suggestions: they were aware of the setbacks and recommended the back royalty should be paid equally for their royalties.
It is the duty of the OGCCG to insure the mineral owner's royalty interests and it is them that have to make the decision but we can submit recommendations.
Mary Ellen – the easiest resolution is to close off where it is now and let it go because we're not sure how much gas went to both sides. The 10 feet setback is too close and most is coming off County minerals. Due to the increased density, the 100 foot setback creates sections that can't be developed equally 1200 feet and the energy companies will have a problem getting out the minerals. She would like to recommend something to allow development in the various sections. And the owners would be percentages based on other number of acres of property in the sections.
More research is needed and she is not recommending signing these agreements. This has brought up a situation, Williams; they haven't been all that accurate where they've been going. There is a well in BM they can't complete and not sure – only Wednesday to comment on that permit. Should we let them have a Cart Blanc and finally she needs to say she is honored and humbled to work with the County. Garfield County USA is the focal point of this entire area. Piceance Basis is the key and the eyes of the nation are looking to us and if anyone can come up with Resolutions on what to do, it is the three commissioners. Houpt on environmental issues, McCown on mining experience and Martin on history of the area. Commerce is coming and we have been asked to deal with Roan Plateau and she is proud to be working for the three of these Commissioners.
Most of this happens in the first interval and it wasn't a problem before because we didn't have directional wells. We've opened a can of worms with the setbacks.
If Williams Energy hadn't come forward with this information, no one would have known the cost. When

you have the problem of competing operators you would know the problem. The ability to find out due to the densities should occur. There are federal units that are not participants.
What are people anticipating and what would you like the County to do.
Commissioner McCown – make sure there is enough money in a clean up fund; if they don't have the funds to clean up after a problem it could be costly. They need to put up some money in order to avoid the County from having to expend the cost of clean up.
Williams has said they will have an inspector present to monitor this. A cart Blanc permit without restrictions is a problem.
This will occur in the next 12 months. She would rather have Williams do the work.
The federal government has done a great deal of research.
Commissioner Houpt feels differently about the 10 feet versus the 180 foot distance.
Mary Ellen – mineral rights – DAB will be forthcoming for surface owner agreements and from the last one it shows leaks and she got concerned.
The draft presented Thursday; 12-02-04 was referenced. The word lease gives her a problem.

Commissioner Houpt not in favor of making exceptions at the setbacks.
Commissioner McCown requested a brief executive session before taking action.
The timeline on this goes before the OGGC at the next meeting. Respond before January 15th.
Rulison Drilling – take a position on clean-up of any contamination that may take place on any drilling in that area. Comment period expires on Wednesday, December 8 to have sufficient funds set aside.
A letter from the DOE stating that they would be willing to clean it up. They are the one that said it is no problem.
Commissioner Houpt wanted Don to write a letter that since DOE that they are being responsible for this beyond the bond amount set for possible clean-up.
Commissioner Houpt so moved to authorize the Chair to sign an initial letter prior to sending this one to the Department of Energy. Commissioner McCown requested the letter be brought back before the Board next week.
Commissioner Houpt stating send an initial letter stating our concern that sufficient funds and commitments be in place for potential clean up. Meet the Wednesday deadline.
Chairman Martin – what we are asking is they go beyond the $100,000
Don – a pending motion is on the floor. A letter to DOE asking DOE to be responsible for the payment of all cost of clean up and damages of any damages incurred by public or private agency to the extent that these damages and clean-up are not covered by the $100,000 bond.
Commissioner Houpt – yes. And it's better to ask and also send the letter to the OGCC letting them know our concerns. They may discover they have the same concerns and decide on a larger bond. She thinks we need to sent that letter that we have a concern and that we're sending a letter to the DOE and added to the motion
Commissioner McCown seconded Two or three Oil and Gas forums ago, the DOE was the presenters in Battlement Mesa at that Forum and the nuclear physics were very clear, there is no fear that they have or they would not have allowed this to have gotten to this point. So we're not going to get any response from DOE. The DOE said we have checked, rechecked, sealed, nothing to come out if you perforate it. No comfort from them – they have said it is okay to move forward with it. The two reps said they went through the entire scenario and no problem.
Commissioner Houpt asked if there wasn't another speaker at that same forum that said they were still studying with updated technology the issues surrounding the Rulison site and they could not promise that there would not be some potential problems and that's what was safeguarding against.
Commissioner McCown – did not hear that, I heard that the two reps said went through the entire scenario of the shop, the venting, the testing, the test holes around it and everything is a go. That's all I heard.
Mary Ellen – was at that meeting and it was one of the physics that had talked about the computer modeling and it was going to take them about 18 months before they could finally model what would have actually happened in the future totally so there was that still modeling they would have to do. So, perhaps it is not necessary, perhaps they would be responsible anyways and we would have to go to a court of law to be responsible if something did happen, bit it's kind of a way for the County to cover your own.
Commissioner McCown – we a send the letter but not wait for a response.
Chairman Martin – concerns were addressed in this room and it is a part of the record on this site. Reconfirm those concerns in the letter.

Houpt – aye; Martin – aye; McCown – aye
It was suggested to send the same letter to DOE and COGC – Commissioner Houpt's motion was to send the letter before Wednesday.

AIRPORT UPDATE – BRIAN CONDIE

Brain submitted an impressive Power Point including the 20 year history of the Garfield County Regional Airport showing dramatic changes.
This was presented to the users on December 2, 2004. Mike Ballard was present.
The role that Garfield County is taking, ABC Reality show, no guarantee to get into Aspen but you can go to Rifle. ABC will be at the airport at noon today.
Brian showed a 20-year history to show the significance of the Airport. In 1984 the County was the operator. Annual fuel sales have gone up. Avgas – small airplane has remained flat. Addressing that in getting general aviation hangers development. The tenants have grown. Need to upgrade the access system; the safety of the airport is safer than commercial airlines but have to be diligent. A verbal agreement with Rifle Fire that they re a primary responder. Training the Rifle crew of how to handle an accident. Safety, security and training has been kept updated.
1994 – Classed as light industrial; in anticipating 1 million it puts u\s in a different class and we have to be in compliance with water, air, etc. and it is in the budget. That's one of the benefits of success. The tenants are asking
EIA handbook to the tenants – with phone numbers – Brian putting together a handbook in 2005.
Instrument landing system is crucial instrument.
Rules and Regulations – from a small booklet to several notebooks.
We have moved toward self-sufficiency.
In 1999 – 69 airports were self-sufficient. We're working towards self-sufficiency at present.
EIA is important and the compliance booklet will give the tenants specific guidelines. There is a designated airplane washing area where the water will not go into the river.
The guiding documents – each tenant have a copy and Brian goes over these with each new tenant. Those who have been around for 20-years are to file for an exemption and will be grandfathered in.

PUBLIC HEARINGS:
SPECIAL EVENT LIQUOR LICENSE FOR WALDORF SCHOOL ON THE ROARING FORK – MILDRED ALSDORF

Don DeFord, Mildred Alsdorf and Susan Ebert were present.
Chairman Martin swore in the speakers.
The following Exhibits were placed into the record.
Exhibit A – publication by notice on the agenda
Exhibit B –application and materials submitted.
Exhibit C – sign posted
Susan said this is an annual fundraiser on these premises – this will include dinner, silent auction, limited bar, beer, wine and foo foo drinks. Saturday from 6 pm to midnight.
The liquor being controlled is to be encompassed for monitoring – a diagram was submitted.
Chairman Martin entered the exhibits.
Mildred stated this was a fundraising event for the Waldorf School.
A motion was made by Commissioner McCown and seconded by Commissioner to close the public hearing; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the special event liquor license for the Waldorf School on the Roaring Fork; Houpt – aye; McCown – aye; Martin – aye.

Traveler's Highlands

A new plat has been submitted but not reviewed. Carolyn is looking for direction from the Board about the acceptance of the roads in Traveler's Highlands as public roads. If this is going forward, it will need another public meeting.
Prepare a resolution for a public meeting and provide certified mail with returned receipt for all property owners for January 10, 2005 10:15 am – by Resolution accepting the roads in Travelers Highlands.

Building permit
Review the plat and if after the legal review the County Attorney is satisfied, advise the Planning Department to issue the building permit. Tuesday, December 7, 2004.
Letter from the County once he files the amended plat and proof of access, the building permit will be issued.
Carolyn will review the plat on Tuesday at 1:00 p.m.

PUBLIC MEETINGS:
CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT APPLICATION FOR "STORAGE" IN THE ARRD ZONE DISTRICT TO THE PLANNING COMMISSION FOR A RECOMMENDATION. APPLICANT: SCOTT FENSKE – FRED JARMAN
Fred Jarman, Davis Farrar and Scott Fenske were present.
Fred presented the memorandum to the Board regarding the request for a SUP for storage for property located on the northeast side of CR 113, Cattle Creek Road. The property owner is Scott Fenske. Scott is in the plumbing business and proposes to use an existing building on the property for storage of plumbing supplies, related tools and equipment such as saws, compressors, and pipe threading equipment, hand tools and similar items. Plumbing supplies also includes pipe, fittings, hot water heaters, boilers, heat exchangers, pumps, motor and similar items. The building may also be used for storage of personal items such as snowmobiles, bicycles, lawnmower, and vehicle. The proposal specifically excludes "storage of heavy equipment." The County regulations do not define "heavy equipment." Heavy equipment could be defined as earthmoving equipment over a certain size and weight.
No retail activity is proposed and vehicle trips to the property would consist of an average of two deliveries a week with no semi-truck deliveries. Hours of operation are from 6:30 a.m. to 5:30 p.m.
Staff recommendation:
Due to the limited nature of potential impacts, the location of the property such that it is situated in an area where the surrounding zoning includes Commercial/Limited and several more intense SUP's including Pine Stone Rock Yard and the Capitol Construction plumbing business, and that all storage will be contained entirely inside an existing building, staff recommends the Board direct staff to schedule a public hearing for the Baord and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this on the agenda for a public hearing for the Board of County Commissioners for the Special Use Permit for Scott Fenske for a plumbing storage and waive the review by the Planning Commission. Houpt – aye; McCown – aye; Martin – aye.

CONSIDERATION OF A REFERRAL TO THE PLANNING COMMISSION OF A SPECIAL USE PERMIT TO ALLOW THE OPERATION OF A RESORT. APPLICANT: JOLLEY-POTTER RANCHES, LLC. – JIM HARDCASTLE
Carolyn Dahlgren, Jim Hardcastle, Sam Potter, Barbara Burwell from Stuver, LeMoine and Burwell, LLC.
Jim submitted a memorandum to the BOCC regarding the SUP to allow the operation of a Resort. The site in question is the Jolley-Potter Ranches, LLC Resort property which proposes a Resort special use designation for seasonal visitation of outfitting, hunting and guiding and moderate to large one time events such as weddings and reunions. The use exists and proposed to bring it into conformance with the counties rules and regulations regarding such uses.

Because of the remote nature of the proposal, the moderate size of the proposed use and the resort has operated as an outfitter and outdoor recreations organization know as Big Mountain Outfitters, staff recommends that this request be subject to one public hearing and considered by the BOCC.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to set this for the Board of County Commissioners in a public hearing and waive the review by the Planning Commission; Houpt – aye; McCown – aye; Martin – aye.

CONSIDER A REQUEST FOR AN AMENDED PLAT, 2ND AMENDED PLAT OF GOLF COURSE PARCEL #9, ASPEN GLEN, FILING NO. 1. APPLICANT: ASPEN GLEN GOLF CLUB MANAGEMENT COMPANY. – JIM HARDCASTLE

Carolyn Dahlgren, Larry Green and Jim Hardcastle were present. Jim submitted the project and information, staff comments to the Board.
The owners of Parcel 9, Amended Plat of Golf Course, Aspen Glen filing No. 1 request the Board approve a Plat Amendment reducing the current size of the 20.042 acres to 19.837 to "facilitate the sale of an adjacent real estate development parcel."
Staff notes that this is eligible for an amended plat request.
Staff recommends approve and stated the applicant has provided all required documentation and satisfied the applicable standards for a plat amendment with the following:

1. That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. That the owner of the adjacent property (also, Aspen Glen Golf Club Management Company) transferring the 0.205 acres to this amended plat shall complete and file a Boundary Line Adjustment application with the Garfield County Planning Department.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy) then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5:22 of the Garfield County Subdivision Regulations.

Larry submitted the Mylar that has been signed. This is about the platted golf course and not leaving enough room for the setbacks.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat and authorize the Chair to sign it. Houpt – aye; McCown – aye; Martin – aye.

PUBLIC HEARINGS:
CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANT: ELK MESA PROPERTIES, LLC. – JIM HARDCASTLE
Carolyn Dahlgren, Jim Hardcastle, Larry Green and Gary McElwee the new project manager succeeding Greg Boker were present.
Don reviewed the noticing requirements with Jim Wells for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F – Application materials; and Exhibit G – Project Information and Staff Comments.
Chairman Martin entered Exhibits A – G into the record.
Jim presented stating this was an exemption from the definition of subdivision for Elk Mesa Properties on approximately 670 acres located three miles southeast of Glenwood Springs with access to CR 114 from Wood Nymph Road directly from Wood Nymph Lane in the Los Amigos Ranch.
The property located northeast of State Highway 82 and northwest of County Road 114 is in the area of Spring Valley. The applicant is proposing to split a 670 acre tract into four parcels of 7.496, 5.727, 5.704 and a remaining 651.17 identified as Lot 4 in the larger tract.
This exact same request has been previously approved in July of 2000 by the Board. The proposal was contingent upon access being provided with the approval of Filing #6, Elk Springs which was recorded in February of 2001. After the aforementioned plat was recorded the final exemption plat was not recorded within the allowed time-frame and the exemption request was subsequently invalidated prompting the applicant to resubmit this application.
The current physical configuration has been shown to be the same prior to January 1, 1973, and in the previous staff report it was noted that the proposal has been shown to be a valid Exemption request.

Staff recommendation:
Staff finds that the application does comply with Section 8:52 of the Garfield County Subdivision Regulations of 1984, as amended, and therefore recommends approval of this application with the following conditions.

1. All representations of the, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.
2. The Applicant shall comply with the 1978 Garfield County Zoning Resolution and the Colorado Department of Health standards.
3. Upon successful approval and recordation of this proposal, no further subdivision by exemption will be allowed on any of the four (4) tracts created.
4. ~~It shall be necessary for the new lots to be included in the Los Amigos Ranch HOA in an equal share of the responsibility for the obligations pertaining to the road maintenance and repair~~ Part of original COA but please STRIKE

5. A Final Exemption Plat shall be submitted, indicating the legal description of the property, dimension and area of the proposed lots, all easements and any proposed easements, setbacks, building envelopes, and other customary items which shall be presented within 120 days to the BOCC for signature from the date of approval of the exemption.
6. The Applicant shall designate the 651.17 acre “remainder of fathering parcel” as Lot 4 on the Final Plat.

7. The Applicant shall submit $600.00 in School Site Acquisition Fees for the creation of the three (3) exemption parcels prior to approval of the exemption Final Plat.

8. The Applicant shall obtain the necessary driveway permits prior to issuance of any building permits.

9. Prior to the approval of a final exemption plat, the Applicant shall amend the Los Amigos Ranch HOA covenants to include the proposed lots as members for the purpose of paying their proportionate share of the water service costs and road maintenance costs.

10. Final Plat notes and covenants shall be added that states the following:

a. “Colorado is a "**Right-to-Farm**" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.”

b. “No **open hearth solid-fuel fireplaces** will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.”

c. "All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of **fences** and irrigation **ditches**, controlling **weeds**, keeping **livestock** and **pets** under control, using property **in accordance with zoning**, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.”

d. “**All exterior lighting** will be the minimum amount necessary and all exterior lighting will be directed inward and downward towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.”

e. "**One (1) dog** will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries."

f. Final Plat notes and covenants shall be added that state the disclosure and nature of **mineral rights**.

Commissioner McCown – other than the testimony on the source of water, should there be some type of a written water agreement stating they will provide services to this entity once it's severed and broken into these different parcels?
Larry Green said the owner for the water system for all of Elk Springs is the Elk Springs HOA and the operator of that Red Canyon Water Company and that was all done by the County as we platted the various phases and the HOA is obligated to provide that water to all of the members. We will make these three lots part of the HOA. Carolyn - follow up to that – it's on the three lots and the fourth lot will be on an exempt well and same on the sewer; on the three lots will be on the same sewer.
Larry – not creating a lot on the 655 acres. That same analysis should apply to the school district fees that we are not creating a lot on that 655 acre parcel.
Carolyn - It is a lot created and eventually it will have an impact. When the first lot was developed, it was exempted. When the fathering lot was developed and we excluded it as needing to pay school fees but when the fathering lot.
This lot was not created until today so it is a lot.
Fred clarified that as a general practice when we have an exemption and four lots are created, if the fathering lot, any of the four, have been improved, and that's a very common case, then as a practice out of our office is to only assess for the three that have not been improved.
Larry said the fathering parcel has been improved; the old Kendall Homestead is on it.
Fred – then in that case we haven't assessed the three.
Larry – pointed the finger at himself for this mistake actually, this application summer of 2000 and approved with a conditions that the final plat for Elk Springs Filing 6 be recorded because that's what creates the access, and it took longer than the 90 days allowed by the previous approval to get it approved and recorded and he dropped the ball in coming back and recording this. It's the exact same application before the Board in 2000.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; McCown – aye; Houpt – aye; Martin – aye.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the exemption from the definition of subdivision for Elk Springs with the 9 recommendations by staff, striking no. 4 and changing back the $600 school fee; McCown – aye; Houpt – aye; Martin – aye.

CONSIDER A REQUEST FOR A PRELIMINARY PLAN FOR BIG R COMMERCIAL SUBDIVISION. APPLICANT: BOB REGULSKI – JIM HARDCASTLE
Carolyn Dahlgren, Jim Hardcastle, Bob Regulski, and Barbara Burwell from Stuver, LeMoine & Burwell, P.C., Chris Manera, and Brian Brown from Colorado River Engineering were present.
Carolyn reviewed the noticing requirements with Jim Wells for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D; Garfield County Comprehensive Plan of 2000; Exhibit E - Application; Exhibit F Project Information and Staff Comments; Exhibit G – Review memo – City of Rifle; Exhibit H – Review memo – Colorado Division of Wildlife; Exhibit I – Review memo – Colorado Dept of Public Health and Environment; Exhibit J – Review memo – Colorado Division of Water Resources – Material Injury) Exhibit K – review memo – Garfield County Road and Bridge; Exhibit L – Review memo – Garfield County Vegetation; Exhibit M – Review memo – County Engineer – Resource Engineering – Michael Erion; Exhibit N – Letter – Stuver, LeMoine & Burwell, P.C. Responding to engineering comment; Exhibit O – Review memo – rifle Fire Protection District; Exhibit P – submittal – Stuver, LeMoine & Burwell, P.C. – water documentation; Exhibit Q – review – Colorado Department of Transportation – comment on permit status; Exhibit R – submittal - Stuver, LeMoine & Burwell, P.C. – conditions response; Exhibit S – submittal - Stuver, LeMoine & Burwell, P.C. – school impact fees; Exhibit T – submittal – Colorado River Engineering, Inc – water supply; Exhibit U – Review memo – Colorado

Division of Water Resources – no material injury; Exhibit V Letter - Stuver, LeMoine & Burwell, P.C. responding to ISDS comment; Exhibit W – Letter - Stuver, LeMoine & Burwell, P.C. responding to road/ADT issues; and Exhibit X – submittal - Stuver, LeMoine & Burwell, P.C. – Declaration of Covenants). Y – Email from CDOT on declaration of access.
Chairman Martin entered Exhibits A – Y into the Record.
Jim presented the staff report stating that Big R Commercial Subdivision is on 32.36 acres east of the City of Rifle on State Highway 6 & 24 CR 221 Emergency only. The applicant proposes to subdivide the parcel of commercial general zoned property into 10 commercial lots, 9 of which are approximately 2+ acres in size with one lot of 8.91 acres. The property is located approximately 1.5 miles east of the City of Rifle and 3 miles west of the Town of Silt.
Planning Commission Recommendations:

1. All representations of the applicant, either within the application or stated at the Planning Commission or Board of County Commissioners hearings, shall be considered conditions of approval.

2. Prior to Final Plat approval, the Applicant shall obtain and maintain valid well permits for the proposed wells pursuant to a court approved plan for augmentation or pursuant to the District's temporary substitute supply plan.

3. The Applicant shall provide evidence that the water supply is sufficient in terms of quality, quantity and dependability, shall be available to ensure an adequate supply of water for the proposed subdivision and shall submit this proof to the Garfield County Building and Planning Department prior to the BOCC hearing for consideration of the Preliminary Plan.

4. The Applicant shall submit an ISDS operation and maintenance plan which is adequate and consistent with other commercial approvals for a non-discharging system for the proposed subdivision prior to approval of the Final Plat. All ISDS must be designed by a Registered Professional Engineer in the State of Colorado and are for domestic waste only. An initial attempt shall be made to identify projected ISDS uses and all upgrades shall require a separate septic permit at the time of new building permit issuance.

5. The Applicant shall be required to develop a covenant prohibiting the discharge of any caustic materials or heavy metals prior to approval of the Final Plat.

6. The Applicant shall submit and gain approval of a City of Rifle Watershed Permit, and submit said permit to the Garfield County Building and Planning Department prior to BOCC approval of the Final Plat

7. The Applicant shall create a Lot Owner's Association (LOA) and covenants to address in detail all future interior road maintenance of the proposed subdivision and modifications to the approved access permits in the Colorado Department of Transportation ROW due to increases in ADT. All documentation regarding the LOA and the allocation of payment and the responsibility and how such costs will be allocated within the lot owners for the CDOT improvements of the internal road shall be submitted with the Final Plat. The interior road shall be paved and built as a minor collector, constructed as per County requirements, dedicated to the public and maintained by the Lot Owner's Association and cannot be private unless approved as such through a Planned Unit Development. Parking shall be addressed at the time of all new building permit reviews.

8. The Rifle Fire Protection District requires the Applicant shall design and install fire protection measures and provide the proposed design and cost to be detailed in the Subdivision Improvements Agreement which shall be submitted prior to Approval of the Final Plat. These measures are noted below:

1. The Applicant shall provide a minimum of 180,000 gallons of fire protection water to the proposed site. Hydrants shall be spaced a maximum of 500 feet from a structure and shall be capable of providing a minimum of 1500 gallons per minute at 20-PSI residual pressure with a flow of a minimum of 100 PSI. All pipes, pumps, etc. shall meet nationally recognized standards. The Applicant shall perform a pressure test of the underground piping (200 psi for two hours) and a flow test of the pump and hydrant for final acceptance of the system prior to the Final Plat approval.

2. The main internal road, as well as all individual driveways and easements shall be constructed to accommodate the heavy weight of fire apparatus during adverse weather conditions. Roadways shall be a minimum of 24 feet in width and shall be in place and accepted prior to Final Plat approval.

3. The internal access road for emergency vehicles to County Rd. 221 shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches.

4. Addresses shall be posted in a conspicuous location so they are readily identifiable.

5. Each individual building shall be reviewed at the building permit phase to evaluate any additional fire protection requirements. These additional items may become necessary depending on the type of construction and use of the buildings.

9. The Applicant shall implement and follow the noxious weed management plan found in the application and place this plan in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions.

10. The Applicant shall treat and remove Russian olive trees that are present on the property prior to Final Plat approval.

11. The Applicant has submitted documentation which states that all lots shall be prohibited from any dwelling uses. This restriction shall be detailed in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions" to be submitted with the Final Plat. The document will further state that "future residential use is possible on specific lot(s) with approval of the BOCC pursuant to a re-subdivision process including preliminary and final platting with approval of a water supply plan, payment of school impact fees, review of traffic impacts and all other review required by the land use code of Garfield County then in effect."

12. All utility extensions shall be laid in the same trench.

13. The Applicant shall add these plat notes to the Final Plat:

1. "Individual City of Rifle Watershed Permits shall be required for all new uses on all lots and a copy of the current and site specific permit shall be submitted with any new applications for a building permits."

2. "The owners of all lots shall be prohibited from constructing our using any existing structures for any dwelling uses. This restriction is detailed in the Lot Owner's Association "Declarations of Covenants, Conditions and Restrictions" as submitted as part of this Final Plat. The document provides that "future residential use is possible on specific lot(s) with approval of the BOCC pursuant to a re-subdivision process including preliminary and final platting with approval of a water supply plan, payment of school impact fees, review of traffic impacts and all other review required by the land use code of Garfield County then in effect."

3. "All ISDS systems must be designed by a registered Professional Engineer."

4. "Each new individual building shall be reviewed at the building permit phase to evaluate any additional fire protection requirements and no permit will be issued without a Rifle Fire Protection District approval letter."

5. "Site specific geotechnical studies shall be conducted for individual new lot development and a copy of each pertinent study shall be included as a part of all new building permits applications."

6. "The Maximum Lot Coverage for all Commercial uses shall be eighty-five percent (85%)."

7. "All streets are to be dedicated to the public, are not private, and shall be maintained by the Lot Owner's Association as detailed in the Declaration of Covenants."

8. "All permissible Commercial establishments in this district shall be allowed when these four (4) requirements are observed;

(1) All fabrication, service and repair operations are conducted within a building;

(2) All storage of materials shall be within a building or obscured by a fence;

(3) All loading and unloading of vehicles is conducted on private property;

(4) No dust, noise, glares or vibration is projected beyond the lot;"

Commissioner Houpt asked about the site map and clarified no residences were on the north side of Highway 6.
The reason she asked is because nothing recommends how future lot owners will develop the lots in relation to non-commercial neighbors, lighting, screening, types of materials to blend in with the neighborhood and is this covered with future permitting.
Jim said specifically to the lighting, the glare requirement, non projection wouldn't be covered.
Commissioner Houpt was concerned about night lighting and different kinds of impacts that different uses have and if this isn't strictly commercial because there are residences in the area, she wanted to make sure there was something in there to protect all current uses.
Barbara Burwell, attorney for the applicant addressed the road issue – there are two issues: the internal roads and the access to Highway 6 & 24. The internals road is designed to minor collector status which is up to 2500 ADT; we have covenants in the declaration that limit the amount of ADT to each lot so it doesn't exceed the 2500. CDOT permits – there are two existing permits in place and they have been approved they are combined for 400 ADT. Which is significantly more than is needed for the actual daily trips that are handled with the commercial establishments that are already present. In talking with CDOT what they have agreed that we can have in the covenants, an agreement to provide traffic counts and traffic engineered studies at specific intervals and new permit and any improvements will be attained as those are required. Essentially this is the same thing that would be required if Bob went ahead and just developed the property as a commercial park without subdividing, he still has those CDOT access permit requirements. We don't have final language from CDOT but Exhibit Y, an email from the permit manager saying we're moving in the right direction and we have to do some more modification to finalize it but they've accepted generally the theory and standard we want to use. Along the front, it is in place so in terms of the residences to the south of 6 & 24 not sure of any change to impacts and on the east and west is it commercial developments. Along CR 221 in terms of where any additional screening or anything would be needed and her position on that is it is required in the terms of zoning whether we do a subdivision or not. The applicant will have to be conscious of this as he goes ahead and develops the property.
Native Springs Subdivision – per Bob has been approved; it is behind us and before the subdivision was in this process, he called to be sure the future lot owners that they are moving behind are heavy duty commercial property. One is Ardis Green and Scott Bridelson and we'll do whatever it takes to – we're not going to create dust or noise , Native Springs has been warned and the people buying those lots should be warned it's behind a big commercial park.
Commissioner Houpt – with that in mind you are clearly aware of the mixed use and the importance of working well with those neighbors too.
Applicant: We have water trucks on site, we do everything for dust mitigation.
Brian Brown – there is along the western boundary – functional green belt which is a series of detention ponds so there's a large natural buffer along the west boundary.
Commissioner McCown asked is it a common practice for a watershed entity such as the City of Rifle to have approval over every use on every lot? Fully aware of the Watershed Agreement that needs to talk place on a commercial zoning, but the BOCC could approve this today and the City of Rifle could disallow any use they wanted to on this property; they could render it unmarketable.
Carolyn - You have concurrent jurisdiction with the City and their Watershed, they have to get their Watershed permit to be in compliance with this approval.

Commissioner Houpt asked these specific questions because there aren't any specific requirements for the types of buildings or the..
Commissioner McCown – they are allowed by right in our Commercial Zoning. But beyond that the City of Rifle gets to review everything. If I were purchasing a lot, I would be reluctant with that hanging over my head to run out and buy a lot knowing what I wanted to do but not knowing whether the City of Rifle will let me do it or not.
Carolyn – because this is a commercial subdivision, there would a sophisticated commercial buyer who would be weighting all those issues and turn it into a contractual agreement that was contingent upon getting a permit. As she read the Planning Commission recommendations that was part of their thought that because this is a commercial subdivision, the notion of having all the uses fully laid out at the front end wasn't necessary; it could be developed lot by lot with each use being fashioned by seller and buyer together.
Commissioner McCown – you have to have the flexibility and all is being controlled by an outside entity beyond County control.
Michael Erion – in answer to this question, the City of Rifle hasn't taken a position on this as to how the individual lots will come in. "Maybe required" is what the City has said. The application hasn't been submitted in total.
Hamm Dubois – comments from Planning and Zoning Commission – Donna and I own 13 + acres just east. Known Bob Regulski for many years and seen him subdivide 40 acres on CR 335 by Divide Creek; he does excellent work and fully support the request.
Carolyn asked Barbara Burwell, is she has any problem making it clear in any of the declarations that any residential development would be required to go through whatever subdivision process as required in the new land use code. Barbara – no problem, they'd like to go through the least amount of steps would be better.
Carolyn this entire approval is based on the assumption that this is a commercial only subdivision, so water, access nothing has been reviewed in terms of residential and also school impact fees. She wanted to make sure they were willing to make sure the language is clarified.
Jim Hardcastle wanted to add the downward and inward lighting as a plat note and make that Number 9 and add Number 10 plat note that indicates that as each new building permit is submitted to the building and planning department the applicant shall also submit the most recent and up to date count of actual ADT analysis as currently approved by CDOT.
Commissioner McCown – add a number 5 to number 8 to handle the lighting will be inward and downward on page 19 and then adding a number 9 on the traffic count.
Jim – yes.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; McCown – aye; Houpt – aye; Martin – aye.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Preliminary Plan of the Big R Commercial Subdivision for Rifle Ski Corporation with the 13 recommendations noting the changes adding the verbiage on the lighting including to No. 8 on page 19 to include number 5 where all lighting would be projected inward and downward and adding No. 9 on the traffic count at any time a new application is submitted, "as each new building permit is submitted to the building and planning department the applicant shall also submit the most recent and up to date count of actual ADT analysis as currently approved by CDOT";
McCown – aye; Houpt – aye; Martin – aye.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT. APPLICANTS: THOMAS AND ELIZABETH LIPPITT – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, Thomas and Elizabeth Lippitt were present.
Don reviewed the noticing requirements with Jim Wells for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application and Exhibit E - Project Information and Staff Comments.
Chairman Martin entered Exhibits A – E into the record.

Fred stated this is a request for a Special Use Permit to allow for an Accessory Dwelling Unit on 8.81 acres with access off CR 225 – Antler's Lane approximately halfway between Silt and Rifle, North of I-70 in the Silt Mesa/Cactus Valley area.
The applicants have obtained a building permit for a 1200 square foot dwelling unit above a garage on the property. They would like to obtain a SUP to convert the use of the dwelling to an ADU so that a larger primary dwelling can be built on the same property.
When the Board reviewed the exemption request, the plat note included that it may need to have an engineered approved foundation.
Staff recommendation:
Staff recommends Approval, with the following condition:

1. All representations of the Applicant, either within the application or stated at the hearing before the Baord of County Commissioners, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
2. All lighting associated with the Accessory Dwelling Unit shall be the minimum amount necessary and all exterior lighting shall be directed inward and downward, towards the structure.
3. The applicant shall obtain the appropriate ISDS permit as part of the building permit process for the ADU. This system shall comply with the regulations and standards required by the Colorado Department of Public Health and Environment. Further, soil conditions on the site may require engineered septic systems and building foundations.

The applicant has had an engineering evaluation and will accommodate any county requirement.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; McCown – aye; Houpt – aye; Martin – aye.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the special use permit for an accessory dwelling unit for Lot 3 with the 3 recommendations by staff. McCown – aye; Houpt – aye; Martin – aye.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT. APPLICANTS: JOHN AND RESA WING – FRED JARMAN

Carolyn Dahlgren, Fred Jarman, and Michael Doyle the Architect were present.
Don reviewed the noticing requirements with Jim Wells for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E - Project Information and Staff Comments; Exhibit F – Letter from Sopris Engineering to Building and Planning Department dated 11-24-04.
Chairman Martin entered Exhibits A – F into the record.
Fred stated this is a request for a SUP for an accessory Dwelling unit located on 82.55 acres at 4011 Crystal Bridge, Carbondale, CO also known as Lot 360, River Valley Ranch. The applicants are in the process of constructing a single-family dwelling containing 6,500 sq. ft on the same property. The application proposes to construct the ADU inside the building envelope designated on the lot, which is situated on a knoll overlooking River Valley Ranch.
Staff recommendation:
Staff recommends Approval with the following conditions.

1. All representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary and all exterior lighting shall be directed inward and downward, towards the structure.
3. The applicant shall obtain the appropriate ISDS permit as part of the building permit process for the ADU. This system shall comply with the regulations and standards required by the Colorado Department of Public Health and Environment.

Sue Rogers – owner of the Crystal River Ranch – there is a covenant between the height and size of this structure.
Michael Doyle stated the height of the building is below the allowed the prescribed height.
Sue said it looks like more square footage for the ADU as well.
Michael said the barn is not included. The total square footage is 3200.

Commissioner McCown – the barn is agricultural and does not require a permit.
Sue – the River Valley Ranch – can't see it, Sue asked if she could see it.
Michael – if she can, it is a long way off.
Fred – staff read the covenants the same way as Michael
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing. McCown – aye; Houpt – aye; Martin – aye.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the special use permit for an accessory dwelling unit with the 3 recommendations of staff. McCown – aye; Houpt – aye; Martin – aye.

CONSIDER A REQUEST FOR A PRELIMINARY PLAN REVIEW FOR THE SPRINGRIDGE RESERVE PLANNED UNIT DEVELOPMENT. APPLICANTS: S&S RANCH, LLC; SBJ RANCH LLC; FREEMAN RANCH, LLC; GSB RANCH, LLC; AND WILD MOUNTAIN RANCH, LLC – FRED JARMAN

Fred Jarman, Patrick Fitzgerald, Yancy Nichol, engineer, John McCarty of Otak Studies of Carbondale and David McConnahey were present.
Carolyn reviewed the noticing requirements. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Exhibit A – Mail Return - Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E - Project Information and Staff Comments; Exhibit F – Application materials; Exhibit G – Letter from the Division of Water Resources dated 9/30/04; Exhibit H – Memo from Pat Fitzgerald dated 10-06-04; Exhibit I – Email from the CDPHE dated 9-07-04; Exhibit J – Letter from the Glenwood Springs Fire Department to B&P dated 10-04-2004; Exhibit K – Letter from the Colorado State Forest Service to B & P dated 9-29-04; Exhibit L – Letter from the Geologic Survey to B &P dated 9-29-04; Exhibit M – Letter from Garfield County Road and Brdige Department to B&P dated November 25, 2002; Exhibit N – Memorandum from Steve Anthony to B&P dated 10-06-04; Exhibit O – Letter from Resource Engineering dated 10-07-03; Exhibit P – applicant's sketch plan submittal for internal road system; Exhibit Q – Letter from Leavenworth & Karp dated 10/12/04; and Exhibit R – Letter from the Division of Water Resources dated October 13, 2004.
Chairman Martin entered Exhibits A - R into the record.
Fred stated this is the Preliminary Plan for the Springridge Reserve Planned Unit Development with the location on the "Greenwald Property" on Dry Park Road (CR 125) approximately 1 mile from the intersection with Four Mile Road (CR 117) in the Dry Park Valley on 484 acres.
On May 27, 2003, the Board approved the request by the applicant to rezone the subject property from ARRD to PUD. The PC recommended the Baord approve the PUD. While a sketch plan of the development was also concurrently reviewed by the PC along with the PUD plan that addressed subdivision issues, the Board only took action on the rezoning of the property to PUD. The project at the time was referred as Springridge II PUD> The Board approved the PUD which approved the zoning change (density, lot count, lot size, infrastructure, uses, etc.); the applicant was still required to submit a subdivision application for the project. This request represents the preliminary plan application for the devel9pment. Since the zoning for the property is now in place, this review will focus on the more technical/mechanical components required in a subdivision review.
The applicant proposes to develop a 484 acre property known as the Greenwald Property into a residential neighborhood called Springridge Reserve. The property lies south of SpringRidge I subdivision and north of the 4,000 acre Crystal River Ranch. It is bounded by BLM land to the east and to the west. The development is proposed to have 81 clustered residential lots ranging from approximately 1 to 7 acres in size; a reserved zone comprised of 309 acres designated as open space to remain undeveloped which have been placed in a perpetual conservation easement with Aspen Valley Land Trust (AVLT) and 24 acres for infrastructure zones for utility, water tank and water well zones.
Fred presented a power point focusing on the concerns of staff. He pointed out the previous discussion regarding the length of the cul-de-sacs. The applicant also conformed with the requirement of a second access and they had this go through the SpringRidge Development.
Phase 1 – 28 lots; Phase I – 27 lots; Phase III – 30 lots and Phase IV – 6 lots. These were reviewed by staff and the safety of these phases has come before staff. Phase I of 28 lots, the open space, trails and water/sewer. The issue is from Phase I to Phase II, basically there is a dead-end and staff is suggesting as an amendment to the phasing plan, to require the applicant incorporate the road (Phase III) in order to have

a second way out of the subdivision. Hidden Valley Drive for a second access to at least a gravel road surface.
Main Issues – Internal Road system; School bus turnaround; Phasing Plan and Alternative to Road Impact Fees.
Internal Road system - The question before the Board is this, what you envisioned. Staff is not clear and the width of the road was not specific. As a practical planning matter, the Board has approved the road being narrow that the regulated width of the road.

Second – School Bus turnaround – staff wanted the applicants to come back with an improved turnaround. There is space to have a pull off for the bus.
Phasing Plan – previously discussed.
Alternative to Road Impact Fees – regulations allow this and the applicant is committed to make improvements on CR 117 where the sewer will run and they have to pave to the centerline. Their question and approach is, is there a way to make additional improvements on CR 117 – the end of the sewer termination – exactly 2 miles,
The problem is the capital improvement plan, the document that gives you the plan to spend the money on road improvements. Study Area 8 is CR 117. The Cators Corner and/or Dead man's curve states where this money can be spent – so this is a problem. This is in the Subdivision Regulations – must spend money on the critical portions on the CR 117. The question is before the Board, will this improve the section of road and does it make sense to do this now. The bottom line is we don't know what is under the road and does the Board wants to spend money on a face lift for CR 117. Road and Bridge agrees that a core sampling be done to know what's underneath the road and is it worth it to spend the County's money to be collected today which is about $143,000 for Study Area 8 that's for all the development today since 1997 and add to that obviously what the applicant's proposing their impact fees would be and any thing else left over the County would have to pick up. We don't know what that cost is and whether it's something the BOCC wants to see happen. In one respect we'd like to have all traffic impacts fees in hand now the buying of that money is greater than it probably will be in 8 years or however long it takes to develop Spring Ridge II or other developers too.
Commissioner Houpt – as more traffic is put on the road, there are safety issues for bicyclist and pedestrians and a portion of the road we're talking about starts at Four Mile Ranch where they have built a trail and wondering if that has been part of the discussion for the improvements for the next couple of miles to include a bike and ped trail.
Fred – no, this has not been discussed.
Chairman Martin – the bike and ped trail is for the development itself as it is. We do have a cost of the road improvements on CR 117 and that was the study we did in 1996 – 1997 and we were talking about millions of dollars to improve that road and samples were done on CR 117. That information is available. We also did not address the dangerous intersection of CR 125 and CR 117 as well as the improvements for that intersection and the improvements for that particular area with subdivision on both sides. What we can use with $204,600 in these road impact fees.
Fred – the road impact study ($52 million to rebuild CR 117) done in 1996-97 and the applicant would like to address is whether you feel or want to take these monies and apply them. Another concern is that the applicant is suggesting that the scope of what the County's commitment would be wouldn't be determined until final plat – that's also interesting because the Subdivision Regulations require this discussion happen here as part of preliminary plan, not deferred off on the final plat. This needs to be pretty clear.
Commissioner McCown – since the sewer line will be going down one lane of the road, it's the developers responsibility to completely rebuild that lane and bring it back to the 3" mat condition. So the obligation would be to spend the $204,600 on the other lane of that road.
Fred – in parts, the sewer line is going to cross the road in various places. 22% in and out of the road. There is the $134,000 already collected.
Carolyn – two things for the BOCC to keep in mind – two different authorities of the County – the Road and Bridge permitting process requires a patch of the entire ½ of the road where the sewer line is going and the impact fees to be used wherever. If the applicant pays the impact fees they still have to meet the requirements of the Road and Brdige permit of the ½ portion of the road.
Fred – page 23 of the staff report, staff added Conditions 24 and 25.
Commissioner Houpt – suggested findings on page 22, Condition

Fred said during the initial review of Road and Bridge – suggested paving from the intersection of CR 125 and CR 117 towards the development because obviously they're going to be running their line is there as well. The applicant then said well, wait a minute, we just paved that already as part (chip sealed) when they did SpringRidge Place I because of the impact fees already being levied with this project, they ultimately said that this new request by Road and Bridge is not consistent with the original approvals granted by this board for that section. During the PUD they had committed to and the Board required that they pave from the end of pavement of SpringRidge Place I to entrance then onto their new entrance and stop. The Planning Commission felt that the current request to pave again was inconsistent with that.
Planning Commission recommendation:
The Planning Commission recommends the Board of County Commissioners approve the Preliminary Plan for the Springridge Reserve PUD with the following conditions:
Applicant:
Pat – on Dry Park Road, they paved it once beyond County standards. An error has crept into this and they will fix any damage they do to it but will not pave it again. 14 – 16" chip seal and road base to get it where it was.
Went through the Conditions of Approval
Starting with Condition 2 – modest change – handout – it refers to incorporating Resolution 2003 – 77 and have already amended – saying as it was amended for the horses most recently. Deleting No. 23 and combining that into one.
Carolyn agreed this was fine.
Item 3 was fine.
Items 4 and 5 could be combined and talk about getting permits from the public health on getting permits and 4 is redundant.
Fred - no problem.
6 & 7 no problem.
Item 8 – what they would like to do and originally discussed this with Fred. Pat had a brief conservation with Road and Bridge, said originally to pave the same road, and not a reasonable rational axis, $134,000 and their $204,600 – Zilm, Oak Meadows, ½ of Springridge I and more money is to come, why not cost this out and the County regulations, did this at Ranch at Coulter Creek where they stepped in and paved a non-paved road and would like to look at this to see if there is a win-win. Front the money and then the County pays them back, got a better road taking people up there and the County has better money for doing this. To do that we have to define what is our respolnsibility and no argument with the calculated under the Ordinance. A problem and disagrees with Carolyn, R & B is part of the planning process and part of the rational axis and doesn't believe R & B understands what Yancy has designed. Pat said there are two different scenarios from R & B. In item 8, they talk about one and in Item 13 another. Where in one place they have us paving ½ of the road and the other place they've got us paving all of the road. They are not going on both sides of the road. The sewer stays in the northbound lane if at all, whenever possible it's in the margin over in the dirt, there's a few areas where that's not possible and that's about 22% where this doesn't happen. Basically, Yancy described what we might do and what we propose to do regardless about what we might work out otherwise – what we think is our responsibility.
Yancy – background of what he heard at sketch plan and that was trying to reduce the impact to the community, the road and the County and we've done is tried to meet with all the utility companies, look at the available right of way, condition of the road and pose the simplest best way to install a sewer force main down the county road and help the County with the condition of the Four Mile Road (CR 117). The existing subgrade and condition of the surface on CR 117 is in poor maintenance so we've established that we can put the force main in the northbound lane or shoulder and our first goal was to completely out of the pavement but not get in conflict with water way easements, and utilities so we've become 4 feet from the angle point of the shoulder and in the pavement to be the best location for traffic control, speed of installation and long-term integrity of the road. They evaluated how much of the road surface they would impact with the trench but we'd have to repave to do that and it's about 22% of 4 mile road. So then he started evaluating what does a patch does for the County and talked to several contractors on materials and so we're looking to propose is we'd like to give, put the sewer line in and repave 8 feet of the road in the northbound lane from beginning to end even if we're not in the pavement but a foot or so and that would include new road base underneath that pavement so the County would ultimately get road base and pavement for 8 feet and what that does also is allows them to do traffic control and not shut down CR 117 down during the construction. This decreases the impact and the County winds up with an 8 feet new road

and overlay the road and not have the patch. An additional overlay would be beneficial and allows the County to have an 8 ft wide better road and allows them to expand it and match the grade. He believes the County is going to have to widen certain areas and the additional overlay would be good value spent today because you could pulverize, mill it and incorporate the subgrade and it would allow you to increase the whole road platform in 5, 10, 15 years much more cost effective and everything they're proposing now would be long term benefit for the county.
Martin – priorities are different with the Capital improvements and CR 117 is not.
Yancy to overlay the entire north lane – brand new road where they pack it 8 feet wide road.
Commissioner McCown – completely improving 8 feet of a 22 foot template.
Yancy – maximum to get into the pavement is 5 feet.
Cold joints in all roads – in the middle of a lane – 8 into a 12 foot lane.
Commissioner Houpt – need to go to the center of the road.
Chairman Martin – back to the priorities.
Commissioner Houpt – doesn't disagree – need to talk roads before we talk about development. We've overdeveloped the area. She would go a step forward without expanding it to a bike and ped trail as it is very dangerous.
David McConnahey framed the issue for the Board – the hand out given – Exhibit S is basically what Fred pasted in his staff report. The first issue is what is the baseline requirement to put the sewer line in the road. If you can nail that down, then your existing code does allow for this concept of doing more than the minimum and either taking a credit for it against road impact fees or actually getting reimbursed from fees already collected.
Commissioner Houpt - The 3rd option and believe they did with the Coulter Creek Development, we waived the fee and the applicant pay for the road.
David – that's what we're proposing to do. If we can define the baseline – what's the minimum to be required? Yancy just proposed the 8 foot section; Condition 8 is what it is trying to do. And then in terms of the improvements, they proposed some specific improvements that we would like to see to overlay the entire road so we've have a completely new driving surface but the BOCC requires and can see a specific spec for that and so they can sit here and describe it in words but not want to go to the trouble of getting engineered drawings for it if you don't want us to do it and this is normally something that gets submitted with final plat. The idea is we propose a spec of what the additional improvements would be with the idea being that's repaving both surfaces, and if that plan and specification is approved as part of final plat, then we get a credit for the difference between and the cost of the additional improvements and what the baseline is against our impact fees – that $205,000. We're guessing that if we pave the entire thing, its probably somewhere in the range of $300,000 and $400,000 additional to do that so if we've got $200,000 and you've got $140,000 in reserve, there's enough money there to do it. What this condition is trying to say is first define what the baseline is, if you don't like the additional improvement, you can tell us don't do it, we'll keep your money, we give you the money and that's the way it is – if we do it, we get this credit toward the fees so we can throw towards that – that gives the County the advantage of taking advantage of our mobilization cost since our guys are all out there, you get more bang for your buck. On the capital improvements plan, Fred pointed out that this identifies two improvements that this money in the back is supposedly going toward, you have $134,000 now. One is the dead man curves which we can all agree is not going to get fixed for $300,000 or $600,000, it's going to take millions and the other is the Midland and CR 117 intersection which is mostly in the City.
Chairman Martin – its all n the City, 300 feet south of that intersection is in the County That was the City and the City has been reimbursed by the County for the improvements already by the County and it's totally the City's project. This is the City's project and has nothing to do with the City.
David - They are already paying the City $250,000 in additional road impact fees above and beyond what the County requires and the City has an agreement with us to use that on projects that would be impacted by this development which means that intersection.
Chairman Martin – that's why they asked Pat the very question, where does he tap in and it is to the south of that intersection almost ½ mile so their impact is nothing.
David – no, the impact of traffic.
Chairman Martin – No, I'm looking at the construction and $300,000 for two miles of pavement isn't going to cut it. So you're obligating our funds and we don't have in our priority projects.
David – we wouldn't be obligating you,

Chairman Martin – you are because the cost is going to be greater than what you're asking to be credited to that project.
Pat said they are saying is that anything we spend in excess you would pay us back as you collect the road fees.
Chairman Martin – not for me, I'm not paying back because of that. Our priority and our schedule is to take care of that road in our timeline.
Commissioner Houpt said it's worth discussing, but the alternative she was talking about is what you were suggesting – the developers of Ranch at Coulter Creek paid for the road; we aren't paying them back, they paid for the road because of the impact.
David – but you waived their traffic fees.
Right.
Chairman Martin – except it was a lot less than what they did to pave the road.
Right
Chairman Martin – This project is what you're projecting is way over what you have to pay in fees and that's why you have to obligate about 80% of the cost to the county – 20% is a cost to you so you're saying 80% of that under the formula that we have in our improvements.
David – first of all your Code allows this but secondly since we don't have the spec of what the improvement would be, you're not obligated to let us do it. All we are saying is if we can come up with a plan to spend this money that is good for everyone; we'll like a credit if you'd like us to implement the plan. If you don't want us to do it, then we'll just pay the fees and we'll do just the baseline.
Commissioner Houpt would like to figure out the cost would be to extend those 8 feet to the centerline.
Commissioner McCown – not going to buy in to fixing ½ of the road. Either we go back with an improved chip seal surface to the quality it is now and then overlay the entire road – that's the only thing I'm going to buy into. I'm not going to buy into a 1/3 of the road, or ½ of a road. That does not make sense. I would rather have it patchwork and completely overlaid than I would improving 8 foot of a road, but you've got the other 2/3 of the road that the subsurface is no good on but yet we're going to overlay it. Why. Let's build a road so from the sub base up and it doesn't matter if we can only do a mile of it, there's still obligated to fix what they're tearing up with their pipe, the other option is they can seek private right of way and not bother our road. That's option 3 that has not surfaced.
We don't have to allow them to develop in our road. That's option 3 and I'm not going to buy into improving 1/3 of a road I don't care if it's got 6" of asphalt on it, the other 2/3 of the road doesn't have any sub base. Why would we do that?
Yancy – to be clear, is what we're trying to do is, and what the County is basically asking us to do, is a cheaper way that what he's proposing – it doesn't do the county much good long-term.
Commissioner McCown – you know Yancy that if the subgrade is not adequate under any part of that road, only improving 8 feet of is not the answer. You've got to improve all of it to get a substantial base. The County is going to be responsible for the other part. Why would we not do that before it's overlaid so that we have a consistent subsurface – you're going to have that road ..
Yancy – said the county doesn't have the money.
Commissioner McCown – these guys are trying to come in with this project creating a deficit on our funding. Commissioner Houpt – we have to have a finished project that's going to be safe for people to travel on and I'm not seeing that with your explanation.
Commissioner McCown – may be a patch work, but I would rather see the 22% of that road that you're in completely rebuilt from shoulder to shoulder and not do anything to the rest of it than an 8 foot strip from Four Mile Ranch all the way up to where you're turning in at Dry Park Road.
Pat – well, we can do that.
Commissioner McCown – that would make more sense.
Pat – we're want to define the minimum you want and then Tresi left the door open to come back and talk about the cost on this and we can do that, we'd like an approved subdivision and we think it's at least worth looking at a win win situation for both of us – we're not trying to – when I embarked on this, he sat down with Mark Gould and he said this could be a win win situation. Pat said if we bring this up everybody will think we're looking for a free lunch, and we're not.
Commissioner McCown – not insinuating that, I'm just not comfortable the proposed road improvements. If you're only in our road 22% of the time, I'd rather see that portion improved shoulder to shoulder, new sub base, graded all the way across new road template and then you go back to the old the portion – that is better than an 8 foot strip up the shoulder all the way up that road.

David – if there's a way we can give it to the County all at once than trickling down over 20 years.
Tresi –the portion where there is more traffic. Interested in seeing the proposal of the road. This doesn't sound like it's meeting – put it in writing and get some numbers and we may be able to have a better discussion.
Carolyn – suggested – one we do have disagreement on the law and we do need to have a discussion about the BOCC's separate authority over its road to permit you're being in the right of way and we have a separate set of regulations based on a totally different set of statutes than land use approval and there is a separate process whereby if you disagree with a permit that Marvin Stephens is allowing you, you can come to the Commissioners and say, we don't think our road cut permit should require us to go to the middle of the road. We don't think that we should both patch it and resurface it to the center of the road that is a separate process from the land use approval. That's a discussion that David McConnahey and Don DeFord, you and I need to have and start off by convincing you that they are separate statutory authority. The second is that it does sound to me like there's another Worksession public meeting continuance of this hearing probably needed with Road and Bridge present because they're a lot missing here.
Pat it's doable if we can agree on the baseline improvement on Four Mile road are.
Carolyn – but that's going to require a conservation that she just laid out that we have a disagreement on the law. You believe you're in the Senate Bill 15 development impact scheme and we're suggesting that there are two different sets of statutes, regulations, and pots of money in the end – one is the Road and Bridge and the other is the land use approval.
Sue Rogers – comment saying that Pat came to her initially for her support of the development. On the second one she was pleased and liked the open space commitment to AVLT.
Going through the rest of these Conditions: Item 9 – no problem – Fred interjected okay to pull in with land use.
10 and 11 and get the opinion on item 12 – previously said school bus turnaround main entrance to Springridge – Phase I of Spring Ridge and presently there is one that would go away – P & Z asked about the interim. Engineering has a theory – don't want the school pass pulling off – school bus stops in the lane, the kids get on or off and then cars go on.
Commissioner Houpt – part of this is to have a safe place for kids to wait on the bus.
Pat – they will demonstrate and create more space for the kids to wait. Item 12 proposed, will come back before final plat.
Commissioner McCown suggested the school district requirements. For a safety standard, once they pull off the road they lose their authority.
Yancy – approves the area for stopping. That existing intersection is 80 feet wide.
Item 13 – has been discussed.
Commissioner Houpt suggested they talk to the school district.
Fred – as a matter of timing – is it credible to come back before that.
Item 14 – deleted; originally said paved (it was a requirement in our Resolution so we need to) improve it but not pave it.
Items 15 and 16 okay
Item 17 – Fred starting talking about at the P & Z – road types is unclear and Fred seems to be seeking direction. Pat interprets it two ways and in layman's language it doesn't make sense to me that every road in a subdivision is determined by the traffic count. The funnel – different width. Rationalizing this – you have approved Coulter Creek with the width of roads they proposed. And proposed them consistently throughout. 60 feet – motion found they were consistent and passed without issue. Why the road right of ways and why they are shown and
John McCarty of Otak – number 17- In front of the Board is the graphic showing the road sections – 8 segments of it to the design. When you look at it, it is divided per segments for proposed densities. In terms of the analogy, the only two legs that meet the requirement of a minor collector – if this represents Glenwood Spgs these two templement would meet Grand Avenue. Proposed tiers to the Board when looking at this there are six standards of the roadways – 8 legs. Most need less than secondary access. They are proposing to upgrade to the secondary levels it is appealing to common sense. 60 foot ror and if it expands but it doesn't and no greater density in the future. How wide is the typical road in Glenwood Springs or is this like Park West.
Yancy - 8 feet wider than Park West.
Commissioner Houpt's concern is the emergency access. People tend to park on the roadway in Park West and presents dangerous situations...

John – the 60 foot right of way – what we're talking here is the rest of the network so they appeal to the common sense. The national trend is trying to minimize the asphalt and maintain open green space. The narrower the road the
shoulder – template required is 4 foot with gravel with two 12 foot lanes.
Commissioner McCown – shows 6 foot shoulders – on both templates. On the Garfield County road standards.
Yancy – gravel in their proposal. What they are stressing, only 2 feet difference and want 50 foot right of way.
Fred – the secondary is chip and seal, the other comment for 50 ft ror as you get further out – that what John is saying is right, but a fundamental problem – the regulations try to have connectivity and to get to Spring Ridge is to have a continual road width to have constant flow to enhance the traffic in the subdivision. Aspen Glen – you have to get on Highway 82 to go anywhere.
John agrees in principle – by virtual of the conservation issue. The emergency access is not for public use.
Fred – both have the merits.
David – the reason this is in front of you, two ways to approve – 9:35 allows it, if it doesn't it was modified by the subdivision process. 9:35 is silent – and P & Z made the finding they could \look in segments and don't feel they need a variance. As part of the PUD cross section showing 60 feet for 2003-77 approved as shown on the site plan, scale is hard to see, shows not to show – it was shown as 50 feet and is consistent with what has been approved all along. Think you can approve it under the existing regs and /or under the resolution.
Conditions 18 – 22 suggesting on the road no problem.
No. 23 we decided as redundant – deleted it.
No. 24 and 25 okay.
What we suggest to you after discussing this to get around this what happens once the sewer line is put in – as Carolyn explained, it not like the conditions in the permit, come back and ask you to consider. Rather than 8 and 13, that we will accept the conditions proposed by R & B in their permitting process. We just pay the fees and whatever R & B says when we built the sewer or come back.
Commissioner McCown – can agree with that.
Pat – come back and talk about the cost sharing issue. From the fire station to dead man curve to fire station may be overstating the cost.
Chairman Martin – depends on the design – can pave it over and let it go for another 20 years.
Commissioner Houpt – She is not sure she can agree with that. So what we're saying is that we would delete 8 and 13 and in its place – this takes a huge issue out of the condition process and she has a problem with that.
Commissioner McCown – they still have to pay their fee.
Commissioner Houpt – yes, they pay their fee but it doesn't address the mitigation they have to do with the sewer main– we haven't talked to R & B about the sewer issue – a lot of issues to discuss.
David – we agree with what you are saying – probably better to have all actual plans as to what we're talking about and since you don't get to that point until final plat, what we're suggesting is to replace 8 with "applicant shall comply with any conditions of a road cut permit necessary to install the sewer line in CR 117". And if we're unhappy with those conditions, we can go through the process then.
Commissioner Houpt – will that look at the bigger picture; what you've raised today goes beyond what a typical road cut permit will require. Looking at the impacts and what they are doing and the number of people, it warrants our in-depth discussion than just going with the R & B permit discussion.
Carolyn – that discussion can happen with the permitting process; it is administrative until they disagree with what R & B says and they're going to disagree with what R & B says, because what R & B is going to say is you shall improve to the center line and they're going to say no, we only patch what we did or some other various of that. Road and Bridge has already said they have to pave to the center line.
Commissioner McCown – there is no exception from R & B; that's common practice. Condition 13 came from Road and Bridge.
Chairman Martin –is there going to be any construction of sewer line in CR 125 road cut or will it be in the shoulder?
Yancy – one section where the sewer line comes pretty close to the right of way; CR 125 road cut would require a permit and same standards.
Before we check the minutes, should we delete 14 in our Resolution which deletes No. 28 in our Resolution?

David – actually we don't think it does; we're still incorporating all of Resolution 77 in this one, so whatever that says, we're still stuck with it.
Pat – we've incorporated the earlier Resolution and the applicant is bound by the old Resolution. When we were doing this before any of you were Commissioners with the previous plan, there were 150 people behind me and most of them had a rope.
Carolyn – where did we end up on the school bus turn around?
Commissioner Houpt needs to talk about maintaining a safe zone to have kids wait for the bus.
Pat - if this is not wide enough. We'll bring to staff an as-built of what's there and if it's not enough we will expand it.
Commissioner McCown all motions of approval includes the testimony of the applicant and becomes a part of these conditions.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to McCown – aye; Houpt – aye; Martin – aye.
A motion was made by Commissioner McCown to approve the Preliminary Plan for the Springridge Reserve PUD with the conditions on page 23 – No. 2 being replaced with the recommendation and combining and No. 4 and No. 5; No. 8 to read "shall comply with Road and Bridge road cut or right of way permit", No. 12 – done by final plat; 13 – delete; deleting 23; Condition 17 –my level of comfort was with the applicant's presentation with the 60 foot right of ways being at the primary entrances and the 50 foot right of way we're only giving up a foot of driving surface according to their own presentation; Condition 24 and 25 new, No. 14 will stay deleted as it's covered in the original Resolution. We didn't delete any road conditions that we're uncomfortable with, Commissioner Houpt okay will second that.
Chairman Martin – this includes the testimony of the applicant, as well as all the other review of the minutes. McCown – aye; Houpt – aye; Martin – aye.
Carolyn – do you want us to communicate anything to Road and Bridge or do we just leave it to the permitting process. No rescheduling of this for this 2 mile stretch of road.
Commissioner Houpt – would like to have us look into Condition No. 28 of the resolution.
Fred has it.
David wants to get a copy of the road permitting regulations. Carolyn has them.

Miscellaneous
Commissioner McCown advised the Board he would not be here for 12-20-04 BOCC meeting – he'll be out of state – back the 23rd. Available by phone on the budget.

Executive Session - Rifle Village South and Contract with Dr. Thyne and Battlement Mesa Road Issue for
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried unanimously.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried unanimously.

ADJOURNMENT

A motion was made by Commissioner and seconded by Commissioner to adjourn: Houpt – aye; Martin – aye; McCown - aye

Attest: Chairman of the Board

_____ _____

DECEMBER 13, 2004
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, 2004 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

a) Flight Survey Contract – Brain Condie

Mountain Surveying and Mapping, Inc. (MSM) submitted a proposal for Airport Obstruction Surveys at the Rifle-Garfield County Regional Airport; this proposed is intended to provide the scope of services described below on a fixed fee basis. MSM proposed to follow the FAA No. 405 Standards for Aeronautical Surveys and Related Products and other FAA and NGS guidelines to produce the best survey results possible. MSM is currently working on FAA Airport Obstruction Chart Surveys for ten airports for CDOT and CDOT Aeronautics.

There are several issues that a current survey may help to resolve, as follows: that the airport would like to increase the ILS minimum for runway 26. One of the factors is that the existing runway has about 87-feet of vertical drop from the 26 end to the 8 end. One solution would be to rebuild the existing runway by rotating it about its current center position about 10 degrees. This would align the runway with the I-70 corridor and the Colorado River Valley and would elevate the west end of the runway.

MSM proposed to produce a new Airport Obstruction Chart (AOC) with the corresponding Universal Data Delivery Format (UDDF) file. MSM proposes to collect current imagery on the airport to cover the existing runway configuration and the proposed re-alignment.

A list of proposed tasks associated with this survey included: Equipment – dual frequency survey grade GPS receivers, optical total stations, optical, and digital levels; Equipment calibration; Interviews with the Airport Manager; Access to the Airfield for appropriate airport personnel being consulted to develop procedures for field crews to access the airfield; Reconnaissance of PACS and SACS; Verify the Horizontal and Vertical position of the PACS and SACS; Runway Surveys; Photographs of Runway ends; Photogrammetic Control Survey; Aerial Photography Acquisition and Geo-referencing; Photogrammetic Surface Analysis; Airport Layout Plan and Prepare Airport Obstruction Chart. The fee schedule for 1) obstruction survey on existing runway alignment - $29,135; and 2) additional analysis on 10 degree realignment - $5,000.

Brian stated this is what Washington needs to have.

Commissioner McCown noted that this is the first step and everything that FAA needs.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Contract with Mountain Surveying and Mapping, Inc. (MSM) in an amount not to exceed $34,135 and that we waive the $3million and down to $1 million. Houpt – aye; McCown – aye; Martin – aye.

b) ***Purchase 2005 Motor Pool Replacement Vehicles – Bobby Branham***

Tim Arnett, Kraig Kuberry, Frank and Lou Vallario were present.

Frank explained the procedure for putting a cage in the back of a truck. The Ford F-150 is the only vehicle that can hold a cage.

Procure eight (8) F-150 Crew Cab 4x4 pickups for $214,513.00 for the Sheriff's Department from Glenwood Ford.

Procure one (1) ¾ ton 4x4 diesel pickup from Glenwood Ford for $26,659.00 for Road and Bridge Department

Procure two (2) ¾ ton extended cab 4x4 diesel pickups from Glenwood Ford for $52,594.00 as replacements for the motor pool vehicles

Procure eight (8) 4x4 SUV's from Glenwood Ford at a cost of $205,184.00

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 8 F-150; 1 – ¾ ton 4x4 diesel pickup; two ton- c/4 ton extended cab 4x4 pickups and 8 4x4 SUV all from Glenwood Ford. McCown – aye; Houpt – aye; Martin - aye

COUNTY SHERIFF UPDATE:

a) Discussion of the Revised CARE Contract for 2005

Lou Vallario submitted the purchase of services agreement for a not-to-exceed one hundred thirty thousand dollars ($130,000) for animal services to be equal to that now being furnished by CARE to the County. This is payable in invoices presented to the County in April, July, October and the 10th day of January 2006 in the amount of $32,500.
Commissioner Houpt questioned the contract and a discussion was held.
Leslie Rockey, Executive Director presented the procedures for holding a dog.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the CARE Contract with the purchase of services agreement for animal shelter with the Colorado Animal Rescue, Inc. (CARE) and authorize the Chair to sign; McCown – aye; Houpt – aye; Martin - aye

COUNTY ATTORNEY UPDATE – DON DEFORD

a. Executive Session: Litigation Update; Legal Advice and Contract Negotiations; Question on the Barrett and EnCana Spacing before the Oil and Gas Commission

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to go into an Executive Session; motion carried.
Doug Dennison was asked to attend the session on oil and gas litigation.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.

b. Use of Certificates of Deposit as Security in Land Use Approvals – Carolyn Dahlgren and Ed Cooley, American Soda

Ed Cooley described his request – one of the provisions of the Resolution was to have a financial agreement in place to cover reclamation and also stripping on the County Road amounting to $5,000. The normal terms now are letter of credit.
Carolyn described the process involved if the Certificate of Deposit was needed. She didn't think there would be a problem and asked if the Board wanted to have Certificates of Deposit in place as well as letters of credit. The CD will be in the County's name and the applicant cannot cash that CD.
Don said there is only a minimal issue and an agreement is needed in order for the County to cash the CD in case they needed to do the reclamation. Letters of Credit are the easies but in circumstances like this where a small amount of cash is needed, it would be okay to use this CD process.
Commissioner McCown felt as long as the County's interest are secured he didn't have a problem and it helps the applicant.
The bank will hold the CD; not the treasurer.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the CD assignment for bonding for security; McCown – aye; Houpt – aye; Martin - aye

COMMISSIONER REPORT

Commissioner Houpt – has been participating in the noise regulations committees that OGCC put together and the issue of compressor stations and impacting neighbors and where the buffers should be, etc. In Moffatt, Weld, and LaPlata counties were impacted, they are issuing SUP's and applying land use regulations. They were surprised to know that Garfield County wasn't regulating these issues. We should be regulating that at the county level because they do. She was under the impression that this wasn't under our purview. She opened this for discussion. In the notes received from the OGCC should we have the noise regulated by counties.
Chairman Martin – regulations for LaPlata County, they required screening, color, but the noise itself is recognized by state.
Commissioner Houpt will talk to Moffatt County to see what all they regulate.
Commissioner McCown – watch out when you say you're referring to regulations, most are under the state guidelines. Most of the counties are including the stipulations for denial.
Chairman Martin – These counties have a fee structure for an administrative review only.
Commissioner Houpt – will bring more back on this – very interesting. There are mixed messages regarding this.
Chairman Martin – they will regulate the noise now. Will support Houpt 100% if there is something we can regulate.

Don – in checking the background information, back in 2002, Mark had a discussion with Brian Mackie about regulation specially noise and compressors and at that time Brian's position was that they did not regulate compressors. Subsequent to that, Carolyn had a discussion when looking at this issue with Sid Flandreau and that was in 2003, at that Brian indicated that the OGCC had adopted a rule change that included compressors. Indeed the language of the current noise regulation includes the term gas facility that by its terms includes a compressor. It was about that same time, the Town of Frederick ruling came down and it was in that ruling that the Court of Appeals found again specifically that noise regulation by the Town of Frederick is preempted as an operational conflict; subsequent to that Mark and Don discussed this with Brain about this issue specially, noise and compressors and it was then in 2004 where Brian now is representing they are preempted as noise concerns compressors . Doug looked at the counties that Tresi mentioned.
Doug in the case of LaPlata county they do permit compressor stations like they do everything affiliated with oil and gas, but from the noise standpoint, they do default back to the state standards because they fought that one in court and lost previously; Lee Morrison in the Weld County Attorney's office and he said they have routinely for years SUP for Compressor stations and it's through their land use codes so they're addressing land use issues, he said we address noise but again we default back to state standards on noise and do not do anything more stringent that what the State allows and he did say they have never been challenged on whether they are allowed to issue SUP for Compressor stations. Doug also searched the oil and gas regulations to see other places where they talk about gas facilities and the only place they refer to it in their regulations is under the noise issues where they regulate it.
Chairman Martin – Mesa had the same issues – fencing, color and traffic impacts – that's as far as they can go – administrative review.
Weld county is similar – requires the permit come in front of the BOCC; noise standards to meet the commercial standards.
Commissioner Houpt – its worth pursuing. She will talk to Moffat.
Chairman Martin – have they complied with the Frederick case; if not they will be preempted. I-70 Mountain Corridor – Met with Tom Morton and supportive to create consensus throughout the Corridor and looking at monies to help. Other states have received money for planning and it would be helpful. I-70 – put together a technical committee.
This week – BLM sponsoring 3 public meetings Monday, BM – Wed Rifle 1 –4 at City Hall and Thurs in GSpg. I-70 Coalition in Summit County on Thursday.
Meeting on Wednesday -
Commissioner McCown – did the open house on 11-30-04; EAB on 12-2; access committee met on Friday am still discussing road access issues but not a RS2477; similar schedule on the Roan Plateau; Doug – Air Qualify input at Fairgrounds with 6 p.m. tonight; jury duty on Tuesday and gone next meeting but available by phone.
Chairman Martin – Wed – Board of Realtors – task force identifying an impact on land use values in the region. Lending and industries, and try to come up with a – board of natural resources – impact on land use by oil and gas. Strategic plans – focus groups still.
Department of Wildlife – Pat Tucker – try to rekindle on access to the river – next on the agenda is the bridge at 82 and 133 and want to be a partner with Garfield County and Carbondale next to the mobile park. Decide if we are going to use our road crew; Catherine's store and parking space owned by RFTA and need to decide if we are going to participate. Pat Tucker will be here.

EAB – appeal to anyone in Carbondale to sit on this board – have a vacancy from the area.
Doug – Town of Trustees on a tour – this has been put off. – this will occur in the spring.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign an Authorization of Partial Letter of Credit Reduction, Certificate #2, for First Eagles Point Subdivision Plat. Applicant: Battlement Mesa Land & Development Company, LLC. – Jim Hardcastle

f. Authorize the Chairman to sign the Resolution and Special Use Permit for "Material Handling of a Natural Resource" for a 12 inch natural gas pipeline. Applicant: Canyon Gas Resources, LLC. – Fred Jarman
g. Authorize the Chairman to sign the Resolution and Special Use Permit for an Accessory Dwelling Unit for Lot 3 of the Dooley Subdivision Exemption. Applicants: Thomas and Elizabeth Lippitt – Fred Jarman
h. Authorize the Chairman to sign the Resolution and Special Use Permit for an Accessory Dwelling Unit for Lot 360 of River Valley Ranch, Carbondale. Applicants: John and Resa Wing – Fred Jarman
i. Authorize the Chairman to sign the Amended Plat for Lot 23 of the Stirling Ranch PUD. Applicant: Stirling Sun-Mesa, Inc. – Fred Jarman

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items absent b and I; I for discussion. Houpt – aye; McCown – aye; Martin – aye

Item I – Scott Aibner hasn't signed the plat yet and requested approval of the Chair to sign when Scott does sign it. Commissioner McCown so moved; Chairman Martin seconded; McCown – aye; Martin – aye; Houpt – abstained from voting.

REGULAR AGENDA

PUBLIC MEETINGS:

MOUNTAIN REGIONAL HOUSING CORPORATION – 2004 SERVICES AND PROJECT REPORT AND REQUEST FOR ASSISTANCE – SUSAN SHIRLEY

John Baker, real estate, Susan Shirley, Michelle Dressel and Kay Phillip were present and presented the request for $20,000 in operating support from Garfield County. She stated that Mountain Regional Housing is steadfastly dedicated to providing community services and strengthening the capacity to solve the affordable housing crisis in the area. MRHC actively partners and collaborates with local governments and many hosing related organizations, particularly the Garfield County Hosing authority and the planning efforts for the new Roaring Fork Housing Trust. In addition it works with organizations, corporation and others to whom issues of scarcity of affordable housing is an issue. This is the only nonprofit developer in this area.

Today they are here to let the Commissioners know of the program and services available through the Mountain Regional Housing Corporation. They are certified CHFA and prepare the people for obtaining a mortgage. They have accumulated $500,000 in revolving loan funds with down payment assistance and closing cost assistance.

With the support of Garfield County they have e$2.2 million additional tax savings for eligible low and middle income buyers purchasing a home in Garfield County.

The Power Point presentation completely outlined the services. The way MRHC can participate is Owner's Representative, Sponsor, and or a Co-Developer. The MRHC Funding sources include Federal pass-through Program Funds from Colorado Division of Housing & HUD; Support from Local Governments that are required for Federal & State pass-though funds; and Support from Others from foundations, service organizations, local lenders and other businesses. The pass-through program funds do not cover operating costs.

Mountain Regional will partner with anybody. Employers can work with them and tap into all the resources. They work with the Board of Realtors.

Geneva Powell from the Housing Authority and Clayton Collier were also present.

REVIEW OF AN ALLEGED CODE VIOLATION FOR GEORGE W. SOUKUP ON PROPERTY LOCATED AT 7094 HIGHWAY 82 – STEVE HACKETT

George Soukup, Steve Hackett, and Rick Neiley were present. Steve submitted a letter from Richard Neiley regarding an illegal food service establishment called "Chicago Italiano" located in the font and side yard of Valley Liquors at 7104 Highway 82 in Glenwood Springs. He also stated concerns that the establishment is a mobile structure and violates both the required front yard and side yard setbacks on the Garfield County zoning resolution. Mr. Neiley further states in his letter that all indications are that packet.

Steve investigated the business and issued a "letter of citation" dated October 19, 2004 notifying Mr. Soukup of a Garfield County zoning code violation and that since the thirty day period of time allowed for compliance has expired, this matter is set for review by the County Commissioners.

The packet also included a letter of support from Stacey Linman for the Board's consideration.

The violations are International Business Regulations – trailer type buildings used have to have building code modular units, but this type of wheel trailer is not. Nor would it be allowed to be placed where it is as it sets in the setbacks both side and front.
George discussed the issue with Steve and had he had this information, he would have asked for a continuance. At this time there is a trailer in violation and we have some illegal signed placed without permits.
Steve suggested giving Mr. Soukup 30-days to make the use legal in Garfield County.
George Soukup – sign is an advertisement – page 4 – this is his understanding as an advertising sign and could be deemed compliable. This is interesting and as far as he's concerned, it is an embryonic – people of small means need to be able to use their means to earn an income. On October 19, 2004, Steve sent them a letter stipulating that "it has been observed that it is a violation of Colorado 30-28- enabling GARCO zoning to use a trailer of any see the letter - a fine of $100, imprisonment of 10 days.
The codes they have broken did not advise us of what our options were. Claire Smith was present and a witness to the discussions with Steve Hackett.
Chairman Martin stated that Steve brings this to the BOCC.
George said Steve didn't give him any recourse other than legal action. Section 10 of the Amendment to 10-02 of the zoning code. Text amendment. Submitted for a variance, temporary – A Special Use Permit has been submitted and was rejected because there was an absence of – Jim Hardcastle – not a SUP and can't process your application at this time. Operated in good faith – actual charges not cited by Steve Hackett. How can they comply? They want to proceed in a legal fashion. Wrote a letter dated December 10, via registered mail. Not hostile, however the personal tone asked Steve to remove himself from this matter unless he can
They want to file a text amendment for a use that is not actually described; comprehensive map amendment and asked for a 30-day operational waiver to address this.
Claire Smith and owner of Chicago Italiano – they have found in a short time that they are a great hit. She offered some testimony in a notebook where a number of people wrote in favor of the operation.
Claire received the letter and was surprised. She is legal with the State of Colorado, has insurance, and George came to the County to speak with Steve to find out what we could do. They took the flashing light down immediately. Steve used a harsh tone of voice and implied he wasn't interested. Colorado Department of Health was legal to do business except in Denver proper. In the efforts to deal with the operations, she learned there were others operating out of trailers. Short stop confections are where the trailer originates and the health inspector did an inspection and they received a great review. Town of Marble from last year from Charlotte Graham. Selective prosecuted and has a CD with photos of these operations.
Commissioner Houpt said they will take their word for it.
Jens Road Side Grill – approximately for two periods of time – June 2003 – December 2003.
Two affidavits – pawn shop, and Gens Road Side Grill. History of Steve Hackett and comments as to if they were in compliance – they were in compliance when the pushed back 6 to 8 inches.
Copies were submitted.
Claire – would like to continue business. Home Depot increased business by having a food trailer; they started looking for a spot to locate. This situation is a huge damper for a great business. They've been in business for 35 years and would like consideration to evolve into a permanent location.
Steve recommended a 30-day period of time to submit the proper applications.
Carolyn – asked if she was recommending they continue operations.
Steve – historically the county allows operation during a time of compliance and suggested an extension of 30-days to comply and allow him to submit a zoning text amendment.
Commissioner McCown – regardless of the 30-days they cannot come into compliance.
Don – obtain a building permit?
Steve – if this business is to remain, it would have to be building code compliance.
Don – raised this issue in order not to have anyone mislead. If the operators do not plan to have a building, it cannot be addressed.
Steve – generally we have stretched the time factor for the compliance. He would rather give the applicant sufficient time to comply.
Commissioner Houpt – like to see them stay in business and not set them up to fail.
Don – questioning the various uses on this property. Focusing on land use issues would be 60-90 day time period.

George – what they are looking for in the text amendment is to bring it into brick and motor.
Mark Bean – the temp trailer used elsewhere meet the building code. The use of the restaurant is allowed in the zone district, the issue is location, could expand his building and meet the setbacks. Text amendment cannot be approved specifically for this business so if you go to a building, this isn't an issue and goes away.
Mark – the use of the restaurant is okay. The trailer is a building code and the location doesn't meet the setbacks.
It can't be a trailer.
Carolyn – the zone text is to allow trailers to operate.
The Board reviewed the proposal by the applicant.
Commissioner Houpt – is there anyway to bring this in the building code.
Mark – this came out of a factory and he doesn't have the ability to do this. He is not sure if they meet the building code requirements.
Steve – Doesn't want to give these people false hope.
Claire – pointed to the affidavits – still claims there were not dealt with the same as others.
Commissioner McCown – the trailer is designed to do special events and not designed for a commercial facility. Food fairs, etc.
George – wouldn't get false hope – tell us what you need and they will do it.
Commissioner McCown – would like to see a building and not comfortable with this trailer – if you're willing to build onto his building and take the trailer to special events.
Claire understands – Colorado Department of Health – recommendations – they didn't have a problem – see it as a temporary set up. Ask the privilege to operate and move forward to something permanent.
Commissioner McCown – can't talk business unless we talk structure. The Colorado Department of Health doesn't have any say of the County building code.
Commissioner Houpt – time period – will this take – if they want to create a permanent structure in this location.
Mark – procedural – 60 – 90 days for a public hearing and even then the BOCC may not approve it until they have heard public testimony.
Commissioner Houpt – would the applicant want to seriously move forward with a permanent structure.
George has researched it and thinks they could move forward on it; it will require time. Options – but he will be willing to continue with that research and is willing.
Commissioner Houpt – does it go beyond research – entering into a permitting process and allow the business to stay open for a period of time.
George – would have to submit business plans, likes the people and this has already entered his mind in a positive way.
Commissioner McCown – if we're going to allow a business to operate, there have to be bench marks – building permit in 60 days or this goes away.
Commissioner Houpt agrees with the benchmarks.
Commissioner McCown made a motion to allow this to continue for 60 days and if no building permit has been applied for they will cease and decease. Commissioner seconded; Houpt – aye; McCown – aye; Martin - aye

DISCUSSION OF PROPOSED COGCC ORDER/RULE CHANGE ADDRESSING SURFACE USE AGREEMENTS – ENERGY ADVISORY BOARD REPRESENTATIVES

Doug Dennison and Sam Potter, Chair of the EAB were present to discuss the EAB's meeting on this issue. A number of individuals were present who want to speak as well.
A draft of the Colorado Oil and Gas Conservation Commission Policy for onsite inspections on lands where the surface owner is not a party to a lease or to a surface use agreement (to be ultimately adopted as a Commission Rule) was submitted to the Commissioners.
The drafted, dated 12-02-04, contained the following:

Initiation of an Onsite Inspection

The Director will conduct an onsite inspection in advance of issuing an approved Application for Permit-to-Drill ("APD") at the request of the surface owner of the lands on which the well is proposed, when:

1. The surface owner is not a party to a lease, surface use or other relevant agreement for the proposed well;
2. The surface owner believes that technical or operational conditions of approval should be attached to the APD in order to minimize damage to the surface, address potential health, safety and

welfare or significant adverse environmental impacts of otherwise ensure compliance with the OGCC's rules relating to advance notice and good faith consultation with respect to timing of operations and location of facilities; and

3. The request for the onsite inspection is made by the surface owner within twenty (20) days of receiving from the operator the advance notice of drilling operations.

Purpose of Onsite Inspection

The purpose of the onsite inspection shall be to:

1. Minimize damage to the surface;
2. Address potential health, safety and welfare or significant adverse environmental impacts within COGCC jurisdiction regarding the proposed surface location that may not be adequately addressed by COGCC rules or orders, or
3. Otherwise ensure compliance with the OGCC's rules relating to advance notice and good faith consultation with respect to timing of operations and location of facilities.

The onsite inspection shall not address matters of surface owner compensation, property value diminution, future use of the property or any private party contractual issues between the operator and the surface owner.

Notice to Surface Owner of Onsite Inspection

The advance notice of drilling operations that is provided to the surface owner by the operator shall include information for the surface owner about the opportunity described herein for an onsite inspection when a surface owner is not a party to a lease, surface use or other relevant agreement for the proposed well. The information included in the notice shall include the following:

1. A postage prepaid postcard whereby the surface owners may request an onsite inspection along with two dates where the surface owner is available to meet on location.
2. Instruction that the surface owner is required to respond to the Director regarding advance notice of drilling operations.
3. An explicit statement including the purpose of the onsite inspection including timing of operations and location of facilities but not address matters of surface owner compensation, property value diminution, future use of the property or any private party contractual issues between the operator and the surface owner.

Conducting an Onsite Inspection – includes the LGD to attend, selecting an acceptable time for the representatives to attend, and a possibly delay to allow for negotiation between the operator and surface owners or other parties.

Permit Conditions Resulting from an Onsite Inspection could include: visual or aesthetic impacts, surface impacts, noise impacts, dust impacts, ground water impacts, safety impacts and wildlife impacts.

Sam Potter said the overview of the issue is that the majority of the Baord thought legislation would be the better place to discuss and pass these issues but this rule has been effective in LaPlata County but they felt it was better to submit to the BOCC to adopt this rule.

Doug - Club 20 has not endorsed this bill yet.

Sam said there would not preclude legislation from going forward.

Commissioner Houpt – in the November meeting there was a recommendation to have legislation presented. To date there hasn't been any discussion.

Sam wasn't aware that this rule was in place in LaPlata County. The EAB decided to take action on the rule change. Kathleen Curry did state she was going to bring a bill forward.

Discussion was held regarding proposed ideas from those at the Forum and was warned about having some legislation coming forth.

Commissioner Houpt – is you adopt a rule, addressing this issue; you have just created strong issues about not adopting legislation. The COGGC can say that they are already taking care of the issues that legislation would address but they are doing it in a manner that doesn't have the same type of impact long and short term that we're looking for with legislation.

Duke Cox, President of the Grand Valley Citizens Alliance – EAB meeting and discussion was held about how this rule was drafted. This rule change is weak and this is a bad rule change except to bring the head of the OGGC involved. This is premature and ill prepared and not adequate discussion. Asked the BOCC to defer this back to the EAB for further discussing. And it should be taken into larger consideration for proposed legislation.

Houpt – do you know when the EAB members received the copy?

Duke – email copy about a week before the meeting and was told Dave Cezark had made some changes.

Very limited public discussion.
Doug – responsible for this schedule. He knew the COGGC would take action on January 2005. It was rushed and Doug didn't get this draft until the day of the meeting. He said the COGGC will move forward with or without input.
Sam said we were rushed on the EnCana's violation issues as well. Pointed out that we did discuss this portion of the rule change for an hour – after Kathleen Curry pleaded with the EAB for a rule change and said she was going to pursue a legislative change. There was concern for people that if nothing occurred at the legislature, something would be in place. The EAB discussed the rule change with Doug being in discussions on these negotiations, Page 2 "Conducting an Onsite Inspection".
Commission McCown – like that there's no mention of bonding in lieu.
Doug said that will bonding will the rule of option and it would not quite be the lever necessary. The statewide average is 20% are drilled under bond. The reasons for the bond are not clear. This will now allow investigation as to why he bond versus a surface owner agreement. This draft rule change allows the surface owner to know they have other options.
Duke – this rule change doesn't change anything – this is a serious matter and if you're going to arbitrate you need experience. This gives two agencies to come in and talk to the two parties, but it doesn't change anything. This rule
is being recommended for pure political reasons and diffuse the efforts in legislation.
Commissioner Houpt agreed that this is a proposal whether or not and truly this rule was established to divert legislation. She had heard from the O & G that they would favor legislation. Let this rule be set aside as it will muddy the waters to allow a bill to come forward.
Chairman Martin – disagrees – this will help the landowner and no permit will be issued until there is a surface owner agreement and it is a rule that can be used until there is legislation.
Commissioner Houpt – doesn't agree.

Chairman Martin – won't issue a permit until a surface owner agreement is in place – this is incorporated in other rules. These were adopted in April of 2004 and anyone who feels they re impacted, they can request a hearing in front of the full Board of O & G. Wyoming Rule – a matter of education to let people know about the rules for the surface owner. Doug's opinion is anything that will slow down the process of issuing a permit will be an incentive to negotiate with the surface owner and do a better planning process. They will have to anticipate 2 – 3 months ahead to make sure they don't get ahead of the process. If a lot of surface owner evokes this process and the delay in the process has generated negotiations. He is willing to give this rule change an opportunity.
Duke asked the BOCC to recognize this is not a County issue – it is for the people affected. He preferred to refer this back to the EAB for discussion. This is a bad move and wants the Board to defer action.
Garland Anderson – Grass Mesa Owner and EAB member – think the EAB is working well and the process is the very reason he can object. He would have voted no based on numerous reasons. We're been spouting off a lot of statistics and reminded us that these bonding issues are misleading. 6 of more in his neighborhood of 40 homes bond or else. The stats are misleading because people are in a state of financially strapped and they need the money. BMP is used and encouraged the BOCC to look at all the issues.
He added that the industry – Club 20 plus others did rush this about – it's a matter of fact and the reviewed addition showed up and the vote was 21-4 and more meant well but it was based o limited information. They felt a need to respond especially after Kathleen Curry wanted a response. She wanted a feel of which way the EAB would go. She is working on a bill and getting emails and the vote of the EAB should discourage her to continue for legislation. Some voted for it were not against legislation. However this may be a stumbling block – now she is in an awkward situation; a lot are concerned about this issue going forward right away.
The surface use agreement includes more that what the OGGC covers. There are a lot of issues that are not included in the form. The SUA includes other things. The action of the BOCC will be official.
Numerous comments made about how SUA don't know their rights to a hearing and Club 20 put it into writing. This is demeaning to infer SUA's are totally ignorant. When he bought he knew the risk such as thousands of trucks, odors that would choke you, lights and traffic. The extraction industry treats SUA differently than those that own the Mineral rights as well. Examples were given as to how some SUA's are treated compared to one that owns their mineral rights.
Garland – tabled until the EAB can work on it more with facts and testimony from the public.
Deanne Wilson – Colorado Congress – her feeling are she only works on SUA rights. This was the first

EAB meeting, 40 people in the crowd, Dave Cezark admitted the draft was submitted that day. There was no public comment so she never got to make her comments. The audience would have made a different discussion. Kathleen Curry didn't have the correct information. A wait on the vote was appropriate. COGGC is partial. The EAB didn't get a recommendation from the people impacted. Working on legislation for 4 years, no SUA is working on the process for a rule change. You are fooling yourself if you think this is not going to kill legislation. OGCCG is powerful. Jamie Adkins is not trained for arbitration and rules out damage. This rule change will further erode trust. Get more information, this is an order and will make it go through faster. Let's do it right. Better notification, criteria to be included in the SUA agreements without measurable objectives;
Encouraged the BOCC to not support it. The COGGC does a poor job of publication. Most people do not know their rights. She doesn't think they BOCC has to say no to this rule change, but to do it better.
Chairman Martin – Club 20 – gave input and an update – they supported it.
Deanne – not representing the surface owners; he was not representing the Colorado Congress. Our Good Times is not representing the surface owners. Steve Smith does not speak for them either.
Arnold Elston – the process that the OCGG uses in not a democratic process. I his experience this is not going to help the SU better negotiate. The company puts non-disclosure information in their contracts. This is not democracy. Suggested this Baord not come out and support this. This proposal is window dressing.
Sam Potter – glad Katherine Bewell was quoted and supportive on something happening. This was a strong move to get the EAB to vote. Offering any changes, the rule has been in place in LaPlata and has worked and that's why they support it.
Chairman Martin – the recommendation from the EAB board is to support it.
Don – contents on the rule – 1) bonding question that Commissioner McCown brought up, Doug when you say there's anticipation that they could bond, when he read this it looks like the OGCC could put conditions on the drilling permit that would address some of these issues – you're not suggesting they could bond around drilling conditions are you?
Doug – No. His understanding is that at the end of the process after the SO has exercised all appeals, which the final one is a hearing in front of the oil and gas commission, the operator could still bond that well but the OGCC could put conditions on it.
Don – the 7 conditions is part of this rule and the OGCC can apply conditions to drilling or address these 7 conditions. They can't bond around those conditions.
Doug – to get rid of the bonding option is a legislative issue – you can bond in absence of an agreement with SU.
Don – conditions placed on the drilling agreement and yes they could bond around the SU but not about the drilling.
Doug – the bonding, $2,000 are for surface damages. The rule and the law say, for damages they can foreclose on a bond and partly because people don't know what's reasonable. The conditions will be there.
Chairman Martin – this is only examples and not the whole set of conditions.
Doug – strongly addressed would be weed management as an issue.
Don – condition that would minimize the economic impacts on the SU.
Doug – the CGGC cannot get in the monetary negotiations.
Don – interference with farm and ranching operations.
Doug agrees and this is certainly he hopes will bring to the O&G to consider this impact.
Duke – the latest accentuation by Club 20, does it exclude damages other that what occurs at the well section.
Doug - Pad, access road, is addressed in the well permit.
Martin – they are all addressed in this rule change.
Duke – this discussion point out that the process has not taken long enough – sent it back the EAB so the BOCC can have clear cut answers.
Commissioner Houpt read the following statement into the record: "Let me begin by saying that I am extremely disappointed to see the Energy Advisory Board bring this recommendation before us today to support the COGCC Proposed Policy addressing Surface Use Agreements. It is my opinion and the opinion of many of my constituents, that the hasty writing of this proposed Rule is an attempt to draw support away from legislation that would deal more comprehensively with the equity dilemma facing Surface Owners in Garfield County and other energy impacted counties. I am hearing the COGCC and the industry say that they are in support of such legislation; if this is truly the case, then I would request that you set this proposed Rule aside and get behind the legislative process, a process that started before this

proposed Rule was developed. With property owners, the industry and COGCC behind proposed legislation, there is little reason why it would not pass. A newly adopted Rule creates the perfect argument against new legislation, and that is that the COGCC is already addressing the concerns of surface owners. Currently, the COGCC allows the industry to move forward with drilling activity without the surface owner's consent….if they parties cannot come to an agreement. Where is the equity in this process and where has the COGCC been in addressing the concerns created by split estates?

I have not seen a draft of what will be the proposed legislation, so I cannot comment on specifics, However, Representative-elect Kathleen Curry, who is a Democrat and Representative Mark Larson, a Republican are working together to craft a Bill that will be well balanced. As commissioners, we hear from the industry that they are committed to the notion of "Best Practices" and working within our county as "Good Neighbors", keeping that in mind I would urge industry representatives to work with the property owners in energy impacted counties throughout Colorado to create a Bill that will serve as the preferred approach throughout our country on addressing split estates.

I often hear my colleagues, John and Larry, explain to the public that we, as county commissioners, have no ability to assist them with the impact the oil and gas industry has on their property, because the COGCC has authority over most land-use issues. Well, here is our opportunity to be proactive in creating law that would protect a large percentage of our constituency and potentially allow us to retain some land-use control ability… as we do with all other businesses, private homes and industries within our county limits.

This Proposed Rule should only be supported if legislation does not pass during this session, otherwise, as a parallel effort it turns into a smoke screen and will undoubtedly decrease the chance of Colorado adopting good solid legislation that speaks to the concerns of the impacted landowners. Once again, with property owners, the industry and COGCC behind proposed legislation, there is little reason why it would not pass.

The proposed Rule does not address property values, impacts to existing business and quality of life. It also does not address the impact on neighboring lands or future use of the property. These are all land-use issues that should be addressed and would be through our land-use regulations. The Rule also raises additional questions in relation to directional drilling, wildlife impact and noise considerations.

Let's do this right. We live in an energy rich County; we know that we will continue to have wide-spread activity. Let's put some safeguards in place, so that when the drilling is complete there will be something left for everyone else. Extraction activity should not be allowed to impact the long-term, or for that matter short-term, quality of life, property values or environmental concerns within our county. Let's work together to identify beneficial ways to move forward.

Let's support legislation to address surface owners concerns." Commissioner Houpt said and with this I would put a motion on the table not to support this rule change on the surface use agreement and support new legislation in Colorado. Chairman Martin stepped down as Chair to second the motion for discussion.

Chairman Martin stated that Tresi you are making a very big political statement and that you are postponing the property protection, the rights of the people that are already there by that type of a statement. A year to two years down the road you might have some protection and if we wait we may not have the support we have at this present time or the organization to support it at this time. I think taking action today is more important than waiting a year to two years before we know that we're going to take any action and to find any support for. There are desperate people out there that are being impacted greatly and they need help today and that's what our job is to help them today and not in two years. And if it doesn't help then we seek legislation but at least we have something in place and I've never said I'm against legislation and don't know where that idea came from, but what it amounts to is that we have something to take now forward to protect the people as we can, work on legislation into the future – let's see if we can't make it work the reverse way instead of talking rhetoric and not doing anything.

Commissioner Houpt – wanted to respond, she said that I don't disagree that something needs to be done, something needed to be done a long time ago, we have representatives who are working on legislation and I'm not talking about waiting two years. I'm talking about letting a process occur and a process that could really put something in place that would long term not short term for property owners and something that could really put protections in place for both surface owners and the industry – that is critically important – this is a band aid and this is not going to address the needs that surface owners have in the long run. It's not, as we've all seen, this is not a well written draft and it is a draft, it even says draft on the document and for us too support a draft without knowing what the ultimate or final rule is going to be is not, I don't think, it's representing our constituency in a very reasonable way.

Chairman Martin – the draft is what it is; this is what the EAB recommended and they are making it for us to support 21 to 4.
Commissioner McCown – I'd like to apologize to the EAB. You folks are doing what you were directed to do and this chastisement is totally unfair. The vote was 21 to 4 and the four people we heard from today were for one organization that voted no. That is not a true cross section of the people that were there. This is a tool; it is not the ultimate answer. The frustration I heard from Ms. Bewell was the fact that she had been waiting on legislation for a lot of years; this is an opportunity to put a tool in place, not the ultimate tool, but a tool in place. I heard two arguments coming from the people that testified today; one that's its so diluted that it's not going to do anything, the other is that its powerful it's going to stay off legislation – let's make up our minds which way we're going to argue. I am not going to sit here and say yes I support legislation without seeing that legislation; I would not say I support a rule change without looking at a rule change. This is a draft of a rule change, I can support it because it is a tool – it is another step that we don't have in our tool box.
The motion is Not to support the recommendation of the EAB.
Commissioner Houpt aye; not in favor of denying the recommendation - Martin aye McCown - aye
Motion to Support the Recommendation of the EAB.
Commissioner McCown made a motion to support the rule change as it was presented to us today with the support of the Energy Advisory Board and continuing to support their efforts and their presentation of this to us.
Chairman Martin seconded the motion.
Discussion:
Chairman Martin said we've asked the Energy Advisory Board, 25 different people from all walks of life from the industry to citizens that own rights, that don't own rights to municipalities as well as our own representatives within the area and we've heard from the citizens, etc. This was a discussion, they've been asked to bring forward recommendations, this is the recommendation that they support on a majority vote, 21 to 4 so it's on us to decide if we live up to our expectation of the EAB in taking their advice seriously.
Commissioner Houpt stated this was a vote that was taken after a limited review of the rule and I think that is a flood process, not by fault of the Energy Advisory Board but because certain groups decided to rush this process, I think that's wrong, I think if people had a better understanding of what was involved and was in print, that we may have seen a different vote. I think it's important to note that.
Support the EAB
McCown –aye Martin – aye – Houpt – nay.

Sam said you fellows that were there and had the opportunity to listen to what was said and I'm sorry you couldn't be there too Tresi, but I feel that's summarized what happened.

DISCUSSION OF BILL BARRETT CORPORATION'S APPLICANT FOR ESTABLISHING SPACING AND WELL LOCATION RULES – DOUG DENNISON
Doug Dennison submitted the application to the Oil and Gas Commission for the order establishing spacing rules applicable to the drilling and producing of wells from the Williams Fork Formation of the Mesa Verde Group covering certain described land in the Mamm Creek Field area in Garfield County.
This is for more dense spacing. Barrett is proposing no more than one pad for 40 acres whereas Williams supports one pad for every 10 acres. This is for downhole spacing. There is a portion within the 2 mile area the Board is recommending holding off on .
A letter from Gorsuch Kirgis, submittal of the application and Don called attention to the statement in the letter "Please be assured that it is not the intent of BBC in the filing of this application to change this order in any way as it may apply to BBC. (the moratorium) Don said this needs to be tied down further. Don is talking to Bill Keefe.

Scott Donato, manager of Environmental Health and Safety for Bill Barrett Corporation and Kenny Koon, local operations supervisor.
Scott, on the moratorium area, we do have some acreage and pointed out on the map submitted, and at this time we don't have intention of going in there until things are resolved. We're working presently with Don DeFord from Garfield County to come up with sufficient language for both parties to be happy with it.
Don DeFord explained that "please be assured that it is not the intent of BBC in filing of this application to change this order in any way as it may apply to BBC." That's the moratorium area that's referenced in the

first sentence. What I've asked Bill and which we still have to resolve is to tie that down closer because I think Mr. Keefe and I agree that literally the order does not apply to Barrett because they weren't subject of the action. If you read this language literally it doesn't have much meaning and we agree it doesn't apply, but what we're trying do to is find language that would make it apply until they find it's safe to drill.\
Commissioner Houpt – so that order was not connected to land, it was connected to the business.
Don – yes. Too the operator. The moratorium not the field rules.
Chairman Martin – it wasn't the entire industry that was involved, it was just one operator.
Scott - Brief presentation – Bill Barrett as was stated purchased Calpine Property south of Silt and the map showing the existing wells out there now, and the moratorium area as well and Bill Barrett is making a proposal to the Oil and Gas Commission to down space for denser spacing on down hole locations across this area. Surface locations will remain at a maximum of 40 acres spacing. That will be the densest and optimum density on the surface is 80 acres. There are certain cases where you are just not able to do that – you cannot always drill all your wells from that 80 acre locations. Part of what they will provide for the Oil and Gas Commission is an operations plan that will address a lot of issues and met with Town Meeting locals to hopefully get some of their concerns and they were pretty forward with those. They recognize you can't make everybody happy but the intent is to try real hard. A lot of the issues from the public today that traffic is an issue, contractors working for you and make strong attempts and make threats and ask local law enforcement to enforce the rules against any of their employees and we like to be notified of any of those sorts of things. They are open to ideas but will be addressed drilling order and met with Jamie Atkins and all operators to know what the rules are. Working with EnCana on the analysis. Noise and lighting issues – working on ways to resolve these issues. Many of these don't end up satisfying the land owners. Odor issues – minimum distances from residences; lighting issues are pretty difficult, we're working with our drilling guys on some ways to deal with this because the lighting is required for safety. Noise issues, odor issues and we've made a commitment in this operations plan to address odor issues at certain distances which we haven't decided on yet, but minimum distances from residences and then if there's an outstanding complaint that can't be resolved and it's a real odor issue they will install those combustion devices in those situations as well but no matter what the distance is, because sometimes its not the distance but the way the wind travels through a valley, etc. Addressing all our spill cleanup and reporting, waste handling, an extension reclamation and emergency preparedness plan with phone numbers that need to be called and we're installing a 24 answering service that is no one is in the office that those folks get called.
Commissioner McCown – Chevron – suggested to have the subcontractors put logo's on their trucks – let people know who the subcontracts are. If there is a complaint you'll know who is who.
Scott will take this back to the company saying this is a reasonable request.
Commissioner McCown – contracting letters on the tailgates, help identify who they are.
Scott – industry ethics are being addressed. They take the traffic issues seriously. They have let contractors go. The Sheriff and BLM have been out for enforcement.
Chairman Martin – identify this is a sub-contractor.
Scott – it gets diluted as sub contractors hire other sub contractors.
Mildred – licensing of vehicles.
Scott said, yes they do. Subcontractors – 30 days after employment for anybody.
Mildred said for those people working out of state working 4 on and 4 off – can do dual registration.
Some may be prorated to operate in several states.
Mildred asked for a list of subs to contact.
Public Comments:
Brooke Caldwell and drive for Thirsty Trucking, drives potable water out to these people and was run off the road by a vehicle with no lettering on it – no sign, only a description of the vehicle, and if you've ever been in a water truck on Dry Hollow road, she rolled the truck – there are so many trucks – they fly on the road. Road is so deadly. Asked her boss to ride with a driver in one of the water trucks. 3,000 gallons of water tilts the truck – she has send one sheriff in 2 ½ weeks. It's not being patrolled. This is an issue and asked the Commissioners to address the road. Put a counter on the road – it's a major problem

Direction from the Board: Don is participating in the draft for the moratorium. Bill Keefe and Don are working together. This will this be sufficient if they reach an agreement – legally it would protect the moratorium issue,
And Don can talk about the spacing. Surface spacing in this area is 40 acres and the only underground spacing – no spacing occupancy less than 40 acres.

The deadline for protest is December 27, 2004.

PUBLIC MEETINGS:
REQUEST THE CHAIRMAN TO SIGN A FINAL CONDOMINIUM PLAT OF VALLEY VIEW VILLAGE, PHASE A, BUILDING K. APPLICANT: DARTER, LLC, TERRY LAWRENCE – JIM HARDCASTLE
Mark Bean for Jim Hardcastle was present.
Jim submitted the Final Townhouse Plat of Valley View Village, Building K, a re-subdivision of Lot 46 and stated they staff found the application to be complete and recommends the Board authorize the Chair to sign the final plat and all associated documents, i.e. plat.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Final amended plat and the Chair authorized to sign; Houpt – aye; McCown – aye; Martin – aye.
TRAVELERS HIGHLAND SUBDIVISION UPDATE – FRED JARMAN AND CAROLYN DAHLGREN
Mark reported that Terry Kirk had his building permit issued late Friday afternoon and it is consistent with legal counsel and has been recorded. Heads up – Mr. Kirk still needs to submit the amended plat and Mark has put a hold on the CO until the amended plat is filed.
PUC requirement for commercial trucks to be identified. Mildred will double check.

AKALINE CREEK ISSUE.
Bill Porter – concerns and would like to meet up Alkaline Creek with the Commissioners; he was reluctant to say what it is.
Commissioner McCown will call him and assured him they will do this after the first of the year.

Chairman of the Board for 2005
Mildred mentioned that when the decision is made for who will be Chairman next year, Patsy needs to get a signature for the new system.

Commissioner Houpt made it known that she wanted to be chair. Not a formal decision.
Chairman Martin will continue probably.
ADJOURNMENT
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____

DECEMBER 20, 2004
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 20, 2004 with Chairman John Martin and Commissioners Tresi Houpt present. Larry McCown was not preset. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Mildred Alsdorf Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY MANAGER UPDATE – ED GREEN

a) Contract for Re-Model and Additional Space – Lou Vallario

Lou Vallario, Tim Arnett, Chuck Brenner and John Groth were present.
Lou presented a memorandum explaining that he had received all bids and costs for the addition/remodel and the total has exceeded the originally approved figure of $435.820.00 by $58,840.00. He explained the situation and requested the additional $58,840.00 to complete the projects.
Tim suggested the Commissioners take a tour of the remodeling site proposal.
The bid award was requested to go to Groth Construction.
A motion was made by Commissioner Houpt and seconded by Chairman Martin who stepped down as Chair approve the additional cost for the remodel and additional space for the Sheriff's space in the amount of $58,840.00 to approve the
A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to aware the bid to Groth Construction for the 325,000.00 for the Sheriff's remodel and additional space; Martin – aye; Houpt - aye

b) Policies and Procedures Resolution – Judy Osman

Mildred Alsdorf, Shannon Hurst, Georgia Chamberlain Carolyn Dahlgren and Judy Osman were present.
Judy Osman presented the Resolutions to approve the amended provisions of the Garfield County Personnel Policies and Procedures Manual for the years 2003 and 2004.
Judy informed the Commissioners that the entire Policy Manual has not been re-written yet; this is just the Resolutions for the policies that have already been accepted.
Carolyn stated that three of the four elected officials are present; they have reviewed the entire packet. The draft Resolution was before the Board and will be asking that the Board take this up again in January as well because it became apparent that there's one other section of the Code that needs to be redone and that is Section 3.06 having to do with work periods and pay period. It's already in draft form but this needs to be submitted to the elected officials. In July the personnel committee went away and this will be a ratification of the elected officials having to do with the Sheriff coming under the Personnel Policy. Judy and Carolyn realized the last Resolution formally adopted what has been done in the last year. There will be a Resolution in 2005 to adopt the 2002, 2003 and 2004 changes.
Shannon had an issue with vendors coming around to the staff. Vendors interrupt the staff.
Chairman Martin – suggested having one central location but nothing was formally adopted.
Commissioner Houpt favored each elected official making their own decisions about vendors. She suggested Shannon putting a sign on her door of "no vendors".
Shannon stated she has employees selling various things and interrupting the work.
Carolyn preferred to bring this back in January after research was done.

Georgia 4.09 – PDO – second paragraph, beginning 2002 and reviewed annually, cashing out PDO that have not been used. This is a communication issue and the Treasurer hadn't been notified. Hours approved monthly and how this affects the salaried versus the hourly employees.
Carolyn suggested that this be done yearly by Resolution.
Judy said if an employee is over their limit of hours to carry forward, they are notified in January and if there is a pay-out it is done in February.
Carolyn and Judy like the Board's annual review of this buy-out option.

Carolyn stated she felt this would be dealt with after the first of the year. It is an accounting issue and each employee will be notified if they are over the accrual.
The payout occurs in the February check.
The buy-out is a yearly motion.
Lou said he likes it in the personnel manual. It gives what is necessary to be qualified for this buy-out.
Judy's concern is that the employees should use their vacation.
Jesse stated this was a combination of unused vacation and buy-out of comp time.
Commissioner Houpt – would like to see what has worked for other areas. She also favors people taking vacation.
Ed said they have to take 3 weeks of vacation and the buy-out is at 40%.

Carolyn said a comment about the matrix and salary increases needs to be information to the county. The last conservation was a more formalized mechanism with the year's matrix and each of the elected officials were invited to be present.
Ed – more face to face on raises in the organization.
Georgia wants all to participate in the discussions about salary raises and performance increases.
Carolyn – come back in January for a Resolution.

Use of County property – 5.12 – Commissioner Houpt – cell phones, people travel and not sure how far we go with this policy. Should be able to call home – scope within your employment if you are traveling. This needs to be more specific.
Judy said we added in the "minimal personal use" by cell phones. To date there has been no abuse to this policy. Financial policy when you're away from the home base, there is an allowance for 10 minutes of personal calls to home. Use of cell phone is cheaper than using a hotel phone with charges. The personal phone call could also be used and then charge back the expenses.
Judy is working on a total re-write. In January the Commissioners will meet with the elected officials and proceed forward.

The draft Resolutions were not acted on – postponed until January.

c) Discussion regarding the Naming of Roads and Addressing of Houses on Roads – Mark Bean

Tim Holiday and David Mead are the building inspectors.
Mark Bean explained the problem of addressing some of the areas of the County. He recommended a remedy to eliminate these "black holes" suggesting that letters have been sent to the owners of property to get together with their neighbors and name the road that they use and then County staff would address the houses on that road. The is a partial solution to the addressing issues but it should help to minimize the creation of any additional "black holes" This is needed for the County dispatch, emergency services providers, law enforcement representatives, post office and other delivery services groups to be to deal with the issue.
When someone is requesting an address coming off a County Road, the first on the road would name the road. Don said there is no clear statutory authority. This is an issue that Tim and David would be able to deal with. Mark also suggested taking a bigger look with the emergency services and come up with a solution. A GPS address would help with these services.
Mark framed the motion saying to adopt a policy of the County to require a property owner or owners to select a road name before the first address is issued for lots being accessed by a private drive off of a County Road.
Commissioner Houpt moved that the County adopt this as policy. Houpt – aye; Martin – aye.

d) Northwest RETAC Discussion – Dale Hancock

Carl Smith, Nancy Smith and Dale Hancock were present and explained the effort to align the NWRETAC with the All-Hazards Emergency Management Regions created by Governor Owens.
See the handout
A few of the concerns were discussed: proposed shifting of membership in RETAC.
Carl Smith – 6 members with three regular and three alternatives and comprised of 5 counties in the Northwest part of the state. Some basic minimum services have been established. Tom Stone has withdrawn and it is not 6 counties instead of 5. Summit and Pitkin may go and it will increase the RETAC to 8 counties. This will add three rather resort communities that have a very different status. The logistics for this is the All Hazard Region of Emergency Managers has become aligned with the Homeland Security. Carl's recommendation is to divide this into two RETAC with 5 counties involved.
The financial impacts - $150,000 and $75,000 goes to the various counties and they get $15,000 per county. $5,000 of the $15,000 goes to Dale and the other to each RETAC and then each RETAC is comprised of different counties. There is a minimum of 4 and some of them have up to 6 or 8 and they get $15,000 per county. In the Northwest RETAC we have been pretty strong based on meetings with John keeping that $15,000 going to the individual counties. $5,000 of the $15,000 helps fund Dale, the $10,000 goes to grants and outreach things we do, primarily education and mass casualty incidents. The Central Mountain RETAC historically has divided that so they have only distributed $7500 per county which is up to the RETAC to make that decision. In Garfield County this would cause problems. In next year's budget roughly $6,000 that we receive will go to EMT Training; Burning Mountain Fire District is trying to establish an EMTS level in conjunction with the Silt Ambulance/West Care. Carbondale and Glenwood are each sending a paramedic for training. If the money were cut in half it wouldn't go very far. This is a primary concern if we lose the $15,000 or impacted to try and maintain this 10 county RETAC which can't be done with one individual. Roughly 35% of the State would be involved in the Northwest RETAC and the travel distance going from other State line to basically the Continental Divide and I-70 North. If Homeland Security remains a major funding for the State, it makes it more difficult. Therefore, to split this into two RETAC's with 5 counties in each would require two RETAC coordinators.
Commissioner Houpt would support the two RETAC's.
Chairman Martin realizes that negotiations are important.
Dale requested direction of the Board and is it the position of the Baord to support the two RETACs within the Northwest Region as identified by Carl or is it just to go to the 10 County all hazards region.
Commissioner Houpt favored following Carl's recommendation.
Chairman Martin stated he needs more information he makes a decision. He would like to negotiate to see if we can bring more money into one region with the 10 and then split it into a subsection of North and South. Instead of having two totally different, two different budgets, he is trying to combine that and actually increase the budget.
Direction given: to realign with the rest of the Homeland Security boundaries and divide that subsection, North and South, but bring the entire dollars for two into one because we're taking 1/3 of the state. We need to make sure we're negotiating the correct way and not take on the entire RETAC in one budget. Two RETACs within the area would be okay.
Dale said two RETAC's that match the homeland security boundaries.
Sheriff Vallario thinks the two RETACS would be better as well.
Carl said no one has talked to Grand or Jackson Counties and hasn't heard anything.

e) Proposed Ground Ambulance Licensing Regulations – Dale Hancock

Carl Smith, Nancy Smith and Dale Hancock were present.
Dale submitted the draft of the proposed ground Ambulance Rules dated 10-16-04. They are promulgated pursuant to Colorado Revised Statue 25-3-5-308.
Dale submitted that this was a funded mandate in general.

Carl Smith said they have been involved in this for a couple of years. This gets involved with a lot of different people with different ideas. The flip side of this is there are 5 current ambulance providers and service has been maintained. Silt, New Castle took over some of the ambulance services that went out of business and those are resolved. Ambulance licenses need to stay in the County; if the State takes this over there will be a lot of regulations and the cost will be in the hundred of thousands of dollars.
This is a work in progress.

f) Garfield County Finance Authority Board Vacancy – Dale Hancock

Dale noted the vacancy and there are requirements that require an annual meeting; the meeting was held and it was noted that one of the Board members resigned due to a move to the Front Range. The Commissioners need to appoint an additional member to stay in good standing with the By-Laws. April 2005 will be the next meeting.

g) 2005 Boards and Commissions Announcement – Dale Hancock

Dale suggested that the appointments of the 2005 Boards will be forth coming. He would like to make this a multi-media publication and perhaps buying a page in the paper as well as well as not exclude television, radio or Internet advertisements for these openings.
Commissioner Houpt liked the idea of making it a broader announcement.
The board requested a list of those openings.
Dale said this would begin in January. The first step is to begin identifying the Boards that have openings and then tie the notices to that list.

Swearing In of Elected Officers

At the organization meeting in January, the Board will look at appointments, etc. That will be the second meeting in January. The Commissioners will be looking at this.
Mildred stated this meeting will be held on Tuesday, after the Monday meeting because they will be sworn in on January 11, 2005.

Henry Building Lease for LOVA – Dale Hancock

A lease with a grant attached - $3700 – they pay and we refund; they take care of their own custodial, phone service, internet, etc. This can be done in quarters and semi-annually.
Carolyn stated they have a services contract and she will work with Dale and Linda Morcom to get this worked out.

Courthouse Plaza Area

Ken Stein submitted a letter and 3 proposed options that City Manager Jeff sent with regard to landscaping. Ed recommended no. 3.
The plans were submitted and included additional trees and shrubs.
Lou liked the plan and suggested the evergreens to be set back from the building to avoid a problem with the cameras.
Commissioner Houpt suggested meeting with the City to finalize this.
Ed will discuss this further with Jeff at the City.
Lou's issue is security and favored meeting with the City to discuss the final plan.

Other Information – Misc.

Ed submitted the notice that there was a Severed Minerals Class. It is a State legal course; the question is how many Board members want to attend it. It is pricy.
Carolyn and Doug were suggested to will plan to attend – it's in mid-January.

Don DeFord's mother is hospitalized –he left for Seattle on Saturday.

COUNTY ATTORNEY UPDATE – DON DEFORD

Continuation of Discussion regarding CR 162A

No message from Don and Fred is on PDO as well.
Mark Bean gave the update. His understanding is that right now we have a plat that would amend 162A location to the Stirling Ranch, Sun Mesa that represents the location as they believe and as I understand from Fred and Scott Aibner went up and found pins that were consistent but apparently we still have a potential dispute by the adjoining property owners to the location of that road, they are going to have their own survey to see whether or not they agree with the survey's that have been done. This will be brought to the BOCC January 3, 2005 – the proposed plat.
Chairman Martin – the claim is that it hasn't changed physically that it is still on Ms. Crouch's property and she objects to that – we'll see how this works out.

Executive Session: Litigation Update; Legal Advice - Presentation of Alpine Waste Services offer for settlement - Carolyn Dahlgren and Patsy Hernandez

Carolyn informed the Board that she had some updates on potential litigation and contract negotiations regarding Alpine Waste which was set as a public item needed some legal advice first. It really needs contract negotiations and then action to be taken in January 2005.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to come out of Executive Session; motion carried.
Action taken:
The proposal includes a settlement of $17,757.66 for a reduced amount of $12,000.00. This will be paid by 12:00 noon on December 20, 2004.

COMMISSIONER REPORT

Commissioner Houpt – First week of meeting with BLM on Roan Plateau – missed the Rifle one but the Battlement Mesa was quiet because of the initial process that BLM has put together and the Glenwood Springs session was quite active. There were a lot of questions and BLM did a good job of working with the public on that. Jeff Nelson and Commissioner Houpt attended the I-70 Coalition meeting on Thursday and the technical committee has set up some meetings and we'll be moving forward on that. Meeting with BLM on the Roan Plateau last Wednesday and talked about public meetings, we still need to figure out what Parachute and Rifle will be doing with public hearings and then set our public hearing up in Glenwood Springs but Randy and other staff members are going to be dealing with it and bringing that back to the Board. This week is pretty open. Commissioner McCown – absent

Ed referenced a meeting with CDOT and LoVA and stated CDOT is very frustrated.
Chairman Martin – The real issue of ownership liability and the ability to administer the grant is another issue because that grant has to be matched dollar for dollar; they have to come up with $1,200,000.
Ed said there were 5 people from CDOT and couldn't provide an answer. There was no decision maker present.
Chairman Martin thought Tom Martin was probably the one; they don't which direction CDOT is going. Those questions in reference to liability, ownership and maintenance, etc. and the ability to administer the funds can't be answered except by the very top.
Commissioner Houpt asked if this would tie up their grant.
Chairman Martin – their grant has to be matched dollar for dollar and LOVA will not get any money until they do.
Don DeFord was present at the meeting last Thursday.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers None
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. Authorize the Chairman to sign A Special use Permit and a Resolution concerned with the approval of an Amendment to an Existing Special Use Permit for an Industrial Processing Facility for American Soda, LLP – Mark Bean
f. Authorize the Chairman to sign 2005 Human Services Contracts
g. Authorize the Chairman to sign a Resolution and a Special Use Permit for an Accessory Dwelling Unit. Applicant: Sundog Enterprises, LLC. Bruce and Jan Shugart
h. Authorize the Chairman to sign a Resolution for an Exemption from the Definition of Subdivision. Applicant: Elm Mesa Properties, LLC. - Jim Hardcastle
i. Authorize the Chairman to sign a Resolution for an Exemption from the Definition of Subdivision. Applicant: Timothy Jenks – Jim Hardcastle
j. Authorize the Chairman to sign a Resolution for a Preliminary Plan for Big R Commercial Subdivision. Applicant: Bob Regulski

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the Consent Agenda Items a – j absent b; Houpt – aye; Martin - aye.

REGULAR AGENDA

HUMAN SERVICES COMMISSION

EARLY CHILDHOOD SERVICES – SANDY SWANSON

Sandy Swanson, Lee Martin from Kids First and Lucy Adams from the Yampah Teen Program were present.
Sandy reviewed the statistics and presented a short video showing the services provided.
Teen births have decreased; women starting pre-natal care early have increased; and smoking pregnant mothers have decreased. Family Visitors is 21 years old this year; established in 1983.
Lee Martin – Kids First – child care and resource referrals – increase in funding and increased services to three counties. Accessibility, quality and capacity. 500 referrals and 66% are from Garfield County. School readiness project and served 7 families in the first quarter. Continuing education classes are on-going.
Lucy Adams and Lee McCown - Yampah Teen Program – this is unique to the State; it's 11 year old collaboration with other agencies to provide an integrated foundation to these young families. 25 families enrolled, BOCCES alternative school serving Rifle to Aspen areas. She referenced 7 graduates were working in various positions and doing very well.

BOARD OF SOCIAL SERVICES

CONSIDERATION AND APPROVAL OF EBT/EFT DISBURSEMENTS FOR SEPTEMBER, OCTOBER AND NOVEMBER 2004

The September payment for $455,777.70; October for $414,463.66; and Nov ember -$523,155.02 were submitted and a request for the Board's approval and signature.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the payments as follows: September payment for $45,777.70; October for $414,463.66; and November -$523,155.02
A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to certify the electronic transfers approve the September 445,770.70,October for $141,453.66 and November for $523,155.02EBT/EFT disbursements as submitted; Houpt – aye; Martin – aye.

CONSIDERATION AND APPROVAL OF 2005 CONTRACTS

Legal Services through the Garfield County Attorney's Office for (1) Child Support Enforcement Cooperative Reimbursement Agreement and (2) Agreement between DSS and Garfield County Attorney

3. Out of home placement contract

- ✓ Child ID W509276 not to exceed $43,800 at Way Point Child Placement Agency;
- ✓ Renewal of legal services contract with the Garfield County Attorney's Office in the not – to exceed amount of $45,000;
- ✓ Renewal of the purchase of services agreement for Garfield County to manage child support cases for Pitkin County.
- ✓ Consideration and approval of the 2005 legal services contract with the Garfield County Attorney's Office, primarily for child dependent and neglect and adult protection matters, in the not-to-exceed amount of $90,000.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the contracts present and identified; Houpt – aye; Martin – aye.

Purchase of Services Agreement for Child Support Services to Pitkin County

Child Support services for Pitkin County residents.
A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the purchase of services for child support enforcement for Pitkin County and authorize the Chair to sign; Houpt – aye; Martin – aye.

CHILD CARE SERVICE QUALITY AND CAPACITY ENHANCEMENT AWARDS FOR 2004
Carrie Podl-Haberern, Joni Goodwin and Lynn Renick presented.
Lynn stated the opportunity for home and center providers to receive funding for specific improvement projects to enhance their individual child care programs. Those being recognized were in attendance.
Recognization was given to Margaret Long who started the Child Care Services Program.
9 centers and 20 homes were recognized for a total award of $26,697.
Amber Scott – Parachute area – started in August; she helps families in the area with a Child Care Center.
Rebecca Rulen - Evenstart Glenwood and Evenstart Rifle - Latino families running the literary programs teaching the adults while the children are in child care
Yampah Teen parent program – Leigh McCown
ABC Child Care Centers – Terry Condie from Rifle – before and after school care.
Alena King - child care and foster care.
Sally Melina – Glenwood child care.
Amy Roach – child care in Glenwood Springs – provided help with a fence.
Marlena Smith – from Silt – child care.
Vanessa Smith – operates a child care on Grand Avenue.
DESIGNATION OF PROXY FOR 2005 HEALTH AND HUMAN SERVICES/CCI STEER ING COMMITTEE
Lynn requested the proxy to be approved. The Board had no objections and it was approved.
DISCUSSION AND APPROVAL OF OUT-OF-STATE TRAVEL REQUEST (CARRIE PODI-HABERERN)
A national conference in North Caroline in January. This is a scholarship program and they are asking for permission to attend with a not to exceed $100 for meals.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the out-of-state travel for Carrie Podl-Haberern with the meals allowance of $100; Houpt – aye; Martin – aye.
Contract with County Attorney
County Attorney – Child Support Legal Assistance for not to exceed $45,000.
The contract with the County Attorney to provide legal assistance to the Department of Social Services was presented. The fee for Child Support legal assistance is not to exceed $45,000.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the Contract with the County Attorney's office in a not to exceed amount of $45,000 and authorize all Commissioners to sign the contract. Houpt – aye; Martin – aye.
Contract with County Attorney's Office – Representation in Neglect and Abuse Cases
The Contract with the County Attorney's office for legal representation in neglect cases and abuse cases was presented for a not to exceed amount of $90,000.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the 2005 contract with the Department of Social Services for legal representation in neglect cases and abuse cases for a not to exceed amount of $90,000. Houpt – aye; Martin – aye.

STAFF TRANSPORTS - DSS
Lynn bought forth another issue with out of state travel; this includes regular staff on many occasions with the Child Welfare Program, we are traveling to Utah, Kansas or Arizona sometimes to assist with visitation with foster care children and this is on a regular basis. Sometimes it includes sending a transport person to meet someone in Utah and then do a ½ way situation. These have not been brought to the Board. This is an everyday normal type of business for the department. Lynn wanted to make the Board aware that this is occurring and asked for direction in how to proceed.
Commissioner Houpt – recommended a specific policy for Social Services if this is a concern.
Ed didn't think it was any different than the Sheriff's transport.
Jesse suggested a motion that the Board authorize any travel necessary in support of the programs as required.
Commissioner Houpt – so moved; Chairman Martin stepped down as Chair to second the motion; Houpt – aye; Martin – aye.

VERBAL UPDATE ON COLORADO BENEFITS MANAGEMENT SYSTEM CONVERSION
Lynn reported that staff has continued to work very hard on the CBMS conversion process. Four temporary workers began work on cleansing cases a month ago.

CBMS Update
Staff continues to work hard on the conversation process. The system is still having problems and appreciates the support of the Board.

Janice George indicated that one case takes 15 minutes for Medicaid only; an hour for those with multiple factors. Progress is being made.

Janice will be retiring around February 4, 2005 but has agreed to oversee the final cleansing process by the end of February.

BOARD OF HEALTH
Mary Meisner presented.

2005 IMMUNIZATION SERVICE DELIVRY CONTRACT FOR REVIEW AND SIGNATURE
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the 2005 Immunization Service Delivery Contract for $9,781.00 in monthly payments and they will amend this as Federal funds are provided. Houpt – aye; Martin - aye

Mountain Family Lease

Carolyn Dahlgren stated the Mountain Family moved and a termination of lease and grant along with the lease stops as of that date as well. The use agreement for equipment that the County owns will be coming back.
This will be placed in the January 17, 2005 agenda.

2004 PUBLIC HEALTH HIGHLIGHTS – END OF YEAR REPORT
Mary commented on some of the highlights – continuation on Emergency Preparedness; WIC Management increased dollars and work loads; 1200 current case load. Proud of West Nile Collaboration; flu effort – rationing of the flu vaccine reaching out to the county; over 2000 to adults and 500 to children. Type A has been confirmed in Garfield County. Site visit for EDPHE was successful and the audit reported reflected a good report.
She thanked the Commissioners for the transfer of the Healthy Beginning Program.
8 staff members who went through a vigorous car seat training program and did an amazing job on car seat safety check. Kiwanis furnishes the car seats.
Nurse case managers do all the intakes for Mountain Family and over 250 new client intakes this year and helped with the move and transition.
Chairman Martin requested the report be on the Internet.

SUPPORT FOR GRAND HOGBACK SERVICE – DAN BLANKENSHIP – RFTA
Dan Blankenship, Dan Richardson from the Glenwood Council, Russ Criswell from the Carbondale Town Council.
Dan Blankenship submitted a request to the County for support of the Hogback route since the ballot question in unincorporated Garfield County did not pass. The dollar amount requested is $100,000 in transit funding in the 2005 budget.
Dan submitted a letter of support from the City Council of Glenwood Springs and the Town of Carbondale.
Dan thanked the support for completing the Rio Grande trail in Garfield County; a lot of the trail to be completed is in unincorporated Garfield County. Also, for support for the Hogback Route for RFTA.
Russ Criswell – Carbondale feels that the County needs to step up and they asked for the Board to consider the request. Carbondale contributes $350,000 a year to RFTA. If the BOCC will come through with this support it will help the overall transit program.
Dan Richardson supports the request for support. In years pass the bus hasn't been as reliable but the City of Glenwood Springs and the Town of Carbondale has teamed up to help the outlying communities to have bus services.
Mary Cramer - a rider of the Hogback Route from Rifle and disappointed in the vote to get the Ballot Question passed.
Alice Laird – added that in addition for this request, they would like to work on a Ballot proposal to identify in the Precincts to formula a question that will pass.
Melissa Lazier – Transportation Manager for Glenwood Springs. She said they've been working on a program called Commuter Club over the last 5 months in collaboration with RFTA, CDOT and the City. 100% of the members in that Club are Garfield County residents. It's actually marketed toward people who drive through or to Glenwood for their daily commute trying to decrease the demand on the roadways during the upcoming construction projects; ½ took place in 2004 and we have three big ones to take place in 2005. There is a goal is to reach 500 employees and they are at 135. People are receiving free bus passes as part of this club on behalf of CDOT in their mitigation plan for the GAPP project. We have seen approximately 12% have never used transit before and now they because they see the benefits and they are also getting free bus passes. This will have them learn the system so they will be able to be comfortable on transit coming into town after the bus passes are no longer free. This service is valuable to the entire valley and the I-70 corridor but especially Glenwood Springs.
Kathy Tuttle – unincorporated Garfield County – spoke for the request for the transit service.
Commissioner Houpt – one major reason why this didn't pass in Garfield County and that was because we didn't have a great deal of time to education people on the importance of joining RFTA. Sorry that it didn't pass and committed time to educate people. She thanked RFTA for the 18 month provision of service. She doesn't think it is too much to ask the County to participate in the transit service. We're also approached by the Traveler for additional funding this year for transportation needs and she does support the request and believe we can find this in our budget to be able to support RFTA. After going through the budget this weekend we do have some money that we could put toward this. So, she made a motion that we do allocate $100,000 to RFTA for transit funding for 2005 and have this come out of the general fund monies.
Ed said there is currently nothing programmed in the BOCC Grants for RFTA. The principal reason for that was that we waiting the results of the election.
Chairman Martin seconded the motion for discussion. He stated that this is a lengthy discussion that needs to take place. A $100,000 isn't going to even be close to what needs to be done. He didn't think that small carrot needs to be there and would encumber us until we have that discussion. He said, like it or not, we have honor the way the people voted, they said no to this issue and I think a lot of people in this room didn't support that idea or me as an individual. But I support the citizens and the outcome of every vote, like it or not. And they spoke and the answer was no, not at this time.
Commissioner Houpt – but we represent everyone in this county and we represent those people who cannot afford to purchase cars, we represent those people who don't have licenses, we represent the elderly who rely on RFTA busses and I think we have an obligation to move forward and support and fund RFTA and I'm going to be appalled if you don't.
Chairman Martin – I think that we need to move forward and support a transportation system but not the way it is structured under RFTA and if you sit down and restructure that and make it more of business proposition instead of a black hole then we'll be alright.
Commissioner Houpt – I think that is an very unfair statement and think you need to sit down with somebody with financial background and go through RFTA's books because they're doing a tremendous job and even in their audits the auditors have said that they have done a tremendous job with the money that they have. So, I really take exception to that statement.
Chairman Martin – disagrees. What it amounts to is RFTA is over $15 million dollars, Garfield County is $28.1 million. We provide services from the District Attorney to Social Services to Road and Bridge, to every elected

official, that's almost a dubious distinction with that amount of money. What it amounts to is RFTA's providing one service and that's transportation for almost the same amount of money. I think that we can do better.
Commissioner Houpt – it's a totally different creature.
Chairman Martin – exactly and the percentage of budget you have to commit to that particular system is not warranted under our current system now. That's why we have to sit down and see what we're going to get for the dollar and have the support of the entire citizenry, not just a few groups. It's really interesting to hear that the group in front of us put together a conservation saying that they are part of Garfield County. But yet in their explanation, they excluded themselves again from Garfield County, saying that we, as Garfield County not **us** as Garfield County need to come to conclusion. Again, it's separation, it's nice to put out that theory that we're all together but in action and reality they tend to separate themselves and say that they are municipality and that they have two forms of government locally, Garfield County and themselves as a municipality. The citizens in the unincorporated area have one – that's Garfield County and they spoke loud and clear – the answer is no, not at this time. And that's what I'm going to honor.
Commissioner Houpt – You can look at these votes in different ways, but I do look at people who live in our municipalities within Garfield County as Garfield County residents and think he should as well.
Chairman Martin – said he does and she misunderstood what he said – I am doing that but the folks in front of us continue to separate like you do.
Commissioner Houpt – no, because the only time they separate it is when they point out the fact that they're putting hundred's of thousands of dollars toward a service that we are not helping fund. That is the distinction between the municipalities and Garfield County, but otherwise they…
Chairman Martin – you separate them in both statements that you've made. Either we're altogether.
Commissioner Houpt – was making a distinction, if we're altogether let's write a check for, how much are you putting into RFTA?
Glenwood Springs is projected at $1.6 million.
Commissioner Houpt - $1.6 million dollars. What they're doing is providing service from Rifle to the edge of Eagle County for Garfield County residents and Garfield County is being asked to contribute $100,000 instead of the number in excess of a million dollars.
Chairman Martin – I can appreciate that and it's actually a very what they are requesting percentage wise. But the vote lost a month ago – no, and that's what I'm going to honor.
Dan Richardson respects Chairman Martin's theory of trying to purse a transit system of your own, I would hope that you would consider RFTA when you do that, but I think it would be very difficult to implement something within this first year, there would be a lot of work going into it, so in the meantime unfortunately there's not a lot of alternatives to RFTA right now and I think that it is providing the benefits, granted, the majority of Garfield County's voted no, but I would hope in the interim between now and the time you set up your own transit system that you could help us.
Chairman Martin – again, it's not mine, it's ours. It's a system that would compliment RFTA if that's what it's going to do or do a contract service with either RFTA or another provider. But to allow some kind of system to work but not at the level of commitment that you're asking for, because I think we can do a better business deal.
Russ – Appreciates Tresi's comments and understands John's comments and appreciate them, he thinks you're concentration on the separation is not what it was intended or is not at all what we have in mind. We are as citizens of Garfield County, we did vote on this issue. And understand it was not a majority and as citizens of Carbondale also as citizens of Garfield County we contribute though our taxation to this. We're asking, everyone here is asking that Garfield County join us and participate with us to make it "us" and that's the important issue is that we're asking you to become part of us. Right now you're not part of us but we're providing service to you and we're asking you to become that "us" to become part of us. We're trying not to do a separation, we're trying to eliminate the separation and that's where we're coming from. This $100,000 is not what we need to finish this project, not at all, it's just going to help us and it's going to provide a partnership – this is going to be the start of "we" and the elimination of the separation and that's what we're asking you to become.
Commissioner Houpt – we have been contributing in the past and she looks at it as already part of "we" moving forward to becoming a member and so I think we've already made a commitment to give some amount of money to this system and we just recognized with CARE that, an animal, dog and cat shelter, and I'm bringing this up because it was a huge discussion for our budget this year but the amount we had to increase was significant to cover the issues of animal control in our county and I think annually we see increased need to contribute more funds than we may have the year before and that's the nature of contracting or being an outside partner of a partnership. This is no unreasonable for RFTA to come forward and ask for an increase in the contribution that we give to RFTA and that's why I support the $100,000.
Houpt – aye; Martin - nay
Chairman Martin – with that, we'll bring this up with a full board in another meeting.
Commissioner Houpt no, I would like to bring it up again and asked Ed and Jesse how much we put in for transit last year for RFTA.
Ed said it was $25,000.
Chairman Martin – this was a grant to RFTA to assist with the Hogback Route, yes.
Commissioner Houpt – and we've not done anything this year.
Ed – we were waiting the results of the election.
Commissioner Houpt – so I'm going to put another motion on the table, she didn't think she would get the $100,000 today but we can always talk about it after the new y
Chairman Maritn – yes because we have 18 months that this service is going to be in place and if we need to do an adjustment one way or another, we can go ahead and do that, but think it would be futile today to ask for $100,000 because it will die and tie each time. If we really need that, we need to have all three Commissioners present for this discussion and a decision with discovery and if we wish to have this conservation again, then have all three present. Commissioner Houpt requested this be on the agenda for January 3, 2005.
Dan Blankenship – he understands that the people voted against it so there is a rationale that says we shouldn't give anything to RFTA, but the argument is that you are giving something for the trail and we appreciate that and hope you won't reconsider.
Chairman Martin assured Dan that this was in the budget.

Dan – this is a positive from his perspective. As it relates to our funding, we have a budget of $20,000,000 for 2005; a lot has to do with capital – bus replacements and other things which we had budgeted for 2004 but spilled over to 2005. On the operating side a lot of the revenue and expenses we have related to contract services that we provide with the City of Aspen, the ski companies, with the City of Glenwood Springs, so when you look at the regional piece it's probably on the operation it is more on the $7 – 8 million dollar level, which also includes fair revenue, sales taxes and various grants that we receive. So we're not quite that big and our purpose is transit but a lot of what we do is done under contract for other people who like the City of Glenwood springs have the option to determine if it is more cost effective to take it in-house or contract it out and they may do that this year and others may do it as well. But if the BOCC is interesting in having transit services provided within Garfield County between the jurisdictions, etc. under contract with somebody else, because I guess the main reason you might want to do this is that it would be cheaper for you and you might be able to get a lot more services. It's an effort and wonders when this will begin. Are you looking for us to do it? Are you going to do it? Is your staff going to do it? Who's going to do it?
Chairman Martin – again, that's why we have a Transportation Committee that we have put together which includes administration, finance, planning, engineering, the elected officials, etc. with everything to expand our abilities to contract, to explore and to bring back recommendations to the Board for that particular direction.
Dan – is this something that is going to take place this year?
Chairman Martin – it's already in place. We're exploring the possibility, etc. gathering the information. But there's no time frame.
Dan – because until some thing concrete happens, we're the only game in town and there are people out there in the community who are using this and want us to be there.
Chairman Maritn – and it may be less expensive for us to provide the free bus passes and give to our employees who use them, than to go ahead and contract.
Commissioner Houpt – but we represent more than our employees in this County, we represent every person who lives in this County and so that would not make sense.
Chairman Martin – we do not employ everyone.
Commissioner Houpt – but we represent and are supposed serve every person in Garfield County.
Dan – well, we'll come back and talk to you on January 3, 2005.

RENEWAL OF BANKING AGREEMENT WITH ALPINE BANK – GEORGIA CHAMBERLAIN
Georgia submitted the Merchant Agreement with Alpine Bank and explained the 2005 Agreement. She submitted the renewal of the Banking Agreement for fiscal year 2005 as well.
The Bank Accounts and a list of the signators on the accounts need to be reviewed annually. On the Library she included the President and Secretary and Treasurer to sign.
Carolyn – need a separate page.
Georgia submitted an Exhibit showing the individuals. This replaces page 1 and 5 of Exhibit F.
Exhibit G and F are additional exhibits – Exhibit G – Merchant agreements to start using credit cards. Clerk and Assessor can not use credit cards and pay the surcharge per the Statutes. Automated Credit is for automatic payments.
Georgia stated these agreements are pretty standard and it allows them to do direct deposits. This is different from last year. Payroll is back in house.
Attachment 3 – price schedule was referenced.
Chairman Martin commented on the extra step of the percentage of the credit card charge.
The County cannot pass along a surcharge and this is the taxpayer dollars. Bad checks would not be an issue.
Carolyn suggested the Board review Don's memo of concern, number 20, and potential in the agreement that says the credit card would get a security of the entire county's money – this is probably unlawful. The board needs to be aware of that. The Merchants Agreement could be authorized to sign if there is not a $10 cost.
Georgia will check with the bank and come back to the Board later today.
Carolyn – could authorize the Chair to sign or put off the vote until later today.

PUBLIC HEARINGS
DISCUSSION OF THE 11TH SUPPLEMENT TO THE 2004 APPROVED BUDGET AND THE 11TH AMENDED APPROPRIATION OF FUNDS – JESSE SMITH
Carolyn reviewed the newspaper publications and provided those to the Clerk.
Chairman Martin swore in the speakers.
Jesse submitted the supplement and request from departments for increases in line item budgets.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to close the public hearing; motion carried.
A motion was made by Commissioner and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the 11th supplement to the 2004 approved budget and the 11th amended appropriation of funds.
Houpt – aye; Martin – aye.

CONSIDERATION OF RETAINING EXCESS PROPERTY TAXES FOR CAPITAL EXPENDITURES – JESSE SMITH
Carolyn reviewed the newspaper publications and provided those to the Clerk.
Jesse stated this was noticed two times and the last was within the 8 days prior to the hearing.
Chairman Martin accepted the notice and swore in the speakers.
Jesse this is consistent with a vote of Garfield County electorate a number of years ago in which they approved us retaining any amount in excess of 5.5% to retrain that and use that in either capital or personnel or operational expenses. This amount is being retained and is being placed in the Capital Fund. When it says an increase in taxes, under Tabor, if the voters had not approved that, then we would have refunded that amount back to the voters.
Commissioner Houpt inquired as to how the decision was made to place this in capital funds.
Jesse stated this is where we have chosen to place it in the past and it's easier to identify and tract than it is in any other area.

King Lloyd – 0323 Mid Valley Drive – New Castle, inquired about the property tax increase saying the dollars advertised in the paper, this is approximately $3 million dollars in excess of what had originally been planned for the property tax amount?
Chairman Martin – No, it was the amount above the 5.5% that was identified. This is not an increase in property tax.
King Lloyd – it's not an increase in the tax, but an increase in the total of property taxes.
Jesse explained the voters approved DeBrucing and as part of that vote, they said the excess above the 5.5% should be used toward capital, road & bridge or operating expenses and we've elected to put that excess, which was $1,255,000 into capital.
Commissioner Houpt said what is confusing is what's required by the Statute and that's the heading that says a hearing to consider increasing your property taxes for capital expenditures and it's actually the monies that are collected but because of the wording of TABOR it is confusing.
Jesse explained that the mill levy hasn't been increased which is 13.655 and this has not been increased for 8 years. It's the same Mill Levy.

King – well that takes care of some of my concerns I guess, or explains the advertisement in the paper but I do have some others that I'd like to speak relative to this matter. My concerns regarding the authorizing of spending of surplus tax dollars stems from what appears to be a lack of responsible fiscal spending and management of the County's resources at this time. An example of this would be the erection of a sign in the County parking lot that took hundred's of dollars to install and reinstall giving the Commissioner's credit for supplying public parking with my tax money. Another example would be the policy of letting prisoners from the Rifle Correctional Facility run equipment at the Landfill and literally trashing the transmission of a compactor resulting in over $25,000 of repairs when there's trained personnel at the landfill that could run the equipment.
With regards to capital projects, I understand there's going to be a retaining wall constructed on County Road 109, while I'm no certain of its exact location I do suspect it's below the property owned by former County Commissioner Walt Stowe. The question why that cut bank is being addressed others that exist all over this county with similar problems. Admittedly the county's roads need help and I would support the appropriation of tax dollars to that cause, if there was a long range plan spelled out and made public so we could be sure projects were being constructed for the good of all and not through a random hit and miss program.
Commissioner Houpt – I appreciate your concerns on that; we actually are working on a long-range plan this year and we will have that and I agree totally that it only makes sense to have something concrete in place so that we know that we are putting our money toward the appropriate projects at the appropriate time. I can't address the compactor.
Chairman Martin – not aware of that.
Jesse – I'm not aware of it.
Commissioner Houpt – and retaining wall is actually a question, it's a good question, it's not a good cut, there are rocks coming down off of the hill. I don't know if that should take precedent over another project or not because we haven't had a long or short range plan in place.
King – I think the budget amount was $309,000 for the construction of a retaining wall.
Chairman Martin – somewhere in there. Yeah, that was part of an agreement in reference to when the realignment of CR 109 was done. And moving private property allowing it to slough off and that the responsibility of the county at that time was to go ahead and stabilize that in one way or another and it's escalated to that particular situation with a retaining wall.
King – when did that take place?
Chairman Martin – the realignment of 109? That's when Rose Ranch realigned that one as well as part of the county process of realigning the bridge at Hardwick; Hardwick Bridge, the new on.
King – but the road was realigned away from the cut bank, it was moved out onto the Rose Ranch property. Is that where the retaining wall is going to be?
Chairman Martin – no, it's down at the new bridge right at the point where it makes the corner.
King – that's what I thought. Yeah, so that wasn't affected by the Rose Ranch development.
Chairman Martin – no, but part of the other, the upper part was realigned which gives it a different safety factor in reference to speed, etc. as well as the debris that's been coming down over the history of that cut and the county's responsibility was to stabilize that cut for the safety of that road. So that's where we're going.
King – okay.
Commissioner Houpt – so, I know you've probably have the historical perspective too on roads in this county and there are probably other cuts that need addressing and that should be part of the plan as well so that we don't run into this situation. I'm not familiar enough with when this cut was made or what deal was made during Rose Ranch to be able to understand the prioritization on it, but I do think that we cover all of those bases in this plan this year.
King – well, I guess my concern specific to that point was that the cut back, if it's immediately adjacent to the bridge is the one that you're addressing, that cut bank's been there for hundred's of years and if it's being done just to stabilize Walt Stowe's property then I don't think it's fair for the tax payers to be footing that bill.
Commissioner Houpt – well that's a very good point. I think we'll look at it.
King – When Walt bought that property that problem existed.
Commissioner Houpt – the cut was there when he bought it.
Chairman Martin – When they put the realignment of the bridge.
Commissioner Houpt – but the cut for the road was there.
Chairman Martin – the cut was made and the change was made for the realignment of the new bridge.
Commissioner Houpt – the change in what?
Chairman Martin – in the roadway.
Commissioner Houpt – yeah, but the cut.
Chairman Martin – the cut was put there, well this goes back to the Prehm Ranch in reference to when 109 was created and 163 and that road was up there and that was before the turn of the century, the last century, in 1896 and 1897 when that Prehm Ranch road cut was made and it used to go right up behind Walt Stowe's property and that road still exists, that was part of the alignment of that road to come down to the old Hardwick Bridge and a real sharp corner there. That cut bank he's correct, has been there more than 100 years, but it has been made worse with the realignment of that road.

Commissioner Houpt – What made it worse?
Chairman Martin – the non-stabilization of the existing problem and the increased moisture, drainage with the improvement up on top as well, as well as erosion that's going to be natural because of the type of soil, type of rocks, etc.
Commissioner Houpt – so the drainage from the use of having residential property on top
Chairman Martin – that happens, it used to be an irrigated part of the field at one time too and it used to come back maybe 20 more feet, but it has slowly moved towards those houses, yes.
Commissioner Houpt – well, I think it would be reasonable to look at what type of mitigating factors there are in putting that retaining wall up, some of it might be private property owner issues along with county. We may need to share that expense.
Chairman Martin – I'm sure it is and that was a project requested by the Board to do a look at an engineering feasibility and it's been in place for about 8 years.
Commissioner Houpt – but I think we need to look at those mitigating factors before we commit all of our funds to it to see if we should have some private property monies come in.
Chairman Martin – That's fine – it is part of the budget.
King – thanks for the opportunity to speak.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to adopt the Resolution – referenced the appropriations and establish policies to conform to the adopted budget and appropriations, pursuant to the provision of Sections 29-1-103. 29-1-108. 30-2-106 and 30-11-107 (2) C.R. S. as amended. Houpt – aye; Martin – aye.

ADOPTION OF THE 2005 BUDGET AND APPROPRIATION OF FUNDING – JESSE SMITH
Jesse reviewed the 2005 budget referencing several sections and pages where changes needed to be made.
Commissioner Houpt – DA Budget; it was understood from the last meeting that the salary was set for $82,380 as in Exhibit H - $82,380 for the District Attorney. The request from Shannon – on the increases with the Deputy, Commissioner Houpt would like for Judy and the Elected Officials to talk about continuity; this request bumps that salary far above the salary levels of the other deputies and not comfortable without having Mildred and Georgia involved in the discussions.
Jesse – this is in the contingency line items and has to be discussed. There is time for everyone to come together.
Chairman Martin felt there were too many definitions of the same job.
BOCC Grants – Page 24 under general – Operations
Chairman Martin stated he wanted to ear mark some money and has thought about it for a long time and maybe I can pass this vote and that is to go ahead and televise our BOCC meetings as well as putting on simulcast on the Internet which is available to us now so you can get it through you own home computer if you're that interested in BOCC. It makes sense that we go ahead; we're about the only government next to the State of Colorado that doesn't. Actually the legislature puts theirs on simulcast and you can pick that up if you need to. If nothing else, try it for a year, evaluate it and come back. We just need to do simulcast that's fine, that's about $9,000.
Chairman Martin made this in the form of a motion. Commissioner Houpt seconded and clarified that includes television. Ed said the TV was about $12,000. Chairman Martin said you're looking at somewhere from $22,000 to $25,000 to get everything in place and directed staff to put $25,000 in to be safe.
Commissioner Houpt – do we have all the equipment in place.
Chairman Martin – we lease that equipment we don't buy it and that's part of the presentation. Paul Vandre has the equipment in storage; he can put it in place and we'll go from there.
Jesse said that will be under 4730 – Improvements Other than Buildings.
Chairman Martin – and that also goes along with our strategic planning and that was better communications and cooperation with other governments. We made it a priority and part of our strategic plan that is one step forward that we need to do so they will understand the function of Garfield County. Commissioner Houpt seconded the motion; Houpt– aye; Martin – aye.

Jesse stated we currently have a projected fund balance at the end of 2005 in the general fund of $6,720,000; this will keep us around $6.7 million.

Professional affiliations - $40,000. May have some special project money to I-70 coalition.
Commissioner Houpt suggested raising this item from $30,000 to $70,000.
She formulated that into a motion. Chairman Martin seconded; Houpt – aye – Martin – aye.

A motion was made to close the public hearing by Commissioner Houpt and seconded by Chairman Martin. Houpt – aye; Martin – aye.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to approve the adoption of the 2005 Budget and appropriation of funds as presented and adjusted. Houpt – aye; Martin –aye.

CERTIFICATION OF MILL LEVIES – SHANNON HURST
Chairman Martin swore in the speakers.
Shannon Hurst – presented the mill levies for 2005 and said that basically page 2 is a summary of the taxing entities and showing the total of all funds.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to Certify the Mill Levies and authorize the Chair to sign;
Houpt – aye; Martin – aye

PUBLIC HEARINGS:
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO OPERATE AN INDUSTRIAL SUPPORT FACILITY AND PIPELINE FOR NATURAL GAS PRODUCTION. APPLICANT: WILLIAMS PRODUCTION RMT CO – JIM HARDCASTLE
WILLIAMS GAS
Jim Hardcastle, Carolyn Dahlgren, Dave Seezark and Phil Vaughn were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to continue this public hearing until January 3, 20005 at 1:15 p.m.; Houpt – aye; Martin – aye.

CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANT: ELEANOR PIFFER – JIM HARDCASTLE
Jim Hardcastle, Carolyn Dahlgren, Douglas Piffer, Power of Attorney for Eleanor Piffer and Wayne Pollard, Western Land Homes were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F -Application materials; Exhibit G – Staff memorandum; Exhibit H – Review memo – Garfield County Road and Bridge Department.
Chairman Martin entered Exhibits A –H into the record.
Jim stated this is a request for an exemption from the definition of subdivision. This is a request to split 78.59 acres into four lots, 10.73, two at 10.21 and a forth lot of 49.37 in the larger tract. The site is one mile northeast of Silt, Colorado.
Originally the 80.52 acres existed as of January 1, 1973; the proposed parcel in question was reduced in size by approximately 1.93 through an amended plat to 78.59 acres.

I. STAFF RECOMMENDATION

Staff finds that the application does comply with Section 8:52 of the Garfield County Subdivision Regulations of 1984, as amended, and therefore recommends approval of this application with the following conditions.

1. All representations of the, either within the application or stated at the meeting before the Board of County Commissioners, shall be considered conditions of approval.

2. The Applicant shall comply with the 1978 Garfield County Zoning Resolution and the Colorado Department of Health standards.

3. It shall be necessary for the Applicant to include all of the new lots in a Home Owners Association to assure an equal share of the responsibility can be guaranteed for the obligations pertaining to road maintenance and repair and to water system maintenance and standard operations. This Declaration of Covenants with this information shall be included in the Final Plat submittal.

4. A Final Exemption Plat shall be submitted by the Applicant, indicating the legal description of the property, dimension and area of the proposed lots, all easements, centerline and full dimension of the access easement and all divisions of property shall be labeled as Lots 1, 2, 3 and 4, and any other customary items found on a Final Plat as found in the Garfield County Subdivision Regulations. This plat shall be presented within 120 days to the BOCC for signature from the date of approval of the exemption.

5. The Applicant shall submit $600.00 in School Site Acquisition Fees for the creation of the three (3) smaller exemption parcels prior to approval of the exemption Final Plat.

6. In a report to be submitted to the Building and Planning Department prior to the signing of the Final Plat, the Applicant shall provide information on the physical water supply for the well serving the three (3) small parcels which shall demonstrate the following:
a. That a four (4) hour pump test be performed on the well to be used;
b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
c. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
d. A written opinion of the person conducting the well test that this well should be adequate to supply water to the number of proposed lots;
e. An assumption of an average or no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
f. The water quality be tested by an approved testing laboratory and meet State guidelines concerning bacteria, nitrates and suspended solids;
g. A water sharing agreement will be filed with the exemption plat that defines the rights of the property owners to water from the well.
h. Final Plat notes and covenants shall be added that states the following:

a. “Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.”

b. “No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. sew., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.”

c. "All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.”

d. “All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.”

e. “One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner’s property boundaries.”

f. Final Plat notes and covenants shall be added that state the disclosure and nature of mineral rights.

g. Upon successful approval and recordation of the Final Exemption Plat, no further subdivision by exemption will be allowed on any of the four (4) tracts created.

In Section 4, a final plat should be submitted in 120 days to the BOCC for signature from the date of approval of this today.

Wayne Pollard stated everything was fine. He asked if the chip/seal could be “weather permitting”.
Road and Bridge – conformation that the requirements addressed in their review are included in the final plat. Stop sign and road name.
Chairman Martin informed Wayne that he was the first one to come under the new ruling in reference to addressing and naming roads.
Doug Lyons, a resident next to the Piffer’s and he was concerned if there is enough water in the ground to support all of this. He hasn’t read the application and noticed there would be two wells.
Chairman Maritn said this comes under the State Water Engineer and has to have this from the State engineer that there is no material injury to other well.
The water tested is 500 gallons per person per day.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to close the public hearing; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin to approve the request for an exemption from the definition of subdivision for Eleanor Piffer On County Road 250 with the conditions recommended by staff changing condition H – read Condition 7 and adding Condition 8 which will be an updated confirmation from the fire district and Condition 9 – road and bridge recommendation to install a 10 x 30 chip seal asphalt road and on their approval of the exemption and Condition 9 which would be Road and Bridge’s recommendations for conditions to install a 10x30 asphalt or chip seal apron with a stop sign and road name sign where the intersection meets CR 250 and have that finalized within 6 months.
Houpt – aye; and Martin – aye.

CONSIDER A REQUEST (CONTINUED PUBLIC HEARING) FOR A SPECIAL USE PERMIT FOR APPROVAL OF A RESORT. APPLICANT: 7W GUEST RANCH LLC. – JIM HARDCASTLE

Jim Hardcastle, Carolyn Dahlgren, Terrill Knight and Mark Wilhelm were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers.
Jim submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F -Application materials; Exhibit G – Staff memorandum; Exhibit H – Review memo – Garfield County Road and Bridge; Exhibit I - Review Memo from; USDA Forest Service, Eagle Ranger District; Exhibit J – Review Memo – Michael Erion, P. E., Resource Engineering; Exhibit K – Quit Claim Deed submitted from Applicant 9-29-04; Exhibit L – ISDS analysis; submitted from Applicant 11/15/04; Exhibit M – Water analysis; submitted from Applicant 11/15/04; and Exhibit N – Review Memo – Michael Erion, P.E., Resource Engineering. New Exhibits – M – review memo from Michael Erion, Resource Engineering.
Chairman Martin entered Exhibits A – M into the record.
This is for a resort that has been open as a resort since 1947 and has complied as a SUP granted by Resolution – 95-045 and approved June 5, 1995 until the construction of the Barn on the west side of the compound. The new owners

want to amend the application for the barn and recognize it as a storage unit for the applicant's need in operation of the ranch.
The applicant is here because of this storage facility. The applicant didn't have a permit.
RECOMMENDATION

Staff recommends APPROVAL of the Proposed Special Use Permit, with the following conditions:

1. That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.

2. The applicant shall obtain all building permits and inspections consistent with the adopted rules and regulations of Garfield County for all development within the resort area.

3. The Applicant shall submit a new Special Use Permit application for approval if in the future any new improvements are desired as part of a resort designation and not specifically identified in this application.

4. The installation of all required ISDS upgrades or replacements shall comply with the Colorado Department of Health ISDS (septic) setback standards, which shall be verified and certified by a registered Colorado engineer. Additionally, an engineering report regarding ISDS improvements, which demonstrate how they are capable of serving new development requirements, shall be submitted with any new building permit application to the Building and Planning Department.

5. Certain activities associated with the resort which will take place on USDA Forest Service lands shall comply with all rules and regulations applicable thereto. Prior to usage of any adjoining public lands, an access, recreational use or any other required permits shall be obtained from the USDA Forest Service. Additionally, Motorized travel on forest lands in the vicinity of the resort is prohibited (except over-snow travel).

6. All new buildings, outbuildings or mobile structures shall be built and landscaped to conform to current wildfire practices suggested by the Colorado State Forest Service.

7. The Applicant shall prepare a fire mitigation plan and submit said plan to the Building and Planning Department prior to issuance of building permits.

8. The applicant annually test and report the condition of the water system to the State Department of Water Resources as may be required by the State.

9. The Applicant shall submit a review for approval to include Capacity Development by the Water Quality Control Division of the Colorado Department of Public Health and Environment to be submitted to the Building and Planning Department prior to issuance of the Special Use Permit.

10. The Applicant shall be required to observe that the contract for water from the Colorado River Water Conservation District (CRWCD) remain in effect for the life of the proposed SUP.

11. That the applicant shall be limited to the use of no more than ten (10) dwelling units including employee housing and other associated structures for a total of fourteen (14) structures for the resort which include:

1. seven (7) cabin sites for guests
2. one (1) main lodge site with lodging for one employee
3. one (1) stable building (east side of resort compound)
4. one (1) barn/tack building (east side of resort compound)
5. one (1) large storage/barn/shed building (west side of resort compound)
6. one (1) small storage barn (central area of resort compound)
7. two (2) modular lodging structures for employees
8. other non-habitable existing structures on site as shown on the site plan, specifically the pump house and hot tub pad.

12. There shall be no more than twenty-seven (27) guests allowed at any one time.

13. If alcohol is to be served in connection with the use, the applicant shall apply for and receive and maintain licensing for said service from the appropriate entity for the duration of alcohol service.

14. At such time the two existing older mobile homes are removed any replacement dwelling units shall meet all code requirements of the Garfield County Zoning Resolution of 1973, as Amended.

15. The Applicant shall continue to comply with licensing requirements for the commercial kitchen with the State Department of Health, Consumer Protection Division.

16. No new open hearth solid-fuel fireplaces will be allowed anywhere within the resort designated area. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

17. All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward, towards the interior of designated cabin sites, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.

18. The Applicant shall amend the site plan in the application to clearly identify which barn is subject to future expansion and modification as requested in the application prior to issuance of the Special Use Permit.

19. The Applicant shall make application to the Garfield County Building and Planning Department for a building permit for the new barn to the west, allow inspections, and ultimately gain a Certificate of Occupancy consistent with the adopted rules and regulations of Garfield County prior to the issuance of the Special Use Permit. Also, a Registered Colorado Engineer or Architect shall certify all of the construction within the new barn complies with Garfield County Building Code Requirements.

20. At such time the two (2) existing mobile homes used for employee housing are replaced the Applicant shall make application to the Garfield County Building and Planning Department for a building permit, allow inspections, and ultimately gain a Certificate of Occupancy consistent with the adopted rules and regulations of Garfield County prior to habitation of these structures.

21. A water test shall be conducted which include the following items used to determine physical water supply;

1. That a four (4) hour pump test be performed on the well to be used;
2. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level;
3. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge;
4. A written opinion of the person conducting the well test that this well should be adequate to supply water to the proposed use on;
5. The water quality shall be tested by an independent testing laboratory and meet State guidelines concerning bacterial and nitrates.

The test results, with satisfactory results, shall be forwarded to the Building and Planning Department prior to the issuance of the Special Use Permit.
Commissioner Houpt inquired is the use of ATV, Motorcycles, and Snowmobiles a historical use of the past several years with the resort.
Applicant response:
Mark Wilhelm and Terrill Knight presented.
Mark Wilhelm stated that the intent is not to use the motorcycles or the ATV for guests at the ranch. The historical use was biking, horse back riding, hiking and the rest of that stuff. The is new.
Terrill Knight and we will make that more clear in the presentation.
Jerry Conner was also present who works with the company as well.
Terrill Knight – Referenced the neighbors with serious concerns and wanted to work with them and those concerns and he also thanked the BOCC for the extension of time. They held an evening meeting and discussed many things, but the focus was the Motorcross tract. Mark's kids are interested in Motorcross racing. At the conclusion of the meeting, the concern was the time motorcycles were to be used and at this time, the informal tract is not open to the public nor to anyone in the resort. The kids use the track and they have an instruction. They are serious about getting involved in Motorcross racing. The conclusion of the meeting with the neighbors and the concern was the time at which the motorcycles were used and it was pointed out that a previous partner in the process hearing the project and not involved any longer liked to ride day and night and that at this time the informal Motorcross track is only used by Mr. Wilhelm, the kids and the instructors. It is not open to the public nor to anyone in the resort. The resort has been there for a very long time and the earliest was 1947 and the neighbors remembered if further back and there was a real good discussion. The Resort has been in place for a long time and is an accepted part of the community. In the past it has been a commercial operation as a Resort and Mr. Wilhelm at this point is using it for friends and guests but would like to upgrade the 1994 approval and make it a full time Resort. This is why we went through the Special Use Permit effort.
The issue that triggered the SUP was a mistake on their part which the County was asked if we needed a building permit for a barn and the answer was no. Well, the question didn't say on a SUP area and the question was not asked so the barn was build and it was found out that it was built on a SUP and it was red tagged and at that point, they quit using it and happy to say they haven't touched since and they contract Terrill Knight and the application was made for an amended special use. Their intention is to comply with the regulations and Terrill recommendation was when we go through this SUP process they should plan for the future as well. The answer is well maybe we'll build one more cabin in the future, and perhaps expand the stables. We put that in the application; they wanted everything in, open and above board and meet all the standards. These are not urgent things but wanted to have a permit over and done as it takes a while to get through the process. We intent to add one more cabin and eventually expand the stable, the principal concern has been able to use the barn for storage for equipment related to the resort and also the Motorcross is a private on their own parcel not related to the resort and we want that made clear, if it is determined by somebody from the outside that the guests are using that track, that makes the SUP subject to revocation hearing. The applicant understands that and he is committed to you and the neighbors to operate that in a responsible manner, he's agreed to make changes in operation times, the only thing we'd like to do is store the motorcycles indoors in the storage barn and do request that. But no motorcycle training or general motorcycle use would occur on the SUP, it would be in addition to snowmobiles simply horses and typical mountain resort. There was confusion with the neighbors and it's Terrill's understanding based on what was discussed with the neighbors as well as at the meeting, is the noise from the motorcycles is the main concern. Mark Wilhelm has committed to the neighbors to make changes. The conclusion of the neighborhood meeting which was lengthy and the Community Center was full and it was a nice meeting, was that these guys were willing to make changes with the neighbors and the neighbors were all called if they have problems and will review this issue in one year. Everyone worked together to come up with that suggestion. Again, the new barn is a storage facility and Jim made a very good suggestion in the site plan, they called the stables building the barn which it is but it is a stable use, so we'll like to call that the stables, there's an old historical barn which has some storage for animals and we'd like to call that the barn and the new one the storage facility. Our intent it to make it clear of what we can do and what we can't and that the owners understand that they

are subject to meeting those standards and Mark will commit to do that. They will submit for a building permit for the barn and if approved and that is the immediate need is to be able to use the barn to store these pieces of equipment that are now outside and that's a benefit to the neighbors as well. In terms of Jim's comments, they did get the water amended and just described the new uses in the barn and virtually agree with the recommendation of the staff but would like to address certain ones. Number one they will apply for a building permit. We will address the size of a potential stable addition so that what we say is what you will get at some point and there has been evidence and think Michael and Paul Rutledge who's done work on this as well, in terms of the sewage treatment facilities, there has been violations and no incident of any problem, they are pumped regularly and monitored regularly. The issue is we don't know exactly what those systems are because they've been a long time. And this spring they will do some further checking and any new buildings, employee housing units will require new permits and new systems under your current regulations. In the sense it's being approved from that standpoint even though they're been no evidence of any problem. No shortage of water, no shortage of sewage treatment system. In the application itself, it addresses wildfire hazard; we're in a low hazard area, it's not on steep terrain, it's a lot of blue grass lawn around the buildings, it's mowed, it's maintained, it's well kept, so we're certainly not increasing the wildfire danger and there is no apparent danger now and this is the concern of the owner as well. The question about fire protection on site, there is no fire protection district, there is no central water system sufficient to supply fire protection however, the rental units themselves as well as the lodge have state of the art modern smoke detection information electronic and the small buildings so we see no fire danger to those and that's a concern of the owner obviously if he has guests and friends in there he wants it to be the best it can be. The question did come up about fire protection and it would be nice to be next to the fire station – out there we can't do that so we are doing the next best thing, the principal concern about fire protection in his understanding of years doing this, is life safety. If a building happens to burn that's a cost to the owner and perhaps it's a problem but they are set up to ensure life safety which is absolutely number one with fire issues as well as with the owner. We do have a water contract, certainly agree if liquor is going to be sold there, that they need a liquor license, those laws are very clear. The two existing mobile homes are in terrible shape and the commitment of the owners is to replace them over time for employees with a mobile home or modular home so those will be handled through the permitting system with the County, building permits, etc. and certainly one of the concerns that came from staff as well as the neighborhood meeting is they didn't want a lot of bright spot lights and outdoor lighting, we certainly agree to that, it's a very low level now and we don't intent to increase that but certainly continue to work with the neighbors to make sure nothing like that happens. We will apply for a building permit for the storage facility and we will be the proper well and test those systems even thought we witnessed no problem. I would like Mr. Wilhelm to make a brief statement about whatever he wants. He's not prepared, I didn't write him a script or anything, but the important thing is when Terrill was contacted Mark was a little bit in the dark about exactly what was going on, he is committed to do this thing within the regulations and appropriately and properly.

Mark Wilhelm – Terrill has done a very good job and worked with the neighbors on the main intent of the Motorcross track got convoluted and he never intended to be that way. The intent was always a private place for my children and they do have a coach and he does have a couple of kids that ride and that was also the intent. The intent was never to be open to the public, never for any guests, we don't want those types of liabilities and that was never the intent and I think that was part of the misconception or the perception that a lot of the neighbors had. We met with them and worked out, don't think everyone's in agreement but think we agreed to disagree and move on and see how it is and I've told them I'd be happy to work with them anyway that I can. They can pick up the phone and say you're being too loud, I'll shut it down, if there's certain times of the year when they have visitors that they wouldn't like me to do that, I'd be happy to work with them on that also. I just can't say I'll never do it because it's a big important part of my children's life but we will never open it to the public or to any guests. As far as the fire protection, we have also purchased a heavy duty pump and there's a pond there in case there would be some kind of fire, we have a pump system, the hoses shot, not sure how high but we have some people who work on that and we do have access in there just in case.
Carolyn Dahlgren – Condition No., 7 – are you saying you're testimony today is the fire mitigation plan so there is not need to submit a separate document. Okay, so we'll have to go back to the planner to get his opinion about that. Also did I hear you say that they will be no ATV's used as well as no motorcycles?
Mark – there will be.
Carolyn – okay, they are supposed to be on the list, just not motorcycles.
Terrill – on the resort or off the resort?
Mark – there are ATV's on the resort.
Carolyn – the reason I asked, is that Condition No. 3 probably should say any new improvements or activities because as Mr. Knight was talking about the SUP is based on the activities presented in your application and want to make sure about the ATV's as well on the site plan, so any additional uses as well as any additional structures would require a new SUP and Mr. Knight is trying to avoid that for you. Let's make sure they're all included at this point.
Terrill Knight – that was our intent to get it all done together.
Carolyn – and the site plan No. 18 doesn't literally require that you provide a copy to Building and Planning but I'm sure you would provide a copy, so I'd be asking the Commissioners if they're delegating their authority under No. 18 to approve that amended site plan. No. 7 – it's my understanding that Mr. Knight and his client is saying that their testimony today is the fire mitigation plan. It's not necessary to have a separate written document for approval by Building and Planning staff or to come back to the BOCC.
Chairman Martin and that the pump that is in place then and has been tested be used for his fire mitigation as long as there's water in the pond. That's what he's saying. There's no guarantee that water's there all the year round. That is if there is water in the pond all year round but sometimes it's frozen. Like right now.
Commissioner Houpt – so that is your plan? Your fire mitigation plan – pump the water.
Chairman Martin asked if they have fire extinguishers in the each of the cabins and also at the main lodge as you come in the door, turn to the right it's hanging on the wall there?
Mark – it's on the left.
Jerry Conner – we also go through an annual insurance inspection and with that insurance inspection if there's anything that's felt by the insurance company out of compliance for fire inspection we fix and that's where the fire

extinguishers came in and the smoke detectors and all that so, in order to maintain insurance we're doing that as well.
Chairman Martin – one concern that comes up also is when you do a replacement of mobile homes, some people just push them aside and put the new ones in place and leave them on your property. What is your intent? Is it to remove them from the property, not just over on the other side of the fence and leave then there?
Mark – no, move then entirely. Terrill was nice when he said it would be bad for business.
Chairman Martin – but they wouldn't be on the resort.
Mark – I own all that property there so, my intent is to move them off the property, out of the area, out of sight.
Chairman Martin - other items that you would like us to consider or presentations.
Terrill – that ends the presentation but we'll answer further questions.
Mary Jo Jacobs, a property owner not immediately adjoining the property but close enough to be considered neighbors out in the country. I have two main concerns that the Commissioners are involved with although I think the heart of the matter is a change over from the historical use of the resort as more or less hiking, fishing, hunting, pedestrian use, horseback use, that sort of thing to a motorized vehicle type of resort. But I think that brings with it additional responsibilities of the owner of that resort and conditions that the Commissioners are involved with and those two are fire hazard and road maintenance. Under the fire, the things that have been addressed are primarily fire protection once a fire occurs on property. It think all of us from our history in Garfield County that we have had some real tragic forest fires and I think having motorized vehicles in the middle of the forest is a real concern of mine. I don't want my house to burn down close to their property. I think prevention is the answer. I think vehicles such as motorcycles and ATV's with open exhaust systems are a hazard in a forest, I think the Forest Service recognizes this and disallows them, there are snowmobiles over snow and they do not allow motorized ones on Forest Service land. Whether it's on Forest Service land or private land makes very little difference once a fire starts. And so as a homeowner I am very concerned with this and it has increased the fire hazard for me. The second item, the road maintenance and traffic and I have reviewed the applicant's application and the staff's report and addressed there is one additional cabin; I agree that would not increase traffic on the road to any significant extend but both myself and other family members of mine have witnessed and followed up that road as many as three or four trucks carrying the motorcycles and I question that this is family oriented so I just want to be – so motorcycles are not listed in the document originally they have been added. We're talking about a 35 acre plot much of which contains the buildings, that you see there, the open space that have the mowed lawn and I fail to see where all these ATV's and motorcycles are going to be ridden because they're not allowed on the Forest land and they're on 35 acres much of which is taken up by a Resort, I don't see where they're going to used unless there's some other unexplained use of these vehicles. So those are my main concerns and I would just like to have them addressed more satisfactorily.
Jim Stevens – 1255 CR 151 up in the area. My only concern is the Motorcross track. And when it was originally built, I am the one that wrote a letter to Steve Hackett on behalf of the other neighbors and land owners notifying him that we were concerned about the Motorcross track and that's what started it. He sent me a copy of the letter that he sent to Mark Wilhelm and the other owner and then he notified me that he had restrictions on the Motorcross track were strictly for family and personal use. I understand that the Planning Department has no jurisdiction over policing that part of it. As long as this application does not increase that use I'm not opposed to it. But if there's an increase in use of the motorcycle drive, I'm definitely opposed to it. Then there's one question I'd like to ask the County Commissioners, if the majority of the landowners in that part of Garfield County would like some zoning regulations that prohibit this type of recreation, what is the procedure we have to do to go through that?
Chairman Martin – there's a zone text amendment change. There's a use by right that is defined by the areas, you may have to change your zoning or whatever to get that.
Jim Stevens – we'd have to change the zoning; I don't want to have any more of that type of…
Chairman Martin – see it would not only affect your particular area, Jim, you also affect the rest of the County in that zone text amendment and those zones – use by right.
Jim – we're really separate from the rest of the County.
Chairman Martin – well I think you're pretty nice. You're going to keep your paradise in tact, try to.
Jim – is there anyway we can do it.
Chairman Maritn – other than a special district. He asked the BOCC, if the majority of land owners want a restriction for this kind of activity, what would they need to do.
Mark said they could create their own special zone district.
Chairman Martin said he would need to go to a zone district and create their own zone district with a public hearing, etc. This would be working with the staff, with the Commissioners, a public hearing process, etc.
Jim – there is nothing that we can do about the one already built, but anymore uses of that type.
Chairman Martin – in reference to the noise ordinance with the State of Colorado and the type of zoning which is allowed if it becomes a violation of the Noise Ordinance, State of Colorado, that's an issue and an enforcement that the Sheriff's office has the right to enforce that – then he addresses the noise. Jim can obtain this information from Mark Bean on how to proceed if he wants to...
Bill Stevens - 254 CR 151. He agrees with Mary Jo and Jim. He is skeptical of use of the motorcycles on the Motorcross track for any more than the kids because I think it gets used more than that. This is you guys decision. If it's used as they say, I have no objections.
David McConnahey – Leavenworth and Karp – representing WRV Enterprises, which owns the adjacent property which is the Wind Dance Ranch and first apologized as they were not involved in that meeting because his client has been out of state and hasn't had opportunity to talk to the applicant about this. David was just asked to come here last Friday. First, he was asked by Janet and Paul Testuwide, who are not my clients, but were at the last hearing to hand you this petition
Chairman Martin entered the petition as Exhibit O and a Map – Exhibit P
David – his clients are concerned about two issues; one is the Motorcross and just shares the views of the other neighbors, which I would certainly not like to see that use expanded. I understand that's on the adjacent parcel but we heard this afternoon that the applicant would like to amend the application to use the barn to store motorcycles for it so I guess first off, I would like to state an objection on the notice since that's not something that everyone has had the opportunity to think up or necessarily show up and talk about today. According to the application materials that we reviewed when my office was in contract with them last week, that wasn't mentioned at least as far as we could see. I think it still is related because the proposal seems to be to use the barn as a staging area for a Motorcross

operation and so naturally that going to make it easier even if it is just a private use to increase that use and therefore it's a use going on that's part of the Special Use Permit that you should consider the impact on the adjacent neighborhood and those impacts are what you've been hearing about – noise, pollution, and most significantly fire danger. I'm kind of picturing a bunch of motorcycles coming out of this barn in the morning and they're going to be starting up and reviewing up and making all kinds of noise and then going over to the Motocross even if that's private, that's an activity going on this parcel which needs to be authorized as part of the special use permit. So I would like, ideally just to that not even be authorized since it wasn't part of the application but at a minimum under your condition no. 3 to clarify exactly what is and is not allowed in that barn so that we're not back in some kind of notice of violation. It doesn't seem like that's what was originally applied for and my client would like to make sure that doesn't happen without some more opportunity to talk about mitigating factors, spark arrestors, times of operation, noise limitation, all that kind of things, so we definitely oppose the amendment of this permit to create a Motocross staging area even if it is for private use. The second issue is water and my client would disagree that the water issue has been addressed. Then handout I gave you shows where my client's property is located in relation to this resolved. The 7W property is what's in orange here and the Wind Dance Ranch is in green, but this map has the location of a whole bunch of ditches and senior water rights which you can see cross these two parcels. My client owns significant senior water rights going back to the 1800's including the Core Creek Ditch and the Horse Meadow Ditch which are downstream, some of them from this property. And according to the application and the staff report what we've got here are two springs which are treated as surface diversions which are proposed to be augmented with a contract from the Colorado River district that presumably would take water out of Wulford Mountain Reservoir and put in the Colorado. Well in looking at the handout there, this is a long way upstream from the Colorado River and adding water from Wulford Mountain Reservoir is simply going to do nothing to protect the senior water rights on Sweetwater Creek and it's tributaries including those owned by my client. So on Condition No. 10 I don't think having a Wulford contract really solves the water issue. And what we would like to see is either a proposal that deals with that where it's simply made a condition of issuance of the permit, the Special use Permit, not just having a Wulford contract, but having an actual water rights decree. These are again junior springs, so if an application were filed to expand those uses, my client and other neighbors could file a statement of opposition – that's going to take some working out through the water court. The other issue is the pond which is not decreed at all as far we can tell and has a dam of 10 feet high which means it's a jurisdictional dam that requires regulation by the State Engineer's office. We're not necessarily objecting to the structure but if that's the fire plan and this is a pond that could be curtailed and dried up, that's doesn't seem like a whole, or very good fire plan especially when you've got motorcycles without spark arrestors and an illegal water right to support that part of the mitigation plan. So those are our two concerns, again Motorcross, which everyone else and don't think water from Colorado River quite cuts it.
Chairman Martin that's always a down fall of augmentation plans as you know. Even though it becomes legal and no damage according to the State Water Engineer, augmentation plans are allowed. So that's what we call pay for water I think in our business, isn't it?
David – I just don't know, granted two cabins is not going to be a huge impact, but it's an impact and they're upstream and the pond is un-decreed, so that could be a more significant impact, but that needs to go through the process.
Commissioner Houpt – so you're saying that a new impact because it's the fire mitigation they've put into place.
David – right, the pond would be.
Commissioner Houpt – right and the other one is, are you saying that the storage facility will impact the water because they'll have to come before us again, correct me if I'm wrong, Jim but when they build the cabins, they'll have to go thought water approval.
Jim Hardcastle – not for the proposed.
David – no my understanding is that this includes the new guest cabin so that would ….
Carolyn Dahlgren – like to ask Michael Erion on the water issues because Jim and would be sharing our ignorance with you about water issues.
Michael Erion – Resource Engineering, with respect to the water right issues, this was an issue was an issue that I did raise in my initial review of the project. The applicant's water attorney's have come back with a plan which includes the Wulford Mountain contract water as well as representations that the water commissioner has indicated that these rights with their water contract are adequate on the creek.
Chairman Martin entered Exhibits – O, P and Q. Exhibit Q – was entered by Mary Jo Jacobs – those were the questions she asked in her testimony.
Chairman Martin – they have addressed the water issue in that they do have a junior call are subject to loosing waters when there's a call in.
Michael – there is correct and in this instance and Mark can correct me, for a Special Use Permit, this does not have a referral to the Division of Water Resources so we don't have a referral letter from the State on this. We simply have a review that indicated efficiency; their water attorney responded with a plan and representation that they worked with the State and have this issue resolved.
Chairman Martin – it does say that they're able to use the water from their pond as part of their fire mitigation in your letter, but they're still subject to junior calls.
Michael – this issue of the pond to my knowledge has not been addressed as far as working with the water engineer. The pond hasn't been addressed as a legal water supply. Meaning, the issue had not been raised about the pond and water rights about the pond until today. The issue that was looked at was the potable water supply for the resort.
Chairman Martin – Mr. Knight, do you know when that pond was constructed?
Terrill Knight – the answer is no, some of the neighbors may know, it was certainly in place prior to the purchase of the property and that's as much as we can tell you.
Chairman Martin – historically, it's just been used for scenic value or fishing, or
Mark Wilhelm – told what he knew – not sure when it was built but the water in the pond is actually owned by I think John Mills.
Yes.
Mark Wilhelm – and it flows through our property to an adjoining neighbor, John Mills who used to own our ranch. We have a verbal agreement with him to use the water to irrigate and in case of a fire to use it for fire.
Chairman Martin – its verbal, not written.

Mark – no it's not at this time.
Chairman Martin – before we could accept that, we'd have to have confirmation that you have the right to use that as a fire mitigation plan. Absolutely. It's the Mills Spring isn't it?
Jim Stevens – The Mills Springs feeds the pond. I don't for sure when the pond was built, it was build by the name of McGlaufen and he used it for a storage and built a ditch over onto the property, this attorney's talking about. But it was never completed, the ditch was never completed and when they started the guest ranch, sometime in the 1930's when a lady by the name of Audrey, Larson Davidson started the guest ranch and built the cabins. They used the pond and the water that comes to John Mills and Molly Miller and myself and Quinn Miller come down right from the Core Creek Ditch and I presumed the spring that feeds the pond is part of that water right. The pond has always been full as far as I can remember. It's been there since, might have even been in the 1920's when it was built.
Michael Erion – in looking at Mr. McConnahey map, there might be a few questions we can ask of the applicant that sheds some light on the injury issue if Mr. McConnahey concerned about also an adequate augmentation plan to prevent injury to his client's water rights. Looking at the map, his clients water rights appear to divert upstream at the 7W water which might be why the water commissioners indicated that this plan for augmentation could be exchanged up because there aren't any water rights below that could be injured below by this, so the question is where those springs are at, are they above or below Mr. McConnahey client's ditches?
David – I'm not saying this problem can't be fixed, all I 'm saying is that what was identified in the letter from Petros and Wade was that a Colorado river supply, and all I'm saying is that doesn't do my guy any good and we just need to go through water court. I'm not saying that it's a problem that can't be fixed through water court.
Terrill Knight – this one just briefly, Mr. Petros's office certainly took a careful look at water rights and we understand how those work; and certainly with the new contract we think there is no possibility of injury and we believe this issue has been resolved. And it's of course another jurisdiction that would resolve that eventually, we certainly would talk to Mr. McConnahey and so forth to find out what the issues are but we firmly we believe we're in good shape on water and that we've met the requirements and I think Michael reconfirmed that. I think in closing I'd ask Mark to rasp out a brief statement, he's the one who has his family there and uses the Motorcross trail and remains an issue.
Mark Wilhelm – I would like to ask the Commissioners to consider from what I've heard here, I think they're concern is about traffic was number one and I think fire was another one. And also Mr. McConnahey made a statement that he would not like to amend the SUP to handle motorcycles. Well, that traffic and motorcycles go hand in hand. We go up and down that road five or ten times a day because we can't keep them there. So we bring them up, we take them back, we bring them up, we take them back. So if we don't amend the SUP to allow motorcycles in that storage shed, the traffic will stay the same and it won't get any better. As far as the fire, I'm not aware, ignorant to the water rights in the State of Colorado so I'll have to somebody else take of that. He also made a statement about motorcycles without spark arrestors, I think he's speaking to something that he doesn't know about, because there are spark arrestors on all motorcycles and that was an agreement also that we made with the neighbors that we would make sure that all of vehicles had spark arrestors on them.
Chairman Martin – how far away is the track from the storage barn?
Mark – wasn't sure – there's been a road there and they drive them.
Terrill Knight – and Mr. Hardcastle has, he and I and Jerry been to the Motorcross site. It's located further up the hill. If that is the key issue, we'll find another solution to that. That's what Mark was referring to; he hauls them to another place off site, not in Garfield County so he brings them back and forth and if we need to find a different solution, certainly happen to do that
Commissioner Houpt – I have concerns about the fire mitigation plan and I'm concerned for many of the reasons that have been raised today, one is, there is a heightened concern about fire when you have motorized vehicles so although you said you're in a low fire hazard area, this increases the fire hazard area. So I think that you need to look more critically at what that actual fire mitigation plan is going to be and still very confused about the ATV and what they're going to use for and where used and the difference between, right now you're using the guest ranch as for guests.
Mark – correct.
Commissioner Houpt – so those guests can use your private Motorcross track, because they're your guests.
Mark Wilhelm – no. Not at all.
Commissioner Houpt - yes they can because they are family guests, right, they're not paid guests. How do we differential this. You don't agree with my
Mark – I don't know to define that but I'll be happy to work with you in defining it.
Terrill – why don't you do it as you committed with the neighborhood meeting as to who gets to use it.
Mark – fine – I could list the people who would use the Motorcross.
Commissioner Houpt – but I think all of that is really tied into this fire issue and I'm not truly understanding the availability of water and who really is going to have to rely on that water if a big fire occurs. And Michael, I don't know if this creates a red flag for you in wanting to look how far that water would need to spread if a fire occurred or not, because we're not sure of the status of those water rights.
Michael Erion – it may not be an issue, there is no fire protection district and there's not going to be any timely response to a fire up there and not sure that you necessarily want to rely on on-site staff or people at the lodge to fight the fire even if there is some pump for the pond or facilities there. It's a situation where as Mr. Knight indicated, it's an insure life safety that really their fire protection plan is to ensure that people are out and safe because realistically you can't have a plan that relies on untrained people to fight a fire that may or may not be there.
Commissioner Houpt – but that's not what I heard today. What I heard today was that a pump had been installed to create a pressurized water stream to fight fires.
Michael – right and that's one thing they've proposed to do but I'm not sure where the standard is on that because we don't have a fire protection district to set the standard up there.
Chairman Martin – that's an individual trying to protect his own property.
Mark Wilhelm – exactly. I have a gentleman working with me works for the fire department and I asked what can we do. He said we can buy a pump that's got – so that's what we did. So we have those, who's going to operate that is a very good question but we do have that there and that was our concern because there is no fire protection up there for me or my neighbors. I'm just as concerned as the next guy because I can't replace those places.

Michael – with respect, I had a change to verify with Mark Bean with respect to the potable water supply issue, since this is not an item that gets referred to the State for material injury, the applicant has presented the water supply they do have there and they have their legal opinion. There is another legal opinion that raises some issue, but ultimately if it turns out that they don't have the supply they get shut down or get their SUP revoked. This isn't a subdivision where there's a vested interest in a lot sold to a 3rd party that the County's trying to protect in this instance.
Terrill – and we certainly understand that risk and Michael said it very well. It is a separate action by separate jurisdiction; we're quite comfortable with what we've done at this point and I know if the neighbors have some questions, we'll have to work it out with them.
Commissioner Houpt asked to have the ATV use explained.
Mark Wilhelm – well from time to time we have guests up there and we have three or four of them up there and we jump on them and ride down to Adrian's for a piece of pie, instead of jumping into the car. There's no track, they're just there and we ride around the area. One of my caretakers uses it to drive around the property to take care of fence posts and do other things, so they are on the property and we do use them more of a transportation mode than to amusement or recreation, I should say.
Commissioner Houpt – so it's not advertised on your website or in your brochures as a recreational use.
Mark W – no.
Commissioner Houpt – Is there a road that leads from the storage facility to your Motorcross track?
Mark W. - you could call it a trail.
Terrill – a ranch road, typical ranch road, it's a two track vehicle road.
Commissioner Houpt - I'm trying to envision where there motorcycles; what kind of terrain these motorcycles will be driving over because of the concern. You have spark arrestors on your vehicles, but there's concern of dry grass and potential fire.
Terrill – it is a ranch road and it does go through some irrigated pasture land and some non-irrigated pasture land, not sure if they have a photo of it.
Jim Hardcastle – in the picture that you have on page one in the application, but what it essentially does is the road comes up over the knoll right there around to where the picture's being taken and then up onto the hillside further up where the track is, so you'll find it in a similar type of area where the grass is and there you can see and mostly Aspen and various pines.
Mark W. – around the Aspen trees.
Commissioner Houpt – so you do drive through some tall grass areas.
Terrill – its pasture grass.
Mark W. – its shorter grass, we go through trees but we cleared it out some trees.
Commissioner Houpt – well you should see the picture I have, I can't see. He's got the color picture.
Terrill – we actually has a power point presentation but
Chairman Martin – what's the total number of vehicles, motorcycles that go to the track at a time?
Mark – 6 or 7.
Commissioner Houpt – you have a large family.
Mark W. – I have three children that ride, the coach and he's got a couple of kids and then I sponsor a couple that pro-rider, 2 pro-riders that come up every now and then so it's my 3 kids, my coach, a couple of his kids and then a couple of pro-riders.
Chairman Martin – he's identified that through the list with the community.
Mark W. – I'd be happy to make a list and give you a defined number – I just don't know how to assure you that this is not open to the public.
Commissioner Houpt – I'm more concerned about your neighbor's concern of fire hazard and I think that's a big concern and why I was asking about what kind of terrain you go over.
Mark W – I'm concerned about fire also and we talked about putting a huge tank up there at some time. I'm looking at different things, because I have a big concern about fire also not so much because of my motorcycles but fire in general. We are out in the middle of no where, if a fire starts, there's no one there to help us, we're pretty much on our own.
Commissioner Houpt – at your public meeting, did you talk about Motorcross usage time, this has very little to do with what we're looking at today, but –
Carolyn Dahlgren – this is not part of this SUP application.
Commissioner Houpt – well there's only a connection with the storage of motorcycles because they will be driving them across that property from the storage unit at that time.
Carolyn – Do you drive them for that mile over to the Motorcross?
Mark W. – yes. Question was, are you talking about times -
Commissioner Houpt – well I'm hoping that you're going to work closely with your neighbors.
Mark W. – we did talk about time, we did talk about not riding in the evening when they were cooking out, relaxing, yes we did talk about that.
Carolyn – maybe this will help; don't forget as Commissioners you have such a 9.03.05 which allows for periodic review as long as you make clear to the applicant today what you're going to be reviewing, 6 months from now or every 6 months for the life of the SUP; as Michael said this is not a subdivision, we don't refer out to the State Engineer and we don't get proof of legal, a strong proof of legal rights but you can certainly put this up for review.
Chairman Martin – if there's material injury they have other courses to go ahead and pursue.
Carolyn – right. We can also see how the other issues are going along with noise and everything else.
Chairman Martin – and the other issue is that we can say no to the Motorcross and the storage of vehicles upon the barn and that would solve a lot of the issue for most people but not for the applicant at the present time.
Carolyn – but it increases traffic.
Chairman Martin – it does increase traffic.
Commissioner Houpt – well it was actually is, I guess I hadn't seen that in this report to include it, so was this
Carolyn – it was just verbal today, it was that question and answered in their presentation.
Chairman Martin – David McConnahey says no to the adjustment based that it was not in the application at the time, that it's a change of application.

Commissioner Houpt – did you inadvertently leave that out or was a new notion of having motorcycles in the facility.
Terrill – I'd have to review the original application because I was not aware of it, but that was a goal of the applicant.
Mark W. – if that's going to be a concern and a determining factor that we won't get the SUP then we won't put motorcycles in the barn, we'll just drive them up and down the road all day long. If that's a determination, we can withdraw it. But I don't really think that's going to solve any of my neighbor's concerns at all; it's only going to make it more of a concern.
Chairman Martin – because of increased traffic.
Commissioner Houpt – well, I guess. Does anyone want to speak to that before we move out of the public hearing portion?
Jim Stevens – I don't think the community has any problem with the shop building storing the vehicles if there's only going to be 6 – 7 motorcycles, well that's – would be fair enough with everybody concerned – as long as it's not an increase to some kind of a track that's operating for a lot of people. So I think the building will help them keep the motorcycles there, repair them and so on and it may cut down on traffic – it would be a benefit to the community.

Mary Jo Jacobs – I had a question, the owner mentioned about motorcycles go up and come down and they go up and come down so if he stores them there won't be as much traffic; I don't know who all these motorcycles are going up and down, he's got the 3 children that ride and he's got a couple of pro-riders that he sponsors, but who we see a lot of them going up the road and his own children aren't going up and down the road I assume, so I'm not sure who all this traffic is that he himself describes for us as saving traffic because there would be storage of his family's motorcycles up there and he has a couple of sponsored riders, they would be possibly going up and down, but I don't know where these others are going up and down.
Terrill – we don't know either – it is a public road and we can describe our portion of that use and not others. A previous partner that's no longer involved and not at issue here today because he is gone, apparently did use that more, that was before I was involved.
Mark W – I do have to take my kids up and down everything we use them because there is no place to keep them and work on them; they do require daily maintenance.
David McConnahey – spoke with Ms. Testuwide who generated that petition, again is not my client, but is another neighbor that couldn't be here today, we actually talked about that issue of if the storage is denied will that just increase the traffic. What she said was she doesn't have a problem with the traffic now and she'd rather have more traffic than an on-site staging area and I imagine my client feels the say way but she didn't would prefer the traffic to the onsite.
Ms. Testuwide was at the public meeting held at the community center.
Mark W – she was the one that recommended that we take a wait and see attitude, and we explained to her there would be less traffic this year because I don't have that partner.
Commissioner Houpt – so you have 6 or 7 motorcycles using the Motorcross?
Mark W. – I have 3 kids.
Commissioner Houpt – trying to figure out if we limit, so it's not a staging area for huge motorcycle storage area, trying to figure how we can limit it so it's your private Motorcross.
Mark W – how about less than 10?
Commissioner Houpt – less than 10 motorcycles.
Chairman Martin – no Motorcross bikes that are used for commercial purposes to be stored upon the facility; only personal use.
Terrill – yes, that's true. That's correct.
Commissioner Houpt – it would have to be separate.
Carolyn – well since the addition of the use of storage of motorcycles was not presented in the application, we'd be relying on the Condition No. l "all representations of the applicant….." so it probably would be a good idea to have a separate condition of approval if you want to clarify this.
Terrill – and we can supplement this in writing if it would make it easier.
Commissioner Houpt – well we'll do it right now.
Carolyn – my only other question is just when a motion is forth coming, please make it clear whether or not that plan presented today for fire mitigation is good enough or if the Commissioners are expecting something else.
A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to close the PH carried. Houpt – aye; Martin – aye.
A motion was made by Commissioner Houpt to approve the request for a Special Use Permit for 7W Guest Ranch LLC. Mark Wilhelm to allow a special use for a resort designation, I am going to add to the conditions, so I'd like to just go through these, in Condition No. 3 – Carolyn had raised the issue of adding not only new improvements but uses, that will be brought before us for special application, (Chairman Martin – she used activities) (Carolyn – uses is one of those words that could mean buildings too, that's why I used activities but we can use activities/uses) activities would be fine, I would like to see a fire mitigation plan in writing and if it, so I'm going to keep Number 7 in there, (Carolyn – and is that planned to be reviewed by Building & Planning staff) yes, Number 12, we changed guests from 27 to 33, Condition 22, and you can wordsmith this, up to 10 motorcycles will be allowed for purposes of ongoing storage and repair in the storage facility approved in this SUP, and then Condition 23, an annual review of the use of this facility as storage for the items approved in this application will be conducted pursuant to the Section that you- the regulation that you (Carolyn – the entire SUP or just on that one issue?) just on the storage; (Carolyn asked one other question – on Condition 22 I'm assuming that you wanted to be limited to personal not commercial) personal storage (Chairman Martin – to my question, personal only, no commercial, not to exceed 10 motorcycles) up to 10 motorcycles. (Carolyn – took at look at the review section – Chairman Martin – allowed to review the use within a year or annually) annually (Chairman Martin – I don't think we need to limit it just to the barn itself, I think the entire use on the 35 acres as a resort) okay. (Carolyn – the language in 9.03.05 says the purpose of such review shall be determined compliance or non-compliance with any performance, requirements associated with the granting, so) so annually the use of the entire (Carolyn – and including but not limited to the storage use, how about that) that's fine. So can I ask if it is appropriate to, this is a new conversation, but spark

arrestors on motorized vehicles, is that just a law. (Chairman Maritn – it's a state vehicle code) make it a condition, okay Number 24 – all vehicles, motorized vehicles used for recreational or maintenance purposes will have spark protectors. (Chairman Martin – meet the standards set forth in State Statute on vehicle equipment 19-1 CRS) does that include spark arrestors (Chairman Martin – yes it does, Section 19 probably has 100 and some things that they have to abide by under motor vehicle law) okay, well we'll make that a condition as well.
Commissioner Chairman Martin, it also includes all testimony and agreements that the applicant has made today be included as part of your agreement.
Commissioner Houpt – yes and that the first one.
Carolyn – do you want to say representations and agreements?
Chairman Martin – yes.
Commissioner Houpt – yes, okay.
Chairman Martin – I'd also like to see added to that a list of those that are to be used and supplied to the community as a reference, in other words, the use of motorcycles, who's going to be using those for storage etc. that way we have a fall back that we don't have three or four lists circulating that we can compare the list if necessary and that makes everyone consistent.
Carolyn, it this a friendly amendment?
Chairman Martin – that's friendly amendment.
Carolyn – a list of the people who are storing their motorcycles in the storage barn?
Chairman Martin – that's an easy way to put it.
Terrill – that's acceptable to the applicant as well.
Chairman Martin who stepped down as Chair, therefore I second that motion.
Commissioner Houpt – I just hope that communication will continue on this issue, Motorcross, although I know that you're kids are really excited about it and very into it, they're a disturbance to people who aren't involved with that and you're in a very quiet remote area and I think it's really important that you recognize the needs of the other landowners in your area as well.
Mark W – absolutely, we are concerned and will continue to meet with them and explain to them that hopefully it will be a limited time because they'll grow up and leave or go away. Grass will grow back and we'll all forget about it.
Houpt – aye; Martin – aye.
Chairman Martin – we will have a review within a year and hopefully we won't have any violations, you are subject to review if there are as the Statute says, subject to the removal of your SUP if certain violations occur.
Terrill – we understand it Mr. Chairman and want to thank your staff as well, we've spent considerable time working through the issues and they've been very helpful in the review and thank you for your approval.
Sponsorship of Senior's Program – Bob Spuhler, Colorado Mountain College.
Bob Spuhler, Colorado Mountain College and Deb Stewart, Senior's Program were present. Bob said at a board meeting in the fall one of the Board members raised the question about the Senior's Program and the fact that we do have a seniors program for one and only one county - fact that we have a senior program for only one county Garfield County. The services provided for that program and the question was raised why they were doing it for only one county and not the others. The other counties do it in different ways. Bob made a commitment to that Board member to discuss this with the Commissioners as to whether the County would be interested at some point in the future in sponsoring the program. The Commissioners already support the programs in various ways. There are three programs: transportation and often Counties do run those programs in other areas for the disabled and seniors as far as being county employees and it is programs in which the staff is part of the college. Second program is Nutrition and doing 27,000 means annually. The third program is the RSVP, basically a senior's volunteer program that provides a host of things to non-profits and other agencies throughout the entire Garfield County area. The budget is a little under $400,000 and about $70,000 comes from the college and a lot of that is based on the fact that the college's pay scales are different. The benefit program is good; Bob has tried to secure the best possible program. For the college they try to bring in people from out of area. Some jobs they recruit nationally and the college has tried to put together an attractive benefit package as possible.

The main thing on the change is more curiosity as to whether we should be in the transportation, nutrition and volunteer programs. The other counties in our district are not providing other services. This is not education. Looking at some transition.

Deb stated that Routt County the nutrition program and the transportation program are run through road and bridge but the drivers are paid by the Council on Aging.

Eagle is not part of RTA; employees report to the nursing department.

Pitkin County is a split – not sure – report to Health Department and to RFTA. Deb said the Council on Aging in 1973 approached the Board of Trustees to sponsor the program and the transportation didn't start until 1978.
Chairman Martin stated the County is a willing partner – if it was a county department it might not be as successful.
Deb has reconsidered her retirement and decided she will run this for a few more years. He wasn't in favor of running this, and favored to leave it as is. No facilities, not budgeted, etc.
Deb – only 4 full time staff and 1 - ¾ and 6 part-time staff that are non-benefited in the transportation program with specifics.
Chairman Martin said the County couldn't run it the same as Deb runs it and the budget would go up.
Deb thought as long as you have the government approach working with seniors, there are many categories. The County, if they chose to do this, just like other counties, instead of Deb being the grantee to these areas on aging, the Commissioners would be the grantee. The same amount of money Deb has, if we have 19% of funds distributed in Northwest Colorado go to Garfield County and those agencies that split that up are the nutrition program, transportation, Legal Services, home health and CHIL. There are five agencies that receive money through the area on aging and each one run individual grantees. For every program that Deb has, she writes an individual grant so if they or the Commissioners chose to come in to that business as a grantee; it would be a direct service provider. In some of the other counties, Region 12 which is COG 12, which is Jackson, Summit, Grand, Eagle and Pitkin, the

area of aging is actually the direct service provider. The employees in Eagle County that cook in the kitchen at the senior center are actually employees of COG; not employees of Eagle County. The COG contracts then for facilities and services and pays for the cooks and all the food to offer that program. Each place is different but it depends on the relationship that you have with the area agency through that granting process. They are talking in the next two years, 12 COG turning into doing what they are doing in COG 11; everybody becomes individual grantees responsible for the total intake of their program. To make the program what it is and bring in the money that Deb has been able to bring in, we've had to adjust it somewhat and in that tweaking it has put us in a place where we've had to do some other projects but it has allowed us to bring some more of that money in and be more visible.
Bob – one of the reasons he was willing to ahead and take direction from a single board member, at that time Deb was thinking about retiring and Bob saw that as both a challenge in replacing her but also if there were going to be some sort of change to another sponsorship, it would be important to having an opportunity to hire and the main selection of that new person. Deb will stay on for two more years and now it doesn't have the same concern or opportunity.
Commissioner Houpt would like to have the goal of two years in how best to move this program forward.
Bob said if he saw in the board a majority interested in walking away from the seniors program, then he would feel a lot different than what he was today. He made the commitment to share the plot and if in fact he's wrong on the Board and there is an interest of the majority of board members in having this program go other places, he would come back to the Commissioners immediately and let them know and then sit down with a number of other partners to figure out the best way.
Deb's comment – over the two year some transitions could be done whether or not they change the sponsorship.

Revisit the Renewal of the Garfield County Banking Agreement for Fiscal Year 2005

Georgia Chamberlain reported that she discussed this with the bank; the file is the entire file of direct deposit and includes all direct deposits. Alpine Bank VP Bill Sanderson, file transmission is waived.

Merchant Agreement – has a terminal use agreement and the bank wants each department that will have an actual machine, they will need to sign an agreement – the decision that we need to make is do we want each individual department to sign or the Chair sign.
Carolyn said unless you are an elected official, the Chair has to sign. B & P, Road and Bridge, Social Services, Treasurer.
Rental Agreement – The Merchant is the BOCC. The Sheriff sign his own
The Sheriff, Solid Waste, the Assessor might be the ones interested in the program.
In Don's memo there are several things a County can't do.
The Merchant Agreement does not have to be implemented before the end of the year.
It is not going to change.

Strategic Planning – an overwhelming consensus to go forward. Ed said there is a lot of support for it.

Georgia submitted the way we will be charged. The debit card is cheaper than the credit card.
Carolyn is not comfortable moving ahead and wanted to wait until Don is present to discuss this. This was postponed.

Banking Agreement

The Merchant agreement is listed as an exhibit. The Board is not committing themselves to every paragraph.
The Commissioners can sign the banking agreement. Carolyn suggested the Chair could be authorized to the Banking Agreement except for the Merchant Agreement that will be discussed in January.

A motion was made by Commissioner Houpt and seconded by Commissioner Chairman Martin who stepped down as Chair to authorize the Chair to sign this after the bank has reviewed and signed the document. Houpt – aye; Martin – aye.

Credit Cards

Georgia will work on this for her office, certified payment and state official payment – a 3rd party. If an individual wants to pay with a credit card, on line or call and pay, and pay a 3% fee. That company on a daily basis will list the schedules and the amount of money they took and it will take a day or two to show on the banking statement.
Even if it was a code clearance and it is rejected, then the payment is yours.
The disadvantage is a year to contest.
Carolyn will write an email to Don on the Board's concerns.
Ed will call the county managers and Mildred will call the County Clerk's to see how they do this.

Balanced Score cards - update

Ed also stated that out of the 3,045 counties, only 8 have balanced score cards.

Adjourn

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to adjourn; motion carried.

Attest: Chairman of the Board

_____ _____