PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

JANUARY 7, 2008
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GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, January 7, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE: ED GREEN
PAY FOR FOUR HOURS ON DECEMBER 31 – KATHERINE ROSS
Chairman Martin took full credit for allowing employees to go home ½ day on New Year's Eve. He had contacted the other two commissioners and they didn't have any objections; he also discussed this with Ed Green. It turned out to be total chaos because the elected officials in the Courthouse and Rifle Annex had to stay open as it was not advertised that we would be closed 1/2 day. Kathleen recommended to make all four of those hours holiday time. The implication of this would be that there is holiday time around that time of year, the perspective of cost and it would be the easiest to administer however, it would mean that individuals who did go home would receive that time as holiday time and those who stayed and work would receive double time for those four hours. Don – holidays were established for 2007 and if your amend this you would have to amend the original resolution.
Commissioner McCown made a motion that the New Years Eve 2007 be considered as a half day holiday and suggested to put it on the consent agenda. Motion seconded by Commissioner Houpt.
In favor: Houpt - aye Martin – aye McCown - aye
DISCUSSION OF 2008 HOLIDAY SCHEDULE – KATHERINE ROSS
Katherine Ross presented the 2008 holiday schedule and suggested several changes to the approved holiday schedule. Late last year the Board approved a full day off for Christmas Eve. Chairman Martin talked to other folks and they would like to work on December 24th and then have the weekend meaning the holiday would be changed for 2008 to reflect December 26, Friday as the holiday versus December 24th. New Years is on a Thursday as well.
Commissioner Houpt said the employees have the option of taking it off but did not agree that you change something that has been in place for years because staff have plans for their holidays in advance and especially for Christmas Eve. Jean said her staff was in favor of having the day after Christmas, December 26th and would rather work a full day on Christmas Eve. Commissioner McCown suggested advertising the day after Christmas as a holiday since it would make for a long weekend and that's the rationale for declaring that day as a holiday. Don – suggested this should be brought back to the Board with a Resolution next week.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to accept the newly recommended holidays as presented for 2008. In favor: Houpt - aye Martin – aye McCown - aye
2008 AMBULANCE LICENSING – DALE HANCOCK
Carl Smith and Dale Hancock were present. Dale Hancock presented the following Ambulance Licenses for 2008 and explained that they had met the inspections and requested the Chair be authorized to sign the licenses for Rifle, Carbondale, Silt and Parachute. The Burning Mountain Ambulance is still not sure what they are going to do per Dale.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the ambulance licenses for those Dale alluded to and authorize the Chair to sign.
In favor: Houpt - aye Martin – aye McCown - aye
JAIL REMODEL – DAVID KOENIG
David Koenig and Tim Arnett were present. Tim said this is for the first floor detention center remodel. Bidders included Mueller Construction Services Inc. at $1,007,700 and AD Miller Construction Services (Centennial) at $1,198,465. The recommended award is to Mueller Construction Services Inc. at $1,007,700. This includes all fixtures and interior furnishings for this facility.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the bid to Mueller Construction Services Inc. in an amount not to exceed $1,007,700.
In favor: Houpt - aye Martin – aye McCown - aye
CONTRACT ENGINEERING FOR BUILDING & PLANNING – FRED JARMAN
Tim Arnett and Fred Jarman submitted the contracting for engineering for Building and Planning and stated this was professional engineering services on an as needed basis. The recommendation for the award is to Resource Engineering Inc. and Mountain Cross Engineering for the not to exceed price of $40,000 per firm. Fred stated this is similar to what we did in 2007 and they are working at trying to hire an engineer for the County. Commissioner McCown – we can't hire an engineer for the cost of these two contracts. Fred – if we did get someone we would have to groom them and help them get their license. Mountain Cross has some conflicts with engineering reviews but then we can use Michael Erion of Resource Engineering. This arrangement has worked well for several years.
A motion was made by Commissioner McCown to award the notice to proceed to Resource Engineering Inc. and Mountain Cross Engineering in an amount not to exceed price of $20,000 per firm for professional engineering services on an as needed basis. Commissioner Houpt seconded. Commissioner McCown amended his motion to add $40,000 per contract for a total of $80,000 and approve a budget amendment if needed. Commissioner Houpt amended her second.
In favor: Houpt - aye Martin – aye McCown - aye
COUNTY SHERIFF UPDATE: LOU VALLARIO
Lou Vallario gave the Commissioners an update on the Department.
The holiday was a problem and since he has shift work and they were not eligible to leave, he asked how he should handle this issue. The Board suggested that he talk to Katherine Ross. Lou thanked the Board for approving the jail remodel. Lou informed the Board that CARE will be on the agenda next Monday.

Lou provided the update on the River Bridge Project – Child Advocacy Center, saying it is moving on and the Memorandum of Understanding (MOU) is being signed by the City of Glenwood Springs but it is not fully operational as yet.

COUNTY ATTORNEY UPDATE: DON DEFORD

Authorization of Chairman's signature, Wells Fargo Confirmation LOC, Highline Operating, LLC

Carolyn Dahlgren explained the cancellation of letter of credit without the original, which is a request to have this letter of credit cancelled immediately. This is due to asking for a new letter of credit and is asking for the Board to approve the letter of credit cancellation.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the cancelled letter of credit. In favor: Houpt - aye Martin – aye McCown - aye

EXECUTIVE SESSION

CHILD ADVOCACY CENTER - RIVER BRIDGE – MOU AND CR 204

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

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

Action Taken:

MOUNTAIN VIEW BUILDING AND THE CITY OF GLENWOOD SPRINGS

Don stated the City of Glenwood Springs has asked that this Board consider an amendment to the Development Agreement that currently exists concerning dedication of the pedestrian right of way from the sidewalk; as you know Section 3.5 of that development agreement currently requires that you dedicate the right of way that covers the sidewalk and we are prepared to do that and in fact have submitted the legal description for review to the City and the City has recently indicted they no longer wish to have that dedication accomplished and therefore want to amend the Development Agreement removing the requirement of the dedication. We would like the Board to consider approving such an amendment to the Development Agreement so we can move forward.

Commissioner McCown – so moved. Commissioner Houpt – second, but I would like to say that I don't want this change to hold up the CO process. We've complied with what they have required initially and it's the City who's changed their mind on that so I would hope that as their process progresses they would still issue Child Help the CO they need to begin the program with or to get it into full action.

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

COMISSIONER REPORT:

Commissioner McCown - last week I had a telephone meeting Thursday with Susan Vanoviski with the senior programs and then to the meeting in Battlement Mesa regarding the COGCC hearing on the rule making – it was well attended. This week, tomorrow we have the land use meeting as proposed; Thursday, met with Susan with the senior programs; this week we have a land use meeting; Tuesday evening have an unrelated County meeting; speaking at a luncheon at noon on Wednesday; Thursday, Associated Governments and Northwest Colorado, Friday is another land use meeting at 9:00 a.m. in Rifle and then after next Monday, I will be gone for the remainder of the month.

Commissioner Houpt – on Friday of last week I had an I-70 Board meeting and there's quite a bit going on now with the collaborative effort that CDOT has put together to come up with the final proposed alternative and again CDOT and the Federal Highways have said they will use that as their preferred highway if consensus comes out of this effort. So everybody is being very hopeful, discussions have been on-going for a long time.

Commissioner McCown asked while they're coming up with the alternatives, are they coming up with any funding mechanisms.

Commissioner Houpt responded that this is another portion of the Governor's Blue Ribbon Commission on Transportation and they are supposed to be coming out with their report very soon so we will see what ideas they have and yes, that is the on-going discussion – how will this be funded.

Chairman Martin predicted there will be several tax initiatives on the ballot.

Commissioner Houpt said there are a lot of issues that have to be dealt with in Colorado in terms of a lot of budgeting for health and education and transportation and we knew that it would be a mess. Then a meeting through CCI on potential Severance Tax Legislation that all three of us were in attendance on – we didn't make any decisions but just weighed in.

Chairman Martin noted for the record the three of us were in different locations. Chairman Martin was in Denver, Commissioner Houpt was in Glenwood Springs and Commissioner McCown was at the Henry Building in Rifle.

Commissioner Houpt - It sounds as if a great deal of discussion needs to take place not only with counties but with the various legislators who understand there are different issues that haven't been considered.

Commissioner McCown said right now there wasn't a particular consensus among our local legislators either.

Commissioner Houpt – this week the land use meeting that Larry mentioned and an I-70 meeting in Silverthorne on Thursday; the following week we have our Commission meeting and then I will be in Denver for Oil and Gas hearings and CCI Board meeting on Friday and CCI Commission meeting.

Commissioner McCown asked if the Board members from the COGCC were asked not to attend these public hearings. I noticed that no one was there.

Commissioner Houpt – it's still in the staff's hands – they haven't proposed it to us yet.

Commissioner McCown – are you going to be absent at all the other public hearings around the state so that there's equal footing and the members themselves won't be participating.

Commissioner Houpt – no, this is being led by the staff – this phase.

Chairman Martin – Ms. Dahlgren and I made our appointment in Rifle, very interesting one, we did the closing on the Airport issue and it went very smoothly and that was back in December on the 21st. Since we haven't met since the 20th I wanted to let you know. The Chair was comfortable and had numerous calls while Ed was gone and again apologized for my overzealousness of trying to be a nice guy and get time off. I've learned my lesson and no more Mr. Nice Guy. There are numerous issues regarding a contract in March that we need to know about; on the 3rd of March neither Tresi nor I will be available and will have to reschedule that particular meeting.

Commissioner Houpt – just to clarify more on the rule making state tour that's going on right now with the staff, there really is a possibility there may be board members who attend in their area but we were not on the agenda in that process. Commissioner McCown said since this was the first one and I don't think anyone was real sure how it was going to go, I think by setting that precedence that none were there that should remain consistent throughout the rest of them or it's going to give people the impression that our local ones don't particularly care about ours, yet the ones in LaPlata County show up. So I don't care how they do it but if they are going to start out doing it one way they should remain consistent throughout the other four meetings. That would be my only suggestion and I don't know if that's appropriate or not but its going to seem strange if 5 board members show up to the hearings on the eastern slope and nobody shows up to the one on the western slope. Commissioner Houpt – and when they scheduled they were aware I wasn't able to make that meeting and they still held it. Chairman Martin – and we didn't get a response back from them; we said please postpone it because we're not able to attend in full heart on these issues.
Commissioner Houpt – they have talked about scheduling another meeting in coordination with the county and municipal officials. Commissioner McCown – it wasn't that we wanted to comment, it was the short notice for everyone to comment. We have plenty of time to comment on the rules the way they're presented.

CONSENT AGENDA:

a. Approve Bills
b. Changes to Prior Warrant List
c. Authorize the Chairman to sign the Resolution of Approval for a special Use Permit for one Temporary Employee Housing facility operated by Williams Production RMT co. located approximately 10 mile north of the Town of Parachute and off Wheeler Gulch Road. Applicant is ExxonMobil Oil Company. David Pesnichak
d. Authorize the Chairman to sign the Resolution of Approval for a PUD Text Amendment for the Los Amigos Ranch PUD, Multi-Family Zone District (Lots 1 and 2) altering the minimum lot size, lot coverage, setbacks and floor area ration within this zone district as described in Resolution 96-34. Applicant is Hayden Rader. – David Pesnichak
e. Authorize the Chairman to sign the Resolution of Approval and a Special Use Permit for an Accessory Dwelling Unit located on a 13.78 acre parcel located approximately 3 miles south of the City of Glenwood Springs and described as 0013 Laird Lane. Applicant is Charlotte Zilm. – David Pesnichak
f. Authorize the Chairman to sign the Resolution of Approval for a Zone District Amendment for a 13.78 acre parcel from Open Space (O/S) to Agricultural/Residential/Rural Density (ARRD) located approximately 3 miles south of the City of Glenwood Springs and described by Assessor's Parcel Number 2395034000051. Applicant is Charlotte Zilm. David Pesnichak
g. Authorize the Chairman to sign the Resolution memorializing the approval of a text amendment to the Zoning Resolution of 1978, as amended adding Solar Power Generating Systems as a special use in the ARRD zone district in Section 3.00, adding a definition of Solar Power Generating Systems to Section 2.00, and standards for Solar Power Generating Systems to Section 5.00. Applicant is the Colorado Rocky Mountain School – Fred Jarman
h. Authorize the Chairman to sign a Resolution and Special Use Permit memorializing the approval for a Solar Power Generating Systems. Applicant is the Colorado Rocky Mountain School – Fred Jarman
i. Authorize the Chairman to sign a Resolution and Special Use Permit memorializing the approval for a Two-Family Dwelling. Applicants are Paul and Jennifer Fleetwood – Fred Jarman
j. Authorize the Chairman to sign a Resolution and Special Use Permits memorializing the approval for a Communications Facility. Applicants are Puckett Land Company, Chevron USA, Inc., and Berry Petroleum Company – Fred Jarman
k. Authorize the Chairman to sign Memorandum of Understanding with the State of Colorado appointing the Treasurer to receive the confidential Sales Tax Information – Georgia Chamberlain
l. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for a Communication Facility. Applicant is Daybreak Realty, LLC – Craig Richardson
m. Authorize the Chairman to sign the Resolution of Approval for a Warehouse Facility/Staging Area. Applicant is Berry Petroleum – Craig Richardson

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda items a – p. In favor: Houpt - aye Martin – aye McCown - aye

GTS CONTRACT FOR PUBLIC TRUSTEE SOFTWARE – GEORGIA CHAMBERLAIN

Georgia Chamberlain submitted the contract for the GTS software to be used for the Public Trustee saying it is the Government Technology Systems contract for providing the Public Trustee with software and support for processing eForeclosures. Don explained the changes made to the document and addressed the insurance requirement in our contract. Basically he said the liability is very low and even if you have this firm cover you in their insurance policy, it would not accomplish anything. He wanted the Board to know this.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign the GTS Contract for the Public Trustee Software as required in an amount not to exceed $5,000.
In favor: Houpt - aye Martin – aye McCown - aye

LAND USE MEETINGS

Don is scheduled for a trip to Denver on Tuesday and thus far there haven't been a lot of legal issues in the Land Use Code discussions. This is just a work session. His absence should not stop the Board from going forward. Carolyn will be in the office if you have questions. Commissioner Houpt – has questions about the last meeting regarding the Matrix; it was decided that the Matrix will continue and then go to Section 4.

RETIREMENT FOR JESSE SMITH

Ed reminded everyone that Jesse's party will be held at 2:00 P.M. for Jesse Smith on Tuesday, January 8, 2008 in the BOCC meeting room.

ABATEMENT FOR 319 PROPERTIES, LLC – SCHEDULE NO. R41634 – LISA WARDER

Lisa Warder presented the abatement and provided that the petitioner states that the taxes assessed against the property for property tax year 2005 and 2006 are incorrect. Lisa said this is correct and was due to overvaluation that occurred due to a clerical error.
Lisa testified that the applicant was notified by letter.
The assessed value stays the same for 2005 and 2006 because the assessed value would stay the same in 2006 because this in a non-evaluating year.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to abate the taxes for 2005 and 2006 in the amount of $1,604.36 for 2005 and $1,596.81 for tax year 2006 due to a clerical error that over valuated the property for Schedule R051634. In favor: Houpt - aye Martin – aye McCown - aye
LIQUOR LICENSE TRANSFER OF OWNERSHIP. THE APPLICANT IS BEAU JO'S GLENWOOD SPRINGS LLC D/B/A BUFFALO VALLEY INN – JEAN ALBERICO
Jean Alberico, Franklin Bair, and Randy Sawatsky were present.
Jean Alberico presented the transfer of ownership and explained the changes in the application. She submitted Exhibits: Exhibit A – application; Exhibit B – sign that was posted; and Exhibit C – Proof of Publication that occurred on December 28th. Chairman Martin entered Exhibits A – C into the record. Jean explained the applicants are leasing the restaurant and property formerly owned by Kurt Wigger and they plan to make this into a pizza restaurant. This was submitted to the Department of Revenue for concurrent review and the investigation and background checks have been completed and there were no problems. There are other Beau Jo's in Colorado. Franklin stated they are retooling the place but intend to have the same menus as Kurk for the time being. He wants to determine what's working and if we can we will do things better as to the original menu. After some time, he will maintain Prime Rib and Steaks and add the Pizza menu. He wants to wait for a couple of months to get all this worked out. No changes are planned on the interior or exterior. The motel is not included in the liquor license. He is very happy that he doesn't have that ability. Staff members have been trained and most are already working there. This month they will be training on tip certifications and have a certified trainer on the staff.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt that we approve the transfer of ownership for Buffalo Valley to Beau Jo's of Glenwood Springs. In favor: Houpt - aye Martin – aye McCown - aye
ABATEMENT – NOT ON THE AGENDA - LA ROCA ASSEMBLY OF GOD – CLADC
Lisa Warder and Associate Pastor Paul Perea were present.
This abatement was removed and a letter was sent to the Church, however, Associate Pastor Paul Perea representing the Church was in attendance. Lisa Warder returned with the abatement and the corrections were submitted during the hearing.
Schedule R005292
LA ROCA ASSEMBLY OF GOD - CLADC
Pastor Paul stated he didn't have any objections of going forward today. He was not aware that the hearing had been canceled due to a clerical error from the Assessor's office. Lisa explained that the taxes assessed against the property for property tax years 2005 and 2006 are incorrect because the Division of Property Tax has determined that this property is granted exemption effective January 1,2005. The taxes to be abated are for 2005 a total of $2,504.18 and for 2006 a total of $2,503.68. Don – technically the correct way is to put it on the agenda as this is the requirement.
The Board determined to move forward.
Commissioner McCown moved to close the public hearing. Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown - aye
Commissioner McCown moved to approve the abatement for $2,504.18 for 2005 and 2,503.68 for 2006
Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY WITHIN THE RESOURCE LANDS – PLATEAU ZONE DISTRICT. APPLICANT IS RUBEN AND STEPHANIE OLDLAND – CRAIG RICHARDSON
Craig Richardson, Michael Howard, Deanne Walker of ConocoPhillips, lessee of the property and Ruben and Stephanie Oldland were present. Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue. Posting was on Rio Blanco CR 5. Chairman Martin swore in the speakers. Craig submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; ; Exhibit D – Staff report; Exhibit E –application; Exhibit F – Email from Deanna Walker, Conoco Philips, dated 12-21-2007; Exhibit G – Email from Steve Anthony, GarCo Vegetation Management, dated 12-21-07; Exhibit H – Memo from Jake Mall, GarCo Road and Bridge Department, dated 12-10-07; Exhibit I –Letter from Town of Parachute dated 12-18-2007; and Exhibit J – Letter from Linda Jones (BLM) dated 1-7-2008
Chairman Martin entered exhibits A – J into the record.
REQUEST
The Applicant is requesting that the Board of County Commissioners approve a Special Use Permit to allow the construction and operation of Communication Facility. The proposed Communication Facility will consist of one (1) tower (100-feet tall), an equipment building (8ft x 20ft), a solar array electric source (primary source), backup propane generator and a 500-gallon steel propane tank.
The proposed use will not require water or sanitation services. As represented, electricity will be provided via a 16ft x 4ft solar array. A fifty (50) horsepower propane generator will service as a secondary source of power.
The proposed facility will be accessed via Rio Blanco County Road No. 5. Staff referred the application to Rio Blanco County. No comments were received in regards to this application.
Garfield County Road and Bridge Department reviewed the application material and finds the proposed facility will not impact Garfield County infrastructure. The proposed facility will be situated in a remote portion of Garfield County.

The Applicant represents that the nearest residence is approximately eight (8) away. Lighting will not be utilized at the proposed facility. Staff finds that the proposed facility will not impact the established neighborhood character.
Staff has included a recommended condition of approval requiring compliance with all Federal, State and Local regulations applicable to the operation of the proposed facility. The applicant has represented that the Federal Communication Commission will be provided with a "Notice of Construction".
The Applicant represents that co-location was considered. Their research indicated that one (1) 30'-40' tall communication tower exists in the immediate vicinity of Conoco Phillips Company's proposed facility location. Due to interference and the significant amount of equipment, height and location the existing facility is not adequate for the Applicant's needs. The height of the proposed communication facility is one hundred (100) feet. Resource Land Zone District only identifies a maximum height requirement for residential Structures. The proposed Communication Facility is situated in a remote portion of Garfield County. Staff finds that the natural topography provides adequate screening for the proposed facility.
STAFF RECOMMENDATION
Staff recommends approval of the proposed Special Use Permit allowing a "Communication Facility" on a property owned by Reuben and Stephanie Oldland with the following conditions:

1) That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2) The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
3) The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests;

Applicant: Deanna Walker submitted their application and stated that co-location is not feasible. They investigated the sites prior to making this application for a new site location. The tower is to provide safety for their operations, better communication and assist staff. This is for radio communication, well pressures, information, etc. She stated that others could co-locate on this site however each application will need to be looked into on a case by case basis.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit allowing a communication facility with the 3 conditions as recommended by staff.
Commissioner Houpt seconded. We're seeing a lot of applications for these types of towers and appreciated the explanation on the reasons it was not suited for a co-location site already existing.
In favor: Houpt - aye Martin – aye McCown - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A COMMUNICATIONS FACILITY FOR VERIZON WIRELESS. APPLICANT IS GLENWOOD COMMERCIAL, LLC (DAVID HICKS) – FRED JARMAN

Fred Jarman, David Canard of Verizon, Jeff Wuerker from Prince Creek Construction and Ann Closser of Closser Consulting for Verizon representing the landowner were present. Michael Howard reviewed the noticing requirements with the applicant. There was no returned receipt John Horch and the City of Glenwood Springs. Michael determined the notice was properly and timely published in the Glenwood Springs Post Independent; signs obtained from the Building and Planning Department were posted on Hwy 82 on November 20, 2007 and they are still in place. Photos of the signs as posted were submitted. Michael advised the Commissioners they were entitled to proceed. Chairman Martin swore in the speakers. Fred submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – application; Exhibit F – Letter from Norma Hughes dated 12-14-07; Exhibit G – Minutes from 11-05-07 public hearing; Exhibit H – Letter from Ann S. Closser to the County dated 11-07-07.; Exhibit I – email from David Closser dated January 4, 2008; Exhibit J –Letter from Kris and Don Lynch dated 1-1-08 to Commissioner Houpt; Exhibit K – Letter to the BOCC from Kris Lynch dated 11-5-2007; Exhibit M – Letter to the BOCC from Don Lynch dated 7-11-2005; Exhibit N – Letter to BOCC from Don Lynch dated 11-2-2007; Exhibit O – Letter from Sharon Stephenson to Kris and Don Lynch with a cc to the Board; Exhibit P – Letter to Commissioner Houpt dated 1-1-2008 from Mike and Judy Wadyko; Exhibit Q – data of dropped calls – ineffective attempts from Verizon; Exhibit R – Design with Cupola; Exhibit S – predicted emissions per the FCC Standards, worse case scenario; and Exhibit T – property value studies. Ann Closser stated that she didn't see the letter from Norma Hughes; a copy was submitted to Ann. Commissioner McCown stated that he had also received the three (3) letters referred to in the exhibits from Kris and Don Lynch. Chairman Martin entered Exhibits A – T into the record.
Fred gave his staff report saying this antenna is to be located on the 4th of 4 buildings closest to the highest slope on the property. They have the building permits but the building has not been constructed yet. These are below the roof line. Fred showed various slides in his power point and explained the images to the Board. He identified the various locations and surrounding land uses in this zone district. Two months ago, November 5, 2007, the outcome of that public hearing ended with a tie vote due to the absence of Commissioner Houpt. Fred included the minutes of that last hearing, however the applicant has provided more information including a map and matrix and Fred pointed these out in his presentation. He identified the sites Verizon stated they had investigated.
REQUEST
Verizon Wireless requests that the Board of County Commissioners (the BOCC) approve a Special Use Permit (SUP) to allow a "Communications Facility" on a property located on 2550 Highway 82. The Applicant proposes to build a new communications facility for voice and data transfer and will be built on the roof of the 4th building away from the highway.
PROJECT INFORMATION
The proposed facility will be the furthest from the road of the four (4) buildings. (The subject building is in the construction process). The wireless facility will have 3 primary components: the antennas, equipment to support the antennas, and a back up generator to keep the facility running in the case of a power outage.

There will be two sets of four (4) panel antennas. Each antenna will measure around one (1) foot wide and four (4) feet tall. One set of the four will be mounted on the roof of the building at the east end. The other will be mounted to the vertical gable surface at the west end of the building. Some of these antennas will not be visible from the highway while others are minimally visible. The equipment to store the antennas will be located within the structure on the ground floor of the building. In addition to the electronics and support for the antennas, backup batteries will be installed in the event of a power failure. Additionally, backup diesel generators will be located outside the building adjacent to the equipment room. This generator will run once a week for 30 minutes as a maintained measure and in the event of a power failure. The zoning map shows the subject property is located in the County's Commercial General Zone District. It is surrounded by Commercial General zoning (in the City) to the west; a four-lane State Highway, cemetery, and Commercial General zoning to the south; Commercial General zoning to the east and BLM to the north. While the property itself (and most of the adjoining properties are developed in a commercial nature) the properties to the east are predominantly residentially developed. Staff referred the application to the following review agencies and/or County Departments:

City of Glenwood Springs

The referral was sent on October 3rd, and in the response received by Building & Planning Staff from the Director of Community Development stated the following:

> "While the proposed antennas are relatively low profile, according to the view plane analysis included in the application, it would be preferable if they could be enclosed, screened from view or incorporated into the building's design. We appreciate the efforts made to co-locate this facility but understand that this was not possible. Any efforts to reduce the visual impact of the antennae array would be in the City's best interests."

This is an unmanned facility. Water and sewer services will not be required.

Once the construction is complete, the site will be visited once or twice a month by a technician in a small truck for routine maintenance. Phone and electrical services will be required and will come from existing services at the Glenwood Commercial property. Current street improvements are adequate to accommodate the traffic generated by the operation of a communication facility on the subject property.

The proposed facility will be located approximately 420 feet from Highway 82 and will be minimally visible from the State Highway 82 right-of-way. It appears that both sets of antennas will be virtually impossible to see from State Highway 82. The antennas on the Glenwood (west) end of the building are below roofline and will not skyline over the roof and blend against the end of the structure. The antennas on the Carbondale (southeast) end of the building will be visible from some of the residences east of the property as they are on top of the gable roof. It is important to note, this standard (5.03 (C)) equips the Board with the ability to require screening in order to "minimize impact on adjacent uses…in such a manner as to protect established neighborhood character." It is important to point out that single-family dwellings are a "use-by-right" in the CG zoning whereas Communications Facilities require "special use Permits" that require a public hearing due to potential impacts and are not a use-by-right. For this specific visual impact to those few residences to the east, the Board should consider the possibility of requiring an enclosure around the antennas to minimize their visual impact. The Applicant has stated that "All Verizon Wireless facilities comply with the FCC emission requirements" and has provided the Universal Licensing System (ULS) License held by Verizon Wireless to establish such systems in the State of Colorado. Should the Board approve this Special Use Permit, Staff suggests this standard be a continual condition of approval. As the Board is aware, this Application was denied previously on November 5, 2007, in part, due to the lack of information showing that there were no other locations that allowed co-location. Further, this new building upon which the antennas were to be erected constituted a new facility. The motion in the minutes from that meeting are included here (and attached in full) for the Board's reference:

Commissioner McCown – I make a motion to approve the special use permit for a communications facility with conditions from staff deleting Condition No. four (4) and to emphasis and question No. five (5) by including run times will be conductive to area setting and that the generator will be outside, it will not be in an existing building but it will be in a concrete wall structure to also impede the sound and I believe that was testified to by the applicant.

Chairman Martin – all right we have a motion, I'll second the motion and we'll have a discussion and go from there.

Discussion:

Chairman Martin – any words of wisdom.

Commissioner McCown – they answered pretty well all of my questions; all have been answered by the applicant, I know there's a lot of concerns by the citizens, I don't think that, well I know for a fact that this is not something you have to acknowledge to a person, its not something you have to tell someone that if you're selling the property that there is some type of a communication facility within x number of feet of your parcel and I guess the way the real estate market is in this area, I can't even envision that something as iniquitous as what's proposed here today would have any adverse effect four hundred and twenty (420) feet away from Highway 82 and barely visible and that's why I chose to remove the structure. I think the structures surrounding the antenna would have been more obnoxious than just the basic four (4) antennae that's proposed, I don't think you'll see the ones on the other end at all. But I cannot believe that it would hurt the sale of homes, if it were a large steel tower proposed with a flashing light on it because of the airport maybe, I don't know, but this one I don't think the average person would be able to find it if you were asked to locate it. That's why I made the motion to approve.

Chairman Martin – and I seconded the motion. I find other issues that are there and that happens to be the number one (1); we've always encouraged to make sure that we brought telecommunications and towers and I think we were the first one in the area to go ahead and have rules and regulations in reference to that back in ninety six ('96) ninety seven ('97); we also encourage extremely hard that we do co-locations and there are numerous areas that have co-locations and that's one of the reasons is because it's not acceptable in a lot of neighborhoods. We've done everything we could in reference to view shed, location to the neighbors, in and under federal regulations you can't deny because of health issues, uh but uh it's not acceptable in the neighborhood, it may not be in the best interest of the neighborhood and those that live there and uh the building is not even built yet so its not an existing site, so it will be a new site. With all that I'll have to make a decision in the next thirty (30) seconds and we call for the question. All those in favor?

In favor: McCown – aye <u>Opposed</u>: Martin – aye; Houpt – absent

Chairman Martin - I opposed simply because I think it is new and we do have existing sites that are more acceptable to the neighborhoods because they are there and can be used by Verizon which they are using in other sites. I just want to see that we maximize our sites as we did in Carbondale and New Castle and in Rifle – I'll like to see that happen. I find it is a tied vote, at that point it is not a positive vote, and that it dies.

Michael Howard – correct. Therefore we need a motion in the negative.

Chairman Martin – all right. You are correct on that one. And I'll probably get the same issue and that is I'll make a motion to deny because it is not in the best area, it is not a co-location site but it is a new site, that other sites are available within the area that would fit the use and that this site itself is not crucial to the operation of Verizon, that it still can function, it only is an enhancement to their service and therefore I say please use existing sites in the motion.

Commissioner McCown – I will second for discussion. Chairman Martin – I knew you would. Commissioner McCown, and merely state that if the first tower was never allowed in Garfield County, there would never be co-locations and this is a tower and the facility owner has already said he would have no problem with co-locations so maybe it would only enhance future co-locations in the area as opposed to not allowing to exist anyway. Chairman Martin – in agreement I think Verizon is a company we all use; I have nothing against them I just think the location is a new site and we promised our citizens that we would limit those sites and use co-location sites and we try to encourage that and I've not heard any evidence saying that it is absolutely crucial that the service would end if this site was not approved. So therefore I say it is just an enhancement to the existing site and call for the question, all those in favor?

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

New Information provided by the applicant:

In response to these comments, the Applicant has provided additional information in the new application materials that specifically includes a map and supporting matrix that identifies 12 sites that Verizon considered but wouldn't work for various reasons that ranged from engineering challenges, owner agreement issues, and County height restrictions. The materials also point out 18 other FCC Registered Antenna Structures with no reason why those sites wouldn't work.

As the standard points out, co-location is encouraged (not required). The Applicant has provided information about other sites, but it appears these are all virgin sites and not existing communications facilities that would meet the intent for co-location. As such, the Applicant has not demonstrated that co-location on existing sites is not possible. This standard has not been met primarily due to:

1) It is unclear if the 12 sites sought by Verizon were existing communications facilities (that would allow co-location) or virgin sites; and
2) There is not enough evidence provided in the application materials that demonstrates that there are <u>not</u> co-location opportunities with the 18 FCC Registered Antenna Structures.

The proposed Communications Facility is not considered a free standing facility as it is proposed to be located on a proposed building in the CG zone district. The maximum allowed height in the CG Zone District is 35 feet. A strict reading of the building height calculation in Section 2.02.09 of the Zoning Resolution of 1978, as amended measures building height as "The distance, measured vertically, from the undisturbed or natural ground surface at the mid-point between the front and rear walls of a building to the top of a flat roof or mansard roof or to the mid-point between the eave line and the peak of a gable, hip, shed or similar pitched roof." Based on the original natural grade, as illustrated above, the measurement of the building height (based on the definition of height in the Zoning Resolution) begins at 24 feet where the natural grade of the site once existed. The highest point of the building terminates at 22 feet 3 inches from natural grade. The proposed antennas, which are a total of 3 feet 3 inches, terminate at 25 feet 6 inches from natural grade. This meets the strict interpretation of the Zoning Resolution and is below the maximum height of 35 feet in the CG zone district. In order to prove original natural grade, the Applicant provided an elevation showing natural grade and the wireless facilities stamped and signed by a surveyor licensed to practice in the State of Colorado. [As a practical matter, based on today's existing grade, the structure will terminate at 46 feet 3 inches at its highest point with the wireless facility terminating at 49 feet 6 inches.] Again, these antennas are not "free-standing" antennas as the standard envisions; rather, they are proposed to be located on a proposed commercial building that is a use-by-right in the zone district. Staff finds locating antennas on existing (or soon to be existing) structures such as this large commercial building to be preferable than erecting antennas on a free-standing tower requiring a new footprint dedicated solely to the facility. Additionally, by locating on a building, they can often be incorporated into the architectural style of the building making them less visibly intrusive. Staff continues to recommend (should the Board approve the Application) that the antennas be screened or incorporated architecturally into the structure because, while the antennas will not be visibly impacting to those traveling State Highway 82, they will be visible by the adjacent properties to the east that have been residentially improved.

STAFF RECOMMENDATION

At this time, Staff cannot recommend the Board approve the request for a Special Use Permit to allow a "Communication Facility" for Verizon Wireless on the property owned by Glenwood Commercial, LLC specifically finding that the following standard (5.03.13(2) of the Garfield County Zoning Resolution of 1978, as amended) has not been met for the following two reasons:

1) It is unclear if the 12 sites sought by Verizon were existing communications facilities (that would allow co-location) or virgin sites; and
2) There is not enough evidence provided in the application materials that demonstrates that there are <u>not</u> co-location opportunities with the 18 FCC Registered Antenna Structures.

5.03.13(2) The co-location of telecommunication facilities on one site is encouraged and the denial of a landowner / lessor of the co-location of a site shall be based on technical reasons, not on competitive interests. It is the County's policy to minimize the number of communication facilities by the encouragement of co-locating such facilities.

Applicant:

Ann Closser stated that Fred had covered the issues and explained why the existing sites do not work. She submitted a handout of a series of coverage from the FCC registered sites and in her presentation she will show why they do not work. Ann fully explained the 12 different locations and addressed the variety of predominant factors as to why these locations would not work which included the following: height, willing landowners, engineering aspects, environmental issues, and not able to come to an agreement with the landowner. She stated they are not pursuing any other site at this

time. Commissioner Houpt said she may ask Ann to explain the technical considerations more fully and referenced the last application where the applicant addressed their issues and justification for a new site for their tower.
David Canard addressed the sites - American Furniture, Wal-Mart, Harley Davidson, the site across from the Rosebud Cemetery and why the Glenwood Commercial Building as proposed is the ideal location. Ann said the technical piece of this is that when they left the hearing in November, they pulled up all the available sites of which they had already looked at three of the twelve. A lot of this is driven by the topography and referenced Exhibit M – the coverage maps. She mentioned this site is essential to Verizon due to the lack of coverage in this particular area and the number of dropped calls or inability to make calls. The average of calls in this area is 40 per day and they lose 8 calls per day. She believes this to be a very conservative estimate. Ken Vareles – Engineer with Verizon, stated that he looked at all the data over a period of 9 days to generate his report and added it was a rough estimate. Some calls were dropped and others were not. The early morning and evening rush hour is where the most calls were dropped.
Ann Closser addressed the staff comments regarding a cupola to enclose the antenna and considerations of the landowner were also a factor and they had to shrink down the number of antennas from four (4) to two (2). She explained these would be mounted flush on the gable. Another concern of the neighbors was the time of testing for the back-up generator. She suggested that the neighbors could select a time and that would be acceptable to Verizon. The other concern of the neighbors was the health effects and even though these can not be considered for denial, she submitted the FAA emission standards and even with every radio playing, people talking on cell phones, TV's etc. the emissions from these antennas are well below the FAA standards. Ann also submitted and discussed the Exhibit T regarding property values with data to support the conclusions that there was no negative influence on property values. Exhibit S was interpreted by David Canard saying 1.69% is the highest level of their emissions generated from this installation. Ann summarized that they have addressed all the concerns. Commissioner McCown understood the importance of this tower due to the lack of the coverage or offloading of some of the existing towers causing the problem. He asked how you would weigh the importance of this site. David responded that 40/60 capacity for calls in this area would benefit from this site. Verizon has a concern for emergency calls that could possibly be dropped or unable to be made without this coverage. Commissioner McCown asked David to explain from a layman's standpoint that if this is denied again and people continue to subscribe and with the increase in usage would you suspect the coverage in this area would worsen. Ken Vareles stated the situation would get worse.
Commissioner McCown said he understands that during peak times the coverage areas can overlap with existing towers on say Lookout Mountain but during travel times in the am and pm a lot of cell phone usage occurs in the blind spots and it also shrinks the availability for cell phone usage in that area in case there are traffic accidents and/or other emergencies. Ann – We have been looking for a site for a long time and the numbers of subscribers have increased in the last two years; we are not trying to develop a new site for the sole purpose of a site, this will serve a great need that already exists. Commissioner McCown – noted in the reports that Verizon is big in Denver, Colorado Springs and Garfield County so what is this relevant to. What brought Garfield County into the 3rd level overall?
David answered it is not only Garfield County but the traffic going to Aspen from Garfield County; this area sits below the ridge and then a lot is just tourism. We can see cycles in the usage and some increase in population.
Commissioner McCown - so that means the towers have to be closer together. Fred – referenced the matrix on Number 7 at the Mini Storage saying Verizon referenced the soil conditions; and second let's say the motorcycle shop was viable and Verizon could construct towers, what were the terms that deemed these sites inappropriate. Is it the beam of light or the direction of the signal? How different; would there be a different impact to the residents near the proposed site or the same. David Canard said it would roughly be the same; in this installation there is a wider beam to have overlap and using the two sectors there has to be 120 degree separation. Regarding the soil, we had an environmental study and the results came back that it was contaminated soil and environmentally unsafe. Chairman Martin said there was once an old bulk station was there and created the possible contamination. Commissioner McCown asked if this answers all the questions raised regarding the new site.He asked Fred if this would this change his recommendation?
Fred stated that they have done a good job providing you with 30 sites and have addressed the visual impacts of the residential area and in looking at the comments with the health issue off the table and the new cupola addressing visual concern, then yes, these were two very important things and we would support this application now.
John Horch – Hwy 82 – owns a single family home and he is opposed. He said it seems like a financial gain as opposed to thinking about the families. Commissioner Houpt – asked if anything you heard or saw today would make it more comfortable. John – 300 feet affects everybody in the residences. He runs the river and has never had a problem with Verizon wire service. John Colby – 2562 Hwy 82, the list they went through and he didn't notice but asked if BLM or the City of Glenwood cemetery location as considered. Chairman Martin – the one site for the cemetery is across the street from the cemetery and south of the location where it is being proposed now. No, BLM doesn't allow too many things on BLM land without going through a whole litany of environmental studies and other things and it is a lot easier to do it on private land. The sites mentioned were at the Glenwood Springs Airport which is called the Rodeo Grounds but it was not tall enough. One at Kinder Morgan and another was the Rising Sun Mechanical, a residential place at 3650 Hwy 82, the water tank on Four Mile was too tall; American Furniture, Grease Monkey, Maltese which is not a vacant building across from Berthoud Motors and Wal-Mart as well as the Colorado West Upholstery – those are the ones they looked at as well as the ones that were existing and identified upon the screen. Chairman Martin – couldn't use that site that the City approved because they couldn't come to terms with the landowner. Jamie Campa - I have been told in the past that my neighborhood is zoned commercial/residential and feel the residential should be considered just as much if not more than commercial because of the homes that have been built there and the investments we have made in the property that we own. My home was bought in 1981 and I will be 55 years old this summer and the homes were not only purchased for me to live in but as a place to retire not only for me but for my parents as well. It is also providing an income upstairs as a rental for my parents. We're deeply concerned about the property value of our home and for our neighborhood. We have talked to Sharon Stephenson and she feels it would be very hard to rent the top part of our homes once people knew the towers were in our backyard. We have also talked to realtors about if we were to ever sell the place and if they felt it would be very hard to sell because again no one wants towers close to their homes and that our property values would decrease. You were greatly concerned about our cell towers being placed just a few feet in front of my home when this came about and would appreciate it if you would take into great consideration about

the cell towers being put behind my home as well. They will be sitting next to Ms. Hughes home and the radio frequency will be shooting through our homes, not only just in front and beside. This is the 4th time we've been before you with our concerns and have greatly appreciated you listening to us. The times we have come before you, you have stressed to Verizon that you also feel that there are other locations that they could purchase or put cell towers on, you have mentioned that there are already locations in the County that already have towers on them and they're available to put towers on other than residential areas. All of us in our neighborhood would greatly appreciate you voting no on the towers being put in our neighborhood based on the fact that there are other places they can go. The lady from Verizon said that the other sites were not acceptable for environmental purposes, why is my area not being considered for environmental concerns. Ingrid Hawkins – resident at 3410 Glenn Avenue which is on the opposite of the Glenwood Commercial and noticed on one of the photographs you have Royal Mini Storage and it is actually Glenwood Self Storage, the owner is Nancy Byers who resides in Vail and she could not come due to weather but wanted me to ask; this has come up several times before and she wanted to know why after it was denied why we're back here again. If something is denied once then it should stay denied.
Chairman Martin informed her that Verizon had more information to present for this Board's reconsideration and they can reapply and there is no limit to the number of times they can apply.
Commissioner McCown – this was not a denial; it was a tied vote and therefore it was a lack of action because of a tied vote. Commissioner Houpt posed the question to homeowners since she was not at the last hearing but does remember the previous hearing; if any of what you're seeing now with the frequency, the power density and the consideration to reconfiguring the eastern part of the tower, would any of that change your feelings about having this in your neighborhood if you feel perhaps Verizon has answered any of your concerns with that. No comment.
Ann – we feel hopeful that enough information has been given about the anticipated emissions relative to this installation and it is just negligible relative to other household appliances that are in excess and for example cordless phone and microwaves are 25% and 33% of the FCC standard and what's 2% of the standard and what does that mean. There is a lot more ambient RF in our households than will be generated from this cell site.
Commissioner McCown asked Fred if he has conditions in case this goes forward.
Fred – could list off a few; one is all representations of the applicant during the public hearing are considered conditions of approval; the backup generator and the times to do this will be when it is the least impactive to the neighborhood; obviously the FAA and FCC requirements; that the screening occur as they proposed; the cupola and the change in antennas from 4 to 2 on the east end but no change on the second set of antennas.
Commissioner Houpt – is there any reason you're not proposing the same architectural approach to the west side as you are to the east? Ann – originally we had proposed to have all the antennas on the roof on both the west and east side but as I indicated, the size of the screening device, the cupola was big and not acceptable to the landowner and that's a key driving factor as well if the landowner says no, so in an effort to minimize the visual impact we brought that one set down onto the gable or wall mount. It works better to have them on the roof actually but as a concession we brought those down. Commissioner Houpt – are these frequency levels taking in mind the number of antenna that you'll have in operation. Ann – definitely and the numbers will be comparable if not less but instead of having two send antennas and two receive antennas, each antenna will be both send and receive so it will bring it down to two antennas on the east side that are on the roof so we can shrink the screening. David Canard – this study was run with all of the radio channels transmitting down one antenna so if we're going to be using two transmitter antenna, theoretical those numbers would be cut in half per antenna but we'll still have four antennas on that east end but they'll be two in one radio as opposed to four individual antennas. Commissioner Houpt – so the cumulative impact you multiple by 4? David – divide by 2. That with the max with all the radios out of one transmitter antenna and they'll be 2 to split so you'd divide that by 2 – you'd have ½ going out one antenna and ½ going out the other antenna so it would be less per antenna. The cumulative impact would be unchanged.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown we approve the permit for a Special Use Permit to allow for a communication facility for Verizon Wireless to be located at David Hicks location with conditions
Number 1 – that all testimony today by the applicant will be conditions of approval; Number 2 – that the generator time be agreed to by mutual agreement of the closest neighbors on when that time will be automatically set to run during the course of the day to test the generator and 3) that the antenna grouping on the east end of the structure would be enclosed in some type of a cupola or architectural design on the top of the building therefore hiding the antenna itself. Commissioner Houpt – and 4) that it be below the roof surface on the west end.
Commissioner McCown – I don't have a problem with adding that. Commissioner Houpt – I'll second the motion.
Comments: this has been a real interesting discussion because I didn't feel as if I had enough information coming into this and appreciate the fact that you came with information and were able to answer my concerns and I appreciate the fact that you spent a lot of time looking for other sites and analyzing existing sites to see if there would be a place that would work well for this. I also think that it's very important that people understand the impact of these facilities and I think the more educational information you can bring forward to the people the better. And again I think your rendering clearly helps with the visual impact that this type of facility can have on an area. I hope that you will continue to communicate with your neighbors if this goes forward. Fred – need for clarification on Larry's position on the generator, this is kind of loose and trying to figure out who's the closest neighbor, it might be better to perhaps pick a time. Commissioner McCown – Why don't they just pick a time, and if the neighbors bitch they can change it. Commissioner Houpt – Or why don't they meet with the neighbors. Commissioner McCown – that's what I said in my motion, but that was too loose. Commissioner Houpt – I really think meeting with the neighbors is what the intent of that was. Fred – How do we meet, that is my question. Commissioner Houpt – All of the residential neighbors have a neighborhood meeting with Verizon. Commissioner McCown said you have to be reasonable because there's going to be people 150 foot from this that will not be able to hear it. I can't see notifying everybody in 1000 foot radius to come to a meeting as to when you want the generator to run. Fred – It might be better to say a time certain.

Commissioner McCown – Let's say from 12:00 to 12:30 on Tuesday of every week. Ann – That's fine. Commissioner Houpt – Well this doesn't get to your condition and I wouldn't agree with that condition. Fred – How do you envision of achieving this consensus, if no one can agree then they can't meet the conditions to get the permit issued. Commissioner McCown – So, I amend my motion to every Tuesday at 12:30 p.m. and if that meets with some problems then it can be adjusted. Commissioner Houpt – you could be adjusting that, I think in the past we've seen developers be able to meet with neighbors and come up with some consensus time. If this application is approved today, there's a mandate that this is going to occur and it would appear to me that everybody would want to work together with each other and come up with a time certain; I don't think that you can randomly chose a time and expect that that's going to be appropriate for every neighborhood. Commissioner McCown – what if each of 5 neighbors has a different opinion on what time it should run and there's no consensus. Commissioner Houpt – well I would rather have a condition that would initially invite that input in and if they can't come to consensus, then the operator will pick the time that they think is least impacting. That way people have a reason to come to the table and come up with a consensus time. Commissioner McCown – that's what my initial motion said. In favor: Houpt - aye McCown – aye Opposed; Martin – aye – I still oppose; I still think there are better sites that I could find myself but that's all right. We'll live with what we have – it is approved.

CONSIDER A REQUEST FOR A PRELIMINARY PLAN APPROVAL FOR PIONEER GLEN SUBDIVISION. APPLICANT IS SPECIALTY RESTAURANTS CORPORATION. – FRED JARMAN

Fred Jarman, Toby Guccini CR 214 and representative Deric Walters of Boundaries Unlimited; and Mark Hogan project planners representing SRC were present. Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue. Chairman Martin swore in the speakers. Fred submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; ; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff report; Exhibit G – Office of State Engineer, Division or Water Resources dated 6-20-07; Exhibit H – ISDS Design and Performance Standards dated 10-22-07; Exhibit I – Applicants meeting notes from site visit dated 8-17-07; Exhibit J – Colorado Geological Survey response dated 6-22-07; Exhibit K – Grand Valley Fire Protection District response dated 6-5-07; Exhibit L – Division of Wildlife response dated 6-14-07; Exhibit M – Town of Parachute Mayor response 6-13-07;Exhibit N – Email from Environmental Health Manager response to ISDS Management Plan dated 9-19-07; Exhibit O – Email from Road and Bridge concerning the location of the proposed subdivision road dated 9-19-07; Exhibit P – Mountain Cross Engineering response 9-17-07; Exhibit Q – Memo from applicant to staff regarding project issues dated 10-10-07; Exhibit R – Letter from DWR dated 9-25-07; Exhibit S – Memo from applicant to staff regarding project issues dated 12-18-07; Exhibit T – Applicant's fire truck ingress/egress design; Exhibit U – Applicant's revised slope analysis dated 10-10-07; Exhibit V – Applicant's traffic and site distance analysis dated 10-24-07; Exhibit W – well permits from the DWR. Chairman Martin entered Exhibits A – W into the record.

GENERAL PROJECT INFORMATION The property is located on the southwest side of Battlement Mesa RV Park on the Colorado River on the north side of County Road 300 also known as Stone Quarry Road in Section 24, Township 7 South and Range 96 West. The subject parcel was created as Parcel 1 of the Lynch & Chanes Exemption created by the state exemption shown below on the County Assessor's maps. Physically, the parcel contains steep slopes in the southeast corner which flatten out in a northerly direction until the property slopes down (northward) into the Colorado River.

The Application proposes to subdivide the 35-acre parcel into 6 residential lots whose lot sizes range from 3 to 4 acres in size. The proposed development appears to meet the building and planning requirements. However, it is important to note that the proposed open space is located on the slope into the Colorado River at the back of the properties with the majority of the open space acreage located on the opposite side of the River on the island. It does not appear that the proposed open space on the opposite side of the River is accessible by road or by pedestrians possibly making this area inaccessible to residents. The subdivision regulations define Common Open Space as: A parcel of land, an area of water, or a combination of land and water within a subdivision designated and intended primarily for the use or enjoyment of the residents, occupants and owners of the subdivision and which is not individually owned or dedicated for public use. Therefore, the majority of the open space is unusable by the residents due to lack of access except for possibly by water craft. The applicant will be required to submit additional information concerning access to the open space prior to Final Plat to assure that residents will have access to the space.

PLANNING COMMISSION RECOMENDATION

On October 24, 2007, the County Planning Commission recommended the Board of County Commissioners approve the Preliminary Plan for Pioneer Glen Subdivision with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. The Applicant shall place the following plat notes on the Final Plat and in protective covenants:
    a. "Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations."
    b. "No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated 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. "All building foundations and individual sewage disposal systems will be designed by professional engineer registered in the State of Colorado."
g. "Structures built on the lots will not exceed the maximum allowed height of twenty-five 25 feet as calculated by the Zoning Resolution of 1978, as amended."
h. "Lot coverage shall not exceed the maximum allowed coverage of 15%."
i. "To allow the movement of Mule Deer and Elk through the subdivision, fence heights shall not exceed 42 inches in height." In all cases, all fences shall only be erected within building envelope boundaries and there shall not be any fencing allowed to surround entire lots or the perimeter of the subdivision. (fence out issue)
j. "Lot owners are responsible for management of Garfield County listed noxious weeds on their own individual lots. The homeowners association is responsible for management of County listed noxious weeds on the remainder of the property including the designated open space areas."
k. "All streets are dedicated to the public but all streets will be constructed to standards consistent with the County Subdivision Regulations and repair and maintenance shall be the responsibility of the incorporated Homeowners Association of the subdivision."

3. In addition to plat notes above in condition No. 2, the Applicant shall place the following notes into the protective covenants:
   a. "The homeowners Association shall review and approve all ISDS designs and modifications prior to construction."
   b. "All septic tank accesses and risers shall be surface accessible to allow for maintenance, monitoring, and inspections."
   c. "Monitoring pipes shall be installed at each end of absorption fields or trenches (minimum of two monitoring pipes) to allow for inspections."
   d. "Absorption fields or trenches shall adhere to minimum setbacks as regulated by the Colorado Department of Health, Guidelines on Individual Sewage Disposal Systems, most recent edition."
   e. "Proper mitigation (diversion) of drainage and flood irrigation for the absorption field or trench areas shall be included in the design and construction."
   f. All trash cans used for outside collection within the subdivision shall be "bear proof."
   g. "For the protection of Bald Eagle and Great Blue Heron nests, large cottonwood trees, dead or alive, will not be disturbed during construction of the subdivision and will be preserved throughout the existence of the subdivision."
   h. "Buyers and builders must be aware that about 5 feet of clay is present in the shallow subsurface of the lots which can be easily eroded. To prevent damage to future homes, structures shall be designed so that concentrated runoff, from patios and roofs, would not flow into the slopes, which could cause sloughing and general deterioration."
   The 40% slopes adjacent to Lots 1 and 2 shall not be disturbed.
4. The 40% slopes adjacent to Lots 1 and 2 shall not be disturbed.
5. The Applicant shall obtain a Floodplain Development Permit from Garfield County for building the irrigation pump house in the open space area as depicted on the site plan. The Applicant shall be required to obtain approval from the County for the Floodplain Development Permit prior to the approval of the Final Plat.
6. The Applicant is required to submit additional information prior to Final Plat to assure that residents will have access to the space (for example: bridges, trials…).
7. The Applicant shall pay the applicable school site acquisition fee for the number 16 School District which requires $200 per dwelling unit. This fee shall be tendered to the County at the time of Final Plat.
8. The Applicant shall meet with Steve Anthony, County Vegetation Manager, prior to Final Plat to discuss appropriate weed management in the proposed open space areas including the island.
9. The protective covenants shall include a provision dealing with weed management on the properties including that the property owner is responsible for managing County listed noxious weeds.
10. The Applicant shall complete a water quality analysis with the minimum samples being submitted testing for bacteria, nitrates and suspended solids prior to the Board of County Commissioners public hearing.
11. The Applicant shall pay the applicable Traffic Impact Fee to be calculated and paid at Final Plat.
12. The Applicant shall meet all of the following recommendations made by the Colorado Geological Survey, which include:
    a. The ditch that conveys water across Lot 6 shall be abandoned or rerouted.
    b. Any cuts made into the steep slope on the east side of the property shall be evaluated by the geotechnical engineer for slope stability and retaining structures shall be constructed.
    c. The ditch proposed to be constructed at the base of the slope on the east side of the property shall be reviewed by the geotechnical engineer to ensure that the stability of the hillside will not be affected.

d. Building envelopes in lots 2, 3, and 5 shall be set back at least 2 to 1 (2:1, horizontal to vertical) from the base of the slopes into the Colorado River.
e. The west boundary of the building envelope in Lot 5 shall be moved back from the break in the slope.
f. Buyers and builders need to be aware that about 5 feet of clay is present in the shallow subsurface of the lots which can be easily eroded. To prevent damage to future homes, structures shall be designed so that concentrated runoff, from patios and roofs, would not flow into the slopes, which could cause sloughing and general deterioration.

13. The Applicant shall delineate, legally describe, and convey all easements shown on the Final Plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the Final Plat. These easements shall include, but are not limited to all drainage easements, shared water system easements (domestic wells and water storage tank), storm-water drainage easements, all internal roads (which will be dedicated to the public on the face of the Final Plat) and any access and maintenance easements that need to be provided for in the common open space.
14. The Applicant shall meet all concerns made by the County Road and Bridge Department, and shall be included in the SIA:
    a. The Applicant shall assure that the hill on the east side of the entrance shall be cut back so that the curve in CR300 to the east is visible. This task will have to be accomplished prior to final plat and the cut back will also have to be maintained throughout the life of the subdivision. Documentation proving this has been accomplished must be submitted along with final plat application.
    b. This cutback will have to be maintained and this shall be the responsibility of the Homeowners Association.
    c. The cottonwoods on the west side of the entrance must be cut back so that the curve in CR 300 to the west is visible.
    d. The brush between the drive and the cottonwoods shall be cleared.
    e. An 18 inch (minimum) culvert must be used at the driveway and included in the Subdivision Improvements Agreement.
15. The Applicant shall address all concerns made by Mountain Cross Engineering with Building & Planning staff prior to Final Plat approval:
    a. "No easement lines are shown for the overhead power lines on the south end of the project. Also only one of the overhead power lines is labeled as being buried. The intended design for the other overhead power line should be labeled more clearly.
    b. In the water supply plan, the engineer recommends only temporarily using well water for irrigation. The engineer recommends that permanent irrigation water be provided out of the river. No design is included for the permanent irrigation system.
    c. The fire protection storage volume that is proposed is generally less than required by the Fire Code. The Fire Protection District should verify that this storage amount is acceptable.
    d. The cul-de-sacs are longer than 600'. The road design standards allow the Board to approve longer cul-de-sacs for topographical reasons and if it can be proved that fire protection and emergency egress and access is provided as a part of the longer design. The applicant should provide evidence of emergency egress and access.
    e. Finalized well permits and negative (absent) bacteria tests should be provided for the wells at time of Final Plat.
    f. The existing drainage that meanders around the building envelopes of Lot 6 and Lot 5 should be protected within an easement.
    g. The impacts that the projected traffic is anticipated to have to the existing road is not discussed.
    h. The geotechnical engineer recommends a minimum pavement section different than that shown on the standard details for the project. No recommendations are made for the chip and seal surface that is proposed.
    i. Site specific geotechnical investigations are recommended for building foundation designs. This should be included as a plat note or within the Conditions, Covenants, and Restrictions of the HOA.
    j. The Applicant should verify that there is adequate site distance of oncoming traffic at the intersection with Stone Quarry Road.

Fred referred to condition 2i for fencing; the idea here is saying fencing if you have to do it, 42" is what you'll find. Commissioner McCown –You get into the boundary issue where this is a "fence out state" if the adjacent property owner to the west wants to run cattle they're going to encroach on this property if there isn't a boundary fence. Is the landowner going to allow it for the future lot owners. Fred – That's the issue. Commissioner McCown – we are in our planning process and I know what we're trying to do to accommodate the Division of Wildlife but we're creating other problems that have historically not been a problem throughout the age of the west and it's the "fence out rule". Today there's a boundary fence there that would have to come down if this condition were followed. Fred – That's why I'm bringing this to your attention so you can apply what you want because of that fence out issue. 3g – this is simply the issue of the nest and keeping those Cottonwoods in place for the Eagle's nest. Commissioner McCown – This is where the conflict comes in – this is not in any consideration at all of the site distance that Jake Mall alludes to – this says all Cottonwoods. Fred – That's right. There's a clarification that has to happen on that so they are not confusing the two. Commissioner McCown – wouldn't want to interfere with DOW but the ones down by the river and the island would be far more critical to habitat than these along the road. Fred –Tthat's the vision of the Planning Commission; these Cottonwoods are really off the road. The applicant stated the ones closest to the road are not shown in this photograph. Fred - No. 5 – requirement plus the permit – floodplain issue for the pump house; No. 6 is the question of a finer detail on how you will provide access down to the river so it's safe and makes sense. Commissioner McCown noted in the one drawing that showed clearly the access of the furthest west cul-de-sac but I was not clear if the access went all the way to the other cul-de-sac. It looks like it starts in the lot – the east one. As long as it accesses the cul-de-sac that's fine.

Fred – No. 8 may have been a hold over – it was highlighted so they could meet with Steve Anthony prior to final plat to discuss the appropriate weed management which includes the island. Fred's understanding was to leave the island as it right now and not take on the island weeds. Chairman Martin – Take care of the main property before you go out there. Fred – No. 9 – was water quality sample analysis before final plat to see if there was an ability to remove some of those particulates; if you purge and disinfected the water it could cure some of that. Chris Hale, engineer was asked to speak to the RO issue because there's a technical issue. Chris Hale with Mountain Cross Engineering said he has spoken with Deric Walters earlier, RO systems have a specification on the lowest particle size that you can filter out of them and disinfection is often pared with RO systems so that there isn't any Giardia and Kryptocist that make it through the system so I wanted to be certain that the applicant was using an RO system that could filter those out. I think they are willing to do that but you probably need to have that as a condition of final plat so their water quality engineer could weigh in on his opinions as well. Fred - 12a – suggested that be eliminated by the removal of the building envelopes and then No. 14 a, b, c, d & e get to the Road and Bridge comments. Then No. 15 or Chris Hale's comments – most of these are at final plat so these are technical details that can be passed on with the exception of 15d which is the cul-de-sac so that's the test on the table for the Commissioners to make a decision. Commissioner Houpt – So does 15 include Chris' condition that he just entered on the RO. Fred thinks it makes a lot of sense to add that as a condition; it could be something where these would be the technical details included in the covenants so that when a purchaser buys a lot they recognize that I've got water issues and the way to solve it is with an RO but I have to have a specific kind of RO kind of system and that would be the direction, preferable we prefer to see those as a plat notes, really both because some people don't look at their plats and some don't read through their covenants as closely as they should – it's a "buyer beware" kind of issue. Commissioner McCown – If that was a plat note wouldn't that have to be divulged at the time of sale. Fred – yes.
Mark Hogan – First of all thanks to the staff for helping us with this project and they've guided us through the process very well. We did meet with Steve Anthony on site as well as Fred and pretty much it is like you said related to the Tamarisk population on the island, there are several Russian Olive to get rid of and some noxious weeds that we looked at on site and those are identified in our report provided with the application. Secondly related to the trail we had no problem in doing a primitive trail down to the water, we don't want to build a sidewalk or anything like that, we can build it in with steps that are primitive to get down there and let neighbors and the folks in the subdivision have access to the open space down there. We do have the 16 acres of open space and we think that's a good use of that property down there. We also provided a memo Exhibit S which addressed where we were on most of the project issues, we've dealt with a number of those and provided that to kind of give an update cause we've worked on a number of those. That's in the record. Deric Walters – Exhibit T and also the site distance analysis Exhibit V. To address some of the traffic impacts and access issues here, the way that we tried to approach this project from the beginning was to look at what the topography challenges were and then to see what we could do to get our access into the site. As you can see from the plan (referring to the slides in the Power Point) at our entrance you have two very significant challenges, we've got topography on the east side and this wonderful drainage channel that runs along down along the west side. So I'm looking at what we were able to do with that at first just getting into the property. It just so happens there is one narrow spot in there where we can fit a road without having significant impacts on either or, you don't get down into the drainage and no large cuts on the hillside there that would be difficult to revegetate or to stabilize. So once we got into that we were able to get down into the part with an a road and then we starting looking at how we could do for a safe access and provide emergency personnel an ability to get into the site and get out of it without significant impacts. In this we had to determine how far we had to go to get to our first turn around and that happens approximately 450 feet where we put the T in which is less than the 600 feet maximum distance and we made that made it into a T with some larger flares so that we could provide for an ability for a fire truck to come in and turn around. One of the exhibits we gave you is an analysis of that using auto turn, not perfect but gives us a good reference and to be conservative on that, we've tried on multiple attempts to get information from the fire department but they couldn't help us and so we tried to use the largest vehicle we could come up with and that is an aerial pumper truck and we're not even sure they would bring something like that into the area but that's what we used to prove that we could provide turnaround. And then what we wanted to do was, we needed to have access for the homeowners and then we provided two short legs for the cul-de-sacs and that's where you get the one off to the east that is approximately another 250 feet and the other is about 300 - 350 feet further down. So really the egress into the site is within 450 feet and the emergency access with the T and the cul-de-sacs are large enough so they could meet their secondary. As for the entrance into the site and looking at the visual impacts coming in with the site distances, we provided another exhibit and what we did was to use the highway capacity, the geometric design of highway street standards which take into account when doing these site distances, stopping distances, you're looking at speed, looking at slope, looking at a truck and took calculations into effect to determine what types of site distances we need and from that we found the numbers that are given; we had to have 438 feet from the westbound heading in towards the site and had to have approximately 280 feet coming into the site. There was some talk when we started this project, we also looked at another site but it didn't provide enough site distance and we only had 150 feet so there wasn't any real good site distance and there again, we still had the same amount of obstruction with trees and brush and a rise in the road. So this really turns out to be a great spot provided we take out a few shrubs mostly in this area and then a little bit of soil. So once that's been removed and kept out the site distances are adequate. The speeds on this, when we did our analysis on the road out there in that section, it was only required to be at 35 mpr but we took our analysis higher because we witnessed cars going much faster than 35 mph. One last thing – Chris mentioned about the water quantity but now let's talk a little bit about the quantity for fire protection for the site. When I started the design I contracted David Blair of the Grand Valley Fire Protection District and asked him what he would like to see out there because we see quite common on Silt Mesa and other places one central 10,000 gallon or 15,000 gallon tank to serve the needs and his recommendation was for me to use one of the most recently approved projects - Monument Ridge Subdivision and what they had done and so I talked to our water resource engineer, Thomas Zancanella and he was the designer of that system, so he provided the design in this plan and it's for individual 2500 gallon tanks to be used for fire protection so the fire trucks come in there, they pop off the lid, which is sitting very close to the roadway, they drop in their pumps and suck it out and they can fight fire, it's a limited amount of water supply but to think about what's on this property with 6 of those, there's 15,000 gallons there, some will be gone

obviously from household use but from the levels set inside those tanks should be at least 2,000 gallons per tank so we have about 12,000 gallons of water protection on the site to fight fires. Commissioner McCown – Do you want to address the irrigation water conveyance system – pump house – individual irrigation system to each lot, is that what the plan is? Deric Walter – Yes I believe it is, where that came in, Tom Zancanella our water resource engineer originally did the pump test and if we had water and while the application was in process we were coming to you with sketch plan, preliminary plan, we've got some of those bits of information back onto the quality and that's when we found out the selenium levels were so high and starting putting the recommendation that obviously should be the one irrigating the property which we want them to do, we should have a secondary means so we should be putting in a converter so prior to final plat we will put together all the details for that and provide them to staff for their review before we come back to you for additional requests. Commissioner McCown – Do you have the well production rates? Deric – We do have those and they were part of the original application. Berry – I believe what I saw in here we were able to pull 5 gallons per minute without any difficulty on drawdown. Commissioner McCown – It should give the location of the river. Someone thought they were a little over 7 gallons per minute. Deric – That combined with the storage tanks we will have people with adequate water. Commissioner McCown – The 25,000 gallon will be used as a cistern to store the potable water for use at the home as well as fire – it will not be a separate 2500 gallon fire fighting system. Deric – No you are correct. Commissioner McCown – What kind of device are you recommending so that a homeowner doesn't use that down to 500 gallon and there's not adequate fire supply. Deric – There's an in tank float support system to control those levels so you can set that level wherever you want and so if it has a 3 to 4 " drawdown which would probably be in the 100 gallon range in that size of a tank, then if you kick on a pump and the wells will fill it up, you never really have to drawdown more than a couple hundred gallons. Commissioner Houpt – With that in mind Fred, you had mentioned that Chris Hale has a concern about the amount of stored water for fire, could he address that for us?
Chris Hale – Generally speaking the volume that's provided is less than what you would see typically provided for fire protection but ultimately it's up to the fire protection district to determine what they would like to see and I just wanted to make sure that loop was closed, that the fire protection district had an opportunity to weigh in on what their preference would be so I think that a letter from Blair perhaps would be in order to close that loop.
Commissioner Houpt – We haven't received that to date. Fred – Not that I'm aware of; what we need is a verbal basically from the fire chief at this point. Deric – Yes, we've attempted on two occasions to send them the information to let them know where we were sending the information requesting comments and unfortunately we've haven't been able to get a response back. Mark Hogan – We'll go down and see them. Toby – On that boundary in-between the neighbor and that drainage, there's a partial cattle fence that's been down there for years, it's not actually on the property line but over the years somebody put a cross fence on one side of that drainage part of the way.
Commissioner McCown – That's common but under this one condition that would have to come down and the only fences allowed would be on the building lot inside of the building envelope. So you're going to have cattle all over your property if we approve this condition. Toby – Only if the neighbor to the west of us gets cattle because there's a boundary fence on the other side of him to keeps existing cattle out.
Commissioner McCown – The neighbor to the west runs cattle and you take that fence down they're going to get to use this other 35 acres. Mark – You could have a 42" high buck fence at the perimeter and still meet that condition.
Commissioner McCown – not with this because it says it has to be erected within the building envelope of each lot.
Mark– In our CC&R we want each individual homeowner to confine their fencing to within their building envelope however we could have a perimeter fence at the subdivision that would be a buck fence or that type of fence that could keep . Chairman Martin – That would have to be a condition, right now it's not allowed. Commissioner McCown – And I've taken that out. Mark – as long as it's a condition and says we want each homeowner to confine the fence; they could have a buck fence. Fred – The condition the way it is written right now is that the only fence that can happen is in the building envelopes. Commissioner McCown – I have scratched that portion. Mark – We would like to keep the part about the envelopes for the individual lot owners but we would also like to fence the perimeter with a buck type fence. Fred – to meet the DOW's intent, having a perimeter fence ought to be a fence they could use – there's a number of ways they could do it – you can still fence out but you have a fence that is obviously maintained. Commissioner McCown – All the perimeter fences that have been in place for hundreds of years are now impeding wildlife.
Commissioner Houpt – it's also because they're being diverted in different directions – I can understand the DOW being concerned with that. Commissioner McCown – It's there today they're being diverted anywhere.
Commissioner Houpt – I think your idea is a good one to keep the condition that's in there in place but also add that a wildlife friendly perimeter fence can be used as well. Mark said, just on the west side. Commissioner Houpt – You wanted to be more specific? Applicant: No.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing.
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown to approve the preliminary plan for Pioneer Glen Subdivision with the conditions as recommended by the Planning Commission under number 2(i) the infamous fence condition be added that also a 42" wildlife friendly perimeter fence would be added on the west side; 12 under "a" I wasn't really sure what happened since we moved that, but does that ditch need to be abandoned now on lot 6 or is it okay now that we've moved the building envelope – so we can strike "a"; under 14c as a point of clarity these Cottonwoods need to be trimmed or cut back or near County Road 300 and are for site visibility and safety and do not contradict with the Division of Wildlife request not to bother any Cottonwoods, those are in the area of the river.
Chairman Martin – Does it meet with the cul-de-sac? Commissioner McCown – Yes the cul-de-sac with the hammer head turnaround allowed there at the road I don't have any problem proving the overall length of the cul-de-sac because it is in fact broken up by the hammer head turnaround. Commissioner Houpt – I would like to add a letter be required from the Fire District on the sufficiency of water storage for fires. Commissioner McCown – That would be 15k.
Commissioner Houpt – And do you want to add Chris' request on the RO system as a plat note – defining what system?
Commissioner McCown – That's fine but I don't think we want to be specific as to what kind of RO systems.
Commissioner Houpt – What will be covered, that was your concern. Commissioner McCown – Was it an only if its necessary; I mean we're saying that part of the problem that we came up with ecolia bacteria and the wells haven't been disinfected, if that condition goes away, and somebody wants to put up with the selenium and there's nothing harmful to

your health other that the selenium, we're going to require RO systems on everyone of those lots. But there are a lot of RO systems some large enough for the entire household, others under the sink that is for drinking water only.
Chris Hale – I'd like to be able to have the opportunity to discuss that with the applicant's engineer and didn't think that I want to suffer through trying to determine what those specifications on those RO systems would be and if disinfectant is necessary and where we would disinfect or what would we disinfect, that's why I think a condition of approval at the time of final plat would more appropriate. Commissioner McCown – I would put that into my motion and that disinfectant normally has to take place after the RO or the RO just takes it right back out.
Commissioner Houpt seconded the motion. In favor: Houpt - aye Martin – aye McCown - aye

CONSIDER AN AMENDED PLAT TO ADJUST THE LOT LINE BETWEEN LOT 1 AND LOT 3 AND ENLARGE THE BUILDING ENVELOPE WITHIN LOT 3 OF THE CLARK SUBDIVISION LOCATED APPROXIMATELY 7 MILES NORTHEAST OF THE TOWN OF CARBONDALE. APPLICANT IS THE CARLTON BEAL JR. FAMILY TRUST – DAVID PESNICHAK

David Pesnichak was present. Applicant was not present. No notice was required. David submitted the following Exhibits for the record: Exhibit A – Staff Memorandum; Exhibit B – Garfield County Zoning Resolution of 1978, as amended; Exhibit C – Garfield County Comprehensive Plan of 2000 and Exhibit D – Application.

BACKGROUND AND DESCRIPTION OF THE PROPOSAL

This is an amended plat application to amend the property line between the Lot 1 and Lot 3 and amend the Building Envelope within Lot 3 of the Clark Subdivision. According to the Applicant:

> The purpose of the proposed application is to accomodate a building site for an agricultural building/barn and result in the building being located on 1 lot as opposed to split over 2 lots. Brian and Lauren Sherry, residents of the property, have full permission and authority to transact all business, process any required paperwork or documentation and represent the owners in any other capacity related to this application and subsequent matters. Their Contact information is below. If you have any questions or require any further documentation please contact Mr. and Mrs. Sherry or our legal representative for this matter, Adam Gillespie. Thank you for your attention to our application.

Following a review of the proposed Amended Plat, it is evident that no new development potential will be created. In the end, the request is to expand Lot 3 from 10.68 acres to 11.90 acres and reduce the size of Lot 1 from 20.47 acres to 19.12 acres. In addition, the Applicant requests that the building envelope shown on the Final Plat be increased in size from 0.72 acres to expand out to the setbacks as defined in Section 3.02 of the Zoning Resolution of 1978, as amended. Following a review of the Final Plat, there does not appear to be any restrictions which would prohibit the building envelope from being expanded or prohibit an adjustment of the boundary lines between Lot 1 and Lot 3. All of the lots within the Clark Subdivision are currently owned by the Carlton Beal Jr. Family Trust. One owner owns all the lots.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of the Clark Subdivision shall be shown or referenced on this amended plat.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the amended plat with the three (3) conditions of staff. In favor: Houpt - aye Martin – aye McCown - aye

CONSIDER A CONDITIONAL USE PERMIT FOR A HOME OCCUPATION CONSISTING OF AN ANIMAL MASSAGE CLASS WITHIN AN EXISTING HOME AND BARN LOCATED APPROXIMATELY 1.5 MILES EAST OF THE TOWN OF CARBONDALE AND DESCRIBED AS 421 PONDEROSA PINES WAY (LOT 2 OF THE MAYFLY BEND SUBDIVISION). APPLICANT IS ROB AND LISA SPEAKER. – DAVID PESNICHAK

David Pesnichak, Dan Muse architect for the project and Lisa Speaker were present. Michael Howard reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue. Chairman Martin swore in the speakers. David submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; Exhibit D –application; Exhibit E – Staff memorandum; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated 12-10-07.
Chairman Martin entered Exhibits A – F into the record.

REQUEST

The Applicant is requesting approval from the Board of County Commissioners for a Conditional Use Permit to allow a Home Occupation. A Home Occupation is defined in the Section 2.02.29 of the Zoning Resolution of 1978, as amended as the following: Any use for gain or support carried on as an accessory use within a dwelling or a building accessory thereto, wherein such use would not create the appearance or impact of a commercial activity.

PROJECT DESCRIPTION

The Applicant proposes to use an existing barn to house classes in horse massage. According to the Applicant:
The subject property is 4.056 acres located east of the Town of Carbondale off of County Road 100. Current improvements on the property consist of a primary dwelling unit and a barn. The property is described as Lot 2 of Mayfly Bend Ranch Subdivision which is accessed off Ponderosa Pine Way.

The Applicant has provided a stamped letter dated October 5, 2007 from David A. Powell, P.E. of Timberline Engineering stating that "the ISDS system for the above project has been appropriately sized to accommodate the residence, barn and proposed Home Occupation."

The Applicant has also provided a letter dated October 17, 2007 from attorney Sherry A. Caloia, LLC indicating that an application for Basalt Water Conservancy District (BWCD) water to augment the additional uses pertaining to this Home Occupation was applied for on October 17, 2007. The letter goes on to state that "once the well permit and BWCD contract are finalized and issued I will provide them to your office." At the time this Staff Report was written, Staff had not received a copy of the approved BWCD contract or new approved well permit. The Applicant had provided well permit number 65213-F which is limited to "ordinary household purposes inside one (1) single family dwelling and the irrigation of not more than 7,500 square feet (0.17 acre) of home gardens and lawns." Staff recommends that should the BOCC approve this application that the Applicant shall provide a new well permit indicating that the well water can legally be used for the requested Home Occupation.

Access to the property is provided by Ponderosa Pines Way which connects to County Road 100. Based on the information provided by the Applicant, Staff anticipates that the proposed use will create 21-70 additional round-trips per month (3-10 vehicles per class, 7 classes per month) from Ponderosa Pines Way onto County Road 100. The Garfield County Road and Bridge Department provided the following comments regarding this application (See Exhibit F):

Staff recommends that if the BOCC approves this application that the Applicant be required to demonstrate that a stop sign has been installed on Ponderosa Pines Way at the entrance to County Road 100 prior to issuance of the Conditional Use Permit.

The proposed Home Occupation will be conducted inside an existing barn and/or home located on the property. The intent of permitting Home Occupations in the ARRD Zone District, primarily characterized by residential and agricultural uses is such that the proposed use does not detract from those uses and does not create the appearance or impact of a commercial use. Since the proposed Home Occupation is not proposed to alter the outdoor character of the existing home and barn (no additional lighting, signage, buildings or storage), it is Staff's opinion that the proposed Home Occupation will not create the appearance of a commercial establishment. However, the Home Occupation will produce additional traffic while the classes are in session. The Applicant has represented that the classes will range in size from 3 to 10 individuals per class with classes taking place approximately 7 days per month. At this activity level, the Home Occupation is anticipated to create approximately 21-70 vehicle round-trips per month. Since the Applicant is proposing to only utilize their personal horses, Staff does not anticipate an issue with parking additional horse trailers. So, in the end, the only activity which could construe this Home Occupation as a commercial use will be the parking of 3-10 vehicles on the property approximately 7 days per month. It is Staff's opinion however, that as long as the classes are held inside either the barn or the house that the parking of 3-10 vehicles 7 days per month does not necessary create the appearance of a commercial use since other residential uses could have this same impact. Further, although the parked vehicles will likely be visible from Ponderosa Pines Way, neither the home nor any parked vehicles will be visible from County Road 100.

Following a review of the Garfield County Zoning Resolution of 1978, it appears that a Home Occupation is the most appropriate fit for this application. Please see the following definitions below for other uses allowed as either a Conditional or Special Use in the ARRD zone district:

Staff Recommendation

Staff finds that the proposed Home Occupation can be conducted in compliance with the Garfield County Zoning Resolution of 1978, as amended. Impacts from the proposed use as represented by the Applicant will not adversely impact adjacent uses. Staff recommends that the Board of County Commissioners APPROVE this request for a Home Occupation for the property owned by Ron and Lisa Speaker at 421 Ponderosa Way with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless altered by the Board of County Commissioners.
2. The classes may only be conducted using the property owner's horses. No outside horses may be brought to the property for the purposes of horse message training or in other connection with this Home Occupation.
3. No retail or wholesale sales of any kind associated with the activities of the Home Occupation shall be allowed to take place at the property.
4. All operations of the home occupation shall be conducted within the dwelling or accessory building.
5. No class may exceed ten students.
6. Class occurrence is limited to seven classes per month.
7. All classes must take place between the hours of 9AM and 5PM.
8. No signs advertising the home occupation may be placed anywhere on the subject property.
9. No employees are allowed for the home occupation. Only the property owner and any family members residing at the subject property may be employed in the home occupation.
10. No additional outdoor lighting associated with the Home Occupation may be installed.
11. 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 by the Applicant.
12. Prior to issuance of the Conditional Use Permit, the Applicant shall demonstrate that a stop sign has been installed on Ponderosa Pines Way at the entrance to County Road 100 in accordance with the MUTCD (Manual on Uniform Traffic Control Devices).
13. Prior to issuance of the Conditional Use Permit, the Applicant shall provide a new well permit indicating that the well water can legally be used for the requested Home Occupation.

Commissioner Houpt has a real question on No. 12 and felt this clearly falls under someone else's responsibility so she wants to make sure it was a condition of approval and followed through, but did not think it should be the property owner. She would not want to make this a condition of approval. David said there should be a stop sign out there as there are two subdivisions approved at the access. Applicant: Dan Muse - No questions but wanted to clarify No. 3

regarding no retail sales. Lisa has sales associated on her website such as books, T-shirts and hats for her students. She does have a retail sales license but doesn't have a retail space in the home. She also has guest experts help teach the class. On condition number 9 she said the number usually doesn't exceed 9 plus the teacher for the classes; she has expert lecturers and others who help her out. The classes are from 4 to 7 days and she teaches one class per month. There are no one-day classes as of now. The shortest is 4 days long and they usually run over the weekend and no students reside at the premises during the class.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;
In favor: Houpt - aye Martin – aye McCown - aye
A motion was made by Commissioner McCown and that we approve the Conditional Use Permit to allow for an animal massage class with the staff recommendations 1-13 amending number 3 to allow for sales only pertaining to the owner's operation and amending number 9 to read "and or guest lecturers or experts". Commissioner Houpt - Condition No. 12. Commissioner McCown – I remember the last meeting involved a communication site on top of the mountain east of Parachute and that was a condition of approval on that site so I guess I would leave it in. This land use that occurs on the property triggers this activity so it wouldn't matter what it was, anything that happens in that Mayfly Subdivision would be responsible for that.
Dan Muse – I think they will probably get some internal cooperation because the Roaring Fork Reserve and the Mayfly Bend are both in there, they both developed that at the same time. A lot of things fell through the cracks on the stop sign. Commissioner McCown – This will bring it back, all it takes is a stop sign and we're not imposing that you do it, but it must be done. Normally this is done by an independent contractor – the subdivision would hire that firm. Building and Planning will need to see a photograph of it and Road and Bridge would inspect it. Carolyn – these folks could go to the HOA if it was required. In favor: Houpt - aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED ON A COGCC APPROVED WELL PAD (CHEVRON SKR 598-25-AV) AND LOCATED APPROXIMATELY 20 MILES NORTH OF THE TOWN OF DEBEQUE. APPLICANT IS CHEVRON USA, INC. – DAVID PESNICHAK

David Pesnichak, Jim Talbot for Chevron, Inc., Kim Goldstein with Chevron, Julie Justice, and Tim Dobransky of Cordilleran Compliance Services, Inc. who was hired to do the application were present as well as Carolyn Dahlgren, Deputy County Attorney. Carolyn Dahlgren reviewed the noticing requirements with Tim Dobransky who was hired to do the noticing and she referenced the Assessor's map and asked them to explain the ownership of the particular lot they were describing in the legal description. This was a very complex issue on noticing and Carolyn asked a lot of questions. The applicant answered that Pacific Western Oil Corporation was acquired by Chevron, merged in the 90's with Getty Oil and dropped Texaco last year but did not provide the affidavit. They stated this was included in the application. In terms of ownership this title opinion was by an outside counsel. Kim Goldstein had title run on December 19, 1997 and concluded the north section is owned by Chevron.
Jim Talbot for Chevron stated he will provide the corporate merger showing how they ended up with this property. This will be received later. Carolyn noted for the record that the Assessor's records reflect that the property amounts to more than 40,000 acres overall but the notice was only for greater than 10,000 acres. Tim Dobransky told the Commissioners that he had checked the Assessor's records on November 16, 2007. Kevin Bolsten stated the property was leased out to Williams but no letter was sent out to them. Tim defined the property the BOCC was considering in this request for a Special Use Permit as being in the area within the 40,000 acre parcel. He did not do any noticing outside the 40,000 acre parcel. The notice was by way of publication and he used a similar form and identified Chevron as the owners and used the Assessor records. It was published in the Post Independent on December 4, 2007. He posted the property using the sign as provided by Building and Planning. It was posted at end of CR 211, the main access to the property.
Julie Justice stated she called Hiner Gate this morning and confirmed the posting was still in place.
Carolyn noted for the Commissioners the two imperfections in notice; one there was no notice to Williams however, Williams knows that Chevron has leased the property and the other was the subject lot is defined as "parcel owned" and corporate counsel has testified to this fact that the notice has been given to less than the entire parcel of 40,000 acres. Carolyn explained the applicants are willing to take the risk. Jim Talbot – From Chevron, we will provide notice to everyone adjacent to the 40,000 acre property. In this case the activity will occur in the NE corner and there are no adjacent property owners within one mile where the man camps will take place. They own all property. On title for the lot requirements, he cannot tell you that Chevron owns all the 40,000 contiguous acres. We own the north half of the Section 25, both the minerals and land. On the notice to Williams, please consider approval that would be subject to a written waiver within 30 days waiving any problems on notification. He has calls into Williams and is sure to get their approval and will do nothing until they have the approval and if not within 30 days will consider the approval null and void. Commissioner Houpt – This isn't precedent setting; Chevron knows the rules and people need to understand this. Jim Talbot – Identified all property owners within 200 feet and the permits going forward on notice have been given on that basis and will notify anyone like BLM who owns property within this property. He gave a list of people on the tax parcel and stated they relied on that and did the notice on the tax parcel. Commissioner McCown said he was willing to move forward. Commissioner Houpt – She wanted to make sure they recognized you may have to go back and notice all adjacent property owners adjacent to the 40,000 acres. This is very important because it would be impactive to the neighbors with traffic regardless of where the facility is located on the property. Chairman Martin stated the Board will go ahead and accept the notification. Chairman Martin swore in the speakers. David submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; ; Exhibit D – Staff memorandum; Exhibit E –application; Exhibit F – Letter from Chris Hale of Mountain Cross Engineering dated 12-10-07; Exhibit G – Email from Jim Rada of the Garfield County Public Health Department dated 12-10-07; Exhibit H – Letter from Dean Riggs of the Colorado Division of Wildlife dated 12-18-07; Exhibit I – Letter from Jake Mall of the Garfield County Road and Bridge Department dated 11-13-07. Exhibit J – email from Julie Justice of Chevron USA to Larry McCown dated 1/2/08 and Exhibit K – letter from Down Valley Septic. Chairman Martin entered Exhibits A – K into the record.

Description of the Request: The Building and Planning Department received a Special Use Permit (SUP) application for "Temporary Employee Housing" facility on property owned by Chevron USA, Inc located on an approximately 1,594 acre property approximately 20 miles North of the DeBeque, CO (See location maps). Assessor map 09.

More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations.

This site is remote and is intended to be contained on an approved COGCC well pad along with other drilling facilities. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however the housing facility will be at location for more than a cumulative of one year. The maximum number of people to be housed at a facility will be 24.

Housing Structures

The installed facility is required to meet all applicable building and fire code requirements. The facility is to have up to 24 beds. The Applicant has represented that the facility will have a minimum of one 80-barrel (2480 gallon) potable water storage tank. Sewage and Wastewater are proposed to be handled by a vault-and-haul system with a minimum of three 2,000 gallon tanks (6,000 gallon total). Based on the State ISDS regulation requirements, Staff recommends that the Applicant provide a minimum of 75 gallons per person per day of storage capacity for wastewater collection.

Water: The Applicant is proposing to haul potable water to the facility using water hauling contractors. The Applicant is required to use CDPHE certified potable water haulers who are obtaining the water from an approved source. Staff recommends that prior to issuance of the Special Use Permit, the Applicant provide documentation that the water hauler is CDPHE certified and that the water is from an approved source. All water must be treated prior to delivery to a facility.

The Applicant has represented that the facility will have a minimum of one 2480 gallon potable water storage tank. The Applicant also represents that the facility will require a 6720 gallon supply. Staff recommends that in order to meet the stated amount of potable water needed to supply the facility, that the Applicant provides 6720 gallons of potable water storage. Staff recommends that the water systems be designed to accommodate the maximum occupancy for the facility. At the recommended calculation of 75 gallons of water per day, the stated 6720 gallons will provide a 3.73 day supply of potable water. If the Applicant increases the amount of potable water on the facility to 6720 gallons and agrees to refill the tanks at least every 3 days instead of the 1 week interval as indicated in the application, Staff finds that adequate water is provided to the facility.

Sewage: Sewage and Wastewater are proposed to be handled by a vault-and-haul system with a minimum tank capacity of 6,000 gallons. Based on the State ISDS regulation requirements, Staff recommends that the Applicant provide a minimum of 75 gallons per person per day of storage capacity for wastewater collection for the maximum occupancy for each facility. As taken from the Applicants' calculation of the maximum number of beds for each facility, the facility is anticipated to handle up to 24 persons. As a result, the 6,000 gallon tank is anticipated to provide a 3.33 day capacity. As long as the tanks are emptied at least every 3 days instead of the 1 week interval represented in the application, Staff finds that adequate sewage and wastewater storage is available for the facility.

In addition, the Applicant has provided a letter from Hyland Enterprises, Inc. indicating that they provide road maintenance and snow removal for the access road to the facility.

Refuse: Each facility is to be served by at least one thirty-gallon, bear-proof refuse receptacle and be emptied by a refuse hauler at least once per week. Refuse is proposed to be disposed of either at the Mesa County landfill or the Garfield County landfill.

Density: As all portions of this facility are to be located within the Resource Land zone district and within a COGCC approved well pad, the density requirements do not apply to this development.

Proximity to Permanent Available Housing: The Applicant has states that "Currently, there is not sufficient housing in DeBeque and the surrounding area to accommodate oil and gas operations, and the driving time from towns with available housing ranges from one to two or more hours each way, depending on weather conditions." Staff concurs that onsite housing will assist in alleviating the current Garfield County housing shortage. In addition, it is Staff's opinion that onsite housing will promote safety on the drilling rigs as well as reduce the overall amount of traffic on Garfield County and State of Colorado roadways.

Renewal: The Applicant is proposing to renew the application on an annual basis. However, since the proposed facility is to be served with a vault-and-haul sewage disposal system, the facility is not permitted to be on location for more than a cumulative of one year.

Reclamation and Revegetation: All housing structures and associated equipment will be located on the COGCC approved well pad. As such, reclamation is to be handled by the Colorado Oil and Gas Conservation Commission and secured through the appropriate bond.

Staff feels that provisions made for water hauling and sewage disposal as described above and in combination with the staff recommended conditions, this standard is satisfied.

Overall, the approval of this Special Use Permit for Temporary Employee Housing will reduce traffic on the access roads to the site. For this reason, staff feels that additional road improvements are not necessary.

As this property is already characterized by intense industrial gas development, located entirely on approved COGCC drill pads and will ultimately reduce the amount of traffic to and from the site, it is Staff's opinion that this Temporary Employee Housing facility will not adversely affect any nearby neighbors as proposed.

This application for Temporary Employee Housing is to be located on Chevron's Skinner Ridge 598-25-AV well pad. This is the first of three anticipated Temporary Employee Housing facilities associated with the Skinner Ridge 598-25 well pads. A subsequent facility has been deemed technically complete and is scheduled to be heard by the BOCC on January 21, 2008.

SITE DESCRIPTION

The property owned by Chevron USA, Inc is an approximately 1,594 acre property located 13 miles north of DeBeque (See location maps). Generally the subject property is described as currently being used for increasingly intense industrial gas development. Topography on the property can be severe and ranges from valley floor to plateau.

The subject property is zoned Resource Lands (RL). The type of use requested falls under the definition of "Temporary Employee Housing" which is contemplated as a Special Use in the RL zone district. Adjacent uses are grazing and gas development.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A

determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
21. Each facility shall have a minimum total capacity of 6720 gallons of potable water storage which shall be refilled a minimum of every three days.
22. Each facility shall have a minimum total capacity of 6,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.
23. Prior to issuance of the Special Use Permit, the Applicant shall provide documentation demonstrating that the proposed water hauler and water source are CDPHE certified and that the water is treated prior to delivery to the facility.

The last three conditions were addressed by David who said only one barrel of water was available and we measured 65 gallons a person which averaged out every 3 days to be refilled. Also the sewage is to be emptied every 3 days. David said prior documentation and from the testimony prior, Condition No. 24 is requiring that Chevron provide a written waiver from Williams Production RMT regards to notice and provide to Garfield County within 30 days of approval of this application. Julie Justice explained Exhibit K saying that Down Valley Septic has purchased water from the Town of Silt and it says their normal practice is to empty every 3 days. Exhibit K. David incorporated the letter from DOW into the conditions.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing; in favor: Houpt - aye Martin – aye McCown - aye

A motion was made by Commissioner McCown we approve the Special Use Permit to allow for an employee housing facility with the 24 conditions as noted by staff. Commissioner Houpt – second.
In favor: Houpt - aye Martin – aye McCown - aye

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

JANUARY 14, 2008
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 14, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton, Deputy Clerk to the Board.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

2008 COMPENSATION PLAN – KATHERINE ROSS

Katherine gave a power point presentation. She explained how they had set six objectives that needed to be completed. She went over those objectives and explained how they were achieved. They have reduced 17 grades down to 14 and classified the jobs and assigned them to those grades. She then explained how they determined where the merit increase should be. Commissioner Houpt had questions on what market we based our salaries on. Katherine explained it is half science and half art. She explained it was based on similar counties in size and in population and where the majority of our employees leave to go to or we take them from. It is based mostly on the public sector. She explained it is very difficult to get private sector employers to give us that information; it is not required by law to provide information on salaries and wages. Commissioner Houpt had a concern about using an equation that includes the private sector. She is worried about our economic base shifting and wants to make sure the County has a salary structure in place that we can afford. Ed Green – Last year we did an extensive review not only of the local government entities but also of the private sector. We were provided with a recommendation for each job. This year Ed feels we are keeping pace with the industry and with government jobs based upon adjustments made last year. Ed feels it is appropriate and reasonably based upon the benchmark data the County got from Mountain States Employers Counsel, which suggests the salaries for both government and private industry in this area are going to increase 3.6 to 4.2% based upon the particular sector you are in. We settled on 4% because it seemed to make the most sense. Ed feels they have done a very good job this year getting all the job descriptions in place. Commissioner Houpt asked if all of the elected officials had seen the 2008 Compensation Plan and Katherine explained they all had meetings individually on what she was recommending today. There have been a few changes in some departments but Katherine explained she had to freeze it somewhere. The numbers are as of January 1st. Commissioner Houpt explained there had been problems in the past approving a salary schedule and then having elected officials uncertain as to whether they were in the loop. Lou Vallario stated he had an opportunity to go over it and actually liked it. John Gorman stated Katherine had spent a considerable amount of time with his office discussing the detail, the new structure and the new range of payroll schedule. After we understood it we felt comfortable with it. Commission Houpt asked Ed Green if he had looked at projections of our budget and projected needs as well as projected revenues to determine if we could actually afford this type of structure. Ed stated absolutely

and said we have ample funds to cover the recommendations. Commissioner Houpt wanted to know what if there was a lag in revenues. Ed said they had not looked ahead but they could do that as a part of the five year plan this year. His view was for the foreseeable future the revenue stream will continue to be pretty robust. Commissioner Martin stated if it isn't then the Board will have to make determinations on where to cut programs or individuals and it has always been that way and doesn't see it changing in the future. Ed reminded Commissioner Houpt that the budget projections for the end of '08 see once again growth in the fund balance to $51 million dollars. Patsy Hernandez wanted to share on that with the fund balances saying there is a desire for them to continue to grow each year. We want to continue keeping those fund balances strong and robust for this reason. We can turn to the fund balances if needed as they are growing each year.Commissioner McCown – I make a motion we approve the compensation plan for 2008. Commissioner Houpt – Second. Commissioner Martin – That includes the pay administration, the classifications, merit rate increase and also the overall structure within that motion. Commissioner McCown – All of the above. Commissioner Houpt stated she would like to see more information. How we analyzed these market rates and what the trends are for looking at what defines that market. Don DeFord – Mr. Chairman you have an existing resolution in place now, it has already been alluded to concerning adoption of a pay plan last year, it was also accepted by all of the elected officials. I believe what you need to do is either repeal that resolution and authorize the Chair to sign a resolution accepting the current compensation plan or simply amend the existing resolution to accept the current proposal. Also as we have discussed in the past by statute the elected officials have to accept the pay compensation plan in order for it to be final in their departments as well as the County Commissioners and it is through that resolution that we incorporate the personnel plan every year so that everyone follows the same sets of rules. I would ask that you authorize the Chair to sign a resolution amending the existing pay and compensation plan and to sign that resolution after it has been executed by all of the elected officials. Also I would note that as Katherine has alluded there is some tweaking that needs to be done to the actual figures on this; I'm assuming your acceptance of this will allow for that flexibility.
In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion that the Chair be authorized to sign an amended resolution to correct the pay plan bringing it current to the 2008 criteria that was presented today. Commissioner Houpt – And that is the one the other elected officials will sign - second. In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEALTH GRANT APPLICATION – VICTORIA KENNEDY

Total CSBG Allocation requested is $49,800.00. Victoria stated the money received from this grant will be applied to the salaries of two pre-natal case managers with a possibility of increasing another part-time pre-natal case manager during this grant year. There has been an increase in the number of clients served. During the calendar year of 2007 we have seen 578 pre-natal clients which is tremendous. Victoria stated the outcomes have been impressive.
Commissioner Houpt – I make a motion we approve the Community Service Block Grant for 2008 – 2009 as presented for two pre-natal nurse case managers and a potential third part-time manager in an amount not to exceed grant amount of $49,800.00. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF LIABILITY XO-JET – BRIAN CONDIE

Brian stated he had received letter from Joseph B. Shelby, Assistant Vice President, AIG Aviation to Janet Samson requesting release of all claims in the amount submitted of $38,027.50. Brian explained what we were releasing. The release of liability is for the clean up of the jet fuel that was spilled. We received a letter back from the state saying we are done and this $38,027.50 concludes all of our expenses. Carolyn wanted me to point out that this does not release us from being named in a possible lawsuit for liability. Her concern is that if we sign it and we were named in a lawsuit we couldn't counter sue them for any claims. Brian talked with the insurance company this morning and this claim is for the clean-up only. They stated we could put whatever language on the original contract and specify that it is for the cost of the clean-up. The insurance company wants to make sure in six months they are not going to get another bill for the clean-up. Commissioner Houpt asked why we were signing a release of all claims and not just giving them an invoice.Carolyn stated that is exactly the question and why the paragraph is in there that says "oh by the way we can sue you in the future." We would ask that Mr. Martin be authorized to sign a properly narrowed release.
Brian stated if we don't sign it, we don't get the $38,000.00 back.
Commissioner McCown – Why don't we put this on the consent agenda once you have been able to work your verbiage magic and both parties are in agreement that it is pertaining only to clean-up and no other liability is being waved at this point. That is my motion. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

ASMI ANNUAL CONTRACT – BRIAN CONDIE

Brian received a letter and a contract from Penny McPherson, Chief Executive Officer to renew a contract for maintenance on the LOC, GS and DME at the Garfield County Airport. The contract is at the same rate as the expiring contract. Brian pointed out page four of four and we only have to sign one. Carolyn stated to me it had to be signed every year. I will submit this along with that document for signature.
Commissioner McCown – I make a motion that this be placed on the consent agenda when the proper forms have been signed and all presented together. Commissioner Houpt – Second In favor: Houpt – aye McCown – aye Martin - aye

COMMUNITY CORRECTIONS INCIDENT – ED GREEN

Ed Green – We are completing the safety report on the incident that occurred at Community Corrections and will be incorporated that next week in your packet. It has several recommendations and you will need to act upon it.

EXTENSION OF 18TH STREET, RIFLE – ED GREEN

Ed stated he was at the City of Rifle last week and was able to get feedback from Commissioner McCown and Commissioner Martin but not Commissioner Houpt on this subject. Are they willing to go along with footing some of the cost for this? Commissioner Houpt asked if that was part of the original discussion and they stated it was additional. Ed explained that the project as it is envisioned now only includes road improvements to the boundary of the project. This would go from the boundary of the project to Railroad Avenue. Estimated total cost is about $250,000.00 so we would be into it for $125,000.00. The City of Rifle is proceeding with a draft IGA and he will bring that to you. Don and I are happy with it.

IGA RELATING TO 30 ACRES FOR DEVELOPMENT OF AFFORDABLE HOUSING, RIFLE – ED GREEN

Ed stated a draft will be prepared for the Commissioners consideration. Commissioner Houpt asked about the roles of each entity in the IGA. Ed stated that Rifle's role would be to provide the land. Our role would be to provide some measure of financial support similar to what we did with The Meadows in order to defray the cost of some of the large infrastructure. It looks very promising and we have had several folks interested in taking this on. We believe we could make a big dent in providing affordable housing for our folks, the City of Rifle, the Hospital and also most notable for RE-2 School District. Gary Pack tells me if we don't do something he could stand to lose up to 70 school teachers in the next year. Commissioner Houpt asked if are we talking about numbers yet for the affordable housing.
Ed stated they are saying there could be 200 or 300 houses in there. They are also thinking about merging this with a private entity who also has 30 acres adjoining and adjusting the mix so you could have high end housing out on the rim and affordable in the center.

LOVA – OPERATING COST – ED GREEN

Ed explained he received an e-mail from Larry Dragon and stated Larry was expecting $45,000. We had included in the budget $35,000.00 and he was expecting $45,000.00 which was the same as last year. The question is do you want to provide the extra $5,000.00 to LoVA? Commissioner Houpt asked if that was what they received last year. Ed replied yes and Commissioner Martin stated it was because they gave $10,000.00 to another entity, I believe to Crystal River Trail. Ed stated the funds will come from the general grant money and Don DeFord stated they will need a motion. Commissioner Houpt wanted to know how that happened and Ed thought it was just a typo. Commissioner Houpt – I'll make a motion that we adjust that budget line item as proposed. Commissioner McCown – Second.
In favor: Houpt – aye Martin – aye Opposed McCown - aye

INTRODUCTION OF NEW SENIOR CONTRACT PERSON – DALE HANCOCK

Dale introduced Matt Anderson.
Matt Anderson is originally from Denver and had been in the Air Force; he and his family finally decided to come back home to Colorado. Ed mentioned Matt has extensive experience with contracts in the Air Force.

COUNTY SHERIFF UPDATE – LOU VALLARIO

DISCUSSION REGARDING ADDITIONAL 2008 FUNDING FOR CARE

Cindy Crandall and Laura Van Dyne were present. Lou met with CARE and discussed several options and future considerations to the growing animal control problem in Garfield County. He has reduced the amount to be paid for animal shelter services to CARE in his 2008 budget from the 2007 total of $200,000 to $150,000. This was based on the need to find additional shelter options due to the limited available space at CARE. CARE is also requesting a total of $275,000 for 2008, a difference of $125,000 more than approved. A letter was submitted from Leslie Rockey, Director, Colorado Animal Rescue. As a result of this meeting he was able to re-program $30,000 of his budget towards CARE. This leaves a requested balance of $95,000. CARE is specifically requesting $75,000 for continued spay and neuter programs. The additional $20,000 is for increased costs of doing business. Therefore you will be providing an additional $95,000 towards CARE in the form of a budget re-appropriation.
Lou feels CARE has provided a great service for the Sheriff's Office, County and the community by providing shelter and adoption services for us. Discussion centered on the extra $75,000 allocated for spay and neuter. They are trying to decide if they should invoice per spay and neuter for cats and dogs. If this is the method they were going to use who is going to invoice for payment and how? Monthly, quarterly, etc.
Final decision was that Lou Vallario was going to do the vouchers with CARE. Cindy Crandall agreed to work with him. Commissioner Houpt – I'm going to make a motion that we support the spay and neuter program of CARE in the amount of $75,000.00. It can go through the BOCC budget if it needs to. Lou – Just to clarify we are still $20,000.00 short of the request. Commissioner Houpt – I'm just trying to get them some money, I'll start at $95,000.00 but I may have to make a few motions for that. So I will amend my motion to $95,000.00 as requested. Commissioner McCown – I'll second it for discussion. Commissioner McCown asked how many dogs are we talking a year? He went on to state they are looking at the entire budget, part of this is a grant. He was figuring how much money it cost per dog that is handled and the cost and service exceeds the cost of people services that we give to human services. He figured $2,777.00 per dog is pricy. Lou gave an explanation of how the costs came about. Laura gave an explanation about how many kennel days not the number of dogs in the kennel and how long they spend there. Don DeFord raised a question; if we are going forward he would like some direction as to who is contracting with CARE. Is it for the County Commissioners in the nature of a grant or is it through Lou as an amendment to the existing CARE contract. Commissioner Houpt would like to see it through Lou's budget to keep it clean and that is in my motion. Commissioner McCown stated they will have to bill Lou for the spay and neuter they do, it can't be handed to them lump sum. There has to be in a scope of work. Don stated that was a good point. Right now the way the contract is structured it's four quarterly payments and I would leave it that way unless directed otherwise. We need to discuss it if it is going to be per dog spayed and neutered. Don and Commissioner McCown both see this as a grant as the contract is structured right now. Commissioner Martin clarified, the $20,000 is for administrative costs; $75,000 is a grant for the spay and neuter clinic and it will go through Lou on a quarterly basis. Commissioner Houpt – Yes; that is my motion. Commissioner Martin still has an issue the same as Don and that is the accountability of the $75,000 for the spay and neuter. Lou can tell Commissioner Martin via vouchers how many they used.
In favor: Houpt – aye Martin – aye Opposed McCown - aye

Related Budget Question

Patsy Hernandez – Budget Questions: We have $150,000.00 in the Sheriffs Department, Animal Control sub-department, under the line item called Client Boarding. Are we looking at an additional $20,000.00 going into that line item? Everyone stated yes. Patsy continued, then $75,000.00 will be a grant or do you want that all in the one line? Commissioner Martin stated he thought it was a grant and they need to do vouchers to make sure they spent the money properly on the spay and neuter. Commissioner Houpt stated that wasn't what her motion was, it was for a quarterly payment like they treated the line item for operations and it really depends on how you want to administer that you could have a separate line item for spay and neutering or you could have it in the operation line item.
Patsy stated the $75,000 that was just approved needs to be in the Sheriffs Department Animal Control sub-department grant and that grant is for spay and neutering. When we are saying two separate grants, what is now $170,000.00; it's not in the budget as a grant, it is in the Sheriffs Department as Client Boarding. Do we need to re-class that as a grant?

Everyone stated "No". Patsy stated when the invoices are paid they will hit two different line items within Animal Control of the Sheriffs Department. Don DeFord wanted to know what to do on the contract. That includes a scope of services as well as a dollar amount. It was my intent to amend the existing CARE contract which is for $150,000.00 to increase it by $30,000.00 that Lou committed out of his budget and that is County money going to the Sheriffs Department that will be paid to CARE. Then there is an additional $20,000.00 for administration that will go to CARE so that would be a total of $50,000.00 to amend the CARE contract. Based on Commissioner Houpts motion I intended to amend the CARE contract to also add the $75,000.00 and change the scope of services so that they would bill quarterly for the $75,000.00 but report the spay and neutering program activity on a quarterly basis.
Commissioner Houpt stated it would work for her and that it sounds clean as long as it is working for Patsy on the budget. Don – On the spay and neutering I though it was a fixed amount. Commissioner Martin and Commissioner Houpt stated yes it is for the scope of services as long as they meet it. Commissioner Houpt restated that wasn't her motion, it was the $75,000.00 would be paid on a quarterly basis invoiced on a quarterly basis and that CARE agreed to give us quarterly updates on the program but I didn't tie any dollar amount to any particular number of spays or neuters.
Commissioner McCown stated that is another reason why I had to vote no against this. If this is administered quarterly on an invoice amount, ¼ of the contract going out on an invoice with no accounting for spay and neutering; that's what I don't get. Commissioner McCown wants to know what happens to the $75,000.00 if they haven't done enough spay and neuters to fully use this money. Does it come back to Garfield County? Is it a gift? Don stated he had intended to structure it as a pure grant and Commissioner Houpt stated yes that was the motion and she did it in good faith.
Commissioner McCown said if it is going to be a pure grant then don't tie it to spay and neutering.
Commissioner Martin stated he would like to call for a re-consideration of that particular vote so that we can bring it back to clear up the motion. I need a second. Commissioner McCown – Second.
In favor: Houpt – no vote McCown – aye Martin – aye
Commissioner Martin stated they are starting from ground zero so we can work on the particulars of this particular grant. My intent is to make sure that the extra $20,000.00 from this Board would go to CARE and that the Sheriff offered his $30,000.00 which would go to CARE as well in the scope of services which is the contract services that we have in place. It would also include that there would be $75,000.00 in a grant for accountability for the spay and neuter program which they have alluded to that they need $75,000.00. If that is so then we need an accounting of that particular $75,000.00 grant and that would be part of my motion; if they achieve that they would get the full $75,000.00. If they didn't they would use up to whatever they could use in spay and neuter and I think that would be fair to the general public in co-ordination with the Sheriffs spay and neuter program.
Commissioner McCown – Second. In favor: Houpt – aye Martin – aye Opposed McCown – aye
Patsy Hernandez – Wanted on the record to make sure she got the budget set-up correctly. First, a budget supplement will come in front of you for $75,000.00 that will go into the BOCC budget for a grant. In the Sheriffs Department, currently $150,000.00 has already been approved. Lou has indicated he has found $30,000.00 that he can transfer into that line item and today you have approved a budget supplement for an additional $20,000.00 therefore the total amount for the Client Boarding and the Sheriffs will be $200,000.00. So the total amount for CARE in 2008 will be $275,000.00? Commissioner Houpt replied correct and Commissioner Martin stated if they spend it all in reference to the $75,000.00 grant. Patsy commented she thinks she can do this.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don DeFord stated he had four items for executive session. Need to provide update with a personnel matter in the Road and Bridge Department, provide advice concerning the status of County Road 233 and the way it may affect a land use case coming up this afternoon, brief discussion on the item Ed already discussed on potential of affordable housing in Rifle and I need some contracting directing on that and provide you with an update on LoVA contracting.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken: None

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant List
c. Authorize the Chairman to Sign the Resolution of Approval for Lexie Meadows Estates Subdivision – Applicant; Jim Bob Ventures, LLC – Craig Richardson
d. Authorize the Chairman to sign the Resolution of Approval for a Conditional Use Permit for a Home Occupation to Conduct Animal Massage Classes at a Residence Described as 421 Ponderosa Pines Way – Applicant; Ron and Lisa Speaker – David Pesnichak
e. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit for a Temporary Employee Housing Facility Operated by Chevron USA, Inc. and Associated with a Well Pad Described as SKR 598-25-AV – Applicant; Chevron USA, Inc. – David Pesnichak
f. Authorize the Chairman to Sign the Special Use Permit for a Temporary Employee Housing Facility Operated by Chevron USA, Inc. and Associated with a Well Pad Described as SKR 598-25-AV – Applicant; Chevron USA, Inc. – David Pesnichak
g. Ratification of a Change to 2007 Holidays by Adding one Half Day Holiday on December 31, 2007
h. Authorize the Chairman to Sign a Resolution Establishing Office Hours, Work Weeks and Holidays for 2008
i. Authorize the Chairman to Sign a Resolution Directing the Treasurer to Disburse Forest Reserve Funds – Patsy Hernandez
j. Authorize the Chairman to Sign the Resolution and Special Use Permit for a Communications Facility for Verizon Wireless on a Property Owned by Glenwood Commercial, LLC – Fred Jarman

Consent Agenda Items a - j; carried.
Commissioner Martin – Strike letter f.

Commissioner McCown – I make a motion we approve the consent agenda as presented.
Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye McCown – aye

COMMISSIONER REPORT

Commissioner Houpt – Oil and Gas Commission hearings this week starting tomorrow morning, CCI Board meeting on Thursday and Legislative reception Thursday night and CCI Committee meetings on Friday.
Commissioner McCown – Last week we had land use review on Tuesday AGNC met in Rifle on Thursday and another land use review meeting on Friday. Larry leaves for vacation tomorrow.
Chairman Martin – Luncheon on the 16th, CCI and the Legislative reception on the 17th in Denver and CCI on five steering committees on the 18th.

AUTHORIZE THE CHAIRMAN TO SIGN THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) APPLICATION FOR A CONDITIONAL LETTER OF MAP REVISION (CLOMR) AS REQUESTED BY UNITED COMPANIES FOR THE "SCOTT GRAVEL PIT" LOCATED EAST OF THE CITY OF RIFLE – FRED JARMAN

Peggy Bailey, Tetra Tech., Inc., Greg Lewicki of Greg Lewicki and Associates, and Michael Erion were present.
To address this change Fred presented a map showing the change which requires approval by FEMA via a Conditional Letter of Map Revision (CLOMR). The county is required by FEMA to be the signature on the application to FEMA. Therefore, the Applicants (Rocks R Us, LLC and River's Edge, LLC) request the Board authorize the Chairman to sign the FEMA Application. County Review of Application: Resource engineering, on behalf of Garfield County, reviewed the Application and ultimately believes "the technical analysis is sound and meets the standard of practice for a CLOMR submittal and recommends the County accept and concur with the analysis." The Board should also be aware that signing the Application does not approve or guarantee approval of any pending Special Use Permit review. FEMA will do a full analysis and will either approve, ask for additional information, or deny the Application. (Fred provided a letter from Michael J. Erion, P.E., Water Resources Engineer for Resource Engineering Inc.)
Fred wanted the Board to understand that by signing the application and sending to FEMA for their review does not obligate you in anyway for any future land use application. Michael Erion – Explained that the area of proposed change involves the river adjacent to what's shown as the site and it affects both sides of the river. Those owners who are affected by the change include the City of Rifle, Rocks R Us, LLC and Rivers Edge, LLC. Michael feels it has been a very thoughtful and long process and has involved the City of Rifle, which they have reviewed. He feels they have reached a technical analysis that everyone is agreeable too. Property owners have been involved, to my knowledge they are all agreeable to the technical analysis and the proposed changes to the floodplain line. It is a technically sound analysis. He explained that a conditional letter of map revision means FEMA comes back and gives conditional approval. They review and either concur or ask more questions or they may find some reason that they deny that conditional letter of map revision. After completion of the project the applicants would have to come back in with an as built submittal to FEMA before there would be a final letter of map revision. Michael does recommend that the Board forward this on to FEMA.
Commissioner McCown – I make a motion we forward this to FEMA for review. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT/REFUND OF TAXES FOR MACHEBEUF APTS. INC., SCHEDULE NO. R530052 – LISA WARDER

Notification has been accomplished. Abatement number 08-080. They were granted an exemption effective January 1, 2006. The amount is $16,303.48. Commissioner McCown – Move we close public hearing. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the abatement schedule 08-080 for parcel R530052 in an amount of $16,303.48. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR CENTRAL PRODUCTION FACILITY AND TEMPORARY STORAGE FACILITY LOCATED APPROXIMATELY 13 MILES NORTH OF THE TOWN OF DEBEQUE – APPLICANT; CHEVRON USA INC. – DAVE PESNICHAK

BACKGROUND
The Building and Planning Department received a Special Use Permit (SUP) application for an "Industrial Support Facility which would include: material handling, pumping facilities, staging areas, storage areas and processing" for a Central Production Facility and Temporary Storage Area on an approximately 54,000-acre property owned by Chevron USA, Inc. The site is located approximately 2.5 miles past the end of County Road 211 and approximately 12.5 miles north of the Town of Debeque. More specifically, the Applicant requests approval from the Board for a Central Production Facility (3.3 acres) and Temporary Storage Area (1.4 acres). Following an investigation of area topography, Staff understands that the site of the proposed facility is located at a low point, surrounded by steep canyon walls. As a result, the proposed facility is not anticipated to be viewable from any public right-of-way or, following a review of nearby address points, from any existing residences in the area.
REQUEST
The application is for a Central Production Facility and Temporary Storage Area ("Industrial Support Facility which would include: material handling, pumping facilities, staging areas, storage areas and processing"), which is a special use in the RL zoning district.
STAFF RECOMMENDATION
Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
Discussion:
Commissioner McCown – I would recommend that this be scheduled before the Board of County Commissioners.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A CONTRACTORS YARD LOCATED APPROXIMATELY 2.5 MILES EAST OF THE TOWN OF SILT ON COUNTY ROAD 233 – APPLICANT; WAYNE POLLARD – DAVID PESNICHAK

Cody Smith, Wagon Wheel Consulting was present.

REQUEST

The Applicant requests that the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing "Contractor's Yard" on a 35.313 acre parcel zoned Agricultural / Residential / Rural Density. The intent is to utilize existing agricultural infrastructure to store portable restrooms, mixing tanks, supplies and parking of pumper trucks. No water or wastewater facilities are proposed to be used at this facility. Traffic generated by the proposed use will be up to twenty (20) vehicle trips per day. The activity area is represented to be less then one acre.

STAFF RECOMENDATION

Due to the anticipated limited visual, traffic and infrastructure impacts of this proposal Staff recommends that the Board of County Commissioners direct Staff to schedule this item before the Board and not refer it to the Planning Commission.

Commissioner Houpt stated this is not a remote area and it does change the use of that property pretty significantly. She is not inclined to treat this the same way as they did the previous application. What made you decide not to refer? David explained that the site plan indicates that the equipment will be hidden behind existing fences and buildings within the site. Nothing new is being constructed and the primary impact would be the traffic.

Cody Smith wanted to add that the main purpose for the application is to allow them to park trucks and be able to plug them in during the winter time. Currently they do not have a place to do that. Also to temporarily store port-a-potties as need be. There will be very rare times he will have more than one or two port-a-potties sitting at the house waiting to be taken to sites. Commissioner McCown stated he was somewhat familiar with this company he thought they had two pump trucks and I think they are one ton or smaller. Cody said they had three pump trucks and they were all one ton. Cody stated that the applicant made the comment that if he gets any bigger than four or five pump trucks, he will buy another place.

Commissioner McCown – I make a motion it be referred to the Board of County Commissioners.

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

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A WATER GATHERING SITE (PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES") OPERATED BY BILL BARRETT CORP. AND LOCATED APPROXIMATELY 2.5 MILES SOUTH OF THE TOWN OF SILT OFF COUNTY ROAD 311 – APPLICANT; PERRY DAN RODREICK – DAVID PESNICHAK

Cody Smith, Wagon Wheel Consulting was present.

BACKGROUND

The applicant is proposing to utilize an existing water gathering site within the 21B-31-691 SWD well pad to collect produced water from surrounding gas wells, separate residual oil and recycle the used water back into operations in the field via pipeline. The infrastructure is already in place and was utilized for the well which is on the existing well pad. Since the water gathering facility is now proposed to serve surrounding wells, it is necessary for the Applicant to obtain a Special Use Permit for the site. The Applicant has obtained the necessary Centralized E&P Waste Management Facility Permit from the COGCC and has bonded the site for reclamation and rehabilitation through the COGCC in order to use this facility to serve surrounding wells. Following discussions with the Applicant's representative, this facility is only to permit the existing tanks on the well pad and it is not to incorporate any open air ponds.

STAFF RECOMMENDATION

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, and 2) the fact that the infrastructure is in place and that no new equipment will be installed on the site, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Commissioner Houpt stated this was an impacting use and there are homes in the vicinity. She did not understand why they were starting to not refer anything to the Planning Commission. David stated again it is the same reasoning as the last application. The primary impact is additional traffic. The infrastructure is already there so we're essentially recycling the existing infrastructure to serve additional wells. Commissioner Houpt asked if the use would be expanded and David stated that there was no new infrastructure proposed on the ground. Commissioner Houpt stated that was a significant question as to whether she would support this or not. Cody Smith stated there were no plans to expand in anyway. As far as bringing in more water, it can only handle he believes 10,000 barrels a day of water. The main intent for this use is to cut down the truck traffic. Granted there are 30 trucks proposed coming into this but at the same time they have 180 trucks running right now. Basically they are bringing dirty water in, dumping it off and piping it back out to their well pads. Cody stated they are trying to use all their existing facilities they have now for their operations to lessen the impacts on the environment and the need for additional sites. Commissioner Martin stated in the application it says there is already a permit from the Oil and Gas Conservation Commission in reference to this use and it is bonded and has a reclamation plan in place.

Commissioner McCown – I make a motion we schedule this before the Board of County Commissioners.

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

CONSIDER THE PRELIMINARY PLAN FOR BATTLEMENT MESA TOWN CENTER, FILING 6 – APPLICANT; BATTLEMENT MESA PARTNERS – CRAIG RICHARDSON

Debbie Duley, Chris Coil, Balcomb and Green, Eric Schmela, Battlement Mesa Partners and Michael Howard, Assistant County Attorney were present, and Debbie answered questions. Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff memorandum; Exhibit G – Application materials; Exhibit H – Letter from Colorado Geologic survey, dated September 28, 2007; Exhibit I – Letter from Colorado Division of Water

Resources, dated September 7, 2007; Exhibit J – Memo from GarCo Road and Bridge, dated September 13, 2007; Exhibit K – Memo from the Town of Parachute, dated September 17, 2007; Exhibit L – Memo from Grand Valley fire Protection District, dated September 18, 2007; Exhibit M – Memo from Mountain Cross Engineering, dated September 20, 2007 and Exhibit N – E-mail from Robert Jasper, Director Battlement Mesa Consolidated Metropolitan District, dated October 3, 2007. Chairman Martin entered Exhibits A – N into the record. Planner Craig Richardson explained the Applicant is proposing to subdivide an 11.81 acre parcel within the Battlement Mesa Planned Unit Development. (Battlement Mesa PUD, approved by the Board of County Commissioners on May 24th, 1982) The Battlement Mesa Master Plan designates zoning of the subject parcel as Business Center
PLANNING COMMISSION RECOMMENDATION
Garfield County Planning Commission reviewed the Battlement Mesa Town center, Filing 6 Preliminary Plan on November 14th, 2007 and forwarded a recommendation of approval to the Board of County Commissioners
Chris Coil stated they were in agreement with obviously most of the Staff's report. The use for this property will be that of the Grand River Hospital District. They are planning on putting a permanent facility for themselves on this tract of ground. This particular piece of ground is adjacent to the new Middle School parcel that has been approved and is in the process of construction. From a practical stand point, we have just received the staff report so we did not have an opportunity to discuss concerns or issues we might have on the staff report. Craig Richardson explained that it was the same as the planning commission staff report. Chris – We wanted to discuss a few things, Article 5C there is a reference to; it states the applicant is proposed to construct a left turn lane on southbound Spencer Parkway at the north entrance to the property. We would request there that we would defer to having to include that in the SIA for the time being. The reason for that is we think it makes more sense to have the access permit and the driveway permit be basically put together at the same time. We would anticipate the Hospital District will do that although that has not been resolved between us and the Hospital District. We perceive this is going to be a business usage in this area that is permitted by BC zoning in the Battlement Mesa PUD. He talked about not putting certain items on the Plat.
Craig Richardson stated they haven't had an opportunity to review the new proposed access so I have no comments regarding that. But regarding the plat notes, those plat notes are required by our regulations. It doesn't say for commercial and for residential so unfortunately that is what we have. That is why they're there but I understand the point.
Commissioner McCown – Move we close public hearing. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I made a motion we approve the preliminary plan with Battlement Mesa Partners as presented with the notations, we will be creating number 4, on the recommendations addressing the turn lanes scenario and that would be determined at the time of the access permit. The time that is acquired from Garfield County, that should it be on Spencer Parkway the left turn lane would have to be put in place prior to the issuance of that and if it is at a different location the conditions would be determined by Road and Bridge.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
CONSIDER A SPECIAL USE PERMIT TO ALLOW AN INDUSTRIAL SUPPORT FACILITY INCLUDING WAREHOUSE/STAGING FACILITIES – APPLICANTS; HARRY AND RHONDA NAUGLE – CRAIG RICHARDSON
Harry Naugle, John Savage, Attorney, Ron Liston, Planner and Michael Howard, Assistant County Attorney were present. John Savage answered questions. Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1974 as amended; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – Letter and attachments from Land Design Partnership, dated August 24, 2007; Exhibit G – Memo from Gar Co Road and Bridge, dated January 23, 2007; Exhibit H – E-mail from Dan Roussin, CDOT, dated January 22, 2007; Exhibit I – Letter from Goodwin Septic Tank Service, dated March 14, 2007; Exhibit J – Letter from Roy McClung, Mayor Town of Parachute, dated February 9, 2007; Exhibit K – Letter from Zancanella and Associates, dated March 24, 2007; Exhibit L – Memo from Sopris Engineering, LLC, dated March 14, 2007; Exhibit M – Wildlife Impact Report, Beattie Wildlife Consulting Inc., dated March, 2007 and Exhibit N – Memo from Steve Anthony, Gar Co Vegetation Management, dated April 24, 2007 and Exhibit 0 – Letter from John Savage, P.C. Attorney at Law, dated January 14, 2008 and attachment.
Chairman Martin entered Exhibits A – O into the record. Planner Craig Richardson explained the Applicant is proposing that the facility be operational twenty-four hours a day, seven days a week. 16 trucks or tractor trailers combinations will be parked at the site, mostly occurring at night. The application represents the peak traffic hours consisting of 6:00 – 7:00 AM and 5:00 – 8:00 PM. This facility will accommodate approximately fifty employees on-site daily.
PLANNING COMMISSION RECOMMENDATION
Staff presented this request to the Planning Commission for recommendation to the Board. The Planning Commission forwarded a recommendation of approval to the Board with the following conditions:

1. The Applicant shall provide a Reclamation Security in the amount of $18,000;
2. The Applicant shall provide a more comprehensive sound analysis demonstrating compliance with County Standards;
3. The Applicant shall provide a copy of the Stormwater Management Plan to the County;

As stated earlier in this memorandum the sound analysis provided does not demonstrate that the proposed use can comply with §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended regarding noise. Should the Board move to approve this request Staff recommends the following conditions of approval:

(1) That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board;
(2) That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility;
(3) That all proper building permits are obtained for the structures associated with the operation of the Industrial

Support Facility;

(4) The Proposed Industrial Support Facility shall be constructed and operated as represented in Exhibit F, a letter and attachments from Ron Liston, Land Design Partnership, dated August 24th, 2007;
(5) The Applicant shall provide a current State Highway Access Permit allowing for the proposed use or a letter from Colorado Department of Transportation stating an access permit is not required prior to the issuance of the Special Use Permit;
(6) The Applicant shall provide a Reclamation Security in the amount of $18,000 prior to the issuance of the Special Use Permit;
(7) The Applicant shall provide a copy of the Stormwater Management Plan for County records;
(8) An approved well permit allowing for the proposed use shall be submitted to the Building and Planning Department prior to the issuance of the Special Use Permit.
(9) The identified noxious weeds shall be treated and documentation of treatment shall be provided to Garfield County Vegetation Management and copied to the Building and Planning Department so they can be made part of the files prior to the issuance of the Special Use Permit.

Commissioner Houpt stated this is in a visual corridor and is in a high visibility site, what are the plans for lighting? They are also asking for 24 hours a day 7 days a week. Craig Richardson stated it was his understanding that's on an as is basis and the majority of the traffic will be during the peak hours. Regarding lighting we would require that it is not transferred off site with our normal condition of approval, downward, inward. If it transfers off-site it would not be in compliance, actually it is not a condition. Commissioner Houpt stated she would like to add that in. Also talk about a motion detection system. Craig continued with his report. Commissioner McCown stated the SUP to the west does have a screen fence up and Craig stated correct. John Savage – Proposed adding an additional condition that any disturbed areas be maintained and treated. The big issue is the noise issue. Statute requires analysis based on four different classifications, residential, commercial, light industrial and industrial. John's position was that staff felt you need to take out the background noise of I-70 and the applicants position as far as statutes says you do take surrounding circumstances (I-70) into consideration. Therefore you can't hear these trucks over the I-70 traffic noise. We are not in violation of statute in fact. What we propose to do is by imposition of an easement. Commissioner Houpt wanted to state in defense of staff she could understand the applicants concern about this piece of property but would tend to agree with staffs interpretation of the noise regulation. If you were representing a residential area on I-70, I think you may have a different slant on how you would approach an industrial use that was being built right next to it and maybe not make the argument that I-70 automatically turns it into an industrial noise level. I don't agree with your rational but it is an intriguing approach to getting around that and it obviously works with the property owner.
Michael Howard stated that while he respectfully disagreed with his esteemed colleague's view of both the sound study and his interpretation of the regulations he does believe the easement however solves the problem. It moves the line in a sense and it would comply if the easement is recorded. It puts subsequent owners on notice and it also protects the County. Craig Richardson stated it was their interpretation of the sound study. He asked them to look at the second page of the sound study which clearly showed residential uses and that it is not compatible with the requirement for residential uses. Seeing how the existing parcel is being used as a residence and then whenever Mr. Harry Naugle sells the property, the new owner will look to the County to see why the activity has been allowed to not comply with state statute and I would agree with our attorney that the easement does cover the Board of County Commissioners.
Commissioner Martin stated that easement is there in place at the time it is recorded. Do we have a motion to close public hearing? Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the Special Use Permit to allow for an industrial support facility, first of all conditions one through seven are easy enough. I will start out with number eight, being the condition that the applicant recommended since that is what I have before me; any disturbed area would be taken care of. with dust suppression so that is not a problem. Number nine would be regarding the execution and recording of the attached easement. My number ten would be any lighting at the facility would be pointed inward and downward and would be activated in the evening with motion sensors. Number eleven I believe would be the noxious weed issue that any noxious weeds would continue to be controlled on the site by the occupant. The approved well permit be presented prior to the issuance of the Special Use Permit. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PRELIMINARY PLAN FOR THE SUBDIVISION OF A 35.23 ACRE PROPERTY LOCATED APPROXIMATELY 1 MILE NORTH OF THE TOWN OF SILT INTO 3 LOTS – APPLICANT; NATHAN AND TAMMI BELL – DAVID PESNICHAK

Nathan Bell, applicant and Michael Howard, Assistant County Attorney were present and Nathan answered all questions. Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; Exhibit F -Application materials; Exhibit G – Memo from Steve Anthony of the Garfield County Vegetation Management Department, dated September 7, 2007; Exhibit H – Memo from Celia Greeman of the Colorado Geological Survey, dated September 11, 2007; Exhibit I – E-mail Jake Mall of the Garfield County road and Bridge Department, dated August 27m, 2007; Exhibit J – Memo from Xcel Energy Company, dated September 4, 2007; Exhibit K – Memo from Craig Lis of the Office of the State engineer, Division of Water Resources, dated September 14, 2007; Exhibit L – Memo from Chris Hale of Mountain Cross Engineering, dated September 17, 2007; Exhibit M – Letter from Nathan Bell of Bell Consulting, LLC to David Pesnichak of the Garfield County Planning Department, dated September 22, 2007; Exhibit N – Letter from Nathan Bell of Bell Consulting, LLC to Steve Anthony of Garfield County Vegetation Management, dated September 21, 2007; Exhibit O – Letter from Nathan Bell of Bell consulting, LLC to David Pesnichak of the Garfield County Planning Department, dated June 25, 2007; Exhibit P – E-mail from Steve Anthony of the Garfield County Vegetation Management Department, dated September 26, 2007; Exhibit Q – Letter from Cynthia Love of the Office of the State Engineer, Division of Water Resources, dated

October 3, 2007; Exhibit R – Letter from Brit McLin of Burning Mountain Fire Protection District, dated October 15, 2007; Exhibit S – Letter from Nathan J. Bell of Bell Consulting, LLC, dated June 27, 2007; Exhibit T – Letter from Brit McLin of the Burning Mountain Fire Protection District, dated December 5, 2007; Exhibit U – Letter from Nathan Bell of Bell consulting, LLC, dated October 29, 2007 and Exhibit V – Letter from Nathan Bell of Bell consulting, LLC, dated November 7, 2007.Chairman Martin entered Exhibits A – V into the record. Planner David Pesnichak explained the Applicant proposes to subdivide the subject 35.23-acre tract into three lots where Lot 1 has 28.558 acres, Lot 2 has 2.098 acres, and Lot 3 has 2.151 acres. The property is presently being farmed / ranched with a significant irrigated hay field located on the western half of the property with an existing residence and associated agricultural structures (barn and personal riding arena) being located on the eastern half of the property. The site plan is designed such that the existing residence will be located on Lot 2, a new residence would be located on Lot 3 and a new residence would be located on the much larger Lot 1 which also includes all of the existing ranching / farming activities and structures.
This application was first heard by the Planning Commission on September 26, 2007 and again on October 24, 2007. The Planning Commission voted unanimously to recommend that the BOCC approve the North Bell Ranch Subdivision.

STAFF RECOMENDATIONS

Staff recommends that the Board of County Commissioners APPROVE the proposed Preliminary Plan with the following conditions recommended by Staff:

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

   Access and Internal Roads

2. A 30-foot right-of-way easement from the centerline of all County Roads adjacent to this subdivision shall be dedicated to Garfield County prior to signing of the final plat.

   Easements

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

   Impact Fees

4. The property is located in Traffic Study Area 6 which requires a $210 per Average Daily Trip (ADT) fee be paid to the County in a traffic impact fee. This fee will be figured at the time of final plat. The Applicant shall pay ½ of the total impact fee at final plat and included as a component of the Subdivision Improvement Agreement (SIA). The remaining half shall be divided among the lots to be paid at the time building permits are submitted to the County for individual lot development.
5. The development is located in the RE-2 School District. As such the developer is required to pay the appropriate School Site Acquisition Fee to be paid at final plat and included as a component of the Subdivision Improvement Agreement (SIA). This fee is generally calculated as $200 per residential unit.
6. The developer shall install a 5,000 gallon water storage tank dedicated to structure and wild land fire protection. This tank shall be installed below ground and within an easement as described on the Preliminary Plan. This tank shall be maintained in an operable condition by the Homeowners Association. In addition, the Homeowners Association shall be responsible for ensuring that the water tank contains at least 5,000 gallons of water at all times. Language ensuring the physical maintenance of the fire protection water tank and maintenance of the water level shall be included in the Declaration of Covenants.

   Plat Notes

   1. *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.*
   2. *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.*
   3. *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.*
   4. *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.*
   5. *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.*
   6. *The mineral rights associated with this property have been partially or wholly 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).

7. *All foundations shall be designed by a Colorado registered engineer.*
8. *All Individual Sewage Disposal Systems (ISDS) shall be designed by a Colorado registered engineer.*
9. *The Homeowners Association shall be responsible for maintaining the fire protection water tank in an operable condition. In addition, the Homeowners Association shall be responsible for maintaining at least 5,000 gallons of water within the fire protection water tank at all times.*

Nathan Bell stated his only comment was that all three wells are in existence, are drilled, covered by the permits necessary and there are, I think the comment was lot 2 would be a new access; lot 2 was an existing residence. It has a current access. Lot 1 is the existing ranch access so the only new access would be to lot 3.
Commissioner McCown asked what was the condition and which well will be used to fill the fire waters?
Nathan stated the agreement with the fire district is to fill the tank and just leave it. It will not be a continuous fill tank. It won't be tied to an existing well. It will be filled once, stored and if we have to fill it again we just fill it again.
Commissioner McCown – Move to close public hearing. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the proposed preliminary plan with the conditions so noted by Staff, one through six with the plats one through nine. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A RURAL LANDS DEVELOPMENT OPTION EXEMPTION FOR THE TYBAR RANCH – APPLICANTS; DAVIES MESA RANCH ESTATES, LLC AS TO PARCEL "A" AND DAVID K. DANCIGER, SPECIAL POWER OF APPOINTMENT TRUST AS TO PARCEL "B" – FRED JARMAN

Doug Pratt, Mark Nieslanik, Ranch Manager, Carolyn Dahlgren and Fred Jarman were present.
Carolyn reviewed the noticing requirements for the public hearing and determined there was a basic problem. The form was incorrect and had a 6:30 P.M. time in it and was not caught to change it to 1:15 P.M. so all the notices that went out stated the hearing would be held at 6:30 P.M. Regulations state your notice shall say date, time and place of the hearing. Commissioner Houpt felt it was a very major imperfection as did Commissioner McCown. Commissioner Martin also stated it is an imperfection and asked if there was a motion not to open the public hearing.
Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye Commissioner Martin stated we will have to re-notice with proper time and understands it is a hardship to the applicant as well as an expense.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JANUARY 21, 2008
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 21, 2008 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 Jean Alberico Clerk & Recorder. Commissioner McCown was absent.

CALL TO ORDER

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

CITIZENS NOT ON THE AGENDA:

HUMAN RESOURCES - MARTIN LUTHER KING DAY

Commissioner Houpt recognized this is Martin Luther King Day and wanted to recognize the things he accomplished especially the dreams. Please take time to reflect on the significance of this man.

COUNTY MANAGER UPDATE: ED GREEN

SAFETY COMMITTEE DECEMBER 12TH INCIDENT REPORT – PAUL REASER

Marvin Stephens, Mike Van der Pol, Paul Reaser and Rick Harter, acting director of Community Corrections were present. The incident investigation and report summary of events and recommendations that occurred in Garfield County on December 12, 2007 with an inmate and a Road and Bridge employee was submitted by Paul R. Reaser, M.S., senior environmental health specialist for Garfield County Public Health. The report included the road conditions as icy and snow covered; the scene was poorly lit with limited fields of view from the Corrections facility; the client was not wearing a reflective safety vest or carrying a flashlight that the Correctional facility makes available to all clients and he was wearing dark clothing.
Paul submitted photos showing the dark area and poor visibility in his report.
The suggestions to correct future incidents included administrative controls and engineering controls and physical improvements:

- Consider modifying or eliminating outdated polices and procedures;
- Consider a detailed Safety Training Program for incoming clients and create a schedule for retaining County staff on facility safety policies and procedures;
- Upon completion of a detail Safety Training Program, clients commit to taking ownership and accepting responsibility for using the training provided;
- Offer safe transportation options to clients walking or biking from the Corrections Facility to town;
- Provide compensation to employers for "portal to portal" transportation;
- Identify each client's employer and means of transportation and update these records regularly;
- Impose an appropriate disciplinary infraction scale for inmates and/or County staff;

- Create a schedule for regular safety equipment audits (e.g. effectiveness of vests, helmets, and flashlight maintenance, etc.)

Dale submitted the pricing would be $18 a month to implement these improvements.

- Install permanent lighting along CR 333 and/or points along CR 352 – Airport Road
- Dale Hancock has been working with service providers on the implementation of pedestrian walkways along these corridors, including the entrance to the Garfield County Airport.
- The above recommendation is in progress and this recommendation is being considered.

Paul highlighted the times and areas for pick-ups of the inmates and stated that he is hopeful that this can move forward. Dale asked for consideration of a 15-passenger van scheduled to go to auction and stated he would like to divert this from auction and assign it to the Community Corrections program. This would be used for the delivery and pick up for the inmates. Ed – the BLM folks that jog along the airport road and the entrance to it is another consideration and we're thinking about developing some type of exercise pad so they won't have to be on the road. Ed would like to have a sidewalk all the way through but the airport runway project will tear it up when it begins.

Commissioner Houpt made a motion that we not take the take the 15 passenger van to auction but assign it to Community Corrections and use if for pick up and drop off of inmates. Motion seconded by Chairman Martin who stepped down as Chair.In favor: Houpt - aye Martin – aye McCown – absent

Discussion took place regarding direction on the exercise pad at the airport for BLM staff and whether it would be a public pad outside the fence. The direction is to work on the plans for the sidewalk and the exercise pad and bring this back. Marvin stated he can install signs and he can get these up pretty quickly.

Don suggested when they come back with the plans for a sidewalk and exercise pad they also include a maintenance plan.

TRAILS AND TRANSPORTATION - CONSIDERATION/AUTHORIZATION FOR CHAIR TO SIGN 2008 PLANNING SERVICES AGREEMENT WITH LOWER VALLEY TRAILS GROUP (LOVA)

Ed Green, Mike Sawyer and Don DeFord were present.

Ed presented the contract explaining that this was for performance of the scope of services and provides an annual written report on the provision of these services. The report shall include a progress assessment, the identification of barriers to achieving the objectives of this contract as referenced in Exhibit A. The dollar amount is for an amount not to exceed $43,710.00. Exhibit A identifies:

- Co-manage South Canyon Trail project;
- Broaden partnerships for future South Canyon Trail funding;
- Planning and development of Coal Ridge High School Trail;
- Outside development, including grant writing;
- Office management/administration;
- Organization and Board Development, and management;
- Office rent.

Commissioner Houpt made a motion that we approve the 2008 planning services agreement with Lower Valley Trails Group (LoVA) for a not to exceed $43,710.00 Motion seconded by Chairman Martin who stepped down as Chair.

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

TRAILS AND TRANSPORTATION - LOVA CONSIDERATION/AUTHORIZATION FOR CHAIR TO SIGN 2008 LEASE FOR LOWER VALLEY TRAILS GROUP (LOVA)

Ed explained the lease agreement for approximately 470 square feet identified as Suite 206 within the Henry Building at 144 E. 3rd Street, Rifle for an amount of $3,710.00 annually.

Commissioner Houpt made a motion that we approve the 2008 lease for Lower Valley Trails Group (LoVA) at the Henry building at 144 E. 3rd Street, Rifle for an amount of $3710.00 annually that then we give it back to them as a grant. Motion seconded by Chairman Martin who stepped down as Chair.

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

TRAILS AND TRANSPORTATION CONSIDER AUTHORIZATION FOR CHAIR TO SIGN LICENSE TO CONSTRUCT TRAIL WITH CITY OF GLENWOOD SPRINGS RE: SOUTH CANYON TRAIL PROJECT – JEFF NELSON AND LARRY DRAGON

EASEMENT – GFLENWOOD SPRINGS JURISDICTION

This will be conveyed to the City at the end of construction. One-half of the trail is in Garfield County and the other half is in the City of Glenwood Springs. Only the half that is in Glenwood springs will be conveyed to them; that's what the maintenance agreement is for.

Commissioner Houpt made a motion that we approve the license to construct trail for the LoVA trail between the City of Glenwood Springs and Garfield County and authorize the Chair to sign it.

Chairman Martin stepped down as Chair to second the motion. In favor: Houpt – aye Martin – aye McCown – absent

TRAILS AND TRANSPORTATION - SOUTH CANYON TRAIL PROJECT AND CONSIDERATION/AUTHORIZATION FOR CHAIR TO SIGN TRAIL MAINTENANCE AGREEMENT WITH CITY OF GLENWOOD SPRINGS RE: SOUTH CANYON TRAIL PROJECT – JEFF NELSON – LARRY DRAGON

Mike Sawyer and Don DeFord were present. Don submitted a memorandum showing the City of Glenwood Springs has agreed to the spending arrangement for the South Canyon Trail as described in Don's letter dated 12-18-2007 which states:

- CDOT enhancement funds will be used in full (realizing the required 20% match)
- State Trails Grant used in full (realizing the required 100% match)
- The LoVA contribution used in full;
- The City of Glenwood's contribution used in full; and
- Garfield County's contribution used to complete the project.

If there are any funds remaining, equal to or less than Garfield County's contribution, that money would be returned fully to Garfield County. Mike Sawyer and Jan Shute are making some modest revisions to the maintenance agreement

with the City and this is almost complete which would allow the County to issue the Notice to Proceed on January 25, 2008. Money taken from now will be from the City's contribution first for any required matching funds.
A motion was made by Commissioner Houpt to authorize the Chair to sign the Trail Maintenance Agreement with the City of Glenwood Springs for 2008 in an amount not to exceed $1,725.00.
Chairman Martin stepped down as Chair to second the motion. In favor: Houpt – aye Martin – aye McCown - aye

Ed Green, Mike Sawyer, attorney and Don DeFord were presented the contract explaining that this was for performance of the scope of services and it provide an annual written report on the provision of these services. The report shall include a progress assessment, the identification of barriers to achieving the objectives of this contract as referenced in Exhibit A. The dollar amount is for an amount not to exceed $43,710.00. Exhibit A identifies:

- Co-manage South Canyon Trail project;
- Broaden partnerships for future South Canyon Trail funding;
- Planning and development of Coal Ridge High School Trail;
- Outside development, including grant writing;
- Office management/administration;
- Organization and Board Development, and management;
- Office rent.

Commissioner Houpt made a motion that we approve the 2008 planning services agreement with Lower Valley Trails Group (LoVA) for a not to exceed $43,710.00. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

TRAILS AND TRANSPORTATION - SOUTH CANYON TRAIL PHASE I CONSIDERATION/AUTHORIZATION FOR CHAIRMAN TO SIGN NOTICE TO PROCEED AND CONTRACT WITH AMERICAN CIVIL CONSTRUCTORS, INC. RE: SOUTH CANYON TRAIL PHASE I – MATT ANDERSON AND JEFF NELSON

Matt Anderson, Contract Administration and Mike Sawyer were present. The Trail Maintenance agreement made between the City of Glenwood Springs and Garfield County was presented for the recreational trail along the Colorado River on and across an easement of 300 feet in length to be owned by GarCo and is located contiguous to the recreational trail which will be owned by the City of Glenwood Springs.The City owns and maintains other recreational trails within its municipal boundaries and has staff and equipment for such purposes. It has been determined that certain cost savings can be achieved by having the City maintain the recreational trail owned by the City and GarCO; therefore in exchange for a payment of $1725.00 the City agrees to provide annual maintenance and this term of the agreement will be for one year from the date of execution. These two items were reviewed together.
Mike explained the trails easement and stated the trail maintenance agreement was for a not to exceed amount of $1,725.00.
Don assuming the Board approves the 3rd document he would like to have the Chair authorize the Board to sign the construction contract and notice to proceed with American Civil Constructors, Inc.
Matt Anderson was present for contracting questions.
In the packet submitted by Larry Dragon he set out the actual funding and from all information received from Bob and Patsy it is showing a balance of $942,553.00 for Phase I of the South Canyon Trail from all entities. The City's letter states very clearly that they willing to utilize all CDOT funds, State Trails grants, LoVA, funding from the City of Glenwood Springs and then the remaining amount is with the County.
Authorize the notice to proceed: the Board has already signed the notice of award. Currently we have a pre-construction conference on the 25th.
Money for change orders: Don informed the Board if there are no other sources after the $942, 553 and if it falls short they will come back to us. Mike explained that due to the river we may need to submit changes. He stated the County's appropriation is outstanding.
Commissioner Houpt made a motion to approve the notice to proceed for LoVA and authorize the Chair to sign the contract with American Civil for Phase I in the amount of $639,756 when the work is completed.
Mike appreciates the County's support. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

FINANCE - 2008 PRIVATE ACTIVITY BOND ALLOCATION – PATSY HERNANDEZ

Patsy explained the 2007 private activity bond allocation stating that information received from the Colorado Department of Local Affairs certified $2,253,350 will be allocated to the County for the purpose of issuing the Private Activity Bonds (PAB) in 2008. Patsy requested the Board direct the 2008 PAB for Garfield County to be allocated to the Colorado Housing and Finance Authority (CHFA) and authorize the Chair to sign all necessary documents to accomplish this task. Commissioner Houpt asked if Ed has talked to Geneva with the Housing Authority as to whether any of these funds should be allocated in a different manner.
Ed said Geneva didn't have anything and the development in Rifle will not take place until 2009. He has talked to several developers, but they prefer to use tax credits instead of private activity bonds. Geneva knows the timing of this. Commissioner Houpt had a call from Carbondale about a project and wanted to make sure Geneva was in the loop. This project is for construction of rental property. Chairman Martin assured her is isn't totally lost, but CHAF funds are not as easily accessed. Patsy requested approval for the Chairman to sign the necessary documents prepared by the legal department. Don added there are a number of Resolutions with CHFA and agreements; this is the 2nd or 3rd year we have done this. Commissioner Houpt so moved. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

AIRPORT - BLM AIRPORT OFFICE CONTRACT OFFER APPROVAL AND EAST AREA HANGAR DEVELOPMENT DISCUSSION – BRIAN CONDIE

Brian submitted the floor plan showing the square footage for lease. He explained BLM's contract for the leased space for a general office would be for 3,334 s.f. and includes 7 offices for an annual amount of $29,105.00 year @ $425.54 per month. This is a number presented to the Board for consideration.

Brain stated they were using the old terminal for their space. They also need to take care of utilities, cleaning etc. that we will provide for them and he submitted an outline showing the area they intent to use and has the proof to show the FAA. Brian explained there were two different sets of numbers and at this time there were issues to be worked out. The sf cost could range between $8.73 a sf or $9.40 per sf. These details have to be ironed out and Brian wanted to present the preliminaries before the Board. Contract Administrator, Matt Anderson said with the federal government, they will not change the contract – we can make things contingent and as long as we come to an agreement.
It was suggested that Brian's recommendation be placed in an addendum and bring this back to the Board

ROAD AND BRIDGE - BOND RELEASE FOR CALPINE NATURAL GAS LP – MIKE VANDER POL

Mike Vander Pol submitted the acknowledgment of satisfaction and release of security for Calpine Natural Gas L.P stating he has reviewed the permit and Calpine has satisfactorily performed all conditions of their permit and the County should release the Platte River Insurance Company, the surety company forms the terms and conditions of bond number 40055063.
Commissioner Houpt made a motion that we approve the release of security for Calpine Natural Gas and authorize the Chair to sign. Motion seconded by Chairman Martin who stepped down as Chair..
In favor: Houpt - aye Martin – aye McCown - absent

Ed – Executive Session involving an HR issue and needed both Marvin and Katherine.
Chairman Martin stated he had communication from CCI and Tresi and Doug co-chaired the committee and we need to designate a Chairman. Commissioner Houpt will double check but feels she can fill that role and will check back to the Board . Her concern is that Garfield County would have more votes if we added another person.
Potential conflict with Commissioner Houpt serving on the COGCC Board was discussed regarding the oil and gas and severance gas tax adding that some might say you are getting too much information before you make federal mineral leases. Commissioner Houpt said she didn't see this as a conflict but we can bring this up when we meet on Friday. Chairman Martin was asked by the lobbyist to discuss this and said it took 11 years to get this formula worked and have discussed this issue with legislators; Commissioner McCown has also Larry too. Both will attend and make a decision. Commissioner Houpt – Doug and I will be the chairs and we will have other representations.

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/AUTHORIZATION FOR CHAIR TO SIGN LETTER TO GLENWOOD SPRINGS CITY ATTORNEY RE: CHILD ADVOCACY CENTER – AMENDMENT TO DEVELOPMENT AGREEMENT

A letter was received from City Attorney Jan Shute stating the City no longer desires dedication of the pedestrian easement as a condition precedent to issuance of the final certificate of occupancy for the child Advocacy Center. They will agree to amend the Development Agreement to eliminate that provision and the County will convey the right-of-way to the City as the last remaining condition prior to issuance of the final certificate of occupancy for the building. This requires the Chair's signature on the letter to the City of Glenwood Springs. Commissioner Houpt said it is fine to change but only if it doesn't hold up their operation. If they are willing to grant the CO then she is willing to go forward; the facility is not ready for use but it is very close. Commissioner Houpt also asked, in this letter to be clearer that the operations will proceed while changing the direction of the agreement and that there is nothing technical to keep River Bridge from opening. Don suggested adding a paragraph stating: "regardless of the position of the city with this easement we need a CO to operate the facility responsibly". He said he could state the Board's postion in one or two sentences. Don requested with these changes he would like to have the Chair authorized to sign.
Commissioner Houpt so moved. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

SHERIFF - CORDOVA - HORSE AUCTION – explained the current situation that liens by Mr. Melton were filed. Anyone who provides care to livestock can place a lien. Mr. Melton cared for the horses for a period of 3 months and as a result the liens total $11,500 so for that reason he wanted this issued discussed. The Sheriff agreed he would allocate $11,500 and clear the liens for auction. He discussed this on Friday with John and they elected to go forth therefore the request is to consider this and ratify the action of the Chair.
Commissioner Houpt – so moved; Chairman Martin stated this was after 5 pm on Friday and the auction was a success and the animals have new homes. He stepped down as Chair to second the motion.
In favor: Martin – aye Houpt – aye McCown – absent
Chairman Martin explained that Mr. Cordova was in assisted living and was physically unable to care for the animals.

CONSENT AGENDA

a) Approve Bills
b) Changes to Prior Warrant List
c) Authorize the Chairman to sign the Resolution of Approval for the North Bell Ranch Subdivision Preliminary Plan to create three lots located one mile north of the Town of Silt. Applicants are Tamara and Nathan Bell. – David Pesnichak
d) Authorize the Chairman to sign the final Plat, Treasurer's Deposit Agreement and Subdivision Improvement Agreement for the Creek Side Estates Subdivision to create a total of six (6) lots approximately 1 mile north of the City of Rifle. Applicant is Mark Sills – David Pesnichak
e) Authorize the Chairman to sign the Conditional Use Permit for a Warehouse/Staging Area. Applicant is Berry Petroleum Company (Marathon Lessee) – Craig Richardson

Commissioner Houpt made a motion that we approve the Consent Agenda as presented.
Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

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

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

Executive Session – Ed's items plus the emergency procurement regarding removal of snow and some non-budgeted item – capital equipment – purchase a loader mounted snow blower; Also the update on contract for CR 204 saying that Matt wants to provide legal advice concerning the planning session and also clarify the procedures on Sander's Ranch and briefly obtain legal advice on the safety report received this morning.
Action Taken:
ROAD AND BRIDGE – EQUIPMENT PURCHASE - Procure from SNOGO a used MP-3D two state auger snow blower for a cost of $66,000. This is needed due to the increase of plowing high county roads and we need to blow snow over the increasing height of snow that is plowed to the side especially when fences are present.
A new piece of equipment cost $130.000 so this is a good deal.
Motion made by Commisisoner Houpt to approve the procurement from SNOGO a used MP-3D two state auger snow blower for a cost of $66,000 and this will come out of Marvin's fund balance.
Chairman Martin stepped down as chair to second. In favor: Houpt – aye; Martin – aye; McCown - absent
COMMISSIONER REPORT:
Commissioner Houpt – last week attended the Oil and Gas Commission hearings and reemphasized the importance to stay in the rule making process. A website for all the interested parties to have opportunities to be involved, there is a schedule the staff has been put together and it is very inclusive and encouraged those interested be at the meetings or respond to the rule making. Also attended the CCI Board meeting on Friday and earlier it was mentioned about the federal mineral task force to work with various impacted counties around the state and make recommendations to the state for distribution to the counties. Tresi mentioned that various legislations are coming forward. Attended a meeting on Roan Plateau on Friday. Senator Salazar was meeting with the Mayor's group this week. Tuesday, January 22, tomorrow from 12 noon to 5 pm open house at River Bridge; Thursday –meeting on the collaborative effort on I-70 preferred alternative to be held in Keystone. Denver on Friday – for CCI meetings.
Commissioner McCown – absent
Chairman Martin – CCI meetings on Friday and we will be covering public lands; also attended the steering committees; Club 20 in Denver and the legislators talked about many issues except water – no one would respond to his concerns. Severance tax and spending money is more important that water. It's an uphill battle with 53 legislative actions on global warning and to me its overkill. We need to keep our heads straight forward, watch closely as there are 15 tax bills dealing with taxes and many may be on the Ballot in November, so he encouraged everyone to not stop reading the newspapers.
Commissioner Houpt – these are big issues and primary the tax issue will be on the ballot in November recognizing that it doesn't cure every issue.
Chairman Martin – the health care issue hit the floor – it is no longer a major issue; next year perhaps, but there are too many demands for money from the governor's office.
Ed – Road and Bridge safety meeting on the 23rd at Road and Bridge shop.
Chairman Martin – the 30th at 2:00 p.m., the senior programs at CMC Center and discussion will take place as to how they should be advanced. We have draft contract with RFTA and have been discussing this with Bill Blankenship.
Ed – the question is how to move forward; he has a sense the college will hold CMC RSVP, RFTA and the Traveler will be Garfield County and someone else will run the nutrition program. There are some pending contracts to provide the nutrition program.
Chairman Martin – on the 30th there will be a tribute to the Ag Days to be held in New Castle at 9:30 a.m. at the Community Event Center.
HUMAN SERVICES COMMISSION:
INTRODUCE OFFICERS, INVITATION TO HSC BANQUET AND HEALTH TASK FORCE REPORT
Tish Phillips the co-chairman with Sandy Swanson and Cheryl Cain is the Vice President and Macelia Folsom the secretary. Jane McCollar is on the membership committee.The Humanitarian Awards will be held on Monday, January 28th and all are invited. It will be at the Hotel Colorado starting at 6:00 for the dinner and you need to let someone know you are coming. We had 33 nominations for the awards - title this year is "Super Heroes".

Child Health Task Force – the report has been done. The task force has been still meeting and we have one new provider – the Roaring Fork Family Physicians in Carbondale and we continue to work on VVH and GMA – this is an on-going taskforce. Meeting February 5 at 5 9:00 a.m. at El Jebel for the Regional Pitkin and Eagle County and will forward the agenda. The meeting is with Pitkin County. Trying to get Colorado Children's Campaign wants to speak to us about 2008 budget. Linda Morcom will have the agenda items for this year and they will continue the method of talking about the issues and how they are beneficial to the citizens of Garfield County. The officers invited the Board to let them know of subjects they might want to be hearing about.
BOARD OF HUMAN SERVICES:
HUMAN SERVICES APPROVAL OF EBT/EFT DISBURSEMENTS FOR DECEMBER 2007
Lynn Renick submitted the EBT/EFT disbursements for the month of December totally $373,415.83 and requested the Board's approval and signature.
Commissioner Houpt so moved. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent
HUMAN SERVICES - CONSIDERATION AND APPROVAL OF 2008 CHILD SUPPORT ENFORCEMENT PURCHASE OF SERVICES AGREEMENT WITH PITKIN COUNTY
Lynn presented the 2008 Child Support Enforcement Purchase of Services agreement with Pitkin County signed by Nancy Sundeen, Director and requested the not to exceed revenue amount of $6,000 plus any incentives earned be approved and authorize the Chair to sign.
Commissioner Houpt so moved. Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown – absent
This requires all three signatures. Lynn felt it would be fine to wait for Larry's signature.
HUMAN SERVICES - CONSIDERATION AND APPROVAL OF SUBSIDIZED ADOPTION AGREEMENT AND CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS
Lynn stated the department is requesting consideration and approval of the following agreement/contracts:

- Subsidized adoption agreement for special needs child, G490136 in the not to exceed amount of $10,800; so moved approved of the contract by Houpt – seconded.
  In favor: Houpt – aye; Martin – aye; McCown – absent.
- Out of home placement contract with Hand Up Homes, for T619243 in the not to exceed amount of $62,149.92 and requested approval. So moved of approval of the contract by Houpt – seconded.
  - Out of home placement contract with Southern Peaks for &358251 in the not to exceed amount of $34.101.36.

So moved by Houpt to accept the contract; Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

PROGRAM REPORTS

Lynn provided the Board the updates including:

- The Colorado Department of Health Care Policy and Financing provided a regional Medicaid training for Western Slope counties in Rifle on January 17th.
- Karen Meier-Binde, MSW, has accepted the position of Assistant Director and is scheduled to being employed January 23 and she will be stationed in Rifle.
- Lynn stated the department has been working with Colorado Department of Human Services and Mesa County DHS/Western Region Area on aging for possible inclusion in a federal/state grant. The intent of the project is to partner and collaborate with existing aging and disabled service resources to better meet the needs of this target population. More details will be provided when they are worked out.
- GarCo's participation in the NACo Prescription Drug Discount Program is going forward. The contract has been received at Caremark and a media kit has been forwarded to begin the dissemination of information to the community regarding participation. A power point presentation was included in the Board's packet for additional information. Lynn just approved last week on the prescription cards and roll out on March 8, 2008. Caremark will contact some of the pharmacies and Lynn will follow up with others. There will be ways in the forms of posters so the people will know.

Chairman Martin – would like to see information going out to the media and the participants.
Lynn expects a lot of media coverage. Commissioner Houpt suggested a list of pharmacies who are participating be placed on the website. March 17th is the date projected to start.

BOARD OF HEALTH:

PUBLIC HEALTH - 2008 AIR QUALITY MONITORING LAB CONTRACT – JIM RADA

Mary Meisner, Jim Rada and Matt Anderson were present. Matt Anderson submitted the contract to Eastern Research Group (ERG) for the 2008 Air Quality Monitoring Lab Contract stating this was a sole source contract with a recommended award of $111,898.00. Matt stated they contacted 7 different people and only one could fulfill the entire contract.
Carolyn – Board being asked Exhibit A – second page of that exhibit – contract provisions that are not consistent. You can pull out the second page about the liability. Keep the first page only.
Commissioner Houpt made a motion to approve the notice of award for the 2008 with Eastern not to exceed $111,898.00 and Chair to sign the notice of award. Motion seconded by Chairman Martin who stepped down as Chair..
In favor: Houpt - aye Martin – aye McCown – absent
A motion was made by Commisisoner Houpt to authorize the Chair to sign the purchase of agreement with ERG same of $111,898.00, excluding page 2 of Exhibit A. This will be placed on the Consent Agenda.
Motion seconded by Chairman Martin who stepped down as Chair.
In favor: Houpt - aye Martin – aye McCown - absent

PUBLIC HEALTH - HIGHLIGHTS 2007 AND 2008 OBJECTIVES

Mary Meisner submitted the Public Health 2007 Highlights addressing:

- Air Quality Monitoring Program;
- Air Quality Program Management;
- Human Health Risk Assessment (HHRA)
- Public Health Support/Intergovernmental Agency Support;
- Water Quality;
- Other: including the hiring of Paul Reaser as Senior Environmental Health Specialist; and added that they had 112 complaints that were responded to and logged in from citizens as of December 18, 2007.
- 2007 Immunization Program Highlights
- 2007 Highlights from the Glenwood and Rifle Public Health offices;
- Prenatal case management 2007 highlights showing 579 prenatal patients were followed by two case managers; 340 deliveries and 169 still remain undelivered and 70 withdrew from care. This relates to 40% of all deliveries at VVH.
- Low birth rate was 7.2 and Mary is real pleased.
- State audit – excellent review. Case managers are part of the Mountain Family ???
- HCP – continue to have cardiology and neurology – highlighted 6 cardiology and only 2 neurology. The reason was only two neurology clinics was due to the retirement.
- Four priorities for the year: suicide prevention; increase immunization; pre-natal and air quality.

Highlights were given starting with the award of the EPA of $107,000 was exciting for the health arena and welcomed Paul Reaser to the team. Sara Harter attended a course and will bring back the results.

CITIZENS NOT ON THE AGENDA:

BUILDING AND PLANNING – SUGGESTIONS FOR ZONING – LAND USE CODE

Chris Janusz – Two subjects: suggested no new developments due to traffic issues on 3 Mile and 4 Mile roads. His fear is a fire and we can not get any more traffic until we get the Midland Road to Hwy 82 built; he was recently told of the new planning changes and added that the gas industry and those who are anti-gas want to add a lot of review and he consider this issue the same as his– they should come in on the next loop of planning. Chairman Martin – We do require traffic studies, reviews and CDOT comments and he does understand traffic issues; Chris may give us input and will have another chance to review and input it additional information, so no one is left out of the loop. There is another Land Code Rewrite workshop on February 6th from 1-30 p.m. – 5:00 p.m. here in Glenwood in the BOCC meeting room and Chris and others are welcome to attend. Chairman Martin alluded to the fact that the Board is reviewing this new re-write chapter by chapter, page by page

and discussing zoning and everything's up for review. As far as the Oil and Gas input and the new approaches we have asked their staff to put some proposed rules out for comment, as well as philosophy and comment and there will be public hearings at the state level. Commissioner Houpt – At the County level we did propose some extension rules but they have stayed with their recommendation. The booklet hasn't been presented yet. Chairman Martin commented that he loves the watchdog aspect of this. Chris said he is thrilled that he can approach this. Chairman Martin said to come join in the discussion and we will take. The copies are online at the County website, go under the Building & Planning – Draft Land Use Code.

BUILDING AND PLANNING CONSIDER A REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR A "MINERAL DISPOSAL AREA" (CUTTINGS PIT) LOCATED APPROXIMATELY 10 MILES NORTH OF THE TOWN OF DEBEQUE OFF COUNTY ROAD 211. APPLICANT IS CHEVRON USA, INC. – DAVID PESNICHAK

David Pesnichak and Julie Justice were present.

BACKGROUND: The Building and Planning Department received a Special Use Permit (SUP) application for a "Mineral Disposal Area" to store drilling cuttings when the well-pad cuttings pit capacity is exceeded. The proposed footprint is represented to be approximately 6.33 acres (pit size of 3.00 acres) within an approximately 54,000-acre property owned by Chevron USA, Inc. The site is located approximately 10 miles north of the Town of DeBeque off County Road 211.

Following an investigation of area topography, Staff understands that the site of the proposed facility is located at a low point, surrounded by steep canyon walls. However, the facility could be visible from County Road 211. The Applicant has stated the following within the application:

STAFF RECOMMENDATION

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties and 2) the remote location of the property, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Commissioner Houpt made a motion that we schedule this in front of the Board of Commissioners.

Motion seconded by Chairman Martin who stepped down as Chair. In favor: Houpt - aye Martin – aye McCown - absent

BUILDING AND PLANNING CONSIDER AN AMENDED PLAT FOR THE CALLICOTTE RANCH SUBDIVISION LOCATED 8 MILES NORTHEAST OF THE TOWN OF CARBONDALE ON COUNTY ROAD 113. APPLICANT IS CALLICOTTE RANCH, LLC – DAVID PESNICHAK

David Pesnichak and Gary Brandt attorney were present. Chairman Martin swore in the speakers.

David submitted the following exhibits for the record: Exhibit A - Garfield County Zoning Regulations of 1978 as amended; Exhibit B - Staff report; and Exhibit C – Application. Chairman Martin entered Exhibits A – C into the record.

BACKGROUND AND DESCRIPTION OF THE PROPOSAL: This request is for an Amended Plat of the Callicotte Ranch Subdivision. With exception to a correction on the Plat to match legal deeds, there will be no change in any property boundaries with this amended plat. In addition, no new development potential will be created with this proposed application. As represented in the application, staff understands that all relocated and eliminated ditch easements are only internal and do not affect ditches outside the Callicotte Ranch property or will affect the grading plan as approved under the Callicotte Ranch Preliminary Plan. Further, Staff understands that all of the Lots within the approved Callicotte Ranch Subdivision are owned by Callicotte Ranch LLC.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of Callicotte Ranch Subdivision shall be shown or referenced on this amended plat.
3. The eliminated and relocated internal ranch ditch easements shall not affect the drainage plan as approved under the Callicotte Ranch Preliminary Plan.
4. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Gary - These came about as the roads were put in and boundary adjustments and this is to fix these issues.

Commissioner Houpt made a motion that we approve the amended plat requested of the Callicotte Ranch Subdivision with the 4 conditions suggested by staff. Motion seconded by Chairman Martin who stepped down as Chair.

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

BUILDING AND PLANNING CONSIDER A REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR EXTRACTION, PROCESSING, STORAGE, AND MATERIAL HANDLING OF NATURAL RESOURCES. APPLICANT IS NORTH BANK HOLDING, LLC – FRED JARMAN

Fred Jarman, Carolyn Dahlgren and David McConenhay, applicant – Helen Nicklibeni the engineer and Eric from Lafarge were present.

Background: The County received a Special Use Permit (SUP) application from LaFarge West Inc. and North Bank Holdings, LLC for "Extraction, Processing and Material Handling of Natural Resources" for a sand and gravel extraction operation to be known as the North Bank Gravel Pit project to be operated by LaFarge North America in the AI zone district. The proposed operation intends to mine sand and gravel from approximately 70 acres of a 238 acre property located north of the Colorado River along State Highway 6 & 24 approximately 2.2 miles east of the City of Rifle, CO.

Staff Recommendation**:**

Due to the size of the extraction operation, environmental issues associated with wetlands and the riparian/floodplain areas of the Colorado River, and visual impacts due to the mining activity including a proposed conveyor across the Colorado

River, staff recommends the Board direct staff to schedule a public hearing before the Planning Commission in order to obtain a recommendation to the board of County Commissioners.

The main issue here is the conveyor system which is different. David said he doesn't disagree with the recommendation. The hearings will include the Gypsum Ranch and the Snyder parcel due to the conveyor system.

Commissioner Houpt made a motion that we refer this application to the Planning Commission. Motion seconded by Chairman Martin who stepped down as Chair. In favor: Houpt - aye Martin – aye McCown – absent

CONSIDER AN ACTION TO REVOKE THE SANDERS RANCH PLANNED UNIT DEVELOPMENT AND REZONE THE PROPERTY TO RESIDENTIAL GENERAL URBAN DENSITY OR ONE OF THE OTHER APPLICABLE ZONE DISTRICTS TO BE CONSISTENT WITH THE HIGH-DENSITY RESIDENTIAL DESIGNATION LISTED WITHIN THE GARFIELD COUNTY COMPREHENSIVE PLAN OF 2000. APPLICANT IS THE BOARD OF COUNTY COMMISSIONERS – FRED JARMAN

Carolyn Dahlgren, Fred Jarman and Jim Lochhead were present. Carolyn reviewed the noticing requirements with Fred Jarman, the Director of Building and Planning. Section IV and Section X. Section X and surface owners and did he find public land owners, RFTA and CDOT. These were mailed out on December 14, 2007. Received 21 back and 4 were returned. RFTA required unopened. Mineral owners were checked the same time, December 15, 2007. Two mineral owners did not have the address and checked to see the deeds and researched and found addresses. All but 4 green receipts were received that he mailed out. One lot here with one ownership and gave time and place of the hearing today. He described both areas – directly diverted by the CODE included revocation of the PUD and possibility of amended an d the second is the rezoning and the rezoning was to RUGD – and included – 4-9-07 – held a public hearing and Commissioner McCown made a motion to rezone to RUGD. November 13 memorialized that action in a Resolution and Commissioner Houpt seconded and motion was carried. Newspaper in Post December 19, 2007 and had the same rezoning classifications as was mailed out. The property was posted by Fred and held the same information – it was posted on State Highway 82 and can see if both east and west. The day Fred posted was 1:32 December 14, 2007. Carolyn said the documents are consistent. ARRD is not included. The public can still come forward; on the public testimony for ARRD she said we would have to start a new application and it didn't include any other zoning.

Chairman Martin – Commissioner McCown requested this be continued because he would be absent today and Jim Lochhead didn't have any objections. Fred – February 19th at the 1:15 p.m. agenda time. Commissioner Houpt so moved; Chairman Martin stepped down as Chair to second. Note – no exhibits were read into the record. The Public notice will call attention to this is as being a Tuesday and it will show a continued hearing.

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

CONSIDER A PRELIMINARY PLAN FOR THE SUBDIVISION OF APPROXIMATELY 7 ACRES TO ACCOMMODATE 48 RESIDENTIAL UNITS LOCATED 1.5 MILES EAST OF HIGHWAY 82 OFF COUNTY ROAD 114. APPLICANT IS HAYDEN RADER "EAGLE RIDGE TOWN HOMES"– PRELIMINARY PLAN - – DAVID PESNICHAK

Hayden Rader, David McConnahey and David Pesnichak were present. Carolyn Dahlgren reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue. Chairman Martin swore in the speakers. David submitted the following exhibits for the record: Exhibit A – Garfield County Subdivision Regulations of 1984 as amended; Exhibit B - Garfield County Zoning Regulations of 1978 as amended; Exhibit C – Garfield County Comprehensive Plan of 2000; Exhibit D – Application; Exhibit E - Staff report; Exhibit F – Letter from Jake Mall of GarCo Road and Bridge, dated 4-10-2007; Exhibit G – Letter from Bill Gavette of the Carbondale & Rural Fire Protection District dated 4-26-2007; Exhibit H – Letter from Celia Greenman of the Colorado Geological Survey, dated 5-3-2007; Exhibit I – Letter from Gary McElwee of Red Canyon Water Company, dated 5-3-2007; Exhibit J – Memorandum from Dean W. Gordon, PE of Schmueser, Gordon, Meyer, Inc. dated 5-3-2007; Exhibit K – letter from Chris Hale, P.E. of Mountain Cross Engineering, Inc. dated 5-8-2007; Exhibit L – Letter from Rick L. Barth, P.E. of Red Mountain Civil Inc. dated 5-25-2007; Exhibit M – Email from Chris Hale, P.E. of Mountain Cross Engineering, Inc., dated 5-30-2007; Exhibit N – Letter David H. McConaughy, P.C. of Garfield & Hecht, P.C., dated 5-23-2007; Exhibit O – Letter from Craig M. Lis of the Colorado Office of the State Engineer, Division of Water Resources, dated 4-12-2007; Exhibit P – Email from Steve Anthony of Garfield County Vegetation Management, dated 6-1-2007; Exhibit Q – Letter from Denise Diers of Spring Valley Sanitation District, dated 3-23-07; Exhibit R – Noxious Weed Inventory and Management Plan by Outdoor Services; Exhibit S – Utility Service Plan, Page C3, water system schematic and Los Amigos Ranch overall sewer layout; Exhibit T – Letter from Cynthia Love of the Colorado Division of Water Resources, dated 6-15-2007; Exhibit U – Letter from Craig Lis of the Colorado Division of Water Resources, dated 8-30-2007; Exhibit V – Fax letter from Rader Land and Development containing the 2004 Annual Drinking Water Quality Report for Red Canyon Water Company; Exhibit W – 2006 Annual Drinking Water Consumer Confidence Report for Red Canyon Water Company; Exhibit X – Letter from Lawrence R. Green of Balcomb and Green, P.C. containing a Can and Will Serve Letter from Red Canyon Water Company, dated 8-27-2007; Exhibit Y – Letter from David McConaughy of Garfield and Hecht, P.C. dated 7-30-07; Exhibit Z – email from Steve Anthony of Garfield County Vegetation Management, dated 6019-2007; Exhibit AA – Demonstration of "building envelopes" vs. "blocks"; Exhibit BB – Resolution of approval for a text amendment to Resolution 96-34 as approved by the BOCC on 12-17-2007 and Exhibit CC – A phasing plan dated 1-16-2008. Chairman Martin entered Exhibits A – CC.

GENERAL PROJECT INFORMATION

The Applicant proposes to subdivide a 7.315 acre property into up to 48 residential lots which are to have access to County Road 114 via internal streets. The property is generally located about 1.5 miles east of the Highway 82 intersection on CR 114. As the subject property is apart of the Los Amigos PUD, the Applicant proposes to have potable water provided by the Red Canyon Water District and sewer by Spring Valley Sanitation. As proposed, this Preliminary Plan will create a total of eight building envelopes to accommodate the 48 units which are to be final platted and constructed in three phases as identified on the Preliminary Plan sheet PP 1.0. The Multi-Family PUD zone district (Lots 1 and 2 of the Los Amigos PUD) permits 96 units on Lots 1 and 2 combined. Auburn Apartments currently has 48 units while Eagle Ridge Town Homes is proposing another 48, bringing the total to the maximum of 96 permitted units for the two lots.

The property is apart of the Los Amigos PUD which contemplates multi-family dwelling units with a shared common wall as a use-by-right. The application as submitted represents 8 building envelopes constructed and final platted in 3 phases. The individual town home units are to be further subdivided into their respective lots in accordance with the phasing plan

identified on Preliminary Plan sheet PP 1.0 for the development of up to the maximum allowable unit count of 48 as permitted under Resolution 96-34 (Los Amigos PUD). Eagle Ridge Town Homes are to be located on Lot 1 while the existing Auburn Apartments are located to the east on Lot 2.
This Application was heard by the Planning Commission on June 13, 2007 and September 12, 2007. At this hearing, the Planning Commission recommended approval of this Preliminary Plan by a vote of 4-0 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. In order to prevent the development from creating transferable lots smaller than the Minimum Lot Area of 40,000 square feet as identified in the Los Amigos PUD, prior to scheduling a hearing with the Board of County Commissioners the Applicant shall identify all "Blocks" as "Building Envelopes".
3. In order to prevent the development from creating transferable lots smaller than the Minimum Lot Area of 40,000 square feet as identified in the Los Amigos PUD, prior to scheduling a hearing with the Board of County Commissioners the Applicant shall submit to Planning Staff and have heard by the Planning Commission an application to amend the Los Amigos PUD to allow for a minimum lot area which will accommodate the "townhouse" development as anticipated by the Applicant. If the text amendment is not approved then the development shall contain individual units conveyed without a separate interest in land.

Access and Internal Roads

4. The owner of Eagle Ridge Townhomes (Lot 1) shall convey a private right-of-way to the entity owning Auburn Ridge Apartments (Lot 2). This conveyance shall be in the form of a right-of-way conveyance and agreement or deed and shall indicate who may use the private right-of-way accessing Auburn Ridge Apartments as well as addressing the maintenance of said right-of-way.
5. The Applicant shall design all internal roads to the standards established in Section 9:35 of the Zoning Resolution of 1978, as amended based on each road segment instead of the development as a whole.

Sanitation and Wastewater Disposal

6. To ensure that the Spring Valley Sanitation District can and will serve the proposed development, the Applicant shall adhere to condition numbers 1 – 4 as identified in the Spring Valley Sanitation District can and will serve letter dated March 23, 2007 (Exhibit Q).

Floor-Area-Ratio

7. Each dwelling unit within Eagle Ridge Townhomes (Lot 1, Los Amigos PUD) shall not exceed a gross size of 3319 square feet. This is to ensure compliance with the Los Amigos PUD Floor-Area-Ratio requirement of 0.5.

Easements

8. The Applicant will need to delineate and legally describe all easements on the final plat and convey all easements shown on the plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, water system easements, storm-water drainage easements, and all internal roads required as apart of this development.

Impact Fees

9. The Applicant shall make a payment $437 per dwelling unit to the Carbondale and Rural Fire Protection District at the time of final plat.

Limitation on Unit Development

10. In order to ensure a legal and adequate water supply, the development shall be narrowed to the requirements as outlined by John M. Currier, P.E. of Resource Engineering (Exhibit X), limiting irrigation to a total of 15,000 square feet and improvements to consist of 32, 2 bedroom units and 16, 3 bedroom units.

In order to meet Planning Commission condition number 3, the Applicant submitted and was approved on December 17, 2007 for a text amendment to the Lost Amigos PUD Resolution 96-34 which reduced the minimum lot area from 40,000 square feet to 600 square feet for multi-family units. Specifically, the following matrix was approved:
The property is moderately sloping to the west with some fairly large debris piles and old foundations throughout the property. Cutting through the east side of Lot 1 is the access road to the Auburn Apartments which are located on Lot 2 of the Los Amigos PUD. This access drive would also serve as the primary access road for Eagle Ridge Town Homes, connecting both developments to County Road 114.
STAFF RECOMENDATION
Staff recommends that the Board of County Commissioners APPROVE the proposed Preliminary Plan with the following conditions and plat notes:
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. Prior to the Final Plat of Phase 1, 2 and 3, the Applicant shall update the phasing plan as identified on the preliminary plan sheet PP – 1.0 to replace all reference of "blocks" with "building envelopes". In addition, the Applicant shall identify the timeframe for which the three phases will be developed and submitted for Final Plat. The proposed timeframe shall be in conformance with Section 4.34 of the Subdivision Regulations. Further, the Applicant shall represent the parameters of the Phasing Plan to the BOCC at the Public Hearing for approval.
3. Prior to the Final Plat of Phase 1, 2 and 3, the Applicant shall insert the dimensional chart as approved by the BOCC on December 17, 2007 for the Multi-Family zone district to the preliminary plan sheet identified as PP – 1.0.
Access and Internal Roads
4. Prior to Final Plat of Phase 1, the owner of Eagle Ridge Town Homes (Lot 1) shall convey a private right-of-way to the entity owning Auburn Ridge Apartments (Lot 2). This conveyance shall be in the form of a right-of-way conveyance and agreement or deed and shall indicate who may use the private right-of-way accessing Auburn Ridge Apartments as well as addressing the maintenance of said right-of-way.
5. The Applicant shall design all internal roads to the standards established in Section 9:35 of the Zoning Resolution of 1978, as amended based on each road segment instead of the development as a whole.

Sanitation and Wastewater Disposal

6. To ensure that the Spring Valley Sanitation District can and will serve the proposed development, the Applicant shall adhere to condition numbers 1 – 4 as identified in the Spring Valley Sanitation District can and will serve letter dated March 23, 2007 (Exhibit Q).

Floor-Area-Ratio

7. Each dwelling unit within Eagle Ridge Town Homes (Lot 1, Los Amigos PUD) shall not exceed a gross size of 3319 square feet. This is to ensure compliance with the Los Amigos PUD Floor-Area-Ratio requirement of 0.5.

Easements

8. The Applicant will need to delineate and legally describe all easements on the final plat and convey all easements shown on the plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, water system easements, storm-water drainage easements, and all internal roads required as apart of this development.

Impact Fees

9. The Applicant shall make a payment of $437 per dwelling unit to the Carbondale and Rural Fire Protection District at the time of final plat.

10. The property is located in Traffic Study Area 10 which requires a $195 per Average Daily Trip (ADT) fee be paid to the County in a traffic impact fee. This fee will be figured at the time of final plat. The Applicant shall pay ½ of the total impact fee at final plat and included as a component of the Subdivision Improvement Agreement (SIA). The remaining half shall be divided among the lots to be paid at the time building permits are submitted to the County for individual lot development.

Limitation on Unit Development

11. In order to ensure a legal and adequate water supply, the development shall be narrowed to the requirements as outlined by John M. Currier, P.E. of Resource Engineering (Exhibit X), limiting irrigation to a total of 15,000 square feet and improvements to consist of 32, 2 bedroom units and 16, 3 bedroom units.

12. Each building envelope shown on Preliminary Plan sheet PP – 1.0 shall not exceed the number of dwelling units identified. In addition, no dwelling units may be "exchanged" between identified building envelopes.

Plat Notes to be placed on Each Final Plat

1. "Each dwelling unit within Eagle Ridge Town Homes (Lot 1, Los Amigos PUD) shall not exceed a gross size of 3319 square feet. This is to ensure compliance with the Los Amigos PUD Floor-Area-Ratio requirement of 0.5."

2. "The development shall consist of 32, 2 bedroom units and 16, 3 bedroom units. In no case shall the total development mixture exceed a total of 16, 3 bedroom units, however, 3 bedroom units may be down-sized to 2 bedroom units."

3. "In no case shall the total irrigated acreage exceed 15,000 square feet."

4. "All foundations shall be designed by a Colorado Certified Engineer."

5. "The mineral rights associated with this property have been partially or wholly 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)."

6. "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."

7. "No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances".

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

9. "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."

10. "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."

11. "Each building envelope shown on Preliminary Plan sheet PP – 1.0 shall not exceed the number of dwelling units identified. In addition, no dwelling units may be "exchanged" between identified building envelopes."

<u>Required Plat Notes per Resolution 96-34:</u>

12. "Prior to the issuance of a building permit, the owner of each lot shall prepare and submit a soils and foundation report, a grading and drainage plan, and a geologically acceptable building site prepared and certified by a professional engineer."

13. "The recommendations of the Colorado State Forester and the Fire Chief as set forth in the Supplemental Declarations dated September 28, 1992 et. Seq. shall be followed in the construction of all structures."
14. "All lots designated to lie within the Spring Valley Sanitation District shall obtain central sewer service pursuant to agreement by the district."

David McConnahey said the report is very thorough. He did comment on the conditions involving the payment of fees at time of final plat saying there will be two final plats and they can't sell until they show a Townhome and it depends on market conditions as to when this will be. He is not sure how many units and fees will be based on units will be on the second final plat. David Pesnichak said this was not a problem and he will make the language clear in the Resolution. David McConnahey said at time this will be at time of plat showing the units. It comes up in three or four conditions. David Pesnichak said the conditions he's referring to are in 9 and 10.
Commissioner Houpt made a motion that we close the public hearing. Motion seconded by Chairman Martin who stepped down as Chair. In favor: Houpt - aye Martin – aye McCown - absent
Commissioner Houpt made a motion that we approve the Preliminary plan for Eagle Ridge Townhomes with the 12 conditions proposed by staff and the 14 conditions for plat notes to be placed on each final plat, the condition No. 2 – the phasing plan, we don't need that. David Pesnichak – we can eliminate Condition No. 2. Commissioner Houpt and add in Conditions 9 – 10 the language to direct those at the time of second final plat and David will put it together. Motion seconded by Chairman Martin who stepped down as Chair. In favor: Houpt - aye Martin – aye McCown – absent
ADJOURNMENT

Attest: Chairman of the Board

_____ _____

FEBRUARY 4, 2008
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 4, 2008 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioners Tresi Houpt was late due to the heavy snowfall.
CALL TO ORDER
COUNTY MANAGER UPDATE: DALE HANCOCK
GIS - ANNUAL HIGHWAY USERS TAX FUND (HUTF) REPORT, A SUMMARY OF CHANGES MADE TO THE COUNTY ROAD INVENTORY IN 2007, SUBMITTED FOR APPROVAL BY THE BOARD – ROB HYKYS
Rob Hykys and Marvin Stephens were present. Rob Hykys presented the 2007 Highway Users Tax fund showing the annual summary of revisions. Rob stated the 2007 HUTF Annual Report is the seventh that Garfield County GIS has submitted entirely in digital format. He added that the current road mapping and seasonal improvements are logged and recorded throughout the year utilizing our GPS and GIS systems. At year's end, the roads database is updated using a custom MSAccess application authored by CDOT. Upon completion, the database is linked directly to our GIS centerline data, which then serves as the source for County Road information for 2008. Rob acknowledged Jake Mall from the Road and Bridge Department for tracking all road projects in 2007, mapping them with Road and Bridge's Trimble GeoXT GPS. The collected data was subsequently loaded directly into our GIS. District Foreman Bobby Brahman and Kraig Kuberry worked with Jake to verify that the road improvement projects GPS'ed for 2007 were complete. Deb Fiscus contributed photographic documentation from her files for some of the projects accounted for in the report. Aaron Rhodes at CDOT provided technical support for AHUT 2.9 custom MSAccess application software, and served as a liaison in resolving conflicting jurisdictional claims between incorporated areas and the County. Rob's report showed the road surface improvements including gravel, chip seal, asphalt, and other improvements. He included the de-annexed road segments, and removed annexed road segments, new road construction, increase or decreases in length to existing roads and miscellaneous corrections to the HUTF database. Finally, Rob included the mileage statistics and totals from 2001 through 2007 with the total HUTF eligible land miles for 2007 at 1,518. Marvin - CR 242 - Clear Creek and it was spot graveled but it wasn't GPS'd on this report. De-annexed roads along Stillwater Ranch and some in New Castle were taken off. Fravert Road has not officially adopted in the road network.
Commissioner McCown suggested we could take that into the HUTF. No increases in road length and a handful of minor changes that were made to the database but no affect on the HUTF report. Commissioner McCown complimented Rob on the good report.
HUMAN RESOURCES - LANDFILL COUPONS FOR 2008 – KATHERINE ROSS
Katherine Ross wasn't able to make it in due to the snow – Marvin presented for her. He stated the Board of County Commissioners is once again offering the employees of Garfield County the benefit of coupons for two free loads at the Landfill with specific details that include the employee presenting a picture ID and the employee must be present with the trash when visiting the Landfill. These will be put in the February pay envelopes. Additionally, Marvin submitted a sample coupon and important dates for hazardous waste events and electronic waste collection. He requested approval of the Board to make these coupons available to the employees.
Commissioner McCown made a motion that we authorize the use of the County Landfill coupons for the employees. Motion seconded by Commissioner Chairman Martin who stepped down as Chair to second.
In favor: Houpt - aye Martin – aye McCown – aye Commissioner Houpt arrived at the meeting late.
<u>ROAD AND BRIDGE – CR 106 - DISCUSSION OF SATANK BRIDGE</u>
Dale Hancock and Jeff Nelson were present. The engineering department submitted an engineer's estimate for the CR 106 Sutank Bridge Rehabilitation. This is a historic bridge consisting of a 14 foot by 100 feet span Pratt-thru truss

structure spanning the Roaring Fork River. The total construction total amounts to $480,708.80 and including the professional services total of $110,364.00 the total project cost is $591,072.80. A note was attached to this figure stating this was established without the benefit of construction level drawings. All drawings are preliminary at this submittal due to the infancy of the project and project details. The estimate contained here is the opinion of the engineer and is based upon historical information adjusted for unique conditions of this project. As with any cost estimate actual costs may vary due to market conditions. Jeff evaluated in minor detail but we haven't hired a professional rehabilitation individual. Commissioner McCown – When this was brought forth it was from a trail group – now it seems we have inherited this project in it's entirely. Chairman Martin – We had a grant and Carbondale and a trails group were partners. For us to totally foot the bill of $600,000 for saving a bridge is a lot of money and we don't have it. We need to see who our partners are in this. He will take it upon himself to meet with the folks and come back to us.
Jeff has spoken to the historical folks and $200,000 was not a huge concern. It will be an integral part of a trail.
Don received notification that the historical grant has been cancelled. We still have an IGA with Carbondale.
Chairman Martin believes we should sit down with Carbondale and the trail folks and get a clear understanding of who will be partners. This is a scenic loop and ties into CR 106 at Carbondale. Fishermen are still using this bridge.
Jeff will arrange a meeting with the trail folks. This will come back to the Board – this is the third year that this issue has been discussed. To apply for a historical grant we need to find out if there is lead paint on the bridge as well as other factors. We could apply for a historical grant in the fall but we won't know until January 2009 if we qualify or not.

HUMAN SERVICES COMMISSION - APPROVAL OF VARIOUS NEW MEMBERS

Jane McCollor submitted the applications for membership in the Human Services Commission:
Krista Richards for the Childhelp River Bridge Center; Mildred Alsdorf for the Senior (aging) Representative;
Micalea Folsom for United Way of Garfield County; Stacie Durrett for the Salvation Army; and
Hans Lutgrin, MSW for Columbine Home Health
Commissioner McCown made a motion that all members that applied be appointed to the Human Services Commission as listed above. Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

FINANCE - REQUEST FOR PDO BUYOUT APPROVAL – PATSY HERNANDEZ

Patsy Hernandez submitted the list of PDO buyout personnel for the Board's consideration and approval. The total amount is $6,824.00.
Commissioner McCown made a motion that we authorize the PDO pay down for the individuals who qualified not to exceed $6,824.00. Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Direction for contract negotiation for road projects – particularly CR 204; Update on Vezzoso litigation and legal property ownership and notice of requirements under the Land Use Code as well as a personal matter in Don's office. Commissioner McCown also requested an update on other on-going 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 Houpt and seconded by Commissioner McCown to come out of Executive Session. Motion carried.
Action taken:

HUTF

A motion was made by Commissioner McCown to authorize the Board to sign the HUTF road inventory report. Commissioner Houpt seconded.
In favor: Houpt - aye Martin – aye McCown - aye

COUNTY ATTORNEY - DISCUSSION RE: POLICY FOR NON-PROFIT USE OF COUNTY PROPERTY/MEETING ROOMS

Chairman Martin stated he had a request over the telephone regarding a church but not specially a church function for a Valentine special event and would like to have it in this BOCC room. Chairman Martin asked if we had a policy that would prohibit this kind of activity after business hours. Therefore, this prompted a discussion about what to do with our facilities. We have various groups such as political parties, Boy Scouts, 4H and other community groups that use the facility and we do not have a policy. Commissioner Houpt suggested we should have a policy on this similar to what we have on the posting of material inside public buildings. Don said many years ago we used to allow non-profits to meet in our meeting room when we were in the Courthouse, then it became an issue of the use of county resources and timing was an issue; we do not have an administrative policy, but no non-governmental use has been the stance taken and still is. Governmental related groups can have meetings here, but for non-profits the answer is no and the reason is scheduling and showing preference to people plus the cost of cleaning, heat, lights and how to charge for those items. This is an administration position. Dale summarized that organizations like Club 20 and various political parties have been allowed to use the facilities but they are related to government. Clarification on politics: Political parties are allowed to use our buildings for organizational meetings; caucuses are held in the courthouse and they have been forever. Caucus is part of the election process. Other public buildings such as the community center and hotels are easier to accommodate these types of non-profit organizations. With the narrow group we have opened it up to we are still pretty busy. If you decide to allow non-profits then a charge would be necessary and a policy would need to be implemented. Commissioner Houpt suggested staying with what we are doing and look at what other governments are doing. Dale said this is a first a cousin to naming buildings, etc. He reminded the Board that Larimer County received a lot of money from Budweiser for their events center. Don clarified that we will limit the use of the County facilities to the current practice. Commissioner Houpt said she would still love to see what others are doing. Dale agreed to take on this project. Commissioner McCown – This will help Linda to handle the numerous requests she receives with the reinforcement of this policy. Chairman Martin stated the process will be reduced to writing and Dale will bring it back before this Board.

CR 301 – ROAD AND BRIDGE - DISCUSSION RE: STATUS OF C.R. 301 RIGHT-OF-WAY - GERHARD AND DEBORAH RILL

Don DeFord submitted the special warranty deed to sell and convey to the Garfield County Board of County Commissioners the total of 1.299 acres as fully depicted in an Exhibit for the County Road right of way and described fully in the legal description. Don explained this was for the realignment of CR 301. These folks are not able to make it in today due to the weather. Don explained briefly what this is about saying it's a property acquisition and the road has been built; we are trying to wrap this up. A special warranty deed is needed in order to clear the title first of all and Don had been discussing this with their attorney and now everyone's on the same page. It's a property transfer and it is outlined in the exhibit. It took a while to get the survey. It basically will transfer a right of way that is to the north. Don's office originally was not told this and the description we now have includes the property; we'll need to go back and have that center-line of the road as a record. This will come back to the Board at a later date.

COMMISSIONER REPORT

Commissioner Houpt –Last Monday attended the Humanitarian Awards banquet and it was very inspiring and amazing at the number of hours that people donate to the community. Attended a Collaborative meeting on I-70 on Thursday and this week the LoVA trail ground breaking will be held at 1:30 p.m. on Tuesday at 2-5-08 and it will be held at the site behind the Sanitation District; Attended the I-70 Coalition on Wednesday and the Land Use Code rewrite will be held in the afternoon of that same day; and will attend CCI meetings on Friday in Denver.

Commissioner McCown – Wednesday is the Land Use Code rewrite in Glenwood Springs at 1:00 p.m.; Thursday I'm giving the 'State of the Community' address at Rifle Golf course for the Chamber of Commerce, it will also be a City presentation and Williams Energy representatives will be speaking. On Thursday, an AGNC meeting will be held in Meeker,

Commissioner Martin said he also attended the Humanitarian Awards and Tresi and he handed out some awards; Wednesday attended the CMC senior programs and stated the County needs to be the one to contract some of these programs making sure things are followed throughout with RFTA; it was suggested to set up an Advisory Board to make sure all functions work together as a unit. Ag Day was held on Wednesday at 9:00 a.m. in New Castle, and I didn't make it due to being called back to meetings on security of the Courthouse and issues that Linda needed him for; attended the senior luncheon in Rifle and they discussed finer details of the senior nutrition program. Expansion program – increase the need to have meals increased from 3 to 5 per week. This will need to be continually discussed. Also we had a surprise breakfast to honor Charles Zelenka as the new IT Director under the direction of Patsy Hernandez. Attended the Chamber of Commerce Citizen of the Year and his good friend Bill Slattery was awarded that honor. The event was extremely well attended. Congratulations to Bill. This week there are a number of political events and would take this opportunity to remind the guys of February 14th – Valentine's Day so they wouldn't forget those at home. John said he received a letter from John Traul who is concerned about the road coming off CR 125 saying it needed to be a yield sign versus a stop sign because it is difficult to stop and then be able to start again in the snow. John asked Dale to forward this request to the Sheriff and Marvin at Road and Bridge. He also received a letter from Ross Talbott regarding CR 335 and even though this road is in the Town of New Castle city limits, it is perhaps a road we could consider for a joint road project using some of the sales tax for joint road projects. John also received a letter from Ms. Crouch and he referenced her concerns to Don DeFord – she is anxious to know the status of this issue.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Two Liquor License Renewals for White Buffalo West LLC d/b/a White Buffalo West and Nepal Restaurant Glenwood Springs LLC d/b/a Nepal Restaurant – Jean Alberico
f. Authorize the Chairman to sign a Resolution of Approval for Battlement Mesa PUD, Town Center, Filing No. 6 Preliminary Plan. Applicant is Battlement Mesa Partners – Craig Richardson
g. Authorize the Chairman to sign the Special Use Permit for the expansion of the Orchard Mesa Compressor Facility (Resolution 2006-104) located approximately 4.5 miles west of the Town of Parachute off County Road 300. Applicant is EnCana Oil and Gas (USA), Inc. – David Pesnichak
h. Authorize the Chairman to sign the Resolution of Approval for a Preliminary Plan for Eagle Ridge Town Homes to create up to 48 dwelling units in 8 building envelopes developed in 3 phases located approximately 1.5 miles east of Highway 82 off County Road 114. Applicant is Hayden Rader – David Pesnichak
i. Authorize the Chairman to sign the Special Use Permit for Storage, Processing, and Material Handling of Natural Resources for a shale extraction operation on the North Parachute Ranch. Applicant is Encana Oil and Gas (USA), Inc. – Fred Jarman
j. Authorize the Chairman to sign the Resolution and Special Use Permit for Storage, Processing, and Material Handling of Natural Resources for the Middle Fork Compressor Station on the North Parachute Ranch. Applicant is Encana Oil and Gas (USA), Inc. – Fred Jarman
k. Authorize the Chairman to sign the Resolution and special Use Permit for Storage, Processing, and Material Handling of Natural Resources for a Cuttings Storage Facility on the North Parachute Ranch. Applicant is Encana Oil and Gas (USA) Inc. – Fred Jarman
l. Authorize the Chairman to sign the Resolution and Plat for an Exemption from the Definition of Subdivision. Applicant is Doane H. Deane – Fred Jarman
m. Authorize the Chairman to sign the Resolution and Floodplain special Use Permit. Applicant is Doane H. Deane – Fred Jarman

Commissioner McCown made a motion to approve the consent agenda items a – m.
Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

BUILDING AND PLANNING - MANUFACTURED STRUCTURES IN COLORADO – STEVE BERNIA STATE OF COLORADO DIVISION OF HOUSING

Steve Bernia Program Manager from the State of Colorado Division of Housing who manages all of the State's factory built programs in the housing technology and standards section; John Anderson, from Holland and Hart representing Stallion, Doug Dennison, Andy Schwaller and many other interested citizens were present. Steve presented a power point at 11:16 a.m. Steve came today to help with the specific issues surrounding the factory built units that the oil and gas industry are using for man camps. Interesting enough within the year we had a challenge to the state's authority to regulate factory built structures when they are manufactured outside of the state and not sold or offered for sale in the State of Colorado. Friday I got a formal opinion from the Attorney General's office and they have basically ruled that this is a loop hole that does exist. And so, while we are responsible for factory built structures, for the moment, if it's a structure manufactured outside the State of Colorado and only rented or leased in the state, we do not have technical authority. We hope to close that loop hole in this legislative session. But for now any factory built structures that fall into that category that does not have state certification and insignia on it, the authority and responsibility for the construction for those units will fall to the local building department. Obviously, we at the state level will be more than happy to work with the local jurisdictions trough this, even the manufacturers have ultimately stated by the middle of the year, if we get this loop hole closed, everything will come back into our programming and we will have full responsibility for all factory built structures and hope the jurisdictions can then rely on the certification and insignia. The factory built programs - right now we're under 2003 International Building Code and 2002 National Electrical Codes and we'll probably upgrade those codes when the loop hole is closed and go after these rule making individuals associated with it. We do require that factory built units meet local snow load design requirements and wind speed design requirements. All those basic designs, the standards issues are documented on the certification and insignia so the local inspector can know that the code requirement has been met. Commisisoner Houpt – Question – she just started looking at that opinion and they talked about whether something that was purchased in Colorado; so, if a structure is manuractured outside of the state but is sold instate does it fall under your purview? Steve – Yes and it still will fall there and this is where with respect to individual manufacturers if they don't want to take advantage of this program, they want to get their units certified by the state, all they will have to do is come to us and say well that they might be offered for sale – it falls into our program. This is going to make it really difficult until we get this changed because local jurisdictions are going to have to somehow identify and document the fact that leased or rented units and then make arrangements to do whatever plan review, inspection work that is appropriate. I think manufacturers are going to find that it's not the best situation for them having to deal with multiple local jurisdictions. Everybody is a little different. One of the advantages to the industry to having programs run at the state level is the standardization. For instate factories there is a Division Inspector; for out of state manufacturers the process for them to get into our program involves them submitting the quality control program and proposing 3rd party inspections for their facility out of state. So we do review and approve quality control programs and also review the qualifications of the 3rd party agency before they can build the units. The only issue is typically with a 3rd party inspection agencies, they are out of state and they will put an insignia on it but the inspection insignia does not document the design standards of snow load or wind speed.

Public comment:

David Logan, Outpost Office, said he was wondering with the new regulations what we can do with existing equipment manufactured in 2001 and 2002. Is there a way to have it re-inspected and language to bring it up to standards for the equipment in the field today. Steve – If it has a state certification insignia on it, it will identify the codes that it was built to and again the snow load and wind speed design as appropriate for the new requirements and relocation; our standard policy would be that the locals treat it just like they would any other structure in their jurisdiction that was built prior to the current codes and typically the only thing that would really come into play are life safety issues in terms of a house if it has smoke detectors, that sort of thing. So typically our opinion to the locals would be that unless there are some life safety issues with the structures that were built to an older code, the 1997 Uniform Building Code or something like that, it's just like an older house in town. If it doesn't have the state certification and insignia then it's a local issue and you would need to establish a policy on what you're going to require. John Anderson – This is not a local law; a new law that's put into place can't go backwards and require existing units to have that certification. Steve – any new legislation is not anticipated to be retroactive. Commissioner Houpt - This would have to be a part of the policy discussion. Steve – Where it gets dicey is in the relocation; anytime any one of these is moved it is subject to the current regulations. John – We will have to look at this at the local level. Commissioner Houpt responded to the relocation process saying we would still have to look at the snow load and wind speed design requirements especially in a County like this, so I think you're making a pretty general statement that may or may not end up working with whatever we end up with. Steve – I think everybody agrees that it's about life, health, and safety and that's our goal of the local level with your building departments and we will do everything to work in a cooperative manner with everybody involved on this. In terms of being a resource with this County in dealing with the issues and being a resource we will do all we can to help you and the industry with those that have not been certified. John – The State Attorney came out Friday with this opinion and it is up to the state for certification – if that is the case wouldn't it be up to the County to inspect and certify these units. Steve – I wouldn't expect the local level dealing with this that they would need to get involved in setting standards for certification. The whole issue is safe design for the local conditions. One of the options would be for the local jurisdiction to mirror our current program requirements with respect to having a 3rd party inspection agency. Whoever is putting on an inspection certification insignia as the 3rd party having knowledge of the plant standards that it was inspected while it was being manufactured. Commissioner Houpt – That could be a burden for smaller counties too, so I 'm hoping there's some continuity that comes out of legislation. Commissioner McCown – Why wouldn't you expect that responsibility lying with the manufacturer? Commissioner Houpt – They are overseeing it at this point at the manufacturer level. Commissioner McCown – They were verifying what the 3rd party inspector said was there and that's still the price on the manufacturer to hire a 3rd party inspector to ensure it was done property; doesn't matter if it's made in Georgia, Minnesota, or wherever at least it is meeting the snow loads, 90 mph wind load, whatever the standards are as long as that 3rd party inspector said it's good, it comes to the State, they are going to go say okay, it's built to standards. That's the same thing I would anticipate if the County had to do something like this to keep this program viable in the meantime while the attorney's are all deciding what's

going on at the end of the day, that is to mirror whatever the conditions and standards would be in the state so that it would be contiguous once they get back in the loop. We wouldn't want lesser standards. So the ones that met the standards under the County program when the State wasn't inspecting, then the state would have to go back and re-certify all of those. We wouldn't necessarily want that. I can't imagine manufacturers wanting that – what a nightmare. Steve agrees that the manufacturer having the state certification on the units is that it's good in every local jurisdiction in the state. Commissioner McCown – This might not be appropriate, it depends on which attorney comes down with the ruling. Steve estimated that it would possibly be handled in this legislative session and possibly within 6 months. He also clarified Commissioner McCown's concern that the older ones would be grandfathered in if they were built to the local standards and if they don't adopt the housing codes. Commissioner Houpt – When they are moved that creates a whole new permitting process. Steve – It is based on site built structures. Commissioner McCown commented that this defeats the purpose of a temporary structure. Steve agreed, local levels and the Building & Planning Department can determine what is temporary. Some modular units are designed to be moved around. 90% do not move once they are installed. Commissioner McCown – Most people here today when we're talking about affordable housing move once a year and sometimes 2 and 3 times. Steve – Industry is capable of building something that meets those standards. Mobiles are another thing, the recreational vehicles, motorized or non-motorized are not regulated at the state level. It's up to the local level to develop policy and standards that are appropriate. Jack Mobley – PTI, supplier of modular homes, the certification for out of state will continue as is. Steve – This is the loop hole, there are no changes to the program. Manufacturing has been registered and they can submit their plans and insignias; it will continue the way it is. John Anderson – no lawsuit on behalf of oil and gas industry, under State law we can ask for an opinion of the State Attorney General. Steve – There are changes to our program, it's just this loop hole that we know now and as said before, if the manufacturer is registered, you're more than welcome to use our program and if you submit plans to us and you put a certification insignia on the unit we'll assume that the potential is you will offer it for sale.
John – the existing units would not fall under the state's standards or new certification process. Commissioner McCown – Garfield County would not have the authority to impose our regulations. Sky Oil is one of the largest manufacturers out of Canada for these units. Steve said they have dealt with Candian built units. Once the loop hole is closed, these units being brought into the state would fall under their responsibility, in fact for all manufactured units. The state would approve them. Regarding uncertified units, Steve said the local building department can apply whatever is appropriate under their regulations; everything when it is moved. The unit may end up with manufactured having an engineering analysis and the roof load and wind load before the local jurisdiction would accept it. If the state hasn't done that, then the locals can establish whatever they feel is appropriate.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

ADRIENNENE CROUCH – MISSOURI HEIGHTS – CR 162 AND 162A

Adrienne stated she had talked to Chairman Martin and he had told her they were working on her issues. She requested to enter additional information into the record that will possibly explain: on May 13, 2002 Doug Thoug, who was the county road foreman, wrote me a letter which I'm going to enter and I had also entered this same document on November 3, 2003; but basically I had called him and said I have some problems here. I received a phone message regarding grading the shoulder of CR 162 and when I attempted to return the call I reached a fax machine. The phone message read, "I will inspect the situation May 14, 2002. Sounds like your fence is either crowding the road or the road is not centered in the right of way, we usually have a 60 foot right of way, though it varies and could be as wide an 80 feet or can be more narrow – do you know where you're property pins are, are you sure your fence in on the property line or within the property, the answers to these are important since you do not want to have to move this fence after investing money in its construction. Please call me at your earliest convenience". That again was from Doug Thoug. Why this is important in my opinion, I believe May 14, 2002 you Commissioners passed the Stirling PUD, and they clearly had not done, through some of their documentation, what they said they were going to do in the 1992 Subdivision Improvements Agreement. I've asked you many times to review it but essentially there's no access into the Stirling Subdivision. On October 7, 2002 just a few months later Leavenworth's firm from Susan Latch writes me a letter and says, "Ron Liston and I met with Don DeFord and Mark Bean last Tuesday, the plat that they have has been signed off on by the County Surveyor and by you but not by the Commissioners. It's Mark Bean's recollection that all is in order for getting the signatures of the current Commissioners but they needed to track down the minutes blab blab blab. Mr. DeFord will be preparing the required deeds one of these days". Now this is a letter from an attorney to me saying that Mr. DeFord's going to prepare the deeds. I don't get it because my land has been there since 1989 and I've had numerous plats done – we do need to provide the County with a title commitment, which I've done three times. Don was going to ask you to provide that – I did. As to the ADU issues regarding existing dwelling of La Casita, Mark held his ground that the outside dimensions control. Don got the code looked at the definition of floor area and agreed with us that it's the interior dimensions and I don't understand why I need an ADU on a house that's been there since 1965. And the key thing here, there still remains the issue, now this is from the lawyer to me "that with a meeting with Ron Liston, Don DeFord, Mark Bean and this attorney, there still remains the issue, where the plat is concerned of whether the road leading to Stirling Ranch is encroaching on your property and is located outside the right of way. Since there have been no negotiations yet between you and Becky Stirling we all concluded that it was best to get the plat recorded as it exists at the moment and amended if it needed in the future". In other words, I've been run around for way too long and paid way too much money to help out a subdivision that is not in compliance. The final results may be that you require Becky Stirling to move the road, I suggest that the County needs to do something because it's flooding up there – that's October 7, then on November 14, 2002, I have from Susan Latch of Leavenworth to me – "Subject 162 Realignment. Enclosed you will find an original quit claim deed which conveys the new alignment of County Road 162 to the County. Please date and sign". I spoke with Don DeFord yesterday and he indicated that this exchange of property will come before the Garfield County Board of County Commissioners at it's meeting on December 2, 2002, he anticipates no problem – I bet; and it is my understanding that Ron Liston will be present. Why I didn't get this letter until way later I'll never know; I didn't request Susan Latch to represent me and I didn't request Ron Liston to represent me and I don't understand why Don DeFord is writing quit claim deeds on my property when I paid $12,000 to Welch Excavation in 1998 to have the road moved in front of my house. And if so, that land is not part of my property but my parent's estate. Now let's forward to March 2003 which you know nothing had been done. Welch Excavation, now

because Becky Stirling had come to me and asked me to put a pipeline line in, I was up for that not knowing what they really needed was an easement through my property to get to theirs and that's why she wanted me on the pipeline. Welch Excavation March 03 – "County Road cut – I have negotiated an agreement with Garfield County Road and Bridge to grant Welch Excavating an early road cut permit so that we may start construction before April and I will apply and pay for the permits and will post a performance bond with Garfield County to guarantee our work in the County right of way- any questions, call Doug Thoug". Well Doug Thoug knew the year before, or May before and what I find interesting about this, cause I've gone back through all my documentation, is that Todd Welch was signing for Welch Excavating. Todd Welch did the $12,000 road that I gave the County and my understanding is that Todd Welch has had to re-do everything up in the Stirling subdivision as it applies to the water lines. The road, I don't think there is legal access to the Stirling subdivision, I'd really would like to put this thing to bed. But please you know, respect that I'm a citizen just like the Stirlings and I've not made any misstatements to you and all I can tell you is if I get a little inch of water in my house which comes whenever it melts up there, that it's a going to be a huge issue for the County, and so I'd like to put these documents into the record. Chairman Martin – we have copies of all the letters. Adrienne, well I'd like to put them in again because you don't have one from Todd Welch and I don't know what happened to Doug Thoug because he's no longer with the Road and Bridge, but it seems like there's been a whole lot of things that go around me to get what they want. I have not been notified and the other thing is would you please search and review with your planning department and attorney's, everyone that says, could you tell me who Stirling Ranch notified in the 15 or 20 years that they worked on Stirling Sun Mesa and Stirling PUD because right there, how can I be responsive if they've not notified me of anything. Chairman Martin – acknowledged that she hadn't been noticed. Some of the issues were not noticed. It was the type of action that did not require a notice. Commissioner McCown – I just need to go further, John, it is the issues did not require notice that's why you weren't notified. No notice was required. It's not that you were left out of the loop intentionally or in error, but the type of action that was taking place did not require giving notice. Adriennene, tell me this, when you have a Subdivision that going into effect, subdivision requirements from 1984 to 2004 I will just tell you that in 1993 I notified everybody, had certified notices multiple times, my parents certified 14 people multiple times with the certification coming back; you guys in my opinion whether you were misinformed by your staff or whatever, the bottom line is that this subdivision has known they had no legal access and their attorney's knew it for years. They communicated with your staff about it and instead of nipping it in the bud, you all went ahead and said sure you can have a subdivision, sure, we believe you. And then because they still didn't have any access, the planning department in the last few years has divided lot 23 and lot 21 without my knowledge, they're within 200 feet and they just kept encroaching into the land next to me and so now you not only have a problem of encroachment but you had direct knowledge or the staff had direct knowledge that by re-subdividing Stirling's subdivision up by my entrance it would help them more and more, now there'a two million dollar speck home up there and the water access it is from my neighbors, so you guys know and I know that this is serious and I don't want to be put off any more if at all possible. Chairman Martin stated he will make copies of the document she submitted today.

BUILDING AND PLANNING - CONSIDER A REQUEST FOR AN EXTENSION TO THE T.O. RANCH SUBDIVISION, PLAT AMENDMENT. APPLICANT IS JIM PITTS – CRAIG RICHARDSON

Craig Richardson and Jim Pitts were present. Craig submitted the request for an extension for the plat amendment from their attorney. The request is for a 90-day extension.

Commissioner McCown made a motion to grant the extension for 90 days from today making that the 1st meeting in May. Commissioner Houpt seconded. In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER A REQUEST FOR AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANT IS TLCCO, INC. – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, Len Ron Thompson and Julie Hanson with Beattie, Chadwick & Houpt, Inc. were present. Commissioner Houpt – Ms. Hanson is a member of the same firm as her husband and she recused herself. Carolyn Dahlgren reviewed the noticing requirements with the applicant and determined they were adequate and advised the Board they were entitled to continue. Posting was on Rio Blanco CR 5. Chairman Martin swore in the speakers. Craig corrected a typo in his staff report on the parcel acreage and noted that it was zoned RDUD.

Craig submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; Exhibit D – 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 –email from the County Road and Bridge Department dated 1-2-2008; Exhibit I – Email from Jim Rada, Environmental Health Manager, GarCo 12-28-2007; Exhibit J – Letter from Mountain Cross Engineering dated January 11, 2008; Exhibit K – Letter from Division of Water Resources dated January 11, 2008. Chairman Martin entered Exhibits A - K into the record.

PROPOSAL

The Applicant, TLCCO, Inc is requesting approval from the Board of County Commissioners for an Exemption from the Definition of Subdivision. If approved, the Exemption will create two (2) lots from a 9.04-acre parcel (Lot 1 – 7.04 ac., Lot 2 – 2.36 ac.). It is represented that if the proposed exemption is approved the larger 7.04-acre parcel will be annexed into the Town of Carbondale.

STAFF RECOMMENDATION

Staff finds, the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 246303210005, with the following conditions of approval:

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
2. The Applicant shall include the following text as plat notes on the final exemption plat:
   a. *Control of noxious weeds is the responsibility of the property owner.*
   b. *One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries.*

c. *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*

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

e. *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.*

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

g. *Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contracts with background color.*

h. *"The mineral rights associated with this property (also known as Lots 1 and 2 of the TLCCO Subdivision Exemption) will not be transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s)."*

3. The Applicant shall obtain an access permit from Colorado Department of Transportation allowing for the proposed use or provide documentation from CDOT demonstrating that a new permit is not required;
4. Shared driveway permit.

Julie Hanson said Craig summed everything up; the Thompson family and TELCO own the property. There is a contract to sell the 7.04 acres and Lewis will keep 2.36 acres. Both parties have been discussing this with the Town of Carbondale.

Commissioner McCown made a motion to close the public hearing. Motion seconded by Commissioner Chairman Martin who stepped down as Chair. In favor: Houpt – no vote – she recused herself. Martin – aye McCown - aye

Commissioner McCown made a motion to approve the exemption from the definition of subdivision as presented today with the 4 conditions of approval. Motion seconded by Commissioner Chairman Martin who stepped down as Chair. In favor: Houpt – no vote – recused herself; Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY ON LAND OWNED BY BERRY PETROLEUM COMPANY AND OPERATED BY MARATHON OIL COMPANY LOCATED APPROXIMATELY 18.7 MILES NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215. APPLICANT IS BERRY PETROLEUM COMPANY – DAVID PESNICHAK

Carolyn Dahlgren, David Pesnichak, Amy Stoodt, and Loren Prescott with Cordilleran Compliance were present. Carolyn reviewed the noticing requirements with the applicant represented by Amy Stoodt of Marathon Oil. She stated that posting was installed on 12-21-2007 on CR 215 off Garden Gulch Road. Amy Stoodt addressed the noticing requirements saying it is property owned by Chevron Oil and assigned to Marathon. A copy of the lease was with Amy. Carolyn – alerted the Board that should the notification not be accurate since they did not notice the perimeter of the property, only the adjacent property owners within the site, the BOCC would have to rely on the testimony given in the public hearing under oath. She also reminded the Board that there was no way to chase down the mineral ownerships and asked if they would accept the notification as submitted. The Commissioner held a discussion regarding notification and Commissioner Houpt was upset that the entire perimeter of the property had not been noticed due to the potential of impacts such as traffic, etc. The notification was accepted by Chairman Martin and Commissioner McCown.

Chairman Martin swore in the speakers. David submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; ; Exhibit D – Staff Memorandum; Exhibit E –Application; Exhibit F – Colorado Department of Public Health and Environment, Water Quality Control Division, Primary Drinking Water Regulations (Amended January 19, 2005), Section 1.2; Exhibit G – Letter and Presentation from Doug Dennison of Cordilleran Compliance dated 11-4-2007; Exhibit H – Section 5.02l23, Small Temporary Employee Housing Facility – dated 11-08-2007; Exhibit I – Section 5.02.22, Minor Temporary Employee Housing Facility – dated 11-08-2007; Exhibit J – Section 5.02.21, Major Temporary Employee Housing Facility – dated 11-08-2007; Exhibit K – Proof of Publication; **New Exhibits for February** Exhibit L – Outline of "Temporary Housing Building Code Regulations – Garfield County"

Chairman Martin entered Exhibits A – L into the record.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for a "Temporary Employee Housing" facility on property owned by Berry Petroleum Co. described as Parcel #213532100009 (880 acres) and located approximately 18.7 miles North of the Town of Parachute.

More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. According to the Applicant:

The site is relatively close to the Town of Parachute (18.7 miles) and is intended to be contained on an approved COGCC well pad along with other drilling facilities. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however no housing facility will be at location for more than one year. The maximum number of people to be housed at the facility will be 24. This application was reviewed by Staff in accordance with Sections 5.03 and 5.02.21 of the Zoning Resolution of 1978, as amended. Staff concurs that onsite housing will assist in alleviating the current Garfield County housing shortage. In addition, it is Staff's opinion that onsite housing will promote safety on the drilling rigs as well as reduces the overall amount of traffic on Garfield County, Town of Parachute and State of Colorado roadways.

The operator of the proposed facility, Marathon Oil Company, has indicated that Marathon Oil Company holds a cumulative of 8,700 acres of mineral leases from Chevron USA, Inc. within Garfield County. As such, Marathon will be building their operations within Garfield County over the next several years in relation to gas exploration and facility development. This Application represents one of the first Applications received from Marathon to facilitate the anticipated operations.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.*
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review of the Special Use Permit shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.

15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for the facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. The facility shall have a minimum total capacity of 12,000 gallons of potable water storage which shall be refilled a minimum of every three days.
21. The facility shall have a minimum total capacity of 8,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.
22. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.

Commissioner Houpt reminded staff of the access staff needs to inspect the building. David stated that unnoticed inspections were not allowed but we can do inspections with their permission. This is within the current rules and regulations – "noticed inspections". Commissioner Houpt wanted to make sure regular noticed inspections are part of the provisions. David stated there were some legal issues to work out, notably that it will be noticed and referred back to our enforcement. It's actually a 4th Amendment issue – notify the landowners and lessees. A noticed inspection is necessary. Amy Stoodt – David captured the application very well in his presentation and she had nothing further to add. Commissioner Houpt – Regulations need to be reviewed later on such as water for fire suppression; she questioned if there is adequate water for domestic use to cover this concern. David – It is adequately covered here; it was referred out and staff is satisfied.

Commissioner McCown made a motion to close the public hearing. Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

Commissioner McCown made a motion we approve the Special Use Permit for temporary housings on Well pad 596-33C with conditions 1 – 22 as submitted by staff.

Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR FOUR (4) TEMPORARY EMPLOYEE HOUSING FACILITIES ON LAND OWNED BY CHEVRON USA INC. AND OPERATED BY MARATHON OIL COMPANY LOCATED 13.3 TO 21.5 MILES NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215. APPLICANT IS CHEVRON USA INC. – DAVID PESNICHAK

Any Stoodt, Loren Prescott, David Pesnichak, and Carolyn Dahlgren were present.

Carolyn reviewed the noticing requirements with the applicant regarding the following lots: Parcel #213529100008 – Chevron USA, Inc. Well Pad: 596-31A; Parcel #216912200012 – Chevron USA, Inc. Well Pad: 697-1C Well Pad: 697-12A; Parcel #217118200008 – Chevron USA, Inc. Well Pad: 696-18A (Operator: Marathon Oil Company)**;** Parcel #213529100008 – 2725.8 Acres (apart of larger ~54,000 Acre Chevron Property) Well Pad: 596-31A**;** Parcel #216912200012 & Parcel #217118200008 – 7000.05 Acres (apart of larger 7635.05 Acre Chevron Property) Well Pad: 697-1C**;** Well Pad: 697-12A**;** Well Pad: 696-18A. Carolyn determined that notice was only made within 200 feet of the site and not the entire parcel of land which is a total of 54,000 acres. Posting was on CR 215 on Garden Gulch Road.

Carolyn referenced the imperfection of notice since the property is made up one lot however the property in the NW corner is over 54,000 acres and she needs a factual finding. Marathon did not notice the full 54,000 acres but did notice the adjacent property for this well. Commissioner Houpt – I understand that we do have very specific regulations and perhaps an indication to be looked at and not going to be able to support this notice. We have talked about it in the past with this company. While we have the regulations in place it needs to be followed. Commissioner McCown said, under the conditions he feels comfortable, it seems onerous to notice the entire parcel. This is on the NE parcel. Chairman Martin – visual aid of the full parcel map was looked at and hung on the wall for the general public to see the size of the property. He pointed out the parcel and stated what the issue is if it is not noticed property – the burden is on the applicant. It was determined that the noticing was adequate by a vote of 2 to 1.

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

Chairman Martin – If it is challenged then we would have to hear this matter once again. Commissioner Houpt – I'd like to say that we have regulations in place to follow and can understand here in this location but the concern is that we have applicants that come in front of us and are required to notice around the perimeter of their property. We need to be careful when we decide not to follow our regulations. Marathon Oil or Chevron Oil could raise the issue that they were not properly notified. Chairman Martin swore in the speakers. Craig submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E –application.

Chairman Martin entered Exhibits A - E into the record.

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for a "Temporary Employee Housing" facility on property owned by Chevron USA, Inc. and the operator is Marathon Oil. The property is located approximately 13.3 miles to 21.5 miles north of the Town of Parachute. More specifically, the Applicant requests approval for four Temporary Employee Housing facilities to house personnel for the purpose of natural gas drilling operations.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.*
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to the sites is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the Special Use Permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review of the Special Use Permit shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the Temporary Employee Housing facilities shall be applicant's employees, contractors and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing sites; private and public roadways accessing the sites, marked as open, gated and/or locked; and detailed directions to the sites from a major public right-of-way. The maps are subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for the facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying

compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

17. No animals shall be allowed at Temporary Employee Housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. The facilities shall have a minimum total capacity of 12,000 gallons of potable water storage each which shall be refilled a minimum of every three days.
21. The facilities shall have a minimum total capacity of 8,000 gallons of sewage and wastewater storage capacity each which shall be emptied a minimum of every three days.
22. Wildlife-proof refuse containers must be provided for trash at each Temporary Employee Housing facility. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.

Applicant: Any Stoodt stated that David represented the application accurately and she was satisfied.
Commissioner McCown made a motion to close the public hearing. Motion seconded by Commissioner Houpt.
In favor: Houpt - aye Martin – aye McCown - aye
Commissioner McCown made a motion we approve the Special Use Permit for the 4 temporary housing units on Well pad 596-31A; Well pad 697-1C; Well pad 697-12A; and Well pad 696-18A with the 22 conditions as recommended by staff. Motion seconded by Commissioner Houpt. In favor: Houpt - aye Martin – aye McCown - aye

BUILDING AND PLANNING - CONSIDER AN AMENDMENT TO THE TEXT OF SECTION S5.02.21, 5.02.22 AND 5.02.23 OF THE ZONING RESOLUTION OF 1978, AS AMENDED REGARDING "TEMPORARY EMPLOYEE HOUSING". APPLICANT IS THE GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren Assistant County Attorney, Jim Jackson from Williams Energy, Doug Dennison with Cordilleran Compliance and Amy Stoodt for Marathon Oil, Steve Bernia State of Colorado Division of Manuractured Housing, Jack Mobley from PTI, Beth Krels from EnCana, John Anderson from Holland and Hart representing Stallion,; Jim Rada, Environmental Specialist for the County, Andy Schwaller Building Inspector for the County and other interested parties were present. Carolyn noted that this was a continued hearing. David submitted the only new Exhibit L – Outline of "Temporary Housing Building Code Regulations – Garfield County'.
Chairman Martin entered Exhibit L into the record. Chairman Martin swore in the speakers.

BACKGROUND

On November 13, 2006, the Board of County Commissioners directed staff to draft an administrative process for permitting facilities to house those individuals deemed as "essential personnel" on oil and gas extraction locations. This direction is based on an interpretation from the Colorado Attorney General's office that the Colorado Oil and Gas Conservation Commission (COGCC) do not regulate housing located on well pads. Since Garfield County employs exclusionary zoning, unless Garfield County adopts regulations addressing this kind of housing in some fashion, it is in effect a prohibited land use. At this point, any housing that is located on well pads is illegal unless it has been issued a Special Use Permit under Section 5.02.21 or the facility houses four or less employees, contractors or subcontractors.

The context of this direction from the BOCC to Planning Staff is underscored by a November 2006 amendment by Williams Production RMT which changed Section 5.02.21 to accommodate manufactured homes and recreational vehicles for use as temporary employee housing (Resolution 2006-108). The revision of Section 5.02.21 was effective in all zoning districts and includes provisions for temporary employee housing by resource extraction industries. This Special Use Permit process requires at least one public hearing with the Board of County Commissioners and typically takes 60 – 90 days of review from the date of Technical Compliance. Since November 2006 and at the direction of the BOCC, County Staff has worked with industry representatives, interested public and relevant government officials to establish regulations that accommodate a timelier and less staff intensive process for "essential personnel" facilities on oil and gas extraction locations. David explained the milestones accomplished with this task. He also stated there are numerous degrees to which Garfield County can regulate the housing on well pads from a straight "Use by Right" with no performance standards to the regulations as recommended by the Planning Commission. In reality, Garfield County has the authority to regulate Temporary Employee Housing facilities from a straight "Use by Right" to outright prohibition. Garfield County Staff and Planning Commission are recommending regulations that are closest to the "Use by Right" scenario and are very light on regulation. This course of action is, however, closest in line with Garfield County's past history in regulating the oil and gas industry, particularly when it comes to the placement, impact fees and operation of oil and gas well pads themselves. Further, by requiring the oil and gas industry to obtain land use permits and building permits for Temporary Employee Housing facilities (aka "man-camps"), the industry is in fact being forced to abide by the same standards which other industries operating in Garfield County have to meet and thus, the oil and gas industry is not being required to do anything extra, but simply live up to the business and operating standards already established in Garfield County. In addition, as our current Zoning Resolution is not written in an industry specific manor, Staff and the Planning Commission do not recommend and has not drafted regulations which are specific to the oil and gas industry. Specifically, Staff's focus as well as the Planning Commission's focus has been on the best way to mitigate the impacts created by this kind of temporary development. Specifically, Staff and the Planning Commission have focused, but have not been limited to the following list of impacts:

- Water and surface contamination from wastewater and sewage;
- Infectious disease transmission from exposure to raw sewage and/or contaminated drinking water;

- Wildlife and habitat protection;
- Soil erosion and the spread of noxious weeds;
- Wildfire protection and prevention;
- Vehicle and access safety;
- Safety of occupants within permitted buildings and structures;
- Insurance that fire and emergency response personnel can locate and find facilities;
- Increased "footprint" of structures and roads in the backcountry.

Following the September 12, 2007 Planning Commission meeting, Planning Staff and the Planning Commission are recommending a three level permitting system based on location, duration of time at location, review agency, and maximum occupancy of the Temporary Employee Housing facility. An outline of these levels is as follows:

Several points are worth noting as background to this outlined recommendation:

1. The maximum occupancy for the Small Temporary Employee Housing Facility is aimed at limiting the number of people permitted as a Use-by-Right to 6 individuals at any one time. Following discussions with oil and gas industry representatives, Staff and the Planning Commission understand that their personnel hold alternating two week shifts. Since crew members typically do not rotate beds, to accommodate a constant crew of six individuals, the facilities need to accommodate up to twelve beds. The resulting compromise is the permission of up to 12 beds as a Use-by Right with the maximum occupancy of those beds limited to ½ (up to 6 beds) occupied at any one time.
2. A constant discussion point throughout the negotiations to developing these regulations has been around increasing the occupancy limits for each of the three tiers. It is Staff's opinion that increasing the occupancy limits would undermine the intent of the regulations in terms of impacts to neighboring property owners, particularly in the more populous zone districts. Although Staff understands and appreciates the reasons that the oil and gas industry representatives have presented for raising the limits, the changing of shifts for a two week period of time is primarily related to the oil and gas industry (and possibly just a few companies within the oil and gas industry) and hence is not appropriate reasoning for a non-industry specific regulation. In addition, although the 1-6 (1-12 beds), 7-24 and 25+ occupancy limits may seem (or in some respects may be) arbitrary, Staff feels that these limits represent reasonable breaking points based on the expected impacts of the relevant occupancy to the level of review. It is important to note, however, that there is no hard science to determine where a population will create impacts that become problematic, but it is an issue of relative perception. Based on this analysis and reasoning, less review is appropriate in zone districts which are more sparsely populated. As a result, a compromise position may be only increasing the limits for review within the Resource Lands (RL) zone district (or within the RL zone district sub-categories), where most of the drilling activity is taking place and which has a very low density of residential dwelling units. This compromise position was presented to the Planning Commission on September 12. At this meeting the Planning Commission generally felt that increasing density in the remote portions of the RL Zone District is not appropriate due to increased impacts on the environment of those remote locations.
3. Due to a recent interpretation of the Colorado Department of Public Health and Environment (CDPHE) Water Quality Control Division, Primary Drinking Water Regulations, it is the understanding of County Staff, based on conversations with the Garfield County Public Health Department and CDPHE Staff, that most likely all of the Temporary Employee Housing facilities will <u>not</u> be required to obtain a state permit as a community water supply. Due to this interpretation, oil and gas industry representatives have questioned the rationality of the 25 bed cut-off between the draft Minor and Major Temporary Employee Housing regulations. However, see number 4, below, for further commentary.
4. Following discussions with CDPHE and the Garfield County Public Health Department, it has become evident that the operator of a Temporary Employee Housing facility which incorporates vault-and-haul wastewater disposal will <u>not</u> need to obtain a state ISDS permit when the facility produces 2000 gallons of wastewater per day. However, Staff believes that this is a tried and true breaking point to push an operator into the state permitting requirements. The staff and Planning Commission proposed Sections 5.02.21; 5.02.22 and 5.02.23 require an operator to use an ISDS when the facility creates 2000 gallons or more of wastewater per day. Since the Temporary Employee Housing facilities are to be occupied 24 hours per day, 7 days per week and many of the proposed housing facilities have laundry and dining services, Staff has interpreted the wastewater production to be most similar to a single family residential unit per the Colorado State Board of Health, Guidelines on Individual Sewage Disposal Systems. As such, Staff suggests using a standard rate of 75 gallons per person per day of wastewater production. Based on this rate of production, a Temporary Employee Housing facility will need to obtain a Site Approval and Discharge Permit from the Colorado Department of Health at a capacity of 26.66 individuals. Hence, Staff views the breaking point of 25 personnel (counted in beds) as reasonable based on State wastewater permitting standards. In addition, the draft regulations require that at the point a facility reaches 2000 gallons of wastewater production per day, the facility must be served by an ISDS and not a vault-and-haul scenario.
5. Although the Small Temporary Employee Housing Facility (STEHF) is a Use-by Right scenario for up to 12 beds with ½ occupancy there are Performance Standards associated with this property right. In other words, even though there is no land use permit issued, the standards by which these facilities must abide by to remain a Use-by-Right are checked at the Building Permit stage. This situation is similar to that currently in used for all Uses-by-Right within the Light Industrial Zone District. The primary difference between a straight Use-by-Right and what is proposed, is that there are performance standards which must be met for the use to remain a right to the property. If these standards are not met, the use becomes a zoning violation. In addition, the proposed Section 5.02.23 requires additional information which must be submitted along with the Building Permit. This additional information includes notification and submittals to the relevant fire protection district and Sherriff's Office. An issue with this scenario is that recreational vehicles do not require a building permit under our current Building Code. This leaves a loop-hole of sorts in the STEHF regulations when it comes to checking that the performance standards have been met. In order to insure compliance with these standards and submittal requirements, the proposed Section 5.02.23 will require a subsequent amendment to the building code to require all recreational

vehicles used as Temporary Employee Housing to obtain building permits. This is necessary so that it can be verified that all notification, performance standards and submittal requirements have been or can practically be met. The Planning Commission is recommending that the Building Code be subsequently modified to correct this loop-hole, however, upon further contemplation on this point by Staff, it has become evident that another path may be necessary to resolve this issue. This issue will be discussed later in this Staff Report.

Early in the process of establishing regulations to accommodate "essential personnel" as an administrative permit, it was the desire of the Planning Commission to create regulations which encouraged "self-regulation" through "heavy" fines and unnoticed inspections. The County Attorney's Office (CAO) has reviewed State statutes regarding zoning violations and relayed to the B&P Department the determination that Garfield County:

1. Cannot impose a fine without a Court Order; and the fine cannot be greater than the $100.00 per day (District Court) or $500.00 - $1,000.00 per day (County Court) fine set by statute. Essentially, the Court, not the County, fines the violator; and,
2. Cannot, under its land use authority, inspect a site without notice and/or the consent of the land owner and, probably, the operator of the Minor Facility. The County <u>may</u> be able to engage in "warrantless administrative searches", without notice, under County ISDS regulations and the State ISDS statute, if certain language is included in that set of regulations and in the application and/or the permit. Whether acting under its land use, public health or general police power authority, however, the County and its representatives/officials must abide by federal and state Fourth Amendment Search and Seizure law.

Thus, the County's ability to enforce "self-regulation" by using unannounced inspections or imposition of fines, of any amount, is limited. Despite this interpretation from the CAO, per Staff has stayed the course of creating an environment of "self-regulation" even though the reality is that the County has little ability to enforce the proposed "light" set of regulations. More specifically, the following chart outlines the process and requirements of each permitting tier:

Small Temporary Employee Housing Process:

As stated previously, the Small Temporary Employee Housing process (STEH) in one where the STEH is a Use-by-Right with Performance Standards and as long as the requirements of the Performance Standards are met as out lined within Section 5.02.23, the use remains a right to the property. The intension is that the Applicant obtains the necessary Building Permit forms from the Building Department, delivers the necessary information to the appropriate fire protection district and Garfield County Sheriff's Office and returns the signed-off forms to the Building Department with the Building Permit. Along with the appropriate sign-offs, the land owner / authorized applicant shall sign a form provided by the Building Department indicating that the Performance Standards and enforcement provisions are understood and will be abided by. As will be discussed later in this Staff Report, since RV's are not required to obtain a Building Permit under the Garfield County Building Code, Staff recommends that all RV's, regardless of number be viewed as Minor Temporary Employee Housing and require an Administrative Permit. There are other options to address this issue, however, which will be discussed later.

Minor Temporary Employee Housing Process:

The administrative process is intended to be one where the Garfield County Planning Department is the final sign-off and is the issuing agency for the Minor Temporary Employee Housing facility permit. In the anticipated process, the Applicant would obtain the application form and sign-off sheets from the Garfield County Planning Department, obtain the necessary signatures from the various agencies and deliver the completed application and signature sheets to the Planning Department to be considered for a Minor Permit. This process will replace that of County Staff sending the application off to referral agencies after the application is submitted. This process will significantly reduce the overall amount of time it will take to process the application as well as reduce County Staff time reviewing the application. In the end, the onus will be on the Applicant to perform the leg work for application feedback instead of relying on County resources. This has been done in the spirit of accommodating the desire of the industry to have an expedited permitting process. If all deadlines as outlined in draft Section 5.02.22 are taken to their longest, this process could take up to 42 days. However, due to the checklist nature of this permit, it is anticipated that an administrative permit could be issued over the counter providing all information is correct and that Staff is available immediately to process the permit. David explained the breakdown of deadlines for the Administrative Permit.

In addition to the reduced referral time for a Minor Permit, the Planning Commission is suggesting an Area Wide Development Plan (AWDP) option in which an Operator can complete the public notice, sign-offs and appeal period for an unspecified operation time and for an unspecified number of Minor Facilities. What this means, is that at the time the Applicant wants to obtain a Minor Permit for a Minor Facility which was previously approved under the AWDP, all that would need to be accomplished is final sign-off of the building permit and issuance of the Minor Permit itself (This is similar in concept to the process EnCana went through to permit 31 Temporary Employee Housing facilities in July, 2007, only the AWDP would have allowed EnCana to obtain one blanket building permit for all 31 camps following approval and no public hearing would have been required). However, at the request of the oil and gas industry, a third tier, the Small Temporary Employee Housing Facility, has come to fruition. As the AWDP was intended to act as a mechanism to speed the permitting process along and encourage coordination in permitting enough to not require an added layer of permitting and complexity (Small Temporary Employee Housing Facilities), the oil and gas industry representatives or the Planning Commission did not agree that the AWDP would achieve its intended goal and hence did not agree with Staff on this point. As such, the draft regulations recommended by the Planning Commission encompass both the AWDP and the added Small Temporary Employee Housing Facility. Staff recommends that to reduce complexities within the regulations that the AWDP be removed from the Minor Temporary Employee Housing regulations (5.02.22). Further, it is Staff's opinion that since the Minor Temporary Employee Housing regulations only apply to facilities serving 7-24 individuals that the limited utilization of the AWDP does not warrant its inclusion in the regulations.

To remain within the spirit of an Administrative Permit, Staff also recommends that the noticing requirements be reduced from 200' from the subject property to 200' from the permit site for those locations within the RL Zone District. The intent is to speed the process of the Administrative Permit where it makes the most sense. Since the RL Zone District is sparsely populated with residential properties and a majority of the ownership is within very large oil and gas company holdings, Staff does not feel it makes logical sense to notify from the subject property boundary, but instead 200' from the area of impact (Permit Site).

Major Temporary Employee Housing Process

The Major Temporary Employee Housing Facility (MTEHF) process remains unchanged from that in use today. All MTEHF's require a Special Use Permit prior to issuance of a Building Permit. This process generally takes 60-90 days, requires public noticing and a public hearing with the BOCC.

Staff Recommended Changes to the Sept. 12, 2007 Planning Commission Recommendation:

1. Small Temporary Employee Housing regulations (5.02.23): Although the Small Temporary Employee Housing Facility (STEHF) is a Use-by Right scenario for up to 12 beds with ½ occupancy, there are Performance Standards associated with this property right. In other words, even though there is no land use permit issued, the standards by which these facilities must abide by to remain a Use-by-Right are checked at the Building Permit stage. If these standards are not met, than a Building Permit cannot be issued. In addition, the proposed Section 5.02.23 requires additional information which must be submitted along with the Building Permit. This additional information includes notification and submittals to the relevant fire protection district and Sherriff's Office. In order to insure compliance with these standards and submittal requirements, the proposed Section 5.02.23 will require a subsequent amendment to the building code to require all recreational vehicles (RV's) used as Temporary Employee Housing to obtain building permits. This is necessary so that it can be verified that all notification, performance standards and submittal requirements have been or can practically be met. An issue with this scenario is that RV's do not require a building permit under our current Building Code. This leaves a loop-hole of sorts in the STEHF regulations when it comes to checking that the performance standards have been met. The Planning Commission is recommending that the Building Code be subsequently modified to correct this loop-hole, however, upon further contemplation on this point by Staff, it has become evident that another path may be necessary to resolve this issue. This conclusion has come from further review of the Building Code, its applicability and the consequences of altering the code in the manner previously anticipated. Below is a list of options in order of preference by the Planning Staff:
    a. Limit "Small Temporary Employee Housing Facilities" to only manufactured and pre-fabricated facilities. All Recreational Vehicles (RV's) must be permitted through the Administrative Permitting process described in Section 5.02.22 and considered a Minor Temporary Employee Housing Facility. This route would presumably make the RV scenario more complicated for the applicant, but it would ensure that the RV's are reviewed by the Planning Department and have the issuance of a land use permit without creating an additional process for a very specific situation. More specifically, an RV Temporary Employee Housing Facility accommodating 24 or less individuals would require an Administrative Permit and be considered a Minor Temporary Employee Housing Facility. The added complexity of the permit would presumably push operators toward using manufactured and pre-fabricated facilities which are anticipated to accommodate 6 or fewer individuals which Staff believes is in the best health, safety and welfare interests of Garfield County. Past experience has demonstrated to the Planning Staff that RV facilities are less sanitary and more difficult to control than manufactured or pre-fabricated facilities which currently require building permits. It is for these reasons of regulation complexity, health, safety and welfare that staff supports requiring all Temporary Employee Housing Facilities which are to consist of RV's be viewed as a Minor Temporary Employee Housing Facility.
    b. Allow RV's to exist as a use-by-right with no building permit or other land use permit as long as the operator abides by the Performance Standards outlined in Section 5.02.23 including all submittal requirements. The effect of this direction is that there is no review process to ensure that the submittal requirements were conducted or are accurate and complete. Enforcement for these facilities would be entirely complaint based and handled through Garfield County's standard code enforcement language. Staff feels that this direction undermines the health, safety and welfare obligations of Garfield County.
    c. Institute Section 107, "Temporary Structures and Uses" within the Building Code. Section 107 provides a basic framework permitting temporary structures, but this section has been removed from our current Building Code. The building code requires that this be "uniform for each class of dwelling, building, or structure". In the building world, this means that we will then need to issue building permits for temporary trailers at construction sites, which we currently do not do. In addition, as Section 107 is written, "such permits shall be limited as to time of service, but shall not be permitted for more than 180 days … [In addition,] temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare". Staff understands that altering the 180 day requirement undermines the intent of the building code itself. In addition, ensuring that RV's conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the building code is very difficult and overly onerous. The issuance of a Certificate of Occupancy for RV's could prove legally problematic for the above mentioned reasons.
    d. Eliminate the "Small Temporary Employee Housing" tier all together. The Planning Commission has recommended that the Board of County Commissioners adopt the third tier of permitting as Section 5.02.23, "Small Temporary Employee Housing". A way to handle the issue with the RV's is to revert back to the Staff recommendation prior to September 12, which required all Temporary Employee Housing Facilities fewer than 25 beds to obtain an administrative permit under Section 5.02.22.
    e. Create a "Temporary Use Permit" for only RV Temporary Employee Housing Facilities. This option creates a separate land use permit administered by the Planning Department for the sole use of RV's at Small Temporary Employee Housing Facilities. Although it appears that this option could work on paper, Staff understands that the purpose of this exercise is to create an easier, less complicated process, not additional processes for very specific circumstances which the Planning Department then has to review and track. For all practical purposes, Staff believes that this option will dig the regulatory complexity issue deeper and does not create a practical solution to the problem at hand. In

addition, the issuance of a land use permit for a use-by-right is not consistent with the idea behind a use-by-right.

2. Minor Temporary Employee Housing regulations (5.02.22): Staff recommends that the noticing requirements be reduced from 200' from the subject property to 200' from the permit site for those locations within the RL Zone District. The intent is to speed the process of the Administrative Permit where it makes the most sense. Since the RL Zone District is sparsely populated with residential properties and a majority of the ownership is within very large oil and gas company holdings, Staff does not feel it makes logical sense to notify from the subject property boundary, but instead 200' from the area of impact (Permit Site).
3. Minor Temporary Employee Housing regulations (5.02.22): Staff recommends eliminating the Area Wide Development Plan (AWDP). As the process has evolved, a third tier, the Small Temporary Employee Housing Facility, has come to fruition. As the AWDP was intended to act as a mechanism to speed the permitting process along and encourage coordination in permitting enough to not require an added layer of permitting (Small Temporary Employee Housing Facilities), the oil and gas industry representatives or the Planning Commission did not agree that the AWDP would achieve its intended goals and hence did not agree with Staff on this point. As such, the draft regulations recommended by the Planning Commission encompass both the AWDP and the added Small Temporary Employee Housing Facility. Staff recommends that to reduce complexities within the regulations that the AWDP be removed from the Minor Temporary Employee Housing regulations (5.02.22).

Effects of Section 5.02.21, 5.02.22 and 5.02.23 on Garfield County Resources

The implementation of Section 5.02.22 and 5.02.23 as proposed will inevitably have an impact on Garfield County Building and Planning resources, primarily in terms of human capitol. Below is an estimation of the impact on this County resource:

Major Discussion Points since November 19, 2007:

Following further review of building code requirements for the units anticipated to be used as Temporary Employee Housing, it is clear that these units are classified as "factory built nonresidential structures" as included in Resolution 35 of the State Housing Board and included in Section 24-32-3301 of the Division of Housing Statutes. As a result, Staff proposes a change to the draft Temporary Employee Housing regulations to clarify that the units to be placed on these sites are not classified as "manufactured homes", but rather "factory-built non-residential structures". The hope is that this will help clarify what these structures are in the eyes of the building code and maintain language consistency between the building code, State requirements and the Zoning Resolution.

REQUEST

To modify Section 5.02.21 of the Zoning Resolution of 1978 to create a Major Temporary Employee Housing requirement as proposed by Staff (Special Use Permit) for those facilities able to accommodate 25 or more beds, are not completely contained on a state or federally permit site, or are going to be on location of a cumulative of more than one (1) year.

To create Section 5.02.22 of the Zoning Resolution of 1978 to create a Minor Temporary Employee Housing requirement as proposed by Staff (Administrative Permit) for those facilities which can accommodate 7 - 24 beds, are completely contained on a state or federally regulated lease parcel, and are going to be on location for a cumulative of less than one (1) year.

To create Section 5.02.23 of the Zoning Resolution of 1978 to create a Small Temporary Employee Housing requirement as proposed by Staff (Use by Right with Performance Standards) for those facilities which can accommodate 1-12 beds with a maximum occupancy of ½ and are completely contained on a state or federally regulated lease parcel, and are going to be on location for a cumulative of less than one (1) year.

The Staff proposed regulations are as follows:

Major Permit – (Contain 25 or more beds)

5.02.21 Special Use Permits for Major Temporary Employee Housing Facilities ("Major Permit"):

(1) At times of severe housing shortage, extremely remote locations or other emergency conditions, special use permits for Major Temporary Employee Housing Facilities in the nature of ~~**manufactured homes [as defined under C.R.S. 42-1-102 (106) (b)]**~~ **Factory Built Nonresidential Structures [as defined under C.R.S. 24-32-3302(a)]** and/or recreational vehicles [as defined under C.R.S. 42-1-102 (61), with the addition that such truck, truck tractor, motor home or camper trailer is being used for temporary living quarters and not recreational purposes] may be granted for projects within Garfield County related to commercial, industrial, mineral extraction or highway operations of substantial size in any zone district by the County Commissioners through the special use permit process. Such housing shall be of a temporary nature. At the expiration of the permit, the lands shall be restored and all housing structures and associated infrastructure shall be removed. Review of the permit shall be subject to §9.03 and §5.03 of the Garfield County Zoning Regulations of 1978 as Amended. All Special Use Permits for Centralized Employee Housing/Major Temporary Employee Housing Facilities is subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements. Major Temporary Employee Housing Facilities shall have at least one of the following basic characteristics:

A. The Major Temporary Employee Housing Facilities or any associated infrastructure (including ISDS) ("Major Facility(ies)) is not completely contained within a State or Federally regulated parcel (such as a Colorado Oil and Gas Conservation Commission (COGCC) approved oil/gas well pad) in which reclamation and revegetation standards are guaranteed by contract with the permitting agency; or,
B. The Major Facilities are to be located at the permitted site for more than a cumulative of one (1) year; or,
C. The Major Facility shall contain twenty five (25) beds or more to accommodate employees, contractors or sub-contractors of the operator of the small facility and are needed for onsite safety of the related commercial, industrial, extraction or highway operation.

(2) Temporary Employee Housing Facilities containing 24 or fewer beds at any one given time, will be on location for less than a cumulative of one (1) year and are completely contained within a state or federally permitted parcel (i.e. "Minor Facilities" or "Small Facility") are subject to the administrative review process and standards contained in Section 5.02.22 and Section 5.02.23 and the enforcement provisions of Section 12 and Section 9.01.06.

(3) Special Use Permits for Major Facilities: The applicant shall submit an adequate site plan, consistent with Section 9.01.01 and including proposed water supply, proposed method of sewage treatment and names and addresses of adjacent property owners.

(A) Water and wastewater systems proposed to service Major Facilities must comply with all applicable state and local laws and regulations. In addition, all sewage must be disposed of on-site using an Individual Sewage Disposal System (ISDS) unless the applicant can prove:

1. That, at the discretion of the Garfield County Board of Health, an ISDS system is not feasible due to environmental, topographic or engineering conditions where the temporary housing is to be located; or
2. That, at the discretion of the Garfield County Board of Health, year-round access is available and maintained for safe and regular access for sewage hauling vehicles. In addition, the following conditions must be met:

a) The applicant must demonstrate and guarantee an arrangement for hauling sewage; and
b) The applicant must maintain all records including but not limited to trip logs/reports and landfill receipts; and
c) All sewage disposal records must be maintained as public records to be available to the County and/or any other interested third party upon request; and
d) The temporary housing must not exceed a cumulative of one (1) year at an approved location; and,
e) These facilities shall be designed to accommodate 75 gallons of wastewater per person per day.
f) If the total waste production from a facility will be 2000 gallons per day or greater based on a production of 75 gallons of wastewater generation per person per day, then the facility shall be serviced by an ISDS. Hauled sewage and wastewater service shall not be permitted for any facility which will generate a total of 2000 gallons of wastewater and sewage per day.

(B) For sites where potable water is hauled to and wastewater is hauled out, applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed of at an approved facility. For water facilities not permitted by the Colorado Department of Health and Environment (CDPHE), the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee. Water systems permitted by the Colorado Department of Health and Environment (CDHPE) must obtain all necessary state permits prior to the scheduling of a Special Use Permit for a Major Permit public hearing and maintain continuous conformance to state regulations at all times during operation of the Major Facility.

(C) In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.

(D) Special Use Permits for Major Facilities must be related to one or more commercial, industrial, mineral extraction or highway operation locations and shall be limited to a spacing of at least one (1) mile between Major Facilities, regardless of land ownership or operator. Special Use Permits for Major Temporary Employee Housing Facilities for oil and gas extraction purposes in the Resource Lands (RL) zoning district may be exempted by the BOCC from the one mile spacing if the operator can prove that the housing structures and all supporting infrastructure will be contained within the Colorado Oil and Gas Commission (COGCC) approved well pad and there will be no new additional land disturbance outside of the COGCC approved well pad area. If the applicant is applying for a Special Use Permit for Major Facilities on an approved COGCC well pad, the applicant must provide the relevant approved APD permit indicating housing location(s) along with the application for a Special Use Permit for Major Facilities.

(4) The maximum allowable time length of the Special Use Permit for Major Temporary Employee Housing Facilities is one (1) year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners. By way of example and not limitation, continued non-availability of a permanent housing inventory or the nature of the construction or extraction project may constitute "good cause" for renewal. The applicant must provide an estimated total cumulative length of time the Major Facility(ies) will be at the proposed location along with a statement of intentions to request renewal past the one year expiration date as part of the Special Use Permit for Major Facilities application. Failure to provide a statement of intention for renewal will prohibit the Special Use Permit for a Major Facility(ies) from future renewal consideration.

(5) Temporary housing shall be located at a site authorized by the Board of County Commissioners and identified on the relevant site plan submitted with the Special Use Permit for a Major Facility(ies). Inhabitants of the Major Facility shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.

(6) Major Facilities shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.

(A) Fire Protection; General Requirements:

i. Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus,

sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid, combustible materials or electrical fires (Class A, Class B and Class C), or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher. A water storage tank shall be required to provide water to the sprinkler system and initial suppression activities. The size of the water tank shall be determined based on sprinkler calculations and initial suppression demands.

ii. Manufactured home or recreational vehicle units equipped by the manufacturer with a fire sprinkler system, fire detection system, and/or alarm system shall be inspected, tested, and maintained in accordance with 2003 IFC §901.4 and §901.6 and as required by the relevant fire protection district(s). Smoke alarms and manual fire alarm systems shall be installed, inspected and maintained in all other manufactured home or recreational vehicle units in accordance with 2003 International Fire Code (IFC) §907.2.9 and §907.2.10 and the requirements of the relevant fire protection districts.

iii. Single-station carbon monoxide alarms shall be placed in each manufactured home or recreational vehicle unit.

(B) Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic feet) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed on not less than once weekly.

(C) Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the Major Facility(ies) site are provided.

(D) The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the Major Temporary Employee Housing Facilities site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.

(7) If structures, requiring Building Permits under the Garfield County Building Code, are constructed for the commercial, industrial, highway project or mineral extraction operation related to the Special Use Permit for Major Facilities upon expiration or revocation of the permit Certificates of Occupancy for such structures shall be withheld until the temporary living quarters are removed and the site is restored to the satisfaction of the County Building and Planning Director.

(8) If a Special Use Permit for Major Facilities is granted, the Applicant shall notify the county when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The county also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Major Facilities. A determination of noncompliance with any Special Use Permit for Major Temporary Employee Housing Facilities, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

(9) If there is suitable permanent housing inventory available in an area near the commercial, industrial, highway project or mineral extraction operation, as determined at the discretion of the BOCC, the Special Use Permit for Major Temporary Employee Housing Facilities shall not be granted.

(10)No animals shall be allowed at Major Temporary Employee Housing Facilities on Location sites.

(11) In evaluating a request for a Special Use Permit for Major Temporary Employee Housing Facilities, the County Commissioners may require compliance with additional conditions of approval as may be needed to ensure the health, safety and welfare of the public. (A.81-263)

(12)The applicant shall submit as part of the Special Use Permit for Major Temporary Employee Housing Facilities, a reclamation and revegetation plan for each specific site addressing all points in section eleven (11) within this §5.02.21.

a. Debris and waste materials, including, but not limited to structures, concrete, footings, sewage disposal systems and related infrastructure, water storage and related distribution infrastructure, roads, and other sand, plastic, gravel, pipe and cable shall be removed. All pits, cellars, and other holes will be backfilled as soon as possible after all equipment is removed to conform to surrounding terrain. All access roads to the site and associated facilities shall be closed, graded and recontoured. Culverts and any other obstructions that were part of the access road(s) shall be removed. Upon closure of a camp facility, wastewater tanks shall be completely pumped out and either crushed in place, punctured and filled with inert material or removed. Any waste material pumped from a wastewater tank or waste debris from tank removal must be disposed of at an approved facility that is permitted by CDPHE and/or Garfield County to receive said wastes. Materials may not be burned or buried (other than ISDS) on the premises. All disturbed areas affected by Major Temporary Employee Housing Facilities or subsequent operations shall be reclaimed as early and as nearly as practicable to their original condition and shall be maintained to control dust, weeds and minimize erosion. As to crop lands, if subsidence occurs in such areas additional topsoil shall be added to the depression and the land shall be re-leveled as close to its original contour as practicable. Reclamation shall occur no later than three (3) months after the Special Use Permit for Major Temporary Employee Housing Facilities expires or is revoked unless the Director or designee extends the time period because of conditions outside the control of the applicant.

b. All areas compacted by Major Temporary Employee Housing Facilities and subsequent operations shall be cross-ripped. On crop land, such compaction alleviation operations shall be undertaken when the soil

moisture at the time of ripping is below thirty-five percent (35%) of field capacity. Ripping shall be undertaken to a depth of eighteen (18) inches unless and to the extent bed rock is encountered at a shallower depth.

c. When a Major Temporary Employee Housing Facilities site is removed, all disturbed areas will be restored and revegetated as soon as practicable. For disturbed areas not regulated by the Colorado Oil and Gas Conservation Commission, the following regulations will apply:

(1) Revegetation of crop lands. All segregated soil horizons removed from crop lands shall be replaced to their original relative positions and contour, and shall be tilled adequately to re-establish a proper seedbed. The area shall be treated if necessary and practicable to prevent invasion of undesirable species and noxious weeds, and to control erosion. Any perennial forage crops that were present before disturbance shall be reestablished.

(2) Revegetation of non-crop lands. All segregated soil horizons removed from non-crop lands shall be replaced to their original relative positions and contour as near as practicable to achieve erosion control and long-term stability, and shall be tilled adequately in order to establish a proper seedbed. The disturbed area then shall be reseeded in the first favorable season. Reseeding with species consistent with the adjacent plant community is encouraged. In the absence of an agreement between the applicant and the affected surface owner as to what seed mix should be used, the applicant shall consult with a representative of the local soil conservation district to determine the proper seed mix to use in revegetating the disturbed area.

d. During occupation and reclamation operations, all disturbed areas shall be kept free of Garfield County and State of Colorado List A and B noxious weeds.

e. Successful reclamation of the site and access road will be considered completed when:

(1) On crop land, reclamation has been performed as per 11(c)(1) of this section, and observation by the Director or designee over two growing seasons has indicated no significant unrestored subsidence.

(2) On non-crop land, reclamation has been performed as per 11(c)(2) of this section, and the total cover of live perennial vegetation, excluding noxious weeds, provides sufficient soils erosion control as determined by the Director through a visual appraisal. The Director or designee shall consider the total cover of live perennial vegetation of adjacent or nearby undisturbed land, not including overstory or tree canopy cover, having similar soils, slope and aspect of the reclaimed area.

(3) A final reclamation inspection has been completed by the Director or designee, there are no outstanding compliance issues relating to Garfield County rules, regulations, orders or permit conditions, and the Director or designee has notified the applicant that final reclamation has been approved.

f. Specifically as to revegetation, the applicant shall provide security for revegetation of disturbed areas in amount and in accordance with a plan approved by the Garfield County Vegetation Management Department. The security shall be held by Garfield County until vegetation has been successfully reestablished according to the standards in the Garfield County Vegetation Management Plan adopted by resolution No. 2002-94, as amended.

Minor Permit – (Contain 7 to 24 beds)

5.02.22 - Administrative Permit for Minor Temporary Employee Housing Facilities (Minor Permit):

(1) Minor Temporary Employee Housing Facilities, in the nature of ~~manufactured homes [as defined under C.R.S. 42-1-102 (106) (b)]~~ Factory Built Nonresidential Structures [as defined under C.R.S. 24-32-3302(a)] and/or recreational vehicles [as defined under C.R.S. 42-1-102 (61), with the addition that such truck, truck tractor, motor home or camper trailer is being used for temporary living quarters and not recreational purposes], may be granted land use approval for projects related to commercial, industrial and mineral extraction operations in any Zone District by the Building and Planning Department Director (Director), through the Minor Permit process. Such housing shall be of a temporary nature, and at the expiration or other termination of the Minor Permit, all structures, foundations and associated infrastructure shall be completely removed. Such facilities are subject to all applicable requirements of Garfield County building and fire codes (building code, fire code); state and federal permits and relevant fire protection district(s) fire code requirements.

Minor Permits shall have all of the following basic characteristics:

A. The Minor Temporary Employee Housing Facility and any associated infrastructures ("Minor Facility(ies)") must be completely contained within a state or federally permitted parcel (such as a Colorado Oil and Gas Conservation Commission (COGCC) approved oil/gas well pad) in which reclamation and revegetation are secured with the permitting agency (Permitted Site); and,

B. The Minor Facility is located at the Permitted Site for less than a cumulative of one (1) year; and,

C. The Minor Facility shall contain seven (7) to twenty-four (24) beds to accommodate employees, contractors or sub-contractors of the operator of the small facility and are needed for onsite safety of the related commercial, industrial, extraction or highway operation.

Temporary employee housing facilities that do not have the three characteristics listed above, i.e., contain of 6 or fewer beds, on location for more than a cumulative of one (1) year or not completely contained within a Permitted Site, i.e. "Small Facility" or "Major Facilities", are subject to the special use review process and standards and requirements contained in Section 5.02.21 or 5.02.23 and the enforcement provisions of Section 12 and Section 9.01.06.

(2) General Minor Permit Application Requirements: The Applicant shall submit an application, on a form provided by the Building and Planning Department (Department) and be issued a Minor Permit by the Director prior to commencing installation of the Minor Facility.

A. Minor Permit ~~and Area Wide Development Plan (AWDP)~~: Each Minor Facility application shall be reviewed by the Director and an administrative determination made, in accordance with the process and timeframes outlined in Section 5, below. ~~The Applicant, however, may choose to~~

~~apply for an AWDP consisting of multiple Minor Facilities to be developed within an identified amount of time, using an accelerated administrative process, following approval of an AWDP, leading to multiple Minor Permits. Approval of an AWDP, however, does not guarantee approval of each Minor Permit.~~ Administrative review is required for permitting of each Minor Facility, in accordance with the process and timelines contained in Section 5, below.

B. Identity of Applicant: The Applicant for a Minor Permit ~~or for approval of an AWDP~~ must be the owner of the surface estate of the subject lot (Owner), consistent with Section 9 of this Zoning Resolution. If a representative is acting on behalf of the Owner, an acknowledgement from the Owner shall be included with the application submittals required by Section 4, below. Such an acknowledgment may be in the form of a letter of authority/agency or a lease, surface use agreement or similar document of legal effect demonstrating that the Owner has given the representative permission to use the surface estate for installation of one or more Minor Facilities and permission to process applications for land use and building code permits on behalf of the Owner(s). The representative may be the operator of the Minor Facility(ies) (Operator), a land use planner, engineer, consultant or any other type of authorized representative/agent.

C. Public Notice: At the time of submittal of an application for a Minor Permit ~~or approval of an AWDP~~, the Applicant shall demonstrate that notice was mailed to adjacent property owners within 200 feet of the subject lot *or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District,* as identified in the Garfield County Assessor's Records; the Owner (unless the Owner is the Applicant and is not represented); and separated mineral estate owners *(as defined in Section 24-65.5-101 et seq., C.R.S., as amended) under the subject lot or under the Permitted Site if the Permitted Site is within the Resource Land Zone District,* as identified in the records of the Garfield County Clerk and Recorder. Public Notice shall include at a minimum: name of the Applicant and representative (if different), description/map of the subject lot with proposed location of Minor Facility(ies), general description of the proposed Minor Facility(ies), explanation of the reconsideration process, outlined in Section 6, below, with the timeframe to request reconsideration of the Director's decision and contact information for the Department.

D. The application must also include the submittals required by ~~Section 3 and~~ 4, below.

~~(3) Submittal Requirements for an AWDP: At a minimum, the Applicant for approval of an AWDP, along with the submittals listed in Section 2, above, shall submit:~~

~~A. A master map/site plan in accordance with Section 4(H), below, identifying the proposed location and anticipated layout for all Minor Facilities to be installed within the AWDP. Site specific, surveyed maps depicting the location of each Minor Facility, located within the Permitted Site within the subject lot, shall be submitted with each individual Minor Permit application and not with the application for approval of an AWDP.~~

~~B. The master map/site plan shall include a list of the anticipated dates of installation and removal for each Minor Facility. The list shall also include the estimated total cumulative length of time (number of days) that the Minor Facilities are anticipated to be installed at the proposed location.~~

~~C. Sign-offs from the Garfield County Sherriff's Office, relevant fire protection district(s), and Garfield County Building Department consistent with Section 4 (A) and (B), below.~~

~~D. A legible photo of the state or federal "certifying stamp" for each housing unit anticipated to be used within the AWDP and demonstration that each proposed unit meets current building code and Garfield County fire code requirements.~~

~~E. A general description of infrastructure and services listed in Section 4 (C) – (E), below. The detail required at the time of application for a Minor Permit is not required at the time of application for approval of an AWDP.~~

~~F. Proof that required public noticing has been performed in accordance with Section 2(C) above.~~

~~Assuming approval of the AWDP, following the timeframe for reconsideration detailed in Section 6 below. The Applicant may proceed to submit individual applications for the Minor Facilities proposed within the AWDP, in accordance with the submittal requirements, standards, administrative review process and timeframes and the reconsideration process and timeframes, stated in Sections 4 – 7, below.~~

(4) Submittals for Minor Permit~~, including Minor Permit application for which an AWDP was previously approved~~:

A. Sign-offs: review from the Garfield County Sheriff's Office and relevant fire protection district(s). ~~If an AWDP was previously approved in accordance with Section (3), above, the Applicant for a Minor Permit need not resubmit the sign-offs.~~

B. Sign-off: review from the Garfield County Building Department of the state or federal "certifying stamp" for each housing unit proposed for use and demonstration that each proposed housing unit meets current building code and fire code requirements. ~~If an AWDP has been previously approved which includes the Minor Facility presently being permitted, the Applicant shall identify the housing units which will be used at the Minor Facility from the list approved as apart of the AWDP.~~

C. General description of the water system planned for potable water, along with details regarding number and volume of potable water tanks, source of water, name of hauler, hauler's Colorado Department of Public Health and Environment (CDPHE) registration number and copy of hauler's CDPHE certification, frequency of delivery, and calculation of water demand and demonstration of adequate capacity.

D. A general description of the system planned for collection and storage of sewage and wastewater, along with details regarding number and volume of sewage and wastewater vaults, name of

hauler, frequency of pickup, identification of sewage disposal site, calculation of sewage and wastewater treatment demand and demonstration of adequate storage and/or treatment capacity.

E. A general description of the system planned for collection and disposal of refuse, along with details regarding refuse collection, including number, type and volume of containers; name of hauler; frequency of collection; and identification of refuse disposal site.

F. A list of adjacent surface owners *within 200 feet of the Subject Lot or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District,* as identified in the Garfield County Assessor's records, and a list of separated mineral estate owners in the subject lot *or the Permitted Site if the Permitted Site is within the Resource Land Zone District,* as identified in the Garfield County Clerk and Recorders records.

G. A list of the final dates of installation and removal of the Minor Facility and a representation of the total cumulative length of time (number of days) that the Minor Facility will be installed at the proposed location.

H. Site Plan: The Applicant shall submit an adequate site plan, consistent with Section 9.01.01 of this Zoning Resolution and the requirements listed below:

i. **A vicinity map indicating the section, township, and range of the subject lot and the location of Minor Facility within the subject lot and the Permitted Site; general relation to surrounding public roads, private roads, adjacent utility systems, residential development, other actively permitted Minor and Major Facilities, natural drainage courses and municipalities within one (1) mile of the proposed Minor Facility; north arrow and scale; GPS coordinates and current surface ownership of the subject lot. The vicinity map shall be presented on a USGS 7.5 minute series quadrangle at a scale of 1"=2000' or equivalent, with a topography depicted at a minimum of 40' intervals.**

ii. **Surveyed layout of the proposed Minor Facility within the surveyed boundaries of the Permitted Site, including at a minimum: sewage and wastewater disposal, trash receptacles, potable water storage, all other associated infrastructure and all other equipment located within the Permitted Site.**

iii. **Identification of the private and public roadways accessing each Minor Facility. Roadways shall be marked as open, gated, and/or locked (include combinations). Detailed directions, with mileage, shall be given from the nearest town within Garfield County, nearest Garfield County Sheriff's Office dispatch location and responsible fire district headquarters to each Minor Facility, along each roadway.**

iv. **Name, address and phone number of surface owner of the subject lot** or the Permitted Site if the Permitted Site is within the Resource Land Zone District.

v. **Name, address and phone number, including a 24-hour emergency response number of at least two persons responsible for Operator's emergency field operations; contact numbers for local hospitals, emergency response, fire protection districts, Garfield County Sheriff's Office, Life/Care Flight, and applicable regulatory agencies; site safety/evacuation plan; and any other written response plan for potential emergencies at the Permitted Site.**

vi. Identification of the final dates of installation and removal of the Minor Facility. The site plan shall include a notation of the total cumulative length of time (number of days) that the Minor Facility will be installed at the Permitted Site.

I. The name, title, address, phone number and email address of the Operator's employee or other authorized representative who is in charge of ensuring that the Minor Facility is in compliance with the standards outlined in Section 5.02.22 ("Operator's Compliance Officer").

J. A form, provided by the Department and signed by the Operator's Compliance Officer, indicating that the Minor Facility will be installed in accordance with all applicable Garfield County, relevant fire district, state and federal regulations.

K. A form, provided by the Department and signed by the Operator's Compliance Officer, indicating that the Operator submits to the enforcement provisions identified within Section (8), below.

L. A copy of the permit from the state or federal agency, regulating the Permitted Site, identifying the location, conditions of approval, time period for which the permit is valid and the parameters for reclamation and revegetation of the Minor Facility once the state or federal permit for the Permitted Site has expired or is otherwise terminated.

(5) Timeframe of Review and Administrative Determination:

A. Upon submittal of an application for a Minor Permit ~~or for approval of an AWDP~~ to the Department, a technical compliance check shall be completed and notice of compliance or non-compliance sent to the Applicant by the Director within fourteen (14) calendar days of submittal. Once an application for a Minor Permit ~~or AWDP~~ is deemed technically compliant by the Director, the Director shall issue a determination of approval, approval with conditions or denial within fourteen (14) calendar days following the date of technical compliance determination. Unless otherwise provided herein, the expiration of any time limitation imposed upon the Board of County Commissioners, the Planning Commission, or any other County representative, shall be interpreted as having consequence only in entitling an interested party to request judicial relief in the nature of mandamus. The expiration of any such time limitation shall not, in and of itself, be considered as approval or denial of any application, plan or plat under consideration.

B. If the Director finds in reviewing an application that the application meets the standards set forth in this Zoning Resolution, the Director shall approve the application for a Minor Permit and issue the Minor Permit to the Owner of the subject lot ~~or approve the application for approval of an AWDP~~.

C. If the Director finds that the application does not meet an applicable standard or standards, the application may be approved with appropriate reasonable conditions imposed to avoid or minimize the significant adverse impacts of the Minor Facility(ies). Such conditions may include, but are not necessarily limited to, the relocation or modification of proposed access roads, facilities (including water and sewer facilities), or structures; landscaping, buffering, or screening; or any other measures necessary to mitigate any significant impact on surrounding properties and infrastructure.

D. If the Director finds that the application does not meet an applicable standard or standards and that the non-compliance cannot be mitigated through a condition(s) of approval, the Director shall deny the Minor Permit ~~or application for approval of an AWDP~~.

(6) Reconsideration Hearing: Once the Director issues a determination on the application the determination shall not be final for fourteen (14) calendar days after the date of the determination in order to allow time for the applicant, adjacent property owners within 200' of the subject lot *or the Permitted Site if the Permitted Site is within the Resource Land Zone District, the Owner(s) of the subject lot or the Permitted Site if the Permitted Site is within the Resource Land Zone District* separated mineral estate owners, and/or the Board of County Commissioners (BOCC) to reconsider the determination made by the Director. The Director's determination shall become final only after the expiration of this fourteen (14) calendar day period, and only if the determination is not reviewed and acted upon by the BOCC at a subsequent reconsideration hearing.

A. Request ~~by Applicant or Adjacent Property Owner~~ for Reconsideration of Decision.

i. Written Request. The Applicant (and the Owner, if the Owner is represented as detailed in (2)(B), above), an adjacent property owner within 200' of the subject lot *or the Permitted Site if the Permitted Site is within the Resource Land Zone District, or the mineral estates owners as defined in subsection iv, below***,** aggrieved by the Director's decision may request reconsideration by the BOCC by means of a written request filed with the Department within the fourteen (14) day period of time.

ii. Schedule Public Hearing. A public hearing by the BOCC shall be held at the next available BOCC's regularly scheduled meeting date in which all required prior public noticing can take place (Reconsideration Hearing).

iii. Notice by Publication. At least thirty (30) calendar days prior to the date of the scheduled Reconsideration Hearing, the aggrieved party shall have published a notice of public hearing in a newspaper of general circulation in the area in which the proposed Minor Facility ~~or AWDP~~ is located.

iv. Notice *by Mail* ~~to Adjacent Property Owners~~. At least thirty (30) calendar days prior to the date of the scheduled Reconsideration Hearing, the aggrieved party shall send by certified mail, return receipt requested, a written notice of the public hearing to *adjacent property owners within 200 feet of the subject lot or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District, as identified in the Garfield County Assessor's Records; the Owner (unless the Owner is the aggrieved party); and separated mineral estate owners (as defined in Section 24-65.5-101 et seq., C.R.S., as amended) under the subject lot or under the Permitted Site if the Permitted Site is within the Resource Land Zone District, as identified in the records of the Garfield County Clerk and Recorder. the owners of record of all adjacent property within 200 feet of the subject lot or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District. (Note: the aggrieved party need not notice itself)* The notice shall include a vicinity map, the legal description of the subject lot, a short narrative describing the Minor Facility ~~or AWDP~~, and an announcement of the date, time and location of the scheduled Reconsideration Hearing.

v. BOCC Decision. The BOCC shall conduct the Reconsideration Hearing and, based upon the evidence received at the hearing, the Board may uphold the Director's decision, modify the decision or reverse the decision, based upon compliance of the proposed Minor Facility ~~or AWDP~~ with the regulations contained in this Zoning Resolution and, specifically, Section 5.02.22.

B. Call-up by Board. Within fourteen (14) calendar days of the date of receipt of notice of the Director's decision, the BOCC may at its discretion, decide to reconsider the Director's decision at the next regularly scheduled meeting of the BOCC for which proper notice of hearing can be accomplished.

i. Call-up Vote. The BOCC shall consider the call-up request, by one or more Commissioners, at the next regular meeting of the BOCC and set a public hearing by a majority vote of the BOCC in favor of the Reconsideration Hearing.

ii. Notice by Publication. At least thirty (30) calendar days prior to the date of the scheduled Reconsideration Hearing before the BOCC, the Director shall have published a notice of public hearing in a newspaper of general circulation in the area in which the proposed Minor Facility ~~or AWDP~~ is located.

iii. Notice *by Mail* ~~to Adjacent Property Owners~~. At least thirty (30) calendar days prior to the date of the scheduled Reconsideration Hearing, the aggrieved party shall send by certified mail, return receipt requested, a written notice of the public hearing to *adjacent property owners within 200 feet of the subject lot or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District, as identified in the Garfield County Assessor's*

Records; the Owner (unless the Owner is the aggrieved party); and separated mineral estate owners (as defined in Section 24-65.5-101 et seq., C.R.S., as amended) under the subject lot or under the Permitted Site if the Permitted Site is within the Resource Land Zone District, as identified in the records of the Garfield County Clerk and Recorder. the owners of record of all adjacent property within 200 feet of the subject lot or 200 feet from the Permitted Site if the Permitted Site is within the Resource Land Zone District. The notice shall include a vicinity map, the legal description of the subject lot, a short narrative describing the Minor Facility ~~or AWDP~~, and an announcement of the date, time and location of the scheduled Reconsideration Hearing.

iv. Decision by BOCC. The BOCC shall conduct the Reconsideration Hearing and, based upon the evidence received at the hearing, the Board may uphold the Director's decision, modify the decision or reverse the decision, based upon compliance of the proposed Minor Facility ~~or AWDP~~ with the regulations contained in this Zoning Resolution and, specifically, Section 5.02.22.

(7) The Minor Facility shall adhere to the following Minor Permit standards:

A. Minor Facilities must comply with all applicable federal, state and local laws and regulations.

B. Operator must keep and maintain appropriate records, to be provided to the County or any interested third party upon request, to demonstrate that potable water supplied and sewage and wastewater meet the representations contained within the application, as required by Section 4(C) and (D) above.

C. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface. The operator shall conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form bacteria. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee within 72 hours from the time the contaminated water was tested.

D. Minor Facilities shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored at the Minor Facility for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.

E. At least one thirty (30) gallon (4 cubic feet) wildlife-proof refuse container shall be provided for each manufactured home or recreational vehicle unit. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids.

F. Refuse shall be disposed of weekly, at a minimum. Operators must keep appropriate records, to be provided to the County or any interested third party upon request, to demonstrate that refuse is collected in a timely fashion and disposed of at a licensed facility.

G. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the Minor Facility are provided.

H. Manufactured home or recreational vehicle units equipped by the manufacturer with a fire sprinkler system, fire detection system, and/or alarm system shall be inspected, tested, and maintained in accordance with 2003 IFC §901.4 and §901.6 and as required by the relevant fire protection district(s). Smoke alarms and manual fire alarm systems shall be installed, inspected and maintained in all other manufactured home or recreational vehicle units in accordance with 2003 International Fire Code (IFC) §907.2.9 and §907.2.10 and the requirements of the relevant fire protection districts.

I. Single-station carbon monoxide alarms shall be placed in each manufactured home or recreational vehicle unit.

J. One (1) or more approved fire extinguisher(s) of a type suitable for flammable liquids, combustible materials and electrical fires (Class ABC), or dry chemical, shall be located in each manufactured home or recreational vehicle unit and placed in accordance with applicable codes.

K. Inhabitants of the Minor Facility shall be Applicant's employees and/or subcontractors, working on the related commercial, industrial or mineral extraction operation, and not dependents of employees, guests or other family members.

L. Within 10 days following the expiration or other termination of the Minor Permit or represented date of removal identified within the Minor Permit, all housing structures, foundations and associated infrastructure shall be completely removed. The Operator shall provide the Department with photos, dated and signed by the Operator's Compliance Officer, indicating that all housing structures, foundations and associated infrastructure has been removed within the specified timeframe.

M. No domestic animals are allowed at a Minor Facility.

N. A water storage tank shall be required to provide water to the sprinkler system and initial suppression activities. The size of the water tank shall be determined based on sprinkler calculations and initial suppression demands. The size of the water storage tank shall be determined by the relevant fire protection district. If the Minor Facility is located outside the boundaries of a fire protection district, than Each Minor Facility shall have at least one (1) water storage tank with a minimum of 2500 gallons of stored water for initial fire suppression, operation of sprinkler systems (if applicable) and wild land fire protection.

O. All emergency situations requiring action by any government agency or fire protection district shall be documented in writing and presented to the Planning Department and Garfield County Sheriff's Office within 24 hours of the occurrence.

P. All required Access Permits shall be obtained from the Garfield County Road and Bridge Department or the Colorado Department of Transportation.

Q. The Garfield County Sheriff's Office and relevant fire protection district(s) must be notified at least 24 hours prior to installation and removal of each Minor Facility. The Department shall be copied on all such notification, whether hard copy or electronic.

R. The Operator shall maintain records identifying workers, whether employees or sub-contractors, and documenting the dates that each worker is housed at the Minor Facility. Such records shall be provided to the County or any additional third party upon request.

S. Wastewater Disposal:

i. Vault System: All vault systems shall be designed and installed to accommodate the maximum number of persons, identified within the Minor Permit application, who will inhabit the Minor Facility. In addition, all vault systems shall be equipped with an overflow alarm device. Vault systems shall be designed to accommodate a minimum of 75 gallons of wastewater per person per day. If a vault system is proposed or has been approved, the Applicant/Operator must:

a. Demonstrate that year-round vehicular access is available and maintained for safe and regular access for sewage hauling vehicles.

b. Provide a copy of the contract for hauling sewage.

c. Maintain all sewage disposal records including but not limited to trip logs/reports and landfill receipts as public records, available to the County and/or any other interested third party upon request.

d. If the total waste production from a facility will be 2000 gallons per day or greater based on a production of 75 gallons of wastewater generation per person per day, then the facility shall be serviced by an ISDS. Hauled sewage and wastewater service shall not be permitted for any facility which will generate a total of 2000 gallons of wastewater and sewage per day.

ii. Individual Sewage Disposal System (ISDS): If an ISDS is proposed or has been approved, then it shall be designed, installed and operated to accommodate the maximum number of persons who will inhabit the Minor Facility and shall otherwise be operated in accordance with the Garfield County ISDS regulations as contained in BOCC Resolution Number 1994H-136.

(8) Enforcement:

A. Procedures: Violations of Section 5.02.22 are subject to Section 12 and Section 9.01.06 of this Zoning Resolution and the procedures contained in this Section (8).

B. Inspection: The BOCC reserves the right to inspect any Minor Facility, including structures and infrastructure and any other related improvements, and/or required documentation related to the Minor Facility, through its authorized representative(s), to determine if such are in compliance with this Zoning Resolution and, specifically, Section 5.02.02; the building code and fire code; and specific conditions of the Minor Permit. Such authorized representative(s) may inspect ISDS systems under the County ISDS regulations (adopted by BOCC Resolution 1994H-136). Any official performing an inspection shall abide by all laws of search and seizure, as set forth by federal and state statutory and constitutional provisions, in accessing the Minor Facility, the Permitted Site and the subject lot. Visits to a Minor Facility by a fire protection district or the Garfield County Sheriff's Office will be reported to the Director.

C. Permit Revocation: All enforcement actions run with Minor Permits for individual Minor Facilities ~~and are not applied to AWDP's~~. If it is found, consistent with the procedure identified in Section 9.01.06, that the permitted Minor Facility was not installed in conformance with or is out of conformance with any of the standards established in this Resolution, applicable building and/or fire codes or specific conditions of the Minor Permit, the Minor Permit may be suspended or revoked by the BOCC. The BOCC may also suspend or revoke the Minor Permit upon notice from a state or federal agency or a fire protection district that said agency or district has determined that the Minor Facility is out of compliance with that agency's or district's regulations. If a Minor Permit is revoked, the previously permitted Minor Facility shall be immediately vacated and any installed structures and infrastructure shall be removed within the fourteen (14) calendar days following the date of revocation. Proof of removal shall be provided to the Building and Planning Department by 5:00 PM on the fourteenth (14) calendar day. Such proof shall be in the form of photo documentation signed and dated by the Compliance Officer.

D. Effect of a Revoked Permit: A revoked Minor Permit shall not be renewed, and a request for approval of a Minor Facility at the same location shall be processed as a new application.

E. Liability: Owner of the subject lot and the Operator of the Minor Facility are each individually responsible for compliance with the regulations contained in this Zoning Resolution and, specifically, Section 5.02.22.

F. Three (3) Revoked Permits: Upon revocation of three (3) Minor Permits, the Building and Planning Director shall refer the fourth (4th) and all future Minor Permit applications by the offending Operator to the BOCC. The BOCC shall review such applications as a request for a Special Use Permit, in accordance with the Major Facility regulations contained in Section 5.02.21 of this Zoning Resolution.

G. The offending Operator may be allowed to submit future applications for Minor Permits for review and approval by the administrative process contained in Section 5.02.22, rather than review in accordance with the Special Use Permit process contained in Section 5.02.21, upon the written request of the Operator and only at the BOCC's sole discretion.

The use, "Minor Temporary Employee Housing Facility (Subject to review and approval per procedure and requirements of Section 5.02.22)" will be added as a use by right in the 3.01 A/I, 3.02 A/R/RD, 3.03 RLSD, 3.04 RLUD, 3.05 RGSD, 3.06 RGUD, 3.07 CL, 3.08 CG, 3.09 OS, 3.10 RL, 3.11 R/MH/G/UD, 3.12 LI, 3.13 PA, 3.14 DWC, 3.15 CDWC

Small Facility – (Contain Maximum of 12 Beds, ½ of Which Can Be Occupied at Any One Given Time)
Use by Right with Performance Standards
~~*REQUIRES AMENDMENT TO THE BUILDING CODE TO ALLOW BUILDING CODE REVIEW BY THE CHIEF BUILDING OFFICIAL FOR RV'S USED AS TEMPORARY HOUSING FACILITIES.*~~

Section 5.02.23: Small, On-Site Temporary Employee Housing (Small Facility(ies))

(1) Small Facilities, in the nature of ~~*manufactured homes [as defined under C.R.S. 42-1-102 (106) (b)]*~~ *Factory Built Nonresidential Structures [as defined under C.R.S. 24-32-3302(a)] but NOT recreational vehicles [as defined under C.R.S. 42-1-102 (61),* ~~*with the addition that such*~~ *including truck, truck tractor, motor home or camper trailer* ~~*is being used for temporary living quarters and not recreational purposes*~~*]*, may be utilized for housing of workers on projects related to commercial, industrial, mineral extraction or highway operations, pursuant to the standards for Small Facilities contained in sub-section (2), below. Such facilities are subject to all applicable requirements of Garfield County building and fire codes (building code, fire code), state and federal permits and relevant fire protection district(s) fire code requirements.

Small Facilities shall have all of the following basic characteristics:

A. The Small Facility and any associated infrastructure must be completely contained within a state or federally permitted parcel (such as a Colorado Oil and Gas Conservation Commission (COGCC) approved oil/gas well pad) in which reclamation and revegetation are secured with the permitting agency (Permitted Site); and,

B. The Small Facility is located at the Permitted Site for less than a cumulative of one (1) year and at the end of the utilization period, all structures, foundations and associated infrastructure are completely removed; and,

C. The Small On-Site Temporary Employee Housing Facility shall contain twelve (12) or fewer beds of which a maximum of ½ of the proposed beds may be occupied at any given time to accommodate employees, contractors or sub-contractors of the operator of the small facility and are needed for onsite safety of the related commercial, industrial, extraction or highway operation.

Temporary employee housing facilities that do not have the three characteristics listed above, *or consist of Recreational Vehicles as defined above*, are subject to the administrative permit requirements or the special use review process, standards and requirements contained in Section 5.02.21 (Major Permit) or 5.02.22 (Minor Permit) and the enforcement provisions contained therein, and in Section 9.01.06.

(2) Submittal requirements for Small On-Site Facilities. Prior to submittal to the Building Department for a Building Permit, the applicant shall submit all below documents (with exception to (A), below) to the relevant fire protection district(s) and the Garfield County Sheriff's Office. The following items shall be submitted at the time of Building Permit to the Building Department:

A. A form, provided by the Building Department and signed by a representative of the relevant fire protection district(s) and/or Garfield County Sheriff's Office indicating that the respective office has received all below document required in Section 5.02.23(2) and are of adequate quality to perform the necessary functions of the respective Office or district.

B. A form, provided by the Building Department, indicating the anticipated dates of installation and removal of the Small On-Site Facility and a representation of the total cumulative length of time (number of days) that the Small Facility will be installed at the proposed location.

C. A form, provided by the Building Department, indicating the name, title, address, phone number and email address of the Operator's employee or other authorized representative who is in charge of ensuring that the Small-On-Site Facility is in compliance with the standards outlined in Section 5.02.23 ("Operator's Compliance Officer").

D. A form, provided by the Department and signed by the Operator's Compliance Officer, indicating that the Small On-Site Facility will be installed in accordance with all applicable Garfield County, relevant fire district, state and federal regulations.

E. A form, provided by the Department and signed by the Operator's Compliance Officer, indicating that the Operator submits to the enforcement provisions identified within Section (1), above.

F. A copy of the permit from the state or federal agency, regulating the Permitted Site, identifying the location, conditions of approval, time period for which the permit is valid and the parameters for reclamation and revegetation of the Small On-Site Facility once the state or federal permit for the Permitted Site has expired or is otherwise terminated.

G. Site Plan: The Applicant shall submit an adequate site plan, consistent with the requirements listed below:

i. **A vicinity map indicating the section, township, and range of the subject lot and the location of Small Facility within the subject lot and the Permitted Site; general relation to surrounding public roads, private roads, adjacent utility systems, residential development, other actively permitted Small On-Site, Minor and Major Facilities, natural drainage courses and municipalities within one (1) mile of the proposed Small Facility; north arrow and scale; GPS coordinates and current surface ownership of the subject lot. The vicinity map shall be presented on a USGS 7.5 minute series quadrangle at a scale of 1"=2000' or equivalent, with a topography depicted at a minimum of 40'**

intervals.

ii. **Surveyed layout of the proposed Small On-Site Facility within the surveyed boundaries of the Permitted Site, including at a minimum: sewage and wastewater disposal, trash receptacles, potable water storage, all other associated infrastructure and all other equipment located within the Permitted Site.**

iii. **Identification of the private and public roadways accessing each small facility. Roadways shall be marked as open, gated, and/or locked (include combinations). Detailed directions, with mileage, shall be given from the nearest town within Garfield County, nearest Garfield County Sheriff's Office dispatch location and responsible fire district headquarters to each Small On-Site Facility, along each roadway.**

iv. **Name, address and phone number of surface owner of the subject lot.**

v. **Name, address and phone number, including a 24-hour emergency response number of at least two persons responsible for Operator's emergency field operations; contact numbers for local hospitals, emergency response, fire protection districts, Garfield County Sheriff's Office, Life/Care Flight, and applicable regulatory agencies; site safety/evacuation plan; and any other written response plan for potential emergencies at the Permitted Site.**

vi. Identification of the anticipated dates of installation and removal of the Small On-Site Facility. The site plan shall include a notation of the total cumulative length of time (number of days) that the Small On-Site Facility will be installed at the Permitted Site.

(3) *The Small, On-Site Temporary Housing Facility shall adhere to the following Small Facility Standards*: All submittal requirements, application forms, timeframes for review shall be in accordance with the building code. Enforcement shall be in accordance with the building code and the enforcement provisions detailed in subsection (1), above. The Small Facility shall demonstrate or certify compliance with the following standards at the time of building permit application:

Small Facility must comply with all applicable federal, state and local laws and regulations.

A. ~~If the Small Facility contains recreational vehicles, such vehicles shall comply with ANSI/NFPA 1192 standards for recreational vehicles.~~ In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface. The operator shall conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form bacteria. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee within 72 hours from the time the contaminated water was tested.

B. Each Small Facility shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored at the Small Facility for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.

C. At least one thirty (30) gallon (4 cubic feet) wildlife-proof refuse container shall be provided for each manufactured home or recreational vehicle unit. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids.

D. Refuse shall be disposed of weekly, at a minimum. Operators must keep appropriate records, to be provided to the County or any interested third party upon request, to demonstrate that refuse is collected in a timely fashion and disposed of at a licensed facility.

E. Outdoor food storage is prohibited.

F. Manufactured home ~~or recreational vehicle units~~ equipped by the manufacturer with a fire sprinkler system, fire detection system, and/or alarm system shall be inspected, tested, and maintained in accordance with 2003 IFC §901.4 and §901.6 and as required by the relevant fire protection district(s). Smoke alarms and manual fire alarm systems shall be installed, inspected and maintained in all other manufactured home ~~or recreational vehicle units~~ in accordance with 2003 International Fire Code (IFC) §907.2.9 and §907.2.10 and the requirements of the relevant fire protection districts.

G. Single-station carbon monoxide alarms shall be placed in each manufactured home or recreational vehicle unit.

H. One (1) or more approved fire extinguisher(s) of a type suitable for flammable liquids, combustible materials and electrical fires (Class ABC), or dry chemical, shall be located in each manufactured home or recreational vehicle unit and placed in accordance with applicable codes.

I. Domestic animals are prohibited at all Small Facilities.

J. A water storage tank shall be required to provide water to the sprinkler system and initial suppression activities. The size of the water tank shall be determined based on sprinkler calculations and initial suppression demands. The size of the water storage tank shall be determined by the relevant fire protection district or Sherriff's Office (if not located within a fire protection district).

K. The operator shall document all emergency situations requiring action by any government agency or fire protection district, in writing, and such documentation shall be presented to the Building Department and Garfield County Sheriff's Office within 24 hours of the occurrence.

L. All required Access Permits shall be obtained from the Garfield County Road and Bridge Department or the Colorado Department of Transportation.

M. The Garfield County Sheriff's Office and relevant fire protection district(s) shall be notified at least 24 hours prior to installation and removal of each Small Facility. The Building Department shall be copied on all such notification, whether hard copy or electronic.

N. The Operator shall maintain records identifying workers, whether employees or sub-contractors, and documenting the dates that each worker is housed at the Small Facility. Such records shall be provided to the County or any additional third party upon request.

O. Wastewater Disposal:

i. Vault System: All vault systems shall be designed and installed to accommodate the maximum number of persons, identified within the Building Permit application, who will inhabit the Small Facility. In addition, all vault systems shall be equipped with an overflow alarm device. Vault systems shall be designed to accommodate a minimum of 75 gallons of wastewater per person per day. If a vault system is proposed or has been approved, the Applicant/Operator must:

a. Demonstrate that year-round vehicular access is available and maintained for safe and regular access for sewage hauling vehicles.

b. Provide a copy of the contract for hauling sewage.

c. Maintain all sewage disposal records including but not limited to trip logs/reports and landfill receipts as public records, available to the County and/or any other interested third party upon request.

d. If the total waste production from a facility will be 2000 gallons per day or greater based on a production of 75 gallons of wastewater generation per person per day, then the facility shall be serviced by an ISDS. Hauled sewage and wastewater service shall not be permitted for any facility which will generate a total of 2000 gallons of wastewater and sewage per day.

iii. Individual Sewage Disposal System (ISDS): If an ISDS is proposed, then it shall be designed, installed and operated to accommodate the maximum number of persons who will inhabit the Small Facility and shall otherwise be permitted and operated in accordance with the Garfield County ISDS regulations as contained in BOCC Resolution Number 1994H-136.

The use, "Small On-Site Temporary Employee Housing Facility in compliance with Section 5.02.23" will be added as a use by right in the 3.01 A/I, 3.02 A/R/RD, 3.03 RLSD, 3.04 RLUD, 3.05 RGSD, 3.06 RGUD, 3.07 CL, 3.08 CG, 3.09 OS, 3.10 RL, 3.11 R/MH/G/UD, 3.12 LI, 3.13 PA, 3.14 DWC, 3.15 CDWC

Definitions:

2.02.512 Temporary Employee Housing Facility(ies):

The use, during times of housing shortage, *of ~~manufactured homes~~ Factory Built Nonresidential Structures [as defined under C.R.S. 24-32-3301 and Resolution #35 of the Colorado State Housing Board] and/or recreational vehicles (with the exception that Small Facilities shall not include recreational vehicles per Section 5.02.23) as removable housing, utilized for a period of time not longer than* one year, for workers who are engaged in a commercial, industrial, mineral extraction or highway operation and who are needed onsite for the proper execution and safety of the related operation, including:

1. Small Facilities which may contain up to 12 beds of which a maximum of ½ of the proposed beds are occupied at any given time on a "Permitted Site", as defined in section 2.02.421;
2. Minor Facilities which contain 7 – 24 beds on a "Permitted Site", as defined in section 2.02.421;
3. Major Facilities which contain 25 or more beds; or which contain a fewer number of beds, but are not wholly located on a "Permitted Site"; or which are planned to be utilized for a period of time longer than one-year; or otherwise meet the requirements of Section 5.02.21 and Section 5.02.22.

Such facilities are subject to land use approval by means of either an administrative process or a public hearing process, under the circumstances, standards and requirements contained in Sections 5.05.21 or 22 [or 23] of this Zoning Resolution.

2.02.421 Permitted Site:

A parcel of land, generally a portion of a lot, as defined in Section 2.02.32, designated for a commercial, industrial, mineral extraction or highway operation for which a federal or state permit is issued. To meet the definition of "Permitted Site", such permit must grant the approval of the appropriate state or federal agency for the commercial, industrial, extraction or highway activity(ies) and must require the provision of security for the reclamation (including revegetation) of the site.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the text amendment with the changes proposed by Staff.

SUGGESTED FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

1. That the meeting before the Garfield County Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard.
2. That on November 13, 2006 the Board of County Commissioners directed Garfield County Planning Staff to draft regulations to allow for an administrative permit process for minor Temporary Employee Housing facilities.
3. That on May 9, 2007, August 8, 2007 and September 12, 2007 the Planning Commission held a meetings to discuss the application. At the regularly scheduled September 12, 2007 meeting the Planning Commission recommended that the Board of County Commissioners approve the text amendment as depicted in Exhibit H, Exhibit I and Exhibit J.
4. That on November 19, 2007 The Board of County Commissioners accepted the public notice for this application, heard a staff presentation regarding the Staff and Planning Commission proposal, and heard

public comments. The Board voted 3-0 to continue this Public Hearing to February 4, 2008.

5. That the proposed text amendment can be determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
6. That the application has met the requirements of the Garfield County Zoning Resolution of 1978, as amended.

Discussion:
Commissioner Houpt said because we have included all zone districts she cannot support a use by right – our zone districts are very different, if its in resource land okay but we are seeing a lot of activity in more densely populated areas and when you are talking about a 12 bed structure you could be talking about something that is bigger than we'd originally discussed. And I'm wondering why we would need to take that jump from administrative permit to use by right. Commissioner McCown – I support use by right but would want it down to 8 people, my line of thinking is more for critical employees I don't really have a problem with the application process when you get up to 24 people but I clearly agree from one to two trailers that house the critical employees on a well site should be a use by right because number one I don't think we can deny it. They show up here as a special use and they're going to need to be a conditional use because you cannot deny then; I don't think we have the power to deny then, I think we can try one time and draw some pretty fast attention we don't want but I think those critical two trailers or whatever it would take that would house the critical employees and I'm talking those units that you see as your drive by I-70 – they're not in remote locations, they are accessible, but by the nature of the industry they require those folks to be on site 24/7 and those are the ones that I see as critical addressing as the use by right. When you get into those counts that go above that to 24 beds and I don't want to get into the mishmash of 24 beds, 12 people, if you want 12 people say 12 people, 12 beds. I don't care if they're hot or cold when they get out but I want to know the number of beds that it's going to take to accommodate that number of people. Because if you say 24 beds with 12 people, it's going to be unenforceable. There might be 13 staying in that extra bed, so that's where I'm coming from on a use by right. I think it needs to be those units that have to house critical employees and they're not going to be the 24 people that you all see on some remote resource land areas. They're going to be those critical employees that need to be there 24/7. I think it should be a use by right on an approved oil and gas well site. Chairman Martin – Well I look at those essential personnel that we've talked about in the past, would you not want them there 24 hours a day because that operation is going 24 hours a day and you want to make sure there is a safety office there, the equipment officer, and everyone associated with that production 7 days a week 24 hours a day on site at the beckon call of anyone else that needs their assistance not that they have to be transported 10 minutes away or 5 minutes away. They need to be there and need to be doing their job and that's why they are essential personnel. I agree with you Larry that 24 people need to be permitted or review process but a use by right for strictly safety reasons I would want those people on site. Commissioner Houpt – I think part of the problem with this document and maybe I missed it please correct me if I did, is that we don't have a good definition for essential people. When we first started talking about this we talked about a maximum of 4 people who and we got that and I can remember who was sitting in the audience, we got it from the industry and then every time we started getting more information that number kept creeping up. And I have no argument of having facilities for people who have to be there. I do have problems with establishing temporary employee housing on somebody's piece of property who has a well pad 150 feet away from their home. I think there's a huge difference and distinction between what we're talking about and so if we can establish "essential" and in this I also read that essential could mean that 25 plus people that are being housed in more remote areas. And I just think we have to somehow get at what essential really means in order to… Commissioner McCown said you will find through the research that essential meant something completely different to each company and through working with Doug as I told this Board I would do over the past 60 days, we've been able to settle on an 8 as a number; that number was not totally warmly received by all members of the industry, I can assure you of that because at some locations they require far more people than that, but under the circumstances if 8 is the number, that's the number that we will go with, it won't be 6 it won't be 12 it won't be 14, so one operator be it Williams or be it Barrett or be in Marathon each one is going to come up with a different number for essential employees, its because the way they do business and the type of operation they're running. You may not need as many people on a well site if your hole is going to be a perfectly straight up and down hole; if you're starting a directional program which eventually everyone is going to, and then you need additional personnel on that to take care of nothing but that directional drilling part.
Commissioner Houpt – So when you're talking about 8 on here it says here were you talking 1 – 8? Commissioner McCown – I'm talking no more than 8 people. Commissioner Houpt – No more than 8 people or beds? I don't want 16 beds because that then creates…Commissioner McCown – I'm not suggesting beds I'm saying 8 people, anytime you get 9 to 24 that's a different permitting process; anytime you get 24 and up that is a different permit process. But what I am trying to address and what seems to be the hang up and the biggest choking point for the industry is having to get a special use permit and a building permit for everyone of these rigs you see driving up and down I-70 for all they're doing is conducting business the same way they have conducted it for the last forty years on that well site. It is not a housing complex – the ones that you – the ones that you can see from the Interstate are not temporary housing facilities. There's people staying there but they have 24 people and that's your critical people that stay there because you all only see two units. Commissioner Houpt – So I guess I'd like to ask Doug because your name is all over this, why not the same number of beds as people? I mean it really does create a problem for us to do it the other way.
Doug Dennison said well from the industry standpoint, the whole concept of beds was problematic and I think in my opinion it also creates an enforcement issue – I don't know how you all ever enforce this like Commissioner McCown said. Commissioner Houpt – Oh, this wasn't your idea? I thought the beds were your idea. Doug Dennison – No, my idea is counting people instead of beds. Commissioner Houpt – I don't want 16 beds for, I mean I don't mean, I guess it would be, how does that bed thing work. So if you have, what you don't like right now is the notion of having 12 beds but only allow 6 people. But you'd be okay with 6 people – tell me how you got to 8. Doug – Well, I did a, after the last Commissioner hearing, I did kind of an informal poll of the operators that I've been working with and as Commissioner McCown indicated it was anywhere from 4 or 5 people to 12 to 15 people depending on the company, depending on the location, the drilling practices if they have air they have to have more people. And whittling it down to say I went back and said all right if the County accepted 8 would that be acceptable to everybody and most people

said yeah. That large portion of their normal operations that are within easy access of the highways and towns; they're not going to have more that that number of people anyhow. Commissioner Houpt – are they going to have that many people? Doug – in a lot of cases no but there would be cases where that many people would be required for essential, critical whatever we want to call those people. It's hard to come up with a number and we've struggled for a year and a half to come up with the definition of essential personnel because….. Commissioner Houpt – So did we not have the right companies in the room at the time because 4 was really the number that kept coming back earlier and actually it was on those well pads that were near communities, near other housing, recognizing that only a skeletal staff would be sleeping on the pad. Doug – Frankly when I saw that in the Minutes from that Commissioner meeting, I was a little surprised that they would say 4 people was adequate because most of the companies I've talked to do not have as few as 4 that are around the clock. I think 4 is probably too small and then you will be faced with a lot more of them having to go through administrative or special use permitting. I don't know that 8 is the right number, yeah we could probably ask every industry person in this room and get a slightly different answer. It was a number that most of the companies I've been working with were willing to live with, they said yeah we could handle 8.
Commissioner Houpt –That doubles what I came into this room to work with. Commissioner McCown – And I think the thing Doug that you all probably give and testify to this if you say 8 people there may not be 8 people at that location from the start up day they start the well until they finish to completion but what that does is to allow them the flexibility when they need the extra people they can bring them and still be in compliance. If we want these people to be out of compliance go with 4; they're still going to have 8 there if they need them and we're not going to be able to enforce it. Commissioner Houpt – Tell me what that will look like to have 8 beds on a pad, what kind of structure are you looking at. Doug – Actually some of the industry folks could probably describe it better but you're probably talking just two or three skid-matic units that probably what you see driving along I-70 would be your typical layout. Like the company man trailers because those guys trade off every couple of weeks, they will have two beds in there but only one person will be there at any given time. And that's where that whole bed versus people came up is at the Planning Commission hearings was trying to address this issue of hot sheeting where people share beds which is not as common today as it was five or six years ago. Commissioner Houpt – Can they change sheets? Doug – Well they can but yeah, but these supervisor personnel, this is their office, their living quarters, they need a place to keep their stuff because they're living there for two weeks at a time around the clock. They need their technical manuals, all their references, things like that and it's not something they want to share with a room with another individual.
Carolyn – talking about 8 people to follow up what you were saying Mr. McCown, are we talking about 16 beds or 8 beds. Commissioner McCown – I don't care how many beds you have, I don't want to get into beds, I'm talking 8 people, we can't enforce beds we can enforce people. Commissioner Houpt – we can enforce beds easier than we can enforce people. You can say we're not going to have 16 beds on a well site in a residential area because it creases too much impact. Commissioner McCown- I'm not pushing for 16 beds, I wanted to keep it at a person count. Carolyn – 8 people on a well pad you need 16 beds. Doug – Not for all of them; typically the company man will have a bedroom on either end of the trailer but not all will have double beds and that's part of the problem, it's really hard to say that for 8 people you will have 16 beds because company policy's are different and the way they house people is different and there may be cases where they do share a room. Commissioner Houpt – This is exactly why I have a problem with use by right because we don't know what kind of impact then that's going to have on the surface owner or the surface mineral owner or their neighborhoods, how many of those skids are actually going to be on a pad. Chairman Martin – I think those things can be addressed through the process, we can process this as a use by right with performance standards, 1 to 12 beds with 8 people maximum and occupancy shall be there, RV's must obtain an administrative permit and then on the trailers, you've got your consultants, you've got your use by right, you're limited by performance standards; administrative permit process allows up to 24 beds – that's what we do now and that's fine. I don't have a problem with that but I think we can address everything we need to through our performance standards, and any other ones are special use permit or 25 or more which falls into the state regulations in reference to COGCC. Commissioner Houpt – So you're comfortable with that but I'm not; so I know I'm perfectly fine with the process that has been set out for the administrative permit and the special use permit. With the wording as it now its 1 – 12 beds with half occupancy for a use by right. And its just with what I'm hearing from Doug, it leaves the door open too much for me for a use by right, but I'd like to hear too from David on what the discussion was like at the Planning Commission meeting and what your thoughts are on these concerns. David said, specifically the occupancy piece, from a staff perspective, one of these facilities there are people coming and going all the time so in terms of human services, people who aren't staying at the facility but they are working and trying to determine on a compliance enforcement basis how many people are actually living at the site and what the capacity to determine for is through primary rationale due to the hydroling aspects and looking at how many people could be living there full time and how much waste water and sewage capacity we would be permitting for, what is our access, what kinds of road standards to we hold them to, and that's primary where beds came and we felt as though we couldn't enforce the occupancy because of the number of people coming and going even if we did unnoticed inspections, we don't know who's staying and how many just show up there just for the day. And the one half occupancy came in from discussions that were taken here so far is that "well we think that we can work with 6 people as a use by right and so how many beds do we need to accommodate 6 people and I'm fully hearing what you are saying on the enforcement piece there – that does open in my mind an enforcement issue trying to determine ½ occupancy for 12 beds. But what it does mean is that when a permit comes in the door, we permit it for that occupancy of 12 and not for the occupancy of 6. So we're saying that we're permitting it up to the 12 but saying you can only have 6 on there. Chairman Martin, but you're not taking in one thing - these units are not made for one individual, what it amounts to is there maybe even two people but only one is using it so they have two beds but one person using it just as explained and it may be due to necessity or the fireman, the communications officer, etc. needs one space but there are two beds and that's why I say 1 to 12 beds with a maximum of 8 people is a 50% occupancy needs to be there. So you have the beds that can be distributed between 8 people and if there are two beds in one unit and one guy's there, it's okay, but if you more than 8 people you're in trouble and that's a use by right. David – That was the discussion that we came back to and 8 versus 6 in staff's mind, there isn't any scientific data between the two, it's based on a lot of what like Tresi's said, it's how close is someone, what is the impact of 6 versus 8 and a lot of that does depend on where the site is

located. Commissioner Houpt – It really does and 12 just is a very large number for some of the locations that we're talking about. Chairman Martin – The impact may be those that are staying 24 hours but that's not a full crew. There are other people that are going to be on that site everyday. They will be there on their shifts and you're not going to know how many people are actually staying there, maybe 24 people that are on there but 6 or 8 are staying there because they are essential personnel and they can't leave that site. Therefore the overall impact of humans that are going to be there, so why are we hung up on beds then if we just say 1 to 12, 8 maximum, essential personnel, you're done. Commissioners Houpt said because you're not listening to some of the concerns but if you want to move on that's fine because we may just not agree with that. I would agree and maybe Larry I misheard you but that if you have 8 people you have eight beds. But…that if you have 8 people you have 8 beds. Commissioner McCown said as long as we don't permit by beds; as long as we permit by people. As long as 8 people is the threshold, but this is a use by right with performance standards reviewed by the building department; I don't care what you call the number of beds. But if the threshold is the number of bed and 12 beds require a Special Use Permit even though we're still talking 8 people, then I have a problem with it. I'm trying to get rid of a level of bureaucracy in the permitting process that we have to hear everyone of these like we've heard today. We're talking applications this thick for employee housing on a well pad. Commissioner Houpt – But we would never see these administrative permits. A lot of this will go away for us. Commissioner McCown, and in coming up with this number 8 it was some emailing back and forth and bantering and dickering and negotiating with Doug and him going back to the industry and saying, do you think this will work and they felt better with 12 and I said I don't think I can sell 12 but maybe I can sell 8; I don't care about the number of beds, I'm trying to get enough critical people that can operate a well site safely and housing to where they can come in and whatever permit they have to have it doesn't have to go through the land use process. It can be completed as a building permit. I would like to see them issued the same as remote cabins are without building permits to meet the standards certified by one of their inspectors. We heard today that all of the temporary units are inspected by someone else and the state buys off on that, so why not have an engineering company check off on the inspection that these are properly installed and we buy off on that. Commissioner Houpt you know, one thing that was really missing from this survey is how property owners feel about having a certain number of modular's on the pad and knowing that a certain number of people will be spending the night there and part of what we've talked about in the past is that the use of temporary employee housing is going to be quite different depending on the location; certainly the two we approved today are quite different from an application that we would see or what is being proposed as use by right in very residential areas. Commissioner McCown - I'm not arguing that Tresi and what I'm saying is I don't think you will see, no matter what takes place today, any difference in the number of trailer or offices or what we're going to call them today, located on a well site once this is approved or disallowed. It's going to continue as it has for four years, you've got to have people on that well site to drill that well. It's doesn't just magically appear. Commissioner Houpt – You do but with a use by right scenario you are also opening the door for those units to be used as affordable housing instead of beds for essential people who have to be on that pad. Commissioner McCown – No, I don't see that occurring – these all are located on COGCC pads. They have to be and they're not going to deal in affordable housing projects spread across the County. Commissioner Houpt – But that's what we hear in every application that comes before us – you all are smiling and laughing but every application that comes before us for temporary housing talks about affordable housing and available housing. So I don't think it's far fetched to think that if you have a use by right situation where that is higher than the necessary essential number that it couldn't be abused. Commissioner McCown – Then let me propose this to you, if each one were to be permitted do you feel you have the expertise and knowledge to dictate to an applicant what the essential personnel for their operation and limit that number and if so would you accept the responsibility for the safety of that operation in doing so? Commissioner Houpt – Well there are numbers being thrown around Larry. Commissioner McCown – I know but I mean that's what it's going to come to if we go to a straight special use permit and the authority of this Board is going to be dictating what number essential personnel we live with. I don't have that expertise and I don't accept that responsibility. Commissioner Houpt – Well I think it would be good too for us to get a handle on essential personnel and I find it amazing that we can't, but what I will tell you especially on these pads that are in residential areas, it makes no sense to be to have twice as many beds as it does people. Now if you want to negotiate 6 up to 8 then limit the number of beds to 8 because I just think that what we're looking at is finding a place for people to rest when they have to be on that pad for safety reasons. Chairman Martin – Well I'm comparing the three different items, the building department said it's a use by right and should be 1 – 12 beds with 50% occupancy; it's been proposed and throughout there again, it's a use by right with performance standards 1 to 12 beds, 8 essential personnel maximum and the RV's that may or may not be used on site have to have administrative permits taking care of those camp trailers that we have an issue with and this is the start of everything. And Rio Blanco has said a temporary use permit that is up to 25 or less individuals at a work site. We're a little more restrictive than Rio Blanco. Commissioner Houpt, well they have more remote areas too. Chairman Martin – That same area is as important to the individuals that live there as it is here; we're tyring to find a happy medium and I think 8 people maximum, use by right is where it needs to be. 1-12 beds doesn't bother me simply because the units are not made as a single bedroom facility, they get three of four people within one unit. I've seen some that are 10. Commissioner Houpt – And I am not seeing it that way and what I'm suggesting is we don't want a community of units. Chairman Martin – We'll have to decide on that particular issue as we go through. Let's try and move on to the processing timelines in reference to this decision matrix and again it has the three different categories: the use by right is dependant upon the building permits, building permits are based upon again the use by right and performance units and again do they have the qualifications or not and/or if they are antiquated without the permit. And does Andy have to go out and do that as we heard from the state of Colorado. I think that's acceptable and administrative permits, again is up to 45 days and special use permits are 90 days based on these. I don't think they can walk in one day and get a building permit okayed and see those up without some kind of inspection or some kind to information that's substantiated. This could be up to 45 days which is a long time for the industry and a special use permit as they said, takes up to 60 – 90 days. That's a lot of review process and a lot of information to be in place. Commissioner Houpt – So Doug, are most companies at the point where they know where that rig's going move in 45 days before they move. Doug – Well you would hope so but there's a lot of factors involved and that's part of the problem we're having now, there has to be some flexibility in there. Companies

are continually evaluating their geological engineering data to figure where they're going to be next. They could change their mind fairly quickly and want to move to a different location and part of the issues is with the process the way it is not if you have wait 120 to 180 days to get a special use permit, that has removed the flexibility that the industry needs to adapt to the change in technical current issues. Commissioner Houpt – What do you think about the administrative process? Is that time frame better? Doug – I think that one of the recommendations we have is to put the area wide development plan option back into the administrative process because I think there will be companies that will want to get that area wide permit for a large area and give them flexibility to go where they need to go within that area. Probably one of the biggest issues that we're still struggling with are the building permits. I think we showed some number at the last hearing based on just what the industry projected for 2008, the number of permits is pretty staggering and I know that the building and planning folks have the intent to turn those around quickly but I think reality is with the staff they have right now, it's not going to happen. I'm not sure how we rectify that with what we heard this morning. I have a lot of concerns about some of the things we heard from the Division of Housing this morning. It seems like we've almost have a continually moving target on what standards are going to apply when you move from one well pad to the next. If the state changes their standards you might have to live up to the new ones and then you have a perfectly good housing unit that suddenly doesn't meet the 2007 IBC because we moved it 2 miles to a new well pad. I don't know how that's going to work, to me that seems kind of crazy.
Chairman Martin – Rio Blanco turns their building permits around in two weeks by the time you give it to them – 14 days and then they also don't put any time limits on a special use permit so the door is open, they do put parameters on it up to 45 days, 60 days, or 90 days. Chairman Martin – we're going to need a lot more building inspectors. Commissioner Houpt – that's true because the building permit process is going. Commissioner McCown – Go back to my suggestion, why can't we accept these on a engineer's certification and set up the standards you want on how they're hooked up and best management practices or whatever you want to call them and then accept the certification from a 3rd party engineering company that these have been properly installed and leave that to the responsibility of the operators – then we will not be impacted other than looking at this sheet that's signed off by staff and by an engineer. Commissioner Houpt – we want the impact to be put on the building inspector. Carolyn – There's a statutory issue there – may I address that please. You're talking about Garfield County giving a certificate of occupancy based on a 3rd party's stamp? Commissioner McCown – I'm not sure I'm taking about a certificate of occupancy. I'm talking in lieu of. Carolyn – Then why not make it a use by right. Commissioner McCown - That's what I've been saying.
Carolyn – totally exempt it. Commissioner McCown – Yes mamm, like our remote cabins but still requiring these standards that we set out and a certification by an engineer that they have met those standards. Chairman Martin – It's still subject to inspection if necessary or upon request to make sure they are going through or if there's a health violation they need to go up and inspect it. Mr. Rada has been out a couple of them and brought those to us and they were corrected. Commissioner McCown – That's what I'm saying, Carolyn. Commissioner Houpt – So I don't like this. Carolyn, but if we're not issuing a permit why would we look at anybody's certification?
Commissioner McCown – because you had the need to. We've got to review it. Carolyn – No, that's not the regulation. Commissioner McCown – Then why are we doing this – why are we here today? They've done it for 40 years. Carolyn – Right and it sounds like to me that what you're really saying is that you want 8 people to be totally exempt from zoning and totally exempt from the building code. That's clear. But once we start reviewing 3rd party certification or reviewing this or that, it's not an exemption. Commissioner McCown – Well, I would like to see it and I don't care what you call it, you can legal it up however you want to, but I would like to see a set of standards that these have to be installed to and like to see those standards met in every location, if they meet the criteria at all, the potable water requirement, the number of people - 8 do the math, that is 350 gallons a day or whatever, yady, yady ..... Carolyn asked, no matter how many beds. Commissioner McCown – No matter how may beds, or how many people, the amount of wastewater and have a 3rd party firm sign off that this was done. That gives everybody involved the comfort that this was not ducked taped and bubbled gummed and it's running out on the ground so that Jim doesn't have to go out and do an inspection. He can if he wants to but that's how I would like to see this go. Now I'm not talking units over 8 people; anything over 8 people, not any of the 24 that we're back to the permitting for a special use, an administrative permit, whatever you're going to call it, certificate of occupancy, the whole nine yards. I'm trying and I mentioned it earlier and apparently no one heard it, I'm trying to address only those units that have the two, no more than three units on them that hold the essential personnel. I think there needs to be and maybe that's what's been missing in all of this is a standard for essential personnel and then a standard for employee housing. They are employees – but there as different as night and day. If you're talking 24 people in a remote location that 2 ½ hours from a paved road, that's a completely different scenario than someone that has to live at a rig if you can hit I-70 with a rock. But they still have to be there. And I don't think you should have to have the same permitting process for those people as you do the ones that have the cooking facilities, the food service and the 24 people staying there.
Carolyn – it sounds like when I'm listening to you too, it sounds like you're talking about a use by right under the zoning code and then an exemption under the building permit, under the building code.
Commissioner McCown – but I would still like to see standards on the installation of them and I don't know how we plug all of that in but I don't want or I don't think the industry expects to just willy nilly these things in because they've got their personnel living there. So I don't think they're going to have a problem complying.
Commissioner Houpt – we saw an example earlier this year of an employee housing area that was so horrifying; it was a terrible health disaster. Commissioner McCown – It wasn't on a well pad. Commissioner Houpt – No, it wasn't on a well site so what's the difference. Commissioner McCown – That site was permitted back in 1980.
Commissioner Houpt – But what's going to keep those people or companies who don't care from really not following standards if there's no requirement for a permitting process or inspection. Carolyn – It would be a zoning violation if such was discovered. Commissioner McCown – That's why they want to be under a special use permit if there was a violation. Carolyn, you would just have more conditions written out in a resolution. Fred was asked to respond to this. He said, I want to make sure I'm hearing what Larry is saying, if Best Management Practices, BMP's or whatever you want to call them, in some views they are meaningless, in other views they have meaning if you have a company that really wants to do what they say then they have meaning, but their meaningless in the sense that from a governmental jurisdiction that is intended to have oversight with respect to what a BMP means but doesn't have it

codified anywhere, who cares, it's still meaningless unless you are as Board decide to put that into a regulation so to talk about BMP's it's all well and good but it has no teeth. There's no burden on anyone to follow through with any of it outside of just doing good business and being a good business person and doing your job. Commissioner McCown – One burden you're looking past is the 120 day waiting period to get a permit. To the industry this is significant, if they've got a rig setting there at $50,000 bucks a day and they can't use it, trust me they're going to hook up this sewer line. That's the point. Fred – I'm not talking about an APD, I'm talking about simply housing individuals up there – I suggesting that you not go the road of trying to have someone live up to the BMP – it's sort of a so what scenario. Commisisoner McCown – That's the same thing we're doing with our regulations, it's going to be so what, we're going to go out and do our thing – you're in violation of this, you didn't property hook up your sewer line and you've got a kink in your water line and we're going to write you up and you've got 30 days to comply or we're going to take you to court. Fred – So what you're saying in the 0 to 8, exempt - no building permits required and no land use required, then that's exactly what it should be – that's it and the industry shouldn't come talk to the County, you should just go do it and if there are state or federal laws out there that are of issue then you have to be careful as anyone regardless if you come through a local process. If you're really talking use by right, BMP's don't have any enforceable merit. Commissioner McCown – And that's fine with me – I don't have a bit of problem. Commissioner Houpt – Well this is really wrong and I'll tell you why. We are honoring a very important industry but we're leaving out a property owner and we're leaving out the surface owner. We're also leaving out of this picture everyone else who has to follow regulations when they do very little things to their homes or properties and I think that we've seen some really great strides with BMP and think companies are really coming to the plate and doing a good job, but not everyone is and that's why you have regulations. You know I'm really fighting with myself on the notion of having use by right but to have use by right without standards and a building permit process, it's pushing me over to the edge. I'm not willing to support that notion at all and I think that it flies in the face of having a Code at all and having a Building Department. We are not being concerned about protecting the rights of anyone who owns any kind of property in this County. I don't think that's a good direction. Commissioner McCown – You're saying we should license and inspect every building trailer that's on every construction site in Garfield County because that's what its going to take. Then we have another whole industry, another completely separate industry that doesn't like this industry (hunting) that we don't even look at. And they use remote facilities from the 1st of August until the middle of November and they don't have any approved health facilities. They don't have any potable water, they don't have any wastewater containment facilities, they dig slop holes and we don't even look at that industry - that's the guiding and outfitters. They put tents up the 1st of August and use those same tents, we don't know how many beds are up there, how many people are staying in those beds – we don't know what their cooking facilities are, we don't even take a look at it – that's another whole industry and it is one that's been so accepted by the State of Colorado they don't want it regulated. I don't want to regulate it but there's an industry that's working in the same area next door to this industry that is operating out of wall tents with slick trenches and cooking on wood stoves and we're not even looking at them, we don't even know how many of them are up there. We can't even see them because they don't have a big tower with lights on them. Yet, we're going to make everything here in the oil and gas industry have to permit. These outfitters are everywhere, private land, Forest Service land – I mean we make them do a resort or a Special Use Permit for their guiding outfitting headquarters but we don't go up and look at their tents and their spike tents and stuff. We don't look at those particular entities; have we inspected Bair Ranch's hunting camps? And I don't want to. Carolyn – And it would work the other way to that if there was a complete exemption of building code and building regulations to a use by right; these oil and gas folks could be living in tents too. Chairman Martin – That's why we tried to address it. Commissioner Houpt said or yurts. Chairman Martin – Again that's an administrative review under the recommendation, any kind of RV has to have some type of review, administrative; the building inspector would make sure that it meets certain standards if it's eligible or not to be on that site. That's already there, it is in this recommendation. Commissioner McCown – I think we've got to a point where RV's and camp trailers are all containment. Those are the ones that people saw sitting on their well site out in their backyard going, "what have I got here"; a campout is going on. As long as it was the office trailer nobody ever said anything. So they're off the table and I don't want to see them on a well pad. Commissioner Houpt – Okay, so I think why we're having this debate at least from my perspective; I think we spent a lot of time regulating residential areas because we're concerned about the health, safety and welfare of people and we want to make sure that very reasonable standards are followed and when you look at what falls into the use by right scenario most of what you're going to be looking at will be those pads in more densely populated areas because as we've seen the pads in the more remote areas warrant having more people spend longer period on time on them and so its incumbent on us to have some kind of permitting process. I had even made a note on here that I was wondering why for administrative and Special Use Permits, we refer these or have the applicant talk with the fire districts and the sheriff. Did I also see that in the standards for use by right where they make sure that they're working with emergency services who will have to comment. Carolyn - We have it in a building permit. David – That is one of the primary differences between the performance standards that are here and what we have in the industrial district now which is we have submittal requirements to the sheriff's department and the fire district so that they know where they are and how to get there and what kind of facility it is in case there is an emergency. Chairman Martin – Tresi what you're struggling with is having regulations and making sure we have these things we enforce have teeth – and I know that this may come to a surprise to some of you but I think we're over regulated already in reference to government and everything else and I think a use by right needs to be an option that we have limited use yes, but done in the proper manner, we also have other permitting processes, we have company policy, we've got state and federal review on these permits. Commissioner Houpt said not on housing. The state is not regulating. Chairman Martin – I'm saying it's a review. There is a review and if there is an unsafe situation we have people in the field, hired by the State of Colorado to make sure that these issues are addressed or there's a violation. Commissioner Houpt said not on residential, sorry John. Chairman Martin asked, on a pad? Commissioner Houpt –The more technical portion of the pad. Chairman Martin - If you have too much clutter, too many unsafe issues, I think the State of Colorado is going to shut you down. And I think the fire department is going to be there as well; I think if we are really looking at what we're trying to get done here, is we have a pad, it's an approved pad through the process and if we had more than 8 or 10 people

on it, it needs to be reviewed for housing, yes. It needs to meet these standards yes. But if we put in these standards, we say you let us know where they are, you let us know how big it is, you've got to meet these standards that we put out there every time and if they meet the standards and the building inspector is able to check them off and say yes they're done and if we need to have a 3rd party go out at some time, they're always subject to review, the industry knows that. The employees are gong to be reporting violations, I hate to tell you but that's how we got that unsafe man camp – it was employees. They're not going to live in an unsafe environment. They know that they've got families waiting for them as well, so we've got to say it's got to be somewhat self-regulating. You've got to use common sense. If it's unsafe these people are going to be hurt and we're going to have an investigation which will bring in a whole bunch of people and they're going to discover many things there instead of just a housing unit that might have 8 or 10 people in it. I think that we're going overboard with our regulations. Commissioner Houpt – So you're saying use by right with performance standards as suggested by staff. Chairman Martin said by both the Planning Commission and staff. And if you look at the other stuff from Rio Blanco, we are more restrictive than Rio Blanco will even come close to in reference to the public input, etc. Commissioner Houpt – If you look at where people are drilling right now, there's good reason for Garfield County to be looking at this. I don't think you disagree with that. Doug – No, and I was going to interject that from the beginning the industry has always supported the performance standards; in fact in the draft that I put together working with Larry, the performance standards for the use by right are the exact same ones we're proposing for the 25 plus. The industry doesn't have any problem with the standards, there's always been an issue on the County staff side from enforcement and what kind of penalties could be levied if you didn't comply but the industry doesn't have any problem with the use by right with performance standards. I'm assuming if it's written in a section in the Zoning Code and somebody doesn't live to those performance standards the minimum you can hit them with is a zoning violation. Chairman Martin – Yes, we can hit them with a zoning violation and they can either correct it or else we take other actions and that's not a problem.

Doug – At one point we were even talking about significant monetary fines only to find out from the attorney's that you can't do that, but we also were receptive to other penalties if you do continually violate the performance standards by a use by right; then you're forced to go through an administrative review or Special Use Permit process.

Chairman Martin – You can also use the State of Colorado and the Oil and Gas Conservation Commission enforcement arm which is their job to do and then the violation may or may not be there. They have rights to go ahead and inspect that knowing what the performance standards etc. and if it comes to our attention and we don't do anything, then we're in violation and they could take action against us. But if we hear about it and forward that on to the state of Colorado, they will have to have a final report and a corrected measure. It puts the industry on notice and then we're all working together. Doug – It's also important to realize that maybe the oil and gas commission has decided that they don't regulate this housing but the fact of the matter is that a lot of other agencies do; we've heard from the Division of Housing, the State Fire Marshall gets involved, State Electrical Inspectors could, Public Health, Fire Districts, and even OSHA has some regulatory authority so there are there a lot of regulations that really apply to this housing even though the oil and gas commission has chosen not to deal with it. Carolyn – Clarification on use by right with performance standards on zoning, no building permit. Is that correct? Exempt up to 8 people same as remote cabins; have no final CO, no building code – reference to the remote cabins. Commissioner Houpt – That's not what I was hearing. Chairman Martin – The same argument that we've had in remote cabins and we had to have again, no final CO, no building code other than the actual structure is safe, doesn't even have to meet with the International Code, doesn't have to have wiring, doesn't have to have plumbing, doesn't have to have heating, etc. in reference to the remote cabins. Those are some of things that we exempted out of the building codes. Commissioner Houpt said because they were remote cabins that weren't being used on a daily basis. It's a big difference.

Chairman Martin – Well, I disagree with you, there are a lot of them used everyday. Commissioner Houpt – I'm sure the concept, but I was not on the Board when you exempted it. I'm guessing the reason you did was because it was remote and you made the rationale that they weren't being used everyday on a regular basis. Chairman Martin – Not at all, what it amounts to is it's a right to live the way you choose. And if you want a remote cabin off of somewhere just to live there every day and live that lifestyle, you should have the right to do so. That's a use by right. Andy – One small correction to that, you can only live there 6 months out of the year. Commissioner Houpt – So its limited use. Andy, on these building permits that keeps coming up could you talk a little bit about the obstacles with building permits and the advantages of keeping that in and what we can do to help you have a better system for doing that such as adding staff – we're looking at a new set of regulations. Andy – Obviously with the building permits it put us on the site, we might have 3rd party inspections but for us to issue a building permit we do a final CO, someone with the building department, one of our inspectors has to be out there to do that final inspection. So there is some value to that. The remote cabin aspect, it's a limited use on remote cabins with not as much exposure; 8 people 24 hours 7 days as week is different than how remote cabins are used. Jim Rada did bring up an interesting point, most of the violations we've been seeing in the oil field are related to septic so it's possible that a septic permit should still be included which might also give us some recourse to be out on the job site. Commissioner McCown – I disagree, the best case scenario is the pump and haul because these are located on well pads. Andy – A pump and haul requires a septic permit presently unless we change the rules and regulations. Commissioner McCown – Call it what you want but I don't want to see leach fields off of these COGCC pads. Commissioner Houpt – No, I don't either. So there is great advantage to having the building permit included – it puts you on the site to make sure that whatever standard is required you see it is actually being followed. Andy – Well, I would agree with that but there's also the practical aspect of how many are out there and everything else. Chairman Martin – 2000 permits to review - what's the length of time for review, from the time the application comes in to the final CO per well site? You don't have enough time in the year to get to all of them. Andy – Those are all practical aspects that need to be reviewed by the Board.

Commissioner Houpt – well maybe that kind of information needs to come in front of us so that we can determine if it's practical. Chairman Martin opened the discussion to the public, industry folks and others.

Jim Jackson, employee of Williams, based on 35 years experience addressed "essential staff". When I started there were 2 people. Over the years as technology and speed advanced and there were more and more folk on location, we called them essential personnel. 12 was the scenario given which includes: two safety guys (very important to have on site), two company people keeping them going in the right direction, two people to run very specialized equipment

and this gets to more than 12 – where a drilling rig runs 24 hours a day, you have to have two shifts. 8 is essentially defined by cost. It is very expensive and we give them great facilities. They may be called at midnight to thaw out a line and this is a very specific person and safety is an issue. The number between 8 to 10 on duty means a company is taking good care of the personnel. Well circulations, when taking care we have all these people out there for very specific purposes. Industry has swept us and all the time it takes for all the permitting is time that it costs the industry. Therefore we need the mobility as an industry. Essential personnel will be taken care of and very needed; please do not limit them. Commissioner Houpt – When you talk about essential personnel, you said you don't mind regulations or standards but there's a concern with the amount of time it takes to permit. How can we work with you on that? One of the things talked about at the state level too is how this industry can give counties the opportunity to have an understanding of these that they are moving in location; what kind of plan is in place, I asked Doug this question earlier, we're jumping to the 45 day administrative permit, but what is a reasonable time for you if you're moving? Let's go back to the use by right, essential personnel discussion. How many days do you need if you're doing some planning ahead in a normal year, how soon do you know where you're going to move that rig? Jim Jackson – We are usually budgeted out for a number of $2 million for a well, but this may wipe out what you've planned. It may not be a suitable site for drilling. The long permitting process, when you permit a lot of things that are not necessary in order to be prepared and then find that we aren't going to drill there because of option a , b, and c, it's a problem for us. We can demonstrate that we are trustworthy enough and welcome any kind of inspection. We have a C sticker for Department of Health on the trailer – fine – if you require a certain size berm or size on a sewer line – we'll get co-authorization to do that. We spend enough money on these sites so we're going to comply; we make money and make it economically so we won't skirt these standards. Moving the essential personnel is the same thing we've been doing for the last 35 years. Commissioner Houpt – But you're going to be moving those essential personnel as soon as you move that rig onto a new pad so that window of time maybe longer now that you can put more wells on a pad.
Jack Mobley – PTI Manufacturing - manufacturers all types of housing for essential personnel – limiting the number of units to 1 – 10 beds in them; these are physically the same 12 x 60 feet with 8 beds versus 8 people. What we're talking about here is bedrooms. They are hung up on beds; limit it to 8 bedrooms. Chairman Martin – The attorney would love that if you did because of the planning code; we consider bedrooms as some kind of numbers required for water, sewer, etc. Commissioner Houpt said she appreciates your comment that goes back to the notion of how we define our standards and if you have the same sized unit for 8 beds as you would for 10 beds and you come back to me with the argument that you really need those two other essential personnel because of the type of equipment you have, then that's all going to make sense but it only makes sense if we are communicating with each other and if we have standards in place that allow us to know what's going on that pad. We need to accommodate your needs to have safe drilling and I'm glad you're here today to talk about the manufacturing side of it; we have a responsibility to help you with your efforts and we have a responsibility to respond to those people who are living around the activity that you're working on in this county. We need to be able to say to them, yes we know what's going on and they're complying with our standards and you shouldn't worry about your water well being contaminated or the other issues that may be brought to us. I would think that having some type of permitting system would make it more beneficial to everyone because then we could have that discussion. What concerns me is that we need to have a different discussion about what kind of resources we need to accomplish that because we know that we need to move forward in an efficient and effective way for temporary housing and for essential personnel housing. And we as a county need to figure out how we can make that work best for you all and best for other people who are living in this county.
Jack Mobley – just because you see two or three units with CO 's; we have one camp in Garfield County and we started the process on 10-20-07 and have had numerous inspections and each time they find something new to change – it's been 100 days so far and still no CO. There is a rig on site.
David Blair – There are three things on behalf of this discussion: 1) appreciate the process that David, Fred and Andy have done and also for Doug – everyone has addressed the fire concerns and yes I'd like to see the site plan and that we get that as well. 2) Gates – the sheriff and I need to know what's located where and since you have to provide it to the sheriff anyway, I'd like to be copied and 3) the biggest concern is this whole permitting process that we would liable for and realize there is not enough staff and I'm all behind the 3rd party concept, someone that is responsible for alarm systems including smoke and carbon dioxide and give that away to a 3rd party – have places where companies could go and sign off and submit those sign-offs to the fire district and a copy to the building permit; 4) Building code and inspected by Division of Fire Safety – there is a western slope person still working with Dean Smith and he could be the one to inspect sprinkler system set ups and reputable companies that test them. Dean Smith may entertain giving that 3rd party agreement to them. No manpower to cover all of these and therefore he supports the 3rd party for alarms and sprinklers. One thing is good, Dean Smith and he is retired. Commissioner McCown asked how often would these need to be inspected? David – Only as it is moved and when it is reassembled. The individual 12 x 60 units or stack trailers where they are used more than 20-30 days to almost a year. The small ones no. Cal Harlow – Mountain West Outfield Manufacturing, manufacturer of employee housing spoke to what Commissioner Martin stated that numerous entities would police and inspect every one of these places; it varies to daily and weekly safety audits on site plus company, plus corporate inspects the carbon dioxide and inspects numerous times, they do it daily, monthly, early morning, it varies. The mechanism is there to inspect those. Within the company it is a horrible liability when they assume these projects and it is in their best interest to make sure everything is in place and working - it's an on-going process. He said he heard Commissioner Houpt and she's taking her mandate very seriously to protect the property owners rights in her County and she should; one of those things when you look at the close proximity to a residential area, just as Commissioner McCown said, they will get the job completed no matter what and you need to balance the impact. If you lessen the housing you increase the traffic and appreciate the need to limit this, but in the grand scope of these, you may increase another type of impact. There is no easy answer, no general consensus – Exxon, Conoco, William's, Phillips – each have their own method about their business and implement those without flexibility. I think this will cause an impasse that we're trying to avoid here – we have some absolutely unbelievable companies working with Outpost and Mountain West, providing very serviceable accommodations for our clients that are performance driven; no more instance substandard service or subservice camps - this is gone and it is very much as self service and accommodating as possible. The main focus is 1) getting

the job done happy and safe for employees and not just places for people to stay; their identity is there, their reputation is there and you can feel it if things are not going well and like the old saying, "if mama isn't happy nobody's happy"; if he can't perform his duties, then note, these places are not there to run like a hotel. They drill a well more efficiently and if he had to deal with employee complaints and morale, we're talking huge amounts of money. The meter runs at a higher rate and if the company is not doing their job and there's unsanitary conditions, you're going to hear – the phone call comes and we say get you stuff. There is a grapevine in the oil companies that is unbelievable. 8 beds or 12 beds to each one is a tremendous investment and whoever is out there is needed otherwise the company wouldn't pay to keep them out there and then there's the fiduciary responsibility. A penny spent must be justified. Like I said you are tying to look out for property rights, take on the overall impact and not try to create another impact to cure the other. He has taken Jim Rada on location, from Rifle City and Garfield County and he was amazed as to what the companies are doing and how they are conducting business and looking out for their property and environment. Commissioner Houpt – I have seen remote locations and they are well maintained. Essential personnel – would you provide beds as a choice if they live 5 miles away or is everyone who is deemed essentially stays on the pad? Cal Harlow – These are core questions there and would like Mr. Jackson to answer that. Mr. Jackson - There are certain positions that have to be on that location at all times and the option of going home depends on the weather, the homes, and again it's a company by company rule; it's a geographic situation like yesterday we were just barely a few miles away from a main road and all we could see was 15 feet away due to the weather and we thought we would be staying there. This is a decision so difficult, industry is so large and so varied and so many different situations and self regulation is what they do. They don't keep people on location for no need. It absolutely behooves these people from a liability supervision perspective not to allow anyone not needed - personnel is escorted off - it need be in the same vein. The food chain, there's the rough neck, you work your way up and when you become a tool pusher you may be from Texas, Montana and each company has a unit with two bedrooms because these guys can't take all their stuff home and bring it back. They need a bedroom for their personnel – these men bring an overnight bag and stay there for the entire hitch – trunk packed and trunk unpacked and then they repeat the process. We get to where we are breaking new ground in this regulatory situation and need some flexibility and a lot is in place; a lot depends on economies, performance and management standards. It there's no job – you're out. Brett Krels from EnCana, a permitter and compliance person, addressed the following: I tell you that I am a 3rd generation living here in Garfield County and this is in my backyard. There's a lot of negative press on the oil and gas industry and not knowingly when I got into the industry, but they do take care and spend money to take care of the environment. I saw one of the camps back in the 80's that Cal was talking about; they ran them off if they didn't come into compliance and that was before the standards were implemented by Garfield County. Industry has taken that into account and not only the man camps but the water haulers; they do not want staff out sick; they have to report where the water is coming from. They need them stated and reports filed. Ty Anderson says that trailers that are not certified by the state would be breaking the law – that was before the attorney general's opinion. This comment is more addressed to Tresi: man camps - try to get away with temporary housing and slum camps that Amy's group had to shut down; we can't get away from the state, nor the fire marshal and the safety department will inspect all units to make sure they are run properly. We have two inspections a year above and beyond OSHA. He made a tour with Jim Rada and wanted Tresi to know that no matter what you guys do, we will be inspected and will be onsite to enforce and other things you may be worried about. Amy Stoodt – Marathon Oil, testified in front of this Board and repeated as Commissioner McCown said, there are a few of us pushing for more essential personnel when we're working at 9,000 feet and we have zero paramedics on site, the road and removal service has to be done, the snow removal has to be done to be safe and the numbers are escalated; she also wanted the Board to consider every safety issues too. John Anderson – Holland and Hart representing Stallion – One concern is whether fire extinguishers are present. The housing code - Stallion has some concerns over sprinkler systems being required and not just extinguishers. Dave Logan – Outpost Office - Spoke to on behalf of some of the concerns. There is a lot of existing housing out there and they're not in line with the code. As soon as it is moved it is out of compliance. Millions of dollars, hundreds of units out there today and the state regulation will hurt our industry as a whole and as these regulations are dealt with, will these units be grandfathered in. Some actually are putting in sprinkling systems – there's no target to shoot at and we work with the manufacturing of these units – what the state will require and the County and it changes daily. $6,000 to $8,000 per unit for the sprinklers and should the County shift this to the operator and they have been subject to inspections from clients checking lighting, safe stairways, no clutter, propane, labels. OSHA, Williams, and EnCana are harder on us than the state and County – they have operators that are policing it already and the County and state could come in and inspect. There is an inspection but this will take it to a different level and shift it to the operator. Commissioner Houpt – Her observation is that one size does not fit all. This is a difficult time coming up with regulations. Applauded the staff and said they may not have anticipated this much of a discussion. Tom with manufacturing we have the subject of beds versus people. I've worked as a caterer on location and want to make it clear – 8 people, 4 people working, 6 to 8 and the facilities are always maintained – they are there from 6:00 a.m. until 6:00 p.m. covering a shift for two to three on and two to four weeks off, they bring the pictures of their family, all their safety gear and if you have two bedrooms with 2 beds they have their own space – they bring a duffle bag and if you don't allow them to stay there, then it would be the same as you Commissioner Houpt packing up your desk and everything when you left. It becomes a problem so please figure the number of beds; it's not redoing the sheets – it's making a home for these folks when they are away from the families. Jim Rada – I need to clarify the septic issue, this report is implying that we do not need leach fields. The issues that I've seen at camp visits is that a lot of the tankage being used does not comply with County regulations – the sewers leak, lids don't fit so this is my concern and we need to bring it up that if we're going to have small sites with hauling sewage, they need to be installed with County regulations. Commissioner McCown apologized if I wasn't clear in my statement but at no time did I ever aim to insinuate that they were not to be property installed. That's why I thought the standards were a good idea that Fred didn't like because they had no teeth in them. Standards without inspections have no teeth, to me we're not giving the industry any credit at all for being capable of operating a multi million dollar drilling operation and we're not giving them credit to be able to hook up a $500.00 sewer. Now I'm having a little problem with that as far as a credibility standpoint. I know you've seen it and what was the end result? Jim –

They fixed it. Commissioner McCown – They fixed it, that's where I'm going with the 3rd party inspection. My biggest fear is what I heard earlier today from the state, he sat here and we hammered out 8 and 16 beds and 12 beds and it's not enough and make sure the sewer is hooked up right and none of the units meet compliance and to them it isn't going to make any difference. What we agree to today they're not going to be on the sites. So you've got bigger issues and it's at the State Capitol and it sounds like there's going to be some legislation coming that if I were you guys I'd pay real close attention to – it can sure get into your pocketbook. I think it's crazy to have a 2003 unit that a perfectly good unit that meets all the standards that in 6 months when new legislation comes out it's outdated and it either has to go to a state that doesn't have the standards that Colorado does or you have to burn it because it just becomes a big roll-off waste container. Commissioner Houpt – I was wondering if you would have a comment. Dennis Bernia –That's not the issue or my understanding. Our recommendation to any local building department related to factory built structure that has a certification and insignia on it, is to look at that the same way as they would look at a site built structure and typically most jurisdictions will accept that building based on the building code it was built to and deal with the critical life safety issues – like a smoke detector or something like that, so we would never support a unit built in a 2003 code be forced out of the state because we adopted the current code. Just like the local level a house built in1995, that home was built to the standard in place at that time is not required to upgrade to the new code. Commissioner McCown - Unless there is some activity that takes place that requires a permitting, if they built on a room, that requires a building permit, then that has to be upgraded. Dennis – Again, on the critical life safety issues like a smoke detector, but structurally sprinklers are not a required upgrade, they actually are not even required in a single family residential home. Commissioner McCown – So, that's a County issue. Dennis – No, it's a building code issue as a single family unit sprinklers aren't required when you start putting more and more people into the same structure then there's a code requirement that comes into effect and actually the sprinkler requirement has been around for some time. We see that as a pretty small issue but if it did come up, it would be up to the local jurisdictions to have these meet the building code. Commissioner McCown – So you're saying that the sprinkler requirement has been in place in all of these units that are out here today should have sprinklers in them. Dennis – Depends on occupancy whether or not they need to. Commissioner McCown – 2 to 8 people. Dennis – I believe the number is more than 4 per unit. This is by people not by beds. What we would look at is when we do the screening the manufacturer's approach us and documented the fact that this is how they are used and we have that documentation in writing from them and we could work with them. Question from the audience - If they have a bedroom and it depends on occupancy; the R2's are oak and they are limited to 5 occupancies. Dennis – We could work with them. It depends upon the occupancy and how it's written but I believe we have it worked out for 4. The R2's all stay without sprinklers and they are limited to 4 occupancies. If you go over that you have to have a sprinkler system in place. Commissioner McCown – I think you cleared up some stuff – thank you for staying.

Chairman Martin – do we wish to go ahead and continue this, do we wish to have the recommendation here both by the staff and the planning commission to accept such or do we need to go ahead with the definition of "essential personnel". Commissioner Houpt – I've had a million things that many here today have been for the most part answered through some further explanation but I do have a concern under public notice with what is being recommended. Page 6 (of the matrix). If under the administrative process the applicant only gives notice to those within 200 feet of the actual site, they probably would just be noticing themselves in many of the bulk of what we've been seeing, my sense is that in the more populated areas we're going to see more of the Use by Right with building permits scenarios and in the more remote areas we're going to be seeing more of the Administrative or Special Use Permit scenario. And so, if they only have to notice within the 200 feet of the site there's no one to notice.

David – oftentimes there are some very large properties up there, the intention here was taking input from the industry to speed up the permitting process and we felt as though with as small a density population up there in the zone districts is one way to help the industry. Commissioner Houpt – This is strictly for resource lands so it actually would be just for noticing yourself. So is it actually waiving notice in Resource lands? David – It's noticing within 200 feet so if it is close to someone you are noticed. If it's within a 4800 acre property then perhaps it is really not serving its purpose. Commissioner Houpt – There are several different scenarios there, and I don't agree that you get to the whole purpose of noticing if that's the way you're going to handle it, so in my mind we're being asked to do is just waive notice in the majority of these scenarios. David – In Resource Lands or close to another populated center near Parachute a number of people would be noticed, so you wouldn't want to waive it. And this does relate only to surface property owners. Commissioner Houpt doesn't think it should be waived honestly. David - Do want to go back to one of your question earlier on page 10 and that is to talk about the analysis we did based on the number of APD's and how many permits we've reviewed for issuing in 2007. Commissioner Houpt asked for clarification on this – she is seeing a huge fiscal impact with all of the work that's being asked to do. We're looking at 2008 and you're only looking at one new building inspector and one planner. David – For 2008 it worked out to about 2.5 FTE. If you recall at the November 19, 2007 hearing from the oil and gas and those numbers are very close to what we had. Carolyn – 3rd party certification issue – if Garfield County is issuing a permit, inspections need to be done for liability purposes by somebody who's on our staff or whom we have under contract. If we're truly accepting a 3rd party it needs to be our 3rd party. If it's a Use by Right by standards, then you're saying part of the Use by Right is you have to go get some other 3rd party to say you've put it together properly. That's one thing but as soon as Andy's starts looking at something and puts his stamp on it that is an action by Garfield County and if that person is not under contract with us we have no way to go against their license. If it's a 3d party, is it a 3rd party hired by industry? Then they would have the opportunity to fight with that inspector or that PE or whatever, but we can't. Chairman Martin - No matter who inspected and if we want to go back if there is a violation then take the appropriate action. That becomes an issue between the 3rd party and the industry, whoever hired him. Carolyn - If we're on the building code track though and we're issuing a building permit it needs to be our employee or by contract. If you're going by use by right and you're saying with Performance Standards, one of the Performance Standards is you have to have a PE or an inspector sign off, so be it. That's different than Garfield County stamping and saying we looked at the plans and we agree that these are adequate. Andy Schwaller – The state has a different view of sprinklers than the building code, the IBC; under the IBC all our hotels, boarding housing, and those do require sprinkler systems regardless of the number of people. State's rule is 5 or less is probably easy for me to swallow because there's very limited access or

for a single unit for the office and two bedrooms, we're going to know what's going on at both ends and you would have to amend the building code to do that. Chairman Martin – But, we do that also through fire districts; and certain subjects can be amended one way or another through our resolution and accepting or not accepting. Carolyn –Process wise - a change in your building code of course is not in front of you now. If you make decisions that involve the building code then we have to start another track of noticing and it will be another 30 days to get a resolution in front of you to amend the building code. Commissioner McCown – How can the state adopt these units under an IBC and it be a different IBC than we are using and yet it's the same year as the IBC. Andy – It's a different amendment to the same code. Commissioner McCown – So we just amend the IBC that fits the states. Wow. That's a good idea – two inconsistent regulations. I think staying with the state would be a real good idea. Commissioner Houpt – But they're still wondering what their role is going to be.

Weight load: Andy said we establish the snow load but they sell the unit. When they come to our County, we establish the snow load and if they say it's a 30 lb snow load they can't bring it into the County. Ours adjusts for elevation. Commissioner McCown – It's been a 40 pound load in the past and it's the same in Grand Valley as it is upon top of the Roan Plateau. The State's the same no matter where it's located.

Dennis Bernia – Colorado Division of Housing – Actually for factory built structures we do require group snow loads to meet the local criteria for those jurisdictions. When it comes to man camps units what we have seen from the industry is their standard is 120 lbs. per sq. ft. for snow load, which is great because the insignia can go on and it says it's 120 lbs. when it comes from almost anywhere in Colorado that would work, so we give them a lot of credit for that foresight to build these units so that they don't have to worry about meeting local requirements for snow load.

Chairman Martin – if I was a supplier of these housing units I might check to see what the snow load requirement is within the County I'm placing it in and that's pretty standard and then order the correct units to come to this location.

Dennis – that would be an option, but I think most of the mobile units that we've seen coming in today and just how mobile these units are and we don't know exactly where they are going to the next location and mostly what we've seen is they are taking the maximum standard snow load. Chairman Martin – The maximum load, that's what we want. Do we have a decision to close the public hearing? Commissioner Houpt – No. Commissioner McCown – Tthere is no kind of consensus and he stated he was not prepared to vote for something that would require a building permit to move one of these units across the road; I will not do that. My suggestion on the Use by Right fell on deaf ears and I can't impact on the 3rd party but the state can, we're an arm of the state so I'm not ready to give up and I do not feel comfortable. The political process will do what it will. Commissioner Houpt asked how long building permits take. On 3rd party review, Andy said 6 to 15 days and 10 to 15 days to do inspections on man camps – tie downs, state has electrical. Building and Planning, once established and it is sealed by the state, we can turn around in a week if it's not standardized. Andy having the state seal on there and if they do it as the plan shows, if we go up there and if they would get on the same page with us then it wouldn't take too long. Commissioner McCown stated we're not taking these applications out of order. Andy – I can review a deck quicker. If standardized I can fast track them and we could use design professionals so it wouldn't take too long. A lot of older units, what were they originally designed for, if it's a home unit not used, if its commercially designed, once this is ironed out, we can do 3 inspections a week – they go very well. 3rd party for Williams could be PTI. Commissioner Houpt – If Larry is not ready then we need to reschedule this. Chairman Martin – We need to make some hard core decisions so industry can move forward.

Commissioner Houpt made motion to close the public hearing; Commissioner McCown – second. Don't know how we can get more testimony if we close the public hearing.

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

Reschedule – Commissioner McCown – We are not discussing amending our building code to occur or not to occur; we have been having input and I'm still not ready to vote. We need to ask for specifics. Commissioner Houpt said she is really uncomfortable with this code. This has been a valuable discussion today and my motion was going to be adopting this as proposed by the staff because there were concessions to make because we are in the business of protecting the health, safety and welfare of the people that live in this County –we have not critiqued all the codes we have in place. Building and Planning staff has worked very diligently to come up with this proposal. I believe, because of testimony, that I would not have changed the number of beds, we need flexibility but I will not support a Use by Right without any kind of oversight. We've made mistakes in other commercial areas and the people sitting here in this room are concerned about how to do this business and others are not and that's why we have regulations.

No motion was ever actually made. Chairman Martin stated we need something concrete. Carolyn – what are you looking for from staff? Commissioners direction for staff included the following:

1. 3 processes including the <u>Use by Right</u>
2. <u>Administrative</u>
3. <u>Special Use permit for 25 or more</u>.
4. <u>Complete exemption without review.</u>

Commissioner Houpt made a motion to craft this policy within the bounds of what has been brought forward today only with the four processes. Commissioner McCown – second. However he wanted this be for direction to staff only.

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

Motion on the three options as presented by staff:

Commissioner Houpt is in full support of the Special Use Permit and Administrative Review and will go with the Use by Right as long as performance standards are in place as proposed. Chairman Martin – Standards are there but we need to make adjustments to make it work. Commissioner Houpt – Look at the details of the whole thing.

Commissioner McCown – Number 1 under the staff's option, RV's have to leave, Use by Right – I have a hang up and no comfort level on the turnaround on permits as Andy has said with his timeframe. I'm not seeing the numbers that are projected if they take 4 –5 weeks this is not acceptable, we have worked and tried to hire additional personnel, but with the additional work load this is not acceptable as the end result. Just to say we get to go out and do the inspection process, the whole process, this is answered in the exemption that Tresi has the heartburn with. It is very clear that these are those essential personnel, this is not the 24 people; I talking about the I-70 corridor and not the 9,000 feet ones; I want to take the pressure off the staff and let those on the scale of 1 to 50 people, essential

people operate as a Use by Right and then go through the processes on those others. On those large ones we would do the Special Use Process. We have the right to inspect these units. Commissioner Houpt – Anytime there's a structure that houses people…. Commissioner McCown – Mobile home are not required permits; mobile home parks – not ever inhabitable structures – we're not inspecting those. Carolyn – An exemption process…. Commissioner Houpt – This is not insignificant; any kind of housing we need to have inspections; we need to hold them to the standards they need to meet when they put a structure in. I'm trying to meet half way; I'm willing to made recommendations to streamline the process. I know that every application is a very long process. I will not vote to cut out our authority.
Commissioner McCown - Second to Tresi's motion. In favor – Houpt – aye Opposed: Martin – aye McCown - aye
Commissioner McCown made a motion that we accept all four options and look at the whole picture and this does include the critical personnel and 3rd party inspections. The motion would exempt the 0-8 from our review.
Chairman Martin – seconded. Commissioner Houpt doesn't think we should shirk our responsibilities and we need flexibility. This conflicts with our rules and regulations. We need to address these issues. Chairman Martin – It allow flexibility and we can see if it will work and if there is conflict under the building codes and the fire districts and we can address those but this is what we would need to adopt. The motion is on the 3 options plus the exemption but the public meeting is still open. In favor: McCown – aye Martin – aye Opposed - Houpt
Motion to continue the meeting:
Commissioner McCown made a motion we continue this to March10th at the1:15 p.m. agenda time and staff is to present options within the four parameters; no additional review and we'll accept it or not and get this out of our hair. We need to know what changes would need to be made in the building code. Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown – aye
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

FEBRUARY 11, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, February 11, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Michael Howard and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

NANCY LIMBACH – COMPLAINT ABOUT OIL AND GAS NOT ADHERING TO ROAD RESTRICTIONS.-COUNTY ROAD 346

Nancy appeared before the Board of County Commissioners primarily due to incidents that consistently occur on the Mann Creek Road and CR 346. She summarized an alarming number of incidents where the police, State Patrol and the County have neglected to issue summons and complaints. One serious situation involved a truck owned by IE Miller. The truck in question broke a power line in front of our house, a Holy Cross power line that is admittedly too close to our house. CR 356 is located almost adjacent to our property and trucks from the industry consistently take this as a short cut avoiding Mann Creek. This truck I'm speaking about broke the power line and caused an explosion that burned the electrical lines, the carpeting, burned walls and destroyed all our electrical appliances. We had to move from our residence. We filed a claim and in the process we lost our insurance coverage. In fact, our insurance company sent a 38 page dissertation of everything they will no longer cover. I have covered this pretty well in the handout I'm giving you. Our biggest issue is that none of the trucks violating the local speeding laws nor the Miller truck who did the largest damage received summons and complaints. Yes, law enforcement was aware of many of these incidents but still no tickets were issued. So, what I'm asking of this Board today is this, can you do anything to assist us in stopping the oil and gas as well as gravel trucks from using CR 346. Commissioner McCown stated we can't do much on the enforcement side of this but we could possibly get you some better signage out there. However, a sign is only as good as the people who read it. I will talk to Marvin regarding this situation.
Commissioner Martin stated he thinks we should talk to the Captain at the State Patrol office and make him aware of this complaint. Commissioner Houpt suggested Nancy sit down with the Sheriff Lou Vallario as well as the Captain of the State Patrol and outline everything you have just explained to us. We could do more signage on the road but we could also be accused of overkill.

COUNTY MANAGER UPDATE – ED GREEN

EAST AREA PROJECT COST REVIEW – BRIAN CONDIE

The following is a summary of information gathered for the purpose of development of the east area hangar lease parcels at the Garfield County Regional Airport.

- Current Water and sanitary sewer system at the airport will not support additional hangar development at this time.
- The City of Rifle and the Rifle Fire Protection District have expressed concern over the current water system providing sufficient coverage for the existing buildings and have recommended the system be upgraded to a looped water system.
- A verbal agreement has been reached between the Airport Director, County Building and Planning Department, RFPD and the City of Rifle that no new construction be approved until this issue is addressed. All current lease approvals, including lease parcel 1FL and 5FL, may proceed as agreed and obtain a certificate of occupancy that is not contingent upon an upgraded water system.

- Other mitigating factors related to the water system upgrade include: an easement over and purchase of land from Airport Land Partners, the installation of water meters on all existing buildings and the operation and billing of the water system be turned over to the City of Rifle.
- The engineering and construction cost estimates to upgrade the airport's water system is $971,455.00. This includes an asphalt overlay of the existing east-west access road.
- The water system upgrade will be engineered to provide flow and pressure for development of the east area hangar parcels as shown on the ultimate build out drawing.
- East area hangar parcel may be made available to the public once the upgrade is approved. Selection criteria of tenants for these lease parcels and the allocation of development costs between a potential tenant and the County has not been addressed to date.
- Options available:
  1. Retain engineering firm to develop upgraded water system at an estimated cost of $194,291.00
  2. Budget engineering and construction at a future date.
  3. Postpone further airport building development at this time.

Commissioner Houpt asked if a cost benefit analysis was done and what it would take for us to benefit from spending this kind of money on a closed loop water system.
Brian explained it is mainly a liability issue; we need to protect the buildings there now. The biggest problem is there is no pressure to fight a major fire. He also explained that no single building pushed us over the edge but on the dead-end line if someone up line takes all the water there would be no water down line to fight another fire; there wouldn't be enough pressure. Carolyn asked how many years it would take to recover the cost. Commissioner Martin stated with no development we are potentially looking at nine new buildings. Brian passed out an exhibit showing the entire build out. In each area there is about 20 hangars total. Commissioner Houpt remarked that she was concerned that we had created a situation where we aren't charging enough for people to utilize our airport to keep up with the costs that they are seeing as a result of developing the airport. Brian stated this has been an issue since he became the manager five years ago. Commissioner McCown asked, in your conversation with Bob Howard, have you talked about if we are going to do this, to run this line down the property line so that in future development from Mr. Howard he would have access to this line with out doing the same thing. In looping the line we could ask for transfer of property to the airport?
Brian – We have talked to Mr. Howard about that and he has given us his updated map of his project. He told us where he would like the line placed and it is not that different from where it was originally scheduled.
Commissioner McCown stated he knows Mr. Howard has been good to work with. He doesn't bring money to the table but he brings land and that is going to become a critical issue in the not too distant future and would hope that would be part of the negotiations. Carolyn asked are your suggesting the cost of the right of way would be Mr. Howard's access to the main….. Commissioner McCown – I'm not sure what the cost of the right of way is worth. I'm not sure where it is at this point, but if we are going to loop a line to the east end of the airport clearly Mr. Howard boarders that property and at some point in time he is going to need to do the very same thing we are doing. Carolyn – There is an investment issue and there is an immediate liability issue to look at. Carolyn just wanted the Commissioners to keep that in mind. We have a pre-annexation agreement that you are aware of and that needs updated badly. The facts have changed radically since 1998/99. Mr. Howard's PUD or a significant portion of it is about to be annexed into the City of Rifle. We have a separate agreement that involves water that was negotiated when the authority was still in existence that says we have to have the master meter system. The City's attorney and Mr. Sappington, Public Works Director, everybody seems to be saying it's time to get rid of that old requirement but that's what the documents say right now. This is assuming you want to go forward with this. Brian – The problem is we don't have enough information on the water system and what is needed. Commissioner McCown – What do we anticipate is the study and what the engineers estimate is costing? Brian – For the entire project it was $194,000.00 that is installation included. In order to give us the information we need on the existing system and future systems would be my recommendation to appropriate more funds to the airport and hire a firm to look at that and then I can come back and say this is what's recommended. At the same time we can also address the liability issue from the report. Commissioner McCown – How far east does the line now go? Brian said, UVS helicopter.
Commissioner McCown - I make a motion we would do an RFP for an engineering and hydrologists study on the needs and the present status of the water system at Garfield County Airport and bring that back to us for approval; that would probably come out of capital funds. Ed Green – The airport fund could handle this expense for the entire project I think we would need to consider either capital or general fund. The concern I have pulling out of capital is in 2009 you're going to have projects totaling $15 million dollars coming out of the capital fund. Brian said he has received two more phone calls on individuals wanting to develop here. That makes a total of thirteen for nine places. Demand is there right now. It will probably be a year before we can address that. My recommendation is that we not allow any more new leases until we address this water issue. Commissioner Houpt - I'll second that motion – I think we need to look at what we are leasing these parcels for and make sure that we are not completely subsidizing everything. This is a very expensive water system we are anticipating. In favor: Houpt – aye McCown – aye Martin - aye

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Ed Green – Three items for Executive Session; personnel matter which I would like to have Katherine Ross involved with, negotiations with the City of Glenwood Springs and another related to BLM comments that we need to offer.
Don – In addition, I need to seek direction from the Board on contract negotiations on County Road 204.
Commissioner McCown – regarding a memo from you on the Crouch presentation of additional evidence last week is this something you would like to discuss in Executive Session? Don – If that is the pleasure of the Board I will receive that direction.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action Taken: None

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

COMMISSIONER REPORT

Commissioner Houpt – Last week we had the ground breaking for the LoVA Trail which John and I attended. I had an I-70 meeting on Wednesday and then we had our Code rewrite work session on Wednesday afternoon. Friday CCI meetings, we started with the Federal Mineral Leasing Task Force Discussion. There was a discussion on DOLA and the distribution of money on Legislation 1083. This week I am going to celebrate my grandmothers 101st birthday.
Commissioner McCown – Land use last Wednesday, BLM RMP Plan working group Wednesday evening, Thursday we had AGNC, it was a telephone conference and the State of the Community lunch in Rifle, I was a speaker. Wednesday I have the Stallion Oil Field Services people requested a meeting with me to give information on temporary housing, the PEIS open house is at the fairgrounds, there is a Club 20 growth impact meeting at Rifle City Hall and Thursday is the North West RAC meeting at the Glenwood recreational center.
Chairman Martin – Tuesday we did ground breaking for LoVA Trails, land use on Wednesday. Also had a discussion in reference to Sweetwater and the potential of the building we are trying to put up there. Mr. McCown increased our budget. I'm delivering flowers for everyone throughout the County for Valentines Day. CCI public lands Friday the 15th

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant List
c. Authorize the Chairman to sign the Resolution of Approval for an Exemption from the Definition from Subdivision to Create Two Lots from a 36.98 Acre Tract. This Resolution is to Replace Resolution 2007-106 for the Van Devender Exemption due to an Omission in the Recorded Legal Description – Applicants: Mary Jo Jacobs and Charles Van Devender – David Pesnichak
d. Authorize the Chairman to Sign the Rural Lands Development Option Exemption Plat to Create One Lot, One Building Envelope and Establish a Conservation Easement on an Approximately 100 Acre Parcel Located South of the Town of Silt off County Road 2311 – Applicant: West divide Ranch LLC (Dow Rippy) – David Pesnichak

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

ABATEMENT FOR PUBLIC SERVICE COMPANY OF COLORADO TAX SERVICES DEPARTMENT – SCHEDULE NO. C000029. TAX YEAR 2007, $1,070.29. – LISA WARDER

There was no notification on this however Public Service was made aware back in December.
Commissioner McCown - I make a motion we approve abatement No. 08-111 in the amount of $1,070.29
Commissioner Houpt –Second. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT FOR DAVID REED – SCHEDULE NO. R041930 – TAX YEAR 2007, $1,623.30 - LISA WARDER

Lisa stated this abatement is due to a clerical error.
Commissioner McCown – I make a motion we approve abatement No. 08-104 in the amount of $1,623.30.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT FOR GO NETWORKS, INC. – SCHEDULE P005126 – TAX YEAR 2006, $4,924.92 - LISA WARDER

This is a personal property schedule number and the property was on our records and should not have been.
Commissioner McCown – I make a motion we approve abatement No. 08-092 in the amount of $4,924.92.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT FOR ROARING FORK SCHOOL DISTRICT RE-1 – SCHEDULE NO. R311786 - TAX YEAR 2006, $10,224.72

This is the former True Value Hardware Store.
Commissioner McCown – I make a motion we approve abatement No. 08-089 in the amount of $10,224.72.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
The Commissioners listened to all three abatements, closed public and then made a motion on each one individually.
Commissioner McCown – I move we close public hearing Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CITIZENS NOT ON THE AGENDA

TRAFFIC CONCERNS IN BATTLEMENT MESA

Judith Hayward – 180 South Second Court in Parachute. Judy made it clear that she was here speaking as a concerned citizen and not as a Town of Parachute Council person. Driving over here I was looking at our mountains and the river, the beauty we live in. I have a cabin in the mountains south of Battlement Mesa. We truly live in this fantastic spot on earth, like heaven on earth. I'm here speaking regarding County Road 301 also know as North Battlement Parkway, the entrance to the Battlement Mesa Community. Most of the roads in Battlement Mesa are four lane roads and are adequate for the traffic flow. But more and more people live in this area or are moving to the area and the County I believe needs to improve and expand that road into Battlement Mesa. As you may know there is only one main road in and out and that is County Road 301. I consider there are two minor entrances and exits into that community. One being Stone Quarry which goes west to Wallace Creek and Morrisiana Road which goes east. But very few people use those roads because it really doesn't get them where they want to go with a lot of extra miles. Then there is the continuation of this 301 road across the Colorado River Bridge through a section of the Town of Parachute and across the I-70 Bridge. All these roads are two lanes and I believe are completely inadequate. Judy explained in depth of an accident that occurred last week involving icy roads and how she was delayed making a comparison of why she felt improvements were necessary. I would like to know what the County's plans are for this road. Has there been any discussion with Battlement Mesa, with Colorado Department of Transportation or the Town of Parachute? I know there hasn't been any discussion with the Town of Parachute. I'd like to know what the County's master plan is for that road. I'm clearly aware there is a great demand for housing in our area, but we do need to have safe and adequate roads for the residents that live there, and this needs to occur long before we expand more homes. Garfield County continually approves more and more expansion in our area but not bringing anything as far as improvements to the entrance to this

road. I believe Garfield County needs to be the leader in this initiative and on those County roads. We just shouldn't allow anything more development. Right now there is a large piece of property on the southwest side of County road 301. The telephone number on the for sale sign is 928-243-8417. This piece of property would cover at least half of the right hand side of the road from what is called Gravel Pit Road on your map to the West Parkway or the waterfall. Shouldn't the County be looking into that property to buy because then you wouldn't have to condemn property. More and more houses seem to be going in on that 301 road. But I'm just concerned for our whole community. I do think that we the towns, the County, Battlement Mesa, and C-DOT need to sit down and iron out some of these problems. I'm requesting for you to start talking with us before something happens or someone gets killed. There are also many pot holes along that road just right by the bridge. I don't know who is responsible for those but the big trucks are moving out away from those pot holes and going over into that other lane of traffic. I heard we have 22,000 vehicles that have been monitored going up and down that road every day. Commissioner McCown – I guess I have to comment, I don't know where the lack of communication is because Garfield County and the Town of Parachute have been talking about that intersection along with Battlement Mesa. In fact we contributed $50,000 for a study of that intersection. Judy – I'm aware that there is money that has been put on the table for that study. But we haven't seen your faces at our town meetings. Commissioner McCown – Parachute was the lead entity and we gave them the money and they were going to take the lead on getting the study done and then call another meeting. Is the study done?
Judy – The study is being done from the west Parachute proposed on and off ramp. But I'm talking about 301 Road and I didn't think that was part of it. Commissioner Martin – It is part of the study. The intersection you're talking about is the number one priority. However it didn't make C-DOT's 30 year list and that again is on our shoulders to do so. We have contacted C-DOT and we are trying to make some temporary changes to the intersection from the entrance to Parachute to Battlement Mesa and trying to put lights and other traffic control devices there. We also entered into a venture into redesigning the whole thing so that we can improve both sides. County Road 215; as well as County Road 301. We are working on them. Commissioner McCown – Improving County Road 301 and going into a single lane bridge will not serve any purpose. It all has to be improved all at one time for it to work. Judy – What about the property for sale? Commissioner McCown – It would be cheaper for us to negotiate with the owners of property and only take the land we need rather than to get into the land business and then try to resell it. It would be far more than we needed to accomplish our goals. Judy – The sign says it is 2.7 acres and part of it has been a vegetable garden along the roadway. Commissioner Houpt – I wrote the number down and certainly is something to look into. Commissioner McCown – Actually my preference would be to acquire property on the north side because there are fewer homes on that side. If you were going to acquire property to improve the width of that road way we would probably look at the north side of the road because you would be dealing with fewer homes. Judy – I believe the Town of Parachute has part of that roadway too. Commissioner Houpt – You raised an important point and a lot of the discussion has been the based on the bridge, or the overpass. Certainly County Road 301 needs to continue to be part of that picture.

CONSIDER A PLAT AMENDMENT LOT F22, ASPEN GLEN, FILING NO. 1 – APPLICANT: MICHAEL EASLEY – CRAIG RICHARDSON

Craig explained that the owner of the subject lot, Michael Easley, would like to reconfigure the identified building envelope, in order to reduce difficulties in design of the dwelling unit to be constructed on the subject lot. The Applicant's request is consistent with the identified minimum setbacks of the ¾ Acre Residential Zone District within Aspen Glen PUD.

ASPEN GLEN HOMEOWNERS ASSOCIATION

Leslie Lamont, Administrator, Aspen Glen Design Review Committee provided a letter dated October 25th, 2007 regarding the proposed Plat Amendment. The Applicant's request was reviewed during the October 24th, 2007 Design Review Committee meeting. Adjacent property owners received notice of the pending review. The letter represents that no "critical comments" from adjacent property owners were presented during this meeting.

STAFF COMMENTS

It is represented that the original building envelope configuration was a result of poor soils identified on the subject lot. HP Geotech analysis that is more recent demonstrates the ability to expand the eastern boundary of the envelope.

STAFF RECOMMENDATION

Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve the requested Plat Amendment with the following conditions.

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations

Commissioner McCown – I make a motion we approve the Plat Amendment Subdividing Lot F22
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A PLAT AMENDMENT LOT D32, ASPEN GLEN, FILING NO. 1 – APPLICANT: ASPEN GLEN I, LLC – CRAIG RICHARDSON

Craig explained the request, per regulations for Aspen Glen, duplex lots are to be subdivided after the units are constructed. The lot configuration is determined after construction is completed to accurately display the common zero lot line of the adjoining units. The applicant has submitted a copy of the proposed Amended Final Plat demonstrating that the duplex units fit inside the original envelope. The application was referred to Leslie Lamont, Administrator, Aspen Glen Design Review Committee. Staff received notification via telephone that the Committee has no objections to proposed D-Lot division.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of Aspen Glen PUD shall be shown or referenced on this amended plat.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner McCown – I make a motion we approve the Plat Amendment Subdividing Lot D-32 in Aspen Glen
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SITE APPLICATION AMENDMENT (IMPROVEMENTS) TO THE EXISTING CANYON CREEK HOMEOWNERS ASSOCIATION WASTEWATER TREATMENT FACILITY – CRAIG RICHARDSON

Craig explained and summarized the request saying, Canyon Creek Estates Homeowners Association is requesting approval from the Colorado Department of Public Health and Environment, Water Quality Control Division to convert the existing Rotating Biological Contact wastewater treatment facility to a Sequencing Batch Reactor wastewater treatment facility. The existing facility is described as being in an "extreme state of disrepair". The proposed plan contemplates two phases of construction (Phases 2a and 2b) to be approved as part of the application.

An expansion of the facility is not represented in the application. Primary Effluent Levels, Wastewater Flow and Load Projections will not be increased as a result of the Applicant's request.

- Service area and Population

The District's service area consists of Canyon Creek Estates subdivision. The proposed change will not increase the service area.

RECOMMENDATION

Staff recommends that the Board of County Commissioners recommend **APPROVAL** of the Application for Amendment of An Existing Site Location for Canyon Creek Homeowners Association Wastewater Treatment Facility Improvements. Craig – This is not an expansion it is an updated technology. It will be conducted in two phases; Phases 2A and 2B as outlined in the staff report.

Commissioner McCown – I make a motion we approve the application and refer it. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT LOCATED SOUTH OF THE TOWN OF PARACHUTE AND BATTLEMENT MESA AND DESCRIBED AS 134 COUNTY ROAD 303 – APPLICANT: DANIEL AND MARK GARDNER – DAVID PESNICHAK

Mark and Daniel Gardner were present. Mark answered all of our attorney's questions.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Memo from Jake Mall of the Garfield County road and Bridge Department, January 17, 2008; Exhibit G – Memo from Rob Ferguson of the Grand Valley Fire Protection District, January 23, 2008; Exhibit H – Memo from Roy McClung, Mayor of the Town of Parachute, January 15, 2008; Exhibit I – Letter to Daniel and Jacquelyn Gardner from Christopher Chappelle, Garfield County Code Enforcement Officer, January 24, 2008; Exhibit J – Building Permit Number 5843, issued April 4, 1996 and Exhibit K – ISDS Permit Number 2580, issued May 4, 1996 and Exhibit L – Photos and a Letter from Miss Bos. Chairman Martin entered Exhibits A – K into the record.

Planner David Pesnichak explained the description of the proposal. The applicant requests the Board of County Commissioners grant a Special Use Permit for an Accessory Dwelling Unit located on a 20.00 Acre parcel, described as 134 County Road 303 and located south of the Town of Parachute and Battlement Mesa. The proposed ADU is to be an existing free standing unit with dimensions of 52.4' by 27' (1414.8 square feet). The driveway to the ADU is to utilize an existing driveway cut off County Road 303.

RECOMMENDATION

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

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. At the time of building permit for the new primary dwelling unit, the Applicant shall obtain an ISDS permit from Garfield County with adequate capacity to provide sewage and wastewater treatment for the new primary dwelling unit.
8. The new primary dwelling unit shall not be connected to the existing ISDS currently serving the proposed ADU.

Mark explained he will be building a primary residence. We have drilled our own wells and I have specifications on the new well. Daniel – There were two dwellings there originally. In the last five years since my grandmothers passing it has just been my dwelling. This is really replacing my grandmother's house. Dave Wasserman – I own one of the lots at Monument Ridge that borders the Gardner property. I've been involved with the Monument Ridge project which is a subdivision right next door to their property. Since it's inception I've owned a total of six lots in the subdivision. Even

before the subdivision was approved by Garfield County, I had considered becoming a partner with the original developer Pete Heineman. Since then Noel Richardson has taken over for Mr. Heineman and Noel owns most of those lots. But I have a relationship with both those people. I've never met the Gardner's or talked to them; this is the first time I've ever seen them. My knowledge of the Gardner property comes from Mr. Heineman and Mr. Richardson and from my own experiences just looking at the property, which is adjacent to my property. What I've noticed on their property is a lot of clutter, all kinds of material from rusted gas tanks to culverts to sewer pipes. I've seen numerous piles of what appears to be junk. In addition some of the structures, like the old house that was just mentioned seem to be in major disrepair. Recalling some of the conversations I've had with Mr. Heineman and Mr. Richardson about the Gardner's they have not been cooperative neighbors from the developers standpoint. Pete Heineman often talked about how the Gardner's property was hurting the property values at Monument Ridge or at least the properties that border their property or have views into their property. The realtors I've used have commented on the shabby condition of their property and that some buyers would not purchase next to their property. As a result I've had to lower my asking price. Now the Gardner's are asking for approval for adding a second dwelling, I'm concerned that adding more people to this property will only make this bad situation worse. In other words more junk and clutter from what I see from a distance. I'm asking the Commissioners to not to grant the extra dwelling until the property is cleaned up, violations which were mentioned are rectified as well as some of the relationships which seemed to have been strained that I've heard about get rectified. And if this does get approved I'd like to see regular visits from the code enforcement people to make sure they are in continued compliance.
Commissioner Houpt – I'd like to clarify something. There is a letter out there requiring the property owner to comply with a code violation that is separate from this application and they still have time on the calendar to respond to that and that is something we take very seriously. But it is very separate from this application that's in front of us.
Dave Wasserman – I understand it's a separate issue but I'm just talking about the history of this property with the neighbors for the last eight years. It's been strained and it's what I hear from people that I know that have dealt with them and that's a concern to me and that's why I'm here today. Mary Ann Bosely and Noel Richardson passed out information. We are adjoining land owners to the Gardner's and we support their application for another home on their property for their family. However, we would like it to be contingent on the following. We feel the Gardner's should be required to abide by County regulations. They need to cease illegal operations in their earth moving equipment company. They are operating a commercial industrial operation in this area that is zoned agriculture. We would also like to seem them discontinue the illegal use as a heavy equipment storage yard and a maintenance facility for that heavy equipment. We have noticed that the fuel storage they have on the property has no containment and no fire fighting equipment around it. The fuel storage is well beyond what is necessary for their family and for agricultural. It is there to support their heavy equipment operation. In the past we have personally witnessed fuel spillage that has run into the Huntley Stream. There has been unattended fuel activity on the property that created this spillage. We would like to see them have to get rid of the land fill they have created by illegally using their property as a construction dump. We would like to see them have to get rid of used oil and gas condensate tanks that they have stored on their property. It appears to us that they already have an accessory dwelling with the fifth wheel that's being used as housing on their property. But nonetheless, the old house that they have spoken of as Daniel said himself, the new accessory dwelling would be replacing his grandmother's old house and so it is our feeling that they need to get rid of the old house. The old house needs to disappear. There are two houses on the property right now. His grandmother's house and Daniels house. Now they are talking about a third house and that would be out of compliance to have three houses on the property. So we feel that the grandmother's house needs to disappear. We feel that they should be required to cease these illegal activities. This is a neighborhood in transition and the transition is people are moving in next to Daniel and they are building nice homes for their families. We would like to be good neighbors with the Gardner's and we are asking that the Gardner's be good neighbors to us too. And before any new house comes in we would like for you to require them to abide by the rules and regulations and come into compliance and if so then we welcome the new home into our neighborhood. We think that new home is a nice addition to the neighborhood and we support their application with these conditions. Daniel – I'm not here to dispute. If we want to talk the history of this whole thing…. Where this opposition started was in years past when they started their subdivision and came to us and said your fence isn't in the right place. Well my family has been here since homestead, 1800's. Well it's my driveway here, if it was out in the north 40 it might be different but where the fences are that's where they're going to stay and that's where we have gotten the name for being such SOB's if you will through the years. We stole their property because of the whole adverse possession thing. If they recall they were quite happy to try to use our dirt contractor, they used us to do some of their own dirt work. So that is the history there. First of all the condensate tank they speak of, I do have two condensate tanks that the oil field gave to me and I can't mention any names because they asked me not too. But members of Noel's new subdivision they were for their personal fire water storage tank. I was holding those tanks for them because they were free and they had asked me, hey can you get me a tank that will hold a couple thousand gallons. They are very temporary; they are there for the new houses going in on Noels subdivision. Well maybe not now but that was the point to them. They were free and it was a good way to help those people. The fifth wheel dwelling, we do have two fifth wheels sitting there. Nobody lives there and they are both mine. I don't really know the story, I have a horse trailer that has a little living quarter up front that the wife takes to rodeos on the weekend and I have a fifth wheel as well that I use from time to time when I work out of town. I don't know maybe there is a violation there; I won't lie about them being there. Nobody lives in them; unless I get kicked out I might be living in them tonight. With the exception of that I think there has been a few inaccuracies that we might as well clear up right off the bat.
Commissioner Houpt – Requested an executive session to talk with the attorney about the relationship or lack of relationship between the two issues that have been raised today with the current violation. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt – I make a motion we come out of Executive Session.
Commissioner McCown – second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt – I have one follow up question for the applicant. Could you describe briefly what your plans are for the homestead house? Daniel – We haven't discussed this although it is completely unlivable and I realize it is an eye sore to the neighborhood. I haven't planned on tearing it down just for nostalgia sake. I have no intent of doing

anything with it. If we need to do a little fix just to keep the shell there and make everybody happy I'm not opposed to that. It's been pretty soon after her death. Commissioner Houpt – I just thought since it was mentioned it was important to have on record what you thought your plans might be for that. Mark – I actually planned on using it for storage and I also think if we need to do some improvements or something to keep peace. Commissioner Martin – There are some requirements if you use it for storage. If you keep the building the building department can tell you what they are but you can't use it for a dwelling. Daniel – I understand that it's unlivable anyway I just didn't quite have the heart to tear it down. Noel Richardson – I would like to know what the Gardner's plan to do with the dump they created behind their grandmother's home. Also, about having 2,000 gallons of diesel fuel within 20 yards of his front door.
Daniel –As far as the dump, I hate to be the one to break this everybody but every agricultural deal has a little dump. I'm in the dirt business; I'm not in the dump business. As far as dumping products, I burn trash and we have a little hole we buried that in. There is nothing coming from the excavation business. I suppose I haul a few loads of dirt in there but I don't have it readily available. The diesel fuel originally did start out as an agricultural deal. I do have diesel there that we use in the business. We have other diesel as well. We have on site big jobs they come and deliver diesel there but do we use a tank there in front of my house for fuel on what we're short that's true. I don't know what we need to do there, if we need to do something different I guess we can. But I still see this being quite irrelevant and Mark put me in a new house out in the north 40. I don't see how the diesel fuel in front of my house really relates to that. If I need to do something that will be your call.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the evidentiary portion of the hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the permit for an additional dwelling unit with the seven conditions as recommended by staff noting to the public hearing your concerns. We cannot by statute consider any zoning violations at the time of a land use application such as this. The two cannot be thrown together in the same hopper and dealt with as a condition of approval on one of the land uses. They have been given notice. They have 30 days like any citizen would to come in with a plan of compliance. They still have time to do that and so we are prohibited by law from considering that there is an outstanding zoning violation when we consider this land use application. This is said just to clear things up for you folks so that you don't think that your testimony went in vain. By law we are prohibited from combining the two projects. Commissioner Houpt – Second. I'm assuming an application could come forward unless they wanted to move things so that will be a public venue as well. Commissioner Martin wanted to note that the zone code alleged violations is a different hearing and will be followed up by staff. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A REQUEST TO REZONE APPROXIMATELY 423 ACRES WITHIN THE BATTLEMENT MESA PUD FROM PSR, BC, OS AND CAR TO MDR AND LDR – APPLICANTS: BATTLEMENT MESA PARCEL 5 LLC, BATTLEMENT MESA OFFICE 1 LLC, BURNING ROCK B2:2 LLC, BATTLEMENT MESA LAND INVEST, PARCEL 1-A LLC, BATTLEMENT MESA LAND INVEST. PARCEL 5-1, TRK3 AND 4 LLC, BATTLEMENT MESA LAND INVEST, PARCEL 5-2, TRK 5 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 5-2, TRK 6 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 1 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 2 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 3 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 6 LLC, BATTLEMENT MESA LAND INVEST. PARCEL 7 LLC, BATTLEMENT MESA LAND INVEST. PARCEL OHS LLC, AND THE GRAND VALLEY FIRE PROTECTION DISTRICT – DAVID PESNICHAK

Chris Coyle (Balcomb and Green), David Blair, Debbie Dooley and Eric Schmela were present. Debbie Dooley answered all questions. Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –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; Exhibit F – Response from Road and Bridge Department, October 31, 2007; Exhibit G – Response from Consolidated Metropolitan District, November 5, 2007; Exhibit H – Application; Exhibit I – Letter from Dean Gordon, P.E. of Schmueser, Gordon, Meyer, November 13, 2007; Exhibit J – Battlement Mesa core Area Master Plan, June, 2007; Exhibit K – Denver Post Article, November 13, 2007; Exhibit L – Letter from William L. Lorah, P.E. of Wright Water Engineers, Inc., November 14, 2007; Exhibit M – Letter from Dean Gordon, P.E. of Schmueser, Gordon, Meyer, November 14, 2007; Exhibit N – Letter of Technical Compliance, September 24, 2007; Exhibit O – Letter from Chris Coyle of The Battlement Mesa Company, December 4, 2007; Exhibit P – Updated charts determining the total Acreage and potential Dwelling Units, December 5, 2007; Exhibit Q – Updated PUD Zoning Map illustrating Proposed Zone districts for Battlement Mesa PUD, dated received December 6, 2007; Exhibit R – Updated PUD Zoning Map illustrating Existing Zone Districts for Battlement Mesa PUD, dated received December 6, 2007; Exhibit S – Letter from Mary M. Slattery, January 28, 2008; Exhibit T – Letter from Roy McClung, Mayor of the Town of Parachute, January 24, 2008; Exhibit U – Updated Agreement to Pay Forms, Statements of Authority and Bargain and Sale Deeds for the new owners of property within the rezone area, dated received January 11, 2008; Exhibit V – E-mail and photo regarding the bridge crossing the Colorado River connecting Battlement Mesa PUD to the Town of Parachute, February 5, 2008; Exhibit W – Meeting Minutes from January 17, 2008 regarding "project update and funding options" for the Battlement Mesa Parkway/I-70 Interchange Signal Design by Felsburg, Hold and Ullevig and Exhibit X – Resolution of the Garfield County board of County Commissioners, August 14, 1975. Chairman Martin entered Exhibits A – X into the record. Planner David Pesnichak explained the request, Battlement Mesa Partners, requests to rezone a total of 423 acres in the Battlement Mesa Planned Unit Development (PUD), which is a total of approximately 13.2% of the PUD. Battlement Mesa is located east of the Town of Parachute, Interstate – 70, and the Colorado River. It is proposed to reduce the acreage of Public, Semi-Public & Recreational (PSR), Business Center (BC), and Central Area Residential (CAR) and increase the acreage of Open Space (OS), Low Density Residential (LDR) and Medium Density Residential (MDR).
STAFF SUMMARY
In light of the forgoing, Staff makes the following observations:

1) The proposed zone district amendment is consistent with the goals and intent of the Garfield County Comprehensive Plan of 2000.
2) Although the requested zone district amendment does increase the potential number of residential DUs, the impact of those DUs on traffic, water consumption and wastewater production is expected to be less then the commercial and business oriented zone districts which would be displaced.
3) As the impacts on traffic, water consumption and wastewater production are expected to be less then the commercial and business oriented zones which would be displaced, the impacts from the development can be adequately mitigated at the time of subdivision approval.
4) As the impacts on traffic, water consumption and wastewater production are expected to be less then the commercial and business oriented zones which would be displaced, the proposed zone district amendment does not undermine the approval of the original Battlement Mesa PUD.
5) As is consistent with past practice, at the time of subdivision approval the newly platted subdivisions shall be included within the Consolidated Metropolitan District in order to obtain water and sewer service.

Chris – Essentially the point of the exercise here is to reflect the changing circumstances in Western Garfield County and also the original zoning that had been put in place by Battlement Mesa Inc. at the time that the PUD was approved in 1982. At that point in time Battlement Mesa Inc. which as we know is a subsidiary of Exxon was looking at developing this development as the world oil shale headquarters for Exxon. As a result of that if you look at this it looks like a military base. You have the trailer park, smaller houses at one end and they you have big houses at the other end then in the middle you're going to have all the office space and the commercial center and then a very dense residential component with apartments running along the Spencer Parkway area. Previous to this particular process we have done a couple of things already towards fulfilling the idea we have here as how Battlement Mesa should look in 2008 verses in 1982. The first step essentially was to give to the school district a large chunk of land where they are currently constructing a significant school facility. They are out there now moving dirt and I expect they will be laying the foundation before too long. We're involved in a transaction at this point in time with the Grand River Hospital Authority and they are going to build a big clinic next to where the school district is going in with their facility. We are going to be surrounding those particular facilities with residential areas that will be served by those facilities. Obviously City Market and all of the other commercial retail type facilities are still going to be in place. With reference to the school district parcels that are going to be rezoned we have dealt with the school district on that as a part of planning all this and they have indicated they do not need those additional tracks of land to be utilized. They have adequate property to serve what they believe are the needs of Battlement Mesa, Parachute and the surrounding areas. As a result of that once the plan that was approved back in 1982 maybe even '75 it has all changed. That's why we are here today to essentially try to update all of that and to facilitate that update by the changing of the zoning. Obviously there is a lot of medium density residential and low density residential in this particular type of plan and that is what we perceive to be the type of housing that will be well received in Western Garfield County. It's a type of residential development that is badly needed right now. As we know Battlement Mesa PUD is uniquely situated to be able to meet the needs of the people who could move there in the event the product was available. We have gone to a significant amount of thought, design expense and also a traffic study. In the package you will note one of the concerns expressed was about traffic. We have spent a significant amount of money within Battlement Mesa towards getting that area signalized. We are trying to do our best to mitigate some of the issues that are out there. Bottom line on the deal is that Battlement Mesa Partners are paying for a lot of the engineering work and surveying work; we have met with C-DOT and Parachute towards trying to get the traffic situation mitigated as best we can with limited amount of space and dollars. It's extremely challenging and the problem we perceive today is not being caused by Battlement Mesa. The problems are being caused essentially by the explosion of traffic. The development going on up County Road 215 as well as the Williams Tunnel and all the vendors that are racing around trying to get their jobs done.

Commissioner Houpt – Could you respond to the concern that was brought up earlier about expanding the County Road. I know you have been involved in discussions as we have; the negotiation you were talking about earlier really was about the overpass and connectivity with I-70. Chris – We aren't much of anywhere on that. What we are doing essentially as you know the I-70 thing who knows what's going to happen there. The way I understood it, the CDOT officials were looking at it. Their goal was to have that whole roadway area widened and made more traffic friendly. We have not looked at what it would take to do that. From our position I think it is something we would address. As a developer we would address traffic mitigation on a subdivision by subdivision basis. From a practical standpoint, it's actually a net reduction on zoning. I'm not going to tell you it is a net reduction. Commissioner Houpt – I don't want anyone out there believing that by changing the zoning we're really cutting down on any type of traffic. They think you have shifts in traffic patterns when you change uses. Chris – You know the more people you have up on the Battlement Mesa PUD the more cars there are going to be whether they attend retail or going home. There is no question about that and regrettably this particular roadway system was really not set up to handle that kind of development. Commissioner Houpt – Correct me if I'm wrong, with this change in zoning it adds up to 2,267 dwelling units is that right? Is that total? David – That is total. Commissioner Houpt – And the school district felt as if they were covered on elementary school sites even if this were totally built out to the 2,200 dwelling units? Eric – I spend a good deal of time with Steve McKee going through this process. We both contributed research of who is moving to the area, do they have kids, and do they not have kids to make sure if they did donate the land if it was adequate going forward. Knowing also that the school is also going to be giving up some of their rights if you will so it was critical to both of us to have all the data we needed so that we could create the new school and then have the buildings to create all the housing. Don Chance – I live in Battlement Mesa, 356 Roan Creek Drive. The legal counsel just made the comment that the road system there will not handle this kind of development. I have to agree with him whole heartedly. If you allow this zoning and all these houses are built you're going to see another 2-3,000 people in Battlement Mesa. These people are not going to be working in Battlement Mesa because there is no place for them to work. They are going to be leaving Battlement Mesa, they are going to be going to Grand Junction; they are going to be coming up valley to Glenwood Springs so you have the possibility of another couple thousand vehicle trips a day through that intersection along I-70. I think all three of you Commissioner have been at Exit 75 and seen the chaos it's created there at certain times of the day. Traffic trying to get off I-70 is backed up all the way into the traffic lanes of I-70. Battlement Mesa seems to think that putting traffic

signals up in that area is going to solve the problem. Well it's not going to solve the problem. It's going to make chaos into orderly chaos and that's all it's going to do. We had a good example of the problems that are created, well let me back up a minute. Not only do you have the traffic from the individuals there you've got the greatly increased traffic from the gas well industry. There are a lot of gas wells being drilled up in the Holmes Mesa area and then off to the south along the Battlement Mesa foothills. The water trucks coming up North Battlement Parkway run day and night. It's my understanding each one of those wells requires about 400 tanker loads of water for each well drilling. Adding another couple thousand trips a day to it I just don't see how it's going to be possible. Remember Battlement Mesa was originally a retirement community. It's becoming less of that now but there is an assisted living there. There is a large percentage of retired people. These people require more medical care and more ambulance trips than the normal population. We have a good example of what happens when access into Battlement Mesa is limited. About 10 days ago one of the gas industry water trucks spilled its load of water just to the east side of the Colorado River Bridge. The water froze on the road and access into and out of Battlement Mesa was completely shut off for about 1 ½ hours. If there had been a medical emergency it would have been a terrible situation. While Battlement Mesa certainly has the right to develop this property something has to be done with the traffic access into and out of it. It's not proper and every time we ask about it, it's always the same answer; there's is no money to do anything. Well that's probably true. But shouldn't we wait until we add more people into an already bad situation. Should we wait until this thing is corrected or at least some firm plans are made to correct it before we go further? Commissioner Houpt – Just for clarification, there is current zoning that allows for a number of residential units and commercial space. This isn't an actual application for the building of those units it's changing the zoning use in those different areas. So they're changing some of the areas that were going to be commercial to residential and some of the high density to lower density housing. Don Chance – I think that is kind of a red herring because the property was zoned commercial but in reality no one is going to go up there and build all those buildings in that area. There's no need for it. So the only possible use of that property up there is residential and I have seen some plans that Battlement Mesa has presented for how that property will be divided up when it is sold to developers and it's a lot of houses.
Robert J. Johnson – I live at 258 Roan Creek Drive. I should preface any comments that I have with a question to clarify the issue so that I may know what I'm talking about. I live directly across from what's identified on the Plat that was presented with the hearing notice from the parcel identified as 38 and Lot 4 of Burning Rock Subdivision. Can we put that zone diagram up? It would be in the proposed zone area one. This is the piece of ground I'm interested in. How is that zoned at present? Is it not open space? Commissioner Houpt – Its business commercial and high density residential. Robert J. Johnson - Okay then I really have no comment because I understand what the change is going to be. Judy Hayward – I wanted to know how many residential units are presently on Battlement Mesa. Does anybody have the answer? Eric – 5,000 people plus or minus living there now. Judy – I guess what we are talking about is doubling the size of the population. Commissioner Houpt – With that question in mind I like staff to clarify what the changes in here represent in terms of population verses the zoning that is on the ground right now. David Pesnichak – It is important to note that we are looking at zoning so the numbers that are being tossed around are speculative in that they're maximum numbers that could be built in that zone district if all that came to fruition. Currently if this rezone is approved we'd be looking at potentially 23 more dwelling units at maximum build out from what could be permitted today through standard subdivision and zoning. That could be nullified because residential units are permitted in the business center zone district and they have been represented here. If the business center or zone district were built out and units were put on top of those buildings or a hotel was put in or something to that affect, you're actually looking at much larger impacts than what is represented here and we could actually be looking at a decrease in my opinion in the total number of dwelling units. Commissioner Martin – Reading in the land use, the original approval in 1982 this particular PUD was to allow 23,000 people; a huge development. Commissioner Houpt – I have a question for the applicant. There's medium and low density, do you feel as if affordability has been covered? When I hear low density and medium density I'm not hearing affordability for many people. Chris – We have affordability already built into the system down lower, towards the southwest end of the property. From a practical standpoint at this point in time I would share with you that the plan itself doesn't provide for "low priced housing". The alternative is we are working diligently with various communities in the area who would potentially buy property up there anyway and do employee housing and that sort of thing. Without naming names we are talking to those people right now. We are sensitive to the fact you have to have a place for people to live. Essentially the folks who would be living there from a practical standpoint will be people who will no doubt be in the lower pay scale as opposed to the upper pay scales just simply because of the way the valley and the Grand River Valley works. Commissioner Houpt – Realistically property values have increased in the western portion of the County. What you're proposing here is really contrary to what we have been seeing from studies and hearing in public meetings. When you look at the division of how the county grows you're lowering the density and you're taking school facility land and I know that was with the blessing of the school district. But I have to wonder if that makes a great deal of sense too when we're talking about doubling the population of the community. I'm struggling a little bit with the notion that this is actually going to grow with the needs if there is no affordability built in with that unless you have already done a major analysis of what percentage you have in affordability and how and why that really does respond to the needs of this County now and into the future.
Eric – My job is to create the opportunities for housing for the markets that are here now and coming in the future, at the same time creating a beautiful community. We spent a great deal of time and money on our own research studies that talks about who's moving here and when and why. Like I said they are having babies and the whole bit. Because we know this is our one shot at creating the proper community for the future. We are very sure of our efforts that are before you today as it relates to pricing of affordability, those terms are so difficult to define as times change. But certainly the way our pricing lays out for land and the way that we have construction discussions with future developers is absolutely one of our goals to achieve price pointed product. But all of our parcels are really priced and designed to have multiple different products at the same time. Commissioner McCown - From watching that area since 1981 Eric hit on a very good point, if you would take today's prices and attempt to buy the 423 acres that encompasses the Battlement Mesa PUD and then try to pick out 423 acres in the Roaring Fork Valley immediately adjacent to Highway 82 and buy that you could probably still buy the Battlement Mesa property cheaper than you could buy the raw land in the Roaring Fork Valley. It has forever been the affordable/attainable , what ever the buzz word we're going to use today, housing for

Garfield County. Any articles you read they talk about pushing the work force further down the valley. Well guess what, Battlement is the catch all. And they have done well. They have a cross section of housing all the way from single wide trailers to ultra nice homes on the golf course. I think you have done a great job addressing the market needs that has been in the past and hopefully just because I don't see the level of high density in here I think applies to some other areas , I feel comfortable with your medium density. I think there is enough of a large supply of that. That will feel the needs of the average person if you will. Chris – As far as the roadway situation is concerned I know that is a source of major concern. We don't feel as though the Battlement Mesa itself creates the roadway problems; we believe these are created by all of the other vendors and traffic being generated from the oil and gas industry. People from Grand Junction, people from Silt, people from where ever they come from. It is what it is and there are times when things are uncomfortable in that area. I just got back from Phoenix, if you think it's bad here you ought to go there and Denver. I spent probably, oh gosh I went 15 miles on I-17 at 20 MPH at 8:00 on a Friday evening and we were out in the middle of nowhere. That's just how it is. We are used to moving easily and having no problems here and unfortunately as things develop there are issues but they go away rather quickly with traffic control which is one thing we are really addressing right now. Eric – There is money. C-DOT has committed funds. We have been working very diligently on improvements to that intersection. We are absolutely working as hard as we can, if it's a temporary change that lasts 20 years, we are doing everything we can to make sure the change happens.
Commissioner Houpt – I would agree with both of you that really the congestion wasn't as extreme until we starting seeing more energy activity out in that area. If this weren't a zoning hearing it would probably be an even larger discussion to talk about how we fix that immediately. But recognizing that we are all in a discussion over the County Road and over the interchange I think it's important that continues. I'm still a little in shock that a school district would agree to give away all of the land that they had set aside. Commissioner McCown – I know for a fact that probably prior to Eric's time that Battlement Mesa Partners worked diligently and basically begged the school district to put the high school in Battlement Mesa and lost that fight. Chris – I was involved in that particular fight as well and we were disappointed because they told us that would be such a dynamite campus up there. It is a well considered and well thought decision and I understand your concerns. Commissioner Houpt – So there must be room to expand on the elementary school campus? Eric – One thing we didn't touch on is the annexation 100 years from now. We certainly have protected what remains to be another 47 or so acres of business/commercial property up there. Commissioner McCown – I was in a meeting Friday with the company that just expanded their office building by 25,000 square feet and inside of a year they are out of room and looking for a location for office buildings. I don't think it is unreal to assume that there may be people wanting that commercial area for office space. Commissioner Houpt – I would be surprised if they weren't. I have to ask one more thing because this is community planning; have you talked about that the concern that so many people are forced to commute out because there isn't the commercial component in Battlement Mesa and Parachute that there could be to hold people closer to home. I know that with the energy development that's going on right now more people are staying in the area but you don't feel as if you're ignoring a niche that could be important for keeping people in the community do you for working purposes? Eric – I think the true niche to keep people working in the area in the long term will be oil & gas and if your talking about retail opportunities for employment? Commissioner Houpt – Well a diverse economy is what I always would like to see so that when oil & gas is no longer there, there isn't that question again of what will happen to Battlement Mesa. Eric – Through our design efforts and retail opportunities it is our vision that Battlement Mesa will be able to sustain itself. It is going to take a great deal of time and growth there to get that to happen. Chris – There is enough room as a matter of fact for a Glenwood Meadows. If you wanted to put in a super center there with lots of retail space and other space, some office space even if you want to do that there is plenty of room. This is just a part of Battlement Mesa don't forget. We're talking 3,400/3,100 acres. Bottom line is we are just talking about one part of Battlement Mesa. There is a whole lot more of Battlement Mesa that can be rezoned should we so choose and should the need be apparent.
Eric – That's true there is another 12,000 I think acres of low density residential that surrounds this.
Dave – I would like to point out that the zoning we are looking at here is different than we normally see within the County and looking at just the intensity of each of these zone districts, central area residential allows up to 20 dwelling units per gross acre. Medium density allows up to 12 dwelling units per gross acre and low density allows up to 5. We are still looking at much higher densities than what we could see even under ARRD type zoning.
Commissioner Martin – If I take this right, the total change in the zoning of 423 acres is an increase of 23 units?
David – As calculated.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the proposed zoning of Battlement Mesa PUD from PSR, BC, and CAR to LDR and MDR and that is low density residential and medium density residential. Commissioner Houpt – Second. Commissioner McCown – I too had the privilege of being in Phoenix a couple of weeks ago on 101 going around Phoenix which is supposedly a by-pass and that moves in the afternoon around 5:30 about 5 MPH stop and go. It took longer to get from the 101 by-pass to I-10 then it did from Flagstaff and that is about 12 miles. There is hardly a morning that goes by that traffic isn't backed up on the Interstate 70 at the Grand Avenue interchange. People that come from different directions don't see that but if you come from the west and you don't get off at the West Glenwood Interchange you better plan on backing all the way to the park every morning. This is a normal occurrence; there is no where to go. It's a way of life but we have gotten used to jumping in our car and 30 miles later being at work in 30 minutes and not ever society is afforded that luxury so we are diligently working on this interchange and when the PUD is approved and we start looking at subdivisions I'm sure that conversation will go further if this remedy we hope to see hasn't come to fruition. Traffic is going to be an issue when the subdivisions come in.
In favor: Houpt – aye McCown – aye Martin – aye
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

FEBRUARY 19, 2008
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 19, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

ROAD AND BRIDGE - 27th AND MIDLAND INTERSECTION IMPROVEMENT – MIKE MCDILL

Mike McDill, P.E., City of Glenwood Springs engineer, provided an invitation to the County to participate in a three-way partnership for the improvements of access for both the City and County residents living south of 27th Street and the Sunlight Bridge. The partners would include: Garfield County with a funding assistance of $200,000; the City of Glenwood Springs and the Roaring Fork Lodge, LLC. However, a DOLA energy impact grant is also a large part of the funding as the City is requesting, $500,000. In relationship to this update, the City and County have been talking for a year now about a roundabout at this intersection and also a traffic signal at the eastern portion of the Sunlight Bridge connecting to Glen Avenue and 27th Street. A firm PBS&J was employed by the City to evaluate what improvements might were needed to allow the city to lift a development moratorium in place at the time when the Roaring Fork Lodge LLC project came before the city planning department. They plan to construct these improvements the summer of 2008 as part of their overall project. This will complete the improvements a year ahead of schedule and it will allow them to have the entrance completed when they open and most importantly they will b able to detour traffic through part of their property while the construction of the intersection is underway. This is in itself a huge cost savings in time, construction and traffic control cost. A roundabout has been suggested. Today, the request to the Board is to become a partner in this venture and commit funding amounting to $200,000. Mike McDill stated since he submitted the information to the board, a potential fourth partner has stepped up to help with the design and that is the State of Colorado through the DOLA Energy Impact Assistant Grant project. Mike said the city has not included any funds in the 2008 budget but rather the 2009 budget for this roundabout. The developer is investing the funds but not actually fronting the money. Mike said he is still learning the city's processes on building and the best he can understand the developers are not require to do improvements in the right of way on Glenwood streets. The traffic that is there already is the problem; the new development would add 900 cars per day to a 12,000 vehicle count right now. If we had to build the roundabout just in the right of way without the developer allowing us to use the Roaring Fork Lodge property, it would be a nightmare; however, with the developer willing to use their property to divert traffic is a huge asset.

Mike continued that this request before you today is for a grant of $200,000 but the funds will not be required until 2009. Don pointed out that the request is to budget this amount for 2009 and stated that until the Board budgets this amount they are not legally able to sign a contract with the City. The Board could however submit a letter supporting the Energy Impact Grant.

A motion was made by Commissioner Houpt that Garfield County write a letter of support for this Energy Impact Grant and added we do want to note that we have budgeted these funds for the 2009 budget. Don said the letter would have to include we support the project but have not allocated the money. Commissioner Houpt – but we are willing to be a partner. Don – we can only say we are willing to be a partner but cannot commit funds. He also reminded the Board they have represented to the other municipalities that they are willing to make a contribution of $200,000 for specific road projects. Chairman Martin – this was a commitment to a municipality on a one time basis on specific projects. Commissioner Houpt asked Mike if this money was requested in the 2009 budget because the city hadn't come to us earlier. Mike added that the City's portion says 2009 also. Commissioner Houpt asked Ed since he works on DOLA applications all the time – is there a concern about having all this uncommitted money when the application is submitted to DOLA. Ed – Yes it is because they want to see the 25% dollar commitment amount up front. Chairman Martin said they can waive the upfront money but it need good grounds to do so. Ed suggested obligating the funds in the 2008 budget and they pay out in the 4th quarter. Commissioner Houpt – We could commit $100,000 making the obligation the same as the City. Don suggested that other municipalities will more than likely be submitting similar requests from this Board if you commit funds to Glenwood Springs. There is already a representation to the Town of Silt to give them $200,000 for a road project. Other municipalities will be viewing this as a commitment to them as well. Commissioner McCown – this was a project by project basis and he never intended to grant $200,000 to each municipality on a yearly basis. Commissioner Houpt noted that we have given to other municipalities in the past. Ed stated this would be setting a precedent. Commissioner Houpt suggested that Mike go back to the City and find out how much they can commit this year due to the fact that DOLA is very strict about upfront money. Commissioner Houpt amended her motion to say that we will commit to move the $200,000 from the 2009 budget to the 2008 budget with the payout in the 4th quarter. Chairman Martin said this must be contingent on the grant money from DOLA. Ed asked if Commissioner Houpt wanted this $200,000 to come out of Road & Bridge or out of the general fund.

It was unanimous that it should come out of the general fund. Commissioner Houpt included in her motion that it would come out of general fund and be dependent upon the DOLA grant.

The motion was seconded by Commissioner McCown but he clarified that the $100,000 funds from the City was for the design; the developer is responsible for the $200,000 for 2008 and the City would not budget those funds until their 2009 budget plus another $150,000 as well in the 2009 budget; therefore he felt it inappropriate for the County to commit funds in 2008. We're the only ones contributing any funds in 2008.

Commissioner Houpt responded that it won't be approved unless the City comes up with budgeted money in 2008 as well. Mike said the City has $100,000 in the 2008 budget and $50,000 of that money has already been paid. In kind money will be fronted by the project management and this project will actually be constructed this summer of 2008. The Developer is running all the costs. The $200,000 is to be paid back in 2009 to the developer after the project will is

built. Mike stated the developer is committed to this project with or without the grant from the State because this affects the entrance to their Lodge. Don asked then if there was a contract to reimburse the developer. Mike said no, to reimburse the design. Don – You're asking the County to pay the City to pay the developer. However, until there is a contract with the developer the County cannot contract with the City. Mike – The city has always proposed funds to be budgeted in 2009. In favor: Houpt – aye Martin – aye Opposed: McCown – aye Don –This motion is to support the grant application, the obligation and grant process would have to come at a later time. Commissioner Houpt added, also changing the 2009 budgeted funds to the 2008 budget subject to an appropriate contract.

PRESENTATION TO THE BOARD OF THE MONTHLY BUDGET PERFORMANCE REPORT AND THE BUDGET TO ACTUAL PERFORMANCE REPORT – PATSY HENRNADEZ

The Commissioners had requested a regular update from Finance on the budget and therefore these reports were made and submitted to them.

SWEETWATER FIRE STATION

Chairman Martin stated this is a project that has never been completed. We committed funds in 2004 or before to purchase a steel building to be placed at the Sweetwater Community Center to house a fire truck from the Gypsum fire district. There has been a great deal of discussion about this project and he wants to get it going. The hold up is that we need a survey before we can move forward. Chairman Martin wants to put an agreement in place. Don – explained the last he's done anything on this was in 2004 and the last contract he sent to the Sweetwater Community Inc. was to deliver a building for $10,000, $5,000 for the easement and $5,000 for the foundation; he had yet to receive a signed contract from them. Chairman Martin – the fire department in Gypsum has promised a fire truck to be parked there but we need a contract in order to put a building on community land and use funds to do so. Don suggested he could advise the Board in an executive session because it has been a while since this has been discussed. We are talking about $25,000.00. Chairman Martin – no, it was only pieces and parts of a building that was at Fairgrounds and also at the Airport. The cost of a new steel building is $11,000. Don said the original contract wasn't for a new building. Nothing has been done on this since 2004. Ed – The building Chairman Martin is talking about is junk. Commissioner McCown – It was from the CB tract and it was only pieces. However, the Board has more enthusiasm about this project than Sweetwater and asked that Sweetwater pick up the ball and move forward with this building. We go through this every year and Sweetwater Inc has done nothing – I'm starting to lose interest. Chairman Martin – We need something concrete and we will have a quarterly meeting with Sweetwater Community Inc.; it has been difficult to keep things going. He will meet once again sitting down with the folks, and try to get a contract to get this moved forward this year. Don asked if a $25,000 supplement was needed to get this moved forward. Commissioner Houpt – stated it was not budgeted. Lou – It is for the fire department piece at their community center; it will house a fire truck donated to them by the Gypsum Fire District and he supports this. It will help in the wildfire efforts. Chairman Martin – This structure will be in Garfield County at the Sweetwater Community Center.

Commissioner McCown made a motion to do a budget supplement and support the project. Patsy – is this from the general fund grant? Yes. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

SHERIFF OFFICE PDO BUYOUT – PATSY HERNANDEZ

Patsy presented the Board with the Sheriff's buyout information saying there were 5 employees and the amount of the buyout was $1002.61.

A motion was made by Commissioner Houpt that we approve the Sheriff's PDO buyout of $1002.61 for five Sheriff's employees who qualified.

The motion was seconded by Commissioner McCown. In favor: Houpt – aye McCown – aye Martin - aye

ROAD AND BRIDGE – CONSIDER REQUEST TO CHANGE A STOP SIGN TO A YIELD SIGN COMING OUT OF SPRING RIDGE DRIVE ONTO CR 125 (DRY PARK ROAD) – MARVIN STEPHENS.

John Traul, DDS submitted a letter to the Board stating that the road coming out at Springridge Drive is on a slight up grade as we come to CR 125 and it creates a problem for the residents to come to a full stop and get started once again. The request is for the Board to replace the stop sign at the intersection of CR 125 and Springridge Drive to a yield sign. Marvin Stephens stated his concerns about taking off the stop sign saying it is a liability. This road is uphill and when the snow is piled up you're not able to see if traffic is coming. We need to put more gravel at the intersection but more development is coming in this area and once a stop sign is in place, it should stay a stop sign.

The Board will take Marvin's suggestion and leave it a stop sign. Potholes – Marvin said the department will do as much as possible. Some frost laws may need to be put into place. His guys have done a tremendous job of patching the potholes and there is quite a few of them on county roads.

LIBRARY – REQUEST FOR APPROVAL OF NEW BOARD MEMBERS – GARFIELD COUNTY LIBRARY DISTRICT

Executive Director Amelia Shelley and Nella Barker, Chairman of the Board of Trustees was present.

Nella Barker, Board President of the Library District submitted the names of Marilee Rippy and Michael Weerts to be appointed to the Library board of Trustees. She added that they have been trying to attract a candidate from Silt with no response. Marilee Rippy lives in New Castle and Michael Weerts lives in New Castle.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the appointment of Marilee Rippy and Michael Weerts to the Library Board. Don – Your practice as been to accept the recommendation of the Library Board and then move forward on those recommendations; I would like to amend your latest resolution on this so that the resolution in place reflects the practice so in the future there is no misunderstanding of when the Library Board when recommend trustees to the County Commissioners will act on these recommendations instead of a committee appointing Library Broad members. The Board agreed with this amendment.

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

Ex session items – Ed Green

Ed – one relates to negotiation regarding 10 lots that we own in Rifle Village South that we've talked about; negotiations regarding affordable housing project in Rifle and negotiations regarding senior programs.

Ed will be attending a meeting Affordable Housing at lunchtime today.

COUNTY ATTORNEY - DISCUSSION AND DIRECTION TO STAFF RE: DIVISON ORDERS – ANTERO

Carolyn Dahlgren – in the packet there is a picture of the wells that have been drilled by Antero Resources in the unit that we think of as the Agnes Hunt unit; this property that we have was purchased from Agnes Hunt. There are a series of Division Orders that need to be signed and Carolyn is bringing these to the Board and also letting you know that administratively Ed and Don and the rest of the world made a decision will now go through Judy Jordan and not the County Attorney's Office because they are fairly consistent. It's just a matter of figuring out if the Division Order is related to this Airport property because any money that comes in from the airport property goes into the Airport Fund. So, first of all I'm looking for authority from the Chairman to sign the Division Orders but I want to know in the future do you want them on the consent agenda, do you want to authorize the Chairman to sign them when they come in outside of your regular meeting schedule or do you want us to agenda them this way and give you an update on what's going on in that unit. These are the wells being discussed today: Gypsum Ranch A1, Gypsum Ranch A2, Gypsum Ranch A4, Snyder A10, Snyder A5, Snyder A4, Snyder A3 and Snyder 112 were submitted and request made for the Board to sign the bottom hole locations division orders. Commissioner Houpt would also like to have an update whenever we sign something. Carolyn – In March Antero is going to bring to you a proposed amendment to the oil and gas lease that we have with them because we actually have more land and more mineral ownership in that unit than we thought- than Antero thought – that for sure has to come to this Board. Commissioner McCown is fine with these on the consent agenda. Chairman Martin said, and if you'd bring an update that would be fine too. Commissioner Houpt – It's always good to have an update. Carolyn – Two of you are saying you want an update and one a consent agenda. Chairman Martin – Not necessarily, because what it amounts to is on the consent agenda you can always ask for them to be discussed individually and an update be given at that time. Carolyn – Ok, put them on the consent agenda unless there's any update, then if so, pull them off.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to have Chairman Martin sign the Division Orders as they come in. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY - DISCUSSION/AUTHORIZE CHAIR TO SIGN 305/306 WAIVER LETTER - ANTERO

Hannah Knopping, Permit Representative for Antero Resources submitted a copy of a previously signed 305/306 waiver letter that was good for one year. This is to allow Antero to submit additional permits for this well pad and would therefore need an updated letter of waiver. The County is the surface owner on which Antero Resources Corporation intends to place the subject well pad.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to sign the waiver letter.
In favor: Houpt – aye McCown – aye Martin – aye Judy Jordan will get these from now on.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION – LITIGATION AND UPADE AND LEGAL ADVICE - - UPDATE ON HUNTLEY, VANBLAY AND WIGGINGTON; DIRECTION CONTRACT 204 WITH MATT ANDERSON, JOHN'S DIRECTION ON THE OIL SHALE DISTRUTUTION; – LEGAL ADVICE ON TYBAR AND BAIR CHASE/SANDERS/CATTLE; AND CR 233 – HISTORICAL INFORMATION

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:

OIL SHALE TRUST REVENUES

Direction – there will be a meeting this week of stakeholder concerning distribution of oil shale trust revenues; the Chair of the Board has requested that the Board take action giving direction authorizing him to that meeting and setting the parameters this issue. Chairman Martin informed all that attended that the meeting will be Thursday at noon until 2:00 p.m. - State Capitol Room 109. We had a limited time to respond and John called Larry, Tresi was out of town, so he scheduled to go. Commissioner Houpt – Good that he can go, AGNC has discussed a position and we'll let Larry talk about that, Senator Salazar and Congressman Salazar are putting together a Bill to direct the monies to Garfield County and Rio Blanco County and it's very important and also that Senator Allard, has been included in the discussions – it's important that this should be a significant part of the discussion. Commissioner McCown – The position that AGNC has taken first and foremost given the fact that this was becoming a fairly significant pot of money sitting in Washington, DC, we wanted to ensure that it got back to Colorado and secondly, our concern was that going into the oil shale Trust Funds, those funds, by statute and the origin of legislation, the legislature still administers those funds and we wanted to ensure if possible by our Washington delegation that if those funds come to Colorado through the Oil Shale Trust Fund that they be earmarked to be returned to the local counties which are impacted which clearly would be Garfield and Rio Blanco where this activity is taking place. This money has been generated since the Anvil Points clean up has been designated as being in need of funds to clean that up. There is well than more enough money probably somewhere in the $85 million sitting there. The fund is growing at over $1 million a month and that is sitting in the federal coffers and there's quite a bit of concern given the proposed budget cuts that this will be looked as a source of federal funds so it's critical, number one by the Ominous Bill I guess that was signed, we lost 2% of it by default. There's legislation in there by Senator Salazar to try to restore that whether that will happen prior to the distribution to these funds, no one really knows. We may have lost 2% of that pot by default. It's still important that this, number one come back to Colorado first and not be spent in other areas of the nation and number two, as the legislation was written if it goes into the Oil Shale Fund it should be distributed back to the counties of impact, the counties of origin. Commissioner Houpt – It's a really important point especially since there's so much discussion on where federal mineral leasing and severance taxes will go and everyone in Colorado is feeling as if they need a piece of the pie. Chairman Martin - I want to drive that issue home and the real concern we do not want it to go into the federal mineral cascade formula and wish to put that in the trust fund and not the other distribution because we won't see any of it. Commissioner Houpt –We need to support this separately and identified at the D.C. level instead of the state level. Chairman Martin has his marching orders. He will be gone on the land use meeting. The direction was given in the proceeding comments. No formal vote was needed.

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

COMMISSIONER REPORT

None given

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 Maintenance Service Contract with Aviation Systems Maintenance, Inc. (ASMI)
f. Authorize the Chairman to sign the Resolution of approval for a Special Use Permit for one Temporary Employee Housing facility located approximately 13 miles north of the Town of Parachute and operated by Marathon Oil Company (on well pad 596-33C). Applicant: Berry Petroleum Company – David Pesnichak
g. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for four Temporary Employee Housing facilities located approximately 13.3 to 21.5 miles north of the Town of Parachute and operated by Marathon Oil Company (on well pad 697-18A, 697-1C, and 596-31A). Applicant is Berry Petroleum Company. – David Pesnichak
h. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit and a Special Use Permit for an Accessory Dwelling Unit located at 134 County Road 303, Parachute. Applicants are Daniel and Mark Gardner. – David Pesnichak
i. Authorize the Chairman to sign the Partial Satisfaction of Subdivision Improvements Agreement for Springridge Reserve Subdivision Phase III. Applicant is Springridge at Glenwood Springs Development Corporation. – Fred Jarman
j. Authorize the Chairman to sign the Resolution and Conditional Use Permit for the North Clear Creek Construction Materials Mine. Applicant is Chevron USA, Inc. – Fred Jarman
k. Authorize the Chairman to sign the Partial Satisfaction of Subdivision Improvements Agreement for Phase III of Springridge Reserve. Applicant is Springridge at Glenwood Development Corporation. – Fred Jarman
l. Authorize the Chairman to sign the T.O. Ranch Subdivision Amended Plat – Applicant is Jim Pitts – Craig Richardson
m. Authorize the Chairman to sign the Battlement Mesa, Town Center, Filing No. 6 Final Plat. Applicant is Battlement Mesa Partners – Craig Richardson
n. Authorize the Chairman to sign a Resolution of Approval for an Exemption from the Definition of Subdivision. Applicant is TLCCO, Inc. – Craig Richardson

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

HUMAN SERVICES COMMISSION – HEALTH LITERACY
MARGARET FEDERALL

The report was given by Margaret Federall and she stated they appreciated the support at the Humanitarian Awards dinner by the Commissioners who attended. She reported on Health Literacy saying that Garfield County see affordable housing as a huge issue. Health Literacy is communication in English; Individuals may work or have inadequate work skills. This is not just skills to read. It involves evaluating information and analysis and risk benefits and how this affects us. A report was submitted. Jenny Lindsay explained the connection and highlighted some of the issues: not being educated, language barriers, not knowing the resources in the community, transits and being able to take time or energy to not know. They don't read the newspaper and it is a constant education process. In Mexico they call the clinic the hospital and we see it almost every day at the Mountain Family Clinic Facility. Martha - The reason they go to the ER is due to the fact that they can't take time off from work, or they can't be seen after hours and usually they do not have a relationship with the doctor so ER is the only option. Margaret reiterated what Martha said and they are trying to work with families to remove barriers to health care. Last week legislature said they want all kids covered by 2010. The term medical home is something you'll hear more and more. Regional Health Seminar – Amazed at the number of human health care agencies. The issues were insurance coverage for themselves and not just those who receive the services. Smaller agencies are really struggling to keep their workers covered. Commissioner McCown – How is illiteracy tied to health care – can they simple not afford to buy the insurance. This is a two-fold problem: those with literacy struggle and those with out literacy skills still struggles to maintain a living in the County.

HUMAN SERVICES - APPROVAL OF EBT/EFT DISBURSEMENTS FOR JANUARY 2008

Lynn Renick and Karen Meyer-Binde assistant director were present. For the month of January 2008 the client and provider disbursements for allocated program, food assistance and LEAO totaled $368,361.90 and Lynn requested approval of the Board for these expenses. Commissioner Houpt so moved. Seconded by Commissioner McCown.
In favor: Houpt – aye McCown – aye Martin – aye

HUMAN SERVICES – CONSIDERATION AND APPROVAL OF THE 2008 LEASE AGREEMENT AND THE 2008 HUMAN SERVICES CONTRACT WITH CHILDHELP, INC. REGARDING THE CHILD ADVOCACY CENTER AND APPROVAL OF THE QUIT CLAIM DEED FOR RIGHT OF WAY – DEB QUINN AND LYNN RENICK.

Debbie Quinn and Lynn Renick submitted three items for the Board's approval:

1. A copy of the Lease,
2. The Human Services contract and
3. A copy of the quitclaim deed for right of way for the Board's review and approval.

Lynn said we amended the lease to an 80/20 this year, have put two staff people over there. Debbie Quinn – Lynn covered the items and she covered the quit claim deed for the right of way for a pedestrian easement that is no longer wanted by the city. February 26th is a meeting to amend the document. This is the last standing document to get in the way of the CO.

A motion was made by Commissioner McCown to approve the three documents and authorize the Chair's signature.

Carolyn stated she would like the Chair to sign as soon as we get an amended development agreement so that we can sign them at the same time to make sure everything is done. Commissioner McCown so noted and I would include that in that in my motion. Commissioner Houpt seconded the motion and also asked a question on the contract with Childhelp where it talks about ownership of documents; is that going to be a conflict at all with their national program; they have numerous materials that they create for their programs and I'm not sure just how that relates to this. Debbie stated that Childhelp is not an issue; they have had Childhelp representatives review this contract from last year as well as this year and it's not been an issue. We are just now being able to look at the national standards so if there is any problem we can come back and talk to you about it.

Commissioner Houpt said she had that same issue with a conflict of interest paragraph, but you'll come back to us if there's a problem. In favor: Houpt – aye McCown – aye Martin – aye

HUMANSERVICES – CONSIDERATION AND APPROVAL OF THE NOTICE OF GRANT AWARD AGREEMENT WITH THE AREA AGENCY ON AGING OF NORTHWEST COLORADO

Lynn submitted the notice of grant award with the Area Agency on Aging of Northwest Colorado stating the contract has been increased by $24,820. She requested the Board's approval of the increase on a revised Notice of Grant Agreement.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the notice of grant award agreement with the area agency on aging and the Chair authorized to sign.

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

HUMAN SERVICES – CONSIDERATION AND APPROVAL OF PURCHASE OF SERVICES AGREEMENT WITH COMMUNITY HEALTH INITIATIVES FOR THE HB 1451 COLLABOARATIVE MANAGEMENT PROGRAM

Lynn stated the Re-2 School District, the 9th Judicial District Probation Department, the Division of Youth Corrections, Colorado West Mental Health, Public Health, Youthzone and Human Services have actively been working on a pilot program proving assessment and services to identified at-risk youth and families specifically involved in one of the two RE-2 middle schools. Lynn requested approval of the Contract which is for an amount not to exceed $17,000 with Community Health Initiatives, Inc. to provide the Collaborative Management Program. She added that the State is to conduct data collection and outcome measurements. This is HB 1451. We need an evaluation process to show legislature the outcomes at the end of the fiscal year. The outcome measurement is $17,000.

Commissioner Houpt so moved and seconded by Commissioner McCown.

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

PROGRAM REPORTS

GARFIELD'S NACO PRESCRIPTION DISCOUNT CARD PROGRAM

PRESCRIPTION AND POSTERS – SIGNED CONTRACT – MARCH 17 – CAREMARK TO MAKE CONTACT WITH ALL PHARMACIES.

Lynn stated the rollout date for these prescription cards is still scheduled for March 17, 2008. Distribution points as being determined and the pharmacies are being contacted by Caremark.

Commissioner McCown asked if there was anything to monitor the cost of prescription prices if they go up on March 18th. Lynn did not know. She agreed to verify the cost and get back to the Commissioners with a report.

211 EXPANSION DISCUSSION UPDATE

Lynn stated her department has been in contact with Mesa County regarding the possibility of expanding the 211 Info line. At this time TANF funds may be available to support the growth of the 211 system into Garfield County.

HUMAN SERVICES – CONSIDERATION AND AUTHORIZATION FOR SIGNATURE FOR THE 2008 GARFIELD COUNTY METH TASK FORCE CONTRACT WITH FISCAL AGENT, COMMUNITY HEALTH INITIATIVES AND UPDATE BY EXECUTIVE BOARD OF THE GARFIELD COUNTY METH TASK FORCE AND A BRIEF UPDATE ON THE COMMUNITY PREVENTION PARTNERS PROJECT

Lynn Renick, Jeff Cheney, Assistant District Attorney and Shelley Evans, Coordinator of the Community Partners Project and an officer of the Meth Task Force were present. Lynn submitted the request for $25,000 in the 2008 budget in support of the goals and activities of the Garfield County Meth Task Force with the Health Initiatives and a small change to the contract; they are acting as the fiscal agent. The contract is with a fiscal agency and they meet the insurance requirements. They are not a 501C3 yet. Lynn stated on the professional liability on page 6 it was left blank, need the BOCC to approve it. On the contract she wanted to note we would be paying out on a monthly basis and part of the lump sum is to leverage for additional funds. Lynn requested approval.

Commissioner Houpt so moved; seconded by Commissioner McCown.

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

Jeff Chaney and Shelley Evans presented the updates and provided a handout to the Board. This Meth Task Force has been supported by the Commissioners and they have been operating for 14 months; they have organized and spun off into smaller sub-committees focused on a specific issue. Meth attacks the nervous system and acts as a stimulant. They are studying the problem. Meth has passed cocaine usage and now the statistics show that 47% of the cases studies involved were meth use as compared to 44% cocaine. Meth is becoming a problem; people are telling us that a lot of crime is due to Meth use and as a task force they are multi-faceted. Treatment and prevention: children are affected when parents or custodians use Meth. Kids are snatched and put in foster care as well as incarcerating the parents. They have created a mission statement and are making goals and objectives to pursue those goals; the schools are willing to put forth the message. The goal now is to get this fully off the ground, trying to get airborne to accomplish a lot of things we need to; one is they are creating a scholarship for those individuals to get the help. Get to them before they get into the criminal justice program; it's a needs based treatment. Community awareness: articles were provided in packet. Many teens believe Meth can be used for weight loss.

Shelley Evans, treasurer and secretary, Carman Encino, Mark Sension and Shawnee Barnes are on the Meth Task Force. Shelley Evans explained the program going on in Rifle at the high school. She explained that underage drinking is a real problem and statistics taken at the Rifle High School and Rifle Middle School indicate that an alarming 10% reported they have used meth. Commissioner McCown has been told it is definitely not an experimental experience. It is very addictive. Community Corrections gave their experiences. Self reporting is a small percentage as to what it is. They

had an adult who was clean for 5 years; he took time off from work to come and do the presentation. He has been giving talks in the RE 1 and RE2 school districts; he is organized to get into the schools. He has a humble background and paints a picture very dim as to where he was 5 years ago. They are organizing a schedule; they can do a general presentation and then present what the schools want us to present. Jeff said the reports indicate meth has reached 8th grade and beyond. 8th graders are more in-tune to the Meth issue and more receptive; therefore 8th grade is the pinpoint. Community Health Initiatives – another is the underage drinking; they have focused on this for two years. They have a strategic plan and details about what this project is about. She reiterated the highlights. They have 11 county-wide policy boards; members such as Commissioner Houpt, Lynn Renick and Mary Meisner meet quarterly and get updates from Shelley Evans. One meeting held recently was with judicial sentences; DUI convictions are not consistent through the district courts and they need more consistent sentences with underage drinking. Rifle has been identified as high risk for underage drinking and they have narrowed it to Rifle in order to get a pilot program started. The liquor enforcement people did a sting operation and checked with 26 retailers and 1/3 did not pass. This means that 1/3 had sold alcohol to minors. They are working on getting a dual relationship between police and education is the key to helping them to conduct compliance checks. Both the City Council and the Rifle Chief of Police have made it a new policy that they could engage. They met the community partners one of which is Kirk Wilson and he met with the retailers and asked for their help. Rifle is not enforcing tips training for retailers. They are allowing the selling of alcohol but not enforcing the laws. City Council asked the clerk to enforce the certification process and require that all staff have the training in selling alcohol. There is one Spanish speaking retailer; all retailers attended the training. The Department of Revenue (DOR) came back and trained the police department. When they did the checking once again 8 of 9 passed. At the present time they need a resource officer and need to put some funding in their budget to fund this position. Rifle public school superintendent of RE-2 is a great advocate for programs to eliminate underage drinking. He formed an advisory committee and the outcome was a health teacher to revitalize their health course to include making better choices. The meth task for is ready to start with the grant process; the parents raised $40,000.
Data will be collected in Colorado in the Healthy Kids Survey. This will occur in March in Rifle and the concern is the number of kids who had considered suicide. Usually this involves kids who have no involvement in school activities. The program was started in Rifle because the community was invested in the program; if other areas are not interested we cannot force them to do anything. Parachute is interested and agrees to expand this program; however, no expansion is projected for another year in order to determine the outcomes of the one program. Shelley – they have had good PR and local newspapers have written articles and it has generated interest from other communities, so we hope to expand.

PUBLIC HEALTH - CDPHE IMMUNIZATION CONTRACT

Mary Meisner, Jim Rada and Carolyn Dahlgren were present.
Mary Meisner submitted the task order, waiver #154 for a maximum of contract price of $55,969.00 effective upon signature of the State Controller and shall end on June 30, 2008. The purpose of this shall benefit the Garfield County Public Health Nursing Service for a specific scope of work to formulate public policies in collaboration with community health leaders designed to solve local immunization access by promotion, educating, supporting and evaluating access to appropriate immunization services and supporting the Colorado supplemental nutrition program – WIC.
Commissioner Houpt made a motion that we approve the contract and authorize the Chair to sign. Seconded by Commissioner McCown. In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEALTH - PROGRAM

Environmental Health position – No. 2 will be coming on board on 2-29; the new staff is from Florida. Jim explained they have hired a second person in the Environmental Health area of public health. Jim also mentioned the retirement party for Brenda Slappey. The Board recognized her good work.
PDEHE Contract - Jim Rada – looking at the state appropriated $300,000 enhancing west slope air quality monitoring. State is interested in providing $146,000 to Garfield County for a monitor and ozone monitor. It will do monitoring and will include a camera looking over down valley toward the Roan Plateau. They will establish a scope of work, hire a consulting to identify sites, purchase equipment, operate and gather data, as well as provide funding to manage the program and pay some cost to continue monitoring. Jim had initial conservations with Don DeFord and Matt Anderson; the cost is $146,000 plus and if the Board has not objections, he will continue working on it. Commissioner Houpt – This sounds wonderful. Commissioner McCown asked how many are working on a PM2.15. There are some in Grand Junction and a number on the Front Range. There is a standard for PM2.15.Chairman Martin mentioned we are seeing mercury from China; diesel engines that pollute the air from I-70; and all this needs to be considered in air quality monitoring. Commissioner McCown – On air quality monitoring, the state doesn't have adequate equipment to measure and they don't know what they are mitigating, yet we are forced to mitigate. We have air flowing through here from Mexico, southern California and we do not know how much is coming from out-of-area; there is no base line data so the state is responsible and has failed

DISCUSSION OF SILT MESA ROAD – CR 233 – C. J. LETZELTER

Carlos Leyba and C. J. Letzelter submitted a map showing the location of the road in question and also a photo of the sinkhole. Antlers Orchard is the subdivision and it was deeded back in 1909 before subdivisions were established. During the last 9 years the property was sold into 10 acre lots. 30 families live out there now and the road is in poor shape. There are many issues but they do not have a Homeowners Association. Carlos and C.J. have been maintaining the road but they can't do it anymore. Today they are here begging for funds. Everybody wants the road to be nice. They referenced emergency services and the fact that an ambulance would not be able to use the road in the condition it is now to provide services. Carlos had a culvert fail in the same area and it was extensive to replace it. A neighbor living in the Antlers Orchard wouldn't let us go 6 feet into her property. A lawyer told us he had talked to the County about maintaining 260 feet of road and there wasn't money in the budget to handle any more roads. Now is the time and this is why we are here today; the road is 2600 feet in length. CJ asked the county to take on the maintenance of this road and stated he will maintain the other 260 feet of road. The Commissioners explained the difference between county roads and public roads and no new county roads have been taken into the county since the mid-eighties. On public roads you still need permission to change out culverts. Marvin explained that in earlier days there was a time or two when they would put a grader on the road but he is not sure where the road actually is without a survey. There are houses built on the actual platted roadway. Marvin stated that even if the road is a private road, culvert replacements still must be

discussed with Road and Bridge. CJ once again stressed the safety of the 30 families who live out there; this property was sold by the Jewell family. They need help from the community to make this a nice subdivision. Commissioner McCown responded by saying the road highlighted on the map shown to the Board is not where the road actually lies. This road was done by Don Jewell when he built the 2 acre lots. Carlos – Garrett Brandt in 1969 deeded the new property but did not accept responsibility for the road maintenance. He kept us in limbo 2 years ago. Commissioner McCown stated that the County accepts roads in others in subdivisions as public rights of ways and it is the responsibility of homeowners to maintain the roads. We are not taking any roads inside any subdivision. He certainly didn't deny the condition of this road but the answer is always the same; this road goes toward the east and it never has been a county road, it's a public road. This subdivision came in with a Phase II; there was no maintenance agreement yet 7 homeowners are now responsible for that section of road. He suggested getting an attorney and forming a Homeowners Association and start assessing people to maintain the road. You will need to get a legal description of the road; the old road is not the same as the one you are currently using. He alluded that CR 233 follows on the dotted line way out by Burns, way east. This map you've shown us today is not an accurate map of the road. As to taking in taxes and not providing services, we do maintain the Silt Mesa Road and it is the one you access to get to a public highway system. We maintain 790 miles of county roads and that's why we're not taking on anymore roads and we haven't since the mid-80's. They are all public roads in subdivisions. Commissioner Houpt agreed that it makes sense to put an association together then establish such as a special district that affects the homeowners and assesses a fee. You need to have everyone on board or at least a majority that's willing to pay. CJ said 2/3rd are not willing. Carlos called attention to the tax notice; Road and Bridge fund - $15 to $20 to take care of county roads. Marvin said the County does take care of wastewater and we have to take care of tail water. Don stated if the majority doesn't want to fix the road, then a civil action is the only thing you can do. Commissioner McCown stated that it cost the County $2.5 million to build a ½ mile of a road. Laurie Wagner – What is called CR223? What point will the Commissioners quit approving homes in this area due to safety issues? Commissioner McCown – Once again reminded Laurie that this was approved in 1909 as Antlers Orchard. There were no conditions placed on it and it was the worst thing to happen. None of you would have your homes had it not been approved. It's still on the books to circumvent our land use process. The lots have already been approved. All of it is Antlers Orchards. It was owned by Jean Mobley. C.J. said they will talk to him before he sells off more land. Commissioner McCown reiterated that when we do a subdivision we have a Subdivision Improvements Agreement and a Homeowners Association is formed and there are provisions for road maintenance in this agreement. Reference was made to the Canyon Creek Special District where they formed their committee; held an election and it passed. The Assessor and Treasurer held the funds collected until there was enough to re-do the roads. It was a ballot question and only affected the people on that road. Chairman Martin answered CJ's question regarding an election stating it is general election question; had to be approved by us to be on the ballot and it will just be for the special district in the Antler's Orchard Subdivision. You need a lawyer to help you through this but it will be a good investment. It would only affect the people in the district. They are the only ones who can vote on it. CJ - It was estimated to cost between $5,000 and $6,000 to put a little road base to fix the road to a drivable surface.

DISCUSSION/AUTHORIZE CHAIR TO SIGN ESCROW AGREEMENT RE: ROSE RANCH – TIM THULSON AND CAROLYN DAHLGREN

Carolyn Dahlgren and Tim Thulson submitted the escrow agreement for Rose Ranch explaining that the escrow holder shall disburse the sum of $37,500 to Rose Ranch upon escrow holder's receipt of written confirmation that as to each Affordable Unit has been satisfactorily completed:

1. Footing and Foundation Wall;
2. Plumbing, Chimney and Vent and gas piping;
3. Framing and Insulation and Drywall;
4. Certificate of Occupancy (Temporary or Final)

Carolyn stated that Tim Thulson and I told you we would get this on the consent agenda in December but we weren't able to do so. According to Tim he now has the dollar amount and agreement of his client. The Board has already seen a draft of this document. It's an escrow agreement between the motions of the BOCC that carried and reflected in the exhibit. The escrow agreement is a three party agreement with an escrow company – the Board, the developer and the escrow company. Tim added with regard to the deposit the last time before you said 10% would go against the certificates of occupancy; we entered 118; the planning department counted 119; we're trying to figure out the discrepancy and it was irrelevant so we are going to bond 12 units. This is going to be 12 x $150,000 that will be deposited in the escrow agreement of $1.8 million and this meets with the Resolution. It can be circulated and has to go out to Delaware and will be in place before you accept it on March 10th. Carolyn reminded Tim there was a catch up provision, the number of houses have to be caught up by the end of this year. Tim said in that regard, I know we have two building permits pulled and they are advertising the units right now.

A motion was made by Commissioner McCown that the Chair be authorized to sign the escrow agreement for Rose Ranch. Seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner Houpt asked Tim the price of the affordable homes and who could qualify? Tim said David was working on this with Geneva of the Housing Authority. Tim is working on the contract right now. He feels they will be priced according to the regulations.

ABATEMENTS:

RIFLE LODGE - SCHEDULE R361881

Notification to the petitioner has been satisfied. Chairman Martin swore in Lisa. Lisa Warder presented the abatements. Rifle Lodge #1345 was determined on December 19, 2007 to be exempt effective January 1, 2007. The exemption was forfeited in 2007. The organization has requested and received SBOE approval to file the exempt property report after the deadline and based on the information, exemption is being restored. The Abatement is for $6,775.72.

J-W POWER COMPANY - SCHEDULE P909046

The petitioner stated that the taxes assessed against the property for property tax year 2007 are incorrect because compressor unit #4164 was erroneously rendered to Garfield County for tax year 2007. Said compressor was actually located in San Juan County, NM on January 1, 2007 and was assessed by San Juan County Assessor. This was

confirmed by a phone call to the San Juan County Assessor and a subsequent fax sent documenting the assessment. The abatement is for $1,073.64.

WESTERN OILFIELDS SUPPLY COMPANY- SCHEDULE P006125

The petitioner states the taxes assessed against this property for tax year 2006 are incorrect.
Personal property list that was reported by the company was incorrect as it included frac tanks.
The company has provided proof thru cancelled checks that these tanks have been plated with
SMM tags thru the Clerk & Recorder's office. Double taxation has occurred. The abatement is
For $31,636.54. A new policy is in place now and that is for them to discuss SMM tags with the County Clerk.

WESTERNS OIL FIELDS SUPPLY COMPANY-SCHEDULE P006668

Petitioner states that the taxes assessed against the above property for the property tax year 2005 are incorrect in that the company incorrectly included their frac tanks. The company has provided proof through canceled checks that these tanks have been plated with SMM tags through the Clerk & Recorders Office. Double taxation has occurred. The abatement is $50,769.41.

NEW CREATION CHURCH - SCHEDULE NO. R040296

This is the 2006 and 2007 tax years; the division of property tax determined that an exemption should be granted as of October 9, 2006 when it was classified as agricultural and then later when it went to a market value in 2007 the taxes abated are for 2006 $46.28 and for 2007 $12,285.36.

RICK D. AND MELANIE G. ROSSOW- SCHEDULE NO. R100119

This property had a foundation on November 6, 2006 but there was no other activity, so as of 11-07 there was only the foundation. Therefore this should have been classified as residential for 2007 and an abatement of $1882.54 is due.
Commissioner McCown moved to close the public hearing; motion seconded by Commissioner Houpt. Motion carried.
A motion was made by Commissioner McCown that we approve Western Oilfields Supply Company, Schedule P006125 in the abatement amount of $31,636.54.
Seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we approve the abatement for Rifle Lodge, Schedule R 361881.
Seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we approve the abatement for J.W. Power
Company $1,073.64. Seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we approve the Westerns Oil Fields Supply
Company Schedule P006668 for $50,769.41. Seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we abatement for Schedule R040926 – 08
115 in the amount of $46.28 for 2006 and $12,285.36 for 2007.
Seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we approve the abatement for Schedule No.
R100119 in the amount of R$1882.54 and authorize the Chair to sign the Abatement.
Motion was seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REQUEST FOR A RURAL LAND DEVELOPMENT OPTION EXEMPTION FOR THE TYBAR ANGUS RANCH. APPLICANTS: DAVIS MESSA RANCH ESTATES, LLC AND DAVID K. DANCIGER SPECIAL POWER APPOINTMENT TRUST – FRED JARMAN.

CONSIDER A RURAL LANDS DEVELOPMENT OPTION EXEMPTION FOR THE TYBAR RANCH – APPLICANTS; DAVIS MESA RANCH ESTATES, LLC AS TO PARCEL "A" AND DAVID K. DANCIGER, SPECIAL POWER OF APPOINTMENT TRUST AS TO PARCEL "B" – FRED JARMAN

Doug Pratte, Mark Nieslanik, Chris Manero, Tom Todd, Carolyn Dahlgren and Fred Jarman were present.
This was postponed due to the newspaper publishing a 6:30 p.m. agenda time and it was either a matter of postponing and renoticing or wait until 6:30 p.m. that day. The Commissioners and the applicant chose to renotice for February 19, 2008. Property is 733 acres – The records were checked with the Clerk & Recorder's office and Doug Pratte said Mineral Land Services did severed minerals and oil and gas and coordinated the search with Land Title. Clerk's office was checked December 6, 2007. Surface owners included federal lands and severed mineral owners as well as oil and gas leases. The Antero lease is currently expired. They are negotiating a new one. The exact mailing was January 18th and the first returned receipt was dated January 19th, 2008. Published notice in the Post Independent on January 18, 2007 and the property was posted personally by Doug Pratte on January 15. The public right of way is CR 233.
Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Application materials Exhibit F - Staff memorandum; Exhibit G – Memorandum from the Road and Bridge Department, dated July 5, 2005; Exhibit H – Letter from Steve Anthony, dated July 5, 2005; Exhibit I Letter from the Rifle fire Protection district, dated June 23, 2005; Exhibit J – Letter from the City of Rifle, dated June 22, 2005; Exhibit K – Easement Declaration; Exhibit L – Letter from Resource Engineering, dated July 11, 2005; Exhibit M – E-mail from Mountain Cross Engineering, dated January 8, 2008; Exhibit N – Minutes from the Planning Commission Meeting, dated July 13, 2005; Exhibit O – Letter from Ben and Jill Heggwer, dated January 8, 2008; Exhibit P – 10% Grade Emergency Access Road (Profile View – Applicant); Exhibit Q – 14% Grade emergency Access Road (Plan View – applicant); Exhibit R – Tybar Ranch Ownership Exhibit; Exhibit S – Title Policy from Land Title guarantee company, dated July 30, 2007; Exhibit T – Letters of Authorization, Exhibit U – Letter from Suzanne Stephens, Managing Director Aspen Valley Land /Trust (AVLT), dated January 14, 2008; Exhibit V – Letter from the City of Rifle dated 1-11-08; Exhibit W – applicant response to Conditions of Approval email) and Exhibit X – Packet from applicant's attorney dated 2-13-2008; Exhibit Y – email comments from Mountain Cross Engineering dated 2-15-08; and Exhibit Z – proposed changes for applicant to specific conditions; Exhibit AA – photos submitted by Heywer; and Exhibit BB – Applicant's presentation. Chairman Martin entered Exhibits A – BB into the record.
Planner Fred Jarman explained the description of the proposal. The applicant requests the Board of County Commissioners approve an application for a Rural Lands Development Exemption Option (RLDO) for the Tybar Ranch Rural Land Development Exemption (the Development). The Development consists of subdividing 20% of the 723

acre Tybar Ranch into 27 residential lots while placing the remaining 80% of the ranch into a 40 year term agricultural conservation easement to be held by the City of Rifle. The 27 residential lots that are approximately 4.5 acres in size and are clustered in two separate areas or pods on the east and west portions of the ranch. The remainder of the ranch (Lot 28) 578 acres would remain in full-time agricultural use. Potable water service to all of the proposed lots is provided by the City of Rifle's municipal water system. Wastewater from each of the lots is handled by individual sewage disposal systems (ISDS). Access to the lots is provided either by CR 233 (Silt Mesa Road) or by way of a private easement from CR 293 (North Graham Road) through the Turgoose Ranch.Some older structures are still in place but not in use. Staff has some concerns regarding an HOA and this is included as a plat note; this is an exemption and not a subdivision. Regulations do not contemplate having water/road improvements, etc. He continued saying that Aspen Valley Land Trust did provide a letter stating what affect using the CR 293 as private easement would have on Mr. Heggwer's property. There is an emergency access, an internal road that may impact their ranching. There is currently an existing road and the applicant will discuss this in his presentation. They want to keep the steep access but not use it as the main access. There is a question to the Board on the importance of this road; the applicants will testify to the locked gates. There is a 5 phasing plan however in the exemption regulations it does not contemplate phasing. Fred did show the phasing proposed by the developer. The applicant proposes plat notes for security for water/road improvements prior to the sale of the lots and when the homeowners association gets formed to govern the improvements; the proposal also addresses the easement to CR 293. The question is regarding security for when the phasing will occur. In the normal exemption world all of the utilities are in place; you're drilling your wells for your water before you can sell lots. The idea here is that they have proposed a plat note that ultimately says no lot can be sold until all the improvements are in place to serve that lot. In our case we had some challenge with that because it even contemplates individual lots – there are 27 lots and you can see the burden of the perspective this has. They have 5 phases ultimately before any of those lots can be sold. The roads and water service has to be put in. So you're basically looking at 5 final plats, clarifying an animal term of subdivision it's not a subdivision exemption. The other question specific to this is who then governs those improvements, who is plowing the snow, who is maintaining the road that lies within this development and who is caring for the weeds along the ditches etc. so these other maintenance obligations that typically are governed by a homeowners association in this case, when does that entity get formed; when do they own the roads and maintain the system, etc. This type of situation was not contemplated under the Rural Lands Development so this is the critical threshold for the Board to find in the spirit of your regulations.
There are some unstable slopes across the property and this will be in the plat notes; before building the applicant needs to show no unstable slopes on lot 9.
Final Project Summary

1. The Planning Commission unanimously recommended the Board approve the application with the conditions as stated. Staff has provided a comment on most of the conditions.
2. Conditions that were still requiring review by Staff prior to the BOCC hearing included the design of the emergency access road design and the appropriate security measures (SIA) to ensure that the lots created would be provided with adequate access, water, electricity, etc. and when a HOA was to be created to own and maintain the roads and water system.
3. Staff suggests the BOCC require the applicant submit a letter from the Rifle Fire Protection District that approves of the internal road system, the external non-exclusive easement from CR 293 to the property and the water system prior to any final exemption plat approval.
4. Staff suggests the BOCC include the Road and Bridge comments as conditions of approval:
    a. A 30-foot easement where the property adjoins CR 233 shall be deeded to Garfield County
    b. All fences, structures, trees and brush that encumber this 30-foot easement shall be removed prior to final plat
    c. A driveway access permit will be issued for the entrance onto CR 233 with provisions specific to the driveway assess
    d. A stop sign will be installed at all entrances to County roads. All signs and installations will be as required in the MUTCH (Manual on Uniform Traffic Control Devices).

Ultimately, the Planning Commission finds the primary and final issue to be resolved is that the BOCC needs to specifically approve the applicant's interpretation of phasing this development which Staff believes is beyond the scope of the present regulations but could be workable.
Applicant: Doug Pratte, planner working with Tybar Ranch. The main purpose of presenting this exemption plat to you is that the Tybar owners were looking at all the activity on and around this property in terms of residential activity and issues relating to access and decided to take a bit of a proactive approach to try and move ahead with some planning for the property recognizing that they still wanted to maintain the agricultural operations on this property. As Fred said we are looking at preserving 80% of the 723 acres and keeping it in agricultural production as well as keeping 80% of it in open space and 20% for the residential lots. That's about 588 acres for agricultural production. Doug Pratte presented a copy of his presentation to the Board for their record. He also presented a copy of the current proposals for the continued agricultural operations on the ranch. The majority of the Ag operations are centered in the middle of the ranch and as this demonstrates, clustering the residential lots which are 4 to 5 acres each are planned along the edge of the property outside the Ag lands. Access – A different graphic related to access was shown in his presentation. There is a different access to the ranch that we are now proposing for the emergency access coming up through the residential lots and then connect via the gravel road that goes by the stone house. Our primary access is still on the south to the eastern side through the Turgoose property. He showed the plat of the Turgoose property with the building envelopes in place. The 84 acre piece of the Turgoose property has a choice of picking two of those envelopes for residential development and the other two would go away. He was not positive how this works but even though there are four building envelopes on those 84 acres, he believes two are developable. There is an existing residence on the northeastern section of the property. Our proposal is to go ahead and make improvements all the way down the County Road 293 to comply with the access requirements from Garfield County. Chris Manero was present, the engineer and the grades do comply with Garfield County code. So this is the emergency access proposal and we've revised that. We've been coordinating both with the fire districts and Chris Hale has reviewed it. The Fire District did however confirm they would like us to

keep the easement in place on the east side as this is an alternative way of access for future purposes up to the Mesa. We're not proposing to improve the emergency access easement at this time as part of this application; the easement is in place and it's been recorded. There was some concern also that this might be used as an alternative access by residential owners into the property and we agreed it would be gated for emergency use only. Again it will not be improved; it would not be allowed to be used as an access. County Road 233, some language was added in the packet by Carolyn Dahlgren and Tom Todd who worked in putting it together and it talks about the fact that there is an end of maintenance of CR 233 that is out on the western edge of this property. It discusses the fact that the BOCC is claiming potential for public access or use of rights over and across a portion of the ranch and we're claiming based on this paragraph that there has not been historical access to that portion north of the 233 turnaround where the school bus is located when in 1993 the Danciger's purchased this property. We have been working with the city of Rifle and submitted a copy of the letter received from them. Back in 2005 we did go to their Town Council and they did agree to provide an out of district water service to this property. We've been coordinating the engineering aspects of that water service with the City of Rifle including the pressure zones that we've discussed with the fire district and the need for a booster pump in some areas and sprinkling of a couple of building because of the pressure situation. We'll continue to work with them and forward any of this information to the County. The City will also be holding the conservation easement on this property - the 40-year term easement. We're hoping within those 40-years that the master plan development for this property will be completed and in our perspective we're looking at the opportunity to have a permanent conservation on this property. If within the 40-year term easement, the City of Rifle, Garfield County and the owners of the property agree there's a way to work together to look at a permanent resource of open space on the Mesa up there related to this project then it would be a great thing. Right now there's no funding within the City of Rifle for open space and none for Garfield County; there are some tax credits available but the idea is that there will be an opportunity hopefully within the next 40-years to create a potential easement on this property. In the meantime the term easement will be in place for the next 40-years. The conditions submitted by the applicant were reviewed. Chairman Martin suggested he go through them because he would be submitting those a part of the record. Doug – 1) we did discuss the access to southeast portion of the ranch accessing lots 9-27 and 2) a commitment to improve the access road to county standards all the way down to CR 293; 3) again we will coordinate with the Rifle Fire Protection District on access issues; 4) emergency access - we have committed to the emergency access in Phase 4 of this project which is to build Lots 9 – 27; 5) we are committing to providing the emergency access through the ranch on the road that goes by the stone house including all the illustrations we have shown previously; 6) continue to work with the Rifle Fire Protection District both in terms of the water issues and the road issues for fire protection upon the Mesa; 7) we'll add plat notes on the exemption plat that disclose the potential for mineral estate exploration at Tybar; 8) rather than a subdivision improvement agreement we've entitled this the Rural Land Development Exemption Improvements Agreement and within that agreement which we will coordinate with the County legal staff we will have recommendations related to wildfire mitigation that were included in our application by Scott, the Colorado Forester, that looked at the wildfire hazards on the property; 9) also we would put into that agreement provisions for weed control and dust management; 10) we do have a phasing plan for the project; Fred went through that graphic that would be included and it would be something we can continue to refine realizing we will have to show that the emergency access road would occur in Phase 4; 11) again, plat language that says we will have individual lot sales, the infrastructure will be put in place Phase 5 per the phasing plan and Fred had the language for the plat note; 12) we are committing to forming a homeowners association prior to the recordation of the exemption plat, so as we get through this process with you and hopefully if this is a condition of approval we can go ahead and formalize the CC&R's and the HOA application with your County Attorney and planning staff; 13) County Road 233 - one of the staff's request was that we dedicate a 30-foot wide public road easement to Road 233 because I believe the property line of Tybar Ranch comes down to the centerline of CR 233, so we'll be establishing a right of way and dedicating that to the County as part of this application so this is basically stating that we'll have to amend our exemption plat to show that dedication but we're willing to do that; 14) we will be recording the conservation easement and all the other related documents for this exemption plat simultaneously. [One of the reasons we don't have an executed conservation right now is obviously we're working with the Town of Rifle and if there's anything that comes out of this that needs to amend the conservation easement we'll do that and forward coordinate any revisions with the City of Rifle and get it signed and recorded.] 15) This is the previous language on CR 233 talking about where access has occurred in 1993 and again it's kind of a general statement at this point and time. Carolyn has informed us that the County Surveyor is actually looking into this matter. I assume whatever research will come out of that research is what we'll be coordinating with Carolyn and Garfield County. Carolyn – that's the language that Tom and I worked on – it does not require me to have that report before we could do this land use if you decide to go that way. Doug continued with number 16), we will put in place a covenant that says we will not go through the 35 acres subdivision and sub-divide lots while that 40-year term easement is in place so that gives you some additional guarantee to this getting approved that the 588-acre parcel will stay in tact as a remainder parcel for the Tybar Rural Land Development Plat; and finally number 17) Lot 9 does have some potential unstable slopes and the key word for me was potential. We know that there may be some issues with those slopes and would like to be able to go through a more detail analysis concerns on Lot 9; we did a preliminary geotechnical review with CT Thompson and identified Lot 9 as potential unstable so we'd like to actually put that language on the plat and pursue more site specific investigation. A couple of graphics of maps in the presentation were submitted. Mark Nieslanik – it has taken us a long time to get to this point and primarily would like to remind everyone that this is a phasing plan. It has taken time to get the titles cleared up and all the other issues. This is a fairly complicated process with the County and so we've had to go forward and help Carolyn and Fred to come up with some new language. We think it's a worthwhile project and have spent a great of time and put a lot of effort into it. Commissioner McCown asked to go back the second slide – the one right after the overall plan looking at how the lots were arranged. He was wondering why Mark left this area between the two residential developments as ranch property; considering the property line, it looks like you're generating some land management problems for yourself in creating those lots not abutting to the property line. What did you have in mind there? Mark N – It's very steep right there. Commissioner McCown – aren't you concerned about trespass issues? Mark N. – What we are doing right there will make it pretty difficult to trespass; we used that to come up with our calculations. If we push those lots over to the edge

of the property then it cuts down on our 588-acres that we have left for ranching and open space. Commissioner McCown – I understand that theory but I think you're setting yourself up for some significant problems by doing this. Not only on that side but over here on those in-holdings as well where you are completely surrounded by ranch property and the existing easement. You've got private in-holdings in the middle of that. History tells me you're probably going to have some trespass issues. The second thing, the infrastructure for the water, once it enters the property boundaries is it still going to be owned and maintained by the City of Rifle or will that infrastructure be part of the development and owned and maintained by the developers? Chris Manero – Colorado River Engineering – the water system is broken into two half's of the project. The ownership will remain with the project; the maintenance is split up. What's happened is the western lots, because the City of Rifle is already accessing personnel right along CR 233, they are going to have people in the area and they want to include that system as part of their meter reading and treat it as if it was part of their distribution system. The maintenance is still held with the City on that portion. The eastern lots, because they don't have people in that area, the City wanted a separation to that system completely for maintenance and operations. The eastern section is basically classified as a consequent system and Rifle will act as a wholesale provider. They're going to treat the water and be the bulk provider and then that group will have to catch a consequent system license and have a license operator to treat it, not as far as all the organics and source testing, but they will have to do distribution testing for particulates and disinfectant products. Commissioner McCown – So this will be an independent system using water provided by the City of Rifle. Chris – On the eastern portion – yes. Commissioner McCown – And I guess I don't understand the need for that if they are using City water. Chris – the City again didn't want to be sending people over to maintain that area of the project and have meter readers; they wanted it to be an independent function. Commissioner McCown – So will it be a single meter function on the main line? Chris – there's two things: there's individual meters for each home and also the City wanted a master meter in case there's any flushing of the system so they could keep track of the water. Commissioner McCown – So that's going to take a separate set of covenants and HOA to agree what's going to happen on these lots as opposed to the ones on the west. Chris – Yeah. Carolyn – What happens when it becomes annexed? Chris – annexation would then become part of the distribution system; the engineering design is basically using the city's specifications, details, etc. and will have a City signature block.
Public Input:
Ben Heggwer - property owner of Lot 6 of Turgoose Ranch, which is under a conservation easement said he submitted a letter he wrote to Fred Jarman and the BOCC. First I'd like to see the traffic that's going to be generated to access the eastern side of their subdivision. It is going to put an awful lot of traffic north and south on Grand Mesa Road and also on 16th Street in Rifle. The conditions of these roads are in bad shape. He took photos and submitted them for the BOCC. The loop design off CR 233, I would really like to see the design done as his property is under a conservation easement, which he applaud Tybar for putting their property into a conservation easement. The traffic going through my conservation easement is taking away from my property. There will be an awful lot of traffic on that road and it's cutting right through the conservation easement. The eleven (11) photos he submitted were marked as Exhibit AA.
Brian Fretzke responded to that eastern egress situation which goes through his property. He explained the photo and said in this picture he is standing in his garage. His house is behind the tree. The proposed cut for that road would take up that entire old farm road all the way to the top; the issue with a cut that size is the erosion problems he projected will be really bad and revegetation will be near impossible with soil conditions. My understanding is this was an emergency egress only and Mark had nothing in his paperwork about this being an emergency access. He was wondering why such a big cut would have to be made on a road that would likely never be used. Without fire hydrants, why do we need a fire egress? Also, with the road coming down through there, he's concerned about trespass issues on his property. There's always somebody that thinks they can skirt the law and this road would be coming 20 feet outside my front door; I would like to see this addressed. This easement would also cut off any use to the western side of my property. There's an electrical stub at the bottom of my driveway that I understand is supposed to be going up to the Tybar Ranch. I do understand why they will need an easement of some sort to run that up there and would like to know when this was going to happen and how much damage that will incur if they do not put this road in. He said he would like to know when this work will start as well. This easements they are asking for cuts this site for his planned shop in half and it takes ½ of the footprint away and therefore he would like some consideration on a variance on that where he could put a shop in that easement if it is kept. Concerned about skyline issue on Lot 18; concerned about animal control; Mamm's View, dust and weed mitigation. That was all put in place for Mamm's View and we still dealt with some bad dust issues. Commissioner McCown – The easement you Brian referred to going through where you would like to build a shop; was that easement there prior to you buying your land? Brian – It was misrepresented by the seller, it is on his title work but it was never shown as 60 foot wide easement so there are some issues with the seller about misrepresentations. Commissioner McCown – it did show up on your title work. Brian – yes. Chairman Martin clarified this was the one that was 14 percent grade and would need a variance. Commisisoner Houpt – where is that easement in relationship to the new alignment you were taking about on the secondary road. Doug explained the easement through Brian Fretzke property and off to the Tybar property to the east side. The main access is from the Turgoose property from CR 293. Rather than having this eastern easement for emergency egress we're going to come up through the lot 9. Lot 27 will be using the existing ranch road. Nothing is being proposed for that easement at this time. We've been asked by the Rifle Fire Protection District not to abandon the easement but no improvements are being proposed; we are leaving it in place and we're going to improve the emergency access through the ranch rather than down that road.
Mark Nieslanik – that easement also includes utilities; Excel and others have interest. In addition to this being an access easement, they do plan to put utilities below ground. Jill Heggwer said she would like to propose if you don't have it yet that you look at an access next to Lot 9 instead of through the Turgoose ranch. Lot 9 was possibly unstable soil but I don't know if the entire lot is unstable or if it's possible instead of making the loop coming down and get rid of the whole access through there and go straight instead of cutting thought those 80 acres of the Turgoose ranch.
Doug Pratte – part of the discussion that I initially had in 2004 with the neighboring properties was they were going to subdivide and we had to figure out how we were going to get access to this project or to this property prior to all of that happening. So back in the 2004 we worked with Greg Tamburello, who currently owns the Turgoose property and the eastern access property too because we were actually trying to work together on planning issue for those properties. We worked together to try and figure out how we could get access to Tybar, how we could ensure access to Tybar and how

he could get access to his properties. This is the plan that we came up with. Granted the eastern access is difficult, it was 14% and this is not the one that Jill is referring to, so we recognized that and even though it was considered in 2004, we really needed to find a new access. This access is in place and not only legal access but there is a road there and utilities are in that road. It doesn't make as much sense for us to cut in new roads to this property when these roads were planned back before he ever sold the property. Granted the folks that now currently own this property are being impacted by it but the plans for access were made before those lots were sold. Rather than destroy more land by cutting the road more to the side, we decided to utilize the roads that are there and upgrade them to a county standard required for the number of vehicles that will be on them and not negatively affect additional sage and Ag land on the hillside.
Jill was referring to the Exhibit 0 and the proposed change. Mark N. added in that process when negotiations were with Greg on that easement, we did allow for the Turgoose property to move that road at their cost and expense and that is recorded. We've done everything we thought was the right thing to get on the Mesa. We have looked at Lot 9 and we don't think you guys want to see two cuts up there nor would the Aspen Valley Land Trust like that either.
Mark N. notified Dale Johnson before he ever poured the foundation of that house by certified letter that the easement was in place so everyone that owned that property from the conception of the conservation easement and the development of the property has been aware of the road and to come back after the fact and ask us to rethink the project is unfair. Jill just wanted to state that I have an issue with the seller that we purchased the property from.
Lisa Reed – owns 80 acres directly across from them and said we also attempted to buy the land that Ben purchased several years ago and we had an accepted offer but we backed out because it was explained to us about the property that was going to come up with the location of easements and housing. Two other things, I've had the understanding that the 70 acres just north of the road going through the Turgoose property has been sold for $2 million and there will be another subdivision and they will be using the same access that Tybar is trying to access right now and it's going to be developed. This will make it much easier for the next developer and makes more sense. The condition of CR 293 when John Savage put his 150 acres under subdivision will also be addressed and the road will be properly paved. This is the best way for those going into these areas that are still raising cattle. Commissioner McCown – in reference to CR 293, that was mentioned rather strongly when the pre-annexation agreement came to us on that particular parcel; so yes, CR 293 will be addressed. Brian Fretzke - briefly addressed the issue of when these folks put that road up though that easement could I get a consideration to be added to their water system. Mark N responded that it's ok to come and talk to us about that. Chairman Martin – Mark saying they will consider doing this cannot be a part of this hearing but they are very much aware of what your concerns and requests may be. Mark N - if we were true developers when we started this several years ago we should have obtained a cat and put in a 60-foot wide easement that came onto the ranch but we are not developers, we are in agricultural and the purpose of this is to simply us keeping ranching and agriculatural activity going on the Mesa. So that's why this is an unusual request and it has taken us a while to come back to get this approval, but we are in no hurry to develop the property and we want to be sure what we're doing it the right way for us and also for the City of Rifle. Carolyn wanted to make sure the Board was aware that the plat note that went up on the screen was an earlier version of this because as you've heard we have been working on this since 2005; the plat note that was on the screen talked about the County accepting improvement as belonging to the County. This is not our standard language. There is another draft of that plat language. Commissioner McCown – should we move forward on this, I've been looking through the list of recommended conditions and I see one missing that I think was alluded to earlier and that's the formation of HOA as far as road maintenance, etc. Would it be appropriate for another condition that the maintenance of all infrastructure be done by the existing owner or the developer until such time that a HOA is formed and all of the lots conveyed to that new ownership? Fred – You can do that; we're suggesting that and they agreed to just set up the HOA and as these things come in it's already set up and they just continue to fulfill those obligations. Commissioner McCown – That's fine but knowing how some of the things proceed with the phasing, which is something we're not used to in this kind of rural land development, this thing could take a number of years and under the existing conditions if the roads deteriorate the owner is still the primary owner of the majority of the lots so that responsibility is going to fall to them as it does under most HOA. I still want to put that in as a condition of approval so they can't say it's not my job, talk to the homeowners. We heard that earlier mentioned today on a road that clearly happens from time to time when that responsibility is diluted and nothing gets done. Because an individual lot owners does not have the funds to improve an entire length of road. Commissioner Houpt – That didn't happen because the HOA was never put together so I really like the idea of doing that upfront and having it being a condition as well.
Fred – It's the typical scenario where in a subdivision world you get to the 51% and it changes over to the HOA. The obligation is still with the developers, the owners of the subject property. Commissioner McCown – In a normal subdivision we have a significant pool of funds there to ensure everything's going to take place.
Fred – I think it makes good sense. Carolyn – The HOA, actually their lawyer Tom can speak to this better, but the HOA will be the two entities that currently own the property. Commissioner McCown – But given the size of this and the disparity of the lots I don't want, as soon as 13 lots are sold, it become the homeowners problem. Because you've got 8 lots over here and 9 over here and there could be a whole lot of different things happening on that hill that the owners over on the west side shouldn't be responsible for maintaining roads over on the east side.
Carolyn – They will have to figure it out in their set of declarations as to how they are going to treat these different phases. Commissioner McCown – This is the problem I have, I want to ensure that there is somebody responsible in the meantime to take care of the roads, the dust and the weeds until this becomes a real adult subdivision or a real housing development. Carolyn – My impression from my conversations is that the owners are willing to create the HOA now and make that happen, but you haven't closed the public meeting yet so they can respond to that. Commissioner McCown – I don't have any problem with the applicant and knowing Mark for a number of years, I don't think he would in any way shirk the responsibility of that ranch; they run a nice ranch and I know that's not their intention. The management and other things can change overtime and I just want to ensure that the future owners are protected and we don't hear things like we did earlier today on road maintenance not being taken care of. Holland and Hart, attorney Tom Todd – What you're speaking to is the responsibility of the developer making sure that those roads and utilities get delivered before any lot sales take place and this is the focus of this phasing system; it's more of a consumer protection element, so the roads and utilities are installed and in place before individual consumer steps into this and buys a lot. Certainly the HOA will take on the maintenance and upkeep responsibilities in the long term but it's really on the

developer's responsibility right now. Commissioner McCown – And what I was looking to even more than that is if one lot on the east side up at the very top sells and the rest don't sell for a year or two, is that individual at the top going to have to maintain all of that road because he is the only homeowner that lives there. That's what I'm trying to avoid, I want the responsibility of the developer to still take care and maintain that road until all those lots have been sold.
Tom Todd – what you're speaking to perhaps is the pro-rata cost share based on the number of lots served by those roads and regardless of who owns them, if the developer owns 15 of the 16 lots, he will pay his cost share of 15 shares. Commissioner McCown – I would be perfectly comfortable with that. Tom Todd – I certainly can represent that this would be part of the CC&R's for the subdivision.
Commissioner McCown made a motion to close the public input portion of the public hearing. Commissioner Houpt – second. In favor: Martin – aye McCown – aye Houpt - aye
Commissioner McCown - Well, as was alluded to earlier, this is a creation of this Board's idea to allow the development of less desirable ranch land and still preserve agricultural in our County This one is a little larger than we are used to in scale; other similar proposals have been quite a bit smaller so we're struggling with this trying to compare and provide some of the protections to the people that buy lots in this development, so with that I would make a motion that we approve the request for the Rural Land Development Option Exemption for the Tybar Ranch with conditions 1 – 14 as presented by staff adding No. 15 and that would be the portion regarding the maintenance of the roads and would be done on a pro-rata share by the ownership of the lots that would access those roads and I think that covers everything that I had. Carolyn – It won't just be roads, it will include weeds, etc. Commissioner McCown – Yes, weeds, roads, all obligations that the homeowners would be required to meet, it would be done on a pro-rata share.
Chairman Martin – and within that motion, you're also accepting the applicant's redoing of the road and not using the 14% grade for their access but … Commissioner McCown – All testimony given by the applicant would be part of the conditions of approval. What they did testify to that changed their plan and they are going to use the access road across the ranch as opposed to the steep one; however, the steep one will still remain in existence for a utility. Commissioner Houpt – Seconded. Even with the large piece of land it's forever apparent that people are impacted as land uses changes and the unfortunate part was that there were rights of way and easements in place when the last transactions took place on other adjoining properties but I really think that a lot of effort, time, and thought has gone into putting this project together. What I'm taking from this meeting today is that you all have heard the concerns of neighbors and hopefully you will be sensitive to that if this passes today and you move forward. I really hope we continue to see this type of effort to protect and preserve Ag land throughout the County. Carolyn – One other issue; as the hard copy you have as conditions of approval was earlier language, I would ask that you use the language that was on the screen, it does the same thing, it's says that you're not taking a position today on CR 233 – this is a land use approval; this is not the establishment of a road or a vacation of a road. Commissioner McCown – I would amend my motion to make sure that verbiage is there. Commissioner Houpt – And I would amend my second. Chairman Martin – And we are accepting the phasing and the plan; they are going along with knowing we haven't seen that before in this particular application. We also know the security is going to fall upon the applicant and the property owners knowingly will have to get those items done that they've testified to as the utilities, improvements, and the access all have to be done on their dime until they start selling the lots. Carolyn – one process issue, we didn't mark the applicant's exhibit. Chairman Martin- we had one exhibit from the audience that we marked AA and we'll make this one BB.
In favor: Houpt – aye Martin – aye McCown – aye
BUILDING AND PLANNING: CONSIDER A REQUEST TO RE-EVALUATE THE ZONING STATUS OF THE SANDERS RANCH PLANNED UNIT DEVELOPMENT – APPLICANT: BOARD OF COUNTY COMMISSIONERS – FRED JARMAN
Fred Jarman, Carolyn Dahlgren, Rocky Shepherd project manager for Related WestPac were present.
Chairman Martin swore in the speakers. Fred submitted the following exhibits for the record: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Proof of Posting; Exhibit D - Garfield County Zoning Regulations of 1978 as amended; ; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff report; Exhibit G – Letter from Brownstein/Hyatt/Farber/Schreck dated 11-26-07; Exhibit H – Letter from Eric McCafferty dated 12-4-2007; Exhibit I – Email from Ernie Frywald dated 12-12-07; Exhibit J – Email from Johanna Payne dated 12-12-07; Exhibit K – Email from Jim Elliott dated 12-12-07; Exhibit L – Email from Jo King dated 12-12-07; Exhibit M – Letter from the Roaring Fork Conservancy dated 1-16-08; Exhibit N – Email from Marianne Virgili, Chamber of Commerce Association dated 12-12-07; Exhibit O – Email from Amy Stillman dated 1-19-08; Exhibit P – Email from Bob Kelley dated 1-21-08; Exhibit Q – Letter from Deborah Pease dated 1-21-08; Exhibit R – Email from Larry Tallmadge dated 1-21-08; Exhibit S – Email from Jim Rathal dated 1-20-08; Exhibit T – Email from Gary Gardner dated 1-18-08; Exhibit U – Letter from Chris Broadhurst (R & A Enterprises); Exhibit V – Letter from the Thompson Glen Ditch Company dated 2-4-08; Exhibit W – Letter from Dave Michaelson Planner – (author of Comp Plan) dated 1-14-08. *New Exhibits:* Exhibit X – Email from Rilly Evans dated 2-14-08; Exhibit Y – Email from Steve LaMar (Coates, Reid, & Waldron) dated 1-15-08; Exhibit Z – Email from Jan Steemburg dated 2-14-08; Exhibit AA – Email from Nate Hoist dated 2-15-08; Exhibit BB – Letter from the Roaring Fork Conservancy dated 2-15-08; Exhibit CC – Email from Michael Gonzales dated 2-14-08; Exhibit DD – Email from Ryan Johnson dated 2-14-08; Exhibit EE – Email from Sarah Gonzales received 2-15-08; Exhibit FF – Email from Bunnie Hickman dated 2-14-08; Exhibit GG – Email from Michael Keeling dated 2-14-08; Exhibit HH – Email from Joe and Tiffany Dunlap dated 2-15-08; Exhibit II – Letter from Brownstein Hyatt Farber Shreck dated 2-15-08; Exhibit JJ – Email from Grant Melius dated 2-15-08; Exhibit KK – Email from Barry Cyer (Telephone Systems Consultants) dated 2-18-08; Exhibit LL – Letter from Gary Brewer (CEO VVH) dated 2-18-08; Exhibit MM – Email from Daniel Bigs (HR Director VVH) dated 2-18-08; Exhibit NN – Email from Ernie Frywald (Morris Frywald Real Estate) dated 2-18-08; Exhibit OO – Email from Jack Musser dated 2-18-08; Exhibit PP – Email from Scott Gilbert (Habitat for Humanity) dated 2-17-08; Exhibit QQ – Email from Lynn Kirchner dated 2-16-08; Exhibit RR – Email from Walt Stowe dated 2-18-08; Exhibit SS – Email from Amy Wells dated 2-19-08; Exhibit TT – Email from Glen Jammaron (President Alpine Bank) dated 2-19-08; Exhibit UU – Email from Jolene Singer dated 2-19-08; Exhibit VV – Letter from Kay Hannah dated 2-19-08; Exhibit WW – Pamphlet for Planning Commission; Exhibit XX – Letter from Amy Hadden Marsh dated 2-19-08; Exhibit YY – Memo

from Jay Leavitt dated 2-19-08; Exhibit ZZ – Developer's Presentation on Computer; and Exhibit AAA – Sander Ranch Planned Unit and Development Review & Rezoning. Chairman Martin entered Exhibits A – AAA into the record.

Fred presented the project approval background saying this is a matter required to you by your own regulations. There are two major things going on and it's important to have all understanding regarding the Cattle Creek Crossing as previously proposed on Bair Ranch and Sanders Ranch; the details of this project are not up for discussion however what is being discussed is a request for zoning, a change of zoning only. Sanders Ranch Planned Unit Development (PUD) was approved by the Board of County Commissioners (BOCC) in 2001 which is memorialized in Resolution 2001-27. This zoning approval (from ARRD to PUD) accommodated a site specific development plan that included a golf course, 62 single-family dwelling units and 168 multi-family dwelling units for a total average density of 1.22 acres / du or conversely, 0.81 du / acre. Subsequently, the owner of the property at the time (Sopris Development Group) sold the property to Linksvest / Bair Chase, LLC who submitted a Preliminary Plan Application in 2003 based on the PUD. Then, under the reconfigured ownership of Bair Chase Property Company, LLC, a Preliminary Plan Application was finally approved by the BOCC in 2004 which is memorialized in Resolution 2004-98. Since then, the BOCC approved a request by the Applicant made in September 2005 to extend the time frame to submit a Final Plat Application for one year. This extension expired on September 13, 2006 and as a result, the Preliminary Plan has become void.

The net result is that not only has the Preliminary Plan Application became invalid, certain obligations / timeframes contained within the Phasing Plan in the PUD have also become invalid which renders the entire PUD Plan invalid.

Action Initiated by the BOCC

Because the project timeframes in the phasing plan in the Sanders Ranch PUD (the zoning on the property) have been exceeded or completely lapsed, Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended requires the Board of County Commissioners to take the following action on the PUD:

1) *Revoke approval for the uncompleted portion of the PUD, or*
2) *Require that the PUD be amended, or*
3) *Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.*

Discussion

The following provides discussion of each of these alternatives for the Board's consideration:

A. *Revoke Approval for the Uncompleted Portion of the PUD*

To date, no portion or phase of the PUD was ever completed; therefore, an action to revoke would include the entire PUD. Should the BOCC elect to revoke / vacate the PUD, the BOCC is inherently required to apply a new zone district to the property. (Property can't be left "un-zoned" in the County.)

Prior to the rezoning to Sander's Ranch PUD in 2001, the property was zoned Agricultural / Residential / Rural Density (ARRD). The County Planning Commission, through a thorough public process, placed a Comprehensive Plan designation of High-Density Residential on the property in 1995. This is reflected on the Proposed Land Use Districts Map in the Comprehensive Plan of 2000 which is used to guide future development in Study Area 1.

In considering a rezoning designation, it is helpful to understand 1) the methodology for the Comprehensive Plan designation and 2) the zoning options available to the Board. Chapter 4 of the Comprehensive Plan provides the methodology (Table 30, attached as Exhibit A to this memorandum) developed by the Planning Staff and Planning Commission which was based largely on a "Suitability Analysis" which primarily included a process that reviewed and identified areas with 1) Development Constraints and 2) Land Use Considerations.

What is most important is a review of the data in that table for a "High Density Residential" designation and the fact that the Planning Commission applied this designation to the subject property over 10 years ago recognizing the property's physical features and land use climate of the area. The following shows why the property was designated High Residential Density: 0 to 2 acres / Dwelling Unit:

<u>Development Constraints</u>

- Slope Constraints: Minor
- Soil Constraints: Minor
- ISDS Constraints: Minor
- Floodplain Constraints: Minor

<u>Land Use Considerations</u>

- Land Use Compatibility: Critical
- Road Conditions: Critical
- Infrastructure Needs: Critical
- Distance from Urban Area Moderate

The Planning Commission recommends the Board take this opportunity to follow the provisions of the Comprehensive (the County's land use guide) and apply a zone district that conforms with the High-Density Residential designation in the Comprehensive Plan. It is in this unique way that the County can actually provide a zoning framework that implements the Comprehensive Plan which is the basic tenant of land use planning and one of the primary purposes of a Planning Commission rather than to react to a specific project that drives development.

To that end, the Board has several zone district alternatives to contemplate. By rezoning back to ARRD (the County's lowest residential density zone district at 2 or greater acres per dwelling unit), it would then be in conflict with the Comprehensive Plan designation of High Density Residential put in place by the Planning Commission prior to the Sanders Ranch PUD.

Presently, this designation has been in place since approximately 1995, prior to the Sanders Ranch PUD. Based on the density of 0 to less than 2 acres / DU afforded by this existing designation, the County's zoning framework contains the following residential zone districts that could be considered which include the following:

A. Residential Limited Suburban Density (RLSD)
B. Residential Limited Urban Density (RLUD)
C. Residential General Suburban Density (RGSD)
D. Residential Limited Urban Density (RLUD)
E. Agricultural / Residential / Rural Density (ARRD)

Action to Rezone Property in Garfield County

Colorado law establishes the standards of review for rezoning land in the County. The standards depend on whether the proposed rezoning is in compliance with the Comprehensive Plan (the Plan). If so, the proposed rezoning need only bear a reasonable relationship to the general welfare of the community.

If the rezoning is in conflict with the Plan, an Applicant would need to show either 1) that an error was made in establishing the current zoning, or 2) that there has been a change in the conditions of the neighborhood that supports the requested zone change. The Planning Commission found that rezoning the property to RGUD is 1) in compliance with the High Density Residential Designation in the Comprehensive Plan, 2) bears a reasonable relationship to the general welfare of the community based on compatibility with existing surrounding land uses, 3) has direct access to a four lane main transportation corridor, 4) has access to existing central water / sewer services, 5) contains little site environmental constraints, and 6) could provide an opportunity to accommodate the high growth pressure currently affecting the County's significant housing shortage. Regarding the topic of housing, as the Board is aware, high density does not always equal *affordability*. There are examples in the Roaring Fork Valley of this challenge where the free-market units are affordable for the first purchaser only to grow quickly beyond the reach of affordability due to the land cost and continued shortage of housing supply in a quasi-resort environment. Staff suggests that a very high-density development that brings units to the market on an extremely rapid pace will make a difference in affordability where it can "shock" the demand side of the housing shortage. As you are aware, the Roaring Fork Conservancy holds an approximately 54 acre Conservation Easement along the lower portion of Cattle Creek and along the Roaring Fork River through the property and that portion of the property is designated as Low Density Residential (1 units per 10 acres) due to Cattle Creek. The Conservancy is concerned that the Board will rezone this portion in the easement also to a high-density designation. The Planning Commission did not specifically discuss this issue or make a specific recommendation to the Board. Staff would recommend that, to follow suit, the Board rezone that portion to a zone district that better fits a low density scheme such as ARRD. This leaves the balance of the property (approximately 228 acres) potentially rezoned to a higher density.

[The Board should recognize that the property owner, regardless of the zoning put in place, may also propose a rezoning to Planned Unit Development (PUD) which is required to meet the Comprehensive Plan and the provisions in the PUD regulations.]

B. Amend the existing Sanders Ranch PUD

The Board also has the option of requiring the owner of the property to amend the existing Sanders Ranch PUD zoning. If the Board believes the existing PUD is the proper zoning for the property, it could require the owner to amend the phasing plan which would bring the Sanders Ranch PUD back into compliance with its approvals. This option would also require the owner to submit a Preliminary Plan Application within 1 year of any amended PUD.

Another perspective is that the BOCC could require additional amendments to the existing Sanders Ranch PUD other than the phasing plan since the original PUD was approved in 2001 but never acted upon for the last 7 years. As a result, changes have occurred in the County in the surrounding area that may be adversely affected by the PUD finally coming to fruition such as developments in the lower Cattle Creek drainage on CR 113, general increased traffic on SH 82, recently approved development in Elk Springs on lower CR 114, marketability of golf course development in the lower Roaring Fork River basin, extreme lack of affordable / attainable housing in the County, etc. Perhaps the Planning Commission might contemplate that a new PUD plan be submitted to replace the existing plan to better address changes in Garfield County since 2001.

Staff believes this alternative is provided to the Board to deal with projects that are approved but linger undeveloped for long periods of time. The problem with that is the rest of the surrounding community continues to change so that once approved projects may no longer be compatible with the area or with policies upheld by the Board at the present time. To this end, Staff finds that the existing Sanders Ranch PUD results in the gross underuse of a property that could be for a much higher density carrying capacity. The Planning Commission did not recommend Board take this action. As of the writing of this memo, Staff understands the owner of the property is preparing to tender a PUD Application on the property which will, in effect, rezone the existing PUD.

C. Provide a 1-year extension of time for completion of the PUD

The Planning Commission action is limited in this last option because the language states that the BOCC can "extend the time for completion (1) time, for a period not to exceed one (1) year from the expiration of the original time limit." The original completion date of the project from the phasing plan is Phase V to be completed in June 2007. Providing a 1-year extension would extend full PUD completion to June 2008 which would be meaningless since none of the other phases have been begun, much less completed. The Planning Commission did not recommend the Board take this action.

II. Action by the BOCC

Because the project time frames in the phasing plan in the Sanders Ranch PUD have lapsed, the Board of County Commissioners is required to take the following action pursuant to Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended:

1) Revoke approval for the uncompleted portion of the PUD, or

2) Require that the PUD be amended, or

3) Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.

Zoning issue: Table 30 – methodology in Comprehensive plan.

We have a plan in place and the developer has met those. Affordable housing is an issue. We have a housing crisis in this County.

ARRD – why not zone to rural Ag; there is no way to move backwards. Lot size is a minimum 2 acres per lot. No word for density in the zone districts. ARRD allows a wide variety of special condition uses such as gravel pits and feedlots, shooting ranges, storage of and gas equipment and precludes any multi-family which conflicts with high density

RLSD & RGSD – suburban density – there is very little ground in the County that is in this zone district. Lots size is ½ acre. 0 to less than 2 acres is not the spirit of high density. It could comply with the comprehensive land high density residential designation.

RGUD – Urban density 1/6 of an acre – this allows multi family as a use by right and neighborhood commercial and precludes special and conditional uses such as gravel pits and feedlots. Couldn't comply with their Comp plan.
RLUD – same as before but prevents multi-family as a use by right and on-site commercial density.
RGUD – is what the Planning Commission is recommending.
Fred highlighted the letter from Dave Michaelson saying the plan is also approved by elected officials and the 2000 Comprehensive Plan is in place today; it is a progressive tool. RFTA has offered transportation services and city services are available. To affirm the zoning shows confidence in the Comp plan.

III. Planning Commission Recommendation

On December 12, 2007, the Planning Commission (by a vote of 3 to 2) recommended the Board 1) revoke the PUD in its entirety and 2) rezone the property to RGUD so that it is consistent with the existing high-density designation in the Comprehensive Plan with the findings set forth below.

1. That because the project timeframes in the phasing plan in the Sanders Ranch PUD have lapsed, the Board of County Commissioners, pursuant to Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended, shall revoke approval for the uncompleted portion of the PUD (which in this case is all of the PUD).
2. That, as a result of the revocation of the entire PUD, the Board has initiated a rezoning action in order to apply a new zone district (RGUD) on the property pursuant to Section 10.00 of the Garfield County Zoning Resolution of 1978, as amended.
3. That all applicable regulations regarding a zone district amendment have been complied with including, but not limited to, Section 10.00 of the Garfield County Zoning Resolution of 1978, as amended.
4. That the rezoning from PUD to RGUD is in compliance with the high-density designation of the Comprehensive Plan and bears a reasonable relationship to the general welfare of the community.
5. That the proposed rezoning from PUD to RGUD is in the best interests of the public health, safety and welfare of citizens of Garfield County.

Conservation easement – several letters were submitted from the Roaring Fork Conservancy and they suggest to zone the property ARRD and they request this Board not revoke the portion that falls within the easement.
Options that are before the Board:

1. Revoke approval for the uncompleted portion of the PUD or:
   A. Rezone to RGUD, RLUD, or RLSD;
   B. Opt to rezone to ARRD (requires new hearing/noticing);
   C. Rezone a portion to RGUD, RGSD, RLUD RLSD and rezone the conservation easement to ARRD (requires new hearing/noticing;
   D. Rezone all but Conservation Easement, leaving easement as PUD – Open Space and Conservation District.
2. Require that the Applicant amend the existing PUD, or (in effect this will occur with a new PUD).
3. Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.

Staff recommendations:

1. That because the project timeframes in the phasing plan in the Sanders Ranch PUD have been exceeded, the Board of County Commissioners, pursuant to Section 4.09.02 of the Garfield County Zoning Resolution of 1978, as amended, shall revoke approval for the uncompleted portion of the PUD (which in this case is all of the PUD).
2. That, as a result of the revocation of the entire PUD, the Board has initiated a rezoning action in order to apply a new zone district (RGUD) on the property pursuant to Section 10.00 of the Garfield County Zoning Resolution of 1978, as amended.
3. That all applicable regulations regarding a zone district amendment have been complied with including, but not limited to, Section 10.00 of the Garfield County Zoning Resolution of 1978, as amended.
4. That the rezoning from PUD to RGUD is in compliance with the high-density designation of the Comprehensive Plan and bears a reasonable relationship to the general welfare of the community.
5. That the proposed rezoning from PUD to RGUD is in the best interests of the public health, safety and welfare of citizens of Garfield County.
6. That proper publication, public notice, and posting was provided as required by law for the hearings before the Board of County Commissioners.
7. That the public hearings before Board of County Commissioners were extensive and complete; all pertinent facts, matters and issues were submitted; and that all interested parties were heard at those hearings.

Fred completed his project summary and turned it over to the Board.
Chairman Martin determined that questions would wait until after the presentation by the owner and public comment.
Applicant: Jim Lochhead, Attorney and Patrick Smith, President of Related WestPac, the owner of the property were present. Pat thanked the Board for going through this process for the 3rd time. He requested the Board leave the zoning alone and allow them to proceed with the PUD application. With less than 1/10 percent zoned high density in the entire Garfield County, Related WestPac believes its appropriate zoning. We would also like to dispel rumors we've heard throughout the community relating to this application. One was that it was being used somehow for Affordable Housing from some of the things we're doing in Snowmass. That is furtherest from the truth. We are committed to building affordable housing in Snowmass up there, we're building currently over 150,000 sq. ft.; we're mitigating everything in the community of Snowmass as required by all of the rules and regulations. So this property has absolutely nothing to do with our other developments. It was coincidental that we acquired this property concurrently with some of our acquisitions and as we were looking at needs in the valley and especially in Garfield County it became an opportunity for us due to the failure of this property to be developed. I think there were too many golf courses and it didn't work. As you may know and we're happy to supply you with some of the information, the Related WestPac team is one of the largest if not the largest affordable housing builders in the United States. We span almost every state; we're very proud of that program. We have almost three hundred thousand units either financed or developed in affordable housing and with combined companies it even exceeds that number. The whole reason that we got excited about this project was to

do something for Garfield County in terms of attainable housing; as you know we voluntarily submitted 10% of this project to be affordable and they have to be Garfield residents. They're under those parameters and we look forward to fulfilling that goal. In addition, we are one of the sustainable builders in the country and sustainable housing is environmentally friendly, LEED certified and takes high density into consideration. We couldn't find another property any place in the Roaring Fork Valley that had the opportunity to do something for the citizens of this community especially the working force. We're actually creating lease options programs so that we can get people from the fire department, the teachers association, and that's why you see such a support of those types of folks; the largest employers in the County are looking for a place to house their people. And we just don't have it and if we don't take the opportunity to do something with smart planning and good zoning, I think we'll lose an opportunity here. It's one of the few places that actually have the opportunity to do attainable housing and I think it's one of the key things. My employees, other employers, employees, can't find a decent place to live and if we take into a lower density it just takes the land price and pushes it up to other owners. So, our goal is to follow the PUD application, to vent this out completely, to look for input from the community, to respond to needs but we believe the zoning is appropriate and I thank you for that. The rest of the team has elected to wait until after public comment.
Chairman Martin predicated the meeting stating the rules of the proceedings – keep it short and do not duplicate what others have said, keep it civil and the last meeting we had was 17 hours long and he wants to finish this hearing by 5 p.m.
Jim Morgan – Forfeited his time.
Bob Kelley – Sent a letter in regards to the rezoning recommendation and hopes the BOCC will take time to read the letters and see what the public has in mind. He believes in the right of the landowner to develop his land but that should be weighted at what it costs the other people. He referenced 1000 homes accessing Highway 82 and the need to look at the carrying capacity of the amenities such as water, sewer, trails and traffic. His letter is Exhibit P.
Jim Denton – Voiced several concerns; 1) he hasn't seen any representation with respect to the price ranges of these proposed units and without that he doesn't see any economic value that would justify this higher density zoning; 2) a concern in the real estate market as a broker is that the working people here are competing with people from all over the United States who are inheriting millions of dollars from the estates of their parents who grew up in the depression era who own everything outright when they die; these people are coming in here and outbidding the people who work here and without some guarantee that these units would be in an appropriate price ranges for our working people, it's not going to happen. One of the very first rules of real estate development is you control your inventory so that you create the illusion that there is a shortage of properties so you maximize the revenue from the sale of your land not minimize it out of some optimistic motive. He asked the BOCC to go out to 8th Street and Grand Avenue at 5:00 p.m. and smell the air and watch the traffic. Regardless of whether RFTA runs on Hwy 82 or not, there is still the condition of air and the congestion of traffic is terrible and without doing something to address those issues it doesn't seem to me to make sense to approve any zoning for higher density.
Commissioner Houpt – Asked a question – in looking at the County as a whole, we've seen historically the more affordable or attainable housing moving further west every year which many would argue has created the traffic problems that we have going through Glenwood on a daily basis because people are still working up valley but are being forced to live further and further down valley. So as a Commissioner I look at this County as a whole and I am trying to figure out where you find that balance in determining where those densities are most appropriate. Is it more appropriate to continue moving them further west or to find ways to distribute those communities so that people can live closer to where they work. It could be value to the economy as well.
Jim Denton – The kind of demand I've seen in the area of the proposed development has been from people coming from out of the area, not from working people, but those who want to be as close to Aspen as possible. We have lower priced hosing in DeBeque and it makes sense because you don't have people coming in here from all over the United States with enormous net worth who want to live in DeBeque; they want to live up here. Real Estate in Carbondale in one of the developments that was built late 70's was priced in mid-1980's at $80,000 not built particular well, 1800 square feet, 3 bedrooms, 2 baths, now it's priced at $725,000. Do we think that by adding a few more units here that we're going to bring that price down; has it ever happened in this area? It never has and it won't; if they build 900 units are they going to put them all on the market all at once in order to try and bring the cost down and bring your profits down; they'd be crazy to do that. This is not appropriate at all for the lower priced, higher density housing. To the west where it is happening seems a lot more appropriate.
Dorie Hunt – Own the 7.3 acres ranch next to the Sanders Ranch Development in fact between them and the H Lazy F trailer park and I live there and this is really going to impact my life greatly however, I have watched the developers come and go over the last 8 years and in everything it's gotten worse. I've spoken to these developers, I've been to the meetings, studied he plans, and think they are the most responsible and most conscientious plus they have the best plan of any of the developers so far. I really have a problem seeing 979 homes there but if you as County Commissioners and the Planning Commission decide for the high density zoning, I challenge you to make sure that the things they have addressed are followed through with and that they do make it the kind of development they are showing us.
Tom Stevens – A 28 year resident and virtually all of that time I've been in land planning and land development. Have two real concerns, 1) strongly encourage the Board to revert the zoning to ARRD and my reasoning is Related Westpac has come in with a PUD; at that point the zoning will be set specific to this project and this Board and this community will get an opportunity to make a decision as to the worthiness of this project and if the zoning is worthy. It will come as one package. What you're looking to do today is zone this property absent and independent of any application to the highest density possible; you do that today and tomorrow Related WestPac disappears. Probably but not a likelihood but we know it happens. Now the community is stuck with a piece of land that is zoned for the highest density; the developer can come in and develop under Use by Right with no affordability, no anything. 2) On affordability – if we're here today thinking that density equals affordability we have learned virtually nothing. In my 28 years here, 20 of that has been in developing affordable housing in this valley, cited an example of a project called Cardiff Glen. It was designed to be an affordable housing project but no deed restrictions were put in place and no mechanism to restrict that. I sold homes for $188,000 to $248,000 patted myself on the back and thought I'd done a great job; I had honored my word. Those homes are on the market for $500,000; density did not equal affordable housing. Deed restrictions

equal affordability. Like to commend Related WestPac for voluntarily submitting 10% as deed restricted affordable housing, that's great – I know the subsidy's that it takes to do that stuff – you deserve a pat on the back. 90% of your project will not be affordable – it might when you sell it, but it won't on resale and the community has lost. He strongly encouraged Related WestPac to come up with a mechanism to assure long term sustainable and affordability of those units and in my experience there's only one tool – deed restrictions.
Laurie Stephens – A 30 year resident of the valley and worked in affordable housing and real estate with Tom, but her concerns are the same; affordable housing is a great catch word but without deed restrictions in place it's going to be nothing in the future. Pitkin County and in all the years we've worked up there, you lose your hair and get ulcers in working with them and trying to do projects to satisfy the developer and also satisfy affordable housing needs, but when we sold a unit for $225,000 that unit today even 10 years later is maybe worth $235,000 so another person will be able to buy it and make it affordable. Without those guidelines none of those great intentions occur unless it is written and unless it's a contract and unless it's real, everybody's intentions are just that. I hope that everybody for or against the project realizes that it has to be set in stone and to blanket zone this project for the highest possible use it just seems like suicide and hope that you all take into consideration making real what is proposed.
Dot Mulligan – Like to repeat what has been said; affordable housing in this valley is not affordable, it's not attainable and I think zoning something outside the urban districts which are our cities, to a high density is suicide and would like you to leave this at the lowest density possible.
Barney Mulligan – Dot, his wife, passed out some pamphlets and asked the Board to follow along as he reads from the planning manual that the County Planning and Zoning Commission is supposed to be very familiar with. At their meeting and the vote was a very narrow vote 3 to 2 to approve this highest density. In spite the inappropriate lobbing of the County staff and extremely lobbing of their own chairman, two members voted not to approve this highest density. One quotation from their own manual was read into the record. See Exhibit WW - Spot zoning.
Kara Gibson – Nothing original but agree with what everyone else has said – 10% of the housing is not affordable enough to justify the entire property being rezoned to the highest possible density.
Suzy Ellison – A teacher at Yampah High School and came here to say that every morning I come to Glenwood and look at that snake of cars going up valley and then I look over at the scraped land at Sander's Ranch, Bair Chase and I look at the zoning and it's funny for me to say, well we react PUD by PUD instead of honoring the Comp Plan, and I find it sort of contradictory to what I've said at other meetings but in this case it's appropriate that we need to look and slow down and go back to the ARRD zoning and then move forward because I agree with what's been said before that Related WestPac may have great intentions and appreciate some sort of a sketch plan to see where they are headed with this – but developers come and go and you're suddenly left with this enormous hammer hanging over your heads saying is our right, urban density will be what that is. One of the other statements made earlier was that it was in the best interest of public health, safety and welfare, and I'd say that's not true, it not true for humans nor for the elk. Hwy 82 is where the wrecks happened; this winter has been very icy and snowy and traffic is backed up from Cattle Creek almost all the way to Glenwood. This is not in the best interest to have more housing there. Be careful what you ask for.
Tim Mallow – I'm a planner in the valley for about 16 years and have worked on master plans for Carbondale, Basalt, Snowmass, City of Aspen, and in fact some work on your own Rural Lands Development Option and am pretty familiarly with the issue of planning in the region of affordable housing. When I heard 1,000 units for this property one thing popped in my head. That's like putting a town between Carbondale and Glenwood Springs – the size of town. For comparison he stated that New Castle has 1100 units. Silt – 940 units; Parachute – 500 units; and Basalt - 1035 if you exclude the ADU's. This is a lot of units and you better use tools and judgment on this project. I'm unfortunately in a camp that believes our Comp Plan is no longer the best tool; that plan was done based on data 13 years ago and based on data that's 14 years old at least. It is based on where development can occur and not where it should occur. The one thing it says qualitatively about affordable hosing in the plan is it should be as close to urban centers as possible. This is in-between two urban centers; at some point you're going to hear the developers say this is smart growth. No this is not micro smart growth but macro stupid growth because you've got a city 12 miles in one direction and 12 miles in the other and putting one in-between. He continued with his remarks on smart growth and affordable housing as well as the number of employees this project will bring in to build it summing it up as losing ground. He believes that we should require 60% deed restricted housing. Rezoning in advance is an extremely bad idea. We need to regulate our way out of the crisis we are in as far as housing is concerned.
Rick Neiley – Resident and owner of property in the County and referenced the number of citizens who showed here today saying it tells a lot about the concerns of the projects. Calvin Lee had to leave and asked Rick to incorporate his comments. You don't have to rezone this property but you can require an amendment and look at the new PUD and see if the applicant has presented something worth noting; something more likely that rezoning would be worthy. He would like this to be zoned ARRD as it would be more desirable and the County would have the most control. You have the least control where an applicant comes in with an application under the Use by Right because then they can do high density residential. If the BOCC does allow this zoning to remain in place you are sacrificing your way of control and if this is a failure and it's already zoning for 7500 sq ft this or others can propose a straight plan without addressing the PUD and eliminate the obligations to provide deed restrictions on housing. This project may fail and another application comes in with very high density and no affordable housing. He suggested to rezone this property to 520 units. Make the developer prove to you what they want to do. He also suggested that the Conservancy Density not be rezoned but leave it under the open space and he addressed some concerns that the County could rezone the conservation easement.
Amy Marsh – Cattle Creek – valley floor resident for 30 years. Letter submitted as Exhibit XX.
Say what others have said and wants to so the BOCC can hear these messages over and over again. Take seriously those who are representatives of the community and hear their concerns. One point that was addressed was the traffic congestion and quality of life. We have a Comp Plan and it lacks vision in this particular type of development. Water supply and sewage and wastewater have affects on the water not to mention the noise, lights and the affects on humans and wildlife. The carrying capacity on Hwy 82 is at max and it takes a toll on the elk and habitat. This is another new town and you will be adding all these impacts. She respects the Planning Commission but we are not an urban area. Is RFTA able to hold that type of ridership? She strongly urged the Commissioners to do a background search on Related WestPac before you allow them to go forward.

Chairman Martin – Added Exhibit XX.

David McConaughy – A land use and real estate attorney and represents both local governments in the valley and developers but here today to speak on his own behalf. I live in the one zone that didn't have a label on it which Fred was showing next to Sander's Ranch – the river corridor on the east side of the Roaring Fork which is AARD and it is where he lives. He is here today to urge the Commissioners to rezone this to AARD for both legal and practical reasons. Let's remember this sketch plan is not on the table today and we're not talking about 979 units but what we're talking about if it were ARRD it would be at most 2 acre lot sizes. This is 282 acres so that's 141 units or something less due to the Conservation Easement and building constraints. If we went with the proposed high density I believe they said it would be up to lots as small as 1/6th of an acre so that would 1,692 units which is a lot more than 979. He highlighted the points about negotiating up from 141 or down from 1,692. There are both practical and legal reasons that make this ARRD. On the practical side since the last development failed after all the top soil was stripped off, it ceased to be agricultural and there were two affects that I noticed personally. The first being, my well went dry and I spent $15,000 drilling a new well because after they stopped irrigating up there, the aquifer dried up. The second is that all the elk moved in my yard but I have a 2 acre lot because I'm ARRD and there's plenty of room for the elk to eat my landscaping and grass. If it was high density urban I don't think the elk would get along as well with 1/6th acre lots. There are also some legal reasons that came up at the Planning Commission hearing that the case law seems to binds your hands that you can't reverse it. I would disagree with that, the controlling case is out of San Miguel County and what that case holds is you simply can't rezone it back to what it was before without a hearing. In that case they held a hearing and the court said well now you've had your due process and in fact what they upheld was putting it back to the way it was before and that happened to be consistent with San Miguel's County's Comp Plan but the point here is there is no way you can't justify putting it back to ARRD. Ironbridge and Aspen Glen were both created out of ARRD, all the properties along the Roaring Fork River whether they are PUD's or not were created out of ARRD including my zone district. Last point, about 3 weeks ago you had an application by Charlotte Zilm to rezone about ½ acre parcel up Four Mile Road that was no man's land and had been mistakenly not zoned when it was converted from BLM to private property, and the staff report said under the Comp Plan that piece of property has to be this high density urban zone, but in your wisdom you didn't do that, you made it ARRD. You can do the same thing here.

Mary Noone – An artist and have lived in the valley for 27 years and spent time painting on the Sanders Ranch property. I'm speaking for the future generations of this valley and we need not look at the short term value rather the long term and need to say we should raise the standards here a little bit and bump up that 10% affordable housing. We should expect more; we have a great piece of land here and we should make the developers work for it and advocates ARRD zoning.

Geneva Powell – Director of Housing Authority – if the intent to rezone this property is to provide a place to build housing that's more affordable and attainable, I would like to request the definition of affordable and attainable housing be set well in advance of any development whether it be Related WestPac or whoever that comes in to develop on this property. Will it trigger the affordable housing with deed restrictions that we already have in place or will it be left up to the discretion of the developer to set his own sale price and put his definition of affordability on there?

Jay Leavitt – Lives in Eagle County and has been an architect for 40 years and involved in affordable housing in this valley for 15 years. I have worked with Susan Shirley who was our executive officer of Carbondale Affordable Housing Corporation about 10 years ago. I have been the development and construction director of the Aspen/Pitkin County affordable housing office and have designed 1200 townhouses. Whatever happens on this spine along Hwy 82 affects all of us whether it be this property or in Aspen. It's the reason I got involved in Eagle County's Planning Commission. Eagle County they are debating their affordable housing guidelines. My guess is these will pass and read a paragraph that in summary spoke to the demand for affordable housing needs. The 10% requirement is way under what we need in this valley; I support deed restrictions to keep the homes affordable/attainable. This will be a $600,000,000 project with river frontage when it's built out and these homes should be deed restricted. He asked the Board to consider requiring the applicant to adopt the Eagle County Housing guidelines as a condition to the approval of any high density or any zoning for that matter. I think that is possible, it is a legal question that I have not researched but I think a zoning issue of this magnitude gives the Commissioners that leeway.

Rob Snyder – The one thing heard consistently here today is how does this project stay affordable and attainable. The only way I know in economics that you can keep something attainable is to restrict the market and I would urge the Board to do something really bold and make the whole project only attainable to employees or employers in Eagle, Pitkin and Garfield Counties. That appears to be the developer's market and it you do that you have employees selling to employees and employers selling to employers and you keep the second home baby boomers out of the market.

Claire Batasble – Pointed out there are real implications of urban density in a place that doesn't have an urban density infrastructure. Recognizes the concerns to stick with the strategic plan from 2005 but a lot has changed in 13 years and there's so much going on in valley floor. Upon completion of this project there will be about 555 units in Willits and we're looking at double the development here. We need more affordable housing in the eastern part of Garfield County but urged the Board not to not jump into a preempted up-zone that would lock you into decision making that may push something towards a situation of approving something that we just can't handle infrastructure wise.

Russ Arensman – Glenwood SpringsCity Council member but speaking only as a citizen here today. Deeply concerned about the requested high density rezoning of this property which would allow nearly 1,000 homes on less than 300 acres. The residents have been trying to make the point that this is not the right location for dense urban style development. There's a lot of us that would like to see some semblance of separation and breathing space left between our existing communities and not an endless procession of subdivisions and strip malls. Personally I'm not opposed to some level of development on this property and there was little opposition to some of the previous lower density plans that have been through this process. Dense style urban development is not suited for this location, the impacts on adjacent communities and the impact on Hwy 82 corridor between Glenwood Springs and Carbondale is too great. If you approve this rezoning you'll essentially be authorizing the creation of a brand new city but without the jobs, the police protection, health care and other support services that a community of this size requires. He supports the need for affordable housing within the County and hopes it a dialogue that we can have as a region and how best to achieve that but the most appropriate place for that development is within our already established communities where people don't

need to get onto the state highway and drive into town to buy groceries or see a doctor. A study online was recently done by the Center for Housing Policy and they looked at low to moderate income families earning $50,000 or less and what they found across the country is that these working class folks are increasingly having to move further away from their jobs to find affordable housing and yet the people they studied end up spending as much or more on transportation as they were able to save on housing. Less costly land may indeed allow us to buy cheaper houses but those savings are typically more than offset by higher transportation costs. Responsible land use planning ought to be about helping people to live where they work and work where they live. I hope the BOCC will say no to this inappropriate zoning request.
Mark Gould – Has been on the valley floor for a long time, 30 plus years and said to the Commissioners that you have a tough duty and commend you for what you have done in the past on this topic. I know it has spawn from the idea that we need to have a few more workers in the valley floor from Glenwood south. When we look at where our workers come from I have 120 to 130 and about 115 live west of West Glenwood Springs and travel through town everyday. And it's easy for most of the people in this room to say hey, miss your soccer games, miss your basketball games, and miss whatever because you've got to make a living in Pitkin County. The fact is that we have a golden triangle and the fact that it's Aspen and Vail and then the oil and gas industry in Rifle; the fact is that's been why our economy has been so successful and in reality what we need is more workers in this valley that don't have to travel through Glenwood Springs. If we just think ahead, visionaries think ahead 10 years, when the oil companies figure out, Shell figures out how to solve the problem and all of the sudden workers in New Castle, Silt and in Rifle, instead of half of them taking a left hand turn and coming this way to work, all take a right hand turn and go that way, what will be the meaning of having this many more roof tops in our valley floor because we're going to need the workers. To put it into perspective the reason you have a Comp Plan and it's important – there's a lot of work that went into that Comp Plan and secondly multi-family means when you look at it, you look at a roof top and the roof top happens to have two front doors. You look at the roof tops in Ironbridge – there's going to be 300 roof tops; 500 plus roof tops at Aspen Glen when completed and right now this present plan that we don't get to discuss because it's multi-family, we'll have another 500 or less roof tops. I tell you you're not going to be able to look at the density of this and look at the density of Aspen Glen and tell any difference as you're driving 65 miles an hour down the road. The question is how do we put more of our employees there that is going to be a problem that we've got to solve. I commend you for at least for listening because so many of us employers have been telling you time and again, we can't find employees, we can't get employees living in this valley, there isn't enough nurses, college professors, teachers in RE-1 school system, this is a problem and we keep pushing it off and saying, "make them drive from Silt and New Castle", it's time we stop and say this part of the valley has to have some housing.
Chairman Martin had one comment that came in over the phone so he will share after Shannon.
Shannon Pelland – An assistant superintendant with the Roaring Fork School District and as I've listened to people's comments; I've realized what I was going to say would apply to a PUD hearing. I think Related WestPac has been before our Board of Education a couple of times and two things the board had conversations about are relevant to your hearing today. 1) The developer has worked with the school district in reserving a school site in the subdivision that would provide adequate capacity to accommodate students generated by this subdivision as well as some access capacity for surrounding subdivisions. School sites in this area between Glenwood Springs and Carbondale are a critical need of ours. We're actually looking at two schools, an elementary and middle school both in that area in the next 10 years. Another issue that I think and will ditto a lot of what Mark Gould said, for the district housing has been identified as probably the most critical issue that we face in retention of teachers and all district staff. Like he indicated, many of our new teachers are driving from Grand Junction, Battlement Mesa, Rifle, Silt, New Castle through Glenwood Springs and we would love to have them living in the district boundaries where they are working. The Board was excited to see some reservation of units in this subdivision for affordable housing, a fairly significant number; we talked about the 10% and then Related WestPac has talked to us about the possibility of 10% in addition to that that would be a little bit higher than the low income guidelines but would still have a limitation on income and that certainly is an area where a lot of our staff members fit.
Chairman Martin – Had a phone call from the Girls Ranch where the owner/operator wants to endorse the project at Cattle Creek. She couldn't be here today but wishes to pass that on.
Calvin Lee – It should be pointed out that the zoning ordinance and the statutes do not require you as a Board adhere change to any zone to be consistent with the Comprehensive Plan. It is not mandatory that you do so today and urge you to revert this zoning back ARRD. WestPac has 3 pamphlets outlining their project and it all looks enticing and seductive; it does provide for a certain amount of affordable housing and rental units. People have spoken about that project and how its going to provide affordable housing. You are required to consider whether to rezone this or what to zone it irrespective of what WestPac is proposing. WestPac could go bankrupt, they could have financial problems and decide to sell it to another developer and even if they proceed with this and you have the ARRD zoning you can still approve their submittal if you like what you see because it will be consistent with the Comp Plan. You can determine that it is creative, that they have dealt with the traffic, that they are configuring the property in a way that clusters the density; traffic flow is going to work but if you zone this property high density you lose all control over what happens if WestPac doesn't follow through with their plan. So you need to decide if you zone it high density is that what you want? Do you want 1000 houses every 7500 square feet one after another and our zoning regs would not require that developer to do affordable housing. Right now our zoning regulations say that the only time you can require 10% affordable housing is if the developer comes in with a PUD requesting more zoning than what is in the underlying rezoning; more density rather than what's in the underlying zoning, or somebody comes in with a rezoning and requests a higher density than the present zoning that they have. So if you do this high density zoning and WestPac decides and remember this property has changed hands several times, WestPac is a reputable company, they're doing the Snowmass Base Village, which has come under controversy, it's not a guarantee that they are going to go through with this plan, so you have to consider what the zoning is going to be irrespective of what they propose. Ask yourselves, do you want to decide how this property is going to look when it gets developed or do you just want one house right after another with no affordable housing.

Gary Gardner – Said he has been keeping a tab and over 25 people have spoken and only four people have appeared to support affordable housing that live within less than 2 miles of the property. I've listened to all the land use accretes and zone accretes and heard a long discussion by the building and planning people and it seems like we could argue about this forever but you have to go home at night and sleep. You have to ask yourselves how do we solve the problem of more affordable housing and where does it go. I would just argue that Related WestPac on a probability basis is the best game that's walked in the valley in a long time for all kinds of reasons – no certainties – got to roll the dice and these people are the right people to roll the dice with. The zoning issue happens before looking at the application and it appears to be an opportunity to drag a hearing across the street. You have to see through that we owe it to everybody in the valley who says we need affordable housing; you owe it to yourselves to sit down and have a dialogue with Related WestPac and how to best get that done. If you pass these guys up we'll be another 10 years getting another 1000 units up somewhere. The whole County put up 780 units last year. So if it is a big problem, we need big numbers; how do we get bigger numbers, do we raise the percentage of deed restricted as been suggested? There's a lot of ways to solve the problem but I would encourage you to be patient, tenacious and sit down at the table with these people who have the capacity and the selfless interest to get it done. They are big employers and I don't know where else we'll go if we shut this one down.
Judy Whitmore – I moved from Eagle and have the pleasure of living in the Ironbridge community. Just sitting here I had to speak because I really urge you guys to keep the zoning where it is and make the developers ask for higher density zoning and then deal with it at that time and increase the affordable housing situation. I know that Ironbridge tried to give the people that needed the housing instead of giving it to investors but the reality is there is nothing they can do about that – what they ended up doing because there was so much demand for Phase II was to have a lottery and I just happened to win and the lottery was not for deed restricted housing, this was for regular housing but they were coming in at an acceptable affordable price for a lot of us and there were a lot of people there at the lottery who were turned away because they didn't get into those smaller houses that were relatively affordable. The number one house on the lottery went to the well known housing realtor who had plenty of their own houses and purchased it as an investment. I walk my dog all the time and most of those houses are empty because they're owned by individuals who don't live there; or maybe there going to be rented. The people next to me are renters; these houses were bought for investment purposes and not for the people you are talking about for your teachers, fireman and fellow workers. These developers come in and have a wonderful development. My house has gone up $200,000 since I purchased it and I only moved into the house in October of last year; it is not really going to be affordable for the next person.
Martha Cochran – Offered a personal opinion saying I'm glad that a lot have talked about this fallicy that density equals affordability and that we can build our way out of this housing problem. As an example there are 1200 approved unbuilt unit in Glenwood and Spring Valley; with this project there's another 2000 between Glenwood and Carbondale on the boards. That equates to 3 towns of Basalt and as we think about pollution, traffic, animals and affordability and all those issues, how many workers does it take to sustain that. As a final point in 2008 it is embarrassing that we have in our County a zone district called urban density that is so inappropriate and so out of touch with the norms of transit oriented development, building should be around the urban cores; all of those things that good planning is generally about, so it wouldn't be any problem to nullify the master plan and say that it isn't correct and it doesn't have legitimacy. Instead of setting the bars as low as possible, let's set it as high as possible and keep it at ARRD; that is appropriate for a 300-acre piece of property and worse case you can not zone it and let them come in with their PUD and go through the process.
Dave Johnson –The fact that we're even considering a project of this density is a sad commentary of what this valley has become. I moved here in 1991 and 90% to 95% of the buildings between Basalt and Glenwood didn't even exist then. This project doesn't address our valley's housing crisis realistically in my opinion. 10%, I think they're selling investments, I agree with the gentlemen from Ironbridge saying make it 100 % employee housing so that in the process of compromise, between developer and government, if we end up with 50% employee housing and the project of 300 to 400 homes I could live with that. The Commissioners approve a lot in this valley and I would ask you to look out for the needs of citizens and not developers. He went on to ask Mr. Smith about illegal immigration and illegal employees up in Snowmass…….
Chairman Martin responded to keep this discussion on zoning; this is a zoning issue not a personal attack.
Dave Johnson - When you approve a lot of development and keep development going at the pace that it's going now, aren't you guys a little complacent in aiding and abiding illegal aliens, are you not?
Chairman Martin – No.
Dave Johnson – That's debatable and if this project passes, I know what I'll think in terms of that.
Chairman Martin – remember the State Statutes and what we're sworn to uphold and one of those happens to be to uphold the immigration issues that are in front of us and that again, it's a requirement that we have to swear an oath that we're not doing.
Dave Johnson – When we approve development that is unsustainable like it has been where it's going at such a breakneck speed that we have to bring workers in not only from around the country but bring them in illegally from other countries, it strikes me as…..
Chairman Martin – This government does not bring in illegal aliens.
Dave Johnson – I find that hard to believe.
Chairman Martin – Please stay on target which happens to be a zoning issue and not politics. *Dave Johnson* – I will be very disappointed if this is zoned urban.
Kristine Loomis – I'm here on behalf of Habitat for Humanity and we struggle constantly looking for lands and are starting to get some land in Rifle but I have a hard time telling families that I'm doing them a favor by putting them in Rifle when they are driving up valley everyday. We're just hoping we can put some families via a transportation system and make a true difference for them.
Bob Spooler – CMC – speaking as an employer we do need affordable, attainable housing and would like to see people not be on Hwy 82 and on I-70 and all the other roads and have to travel as much as they are, etc. I've been here for 20 years and we go through every time a developer tries to come in and work with different partners. The first thing that happens is they're demonized and now we're into accusing them of bringing in illegal immigrants and other things;

we've got to move on and we need to start doing and make decisions and unfortunately whether you like it or not high density is one of the issue that we're not going to be able to avoid any longer. We can only have so many Aspen Glens or Westbank's, if you're going to try and have housing be affordable and attainable you need to have multiple types of housing and you need to have it be economical enough for the developer to be able to charge a price that people can built on and go ahead and be able to afford. We've had too many years of "not in my backyard" and it's time to do something. I encourage the County to take this stance and move on and work with some of these developers; they're not all the devil and it's time to work with them on developing some affordable and attainable housing.
Applicant:
Rocky Shepherd – Thanked the BOCC for hearing us here and thanked Pat Smith in giving me a free hand in working on the development. We're not here to talk about our development. We can't go into whether we're going to do more than 10% or whatever, those things are for later. One thing is when Ms. Pelland was talking about the property for the school, that is donated property for the school and it is 14 – 16 acres plus putting in the fields and parking and making a pad for the school; this is just for clarification. We agree with RGUD zoning that you guys put on the property back in April to match the Comp Plan and last memorialized in December. With the price of medium housing in Glenwood Springs close to $600,000 and requiring an income of $160,000 plus to qualify for it, this area needs housing of all levels not like the houses at Aspen Glen that are well over a million dollars. And that's our plan and has been from the beginning to do attainable housing for people. I just came from the teaching profession, my wife and daughter are teachers and we want to provide housing for people who need the houses that work. Like I've been to meetings with all the different people on housing and in one of the meetings John Martin made the statement "stop studying it and start building it - Garfield County is growing, get on your horse and go" – that was at the April 30th meeting and that's what we're trying to do. We want to have the opportunity to submit our PUD and we did submit a sketch plan so there are no surprises in what we have planned for the property.
Chairman Martin – For clarification, we can't review the sketch plan as the County Commissioners, so we have not seen this plan. Those folks that think we have are in error.
Rocky Shepherd– We just wanted to get it out so it was in the public and we gave it to the newspapers and everybody else.
Chairman Martin – And we tried to avoid it.
Rocky Shepherd – I do urge you to look at the letters because I received 30 or 40 letters myself that came to me from those who are working in the valley, that work in Glenwood Springs, that work in different areas that couldn't be here because they are working. Jim Lochhead will talk about our legal issues and then Sherry Sanzone who will be speaking about the reasons that this is the proper zoning.
Jim Lochhead – Some slides to go through and submitted those as an Exhibit. Clearly as your staff recommended we believe that RGUD is the only zone district that complies with the Comprehensive Plan and if the zoning is to conflict with the Comp Plan there needs to be an error in the original zoning or a change in the neighborhood and we don't think that there has been either and in fact the slides shown by staff illustrate that this area is becoming more dense not less dense and is certainly no longer a rural area. Like to address a couple of issues that came up, one is the issue of ARRD zoning and the issue of leverage on a developer on a PUD zoning. Aside from the fact that ARRD is on it's face not in compliance with the Comprehensive Plan we would urge you to be consistent in your views about what you want to see done on this property. You've already voted at a previous meeting to zone the property RGUD and we asked you to redo the hearing. This is a brand new clean slate but if you zone it ARRD you would have to do so under some sort of finding either that the Comp Plan was wrong or that the ARRD is somehow in compliance with the Comp Plan which I indicated I don't think you can do but then we would come back for a high density development and you would have to find that was to be in conformance with the Comp Plan. So you will have gone back from high density to low density and back to high density all under the rationale that it is in compliance with the Comp Plan. The better course of action is to make a statement that density is appropriate in conformance with the Comp Plan and that you will hopefully invite a well planned project to be located here. The second issue is on the leverage point that Related WestPac is somehow going to do a bait and switch, pull the sketch plan that's been submitted that's a PUD and come back with a subdivision. Aside from the bad PR associated with that, I think you understand as Commissioners and as land use approvers even under your subdivision regulations you have plenty of leverage on this development. The developers are still required to address traffic and wildlife and all the other issues that are associated with the development of this property in your subdivision regulations, it's not simply a use by right that we can stand up and go forward with. As discussed by staff, the Comprehensive Plan which was developed on a matrix, the Table 30 does have a number of indications of why this property was designated high density residential: compatibility with the surrounding land uses and opportunities for housing. This is the last remaining large parcel in this valley than can support density which is located with direct access to transportation and direct access to water and sewer from a central location which has few site constraints. I would urge you to read the letter from Dave Michaelson, the planner who wrote the Comp Plan and his reasons why he believes that RGUD is the appropriate zoning on this property. You have a number of letters as Rocky has indicated including a number from the major employers in this County indicating their need to have their employees who work in this valley also live in this valley and be part of this community and not be dislocated. I'd also like to address very quickly the proposal by the Roaring Fork Conservancy to retain the PUD zoning on that portion of the property which is subject to the conservation easement. The conversation that was generated between the landowner and the Roaring Fork Conservancy was actually initiated by us in response to their original letter; the idea that we retain the PUD open space conservation district on that portion was generated by us and we felt it was a good faith effort on our part to demonstrate both to the County and to the public and to the Conservancy that we think it's appropriate that the zoning on that Conservancy easement property be compatible with the conservancy easement as it was originally designated on the PUD. Basically any use that is consistent with the conservation easement is totally compatible. We believe that you can retain that portion of the PUD on the conservancy easement and consider it as being completed and then rezone the balance of the property. So we would support the Conservancy proposal. Finally as a practical matter, we believe that this rezoning opportunity represents your best opportunity to send a strong signal to both the landowner who is about to spend a lot of money just going thorough the land use process; it's probably going to be a year long process that we're going to go through and we're going to spend a lot of resources and have a lot of different hearings on whether we're

adequately addressing the impacts on this property. Again we're just asking for that opportunity, for you to send a signal to us and to the community that your Comprehensive Plan actually means something. For decades Garfield County has complained about carrying the brunt of up valley development and failure to address affordable housing in this part of the County. Neither Glenwood nor Carbondale has effectively stepped up and provided solutions to the affordable housing problem in this valley. This property will be developed; it's just a question about whether it's going to be low density second homes or whether higher density development can occur to meet the needs of this community. Dislocated employees contribute to increase traffic, social and health care problems, pollution and increased tax burdens in this County. One of the heritages we have in this County that those of us who have lived here for a long time have come to appreciate and that is the heritage of a neighborhood and a community and being able to step back and talk to your neighbor. We're losing that, we've lost that to a great extend because people can't afford to live where they work. Growth in western Garfield County has resulted in that end of the County being more self-reliant and I think the west end is going to continue to be more self reliant. As a result businesses in Glenwood and the Roaring Fork Valley are finding it more and more difficult to attract workers at this end of the County. The problem of the dislocated employee is being exasperated. As a result we believe that you have an opportunity to exercise leadership and do something that others often just talk about. You'll be dealing with growth in a smart way where it is designated in the Comprehensive Plan instead of asking New Castle, Silt, Rifle and Parachute to bear the burden of that growth. You'll be helping workers to not have to endure one and two hour commutes to Glenwood Springs. You'll help prevent Glenwood Springs and the I-70 Interchange from becoming completely bottlenecked. Will a small lot in a multi-family development solve all of these housing problems, NO. But to deny the opportunity to create diverse neighborhoods at this location will mean you have walked away from the last large property in the Roaring Fork Valley with the opportunity to do that. If you fail to zone this property in conformance with the Comprehensive Plan you will have made a clear statement that planning goals and standards in your Comprehensive Plan and regulations are meaningless and that the County's "Comprehensive Plan" is 2-acre zoning; now that is sprawl. Related WestPac welcomes the opportunity to go through the process and work with you to the best strategies to allow the private sector to maintain affordability and diversity at this location. But without the right zoning that opportunity will evaporate. One thing is certain, large lot zoning in low density will not equate to affordability. With that I'd like to briefly talk about how density and open space can in fact coexist on this particular property. Slides were shown. What you see is a photo of the property that has the conservancy easements in place and the one located along Cattle Creek and the Roaring Fork River is the Roaring Fork Conservancy easement. There are also conservancy easements, open space easements that have been put along the RFTA corridor on either side of the corridor; those are volunteer site constraints already in place. There are of course as with other property other natural constraints that prevent development from occurring. So this is and of itself eliminated 35% of the property from being directly developable. With good planning and through the PUD process you can open up corridors in open space avenue for further development by clustering and creating density as appropriate. And by taking a plan and creating buffers such as a corridor through Cattle Creek where the elk can go through the exiting tunnel and cross Hwy 82, you create areas where there are parks and open spaces within the neighborhoods. You can take 64% at least in this example of the property in open space and parks and develop the rest. And under this plan about 1,000 units could be accommodated with appropriate density and the remaining 64% of the property kept for open space.

Sherry Shonezone – Focused on the benefits of the RGUD zone district; we feel strongly about it and will tell you some reasons why. We believe the County's Comp Plan also Colorado Smart Growth Initiative as well as LEED certification are mutually supportive and together they are going to allow us to create an exceptional project on this property. Again, it's important to have the RGUD zone district to do that. For people who aren't familiar, LEED is an environmental and sustainable building program that measures as a 3rd party how well we are doing as far as the development and that's an important and critical part of the success of any potential project here. You've heard a lot of "what if's" today about what smart growth could be and we'd like to focus on the opportunities in both your Comp Plan, the Colorado State Initiative called Smart Growth. It is defined here as about promoting strong neighborhood, creating our transportation future, saving our natural open spaces and also providing opportunities for a better life. There are four considerations that we've talked about: neighborhoods, transportation, open space and better life and we're going to talk a little bit more about that. Smart Growth includes inclusive and diverse neighborhoods. We're talking about a variety of home types, a variety of family types and a variety of income levels. We would like the opportunity to include all those folks in any future development here. It's about connecting existing uses. We saw in Fred's presentation that there is quite a diverse amount of uses around this property and being able to set the example with this future development and be able to connect those existing uses as well as be able to create a place here where we're also talking about many transportation options. We've heard the fear about traffic and we understand that. So we're looking and working with RFTA to be able to provide transit options here, biking options, walking options, and we're looking at all those opportunities on this property. Also being able to preserve and enhance open space is a key component. We believe that the high density residential land use designation combined with the RGUD zone district allows the creation of a high quality place. And of course sustainability is important. To create strong neighborhoods we believe they need to be compact and walkable and that's reinforced in your Comp Plan. This means small homes on small lots; we believe the RGUD zone district allows us to do that best. Being able to have a front porch where you can talk to your neighbors that are walking by is important and again having a mix of home types. Also key is being able to have locally serving commercial development; only the RGUD allows that and that means a local store where you can walk and get a carton of milk or get the newspaper. We'd like the opportunity to include that here and then of course having community facilities. You've heard about the potential for a school, we also have the potential for a fire station and these are the things that create a great community. Future transportation relies on both local approaches and also regional approaches; we're working very hard with RFTA to combine both. We believe reducing vehicle trips in any way we can is important and we're working hard to do that. Also being able to use the existing infrastructure wisely whether it's the existing capacity on Highway 82, the existing capacity of RFTA – we're looking into that and then also being able to reinforce planned improvements. We know RFTA is looking at bus rapid transit, we believe this site works very well to help facilitate that. Natural open space is kind of contrary to have growth and actually be able to observe open space. We believe we can do that on the property and Jim's slides helped to describe that. We also believe that public access to the

property is important and that was provided for in Bair Chase and it probably wouldn't be provided in another typical development. We believe that having the high density residential allows public access on the property. Being able to create a better life we believe is really important and it's a tenant of smart growth on whether it's allowing you to interact with your neighbor, being able to create memorable places and being able to install long term attainability. We don't know exactly how we're going to do it but we are working hard to figure that out; you've heard about the 10% commitment and we're working hard to expand on that.
Exhibit ZZ – Applicant's exhibits were submitted for the record.
The applicant's slide presentation was marked as Exhibit AAA and entered into the record.
Fred put up the options for the board on the screen that include:
Residential Limited Suburban Density (RLSD)
Residential Limited Urban Density (RLUD)
Residential General Suburban Density (RGSD)
Residential Limited Urban Density (RLUD)
Agricultural / Residential / Rural Density (ARRD)

Zone District	Allowed Uses	Minimum Lot Size	Comment
R/L/SD	**Single Family**	**20,00 sf**	**No multi-family** **No accessory retail** **½ acre lot size not high-density**
R/L/UD	**Single Family**	**7,500 sf**	**No multi-family** **No accessory retail** **1/6 acre lot = high density**
R/G/SD	**Single Family** **Two Family** **Multi Family**	**20,000 sf**	**Contemplates High Density Units** **No accessory retail** **½ acre lot size not high-density**
R/G/UD	**Single Family** **Two Family** **Multi Family**	**7,500 sf**	**Contemplates High Density Units** **Accessory retail** **1/6 acre lot = high density**
A/R/RD	**Single Family** **Two family** **Ag Operations** **Guiding / Outfitting**	**2 acres** **(87,120 sq. ft.)**	**Limited Multi-Family Units** **No accessory retail** **2 acre lot size is low density** **Does not Conform to Comp Plan** **Incompatible Conditional / Special Uses**

Commissioner McCown made a motion to close the public testimony portion of the public hearing. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Chairman Martin explained that we will stop taking public testimony and put the burden on our shoulders and try and hash out everything and look at the options that we have and come up with some kind of a decision, hopefully it make 50% happy, it usually does. But the other half will not be happy.
Discussion and motions
Commissioner Houpt – There were a lot of really important issues that were raised today and one of the things that wasn't discussed but kind of had an underlying message all day is that if you opt to go through the PUD process you have a great deal of flexibility and that underlying zoning becomes moot. As I look at it and as we start discussing this, I personally am going to look very closely at the history of this piece of property and what we've seen historically in the County and we do see these pieces of property turn over quite frequently. And not to say that it will this time, but when you look at how you're going to zone a piece of land or what kind of regulations you want to put in place, you always want to plan probably for the worst case scenario. I'm not convinced that our Comp Plan has been updated frequently enough and we're lagging behind but working very diligently on everything that occurs. We are a very busy County and we are growing tremendously; but there are some issues that we do need to address. But I think it's important to recognize that we do have a Comp Plan in place and there has been a great deal of work put into that. I don't agree that there's only one zoning option that is compatible with the Comp Plan and but I don't agree either that we should completely ignore what we have in place. As I look at what I would like to see happen on this land right now in an ideal world, I'd love to see the Roaring Fork Valley go back to where it was when I first saw it and there was no development to speak of at that time. That's not the reality of where we are right now and so as we look at a piece of property where we're looking at zoning and the needs of this County, I think we do need to look very closely at what will begin to address as some of the most critical issues. I don't want that statement of emails just coming from the property owners; I received numerous emails this last week from people who are trying to figure out how to remain in this County who can't find a place to live and I don't know, I've been studying this issue for a long time. I was on the Governor's Blue Ribbon Panel on housing and on numerous other committees and nobody really has the answer to this issue that I think will fix everything. I think we do have to begin to try and look at what kinds of solutions are out there. Deed restrictions to date seem to be the best solution for keeping homes affordable into the future instead of just having first generation affordability. So as far as I'm concerned the zoning that we put in place today although it may send a message, won't impact the current process because the current property owner is bringing forward a PUD application and that in itself will create a different type of zoning. I don't want to see WestPac leave and have zoning in place that would allow someone else to come forward with a subdivision application that could potentially allow 1600 units to be built in that

area. And I don't know if its 1600; I've seen that number thrown around since we started talking about this. I lean more toward the rural general suburban density because I think you do then have a greater ability to encourage a developer to come forward with a PUD process that really begins to address the needs of the County and what actually can be responsibly built in a rural County. I agree with many of the concerns that were raised about having urban density in areas where you don't have urban infrastructure, but I also believe that because we have reached a crisis level in Garfield County with affordable housing, we as a County can't simply rely on the municipalities, which has been the traditional mode nationally actually with affordable housing and saying now this is a municipal issue because we need to have affordable housing near urban infrastructure. Affordability has taken on a different shape in the last several years; we've got the traditional population that needs affordable housing who really need subsidized housing and then we have people who are simply trying to work in this County either because they want to retire here or want to live and work because they want to raise their family here. And shame of us if we can't find a way to make that happen. If we continue to force people to drive in excess of 50 miles one way to work everyday and say well, that's okay because this is a rural resort area then we're really not looking at the issues that are at hand here. I would support the Comp Plan on this point simply because those people who work in Carbondale, Basalt, or Aspen or Glenwood should have the option of also living in that community so if they are raising young children or if they want to have a community feel they can be close to the activities of their family. So that's where I am and really am more in support of the Rural Suburban Density because I also agree that it gives us as a Commission a greater opportunity to weigh in on what ends up on that piece of land.
Commissioner McCown - We give affordable housing and attainable housing all those buzz words a lot lip service; I'm not a planner nor would I want to be, but you alluded to something things that concerns me about how well Pitkin County's doing with 64% inside Aspen as far as affordable housing on projects. Can you remember the last time there was a major project in Aspen? They build one house at a time at $15 million dollars a house. That is not a healthy community. I don't know how they get a jury pool in Aspen, there's nobody living there – they own homes there but they don't live there. That is not what I feel Garfield County is all about. The studies that were eluded to that drove the needs for housing and no one alluded to the fact that in 2035 when we reach our magic 140,000 population that Garfield County is supposed to reach, if you listen to the demographers, 30% of those people are still going to be out-commuting to Pitkin and Eagle Counties. That tells me they're not doing that good a job with their affordable housing if 30% of our population still has to get up in the morning and drive to Aspen and/or Eagle or Vail to go to work. I feel very strongly that we need the possibility of WestPac or someone else to have the last large piece of property in the Roaring Fork Valley to try to develop some type of housing that is not a trophy home. If you have a 1700 square foot home that is not going to have the appeal to the multi-billionaire coming out of Pitkin County wanting to buy that home, they're no prestige that goes with it because you might be living next door to a guy that works for Garfield County and drives a snowplow – you can't brag a lot about that even though we have great people - those are the people that need that housing, so I'm in support. I don't understand the rationale of let's go back and rezone this property ARRD and then we can put the hammer on them when they come in with their PUD and then we go, well, if you do a PUD the zoning is not really relevant anyway so why would we want to zone it ARRD if it's not really relevant anyway. It's been a long time since that has been agricultural rural density out there. Almost 11 years ago to the month I heard this as the first major land use action - Sanders Ranch, 17 hours of testimony as John alluded to and there were people outside the courthouse that night and we got finished about 11:30 p.m. A lot of variations have taken place since that night and none of them have been successful because I don't think it afforded the developer the density needed to make a successful development. Something is wrong when every development that comes before us has to rely on a golf course to be successful. We need the houses for our workers. We need that a lot more than we need any more golf courses in this valley or the Colorado River valley. The lower Colorado River Valley has been the affordable housing in Garfield County for years. We have been that for Pitkin and Eagle County, now they have found an economy of their own and low and behold everyone in the up valley area is finding the same problem getting employees, that we have lived with in the lower valley for years, because we couldn't pay the wages comparable to the up valley. Let's try to level the playing field, let's try to let at least 900 people, is the number I hear bantered about today, let's try to let them live within 15 minute drive time of their work or 15 minute ride on a bus or whatever, however they get there, let's try to give them an option, right now we don't have that with the Aspen Glen, Rose Ranch, Coryell Ranch on up the valley, it's not there. Chairman Martin – As you alluded to 11 years ago, Sanders Ranch – a lot of the same familiar faces are in this room that had the testimony that I heard today, there's one thing that they forgot and there was an economic study done both by Carbondale and Glenwood Springs and they presented that information to this Board which we again agreed upon and stood beside and said okay, you develop what you need to develop. 11 years ago and it is 11 years now and they still haven't developed that. So that's what we're up against. I take a different view, now we've got a situation here; I think that the handwriting is already on the wall. That is a PUD and I think we need to say amend your PUD and bring it forward and let's see what's there and let's just get it done and get it in the process. If we're going to allow density, then it has to go through the process and through the planning and zoning and make sure that the density fits within the area of the piece of property that they wish to develop. We could do some great things in reference to density and not just spread out but go up and it depends on that PUD. We need to preserve again the conservation easement we have in place, we need to take again a look at what we went though three different times on this piece of property and preserve the best parts that we've got. We don't need to just throw them away and start all over with just a new zoning issue. PUD, Jim, put it together, bring it forward and let's see what you've got, let's see if it fits the scrutiny, let's see if it is acceptable and it does a good thing for the community. Let's just not give carte blanche. That's where I'm coming from. Commissioner Houpt - So there are three different opinions. Let me make a motion that we adopt the rural general suburban density (RGSD) for this piece of property and also want to preserve the open space and conservancy district zoning that's in place with the PUD that we – do we need to revoke that again today?
Carolyn – first step is to revoke a portion of the current PUD; it's a two step process. Fred said Tresi what I think you're looking to do is to vacate and rezone the green RGSD leaving the uncompleted portion within the existing Sander's Ranch open space district. Commissioner Houpt – So moved. Fred – Only revoke a portion of the other. Commissioner Houpt – Okay, so moved. Carolyn – that's with the conservancy easement portion and the rest of the PUD. Chairman Martin – therefore she's rezoning too. Commissioner Houpt – Vacating and rezoning to residential general suburban

density and retaining the open space conservancy zoning. Commissioner McCown seconded for discussion but I cannot support it on the zoning densities. I do support the maintaining of the conservancy easement in its current status as it being complete under the existing PUD and not revoking that portion of the existing PUD but I can't support the zoning as suggested. Chairman Martin – My stance is my stance and stubborn as an old mule.
In favor: Houpt – aye Opposed: Martin – aye McCown – aye
Commissioner McCown - Quite similar only I'm going to make a motion that we revoke the PUD with the exception of the open space conservancy district's as deeming them complete and apply the RGUD to the zone district to the remaining portion of the property.
Commissioner Houpt – I'll second for discussion but I can't support it and it has nothing to do with the discussion we've had today or what I read in the paper about WestPac the other day. It has everything to do with what we see fairly regularly with pieces of property and if we're going to under zone this piece of property I want to make sure that it's at a level where this Commission can really weigh in on what happens with that piece of property.
Commissioner McCown – And I just have to say the reason that I made that motion is that stays consistent with what this Board has done two times previously within the last 4 months.
Commissioner Houpt – And I guess that I should explain my position on that. The first discussion we had was a very brief discussion and we really didn't study the options and I really appreciate all the information staff has put together since that time and all of the input we've received. The second time, I supported it because I really felt that notice was proper. And I supported that process. I don't think I'm going back and forth on this, I just think that since that first meeting I've had a greater opportunity to better understand this piece of property.
In favor: McCown – aye Opposed: Houpt – aye Martin – aye
Chairman Martin – I'm going to make a motion that we go ahead and not vacate or rezone the PUD but we continue the PUD and give instructions that the improvements need to be made in the different areas of attainable and affordable housing, keep the conservation easement and allow the landowner to come forward with his PUD with again the ability to discuss the different varieties of neighborhood, housing etc., and putting their plan together for public scrutiny and have the developer come back with an amendment. That does not allow in your regulation for the developer to come with a whole new PUD. Again, it allows him to address the different issues that he wishes to change within his PUD, yeah it does; otherwise it stays the same. Commissioner Houpt – Second. Carolyn it was my understanding from Fred that it would allow them to bring forward a completely new PUD, you're the attorney so I'd like to very clear on this before we vote. Chairman Martin – That was my understand in reference to again the PUD and again to allow the changes in the PUD amendment to come forward and that PUD is in place and you can amend the PUD to allow those changes and put them before this Board or the Planning and Zoning Commission to make those adjustments so that you could move forward with a new PUD basically. Carolyn – I suppose it would be a fact of determination at the time whether we're looking at a new or the entire PUD. Commissioner Houpt – Well the conservation district will be in place so that's okay but everything else can be amended and it will be amended. Chairman Martin – Types of housing can be addressed, the zoning can be addressed, the areas can be addressed, you can also remove the golf course, etc. through the amendment which has been done before in other PUD's and processes and I think that if they've already submitted a sketch plan in reference to a PUD, that is a substantial change, that has to be again weighted by the Planning and Zoning Commission. That's the way I've seen the regulation. I may be in error. Commissioner Houpt – I really need to know before we vote on this if this is going to cause some real problems because we may have to try some more discussion.
Carolyn – Well, if we're going into your regulations, we've moved into an area of legal advice and need to go into an executive session.
Executive Session
A motion was made by Commissioner Houpt to go into an Executive Session to receive legal advice. Commisisoner McCown – seconded. Chairman Martin – the motion is tabled.
Commissioner Houpt made a motion that we come out of executive session. Commissioner McCown – seconded. Chairman Martin - The motion is on the table. In favor: Martin – aye Opposed: McCown – aye Houpt - aye
Final Decision
Commissioner Houpt put her motion back on the table and that was the motion that we vacate and rezone the areas that are not included in the open space conservancy district and zone that to Rural General Suburban Density. Commissioner McCown – second. I guess I am going to still stick with my values and say that I may be boring but I'm consistent; I feel that if someone is going to be asked to come before us they need to know what we expect of them upfront. I don't like the idea of going with some less underlying zoning even though the PUD does away with that, and then we'll deal up depending on what they'll give us for more density. I just don't feel that's appropriate, let's let them know what we're looking for up front and go with it – come built it. Commissioner Houpt – Well, and I'd like to speak to that as well, I agree that's its important to be very straight and open with people, I'm really not comfortable with the notion of 1600 units in one subdivision in the Roaring Fork Valley and so I am being open and honest about that and I hope that we can all go forward in a really positive way and make this the very best that we can for this County. Chairman Martin – Knowing that there is a PUD and a sketch plan that's in place and again this is a recommendation, come back and get down to reality and that is the property owner's going to put together their PUD and bring it forward and it may change and they get to request another rezoning if they do or prove that they are benefiting the public by changing the zoning that we'll have to act on. A PUD has a lot of flexibility; I wanted to see a Union 76 ranch and I wanted to see the Black Angus cows on there too and Mr. Dewhurst that sold this piece of property should have done that in the first place but I can't undo that, so we'll settle and my attempt to the PUD again is an amended PUD because we had less than 300 homes on there; 3000 square feet of commercial and it was approved and it took 7 or 8 years to get it done. What we're having now is more than the 300 homes, 258 homes, now we're talking maximum around 600 just with this particular zoning and it also allows changes if necessary and I want to make sure that if we look at this particular issue that we have affordable housing and deed restrictions, we have benefits to the public, etc. and that still has to go through the process. This is not a guarantee that anything is being approved at this time. So again, instead of just beating a dead horse, and lamenting on the past and what I would like to see, Rocky was right, it's time to stop studying it, it's time to stop talking about it, and it's time to build it. In favor: Houpt - aye Martin - aye Opposed McCown - aye

Fred stated we need to revoke Resolution 2007-115. Commissioner Houpt – so moved. Commissioner McCown – seconded. In favor: Houpt – aye McCown - aye Martin - aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

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MARCH 10, 2008
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 10, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, County Attorney Carolyn Dahlgren and Marian Clayton, Deputy Clerk to the Board.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

PRESENTATION OF SENIOR PROGRAMS MODEL – SUSAN BOZINOVSKI AND LYNN RENICK

Colorado Mountain College has sponsored the Senior Programs of Nutrition & Transportation since 1978 in Garfield County. The college was thinking of stopping its sponsorship to this program but has changed its plan and will continue to serve as the umbrella institution for up to three years. The recommendation is that Garfield County government assumes administrative oversight of the Congregate Meal/Nutrition Program and contractual oversight of the Transportation Program and that CMC maintain the RSVP program. They feel one advantage for Garfield County being the umbrella agency is consistency and stability of the programs county-wide. One disadvantage is potential long-term financial obligation to the County. In May 2007 Susan put a task force together and was asked to make decisions. She interviewed people to see what was working well and identified the best practices. Her feelings are that services need to remain as they are for their clients. Susan stated there needs to be cross communications, cities, towns and stakeholders need to get on board. She referred to Exhibit 2, the proposed model. The group would like to propose moving to County services and the County would administer the programs. In three years they will review and see if RSVP is able to sustain on its own or stay with the college. Susan is hoping that any concerns the County had were addressed. They are hoping partners and stakeholders will stay with the program. Susan gave reasons why this model should work and should be kept in the process. She reiterated that the County based models are really strong and County governments are seen as viable, credible and stable. Mildred Alsdorf stated she thought the County Commissioners had done a wonderful thing and the seniors will thank you for this.

CONSIDERATION AND APPROVAL OF SENIOR PROGRAMS BUSINESS PLAN – LYNN RENICK

Statistics were provided on The Traveler indicating Glenwood Springs' number for one-way rides in the calendar year 2007 was 13,732 rides, 62% out of 100% which is the largest number within the municipalities. The total one-way rides for the year were 22,173. Statistics on the Congregate Meals/Nutrition Program was 42% for Glenwood Springs and a total throughout the municipalities was 20,810 meals. Projected costs for the county are: operational cost for the meal program is $263,180.00 and for Transportation $416,640.00. Lynn stated in the packet she had presented for the BOCC to review that there is a business plan. Lynn went over some of the key points of the plan. The plan includes Garfield County and the Department of Human Services taking over the management of the programs. She stated they are looking to hire a new program manager after acceptance of the business plan. There are also contracts and they are looking at RFTA to provide transportation. The advisory board Sue talked about will need a Board resolution in order to put this together. Estimated projected budget for both of the programs is $30,000.00 start-up costs. The projected first year annual budget, with the understanding we take over July 1st, is $263,180.00. For nutrition and transportation the cost goes up significantly to $416,640.00. Lynn stated there have been many discussions and meetings relative to the municipalities and other entities assuming and needing to work with the County to accept some of the financial obligations and exposure in order for this to be really looked at by Garfield County. Lynn informed the Board they did roll over the Human Services Commission Grant of $65,000. This is rolled over into the County share. Commissioner Houpt brought up the fact that the $65,000 isn't a constant number and Lynn stated she was correct. Lynn stated they factored in a 5% contingency, but without the contingency they are short $190,000.00. This could include United Way and other grants they may be able to capture. She closed with the projected budget for one year annually, starting July 1st stating it is projected at $679,820.00. The total share cost on that including the County is $481,980.00. Lynn stated we are putting this in front of you for consideration and approval of this model. Commissioner McCown asked about the partners and the municipalities. He is assuming the municipalities have seen the proposed participation list however, if Garfield County does in fact take the lead on this, at the 23rd hour there may be one or more municipalities that choose not to participate. John Hier explained that the cost estimate had just come out this past week and he doesn't believe the other cities have seen this yet. He stated that the proposal was to ask the County to look at in a conceptual form and if you agree, they will meet with all the other cities and municipalities. Commissioner McCown stated that any action taken today would be conceptual because of the lack of commitment. Commissioner Martin stated that he thought that Jim Neu is putting the MOU together for the municipalities. Ed Green stated they consider the critical path issue is hiring a program manager. He referred to the letter Lynn handed out; the position will be a grade 7 and they anticipate hiring in the $50,000 range. We need your approval today to get person on board and nominally trained by July 1st. Commissioner Martin asked if anyone wanted to speak about the conceptual plan. No one did and he asked for a motion regarding the program manger that Ed Green referenced. Commissioner McCown – so moved. Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF NEW POSITION – SENIOR PROGRAMS MANAGER – LYNN RENICK

Commissioner McCown – I make a motion we approve the creation of a new position as the Director of the Senior Programs under the Human Services. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF EXTENSION ADVISORY COMMITTEE MEMBERS

A letter from Michele Pike, County Extension Director was provided to the Board with a list of eight names of people who have expressed an interest in serving. Michele is requesting that the Garfield Board of Commissioners appoint these people to serve; the appointment is for a 3-year term. She is also requesting they complete the appointments no later than March 21, 2008.
Commissioner McCown – I make a motion that the following members as presented be approved and that Sara Dodero, Roy Knight, Patty Crocket, Lee Brandt, Liz Chandler, Corey Doss, Heidi Pancow and Susan Avillar serve as Extension Advisory Committee Members. Commissioner Houpt – Second.
Carolyn stated that is assuming Chairman Martin wants a resolution and asked if he wanted the resolution to say changes may be made by motion rather than by amending the resolution or do you always want to have an updated resolution? Commissioner McCown stated they are going to come back to the Board with staggering of the terms as the letter stated. These folks are new, this has never been done before and they will get back to us as to whether some will serve a one year term, two year etc. There will be a reappointments required every year. They may in fact elect their own officials and they would be the contacts. In favor: Houpt – aye McCown – aye Martin – aye

APPROVAL OF 18TH STREET, RIFLE, CO IGA – MATT ANDERSON

This IGA is the basic agreement between the City of Rifle and Garfield County to share responsibilities in the reconstruction of the 18th Street. The City of Rifle is responsible for getting the design and engineering accomplished and has until April to do so. The estimate for the engineering services is at $25,000.00. Garfield County's responsibilities are with the construction of the project. The project is estimated at $300,000.00. Once the engineering is complete, a proposal will be received from White Construction and a price will be negotiated to add this work to the current Justice Center project. (The second amendment to the IGA was attached for their review).
Matt – We have the final amended copy of the IGA and as far as I know, the City of Rifle, Garfield County and Don have looked at it and are in agreement. We are asking for approval of signature once we receive the copy. We decided it was in scope with the current contract.
Commissioner McCown – I make a motion the Chair be authorized to sign the intergovernmental agreement once we get the final and signed copy back. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

PLACEMENT OF A BENCH IN FRONT OF THE VETERANS' MEMORIAL IN FRONT OF THE COURTHOUSE – JOHN MARTIN

Commissioner Martin was approached by a family and the American Legion to put a marble bench by the Veterans Memorial for public use. It will be place on a concrete pad which is already there.
Commissioner McCown – I make a motion we allow the bench to be placed. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

DISCUSSION OF DISPOSAL OF FURNITURE WITH THE COUNTY OFFICES – TRESI HOUPT

Ed Green stated that in the last nine years every single workstation has been changed out in the County most of which went to the landfill as it had no value. In recent years we have been accumulating some of those workstations and have been auctioning them off at the fair grounds. One problem which arose is that CDOT took back their building where we had stored all the excess property. We really don't have any place to put disposed of property. As we get property in excess that becomes more valuable, we really need to develop an approach to store property. Ed feels we need a mechanism to store the property until it can be disposed of. They are thinking about acquiring shipping containers. Dale Hancock gave the costs for shipping containers. Commissioner Houpt had a concern that the County has a lot of furniture that is being cycled out before its life is gone. She doesn't understand why when we build new offices the County can't re-use instead of purchasing brand new furniture every time. She feels there is a real waste in that type of practice. She doesn't think we would be giving furniture away that is not usable. Ed is proposing to circularize it in two ways, internally and then go out to other entities such as non-profit organizations including the schools and other municipalities and see if they have any interest. One thing the Board would need to decide is whether we should offer this material at some sort of salvage value or should it be offered at no charge? Carolyn reminded the Board there are no gifts to private enterprise and it doesn't make a distinction of not for profits and for profits. You presently have an Article 10 in your Procurement Code that deals with this and gives certain authority to the Contract Manager. In the past, because the Contact Manager was not given the authority by your legislation to give away property, the Contract Manager has come to you when there is another governmental entity wanting a surplus vehicle or surplus bio-cabinets whatever. That is not written into your Procurement Code; it's a matter of not being dealt with therefore the Contract Manager has to come to you. But I want to caution you about giving away property rather than selling at salvage value.
Commissioner Houpt – I just don't want to see furniture taken to the landfill.
Ed described a three tier approach which included circularization, internally and externally. Anything left would go into the auction, then to the landfill. Commissioner McCown stated it sounded like we needed a 4th tier prohibiting the purchase of any new furniture unless it has been documented that we do not have that used furniture available.
Commissioner Houpt reminded everyone that the County has a new building at the Airport and they should get stock of furniture there that is not being used. Commissioner McCown feels everyone is clear; we have to sell it even if it's sold for a quarter a unit, it can't be given away. He also fears on the storage containers if they get stuffed full of furniture and the thing they want is not in the front, no one is going to bother to unload and search. They are not practical.
Dale stated they are having auctions on a monthly basis at the fairgrounds.
Commissioner McCown feels we shouldn't spend good money after bad by trying to store the furniture; take it to auction. Carolyn asked if she was hearing that they wanted to keep your Procurement Code as is. Sales under $2,000 or informal sales over $2,000 have to be formally advertised or are you looking for any changes? She also asked if they wanted the authority to stay with the Contract Manager.

Commissioner Martin agreed. Patsy stated she will be working with Matt Anderson and centralize who is responsible for the overall asset administration of the County to make sure the directives that the Board gives are being handled properly.

50 TON DETACHABLE AIR RIDE TRAILER – MARVIN STEPHENS, TIM ARNETT AND MICHAEL VANDERPOL

Road and Bridge received a bid from MacDonald Equipment Company for $71,935.00 and is recommending acceptance. Commissioner McCown asked if this was a single bid and Tim stated they did have a few bids.
Commissioner McCown – I make a motion we approve the acquisition of 50 ton detachable air ride trailer in the amount not to exceed $71,935.00. Commissioner Houpt – Second In favor: Houpt – aye McCown – aye Martin - aye

6000 GALLON CONVAULT DIESEL STORAGE – MARVIN STEPHENS

Presently a 2,000 gallon diesel tank is in use, this tank will be converted to unleaded and the new 6000 gallon tank will be for diesel. Staff recommends purchasing this diesel storage from Oldcastle Precast at the cost of $35,178.00.
Commissioner McCown – I make a motion we approve the 6000 gallon convault diesel storage tank for Cattle Creek in an amount not to exceed $35,178.00. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

DUST SUPPRESSANT FOR COUNTY ROADS – MARVIN STEPHENS

Road and Bridge requested bids for applying magnesium chloride to roads. One responsive bid was received from GMCO Corporation submitting the lowest bid of $444,599.29. Also provided was a list of roads to be done starting in the month of March.
Commissioner McCown – I make a motion we approve the dust suppressant bid to GMCO in the amount not to exceed $444,599.29 that is for 909,201 gallons of dust suppressant. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

HYDRAULIC TAILGATE CONVEYOR SPREADER – MARVIN STEPHENS

Road and Bridge requested bids for procuring two hydraulic tailgate conveyor spreaders and received two responsive bids with Layton Truck Equipment submitting the lowest bid of $14,300.00 and Marvin requested approval.
Commissioner McCown – I make a motion we approve the price for the two hydraulic tailgate conveyor spreader award to Layton Truck and Equipment in an amount not to exceed $14,300.00.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

TANDEM AXLE DUMP TRUCKS – MARVIN STEPHENS, MICHAEL VANDERPOL AND TIM ARNETT

Road and Bridge requested bids for the replacement of three tandem axle dump trucks. They will trade in two trucks and keep one as a back-up. Road and Bridge recommends awarding the bid to Western Colorado Truck in an amount of $451,278.00. Commissioner McCown asked if we were trading two in. Marvin - No we are increasing by one.
Commissioner McCown - I make a motion we approve the award to Western Colorado Truck Center for three Mac Granite Dump Trucks in an amount not to exceed $451,278.00 and this does include the quick hitch plows and d-box sanders as well as the dump beds. Commissioner Houpt-Second. In favor: Houpt – aye McCown – aye Martin - aye

MOTOR POOL VEHICLE REPLACEMENT VEHICLES – MARVIN STEPHENS AND TIM ARNETT

Road and Bridge is recommending procurement from Glenwood Springs Ford, thirteen Ford Escape Hybrids, two F-250 Pickups and one Ford Van for a total cost of $424,264.00. They would also recommend procuring one all wheel drive van from Stevenson Chevrolet for a price of $21,362.70. Commissioner Houpt stated the trade-ins seemed awful low and felt they should have a discussion on whether we are losing money on trading these in. Marvin explained that some things work well as trade-ins but it is hard to keep up the mileage. Sometimes it is three or four months down the road before someone obtains the vehicles and they are unhappy because more mileage has been added to the vehicles.
Ed Green stated he agreed with Commissioner Houpt that it might make sense to circularize the vehicles.
Commissioner Martin stated we need to look at our procurement policy and make sure we are getting the best deal and he also mentioned going to other Counties who may need vehicles.
Commissioner McCown – I make a motion we award the procurement to Glenwood Springs Ford for thirteen Ford Escape Hybrids, two F-250 Pickups, one Ford Van and the total cost not to exceed $453,310.00. Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin - aye

AIRPORT BACKHOE – BRIAN CONDIE

Garfield County Regional Airport requested bids for procuring a 4x4 backhoe loader. They received three bids and recommend Rifle Equipment Inc. in an amount of $69,432.00.
Commissioner McCown – I make a motion we award the bid for the backhoe to Rifle Equipment in an amount not to exceed $69,432.00. Commissioner Houpt – second. In favor: Houpt – aye McCown – aye Martin - aye

TRANSFER OF OWNERSHIP OF LOCALIZER SHELTER – BRIAN CONDIE AND TIM ARNETT

Brian explained the computer components that operate our automated weather observation system are located in the County owned building 1060. This building is scheduled for removal in June and the equipment will need to be relocated. Brian located a used FAA fiberglass localizer shelter which will be sufficient to house the equipment. The FAA is willing to release this building to the Airport for their use of the weather equipment at no charge. Brian is requesting the Commissioners approve the acquisition of the hut and authorize the Chair to sign the transfer, acceptance and release of ownership documents. Commissioner Houpt asked if Brian had inspected the shelter and Brian stated I've seen it and it's like the shelter we have there now from 1980. It is weather proof etc and sufficient for our need.
Carolyn – Number 1 on the form says you are accepting as is and I would recommend to our Contract Manager that this is a form he might want to pick up when we are transferring ownership by surplus sale. Secondly it requires a notary but the Deputy Clerk to the Board can put her stamp on it.
Commissioner McCown – I move the Chair be authorized to sign the transfer of property ownership to Garfield County on the localizer shelter. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

SHERIFF REPLACEMENT VEHICLES – LOU VALLARIO AND TIM ARNETT

The Sheriff's Department is recommending procurement from Glenwood Springs Ford for one Ford Escape Hybrid, thirteen Ford F-150's and one F-150 4X4 for a total cost of $478,183.00.00.
Lou found a little discrepancy after looking at the capital budget and he thinks what they are actually asking for is 5 control vehicles for 5 new positions and one new animal control vehicle which is also a new position. There should be a

total of 6 vehicles coming out of capital. The rest would be replacement through the motor pool process. Lou has heard from the City of Rifle and they are interested in one of these vehicles. Silt may also be interested in a couple of Explorers.

Commissioner McCown – I make a motion we approve the purchase of 15 vehicles and the award would be going to Glenwood Springs Ford in an amount not to exceed $478,183.00.

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

RATIFICATION OF BID FOR PRINTING 2008 ANNUAL REPORT – MATT ANDERSON

Matt explained this is for the County booklets and the bids went out receiving three quotes with Gran Farnum being the lowest at a price of $18,547.20.

Commissioner McCown – I make a motion we ratify the bid to Grand Farnum Printing in an amount of $18,547.20.

Commissioner Houpt – Second. All the Commissioners extended a job well done to Linda Morcom.

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

AMENDMENT TO FOREST SERVICE REVENUES RESOLUTION – PATSY HERNANDEZ

Patsy received a letter from the State of Colorado Auditor's Office indicating we had under funded our Title III in 2007 by $3,503.00. Patsy recalculated the 2007 and 2008 and presented the Commissioners with two resolutions that amend the original resolutions which distributed the revenues received in 2007 and 2008 (Amending Resolution #2007-28 and Resolution #2008-13).

Commissioner McCown – I make a motion we approve the resolutions amending the distribution of the Natural Forest Reserve Revenue and that the Chair be authorized to sign.

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

EARTH DAY 2008 – MIKE VANDERPOL AND MARVIN STEPHENS

Mike gave a presentation to promote Garfield County residents having a free dump day at the Landfill. Mike explained he would like to have Earth Day honored any day. This would allow anyone in the County to have one free day; one trip to the landfill. This would be from April 1st through December 31st. This would be in addition to our household hazardous waste days and electrical waste recycling. Mike pointed out that they had three options to inform the public about this new policy: 1) a mailing list received from Jeans printing; 2) using a post office route list; and 3) is the way Mike and Marvin would prefer and that is to have the citizen's call in and get the coupon. Mike stated they could set-up a separate phone, have it go to voice mail and at the end of the day or whenever they have a break, go and retrieve the messages. They would then send them mailers. Mike is estimating approximately 21,000 coupons would be requested. Commissioner Houpt felt the third process would be very labor intensive and could be pretty overwhelming during the spring clean-up times. She feels if they receive it in the mail then they are responsible for hanging onto it until they use it and if they don't have it they can't use it.

Ed Green mentioned that's the way we do with our employees and agrees with Tresi to send out coupons.

Commissioner Houpt – I make a motion for the first option.

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

CONTRACT APPROVAL FOR WEB APPRAISAL SOFTWARE – KATHERINE ROSS AND MATT ANDERSON

Bids were requested for a license use of web based appraisal software. One responsible offer was received from Promantek Inc in the amount of $14,065.00. Matt stated there was only one company that had what we really needed. Katherine explained that as part of the strategic planning one of the objectives was to improve the performance evaluation system or appraisal system. This will save mountains of time and allow us to generate reports that are done manually now; the report at the end of the year can be used for the bell curve.

Commissioner McCown – I make a motion we approve the award for the web based appraisal software to Promantek Inc. in an amount not to exceed $14,065.00. Commissioner McCown asked if this was annually and Katherine stated it would be less than that annually. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONTRACT APPROVAL FOR NEW WEB INVENTORY SOFTWARE – THERESA WAGENMAN AND MATT ANDERSON

Bids were requested for a license use of the web based inventory software. One responsible offer was received from NetSimplicity Inc. in the amount of $18,252.80.

Matt explained in detail and stated that Theresa did a great job going to several companies comparing software's.

Commissioner McCown – I make a motion we approve the contract for the web based inventory software in an amount not to exceed $18,252.80 to New Simplicity Inc. Commissioner Houpt – Second.

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

EMERGENCY AIR QUALITY MONITORING - MATT ANDERSON AND JIM RADA

Ed Green explained this was an emergency and he needed to add to the agenda today. We stand to lose about $146,000 if we didn't act on it today. Don DeFord explained why it wasn't on the agenda today; it is a contract with the State for air quality monitoring program which Jim brought to our attention a few weeks ago. Matt explained they did send out an RFP for the services and wanted to make sure that the proposals didn't exceed $146,000.00 which the State was going to give us. Commissioner McCown - If the bidders come in over this amount, will you be coming back to us to back-fill the difference? Don stated we will reject all bids

Commissioner McCown – I make a motion we approve the contract with CDPHE in the amount of $146,337.00 for air quality monitoring. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Executive Session Items – Ed Green

Ed Green stated he had several Executive Session items; Battlement Mesa Roads and negotiations, one is a personnel issue associated with Judy Jordan, County Road 204, negotiations with Chevron, contract direction regarding a DOLA Grant for miscellaneous roads and a brief discussion of the Oil Shale PEIS.

SHERIFF UPDATE – LOU VALLARIO AND JIM SEARS

COLORADO STATE FOREST SERVICE INTERAGENCY AIR FACILITY SUPPORT

A letter was received from Kelly Rogers, District Forester, stating the Colorado State Forest Service will commit to a payment of $10,000.00 per year, for a period of five years. Payment will commence in 2009 and end in 2012. They are requiring Garfield County to submit an invoice prior to May 1st each year for "Payment in support of the Interagency

Air Facility". Jim explained to the Board he went to Marvin Stephens to see if they could use a forklift during the off season and he said he could. The plan is the State Forestry can give us $10,000.00 per year as support and we would buy the forklift. Jim is asking for an okay and indicated the letter supplied is the commitment explaining how the State Forestry would do this. Carolyn stated that the letter was not specific about the use of the money and asked if we had to use the money for the forklift. Jim stated that is what they preferred to use it for but it could be used for anything. Carolyn wanted to know if they had asked us to sign any kind of acceptance. Jim said that's the idea to sign the acceptance letting them know yes we want this. Commissioner Martin stated we will use clean stationery and submit. Commissioner McCown – I make a motion we accept the letter offer from the Forest Service for $10,000.00 a year for a commitment period of five years. Commissioner Houpt–Second. In favor: Houpt – aye McCown – aye Martin – aye

ECOS INVOICE FOR SPILL – JIM SEARS AND LOU VALLARIO

The above invoice was presented to the Commissioners in the amount of $3,552.67. Lou stated this is a partial invoice and final remediation will be assessed and completed in the spring of 2008. Jim explained there was a small spill at County Road 351 which did get into the drainage into the creek. I went back out with Jim Rada on the 7th and requested ECOS to come out and do a clean up. They have not been able to find out who did the spill. There were two companies on the property. One was EnCana and the other Bill Barrett. There have been several phone calls and they have contacted several people and cannot get any information. Pete Thompson was there the whole time and was very pleased with the response; ECOS checked his water well and didn't find anything. We have received a 5% discount on this invoice. Commissioner McCown stated a spill of that nature should have been reported to the COGCC.
Jim said ECOS couldn't tell us exactly what it is. They know it is hydrocarbons. Commissioners decided they will wait until they get another bill.

COURTHOUSE SECURITY CONTRACT – LOU VALLARIO

Lou explained to the Board; Foremost Response was intended to be an "emergency" fix and not a permanent solution. The Sheriffs department has been moving personnel funds in order to pay for their services. In 2008 there are no budgeted funds for this professional service and Lou sees no relief in sight and is asking the Board for a more permanent solution. Lou feels there are a few options, first would be to continue as is and transfer salary funds to professional services on a monthly basis or have the Sheriff's Office enter into a permanent contract and continue to manage the entire building security. In addition, security at the new County Courthouse in Rifle needs to be considered as well. Lou also believes that an RFP and bid process might be required for this service. He feels Foremost Response is doing a good job but he is also aware of other private firms interested in this contract and that it is averaging about $11,000.00 per month. Don - His understanding is that this wasn't a budgeted item; also how are we paying them now? Lou explained we get invoiced on a monthly basis at an hourly rate. Commissioner McCown asked that the Rifle office be included. Don asked Lou in terms of the Rifle Courthouse if the appropriate equipment has been put in place or does it need to be included. Lou didn't know. Ed stated they were designed for that kind of equipment. Randy stated that is part of the contract for White to provide security cameras and the security consultant has contacted Paul to review. Don wanted to know about the personal security equipment for people entering the courthouse? Randy – That is not part of the contract. Lou is asking for direction from the Board.
Commissioner McCown stated that he thought ultimately Lou is responsible for the security in the courthouse and thought that it would only be logical to run the contract through your office. Commissioner Houpt agreed.
Lou – funds to do that would come from? Commissioner McCown – I think if you have money in your personnel budget for people who would have done security who are no longer doing that then that money will be used first and then we will see. Lou will get with Matt Anderson, the contract manager. No action required.

RECRUITMENT PROGRAM – LOU VALLARIO

Lou explained the County continues to face difficulties recruiting and retaining qualified applicants to fill open positions especially in the Detention Division. Lou would like to create an incentive program for recruiting employees using the SCAAP funds. He is proposing this program will provide a new employee $2,000.00 as "incentive" pay, to be used however the employee needs. Moving expenses, rent, deposits, etc. He realizes there will have to be legal agreements worked out to ensure we do not spend these funds prematurely. Next, he would like to expand these recruiting incentive ideas to existing employees. He feels providing $500.00 to employees who recruit new employee who bring value to the organization may add additional incentive to help fill openings. Again, logistics of this pay can be worked out. Lou's staff has been working around a 20-25% vacancy rate for over a year and they have done a fantastic job. However, they are all working overtime shifts and this has cut back on training opportunities and we are truly pushing the limits on the staff. Lou's thoughts are the vacancy rate will get worse if something is not done. Commissioner Houpt asked if there was any concern with respect to a different policy for attracting and retaining employees in a different department within the County. Don stated legally it is a question of policy and I am assuming that Lou would modify the Sheriffs personnel policies to accommodate this program if it is funded. Ed Green reminded everyone that the County has already approved for 2008 cash bonuses for employees and this is a cash bonus as well. Don asked Ed, in terms of the personnel policy wasn't the Sheriffs Department included in that and Ed stated yes. So this is in addition to that. So it is a policy question for the Board whether you want this to be applied to the Sheriffs Department if at all or if you choose to do that if you wish to expand it to the rest of the County, it's a policy. Commissioner McCown felt the sheriff is in a very unique position where he has funds available that do not cost the County taxpayers anything and let him run this pilot program and see if it's effective. If it is then it can come back to us and we can decide if we want to invest in it. Right now we would have to take that money out of the general fund to experiment. Commissioner McCown would much rather use grant money and have the Sheriff let us know how successful it is. Carolyn stated there is also the fair labor standards issue as to whether or not bonuses and finders fees become part of the base wage for overtime. We need to think about that. Lou didn't think it would be as it is a single one time commitment. Commissioner Martin – I think we can support it at least in theory. Commissioner Houpt asked if Lou needed anything from us and he stated just for the Board to authorize the additional wage line item in the GL account. Commissioner Houpt – So Moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT WITH VALUE CHECK, INC. – JOHN GORMAN AND LISA WARDER

Commercial property in Garfield County continues to grow in terms of numbers and market value. In the year between reappraisals the Assessor's office is required to keep up with the valuation of new construction, remodels and the collection and valuation of property. Physical inspections of properties that sell must be performed on a timely basis. The assessor's office has submitted a list of services included in this contract (Exhibit A). This also includes tasks to be performed by the Assessor's office (commercial reappraisal). Exhibit B shows the fees. The contract indicates an amount not to exceed $91,200.00.

Commissioner McCown – I make a motion we approve the purchase of service agreement with Value Check, Inc. in an amount not to exceed $91,200.00 for commercial appraisals during the year of 2008.

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

RIFLE GAP STATE PARK CERTIFICATE OF DESIGNATION – KURT MILL, REGIONAL MANAGER ROCKY MOUNTAIN DIVISION OF COLORADO STATE PARKS AND MIKE HAVENS, PROFESSIONAL ENGINEER – FRED JARMAN

Carolyn Dahlgren explained the reason this is coming before the Board today is for applicants to formally deliver their land use application. This is a new and different version of a certificate of designation under the landfill regulations. Fred Jarman's office will be processing both an application for a certificate of designation and a land use application at the same time. Carolyn believes they can run the noticing provisions at the same time so they will end up on the agenda one after the other and we can fit into the States review process as well. Carolyn hasn't seen a certificate of designation for any kind of waste before and that is why we are here today. Eventually you will get a staff report which will lay this all out. The applicant, Mike Havens, Project Manager passed out information to the Board. Mike stated they have a reverse osmosis water treatment plant which services Rifle Gap State Park. It has been in operation for a couple of years and is a public water system which is regulated by the State Health Department, Water Quality Control Division. We were required to meet water treatment standards and the waste water handling; the brine end of the facility was not regulated to any particular level. Mike asked everyone to refer to page four in his handout. The evaporation ponds turned out to be too small for the amount of water being produced. A plan was developed to add five (5) ponds up on a ridge top above the public areas. Solid wastes regulations require that Garfield County issue us a Certification of Designation for our facility. Assuming you approve this, they will then do a technical review based on your approval of our facility concept and deal with things like liner design, seaming, closure etc. So we are in front of you today to present the concept, ask for your assistance and we are hoping to bid this project within the next month or so. We would like to build this sometime during this field season. Our contract with the Bureau of Reclamation ends at the end of this calendar year. Commissioner Houpt asked if our process fits into their schedule. Kurt stated they had talked to your staff and they have indicated their willingness to work with us. The State Health Department has also indicated their willingness to work with us but we have to get through the approval process, the public hearing process, and we have to satisfy both your land use issues and the States technical issues. Carolyn stated today we are looking for a referral motion so their application can be referred to the State and then it will all come back again to hit the Boards agenda for a land use review and a certification of designation. Commissioner Martin asked if it required any comment that we either have no comment, we object to the comment, or we approve? Carolyn stated according to the statute it says for review and recommendation by the State so you are just formally receiving it and shipping it to the State. Commissioner McCown asked why we had to comment on other waste facilities such as Riverbend. When they came before us we had to make a specific recommendation on whether we approve, disapproved or no comment.

Fred Jarman informed Commissioner McCown that this is a different process. The way Fred reads this it is a separate statute. You get it, send it back to CDPHE and then they send it back to us. Kurt stated as he understood it, the intent is to allow you to make sure that your land use policies are included in any facility planning of this type. We are required to make sure we are in compliance with your land use policies. It has been a challenge to us because this is a federal property managed by a State agency within your County. We have been assured both by the State regulators and your attorney that we absolutely need your approval to precede. Commissioner Houpt sees the sense in having us involved in this but doesn't quite understand why it is coming to the County for referral. She asked if they needed a motion to refer this to the State. Carolyn answered yes to refer to the State. The County will get a full report from the State and then you will act. Commissioner Houpt – I'll make a motion we refer this to the State for review. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSENT AGENDA

a. Approve Bills
b. Inter-fund Transfers
c. Changes to Prior Warrant Lists
d. Authorize the Chairman to Sign the Resolution of Approval to Rezone Approximately 423 Acres within the Battlement Mesa PUD from PSR, BC, OS and CAR to MDR and LDR – Applicants: Battlement Mesa Parcel 5 LLC, Battlement Mesa Office 1 LLC, Burning Rock B2L2 LLC, Battlement Mesa Land Invest. Parcel 1-A LLC, Battlement Mesa Land Invest. Parcel 5-1, TRK3 and 4 LLC, Battlement Mesa Land Invest. Parcel 5-2, TRK 5 LLC, Battlement Mesa Land Invest. Parcel 5-2, TRK 6 LLC, Battlement Mesa Land Invest. Parcel I LLC, Battlement Mesa Land Invest. Parcel 2 LLC, Battlement Mesa Land Invest. Parcel 3 LLC, Battlement Mesa Land Invest, Parcel 6 LLC, Battlement Mesa Land Invest. Parcel 7 LLC, Battlement Mesa Land Invest. Parcel OHS LLC, and the Grand Valley Fire Protection District – David Pesnichak
e. Authorize the Chairman to Sign the Amended Final Plat for the Callicotte Ranch Subdivision – Applicant: Callicotte Ranch LLC – David Pesnichak
f. Authorize the Chairman to Sign the Aspen Glen, Filing No. 1, Log D-32 Amended Final Plat – Applicant: Aspen Glen I, LLC – Craig Richardson
g. Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit Allowing a Communication Facility – Applicant: Reuben and Stephanie Oldland – Craig Richardson

h. Authorize the Chairman to sign the Final Plat and SIA for Silt Height Subdivision – Applicant: Terri Patrick – Craig Richardson
i. Grants – Sales Tax Recovery Distribution for January and February $128,760.54 – Georgia Chamberlain

Commissioner McCown – I make a motion we approve the consent agenda a – i.
Commissioner Houpt – Second. Motion carried.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don – In addition to Ed's list, I need to discuss and provide legal advice on the legal process that is followed on requesting a hearing on an APD in front of the Oil & Gas Commission. (Commissioner Houpt will recuse herself from that discussion). Also, we need to discuss contracting for the Satank Bridge; legal advice concerning Amendment 41; Article 29 of the Constitution; update on road de-annexation from the Town of Silt; update on Storey litigation; update on Vezzoso litigation, direction concerning contract negotiations on the right-of-way for County Road 306, legal advise concerning process you will follow on County Road 301 accepting and vacating right-of way; advice and receive direction (as does the Treasurer) on Rifle Village South properties for which the County currently holds an Open Records Issue. Carolyn stated there may be one other question regarding a distinction between legislative and quasi judicial hearings.

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

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

Action Taken: None

LETTER OF SUPPORT FOR ADVOCATE SAFEHOUSE – JULIE OLSON

Julie Olson was present and spoke to the board on the following: A letter was submitted by the Advocate Safehouse asking for support for funds from the Counties Division of Housing to assist with the maintenance, utilities, fuel and insurance expenses for this project.

Commissioner Houpt – I make a motion we support the letter directed to the Colorado Division of Housing on behalf of the Advocate Safehouse Project for 2008.

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

AMENDMENT TO SURFACE USE AGREEMENT BETWEEN GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS AND ANTERO RESOURCES PICEANCE CORPORATION – CODY SMITH-WAGON WHEEL CONSULTING

Cody stated they have an amendment to the original surface agreement to allow for not only transportation of water but for their pipelines as well. We want to lay a line to the well pad, which is located on the BOCC property basically to minimize the number of trucks we will have to use. What we are trying to do is cut down truck traffic. He explained how they would have to route their trucks. Temporarily installing above ground, it is 10 inch poly which has an extremely high pressure on it. He wasn't able to quote how long temporary is.

Commissioner Houpt asked if their intent was to bury it underground.

Fred Klein replied that is correct and they want to get everything working correctly.

Carolyn asked if the amendment, as it is drafted, includes the possibility of undergrounding this or would we have to come back to the BOCC. Mr. Klein replied they would put it on the ground and then bury it.

Carolyn stated perhaps we could add more language. Carolyn asked the Commissioners if they went underground did they want to see this again or do you want this document to allow both?

Commissioner McCown said he thought he needed to allow both. I make a motion we approve the 1st amendment to the surface use agreement and quit claim that easement deed for the Dever A well pad and pad access. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CITIZEN REQUESTS TO GARFIELD COUNTY COMMISSIONERS REGARDING RULISON "GROUND ZERO" GAS DRILLING – TIM MCFLYNN

A letter was submitted to the Commissioners requesting that the County Commission agrees and states that it supports further DOE research and investigation at the site. Further, to request the County Commission to endorse an open Scientific Advisory committee, composed of a variety of recognized scientists, to work with DOE in ensuring the quality and openness of any DOE research and recommendations regarding the need for a "no drilling" closure envelope to protect public health and safety from contamination of ground water, air, soil or produced natural gas. Also, to request the County Commission agree to let citizens make a presentation regarding the scientific and technical basis for their concerns before any more permit applications come in.

Tim McFlynn introduced everyone with him: two of the six land owners are here, Pat Warren and Wesley Kent; Duke Cox was present from the Western Colorado Congress. Tim passed out a map of the immediate area.

Commissioner Houpt – Because of my role on the Oil and Gas Commission I am recusing myself on this discussion.

Tim pointed out that the GIS map was made only 4 or 5 months ago. He pointed out on the map a yellow section of a 40 acre site where a nuclear blast occurred back in 1969. The 40 acres are owned by the Kent family (14 acres) and the Weldon family (26 acres). The reason for the map is to compare this map only made in October to the situation today where we are getting a rapid increase for applications for permits to drill in this area. We sent last week a one page summary of the citizen request. I have been active in the upper part of valley past 30 years; I sit on some boards and am interested because of the water aspect. He is worried about depleting the aquifers. Wants us to think about the exclusion area below 6,000 feet, and that there is an automatic hearing right for APD's within a ½ mile. The nearest well is at the ½ mile radius and the landowners know the closest well to ground zero doesn't have a good history in terms of operations. The Presco Well has 27 or some such number of violations and 9 months later still not corrected. The most important part of the map is the Rulison field; if you do the math it is a multi billion dollar gas play within the 3 mile radius. Citizens are here to make three modest requests: 1st, we met with the Department of Energy representatives in Rifle last week. They are continuing to study this site. First request is that your commission set forth support for a continued Department of Energy research and investigation at the site. The 2nd request is that in the course of that further research and investigation you endorse the concept of an independent scientific advisory committee,

composed of recognized scientists. This is a complicated site and four experts have been working with the landowners from four different fields. Again, we are not asking Garfield County to pay for this, we are asking you to endorse the concept. They want an independent scientific advisory committee to ensure the transparency and the completeness and the reliability of any further research and recommendations from the Department of Energy. One of their representatives is here, the Public Relations person, Judy Miller. We met with Judy Miller and Jack Craig who is the DOE person in charge of the site closure. Right now, today that site closure is nothing on the surface; it is closed below 6,000 feet in the 40 acres. The last thing, there is an anomaly in how the oil and gas and energy companies, the regulatory agencies, and the citizenry interact and it is playing out as the rule plays out to implement the reforms effective last July 1st. The anomaly is that the APD's come in every day that the oil and gas conservation is open for business. That's about 252 days a year they can accept permits but the gate keeper is an important sense to citizen participation as it continues to be with the counties of the state. The time that landowners have or I should say the time that counties have to decide whether or not any one of the thousands of APD's that may come for them to request is hearing is ten (10) days. We have observed that no one has actually looked at this or does a review of any APD. If they do not ask for an extension of time or a hearing the APD's are issued administratively by the commission's staff. Rulison and Rio Blanco have this peculiar blast debris. The third request is to allow the citizens to have a bit of your time to look at the technical issues with the help of a few independent experts so that in this quick ten (10) day turn a round, you and your staff can be on the look out for a particular APD that might present very good facts for you to throw the ball to the Oil & Gas Conservation Commission and actually have a hearing. Would you consider a work session?
Wesley Kent – I have a home at the Rulison blast site. I want the County to give them a chance to put some science forward; we keep getting shut down at the Oil & Gas Commission level and at this level, the County level. We are the ones who live there and the ones at risk. I don't think it should be up to the County to take on the bigger role. The DOE did this and they didn't close the door on it.
Pat Warren – My husband and I aren't gamblers and even the small percentages they are throwing out is something we are not willing to take the chance. We are not willing to be people's canaries or guinea pigs. I agree with Wes and we are requesting your support and trying to get a hearing from the COGCC.
Duke Cox – Western Colorado Congress. I want to ask you one thing to consider; this is not a policy thing. This is a matter of people's lives, safety and health. He explained he had a nephew who worked in the industry and the DOE model suggests there is a 5% chance that even the DOE model can be wrong. I don't want my nephew to be on a rig that falls within that 5%. Folks are not asking you (the County) to take sides. They are just asking you to give them a chance to get scientists to ask the right questions and look for the right answers and give them some confidence that they and all those guys working on those rigs are safe.
Commissioner Martin – Garfield County took this particular position, and we wanted to make sure that the Department of Energy stood up for what they said they were going to do. We have hired experts from the University of Nevada. We also met with the State of Colorado and the Oil and Gas Commission has taken a position and that is they had to go ahead and make sure that there were plenty of safeguards in place. They knew if they couldn't meet those, they couldn't issue permits. We put the responsibility on the State of Colorado and the Oil and Gas Conservation Commission and said, you better understand the consequences. If you (State and Oil & Gas) really want to issue these permits outside this half (½) mile, the three (3) miles then you're taking on that responsibility. The County letter is the position we have taken and we've done everything you asked other than the independent. Their modeling is in question. If they issue a permit they are assuming the responsibility. That's where we are and that is where we have been and we understand where Wes is, we understand where everyone is.
Tim – Holding up Jan, 2008 sampling and the Rulison analysis plan; you have probably seen this. I want to commend your Oil and Gas Department for the comments that went in on the earlier draft plan. It's their (State) responsibility if they want to issue permits. Here's what I want to say about that. If you will allow a work session what you will learn is the shortcomings of this (Analysis). It was prepared by the lease companies who own acreage inside the three (3) miles which are Noble, EnCana and Williams. It is a big step forward that the Oil and Gas Commission and the Department of Public Health and Environment took thanks in part to the perseverance of the landowners and the participation of Garfield County. It falls short in the opinion of the independent experts and that's why the request today.
Commissioner Martin – We have our position, we also hired the School of Mines, Dr. Thyne, to do an in-depth study if not more than that study shows you. Those recommendations are on record. If our liaison, Judy Jordan sees anything above and beyond our concerns her job is to give us that technical data, send it through the chain of command, give the recommendation and we will change our policies if necessary. We haven't seen anything. There is nothing new that we haven't explored already that you presented.
Mr. McFlynn stated they haven't presented anything and Chairman Martin stated you have in the newspaper.
Commissioner McCown asked within the last six months has Mr. McFlynn or his group presented to the Oil and Gas Conservation Commission in Grand Junction? Mr. McFlynn replied yes. Commissioner McCown asked if he had new data. Mr. McFlynn stated yes comments. Commissioner McCown asked if they had new technical data since you presented to the Colorado Oil and Gas Commission in Grand Junction, relevant data that would be valuable in this work session that the Oil and Gas Conservation Commission has not already seen.
Wesley stated the relevant data is that they have already made the announcement that they are going to be in the half (½) mile. *Commissioner McCown* – We have taken the position and I don't anticipate us wavering; if an APD comes in inside of the half (½) mile radius, we will take a position on that APD. We have also taken the position that there has not been relevant data presented to the Oil and Gas Conservation Commission to give them concern outside of the half (½) mile radius and up to three (3) miles. That is still where my position is and I will support that. If something comes in the half (½) mile radius we had said we would take a position and intervene on that. *Tim* – I think it's automatic Larry that there is a hearing inside the half (½) mile whether you want it to happen or not but there won't be a hearing outside the half (½) mile. *Commissioner Martin* – In this very room the Oil and Gas Commission met on this subject and gave their word that if there is any issue in reference to that and there weren't special field rules in place and our concerns weren't met and all of the Department of Energy concerns weren't met outside the three (3) mile area, they would hold a hearing. It is not up to us to ask for a hearing when they said they would do such. They have to live up to their word

too. We have had enough scientific information from the laboratories, from the expert that was here during the blast and we have presented all the information. The professor from the School of Mines is independent. Commissioner Houpt – I have to clarify that the Oil and Gas Commission would hold a hearing if any County came forward and requested it. *Tim* – Just to be clear, so what you're saying is there will be an automatic hearing inside the half (½) mile because that's not your rule that is the Oil and Gas Commissions order. What you are saying is that's good enough for us we don't need anything more. *Commissioner Martin* – I didn't say that at all, I said outside that half (½) mile they promised also that if there was scientific information presented they would hold a hearing. You haven't given me anything new yet. *Tim* – Repeatedly since the first of January of this year the lawyer for these land owners have requested hearings on every permit outside the half (½) mile radius and every time we are told they had no standing and were rejected administratively by Trisha Beaver, every time. Every time we have asked the County liaison to simply request an extension so you're not limited to ten (10) days looking at any particular APD, or requesting a hearing. So to date no one has ever had a hearing. You are saying you know everything about this site based on what's been studied; we're saying the citizens of Garfield County and their experts have never been able to present anything to your body or to the State in a hearing. *Commissioner McCown* asked, what is the difference in the hearing and the format that your group presented and all the technical data you gave to the Oil and Gas Conservation Commission in Grand Junction less than 6 months ago. What is the difference of that setting? It wasn't regarding a specific APD but it was an official Oil and Gas hearing. *Tim* – It was an information session Larry, scheduled as not a specific hearing; we requested a hearing last July when the law took effect. We were there at the very first meeting of the new commission requesting a hearing, not an information session which is 80% all the other points of view and 20% science. *Commissioner Martin* – Let's clarify what takes place in front of the Oil and Gas Commission. It is not cheap to put on a hearing and to make a standing. What is the scientific data we will need to hire and present to the Oil and Gas Commission to make a change? Are you willing to pay for that? *Tim* – On behalf of the landowners, yes we have four experts who would love to be heard. *Commissioner Martin* - and we would be able, because we don't have those experts; we have looked for those experts. They also had the rule they can't talk about it because it happens to be priority and so now I'm back to the questions, what is the new information I can present that they don't already have. Should I take taxpayers dollars and ask for a hearing when I know I don't have any scientific information or experts to present. *Wesley* – The distinction is we have never had a hearing where anyone can get up and say anything. They could stand up there and tell a lie. *Commissioner Martin* – The last request and hearing we had as Garfield County was on directional drilling. It cost us over $300,000 just to present that information. When you're talking about this blast site the burden of proof is on us. It will be well into a half (½) million plus, if we can get the experts. *Tim* – The October 2nd information session was a dog and pony show. It wasn't a hearing with people under oath where some decision making body had to decide what is going to best protect public health and safety around a nuclear blast site. There were royalty owners, energy companies, landowners and very little time for science. I believe they would like to have such a hearing but they can't unless you support the request. *Commissioner Martin* – We have always paid for the hearing. The burden of proof is on us. If we wish to go ahead and request a hearing our case is going to be you. We are going to ask you to testify. *Tim* – I guess a good starting point would be if you could authorize staff to release to us, and we have requested this information over a year ago, all of the technical information you base your decisions on so that our experts can look at that. We don't get anything. *Commissioner Martin* – Because it is proprietary under the agreement with the Department of Energy - we can't release some of the information *Tim* – So you're privy to information that we can't be privy to? *Commissioner Martin* – No necessarily, but what it amounts to is the information we requested can't be supplied by them. *Wesley* – We have requested information and there is a lack of cooperation on your part. *Tim* – What we are learning is you have experts and opinions that you are relying on but not available to the citizens, though they have requested it; I've never seen it. Part of its proprietary, perhaps it is classified DOE information I gather. *Commissioner Martin* – If I have anything I can release to you I will make sure that you get it. *Commissioner McCown* – One other thing that troubles me a bit and that is the statement in your first bullet point that states the State of Colorado has said it will request further research and testing at the site if the County will agree. The County does not have to agree on that. The State can request that of DOE and we do not have to agree or disagree. *Tim* – Is there any reason not to support further study? *Commissioner McCown* – Absolutely not, but why indicate that the County has to agree before the State can do this? We are talking about the DOE conducting further research and testing. *Wesley* – So you support that? *Commissioner Martin and McCown* said absolutely. *Commissioner Martin* said we have requested that from the Department of Energy as well as the State of Colorado. *Commissioner McCown* – The terminology here indicates that the State of Colorado has said it will request this if Garfield County agrees and that is totally false. *Tim* – But more important to the point you obviously support further study. Secondly, I take it as long as you don't have to pay for it you support independent scientific folk reviewing all of this. *Commissioner Martin* – We supported all of that and paid for it. We did this a year ago in reference to your request and we put this forward. We again constantly look for the new information that can help us change our position and we haven't found any. We are very understanding and concerned about this site. *Commissioner McCown* – Would the DOE representative be in any kind of a position today to make a commitment to ongoing research and assessment at this site? *Judy Miller* – Stoller Corporation, representing the Department of Energy office of Legacy Management and I didn't come here prepared to speak on any of these matters. But we continue to study the site. We are continuing to do modeling at the site. We are looking at a path forward at the sites and we work with the Colorado Oil and Gas Conservation Commission and the CDPHE at the site. *Ed* asked if Judy could give us a time frame as to when we could have the revised study. *Judy* stated it depends on what you mean by the revised study. We don't exactly have a study. *Ed* – It was always our understanding that it was going to be re-evaluated. *Commissioner Martin* – That's what we have been informed of and have made numerous attempts to see when that would be done and we'll share when we can. *Judy* – Los Alamos didn't do the study to begin with that was Desert Research Institute out of Nevada and they will be doing another modeling study. *Ed* – Los Alamos took over that responsibility. *Judy* – No they didn't it was the office of Legacy Management. *Ed* – Why was Los Alamos involved? *Commissioner Martin* stated we got correspondence from them. *Judy* – I would like to see that. *Tim* – I'd like to share something with you to clarify because we met with Jack Craig last Wednesday in Rifle, who is in charge of for the DOE site closure at Rulison. He is the decision maker and what he clarified on the time line was he indicated they may tweak the model but there is not a new study contemplated. They are going to

apply the model to the data they obtained from industry from wells pre, during, and post wells within the geographic area of the blast and the time line he said the agency would like to have it finished is September. He did not think it would be until December or sometime in early 2009 and I'm just telling you what he said last Wednesday to us. I have no idea what he would say if he was here. *Commissioner Martin* – That time line has been extended numerous times from 2006 to 2009. Actually prior to that it had been extended as well. That has been our frustration as well that we have been down that path; the extension of time and modeling etc. *Tim* – I think that was the land owner's frustration as well because it was at one time promised by 2011 and then it was speeded up because of the information session and delivered a couple of days before the information session and quote "rushed" according to Mr. Craig. *Ed* – I used to work with Jack Craig and it might make sense for Judy Jordan and me to meet with him. *Commissioner Martin* thought it was a good idea.

DISCUSSION AND DIRECTION REGARDING GARFIELD COUNTY GOALS, OBJECTIVES, POLICIES & REGULATIONS REGARDING GRAVEL EXTRACTION OPERATIONS- FRED JARMAN

Fred explained in the Commissioners packet there is an executive summary memo which lays out the path as the County being the host has taken over the last year and half regarding gravel extraction in the County. This has primarily been a discussion topic from concerned citizens and members of certain municipalities that came to you back in July, 2006. Constituents came to you and asked you to formally look at how the County reviews gravel extraction. At that point you indicated that you would lead a study group, a discussion group and look at four main topics. Those topics include: concept plans, reclamation plans, closure time tables and cumulative impacts. You had directed the planning staff to lead that group over the next few months, which we did. We had four host discussion groups that included: the Mayor of Carbondale, Michael Hassig; Bruce Christensen the Mayor of Glenwood Springs; Frank Breslin, Mayor Town of New Castle; Dave Moore, Mayor of Silt; Keith Lambert, Mayor City of Rifle and Mayor Roy McClung of Parachute as well as some of their staff. Through those discussions you recall the group had agreed to host an educational forum. That discussion was really mean to invite all of the key State and Federal Agencies. At that meeting we talked about what those agencies did, what they regulated, how they regulated and what their enforcement mechanisms were. We learned a lot. From that you met again with the local State Board and their approval guidelines to decide a plan. What do you want to do now with this information? You also placed a heavy focus on what Routt County had done for this area. Remember the planner in that County did come to you in that forum and walked you through a 16-page process of what they went through to create what are called the guidelines. Fred went through graphic he supplied to the Board. Through the course of all those efforts and meetings we can finally put together what we are calling the goals, objectives, policies and regulations throughout the gravel extractions operation in the County. A lot of the focus has been primarily between New Castle and Rifle. What I have put this on your docket for is through the course of the summer the City of Rifle has actually passed two ordinances urging this body to take official action on this document. They've also written most recently a letter dated January 11th. If we feel that we are in a spot now that you can take some action, you could achieve that by sending this through the regulatory process. In this document there are two things: 1) there is a set of master plan language that really belongs in the County's Comprehensive Plan so to do that the Planning Commission amends that document and 2) a piece of this document is the regulations themselves. We are simply suggesting if you want to move this forward through a public process that is the way to go.

Commissioner Houpt – I'm going to put a motion on the table, I think it should be moved forward. We went through an incredible process; staff did an amazing job of pulling everything together. I'm going to make the motion that we send this forward to the Planning Commission and as I understand it; it will be two separate processes. One for the comprehensive plan and one for revision of our regulations. Is that correct? Fred – It is correct. In theory the way it is supposed to work is you adopt the master plan language and then you implement those goals and policies through regulations. At the end of the day those regulations will come back to you. Commissioner Houpt – My motion is to incorporate that two step process to the Planning Commission. Commissioner McCown – Second. I don't think we have a shortage of regulations in order to permit gravel pits. We have been doing it for years; I think our process is adequate. I don't think we will be able to achieve the end goal that the towns want and that is not creating gravel pits in sight of their city limits. I don't think we are going to be able to do that. With three and four thousand homes on their planning list at 400 tons of gravel per home I don't think we are going to be able to say no we are not going to stop permitting gravel pits anywhere that is in the view shed of a city. Otherwise we are going to by that, completely create a Pitkin County right here where we are living. I think we have every tool in our work basket to permit gravel pits and we have. The only reason I would support sending this up is the fact that the industry again was totally absent in this process. We had one individual that was in the process of permitting a pit that was active during any of this process.

Commissioner Houpt – I obviously don't agree that we have all the tools in the kit that we need for doing an adequate job of permitting gravel pits. I think our process is certainly in place to make sure that those stakeholders have the opportunity to weigh in at the public hearing level. Commissioner McCown – We could ask Marvin, he's in the room, because what it is taking to permit a gravel pit in Garfield County; how much has our gravel has gone up over the past two years. I think you will find the price has almost doubled. That directly affects the miles of road we can improve.

Commissioner Houpt – Well, demand often also drives that price up too. Not just regulations.

Commissioner Martin – We also found out a lot of information about the reclamation folks and who actually controls reclamation and I think that was a shock to other folks that it is a state function.

In favor: Houpt – aye McCown – aye Martin – aye Fred wanted everyone to know this is posted on the web site and has been there since November of last year. Commissioner Houpt – My comment is that I think this is very well put together and makes a great deal of sense for Garfield County. There have been some tools that have been left out of our tool box for a very long time. I support the document that staff brought forward and I would be happy to put that in writing.

ABATEMENT – GRACE HOMES CONSTRUCTION – LISA WARDER

Abatement number 08-113 in the amount of $2,072.64 - Schedule R043097, this was a clerical error. The property value was not changed after the property split in 2007.

ABATEMENT – HEAVY CONSTRUCTION SERVICES – LISA WARDER

Abatement number 08-117 in a total amount of $7,683.37- Schedule No.'s R042734 ($1,782.96), R042740 ($3,543.89), R042741 ($2,356.52), we were contacted by Heavy Construction at beginning of year and it was determined the

property was over valued. In the packet you have a letter as to why the adjustment was made. Commissioner McCown recommended we label the attachments with the letter being Exhibit A and the Schedule (spreadsheet) Exhibit B.

ABATEMENT – COLORADO WEST BROADCASTING, INC. – LISA WARDER

Abatement number 08-119 in the amount of $6,467.16 - Schedule R311842, the taxpayer contacted us at the beginning of year and determined value should be decreased.

ABATEMENT – AMERICAN SODA, LLLP – LISA WARDER

Abatement number 08-120 in the amount of $12,612.59 - Schedule No. R005391. This was a clerical error. The property was in the process of being split at the time of certification and the new schedule number has been put on as omitted property in the same amount of value, assessed value and taxes due. It is just a transfer from one property to the other. Exhibit A would be the special notice of value showing that the omitted property has been sent out to the new owner of the tax bill. Exhibit B is the letter from John Gorman, the Assessor to Georgia Chamberlain to authorize sending out a tax bill for the new amount.

Commissioner McCown -Move to close public hearing. Commission Houpt – Second
In favor: Houpt – aye McCown – aye Martin - aye
Motions:
Commissioner McCown – I make a motion we approve the abatement for Schedule R043097 in the amount of $2,072.64. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the abatement for Schedule R042734 in the amount of $1,782.96, for Schedule No. R042740 the abated amount of $3,543.89 and for Schedule R042741 the amount of $2,356.52. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the abatement for Schedule R311842 in the amount of $6,467.16. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve Schedule R005391 in the amount of $23,612.59 Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION OF REQUEST OF GERHARD AND DEBORAH RILL TO VACATE A PORTION OF COUNTY ROAD 301 RIGHT-OF-WAY AND ACCEPTANCE OF SPECIAL WARRANTY DEED – COUNTY ATTORNEY

Don DeFord– We provided 10 days notice to all property owners adjoining the road that is affected by the vacation by certified public mail. Billie Birchfield – I am advisory Counsel for the Rill's. She introduced her clients and she will be doing all the talking. Don handed out a corrected form of resolution to the Commissioners. An improper description had been attached to this resolution. This resolution actually proposes to vacate the former County Road 301 as show on the current Exhibit A. The legend prepared by the County Surveyor actually contains the description of former County Road 301 by referencing the bearings and distances set forth in the attached table. Also attached to the Resolution is the form of deed that we proposed for execution by the Rills. This is their transfer of property to the County. The actual purchase price has been set forth in that deed as requested by the Rills. The description for the property is attached both in schematic or platting flat as well as by legal description. You also have, as you are aware, a resolution pursuant to which vacation for roads are supposed to be tendered to Commissioners. You will need to waive the requirements of that resolution if you proceed today. It is very detailed and a complex process and what we have done in the past when we are reaching an agreement where a road vacation is part of an exchange of property that leaves the right-of-way intact, the County Commissioners have in the past waived with those provisions. Otherwise the resolution is fairly self explanatory. By way of law when you vacate an existing County road, absence of special circumstances, which I don't think we have present here, the road is divided along the center line. In this case half would go to Battlement Mesa and half to the Rills. On terms of vacation, you are not allowed in fact prohibited from vacating a road that would leave any parcel without access. That may be a subject today. I'm not certain but Chris Coyle indicated that he had some problems he wanted to talk to the Board about. When you vacate an existing roadway you do as a matter of law preserve any existing easements for utilities so they don't have to be relocated. The road I believe has actually been constructed. Commissioner Martin asked Don if he wished us to waive our requirements under the resolution at this time or do you wish to make as part of final motion? Don stated he would like it to be part of the final motion waiving your requirements, your process and pursuant to the resolution we are asking you to vacate a portion of County Road 301 as described. Also to authorize the transaction with the Rills formally and accept the deed in the form that is attached to this resolution. Billie wanted to add that part of the reason for specifically making the request was that the legal description for the land purchased by the Rills includes all lands lying south of the center line of the presently existing paved County road. With the road that was existing it is no longer existing; it is a little more imperative that we clarify that the in fact is the legal description for the road that was existing at the time that they took title. Billie made a quick review of the resolution and it appears to be in order. To clarify, it's actually a quit claim deed that we'll enter to affect the vesting of the title into the adjoining property owners. Looking at paragraph number five on page two of your resolution and the reason that is specifically requested is because the legal description was determinative based on the center line of the now preexisting County road. Commissioner McCown – Not to extend this process any further but looking at the map it would look like by our own action we are creating a non-conforming lot on the north side of the roadway the .544 acres. Don – The .544 acres is currently owned by the Rill's. Commissioner McCown – Under the old roadway it is contiguous to their property and now it is being severed by the new location of the road. Don – As a matter of law you are not because a County road as we discussed many times is not an actual fee transfer but is more in the nature of an easement. So it is still contiguous ownership by the Rills as it is a County road. Billie – I think it is pretty clear that they will not be permitted to convey only that roughly half (½) acre parcel that is there. At least they still have the use of it for whatever they would like to use it for. The other thing I would note is that they actually have purchased a parcel, which on preliminary review of the title, appears to be eligible for a subdivision exemption if they choose to do so. They do not want this to be deemed as a conveyance for the purpose of creating a lot. Chris Coyle – Attorney, Battlement Mesa, directing your attention to the east side of Exhibit A the issue we are concerned about and I've spoken to Jeff Nelson, we do have an access point under the old vacated road or the proposed vacated roadway. Our concern is because we own property that is north of the centerline of the vacated roadway, if in

the event we should wish to sub-divide this area we want to be able to have at least some kind of an understanding that by virtue of the vacation of the entire roadway the half of the roadway would be nearer to us. On the other hand the problem is we did have a second way out before the County constructed the new road. What we would propose would probably be something along the line of a break away or some kind of an emergency exit or whatever to facilitate a later development of this particular tract of ground. If we had some kind of wildfire come through there I would expect that the building and planning would say where is your second exit. We may have a little bit of an issue about getting that second way out by this particular action. Commissioner McCown asked how far east does your property run? Chris – I believe that we don't go past the section line; we go to the section line. Commissioner McCown – There is a significant portion where the dot (looking at map) crosses to the section line that would still grant access to your property on the east side. Are you comfortable being on the east side of the section line? Chris – Yes it is and I think we will have access Billie – I think that the second access was the pull out area. If you have an issue there we can't cross the gulch to get there and so let me know and we will be glad to work with you. Chris – Thank you and that resolves our concerns. Commissioner McCown – Make a motion to close public hearing. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the resolution concerned with the vacating of the portion of the public right-of-way otherwise known as a portion of County Road 301 and the acceptance of new public road right-of-way where the new road has been constructed and I would waive compliance with your existing revocation regulations. Commissioner Houpt – Second. Commissioner McCown – There was a question about the quit claim deed, paragraph five on page two of four is that appropriate? Don – We cannot give a quit claim deed because it is a County roadway. The only method of conveyance is to vacate the road; the statute then governs how that is transferred.
Commissioner Martin – Which is the special warranty deed? Don – No, the special warranty deed is from the Rills to the County in terms of what the County transfers to the Rills and in this case Battlement Mesa; what we can only do is vacate the road. Once we vacate it we have no title to transfer. The statute governs the method of the split.
Commissioner McCown – so for a title record, it is the vacation resolution.
In favor: Houpt – aye McCown – aye Martin - aye
DISCUSSION OF THE 1ST SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 1ST AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ
Don DeFord has the actual publication which occurred on March 7, 2008. Patsy gave a presentation on the budget. Commissioner Martin – Motion to close public hearing? Commissioner McCown – So moved. Commissioner Houpt – Second; motion carried.
Commissioner McCown – I make a motion we approve the resolution for the 1st Amendment to the 2008 Budget and the 1st Amended Appropriation of Funds. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
EXECUTIVE SESSION
Don DeFord stated they needed to go back into Executive Session. Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Martin – We need a motion to come out of Executive Session. Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Action Taken:
COUNTY ROAD 306 – RIGHT OF WAY
Don stated he needs the Board to authorize resolution of property County Road 306 right-of-way.
Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
COMMENTS CITIZEN NOT ON THE AGENDA
AFFORDABLE HOUSING – CALVIN LEE
Calvin Lee – I am speaking as a private citizen but when the Garfield County Affordable Housing knew that I was going to come here to speak about affordable housing they wanted to appear with me; so also Katherine Grosscup (who works with Geneva Powell) is sitting on my right. I am also the attorney for the Garfield County Affordable Housing Authority but speaking on my own and not as their attorney. The County has an affordable housing crisis. The current ordinance, several years ago I phoned Dick Stephenson (GMCO) and Bob Young of Alpine Bank and asked them if they had problems in regards to housing. They both said it was huge and they both were willing to sign a letter with me to the Commissioners saying they thought there should be an ordinance requiring there be deed restricted affordable housing. A committee was formed by the Commissioners at that time and Mark Gould was part of that as well as Bob Schultz, Dave Michaelson and other business people concerned with affordable housing. Within six months we got an ordinance drafted and accepted by the County Commissioners. That ordinance requires that there be 10% deed restricted affordable housing but only for those developers coming in asking for an increase in density when they wanted a PUD or a re-zone where they're asking for more density than what was currently existing on the property. It only applied to certain areas of the County not all areas. It's becoming apparent although it was great then and a step forward but we have a huge crisis. I have a teacher friend who rents an apartment in Cardiff Glen in a room 1/3 of this size consisting of a living room and a bedroom. Across the road from her is a townhouse for sale for $500,000.00. She will not be able to afford that $500,000.00 unit; she can only afford to rent that little tiny apartment above a garage. I have a client who went through a divorce six months ago. As part of that divorce she had to sell the family house and with the proceeds she looked for a house to buy in Carbondale and the only thing she could find was a town house for $460,000.00 that the owner bought a year ago for $260,000.00. Building lots of homes is not the answer to solving the affordable housing prices. There are many experts, including people who have been dealing with affordable housing in their counties for years, who are of the opinion that the only way you can get affordable housing is to do deed restricted units. You can't build yourself out of an affordable housing crisis. What I would like and Katherine is here to support my request is to increase the requirement to 20% and require that it be applied to every developer who comes in not just those developers asking for an increase in density. And it applies to all areas of the County because all areas are facing this affordable housing crisis. There is a huge boom in the western part of the County and people who are speculators in land are taking advantage of the boom. What I do suggest is not that you say to yourselves, well Calvin has been doing

this for a long time and the Garfield County Housing Authority supports it, let do it. I'm sure the only way this is going to get passed is like the last time where we have a lot of people involved in the process. Get their input on whether 20% is the right amount. Whether it should apply to all areas of the County and what developers it should apply to. It may be that we say for those developers who are only coming in asking for four units or ten units that's too small to apply to them. It should apply to only certain applications as far as the number of units being asked for. I am told by the housing authority that the studies already exist. Commissioner Martin – So what you're saying is we need to have a new text amendment and we need to run that through process with the collaboration of everybody that's here? Just like we did before? Two of the Commissioners that were there are here right now. It was long and drawn out and didn't seem like six months. Commissioner Houpt – We are in the middle of re-doing our code and it's a good time to be adjusting that. I imagine that will be a part of that process.
Commissioner Martin – Those will come to the public hearing process I think in May or June and at that point the zone text amendment can be looked at also. Commissioner McCown – Yes, but we are still dealing with the price disparity that same $450,000.00 townhouse your talking about is probably $260,000.00 in Rifle. So which is affordable? Are we going to reduce the $260,000.00 one in Rifle as well? If we do reduce the one in Rifle by that amount are you going to reduce the one in Carbondale from $450,000 down to $200,000.00? Calvin – It's not an easy process and because what we did only applied to study area one, it made it a little bit easier. Commissioner McCown – Well it did because the west end of the valley for a long time was your affordable housing. Now there is some competition for that housing so it is no longer affordable. Commissioner Houpt – There are equations out there now that indicate where the deed restrictions should be. If you look at what's available in this County and what needs to be available in this County you don't want to just look at one deed restricted level anyway. There will be several different levels and it definitely is time to make an adjustment with that. I don't disagree with you that you can't build your way out but you have to have a combination I believe of deed restrictions and some numbers that allow developers the opportunity to afford that. I agree if you want to put something forward that's great but this is a conversation we have had and will continue to have and I'm hoping it's going to be just rolled into our new code as we move forward. Calvin – So the process you're saying is that your staff is already working on language? Commissioner Martin – And this request has been made before Calvin. Then there is the other side of the coin and that happens to be a housing surplus everywhere around us.
Commissioner McCown – I believe this comes up under Article 8 of our Land Use Code re-writes and Geneva is aware of that and she is going to be present when we are discussing that chapter. Commissioner Martin – And you need to be there. Calvin – Before you present the language you will have discussions first right? Commissioner McCown – the language is out there now; we are going back and looking at the version that came back from Planning and Zoning. Chairman Martin – The language is out on the web and it has been for almost a year now.
Commissioner Houpt – The point is it is available for comment. If you read through that section and find that it just falls short, send us your thoughts and come to the hearings.
Commissioner Martin – We have meetings just about every other week on this issue, it's open to the public and it's been advertised and posted. Calvin – I appeared because Geneva Powell gave me the impression it was stalled and it wasn't being dealt with. I appreciate you are thinking about it and that you are open to changing the code and dealing with the problem. Commissioner Houpt – I would just like to clarify for people who received information earlier that they would not be able to speak during the hearing on the temporary housing re-write. You will be able to speak.
CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR 100 CAMPER PARK LOCATED ONE MILE SOUTH OF THE GARFIELD COUNTY AIRPORT ON COUNTY ROAD 319 – APPLICANT IS 319 WATER COMPANY – DAVID PESNICHAK
Larry Sills – representing the applicant is present. Planner David Pesnichak explained: Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) and the fact that the site itself will be situated in an industrial area already characterized by industrial activity from the oil shale and natural gas exploration activities, Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a Central Production Facility for Chevron USA, Inc. with the following conditions:
1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:

a) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
b) Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
c) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
d) Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
e) Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes.
f) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.
g) 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.
h) Loading and unloading of vehicles shall be conducted on private property and may not be conducted

on any public right-of-way.

i) Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.

j) Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

3. 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
4. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
5. The total area of disturbance shall not exceed 12 acres in size. The Central Production Facility and Flare Safety Zone at completion shall have a footprint no larger than 4.8 acres
6. That all proper building permits and ISDS permits are obtained for the structures and wastewater disposal systems, including vault-and-haul systems, associated with the operation of the Central Production Facility.
7. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
8. The facility shall have a minimum total capacity of 6,050 gallons of potable water storage which shall be refilled a minimum of every three days in connection with 1.4 acre temporary storage (staging) area. These tanks shall be removed at the point that the flare is operational and the lay down yard (Staging Area) is decommissioned. The permanent Control Building shall be connected to a permanent water supply system.
9. The facility shall have a minimum total capacity of 3,025 gallons of potable water storage capacity which shall be refilled a minimum of every three days from either well water produced on the subject property as demonstrated within this application or from water purchased from a water supplier in connection with the permanent Control Building.
10. The facility shall have a minimum total capacity of 8,060 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days. These tanks shall be removed at the point that the flare is operational and the lay down yard (Staging Area) is decommissioned. The permanent Control Building shall be connected to the ISDS and shall not be served by sewage vault tanks.
11. Wildlife-proof refuse and/or recycling containers must be provided for trash. At least one thirty (30) cubic yard container shall be provided for the facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
12. All equipment and structures must be painted in accordance with the BLM Gold Book standards.
13. The Applicant shall treat the gravel surfaces within the facility periodically as needed with an approved dust suppressant to control fugitive dust.
14. The Applicant shall have six (6) months from the date of issuance of the Special Use Permit for Chevron USA Inc. to obtain and be approved for the Synthetic Minor permit from CDPHE. If Chevron USA, Inc. fails to obtain a permit within the specified timeframe, the permit is denied by CDPHE, or the conditions of the permit modify the site plan as approved under this Special Use Permit, the approved Special Use Permit from Garfield County shall become null and void. At this point, Chevron USA, Inc. will need to reapply for a new Special Use Permit from Garfield County for this facility.
15. The Applicant is required to submit a final noise study for the proposed facility which indicates that the facility will not cause noise levels which exceed the state statute. If the facility does not conform to the State statutes regarding noise generation, the applicant will need to submit a plan for mitigating this noise. If this mitigation plan requires amendments to the submitted and approved Special Use Permit or any representations made the Applicant however, the Applicant shall submit for a new Special Use Permit from Garfield County for this Central Production Facility.
16. All construction and operation of the site shall occur in accordance with the Storm Water Management Plan (SWMP) as submitted. In addition, as represented in the application, Chevron USA Inc. shall conduct bi-weekly SWMP inspections to ensure site stabilization measures are adequate and/or identify areas that need repair or improvement.
17. All construction and operation of the site shall occur in accordance with the most up-to-date SPCC plan for this site.
18. The embankments adjacent to the floodplain limits shall have rip-rap slope protection in order to prevent erosion on the embankment slopes.
19. The Applicant shall submit an approved and adequate well permit to serve the permanent control building *prior to issuance of the Special Use Permit*. In order to maintain consistency with the proposed ISDS, this well permit shall be adequate in terms of rights and quantity to serve a workforce of up to ten (10) employees.
20. The Applicant shall submit a new Integrated Vegetation and Weed Management plan which incorporates that area which is to be disturbed by the proposed Central Production Facility. This plan shall be reviewed and deemed adequate by the Garfield County Vegetation Management Department *prior to issuance of the Special Use Permit*. The Applicant shall submit this plan by June 1, 2008, shall NOT grade or disturb any portion of the subject site prior to the Integrated Vegetation and Weed Management plan's review and acceptance by the Garfield County Vegetation Management Department and shall incorporate a soil "ripping" process into this re-vegetation and rehabilitation plan.
21. Before leaving the approved site, all off-road major construction equipment (graders, dozers, etc) working in areas of mapped noxious weeds shall be power washed to remove seeds, soil, and vegetative matter.
22. The Applicant shall provide a security for re-vegetation in the amount $21,750 to cover the estimated 8.7 acres to be disturbed prior to issuance of the Special Use Permit (using a rate of $2500 per acre for a facility that may be in place for up to one year). The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Vegetation

Management Plan. It is the responsibility of the applicant to contact the County, upon successful re-vegetation establishment, to request an inspection for security release consideration.

The applicant shall provide the Vegetation Management Department with the original tags from each seed bag. The seed mix in the Plan shall match the seed mix used in the field. Do not use a seed mix containing yellow sweet clover *(Melilotus offcinalis)* or annual yellow sweetclover *(M. indicus).* The amount of seed specified to be planted in the Plan shall match the quantity of seed used in the field.

23. The Applicant shall provide a security for re-vegetation in the amount $13,200 to cover the estimated 3.3 acres to be disturbed prior to issuance of the Special Use Permit (using a rate of $4000 per acre for a facility that may be in place for up to twenty (20) years). The security shall be held by Garfield County until vegetation has been successfully reestablished according to the Reclamation Standards in the Garfield County Vegetation Management Plan. It is the responsibility of the applicant to contact the County, upon successful re-vegetation establishment, to request an inspection for security release consideration.

The applicant shall provide the Vegetation Management Department with the original tags from each seed bag. The seed mix in the Plan shall match the seed mix used in the field. Do not use a seed mix containing yellow sweet clover *(Melilotus offcinalis)* or annual yellow sweetclover *(M. indicus).* The amount of seed specified to be planted in the Plan shall match the quantity of seed used in the field.

24. Any straw or hay bales used in erosion control shall be certified weed free.

Commissioner Houpt – I would make a motion we refer this to the Planning Commission. Commissioner McCown – Second. Commissioner Houpt – With a development that size, it is important that it go through the two step process.

Larry Sills – If you review the report that planning came up with they saw both sides of the issue and we are dealing with the housing shortage that is extremely difficult. The purpose of this particular proposal is to provide additional housing for the workers in the area of Rifle. The longer the process the slower it's going to be to get to the point where we would be in a position to have housing available. The application has been prepared and submitted. Commissioner Martin asked if the application had been deemed complete. David said he believes it is technically completed and just waiting for the results of this meeting. Commissioner Houpt – I'm sorry I made my motion so quickly but my motion stands. Jimmy Mincer– There is going to be an impact to adjacent people. We have a letter that they support what we are doing. We think that time is very critical. We actually submitted this application in January of last year and because we had to change the classification of the water system from a non-transit community system to a full blown community water system in order to serve this populace. We had to do a year of sampling and testing of our water system. We had to submit samples every quarter. So we have actually been in this process a year or so now and it directly address the things we have been talking about. We have a housing problem. The Commissioners are certainly capable of reviewing this project and making an intelligent decision I believe. But to put this further down the road is only going to continue to hurt. Housing is so expensive and the reason is because the gas guys are coming in and we need them, they are best for our economy. But there are four or five of them going together and they can afford that $400,000 or $500,000.00 dollar townhouse. That keeps prices up. I think what we are doing benefits the County and certainly benefits us. There is a new procedure that David mentioned about the temporary thing, we are not opposed to this project being a project that reclaims after the needs gone. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR ONE TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED APPROXIMATELY 20.5 MILES NORTH OF THE TOWN OF DEBEQUE – APPLICANT: CHEVRON USA, INC. – DAVID PESNICHAK

Sally Culpin, Michael DeBerry and Steve Labroan all with Chevron were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Memorandum, Exhibit E – Application; Exhibit F – Letter from Jake Mall of the Garfield County Road and Bridge Department dated January 8, 2007; Exhibit G – Letter from Dean Riggs of the Division of Wildlife dated December 18, 2007 regarding now approved Temporary Employee Housing on nearby Well Pad 598-25-AV; Exhibit H – Letter from James S. Talbot, Chevron Senior council, dated February 11, 2008; Exhibit I – Letter from Richard Murray of Down Valley Septic, dated January 4, 2008 and Exhibit J – Updated Adjacent Property and Severed Mineral Owner List. Chairman Martin entered Exhibit's A – J into the record. Planner David Pesnichak explained: This Special Use Permit application is for Temporary Employee Housing on property owned by Chevron USA, Inc. located on an approximately 54,000 acre property, approximately 20.5 miles north of DeBeque, CO. contained within a well site pad. Staff is recommending approval of the Special Use Permit with the twenty-two (22) conditions provided by staff. David went through those conditions for the citizens in the audience.

Sally explained this was an existing drill rig that has moved to a new location and essentially the activities that were occurring at the first well pad are just being transferred to a new well pad.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the special use permit for a temporary employee housing facility with the twenty-two conditions as alluded to by staff. Commissioner Houpt – Second.

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

CONSIDER A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY WHICH WOULD INCLUDE: MATERIAL HANDLING OF NATURAL RESOURCES, STORAGE AREAS AND PROCESSING (CENTRAL PRODUCTION FACILITY) LOCATED 12.5 MILES NORTH OF DEBEQUE – APPLICANT: CHEVRON USA, INC. – DAVID PESNICHAK

Sally Culpin, Michael BeBerry, Steve Labroan all with Chevron were present. Sally stated she attempted to put in the Post Independent and they sent the notification to their Summit County paper which we discovered last Monday. We tried to rectify the problem quickly and they did provide us a letter stating they were at fault. We re-published the notification on Tuesday of last week. Hopefully we can move forward as this is a remote location; we notified everyone surrounding the whole fifty some thousand acres. Carolyn asked if she brought proof of publication from both the Post and Summit County. Sally explained they never published in the Summit as they knew it was an error however, they

never forwarded it to the correct people. She did bring the proof of publication from last Tuesday and the letter stating they were in error. Carolyn reviewed and told the Board we do have an imperfection in notification. We have adequate mailing notice. We have the testimony as to the posting, we have one week instead of 30 days publication. The cases in Colorado have strict compliance as to zoning. Should there be a challenge to this notification the County would have to say to the challenger you're right. This will require a judgment on the Commissioners behalf as to whether you or not you want to proceed. Commissioner Martin stated we need to ask the applicants if they would like to proceed and they indicated they did. Commissioner Houpt feels this is a rather large project which was a red flag for her. It entails a lot of heavy machinery that will be in place for a very long time and I do have some concerns when there is imperfection. Commissioner McCown stated in lieu of the fact that everyone within 200 feet did receive written notice and the fact that it was published even though late and it was clearly not the applicant's fault, I think it would be unfair to require them to go back through the complete noticing process. He feels if they are willing to accept the remote change they could be effected by this he has no problem proceeding. Commissioner Martin stated with the explanation from Ms. Dahlgren and also the acceptance from the applicant knowing the risk and all written notices were returned including BLM he feels like we could go forward. However, remember there is still a risk and if there is a challenge you will have to start over again. He asked the applicant again if they were willing to go forward, they were and he stated they we will accept that and go forward. Chairman Martin swore in the speakers. David explained he had new exhibits: He 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 Report; Exhibit G – Memo from Jake Mall of the Garfield Count Road and Bridge Department Dated February 27, 2008; Exhibit H – Memo from Steve Anthony of the Garfield County Vegetation Management Department dated February 27, 2008; Exhibit I - Letter from Dean Riggs of the Division of Wildlife dated February 25, 2008; Exhibit J – Preliminary Noise Study from Paul Kiteck of Hoover and Keith; Exhibit K – Memo from Steve Anthony of the Garfield County Vegetation Management Department dated February 28, 2008; Exhibit L – Letter from Chris Hale, PE of Mountain Cross engineering dated February 28, 2008; Exhibit M – E-mail from Sally Cuffin of Washington Group International dated February 29, 2008; Exhibit N – Updated Erosion Control Plan, dated March 7, 2008; Exhibit O – Updated Rock Grading Plan, dated received March 7, 2008; Exhibit P – Updated Site Plan, dated March 7, 2008; Exhibit Q – Updated Equipment List, dated March 7, 2008; Exhibit R - Updated Site Layout, dated March 7, 2008; Exhibit S – Acoustical Assessment of the Central Production Facility, dated received March 7,2008; Exhibit T – Piceance Basin Development Water Management Pond Area, dated received March 7, 2008; Exhibit U – Piceance Basin Central Production Facility Area, dated received March 7, 2008 and Exhibit V – Piceance Basin Central Production Facility Top Soil Stock Pile Area, dated received March 7, 2008.
Chairman Martin entered Exhibits A – V into the record.
Planner David Pesnichak explained: The location is at the end of County Road 211 north of the Town of DeBeque. This is approximately one and one half miles from the temporary employee housing facility which was the item mentioned above. David showed pictures of the site. Staff does recommend approval but they are not able to make specific recommendations for the new information. David showed the new site plan which was submitted March 7, 2008 and explained what it entailed. There was a change proposed that they would bring infill from an anticipated pond area to raise the level of the pad of the working area. That will cause a scar that will be in addition to the 12 acres which will be disturbed and we will need an additional noxious weed management plan, re-vegetation plan and appropriate bonding for that facility. Because those facilities aren't permitted yet, the ponding areas, staff recommends it be viewed as the worse case scenario. Either it not be located there in the future or be denied but we do bond it accordingly as if the pond weren't installed there later in time. Looking at this application as a whole we do need a new integrated vegetation plan. The one we have in place does not include this area. They will need to demonstrate a permanent water source as they will have employees in the long term on the property. Commissioner McCown stated he was a little unclear on your intent, there was an intent to dig a pond and the dirt from that pond was going to be used to raise this area up or out of the floodplain, I didn't get some of the conditions you referred to if that happens. David – Basically since the fresh water pond hasn't been permitted yet there is a lot of hoops that need to be jumped through and if those don't come through the pond could be relocated. Commissioner McCown – But anytime that pond were to be built it will have to be permitted? David – Yes it certainly would. Our concern is that the fill be extracted from one location and the pond be build at another location. I don't think it would be best to go on a leap of faith basically that the fresh water pond will be permitted sometime in the future and that the reclamation will take place with that permit. Essentially we are requiring re-vegetation for this stand alone application. Sally Cuffin – We are trying to address all of these. It is a challenge; there are two engineering firms involved with the design of this pad and that is why a lot of the last minute changes happened. Commissioner McCown – In the area where the permanent flare is I'm under the assumption that it is going to be a temporary construction lay-down yard while the rest of the facility is being built and then it will become a flare area and nothing else will be located in there? Sally – Correct. Commissioner Houpt asked if they would talk a little bit about flare. I thought people were moving away from flares. We are seeing less flaring. Michael – This flare is only used during start-up and shut-down, respond to emergency up-set and it is not a continuous flare situation. Commissioner Houpt – You are well aware what putting last minute adjustments in does to our staff and I think they are being very generous. But there are some really important conditions in here that could actually jeopardize your special use permit. If this passes today I think it is critical that you work very closely with staff.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special use permit for a central production facility and staging area with the 24 initial conditions as applied by staff adding the 4 additional conditions that were alluded to. That is the scar management and weed management plan, the amended sound study to apply to the added compressor, erosion control and storm water management plan and the adequate floodplain permit to allow for work to proceed in the area and bearing in mind these have to be met prior to the issuance of the special use permit. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
CONSIDER A SPECIAL USE PERMIT TO ALLOW A TWO FAMILY DWELLING UNIT – APPLICANT: MCCOMAS PROPERTIES, LLC – CRAIG RICHARDSON

Bill Slattery – 5134 County Road 154, Melody Massey, Attorney and Chris McComas were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff Memorandum; Exhibit F – E-mail from Garfield County Environmental Health Department dated January 22, 2008 and Exhibit G – E-mail from Daniel Roussin, CDOT dated January 21, 2008. Chairman Martin entered Exhibit's A – G into the record. Planner Craig Richardson explained: The request is to allow the conversion of an existing single-family residence into a two-family dwelling on the subject property. Two-family dwelling units are contemplated in the Agricultural Residential Rural Density Zone District (ARRD) as a Special Use (§3.02.03). Staff recommends approval of the proposed Special Use Permit allowing a two-family dwelling on a property owned by McComas Properties, LLC with seven conditions which Craig went over verbally. Commissioner Houpt asked that on condition five you put with the maximum of 4 bedrooms. Melody – This will be used as employee housing and right now it is being leased to an employee. The other unit will be leased to another employee. Melody directed the Commissioner to view the floor plan and explained who would live on top and bottom of the unit. She explained that a kitchen unit will be put on the second level. Chris explained originally the units were connected with a spiral staircase and they will be taking the staircase out and adding a kitchen. Carol Fegan– 6588 Highway 82 we are on the same street. When we went in and looked at the plans and we understood they were building up behind us? Is that not the case at this time? Currently we are only zoned for single family dwellings; if he is able to have permission for this particular building does that also give him permission to build other buildings on that property that are multi-family…. Commissioner Martin – No to both questions. Carol – Then I don't have any objections. Melody stated that this is a minor change to an existing structure and it won't compromise the character of the neighborhood.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special use permit allowing a two family dwelling with the seven conditions as alluded to by staff. Commissioner Houpt–Second. Just want to say it's always nice to see employers coming forward to build employee housing. Thank you. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A TEXT AMENDMENT TO IRONBRIDGE PUD – APPLICANT: ROSE RANCH, LLC – CRAIG RICHARDSON

David Joseph, Director Development Ironbridge, Tim Thulson, Attorney (Balcomb and Green) and Derick Forester were present. Carolyn stated the text amendment only requires notification by publication, but did you did you do full notice on both of them? Tim replied they did and they combined both. Carolyn continued reviewing the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff memorandum; Exhibit G – Application and Exhibit H – Revised Visual Impact Study done May 2, 2007. Chairman Martin entered Exhibit's A – H into the record. Planner Craig Richardson explained: The Applicant is proposing a PUD text amendment to allow building heights to be measured from the established grade after completion of all lot grading and excavation, as represented in the applicable grading plan. The Grading Plan was reviewed by the County Engineer and it will be approved. Proposed amendment applies to the following Lots only: Phase II, Filing I Lot 225 and Filing II, Lot 62 and 225 through 249, Filing III, lot 77 through 79, 250 through 270 and 271 through 296 and Phase III, Lots 1 through 60.
Tim Thulson stated they are in agreement with the conditions of approval. Commissioner Houpt – Could you elaborate on the reason for this request. David Joseph explained the current restrictions on height restrictions and how it is from an existing grade. In Phase II we had a 30 foot cut which meant they could actually have a house 60 feet tall but if I add dirt it lowers the height of my house.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the recommendation for the zone district amendment pertaining to Phase II Filing 1 Lot 225, Filing II Lot 62 and 225 through 249, Filing III Lot 77 through 79, 250 through 270, 271 through 296 and in Phase III Lots 1 through 60. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER THE IRONBRIDGE PHASE III PRELIMINARY PLAN – APPLICANT: ROSE RANCH, LLC – CRAIG RICHARDSON

Notification was given in the previous presentation Tim Thulson, Attorney (Balcomb and Green), David Joseph, Derick Forester and Scott Gregory were present Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Staff memorandum; Exhibit G – Application from Preliminary Plan; Exhibit H – Letter from Colorado Geological Survey, dated May 17, 2000; Exhibit I – Letter from Mountain Cross Engineering, dated May 24, 20-07; Exhibit J – Letter from Colorado Division of Water Resources, dated April 27, 2007; Exhibit K – Resolution number 2004-20; Exhibit L – E-mail from Garfield County Environmental Health Department, Dated May 11, 2007; Exhibit M – Letter from Cheryl T , dated June 13, 2007; Exhibit N – L. B. Rose Ranch, LLC BOCC draft Affordable Housing Escrow Agreement and Exhibit O – Updated Conditions of Approval Chairman Martin entered Exhibits A – O into the record. Craig explained they are seeking approval of the preliminary plan for the third and final phase as approved in the PUD. Since the beginning it has been identified that there are potentials for sink holes and we have a condition of approval addressing this to let potential property owners know of this. Craig would like the applicants engineer to explain Exhibit I to the Board. Craig read the conditions as he had changed some of them since the Commissioners received the staff report. Staff does recommend approval.

Tim Thulson stated with regards to the conditions they are in agreement. They would like condition twelve be amended. Commissioner Martin asked if they were proposing instead of the height you are going to limit it through our study. Tim stated this was correct and they would demonstrate compliance at the building permit stage.
Commissioner Houpt – I'm assuming this condition came from our staff as a result of the study. Craig – The study only identified that 25 feet would impact the existing lot one and so the intent of that condition is to have compliance with the visual effects study. If the applicant demonstrates compliance; if it's on the building permit that accomplishes the same thing. Scott stated they agree to all of that and the erosion control will be part of CDPH permit. We do have an overall NPDS permit from Phase I that covers the entire site which we can produce or we could submit for an updated permit which we will along with the air quality permit. The unconventional grade breaks in the building envelopes we are over lot grading to benefit the future construction of houses. The sewer line is very deep and all of these issues have been taken care of. All the sewer water permits have been reviewed and will be approved by Roaring Fork Water and Sand District. Commissioner Martin asked Craig if all his issues were addressed and Craig felt they were. Tim stated escrow will be in place.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the Phase III Preliminary Plan with the twelve conditions noting the change on condition twelve to indicate the maximum height of 20 foot or meet the visibility study compliance at the time of the building permit. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION – APPLICANT: GRAND HOGBACK, LLC – CRAIG RICHARDSON

Bruce Lewis was present and answered all questions. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibit: Exhibit A –Staff report and the previous exhibits from the hearing dated May 7, 2007. Chairman Martin entered Exhibits A into the record.
A letter was submitted to the Board of County Commissioners from CB Minerals Company LLC stating they did not oppose the Exemption, but they stated they have an ongoing interest in maintaining its rights with respect to future mineral development in the immediate vicinity of the property to be subdivided. They also enclosed a copy of Notice of Mineral Estate Ownership which CB Minerals has recorded.
The Board approved a request to allow the "Exemption from the Definition of Subdivision" for Grand Hogback, LLC on May 7, 2007. The applicant failed to present an exemption plat to the Board within the required 120 days. This applicant has submitted a new application identical to that approved by the Board on May 7, 2007.
Staff is recommending the Board approve the request with five (5) conditions as presented by staff.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the exemption from the definition of subdivision with the conditions one through five. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A TEXT AMENDMENT TO SECTION 5.02.32, 5.02.22 AND 5.02.23 OF THE ZONING RESOLUTION OF 1978 AS AMENDED REGARDING TEMPORARY EMPLOYEE HOUSING (CONTINUED FROM FEBRUARY 4, 2008) – APPLICANT: GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS – DAVID PESNICHAK

Planner David Pesnichak submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978, as amended (the Zoning code); Exhibit B – Staff Memorandum; Exhibit C – Application; Exhibit D – Resolution 2006-108 Amending Section 5.02.21 – 11-13-2007; Exhibit E – Recently adopted Rio Blanco County Temporary Living Quarter Regulations and related materials dated June 25, 2007; Exhibit F – Colorado Department of Public Health and Environment, Water Quality control division, Primary Drinking Water Regulations (Amended January 19, 2005), Section 1.2; Exhibit G – Letter and Presentation from Doug Dennison of Cordilleran Compliance dated November 5, 2007; Exhibit H – Section 5.02.23, Small temporary Employee Housing facility dated November 08, 2007; Exhibit I – Section 5.02.22, Minor Temporary Employee Housing facility dated November 8, 2007; Exhibit J – Section 5.02.21, Major Temporary Employee Housing facility dated November 8, 2007; Exhibit K – Proof of Publication; Exhibit L – Outline of "Temporary Housing Building code Regulations – Garfield County"; Exhibit – M – Letter from Dean Tinsley of Williams Production RMT Co. dated February 12, 2008; Exhibit N – Memo from David Pesnichak of Garfield County Planning Department in response to letter from Dean Tinsley of Williams Production RMT dated February 21, 2008; Exhibit O – CDPHE, Dept. of Public Health and Environment, Guidelines on Individual Sewage disposal Systems Section II. C. 1-5; Exhibit P – Resolution 94H-136 concerned with the adoption of the Individual Sewage Disposal Regulations, Revised 1994; Exhibit Q – Colorado Division of Housing clarification of issues related to the use of structures at remote sites (man camps); Exhibit R – Letter from Doug Dennison of cordilleran compliance dated February 12, 2009 and Exhibit S – E-mail from David Pesnichak, Senior Planner and Larry McCown, Garfield County Commissioner dated February 28, 2008; Exhibit T – Recommended Regulations submitted by Doug Dennison of cordilleran compliance dated March 3, 2008; Exhibit U – E-mail from Jim Rada, Garfield County Public Health dated March 4, 2008; Exhibit V – correspondence from Lisa Brakens; Exhibit W – News Release and Exhibit X – Linda Dixon, telephone message Commissioner Martin will supply during the hearing. Chairman Martin entered Exhibits A – X into the record. Commissioner Martin – Stated this was left previously as an open meeting without a decision so we are going to continue. Planner David Pesnichak explained: This hearing was first heard before the Board December 17, 2007, was re-heard on February 4, 2008 and this is the third hearing before the Board of County Commissioners today. On February 4th you specifically requested the pros and cons for regulatory options for what has been termed as small facilities. David went over the pros and cons for small facilities and the outline of actions required by the Board. (David gave four options identified in staff memo)
Commissioner Houpt – First to put a little more context in the "use by right" because that is all that you are talking about right now for the purposed pad sites. It also means there is no public notice, no referrals and no opportunity to appeal or call up provision. In your original report one of the options was to use administrative processes for those facilities too. Commissioner Martin – The only time we are looking at "use by right" is on an approved state submitted

application to drill pads. It's only for the essential personnel and they have to be there 24 hours a day. It's not to lease out to everybody else. That will be the second review process and that is the small but not the "use by right" and that was anywhere there is nine or above people would have to go through this entire process, application, public review etc. Then you have the twenty-five and above or the large facility which again you saw one or two today. They went through the entire process of notification, access etc… that is what's in place right now. We are looking at can we refine it? Can it work? That is what this whole exercise is about, finding someway to address these issues.
Commissioner McCown – Notice – what you witnessed today, these facilities are capped at twenty-four (24) people. That is the appropriate process for those. In the last meeting I took on the charge to work with the industry and see if we could come up with something. I'm a little disappointed in the staff report; it was supposed to be explained in the matrix and it clearly wasn't on the pro and con side. Part of the process was that it would be limited to not more than eight (8) people. These people would be critical personnel. It would be a "use by right". Those people are on the well sites, have been on the well sites for the past forty (40) years. They are critical to the operation and the drilling of that well. If you were a property owner you would not want that well vacated at any time during the drilling process. There have been some concerns about violation of individual's rights by allowing these people on that well pad. Those land owners that might not be aware of it, when you signed that surface use agreement or that lease, if you are both a surface use agreement and a mineral owner; you gave the operator the right to come onto your property and to harvest that mineral. This permitting process we are trying to do today is backing into 40 years of history where we though the Colorado Oil and Conservation Commission was taking care of these units that housed the critical personnel. We found out a year and half ago they didn't. We started working on this process and the staff packet is up to 192 pages not counting the exhibits today. We don't want to infringe on anyone's land owner rights. These people are there as a safety factor. They are critical to the drilling of this well. It has become more critical with the directional drilling. And the number of people has increased with the directional drilling. Now if you're willing to trade that off for more straight up and down wells and more pads and 40 acre spacing. That is probably going to be your trade off. I called staff in a meeting with the County Attorneys, planning meeting and asked them if it was in agreement would they publish in their pros and cons that all of the standards that are required on those previous permits that housed up to twenty-four (24) people, there was twenty-four (24) conditions of approval, I asked that they be listed as standards and that the notification of the Sheriff, notification of the fire departments would be a part of that standard and none of those appeared in this matrix. Carolyn – Yes sir they are there. Performance standards incorporated. Sir these are choices for this Commission to make. Commissioner McCown – We worked with the industry coming up with the number of eight (8). That was not an easy number; some wanted twelve (12). Eight (8) is the number we landed on and those are only critical personnel. Those of you who sat through the previous hearings might have noticed one critical thing. The person that was applying for those employee housing units was the owner of the property because it is a special use permit. That is the only person who can apply for a special use permit for housing is the owner of the property. If Dick Morgan is the owner of the property and someone wants to put a special use permit on his property Dick Morgan has to be that applicant. It can't be the operator that wants to put that on his property so we are not clearly in no way cramming this down anyone's throat. This is clearly nothing that hasn't been done. This is a safety issue. We are trying to implement these standards and conditions; the only caveat we are asking is this to be allowed as "use by right" with a third party inspection signed off by a professional engineer that all of the standards set forth in this have been met. Right now there are none. Right now we are not governing these. I would venture to bet Garfield County could not deny one of these. So that is where we are today and there has been a tremendous misunderstanding and I apologize if I have been part of that. But there is a tremendous misunderstanding between critical personnel and employee housing. The employee housing was something you heard earlier in the application of twenty-four (24) people. These critical folks that have to be there 24/7, they work ten (10) days on ten (10) days off, fourteen (14) days on fourteen (14) days off depending on the company. But they are there seven (7) days a week; they do not leave that well site. The drilling crew may come and go but the company man, safety man all stay on site and they have historically. We are trying to give some standards for housing so you don't see a bunch of camp trailers and various types of recreational vehicles parked on these rig sites. We want a consistent, regulated standard they have to comply with.
Commissioner Martin – That's another reason why we brought in the Colorado Department of Housing in reference to these issues. We didn't want to see the structures like they were the campers, horse trailers etc. We asked them to come in and look at what the standards are for temporary housing for people to live in and then we have the nonresidential units which we are looking at the trailers that come in on wheels, they set them up put their flag out front to identify that is the office. Again we want to make sure that Mr. Rada went out and inspected to make sure the water was safe, the ISDS system was in place, working properly and hook-ups are fine. But we also found we are over working our building inspectors because they have to apply for a building permit every time they move these units and have to go through the entire inspection. What we are looking at is if they are safe, they meet the standard requirements for the housing authority, that a third party engineering can verify the water systems have been used numerous times and still meets the standards and these are only essential personnel; no dogs, no wives, no girlfriends just those people assigned to that pad is what we are trying to address. Commissioner Houpt – There are several things that we disagree on here today. One of them is that we have come to terms with essential personnel is and how that is defined. The last time this was given to us it was couched in terms of beds so you could have up to twelve (12) beds with 50% occupancy. I don't know how you would regulate that and if that's the case then it's actually six (6) essential personnel not eight (8). By making it a "use by right" there's absolutely no opportunity for the person who is not the surface owner or the surface mineral owner who has not been able to come to terms with the company on how the pad is gong to be developed. There is no opportunity for them to weigh in on anything having to do with people living on their property. When we first started this conversation we had a room full of people and most of the people where with the industry and four (4) was the number that came up for essential personnel. I think there is a scheduling issue here. If I had a well on my piece of property I'm not sure I want somebody who works 24/7 ten (10) days a week. I know that seems, 24 hours ten (10) days straight from what I hear seems to be the norm but that doesn't seem to me to be that healthy if we are talking about trying to keep people safe in an area. I have a real problem with the notion of a "use by right" because the people whose properties are actually occupied don't weigh in at the County level and the County level won't weigh in unless we do have the protections in place that are recommended by staff and Planning

Commission and a special use permit only comes into play with the larger facilities. And you are right that is when the property owner would come in. I think we have a ways to go on this and I'm looking forward to hearing from the people today. Commissioner Martin – There is a bunch of misinformation out there and some people drive that to simply derail the whole system. We are trying to come up with standards we can enforce. Enforcement is one of the issues we have to look at. Is it really enforceable or is it so cumbersome and so expensive, so time consuming that nobody can get it done. That is not what we are after because at that point there is a conflict between production and the surface owner. If you can't come to terms, that is what the State hearing process is for. This is only to deal with the approved APD's not someone that isn't approved. Again the surface use agreement has to be placed before it is an APD and you can't have anything on there until you have that APD that is issued. Tara Mikesill – I live in New Castle and to be real honest with you it is very hard for regular landowners to get their brain around the gas and oil rules, regulations the whole nine yards. I think a good example whether or not there is confusion or understanding, I'm coming from a real simplistic standpoint here of private property owners. If you sign a surface use agreement with a gas company, or if you don't regardless of whether you own all your minerals or don't whatever, you can be in a very complicated scenario of not really knowing where you stand. I know landowners who got forced pooled and we're at the point where they had to sign or they were going to be financially hurt. They did not want wells on their property. They did not want to sign. They ended up signing. If by signing some of these leases that you literally are forced into signing unless you're an idiot from a financial standpoint, it allows an industry not only to operate on your property, which is fine but the thought of having other people living and sleeping on your property. I'm not talking about essential personnel working I'm talking about people living on your property. We go out and buy our homes, we buy our land, we pay for it and we want a little privacy and we want our right to have our home. The gas industry is very important, energy is important but either I am not understanding something about this or it just seems inherently unfair. I find it extremely disturbing and I appreciate you listening to me. Commissioner McCown – I would just like to clear up the forced pooling would be a mineral lease whereas the surface use agreement allowing the rig to come and literally drill the well is a separate agreement and that would only effect the property owner that rig was on. It would be like saying we are going to sign a surface use agreement and you can come in and harvest our minerals but you can't bring any trucks and you can't bring in a drill. The surface use agreement is negotiated between the developing company and the surface owner. At that time agreements are reached as to the location of the pad, new gates, new fences whatever needs to happen to come into compliance with the….. Tara – If I'm not mistaken I do know landowners who because they have been forced pooled have felt pressured into signing surface use agreements. And all I'm saying is you better have a lawyer looking at your documents. Some of the language might lead to employees being allowed to sleep on your property. Commissioner McCown – I don't know of any leases that specify verbatim that there will be four (4) people sleeping on your property. I think it is more general than that. I think it says they would be allowed to come in and retrieve that resource and that would be like bringing a truck or a rig or bringing somebody to work there. All of those are components of harvesting that resource. Commissioner Martin – What we are tying to do is to make sure there is a standard so you don't have a big commune coming in and doing just exactly what you fear. We are hoping we can identify those people. This is just for a temporary process until that rig is ready to be pulled off. It's not to come in and put a new house on your property. We are just trying to come up with a performance standard acceptable to everyone. Again we don't issue those permits and we don't get into the surface use agreements. That is done with the owner of the property and the company and the State. We are just trying to protect you as property owners the best we can. Elizabeth Chandler – Grand Valley Citizen Alliance and a long time resident of the County – I'm wearing both hats today representing the association as well as myself. Let me just clarify, you confused me a little bit by saying the property owner, if Dick Morgan was going to have people come in and live here then he was the only one who could apply for a special use permit, but my understanding what we are talking about today has nothing to do with special use permit. What we are talking about today Dick Morgan would not have to be notified if people where living on his property. The surface use agreement I think number one I don't think we are under any miscommunication at about what's up today. We understand perfectly well what you guys have proposed and we totally object. We understand exactly why we are in the room today and that's why we came. Commissioner Martin you have been on the record as saying you really worry about over regulation and you clarified that in the very last few moments of your comments about making sure it can work and it is not too burdensome. But previously sitting here with Iron Rose Ranch that didn't seem to be a concern at all! We are sitting here worrying about whether their lot is grade and sensitive obstructs, one house obstructs the views of Mt. Sopris. I would argue that there are a lot of people that was Lot 24 that obstructed the view of Mt. Sopris so we can't have that one there it has to be changed. Do you have any idea how many people would love it if the gas industry were held to that same standard that you are holding Iron Rose Ranch? They have to apply for air quality permit to build a house. We would love for them to apply for an air quality permit. So, let's hold the same regulatory standard across all businesses in this County. Commissioner Martin – We have heard the PUD process with Ironbridge for five years and we have listened to it, gone over it step by step from the collapsed soils from the geology report. Ironbridge may have been abbreviated to you but again the knowledge and the standards are just as strict for everyone. Elizabeth – I'm sorry I miss spoke. I'm just saying you are holding Ironbridge to a much higher standard and I would like you to hold all businesses to the same standard as you hold Ironbridge. Commissioner McCown – If we permitted those gas rigs that you find so offensive those standards would be in place. We do not permit those. We are only looking at today those people that work on those. Elizabeth – So on a "use by right", if I sign a surface use agreement and it says that I give the gas company the right to move in extra equipment as needed, I don't think a reasonable person is going to interpret that by saying I'm giving them the right to have eight (8) people live on my property. I think that it does need to be clarified in black and white. When we say additional equipment we mean you will be allowing people to live on your property. My understanding, we are going into summer hay season. My family has a 3,000 acre ranch. We have a lot of essential personnel. We could not use our own property, we could not meet these requirements on our own property and use it for our own business but yet the gas company can come in put in a rig and house people on our property in a manner differently than what you would allow us to use our own property. I find that wrong. I should be able to meet these exact same requirements, house our essential workers that have to be there 24/7. If you won't let me do it I would argue you shouldn't let anybody else. Commissioner McCown asked where have they historically stayed. Elizabeth – We have housing but it would be nice to have cheaper housing, a lot more affordable housing for our own businesses.

Commissioner McCown stated so they have stayed there in the past. Elizabeth – But not in that, we have to provide a regular house. We have to have regular occupancy we have to comply with building permits. We have to comply with all of Garfield County Zoning. And it is very burdensome to our business. So I would argue our business should have the exact same rights. I think we can all agree that education is very important as a community goal. As a community value our children need to be educated. Our school districts are facing a critical shortage of teachers because of affordable housing. These same standards should apply to the school districts. Teachers are essential personnel for an education. If we are not going to let the school district say the teachers are critical personnel I don't think we should allow another business. I could go on a very long time with that list. I think we need to have the same rules apply to all business in this County. Then if one business is allowed to say we need these people they are critical then other businesses should be allowed the same right and if we cannot grant those rights to other businesses, I don't think we should grant them to one. Pepi Langegger – I live up on 311 Road 7863. Pending legislation is of great concern to me. I'm personally affected by and obviously so will every property owner in Garfield County. Before I say something maybe both of you can, if I am not completely, so far the way I understood it, if I am the land owner and we talk about "use by right" can anybody come in and put a man camp there without my permission? Commissioner Martin – You have to have a surface agreement in place and you would have to have an approved APD from the State of Colorado Oil and Gas Commission. At that point this would allow up to eight (8) people that have to be employed live there 24 hours a day to make sure that came through. Once that well is completed they would then have no more use for the essential personnel and they would be gone. Pepi – But if I have a surface agreement let's say if I have not signed a surface agreement they have the right to come in and extract the minerals but that doesn't give them the right to live on the property. Commissioner Houpt – This would. Commissioner Martin – All the years it has been going on they have been doing it. And we are the only County that has sat down and said we have to regulate it. Again this is an attempt to be proactive and say hey there is a misuse here. Yes there is something going on that maybe the property owner didn't know, the government didn't know etc. There may be issues with sub-standard living for the industry and we want to make sure we hold that to a higher standard to make sure we take care of both sides and regulate it so we said hey identify the people that are here. That can only be part of the company or on this operation and once the use is no longer there they have to move. Commissioner Houpt – I would like to qualify that and I'm sorry to interrupt you Pepi but I have been on pads where there aren't people living on pads. Because they are close to communities, because the company owns a piece of land that is close by. There are other ways of dealing with housing of what are termed essential personnel. Those practices have taken place in this County because I've seen it. I've been on tours; I've talked to different companies so I know that it is not something that has always been in place consistently throughout this County. Pepi – What I am really confused about is if it is "use by right" is it really a property issue. If I own the land how can somebody else decide and how can somebody else decide without a permit and without my permission to come in and house the people there? Commissioner McCown – That permission, Pepi if I understand you right and again I'm not an attorney but that permission was granted if and when you signed your surface use agreement. Not until. No one is going to come on your property unless they bond on through negotiation because they cannot reach any kind of an agreement with you. They do have the right to bond on. But unless that or a surface use agreement is in place no one can come on your property period. They can't even come on with a rig. They can't even come on and build a pad much less somebody stay there. Pepi – What about if there is a disagreement, let's say between the operator and myself; he says he needs eight (8) there and I say all you need maybe is (3) three. When we talk about essentially personnel and I like to do things in good terms, but when the industry says that's the way we have done the essential personnel for 30 or 40 years that I don't buy it Judy because the industry says they have done things for the last 30 or 40 years. Safety for my family is really important to me too. But I don't have eight (8) people living next to me, you know they come from New Mexico, Utah all the way around and if I own the land shouldn't I be able to choose my neighbors? And essential personnel, this is one thing that industry works on a completely different concept than anybody else. And when we talk about safety, I want someone to be awake not sleeping there. If it's the directional driller and they are working twelve (12) hour shifts like any other industry you have one shift, somebody else comes and takes over. Well you say, well we need to have them be there and they are there sleeping - for safety, even from my country I want somebody to be awake and alert and look at that computer. Not somebody saying oh we have a problem wake him up. Commissioner McCown – There is never a time when a drill rig is running that the crew is not awake. The company man or the tool pusher may be sleeping but if there is an issue on that floor they are woken up. The company man is the first line of response. He is responsible for everything that takes place on that rig. You don't want him thirty (3) miles away in a motel. Pepi – No I want him working. I want him to be alert. Commissioner McCown – He is and his crew is working. It may be a crew that rotates out every twelve (12) hours but he doesn't go with it. He may rotate out every ten (10) days. You probably couldn't find a safer environment for someone being awake all the time than a drill rig. They don't shut down once they stand a rig up until it's done. Pepi – The biggest question I think people ask is that industry works completely on a different concept than anybody else. Nuclear facilities they have people there. We have heard about it in the last couple of weeks they have found people sleeping on the job. People come and work on shifts, one comes and one goes. If somebody is delayed someone waits until the other one comes. I just bring it up because the industry says that's the way we have done it for the last 30 or 40 years and the last 30 or 40 years we have made a lot of changes. Hopefully a lot of changes for the better. My biggest problem is especially when it comes to property rights, use of rights; mineral lease is something different than surface use but they still have the surface agreement and need to have a signed surface agreement. Without a signed surface agreement nobody should be able to come on the property period. Commissioner McCown – Unless they bond on and that is with the State. Commissioner Martin – And through this process maybe what we can do is educate folks about surface use agreements and what they are signing and have the industry identify if they are going to have personnel on there for essential use. Pepi – My biggest problem is when we say they are bonded, that's with the State. If there is any use, if I as a property owner have any right then people have to come and negotiate with me. What you are telling me is basically Garfield County is telling the industry who can come on my property without my permission. It has to be regulated; it has to be a signed surface agreement before we agree to it until they can move the man camp next to my house. Commissioner McCown – There has to be a surface use agreement before they can come in and build a pad. Before anybody lives there is irrelevant. They can't even come on and build the road to the pad. Commissioner Houpt – You're suggesting

there be something that there be a separate County level, it would be a private surface use agreement between you and the company but it would be something that would come to the County as evidence that you are well aware of who those essential personnel are who need to be on the pad. Is that what you are suggesting that it be separate form the State surface agreement? Pepi – Or at least that there is an agreement before, because it seems like the County takes basically the use of right or you say they can come or if its bonded basically they have the right to come on it. I think the property owner should be able to negotiate with the gas companies. Essential personnel, how many do you really need and what is the service agreement, agree on a price and then they come to the County and then they get the permit.
Commissioner Martin – We are trying to bring this issue to light and you need to ask those questions. As well as we found out from the State, we thought they were regulating and they didn't. That's why we are saying we are trying to protect your rights and also be fair to the industry by saying you need to identify these things and they are working with us to try and get that done. Again we are trying to find a compromise that pulverizes a community. Pepi – We appreciate you holding this hearing. I think it is really important for you; you don't want to make that decision yourself. You need the people. There are a lot of people here to help you make the decision. Those man camps next to the houses, we want to have everybody, the general public, our women our children protected there, not by having somebody move next to our house where we don't know who they are, where they come from and this is our biggest concern. Thank you. Jim Borgel – Holland & Hart, 555 17th Street, Denver – I'm here on behalf of Williams. The industry has a number of folks here today. Brenda Linster with EnCana has been designated and has a power point presentation. I would like to defer and if any questions we could do that. I would make one comment, I certainly understand the comments of the property owners that we have here today. I think there is a certain misconception in that there is no privacy of the surface estate over the mineral estate. Basically both estates are roughly equal in terms of their abilities to use the property and it's said in Colorado Law that the surface owners are subject to an easement for development of the minerals. It goes the other way too but it's a legal requirement that the surface owners do make reasonable accommodations to the mineral owners. That's one of the reasons why we are here but I think it is important to put this in context. Commissioner Houpt – I would agree with your statement and I would take it a step further by saying that our job as County Commissioners is to make sure that in so doing all of the protections are in place to make sure that the surface owner is safe as the production moves forward and is well aware of what kind of activities take place on their property. Jim Borgel – that is certainly understood and I think that is a legitimate concern and I think one of the ways that the industry is trying to address that is through the performance standards that are incorporated into that option three in your chart. Brenda Linster – With EnCana Gas – Representing the industry working group that has been working with Garfield County in the interest of public for the better part of the last two years to develop fair and balanced regulations for temporary employee housing. We appreciate the opportunity to be in front of you today and on behalf of the industry we appreciate your patience and your continued effort of the County Planning Staff and the Commissioners to develop a set of reasonable and efficient regulations for temporary employee housing. One thing that is important to re-emphasis is that there is a significant difference between the essential personnel housing, the small facilities, and the man camps. Essential personnel you see a couple of single wide trailers; man camps you see drill workers and more trailers or perhaps the stacked trailers. Not quite sure that difference has been clear to everyone.
Dean Tinsley (Williams) - We, as an industry, have been working with the Planning Staff and the Commissioners for a couple of years now. These are big issues and challenging issues and Garfield County I think is at the forefront of tackling these issues. On behalf of the industry I would like to completely acknowledge the landowners comments about landowner rights. Many of the operators including Williams have employees who are landowners in this County. Some of which are here today. I firmly believe that these regulations that we are proposing are a step up for landowner rights and are a step up for these landowners to ensure that these facilities are operated in a safe and healthy manner. Without question this will be an advancement not only for the County but for the landowners. Brenda Linster – We would like to emphasis that the presence of housing, especially the essential personnel, is located on every drilling location that is essential to the industry's ability to work safely and efficiently. We have always and continue to support developing performance standards and a process for temporary employee housing that meets the needs of the County and all of industry. Whether it is oil and gas, road construction, housing construction etc., I think staff has done a great job in explaining all three tiers and that this is applicable to every industry in the County. All of our comments are going to be specific to the oil and gas industry. We are committed to the adherence of the performance standards adopted by the County. We have maintained that the County should have and has the ability to enforce non-compliance with these standards. We do however continue to question the need for a cumbersome permitting process for our small facilities. We very strongly support the perhaps draft proposal version, Option C whatever you want to call it that is in the staff memo. We do not believe that there has been a significant problem with the small facilities and we do not believe that these need to be addressed by a complex permitting process. They said we support the exemptions from the buildings and ISDS permits outlined in Option C. These facilities are already subject to numerous existing County regulations, building code, fire codes, state regulations, federal regulations and we believe most of the issues that come up about housing have already been addressed and that an additional level of regulation by the County is not necessary. Some of the changes we have to the staff proposal is specifically that we support three tiers of permitting. That we continue to believe that establishing tiers based on the number of people occupying housing facilities at any given time is less confusing then a combination of beds and percentage of beds occupied. We believe that the number of people proposed for small facilities should accommodate the major of the essential personnel situation that currently exist in Garfield County. As Tresi said at one point there were essential personnel as defined as four (4) people and I think that definition came out of a meeting in December, 2005. Three years later we have had changes in technology and changes in company philosophy. If you look at how the staff proposal is right now it says twelve (12) beds occupied 50% of the time which is essentially six (6) people. We would like to see that number bumped up to eight (8) people. Although that seems like a conservative shift it reflects the advances in technology and changes in polices that are requiring more on site supervisory personnel to ensure the safety of the drilling operations. As Larry McCown mentioned we are trying to move more toward directional drilling. As we move toward directional drilling we have a need for more people to be out there during drilling operations. Going back to the number of people versus beds, we would like to see the minor facilities bumped up to 9 – 24 people instead of beds. We would like to see the major facilities be 25 people not 25 beds. We continue to support the concept that if any of the conditions for permitting through the small or minor

facilities are not met that we will follow the process for permitting major facilities and we continue to support maintaining the area wide development process under the minor facilities. We have always and continue to support to maintaining the current permitting process and special use permit process for the man camp type of facilities. We do support staff's recommendation that the small facilities be exempted from any kind of a land use permitting process. We strongly support the development of an Option (3) three that allows an exemption from the building permits and the ISDS permits. We support the "use by right", we support the performance standards, we support no building permits, no ISDS permits and as far as notification to the Sheriffs Department and the Fire Department we would like to provide 72 hour notice within 72 hours of habitation or removal of a facility. We feel that the small and minor facilities are both located on well pads and associated with active drilling operations. Industry recognizes the need for an extra level for land use scrutiny for the minor facilities; but we believe that all the other requirements for minor facilities should be similar to the small facilities. On our minor facilities we would also like to see an exemption from the building and ISDS process. We very strongly feel that the small and minor facilities are adequately regulated by the County Building Codes that currently exist, state codes and the federal codes. Also we strongly disagree with the Planning Staffs position that simply establishing performance standards and not requiring building permits is the same as exempting these facilities from all County codes. We disagree with this position and support the establishment of performance standards that must be met for all three (3) tiers of housing. We believe that the County will have recourse if these standards are not meet regardless of whether or not the building permit is issued. In summary of the changes we would like to see the tiers defined by people not beds. We would like to see the small facilities increased from six (6) people to eight (8) people and we would like to see some version of Option (3) three for the small facilities. We would like to see exemption from the building permits from the minor facilities and also we would like to see that the installation of small and minor facilities be certified by a quality third party. And that third party qualifications be double checked by a certified professional engineer or a certified international code council and that would alleviate the work load on the building department. Dean Tinsley– I think the key is to understand the three tiers here. He went over the amount of people in each of those categories. The majority of the oil and gas installations in the County fall in the 0-8 people range. He stated again it is crucial to understand the three (3) tiers and again no matter which tier we are talking about the landowners indeed have their opportunity via the surface use agreement and via the State APD process or special use permit process to have their say in the development. We talked about man camps - it's not the 0-8 people facilities, that is not the right term. The 9-24 perhaps 25 plus absolutely. We all just have to be careful what we are talking about. One more comment and this is something we talked about for two years now. The objective primarily of the minor and major review is to improve safety. Is to improve health and reduce traffic. They ensure people are fed and have one bed to sleep in. Many of these locations they are up 8,000 feet in the middle of winter and they absolutely positively improve the help not only the workers on location but the adjoining landowners and people within the County.

Carolyn asked to clarify, Brenda did you say that industry is looking for an exemption from the ISDS code for both the small and minor facilities? Brenda stated that is correct. Carolyn – What you actually mean is that vault and haul be allowed right, instead of having those in-ground ISDS? Brenda – It is my understanding that vault and haul is an option. If you look at the ISDS permit application as it stands with Garfield County there is a box that you can check.

Carolyn - What are you asking, are you asking that both of those facilities be able to use vault and haul without getting a permit from the County? Brenda –It is my understanding that the exemption from the ISDS permits that is no ISDS permit required at all whether it's buried, vault and haul or leach field. Carolyn – Then it would be up to the operator to decide what kind of sewage disposal without getting a permit. Brenda – That would be correct and we would adhere to the performance standards. Carolyn – I want to make sure that the Commissioners heard what David said about that which is the State has an override. You can decide if you want to exempt these from our County Regulations and do a resolution which gives a blanket exemption. That has to go to the State Department of Public Health and Environment and they have the final say on that. Just want to make sure everyone understands that it is not just a County issue.

Chris Putnam (EnCana) – I wanted to comment on the essential personnel. I know we have talked this issue into the ground and the definition is yet to be established. It's remained elusive but just from experience I was a fire fighter paramedic for the first half of my adult life. During that time I was required to work hours that were absolutely ungodly. Long hours and I worked with several groups of people, air traffic control, fire fighters, hazmat, paramedics, police officers and everybody worked together and everybody worked in a specific way to avert a crisis. These essential personnel that are required to work mind you similar hours as to what we require our law enforcement our fire fighters and our paramedics to work. They are there to avert crisis and they have the experience in the field to do so and they are very qualified to meet these needs and the things required of them. These people on your property are your essential personnel, they are the emergency people on your property and they are there to avert and deal with these crises so they don't become something catastrophic and they do a very good job of this. Jim Jackson – I don't want to speak on behalf of Williams. I am a Williams' employee and also a resident of Battlement Mesa and have been for about four years. I was one of the so called essential personnel for 20 years out of my 40 years in the industry. I've seen it come from the scenario that Tresi put out where there was maybe one guy, a tool pusher who came by once or twice a day up until now when we can have eight (8) so called essential personnel on location. During that time I've seen the safety record of the industry improve. I've seen the speed at which we do things probably triple. My father worked in Rifle in 1954 and it took 35 days to drill a well that we drill in 7 days now. You have to do the same amount of work to do it in 7 days as you do in 35 days. To be able to do that you have to have additional levels of supervision; you have to have a team out there that relates to all of the things that happen when you drill a well. To reassure landowners the cost of these essential personnel is pretty extreme. A company would not put them out there unless they're absolutely necessary. They expect very high performance and a very high level of conduct from them. Currently my job for Williams and I have also worked for EnCana, is supervising five of these rigs. That's the type of thing I demand from all of the people that work under me on these rigs is safety, performance, integrity and a relationship with the people around us in this valley. Everything we do especially since we are really identifiable, we do with a higher standard. When we come on your property we try to take care of your property. I can't vouch for everybody in the industry but I can vouch for the people that I know in the industry and that is what they do. I've heard a lot of them say in meetings, you make sure the landowner knows what you are doing. You make sure that you clean that up. I've had people find some beer bottles in the roadway; I take a crew off a rig and take them down and clean

them up. I've seen that in many places. That reflects negatively on our industry and we try to communicate that especially to all the young people coming into the industry now. The experience level has probably dropped ten years since I came into it but I think we can train them to do that. Participating in this process brings everybody in appreciation that this industry is really trying to comply with all rules and regulations and to fit in as a part of the valley and a part of the industry in the valley. Matt Sura – Western Colorado Congress (WCC) – Western Colorado has some real concerns about the proposal and just to give a little background. Western Colorado Congress is member in the Grand Valley Citizen Alliance (GVCA) and we have been in this valley for over ten years now. The first problem that we have with the proposal is we believe it is arbitrary and capricious since it exempts one industry from permitting departments while keeping the requirement on every other or landowner. By the way I did submit this in writing. GVC and WCC recognize that there is a serious housing shortage in Garfield County and the housing shortage affects every industry whether it is the building, ski industry, ranching, oil and gas and even our school district as we heard earlier. The problem with the proposed amendment is that it grants exemptions only to the oil & gas industry. There is a mention that the regulations can be used for commercial industrial mineral extraction or highway operations but the requirement that they are on a state or federally permitted parcel seems to only apply to the oil and gas industry. If this regulation truly applies to all commercial industries we believe that it would be commonly used by the building and ski industry; they would love to house some of their employees on some of the properties they own for less than a year as well as many landowners as we heard earlier. The rest of Garfield County citizens must abide by your existing regulations which are camper park regulations. Camper Park is defined in 2.02-11 as any lot which has been designed, improved or used for parking of two or more camper vehicles and/or tent campers for human habitation. This requirement is a special use permit and special use permit in agriculture and rural residential area. We believe it's arbitrary and capricious that an oil and gas company could have a temporary camp site for up to twelve (12) people without a hearing or permit but a landowner on that same land would have to obtain a special use permit for exactly the same facility if it was on their property. Even a landowner who has had drilling on their property and would want to put some of their own temporary employee housing facilities on their property would not have the right; that same type of housing that was put up by the oil and gas industry. Further we believe the proposal for small facilities, twelve (12) beds, should be subject to administrative permit requirement as outlined in minor permit Section 5.02-22 which includes the express landowner's consent. If the County is prepared to give the oil and gas industry the right to provide temporary housing for as many eight (8), six (6), or twelve (12) people on private property then they should be at least be subject to the administrative permit requirements as outlined in the minor permit. These requirements not only give the County a meaningful role and ability to ensure public safety but it also requires them to ensure that the owner of the land has allowed this use of their property. Now in the minor permit application requirements they have to "have the identity of the applicant as part of their submission" and then it says "if a representative is acting on behalf of the owner an acknowledgement of the owner shall be included with the application of submittals". "Such an acknowledgement may be in a form of a letter, lease or service agreement or similar document of legal affect demonstrating that the owner has given the representative permission to use a surface estate for one or more of the facilities". The reason that it is very explicit in there is because we do see the problem with a number of surface use agreements written vaguely enough that it would have to take an attorney to prevent what amounts to a man camp on their property without their permission. This is again one of the decision bases that you as a County have to ensure that if these facilities are put forward that the landowner when notified and that they have some consent. And certainly there are a lot of instances when there is no surface use agreement and where they wouldn't have any ability to have that conversation. That's really where the County is the only one that can prevent what amounts to eight (8) strangers living on their property without their permission. We believe that providing proof that the landowner agrees to the use of the property for temporary employee housing is of critical importance to all Garfield County landowners. We questioned the need for essential personnel to live or sleep on a location. There is no doubt that essential safety personnel are needed on these pads. But if they are essential why are they sleeping and we also feel that there are twelve (12) hour shifts that are common both in the industry and every other industry. Why aren't they able to utilize twelve (12) hour shifts and have somebody there who is awake rather than really providing low income housing for these folks? There may be a need for additional housing on a location if it is on federal land or if it's a distance away from a town or municipality, an hour or so. But the way your regulations read, you make no distinction between if it is right outside of Parachute where there are plenty of motels or it is on federal property or far away. It seems like there should be a distinction there. The lack of meaningful oversight by allowing small temporary employee housing and as a "use by right" could very well lead to unsafe living conditions for the employees as well as environmental damage to the land from potential unsafe water and/or sewer systems. Commissioner McCown right after we had a Chevron presentation for temporary housing facility, I think it was a minor facility today and it was less than twenty-four (24) people and you had said at the beginning of this hearing that is an appropriate process for those facilities; but if I understand the proposal correctly that process is now going away. Anything less than twenty-four (24) is going to be administrative permit and not something that you as a County Commissioner see. Commissioner Martin – It's only in draft form and everything you have said is in draft form; we haven't adopted anything. Matt Sura – And that is what I'm speaking to. Commissioner McCown stated he did not say that he thought from nine to twenty-four (9-24) was appropriate and stands by that. What you saw in the packet does not mean he agrees with it and he voiced that concern already. Matt Sura – What your speaking to is that we had a hearing today and it took all of fifteen (15) minutes for you to approve a facility that was 24 or under. Fifteen (15) minutes of your time and I think that gave landowners an opportunity to at least participate in this hearing if need be. What you're proposing is to take away that ability to have landowners participate in the hearing like this. Commissioner McCown stated not on the nine to twenty-four (9-24). Matt Sura – It seems as though it is going to an administrative permit and maybe that is my misread on that. Commissioner Houpt state the nine to twenty-four (9-24) is being proposed for administrative review. Commissioner Martin – It's only a proposal. We have been working on this for two years; Matt where have you been? We have put these notices out and we want your participation. Matt Sura – Well it came as a real shock to our members that this was even being proposed the way it was and frankly we did participate when you first put these regulations on the books and we felt we didn't get everything we wanted but we understood the direction and the need for them and now these changes we believe are crossing the line frankly. We believe it is getting into the private property rights discussion and going into an area that we don't believe the County

wants to be on the wrong side of. Commissioner Martin – That is why it's continued to gather information to get different points of view. Matt Sura – My last point is the proposal to grant administrative permits or temporary housing facilities for up to twenty-four (24) people; it will deny the concerned public to comment on those facilities. We do sincerely hope that we don't make any decisions today until we have a proposal that will actually cover both private property rights as well as the health and safety of the workers and the rest of the residents of Garfield County.
Commissioner Martin – I think you need to also turn that back, you don't need to be making decisions for us and also taking a stance when we are only discussing the draft form. Its okay to participate, its okay to give your opinion, but don't attack. This news release and the way that you did the release, this is an out and out attack and there is misinformation in it. I understand your point of view and you disagree with the way we do it, but participate. Don't just sit there on the sideline and attack. Again two years and also this is the third or fourth public hearing we have had and this is the first time you have put in any information. Give us the good information, let us understand your points of view, find solutions, find some common ground and work with us. As industry has, as the staff has, and as we of three have different opinions but we are still coming together. Commissioner Houpt – In all fairness there were some people who are more in the inside track than others and so it's not fair to tell someone that they are here a day too late if they bring forward an opinion. I think that is important regardless. Commissioner McCown – Matt, I think it's appropriate that I address this sleeping thing that everybody keeps bringing up. If you have an accident tonight at midnight, you are most likely going to be served by a fireman and a medic that just got woke up at the firehouse and responded to your call. Those people aren't sitting up watching television waiting for the bell to ring. They are on duty 24 hours a day; they do get to sleep. But if that bell goes off they come and they help you. So sleeping is a part of this critical operation. Sleeping is a part of these critical personnel. They are there and not 30 miles away in a motel and have to respond to the fire house and get onto the ambulance. They slide down the pole and they come to your rescue but they very possibly at midnight or one o'clock are sleeping, which is no different than on these well pads. Jon Anderson from Holland and Hart – I represent Stallion Oil Field Services and I will not cover any issues that we have discussed before. I do want to update you. Last time I was with you I think it was February 4th meeting, Steve Bernia from the Division of Housing came up and he described the problems the state was having with regulating certain existing houses. I just wanted to report back that we worked with the Division of Housing and worked through that issue. There is legislation, House Bill 1319 which will essentially create two regulatory structures on new houses. They will have to have a blue sticker before they come into the State of Colorado and existing houses that will be processed by a third party inspector who can inspect those facilities and they also can certify they meet the codes. Commissioner Martin – It is good news that the state listened to us and took that information forward. We also testified on that particular bill wanting to make sure that the standards were met and I think that they have been. Jon Anderson – Correct and I think it is one less thing that the Counties have to worry about. Commissioner Martin – It kills our building inspectors because otherwise it would tear certain portions of the housing units apart just to verify wiring, plumbing, studs, roofs etc. We thought that was a little excessive on our building department to have to do that every time they reset those buildings.
Commissioner McCown – So everything is inspected, whether its in-state or coming in from out of state it will have a sticker. It may be a different colored sticker? Jon – It will be a blue sticker. After a certain grace period you can get the existing units up to speed. All units in the State of Colorado will have to have a blue sticker or else it's out of here.
Commissioner Martin – We did have the Department of Colorado Housing in here because there were no standards on non-residential units but were exactly the same as the residential units that were certified by the state that could be used in zones and identified by an inspection sticker meeting certain standards. Hopefully we will get that on these non-residential units. Amy Stoodt – Marathon Oil Company – Just a couple comments with regard to some of the dialogue that has taken place today. As a representative of industry I'd also like to say I've been on the landowner's side and completely understand some of those concerns. Based on some of the comments that I've heard today, I think landowner education is probably a big issue. I guess I would like to offer or challenge both industry and the County to figure out a platform or a format that maybe we could help with that landowner education and maybe help close this gap. Paul Betzser - Conoco Phillips Company – First, I would like to thank the Commission for taking the time today to have this hearing and I appreciate everyone that has come and all the dialogue and the input everyone has had. A couple of points just for clarification, as an industry we are first and foremost dedicated to safety. Not only in our drilling operations but in every aspect of our business and what we are talking about here today has to do first and foremost with safety. As we talk about essential personnel and there have been some illusions to this, we talk about essential personnel with regard to a drilling rig; I think perhaps it's a mistake to categorize our industry broadly with other industries. For example: We have heard references, analogies rather to school houses or to the ski industries, other industries that might use the regulations at issue here today. We are unique and I think if we could bear in mind that with the kind of regulation we are talking about here we are an industry for drilling purposes and we go to where the resources are. We require essential personnel be on site at these facilities because unlike the school house if there is a technical problem there is not the risk that significant life and property loss will incur as a result. We heard an analogy to the fire house and other emergency services; it is imperative that these folks be on site to avert risk in the first instance or to deal with it in seconds. I would also point out there is a distinction to be drawn here and one that I think has been made so I won't harp on the distinction, but we're talking about only small facilities here and not man camps. With regard to one concern which I think seems to be universal with the property owners that I'm hearing is that the possibility that an oil and gas is different from someone else and they can simply walk on to a property without recourse being had by the property owner. And certainly anyone can trespass; but without a surface access agreement we cannot simply walk onto a property owner's surface and do anything. I think that the gentleman from the Western Colorado Congress makes a good point that there is a significant private property rights discussion that has to be had. And that is the first discussion that is held, in the first instance when those rights are agreed to between the operator and the surface owner – a surface use agreement. Cal Harlow – Mount West Oil Field – I am someone who is out in the trenches so I will presume to speak for a lot of my cohorts and the housing industry on living quarters for personnel in the drilling locations. Number one there is a very high level of professionalism in everything that we do. I've heard the concerns voiced by the landowners. I cannot tell you how many times I have been dispatched to a drilling rig; you could see the drilling rig and it was less than ½ mile away and it would take 20 miles to get there because someone had not wanted to sign over surface rights or grant accesses. So those concerns being able to just railroad or steamroll or

bull doze or whatever term you want to use is just not the case out there. Also as a provider of these living quarters, I do not have the privilege of using them. I cannot tell you how many times I have put in a 15 or 16 hour day and then driven three or four hours to get to a place to sleep. Then I've gotten up with two or three hours sleep driven another three or four hours and I'm back out on the location. The issues that these housing facilities are addressing is monumental; there are dozens of issues that these housing facilities are addressing that are very critical to the public safety and well being. We are just hanging in limbo here; a lot of this was in a vacuum because of federal jurisdiction which was then passed to the state which was then passed to you. To give an example of what the industry is doing; we are already compliant with everything that was on that board. Our company ran into this situation several years ago. We could see if we wanted to do business in Colorado we needed to be in compliance so we've have had our blue stickers for six years. Citizens are saying the oil and gas industry is given preferential treatment and I don't see that in this instance at all. The only difference is maybe the oil and gas industry has the resources to provide this for their workers because of the numbers they are dealing with. This housing is not cheap. Anyone of my friends at Stallion, Outpost, or PTI, we would be glad to set up a camp for you any time any where as long as the permits where in place. For most businesses I don't see that as economically possible. This housing is not affordable in any way, shape, or form. I agree there is a lot of misinformation out there. I've seen employees posted at a gate telling everybody to slow down so they did not create a dust cloud for the ranchers cows. This is personal first hand experience that industry is responsive to landowner's needs, issues and concerns. It's easier to get along with the landowners. We are professionals out there and try to conduct ourselves accordingly. Commissioner Houpt asked if he provided housing on the well pads for the smaller essential personnel. Cal answered yes. Commissioner Houpt stated she needed to point this out because it is starting to become rather personal for people. Her belief is that regulations are adopted for those people who aren't doing the job well and there are people out there who aren't doing the job well. Cal believes there are ample regulations and enforcements in place and he has seen several examples where there was a bad situation and employees have reported it. Unfortunately it was after the fact. Blake Rouse – Works for Williams – Just on the educational aspect; if we are not allowed to have essential people live on the location, I grew up on a ranch and I don't think this is any different when the calving season rolls around. I sleep in my pick up and when it is time to do the calving, I do the calving. That is essential personnel to that operation at that point in time. If it goes to where we can't move these essential people with the rig it sounds like the landowners and everybody would rather that we move these people in and out on a shift. If you work them on an eight (8) hour shifts you now put 36 more pickup trips per well per day into the calculation of traffic on your county roads. A lot of people are not familiar with how a well is drilled and how the conditions of a well change hourly. If there is not a man that has been there, and that is why we take a lot of these people - tool pusher and the company man; he understands what the condition of the well bore is in any point in time. If there is a problem and he needs to change his mud way or loss circulation material or rate of penetration so that the well stays drilling into the area it is supposed to without drilling into another well that has come about because of direction drilling, which is saving all the surface area; if there is not a consistency there and guys are handing off, I'm headed northeast at 3.6 degrees and he hands it off. Just like grade school you hand it off three times and pretty soon he is headed off at 6.3 degrees. That's the reason we put these people on there and leave them for a 10 day period of time so there is consistency. He doesn't have to hand these very important parts of the program off to another guy. If your drilling ahead and you encounter loss circulation or encounter a blow out you don't want to hand it off to this guy because he has no idea what you put in the drill stream two hours ago and you're going to stand there and convey all this back and forth to him three times a day. You're going to have a lot more environmental problems if you start shipping these essential people in and out of these drill locations on a rotational basis like the work crew. The work crew generally does what they are told by these personnel. If there is not this consistency there you are going to have a lot more health, safety and environmental issues to deal with than we do presently. Alluding back to what Jim said, we now have multi-levels of supervision and that is the reason we have gone from having one guy watch it to having guys rotate in and out consistently on a daily basis. We are there on the well longer. The environment is in greater danger because we may have a problem with any of these drilling problems I've alluded to and the safety becomes an extremely hard issue to deal with. That is the reason we are only designating these eight (8) people to be allowed on the location rather than shipping them in and out like the people they are supervising. Dick Morgan – I am a landowner and rancher up Divide Creek. I have a well on my property by EnCana and I have no objections to the gas industry and I think like any industry they know their problems and they are unique to their industry and they need to be able to address them. I don't think that want to be or need to be hampered by unnecessary rules and regulations. Unless I am reading something wrong, I think the issue that keeps being referred to is a landowner and I am. I am not a mineral rights owner, but EnCana has worked well with me and the well they drilled on me we know they have to have necessary personnel there. It has to be manned 24 hours a day and it's not a question of that and you expect it. The operator, the tool pusher, a camper there 24 hours and you don't mind that. But the thing that isn't right and I think is sticking in everybody's craw is the fact that we are getting the feeling that a "use by right" is what I disagree with. The gentleman from Williams said the lease says they have the right to enter on my property and to extract the minerals. Now that certainly includes necessary personnel, safety personnel on a 24 hour day basis and I have no problem with that. But when you start moving in trailers and living on my property I have a problem with that. I'm not saying they can't do it but I'm saying it isn't right through legislation for you people to give them the right to do that. I know this is a hearing and I'm just giving you my input John. What I think the issue is if you address it and or define the use but the fact that before people can live on there, but before you can move these people in you have to negotiate with the landowner before you can move them in. I think that is the issue; not necessarily anybody is objecting to how the gas industry operates or how they run their business. The other issue is I do believe what Liz said earlier that we are having a double standard here in the fact the gentleman here that provides the trailers; what he said isn't necessarily accurate. There are a lot of businesses that would love to provide employee housing and they would rent them from him if they could take two or three acres of ground and put eight (8) people on it they would be stacked up waiting in line to do it. It isn't that they wouldn't do it. It's because regulations doesn't allow that. Commissioner Martin – Some of the zoning doesn't allow certain uses which is a surface use etc. which is above and beyond what we have for the oil and gas. We are not trying to single out or give them special privileges. We are trying to address an issue that is there. Finding a compromise that will allow the industry to be safe and that notification goes through the surface use

agreement so you know what is going on. If we have to address that issue and move it up for education of our citizens that is what we are supposed to be doing. Ask the questions, are you going to have essential personnel? Who is going to be there? I remember when the industry first came in and no one knew what a surface use agreement was. It just came in the mail and you signed the letter. It said you had ten days to answer and you couldn't do anything about it. But we have come a long way since then. This is a continuation of the education of the surface use of the agreement, the industry and the government's involvement. Keep it peaceful. I think the folks from the industry and the folks we had in this meeting, landowners, mineral right owners, lawyers, people that protect rights; we'll find a compromise with this particular process. Dick – I don't think people are objecting that they are on their land; they should have a say. I would like to give an example in what was mentioned earlier with a lot of the problem with housing. It is because of all the rules and regulations we have in the County and the industry cannot address the influx of people we have because of the cumbersome rules. I have 327 acres. I had a variance I got for employee housing and he worked part-time elsewhere and worked for me part-time. About two years ago I received a letter from the planning department and it said I was in violation because he wasn't getting most of his income off the ranch. He had a job he worked in the summer but in winter time he was laid off and this job helped feed him. I went to the County and explained the situation and didn't hold anything back. I went to Building and Planning Department and told them what I was doing and why. I told them he doesn't work for me full-time; I'm not going to lie to you. He is working for me part-time and living there and I'm trading with him for helping me feed the cattle and they said you're in violation and you have 30 days to move the house. That was it, short of going through the exemption process. I didn't want to do that but I did subdivide the ranch and I broke the ranch into 40 acres and I could keep the house there. This is where the inconsistency comes from. I appreciate the job that all of you do and I don't knock the industry. I think they are doing a good job and it is necessary but I think we need to come to an equal and fair situation because it is no easier for the housing industry, retail industry or the service industry in this County for those people to find housing. Commissioner Martin – That also leads up to why we are re-doing all our land use regulations. Chris Janusz – I've approached the County Commissioners off and on for five years to cut an acre and a half in half that has two houses on it. It should really be a correction of something that was done in 1973. I haven't been able to get it done yet. But we are still working on it. We have an industry now that is asking you to cut them some slack, where my industry isn't cut any slack at all. We have a building industry that has to play by the rules. I would suggest to the oil industry if they want some slack donate enough money to put inspectors out there to keep an eye on this and allow you folks the authority to make a management decision. It's ridiculous that every one of these things needs to be permitted. It's ridiculous that every garage in America needs a new permit. We built 80 million of them. Damn, I think we are pretty good at it by now. But we need a new permit. Commissioner Martin – Goes back to my argument I always get thrown at me that we have too many regulations but yet we need more to make sure that we get things done right. I've seen these frustrations. Commissioner McCown – We can apply and create all the regulations and inspections that this County can stand. We can overload Jim and Andy and Fred going through the application process and they can go out and look at a facility and the minute they drive off site if the sewer line breaks and if the integrity of the personnel at that site doesn't repair that line; all of that public hearing, all of that inspection, all of that application time is not the worth the paper it took and the time and effort and your tax money that it took to go through the process. They have inspected it, its fine and working. They may not be down at the end of the lane when a truck backs over it and breaks that sewer line. Now you're dumping raw sewage out on the ground and if the folks at that site don't have the integrity and the initiative to fix it or report it everything was for nothing. For the duration of that time if they want to live in those conditions that line will pump raw sewage on the ground but by golly they had a public hearing on it, got a building permit, an ISDS permit and every phase of that was inspected and it was done right. Commissioner Houpt – That may be true but I don't think that's a good argument against not having solid regulations in place however. Without regulations you don't have the opportunity to go back and enforce if there is a violation. You don't have the opportunity to protect other people's property rights. You don't have the opportunity to regulate those folks who work beside you who aren't doing as fine a job as your doing. People invest a lot of money in their property and they have expectations when they purchase that property. They have expectations of the Board of County Commissioners. That is why we go through the process and it is a long process of creating new regulations, revising regulations making sure we are up to date and we are certainly lagging in some of our regulations. But just because there is a bad player it is not a good excuse not to make sure that we have good strong regulations in place that will allow our staff to do their job and protect everybody in this room who owns property. Commissioner Martin – Remember the more regulations, the more inspections and more time processing. Every one of the houses we live in go up in cost, price and that is also driving why we have $700,000.00 homes that are 1,200 square feet that were built for $20.00 per square foot. Because we continue to put regulations on everything; everything we do. We can't regulate ourselves out of existence but we are trying. We have to have some trust. I refuse to give my freedom away. Each regulation takes something away from me. Commissioner Houpt – But you're expected to protect people in this County. Commissioner McCown – I have to ask and this has been going on for as long as wells have been drilled in Garfield County and again it was overlooked we honestly and sincerely thought the COGCC was governing this because it was on a well pad and we found out they weren't. I don't know of a single instance and if you folks in the industry know of any please be honest and forthright enough to let me know; but has anybody suffered food poisoning? Has anybody had carbon monoxide poising? Has anyone created any communicable disease that went through the entire industry during this period of time that is driving the need to protect us from ourselves? Jim, you worked in it for how many years. Jim stated 40 years and he did have an incident in Wyoming where he got carbon monoxide poisoning from one of the units. There was a crack in the exhaust system and as a result, because the situation I was in the cost of the units and the amount we paid for them, I was able to have that unit taken to town and another brought out the next day with one phone call. This industry has migrated to this and it is different and it should be looked at as something different. Its not better and its not special; e have problems that we have to overcome that are different from the problems of a guy building a lot in town or building right next to someone else. We have to move all this equipment every few week, sometimes within a week; get it up and running again and make it go effectively. We just need to look at it this way. Put performance standards on us. We will take the strictest performance standards you want to put us but let us do our job and let us do it timely.

Commissioner McCown – I want to clear up the confusion that this is not substitute for affordable housing. This is not in lieu of somebody not being able to find an apartment in Parachute and they have to stay out at the rig site. Don't confuse the two issues. This is critical simply because they have to be there for the operation of that process to take place. People keep confusing this, well they can't find anywhere to live so they just live on my property. That is not true. That was never the intent of these critical personnel and I think it is important. There have been innuendos and things leading into this affordable housing thing today and this has nothing to do with that.
Commissioner Martin – The other issue we have is that we do allow certain exceptions in reference to some. I've got my building inspector there, planning staff here and Jim's here but those that are building homes live in temporary quarters as well, such as campers, horse trailer, trailers and they use that temporarily until their house is built.
Chris – can't use. Commissioner Martin – I supported Yurts. We are not excluding everyone from temporary houses and we are not just giving temporary housing special treatment to the oil company; we are not. We are trying to find common ground, acceptability and work together with this polarizing issue and protect everyone's rights. We want to protect everyone to be able to make a living and also protect them to fail once in a while. Commissioner McCown – I apologize to Dick, I didn't know about his situation. Having to sub-divide your ranch into 40 acre parcels in order to keep a hired hand was a pretty drastic measure. You know yourself there's people who lived in tin wagons all over this County for years and chased sheep around. They didn't have the greatest sewer hook-ups and they didn't have the greatest food preparation and they were never looked at. We have hunters who set up tents in August and they live in them all the way through November and they are never looked at. We are not giving one industry any distinct privileges over another. Commissioner Houpt – But I am hearing from property owners that it is really important to understand the term "essential personnel" which none of us have put our hands around yet. To know when and for how long they will be there. It is important to come up with a specified number and it's important for property owners to understand how long they will live on their property and have it be part of the surface use agreement. For me as a County Commissioner it is important for me to know that these applications will be going to staff. Whether it's at the building permit level or at the administrative level. It is important for us because we have a lot of development going on right now. We have a lot of people moving into this County. We have seen violations with leaking sewage and with other types of violations and it is imperative that we get a greater handle on this. It's not to slow the process down. It's to try to work with you to make sure that everyone is successful. Whether you are the property owner who has multiple pads or a pad on your land or whether you are a company under a time line and you need to use that drill rig within a certain amount of time and be able to move it forward. We have had a real lack of communication in this County and that is why we have had so many meetings around this code because people are not receiving the same level of information. I'm not willing to give up on what's been recommended by staff and the Planning Commission. In fact I with great hesitancy go to that recommendation because I believe we should do away with "use by right" completely. But if at the end of the day we all know what essential personnel means and what function they play and how long they are at that site as long as that safety issue on a 24 hour seven day a week concern is there; that might be okay with me but it's not going to be okay with just performance standards. That will be impossible for our staff to deal with and I think we owe it to ourselves as people who live in the County, which I am assuming everyone in this room does and to property owners and to the industry. We need to have a process that makes sense for not only putting these temporary homes on sites but make sense for regulating them as well. Commissioner Martin – Here's a prediction, if we don't address it the State of Colorado will make a decision and we will go from there. The way that we address it here I can't agree with it. We need to work more, refine it. We need to get more information from other people. I can't support this particular issue at this time. It is not clearly defined and it really doesn't satisfy what we are trying to do.
Commissioner McCown – What I heard from the two prominent landowners here today, it's not the quality of the installation, it's not the lack of standards, it's not the lack of inspection, it's the fact that someone is going onto their land without their permission. That has to be taken care of at the surface use agreement time. That should be all ironed out and you shouldn't be surprised, you shouldn't be mad, you shouldn't be upset if people come on to drill that well. It takes people to do that. The staff and the Planning Commission both recommended this as a "use by right" so that is it not going to address any of your true concerns. The only difference is the permitting process on the ISDS permit, the building permit, the inspections and the time frame it takes to get a permit through the process to move one of these units in or out; that is going to be the only difference. To me Pepi, Dick and Liz's problems weren't necessarily how well they are installed or how thoroughly they are inspected but the fact that there may be someone there they don't know about. To me that is the negotiation at the surface use agreement time. Commissioner Martin – Maybe what we should do is send up a request for disclosure on surface use agreements. That would have the industry or the land man, Oil and Gas Conservation Commission make sure that the people know there are essential personnel that will be on the site. That site will be identified, where on the pad, how long they will be there and how many. Dick - In defense of the industry, you know you will have essential personnel there. They have trailers, two campers they have to be there 24 hours a day. That's a given fact; it should be in and it is addressed in the surface use agreement. But as far as the regulations there wasn't any. They have tanks there that their refuse went into. They did everything I would have asked them to do. They are not crooks and there's abuse in everything. Commissioner Martin – Back to the industry, they had some sub-standard stuff which needed to be addressed. They weren't sure how they were going to do that for the safety of their people. It is pretty competitive to lose people. The suppliers wanted to know what the standards were that goes to a certain zone and the State of Colorado couldn't tell them what it was just that they couldn't use it. The legislation we are supporting and putting forward is that this identifies the standard. This tells the building inspector which code to use and then once they are inspected then there is a PE who is able to say meet that, here is the number.
Commissioner Houpt – We have heard a lot about surface use agreements today and I need to quote a statistic that the oil and gas commission has. 24% of the pads on surface where the owners has severed rights, 24% of those permits to drill come with a surface use agreement. That is a pretty low number and I think there may be different reasons why that happens in different basins. Commissioner McCown – Wait a minute, you're saying 76% bond on?
Commissioner Houpt - 66% that is a statewide percentage that bond on. Commissioner McCown – That's changed since last year at the oil and gas commission. Commissioner Houpt – That's the report I received. I think it is very important that this be a part of this discussion. We need to make sure that there is a real effort to make sure those surface use agreements are being completed. Commissioner Martin – Let's see if we can either make a decision or continue this

meeting. Does anyone want to make a motion to close the public hearing? Obviously not, so we will continue this. We will have to work hard with staff and we will make all decisions in public and we will continue to take information. Carolyn – What are you looking for? Commissioner Martin - Working with each Commissioner and having different ideas from each one of the Commissioners and discuss them in a public session and come up with instead of 192 pages, whittle this down and make a decision. Carolyn – We presented four possible options today with the small facilities. Commissioner Martin – No, I'd have to go through and wordsmith all the way through each one of those processes because some I agree with and some I don't. I don't think that the options are there and I don't think it's like a menu that I'm going to strike off and come up with a real analysis and understanding and then put out to the folks. If you want to do that I think each individual Commissioner is going to have to work with staff and present those as an option. Carolyn – What you are saying is you think there are more than four options and you don't know what they are yet? Commissioner Martin – Yes, and I think that burden is on us. If we are willing to go ahead stick our necks out there and take these hearing and take information, we need to be responsible to put something together that staff can go ahead and put together and make a recommendation and then say yea or nay. We make the final decision. Unless you want to try a motion and pass what the staff has done. Commissioner Houpt – I'm not hearing that we are there today but I do think it is very important for us to put a timeframe on this so we can move ahead. There are times when this Commission has a difficult time moving forward because we start out at pretty different places. I think that I'm really not sure what you are looking for John. I know where Larry is but should we just submit our own information?
Commissioner Martin – We hold a public meeting, we finalize, propose through your motion what you are presenting and then we don't sit here and do checks and balances. I want column A or B. If you have a presentation, put it down using the format that is there, make your motion, see if it is seconded, discuss it and then vote it up or down. We want the process to be refined. We want this to be a model for the State to follow. That's our goal and they will follow it. Carolyn – I find a certain irony here it seems like your staff and industry are more on the same page now and ready to move forward. Commissioner Houpt – Staff and industry; but maybe not landowners, right?
Carolyn – I was hoping the distinction between the small amount of personnel on site facility and what folks think of as a real man camp was clarified today. Commissioner McCown – I think it did get clarified but I don't think that put Pepi's mind at ease. Woman in the audience – I think we understand the low number of people. It's the issue of having people who are not working staying on your property and not understanding the manner in which that might happen to you. Commissioner Martin – But the standard is they cannot be there unless they are employed and they are essential personnel identified by the company. Commissioner McCown – they are working. It's like the fireman I made reference to Matt. They are working 24/7, they may be sleeping six hours of that or seven, but they are working. Christy Hayward – I have severed mineral rights. I have fee simple land and I have land not under lease. I know for my fee simple land and I want that essential staff there. I want that Battlement Creek Valley protected. If something goes wrong I don't want someone driving 45 minutes to get there. I don't care if they are sleeping; get your rest but be there in two minutes to get on that problem. I know that drilling is so complex and things change moment by moment. That is why those people are essential to be on that site. I do want protection, I want the environment protected, I want my water and my land protected. I understand the need to have those people there. Matt Sura – The proposal is loose enough that it allows for up to one year for them to live on your property. I'm not aware of any one well that it takes a year to drill. If you are going to do some directional drilling and multi-well pad then we believe there needs to be some landowner consent that you're going to have people on your property for up to a year. Commissioner Martin – Again, that is the surface use agreement and we agree with you. They need to be identified and how long it is going to be there. But that is between the surface use agreement and the landowner. You're asking us to be interveners in a contract between two private parties. I don't think we can do that. Matt – You already do that with their proposal and the minor permit. Commissioner Martin – Draft form, that's why I can't support everything and why we have to continue to work. If they want to take a vote you know what mine is going to be because I think it still needs work. Pepi – As a landowner I think I can work out the surface use agreement with the operator and how many essential people that has to be on there. So far in my case they say it has to be three. I can work it out; my problem is the "use by right". The "use by right" has to be for the property owner. Otherwise I can't make a decision. If the "use by right" the way it is now, on my "use by right" is that my right as the property owner? Commissioner Martin – Yes, and also as the mineral owner and that is where you get your conflict. Both have property rights. Pepi – I own part of the minerals too. So actually I am speaking out of two sides of my mouth. Where I was really confused, I thought that the County would override the property owner with the "use by right". Commissioner McCown – At the onset today when I tried to explain the eight (8) people, that is up to eight that does not mean there will be eight on every pad. There cannot be more than eight. The standard, just like Jim said, put as tough of standards on us as you want to. Then we were going to have a third party inspector paid for by the industry so that it didn't cost the County anything to inspect these facilities and a professional engineer has to put a seal and stamp on that. They are not going to jeopardize the rest of their career to sign off on two office trailers that are not properly installed. There are checks and balances. The only missing part of that link that disturbed you was the negotiating at the onset on the surface use agreement. You said you could live with three essential personnel. If that's what you negotiated with whoever's coming on to drill your well then it's a done deal. Pepi – Why does the industry then say it has to be eight? Commissioner McCown - Different operations, Pepi. Commissioner Martin – Some people have essential personnel as emergency responders, first aid people. Whatever they're going to do on that pad; that is going to be their company policy. We said you have to stop at eight. Some people wanted twelve. Commissioner McCown – I don't want to speak for any company but I know Williams is in the process of doing some simultaneous operations where they are not only drilling the well but they may be fracing the well and producing the well all on the same pad. That's where you come up against your eight people because all of those essential personnel, if they are flowing back a well, that's critical for that operation. If they are fracing a well there has to be someone there. If they are still continuing to drill you have that normal operation taking place completely separate from the other two operations. Carolyn – Commissioners, listening to Mr. Langegger I think a light bulb just went off. "Use by right" doesn't mean the County is giving the company the right to do something on private property. "Use by right" means they don't have to come and get a land use permit by these guys in Building and Planning. Commissioner McCown – And they still have to meet a certain criteria of standards and be inspected. Dean Tinsley – I firmly believe the proposal that we suggested or recommended today meets everyone's needs. I think it

meets the landowner's needs and the landowners still have incredible rights through the surface use program. And, Ms. Houpt, as the largest gas producer in the State of Colorado and the largest driller in Garfield County, we have surface use agreements on 99% of the wells we drill in Garfield County. As property owners they have immense rights to negotiate where those trailers are located, when they can come in, when that well can be drilled, etc. These regulations we have proposed absolutely do not take that away. The regulations we proposed meet the needs of performance standards; we reduce the taxpayers by self certification by signing off by a professional engineer (PE) or a licensed inspector. I firmly believe that all of the needs of the County, the landowners and the oil and gas operators are met with those proposals. David Pesnichak – First, Rio Blanco has actually adopted regulations governing these last summer. They require these be an administrative permit for what we would consider a small operation. Second, the wording when we currently process a permit, if the operator submits a surface use agreement as proof of surface owner notification, it has to specifically said in there that they are allowed to pursue the permit for whatever. Just to let you know that is the way we have been administering up to now. Commissioner Martin – But you don't see all surface use permits? David Pesnichak – We don't get very many of them because very few of them actually say that someone may pursue a permit for whatever. Looking at the issue of surface owner notification, I had brought this up back in February or December, which is the possibility to bifurcate between the Resource Land Zone District and ARRD Zone District and doing more of a "use by right" in one district versus another. I wanted to throw it back out there because that sounds like it could be a possibility now. When the staff report was put together there were essentially three major issues that were looked at: 1) Whether a building permit should or should not be issued; 2) whether an ISDS permit should or should not be issued and 3) whether notification should or should not be done and if it is, how. If a building permit isn't issued is a third party verification a good way to go? Carolyn – There is one thing to add to that, I would say is this issue of eight (8) or twelve (12) persons we saw as your decision at the hearing. Commissioner McCown – That was part of the task I undertook because no one could come down with a number and I said I would go to the industry and come back with a hard number. It wasn't popular but eight (8) is the hard number. I haven't waivered off of that today saying sixteen (16) beds, eight (8) people - I didn't stutter. I guess I am at a loss as to what another continuance on this issue is going to do. I get the impression and maybe I'm wrong but I think maybe Pepi does have a better understanding on what "use by right" means. It does not mean violating your use, it means that the operator coming on does not have to come in and apply for a permit to put two units on your well pad that people may stay at. Why, because we are going to operate under the assumption that you and that operator have ironed that out already. You are not going to be surprised. Pepi – So it's whatever I work out with the operator, who would oversee anything? Commissioner Houpt – what we have heard from our staff just now is that when they come in for a building permit they have verification from the surface use agreement. David – No, that is only for land use permits. Commissioner Martin – Number one they will have to make regulations on vault and halt and that is under review. The PE verified the system is hooked up safely; it must meet standards from the Department of Health, meet building codes, fire codes and electrical codes all under the International Code from the standards that are from the Department of Housing, State of Colorado. They will also have to have the use agreement and a few other inspectors such as from the Oil and Gas Commission, field representatives, etc. They will also have to have company standards and a performance standard from the landowner or at least if it is a bond over they have made their objections and that has gone to some kind of hearing with some kind of stipulation from the State of Colorado on down. Commissioner McCown – If you agreed with EnCana for three people and you see six people staying there all you have to do is call us and it is an automatic zoning violation. Commissioner Martin – If we have enough information let's close the public hearing, let's do a date specific for a continued meeting, put your stuff together as a motion and we will see if we can get something done. If we can't do that then we will continue the hearing. A couple of things have happened; we have informed the public about what is going on along with the industry; we have legislation going on; and we are working to get something accomplished. My proposal is that you go ahead each one of us Commissioners, if we attempt to make a motion close this public hearing. We have everything we need to make a motion with all of the different things you would like to see from the three levels. Either it is going to be 0-8 or 0-3; if it's going to be all exactly the same with building codes, inspections and everything else, put it in your motion. Give yourself enough time to think it out and put the motion on paper and present it to the rest of us.
Commissioner McCown – I make a motion we continue this until April 7th at 1:15 PM. Commissioner Houpt – Second. In Favor - Houpt – aye McCown – aye Martin – No vote

LETTER FROM PARACHUTE INTERCHANGE STUDY

Parachute sent a letter for us to assist in completing a project in reference to the study (Parachute Interchange). The grant is for DOLA funds with the solution; however they wish us to be partners in reference to $113,000. Also, the Department of Transportation requests us to seriously consider being a partner with them, Battlement Mesa, and Parachute in solving the problem. That means putting up some money where we did our study. We need to put that on the agenda and make a decision.

OIL AND GAS VIOLATION

Commissioner Martin gave information to Jim Rada. This came from a citizen living up Porcupine.

STATE OF COLORADO – INTERVENTION TO OIL AND GAS

Commissioner Martin asked Carolyn to give this request to Judy Jordon.
Commissioner Martin – I'll take a motion to adjourn. Commissioner McCown – Move to adjourn. Commissioner Houpt – second. In favor: Houpt – aye; Martin – aye; McCown - aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MARCH 17, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, March 17, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE: ED GREEN

REQUEST FOR FTE IN DISTRICT ATTORNEY OFFICE AND TRANSFER OF BUDGET – MARTIN BEESON, CHARLES ZELENKA, RANDY BRUNS, OFFICE MANAGER FOR THE DA AND PATSY HERNANDEZ

Charles Zelenka, Martin Beeson, Randy Burns and Patsy Hernandez were present. Martin Beeson submitted a memo to the Commissioners requesting a full time IT person in the District Attorney's (DA) office due to the demands on informational technology duties.Patsy Hernandez, Finance Director submitted the request stating the change would be effective April 1, 2008 and would change the budgeted amount by approximately $43,300 on the revenue side for IT. Aaron Agee has been working ½ time for the DA and $6,700 of the $50,000 originally budgeted from other revenues will be spent. Charles explained the working relationship and the need to make this change. Growth in the west end has impacted the IT department and we'll soon have to move a staff in that area. We have been transitioning for the past year so this will not impact the department.

Commissioner Houpt made a motion that we approve the request for a FTE in the District Attorney's office. Commissioner McCown seconded. Don asked for clarification as to whether this is included in the County budget or shared with the three Counties in the 9th Judicial District. Martin stated it will be a shared cost with all three Counties as this will be a regular staff person in the DA's office. In favor: Houpt – aye McCown – aye Martin - aye

TWIN FRAME OSCILLATOR PACKER/ROLLER – MARVIN STEPHENS

Marvin Stephens and Tim Arnett were present. The request from Road and Bridge for the Twin Frame Oscillator Packer/Roller was sent out to bid and three bids were received. The recommended board action is to accept the low bid from Municipal & Contractors out of Thornton, Colorado to procure the equipment for a cost of not to exceed $37,230.00.

Commissioner McCown made a motion to award the purchase of the Twin Packer/Roller to Municipal & Contractors out of Thornton, Colorado for a cost of not to exceed $37,230.00. Commissioner Houpt seconded.

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

AMENDMENT TO AMBULANCE LICENSING REGULATIONS – CARL SMITH, DALE HANCOCK AND CAROLYN DAHLGREN

Carl Smith, Nancy Frizell, Dale Hancock and Carolyn Dahlgren were present. The DRAFT rules and regulations concerning ambulance service were submitted for the Board's comment and potential acceptance regarding the licensing regulations. The ambulance service wishes to have a reciprocity to the adjoining County Emergency Medical Trauma Advisory Boards specifically in Pitkin and Eagle Counties and the members of the Northwest All Hazard Emergency Management Region specifically Routt, Moffat, Mesa and Rio Blanco counties. Ambulance services licensed and ambulances permitted by the specified counties shall not be required to file a reciprocity application or pay licensing or permitting fees, but shall file certified copies of the ambulance service licenses and associated ambulance permits(s), granted by the specified county or counties with the EMTAC and the BOCC. Carolyn requested the Board include in the motion, if they wish to approve, that she can make some minor corrections before a Resolution memorializing this is on the Consent Agenda. One of the questions is the variance paragraph including a temporary ambulance services. It was a conditional ambulance license in the former rules and regulations which allowed for a 30-day temporary license with a plan before that timeframe expired. The Board liked these new rules. Carolyn explained the minor changes saying the RETAC also represents the two hospitals and additionally some definitions need to be wider to actually match reality; it does not have an effect on the BOCC's decision making process. The major thing she did was to go through the statutes and make sure that the legal authority is with the BOCC and then there are specific delegations to the EMTAC. All the decisions come back to this Board of Commissioners. EMTAC makes recommendations to you and she made sure the processes for someone being able to review a denial for the license or a revocation, or suspension all of those met the "due process" requirements of the statute. She added definitions at the very beginning because both the statue and our regulations talk about permitting vehicles but licensing the actual ambulance service; she clarified that and defined EMTAC. Dale, Carl and Carolyn discussed all of these in length. One of the big questions is this, Carl and Carolyn drafted in a variance paragraph with Dale's approval that you can grant a variance including the issuance of a temporary ambulance service. The way it was handled in the prior set of regulations was saying you could give a conditional license that would be valid for 90 days and would require the ambulance service to provide the Board within 30-days of issuance a written plan of action to comply with the requirements. Does the Board want to go back to that conditional license, a definition, or is the Board happy with a general variance but doesn't give a time-line? You have to set it based on the facts. The Board agreed this was fine. The BOCC is appointing these board members. Carl stated that certain people serve on that board and your Resolution could have the Board appointing members every year. Commissioner Houpt – Not to make this more complex, but if there's no connection between the two entities EMTAC and RETAC, she feared communication might get bad. With other boards, they bring names forward for recommendation. Carolyn – we could create a list of recommended members every year with the ambulance license and then the Board could appoint board members to serve on RETAC. Chairman Martin stated in the past we used to name the board members. Commissioner Houpt – Nothing would change except the formality. Nancy Frizell – New services might generate a need for other members. Carolyn – this should not be on the Consent Agenda since we will be appointing new members. Chairman Martin requested this come back on the April 7th meeting.

Appointing Board Members: Dale addressed a letter from CJ Gredig stating that Garfield EMTAC voted January 9th to replace CJ Gredig as alternative representative to the NWRETAC with Tim Hohan from GRMC. The other representatives stay the same: 3 representatives Carl Smith, Carbondale fire; Cleo Castle, GRMC; and Nancy Frizell, Valley View Hospital. Other 2 alternatives: Chad Harris, Glenwood Fire; and Aaron Taylor, West Care

A motion was made by Commissioner Houpt to appoint those members as listed by Dale Hancock. Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin – aye

CITY OF RIFLE SPRING CLEAN-UP PROGRAM

The City of Rifle is planning a "Spring Clean-up Program" this year for the first time. This will possibly occur sometime in April or May. The request before the Board today is to ask for a reduced landfill rate for disposal of these waste materials. Commissioner Houpt asked if Rifle was aware of the new one free day for citizens to bring trash to the landfill. Ed stated they were but this is an extra incentive to clean up Rifle and he suggested a half-price per pound. Rifle doesn't want to distinguish between trash and mattresses, etc.

Commissioner McCown made a motion to use the ½ price rate for the spring program in Rifle. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Ed Green's Executive Session Items – Land acquisition for the County; Jesse Smith's contract, Judy broke her wrist snowboarding so she will not be here to share her preliminary findings; Patsy needs to be involved in one of the items; and discussion on a time has tentatively been set when Jack Craig can come before the Board to talk about Rulison blast site.

ANNUAL REPORT

Ed also addressed the Annual 2008 County Report prepared by Linda Morcom, Commissioner Houpt and Patsy Hernandez which has been released. There is a great deal of historical information and financial status and information as to what the County is focusing on. Commissioner Houpt thanked Patsy and Linda and recognized their marvelous work. This will be an insert on the 20th of March in the Glenwood Post Independent.

PERFORMANCE BUDGET REPORT – Pasty Hernandez submitted this one page report from the Finance Department for the Board's review. Patsy stated this is to be produced on a monthly basis and it is color coded for items of attention to the BOCC. This provides a budget review and it will be given out every third meeting to the Board.

Commissioner McCown - questioned the 82% variance in the report and asked for an explanation.

Patsy suggested they could put a brief memorandum to explain; however this was a justifiable expenditure.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Ed Green received a letter of request and Don DeFord submitted it to the Commissioners. The request is from Taani Rust who is interested in purchasing Lots 22-31 which borders her property at Rifle Village South Subdivision and the lots are owned by Garfield County. She would like these lots to be placed for sale.

Besides Ed's Executive Session items, Don added that he needed to provide the following in Executive Session: Update on the CR 204 contract negotiations, contract with Parachute on the west interchange; update on the ACLU litigation, Berkey litigation; a claim from the Road & Bridge Department; survey and vacate a portion of the JQS road; open records request regarding the Board of County Commissioners; Matt Anderson on a contract issues; update on claims for the Oil and Gas Commissioner for reimbursement; and a personnel issue related to administration and the County Attorney's office. Carolyn requested the Airport contract negotiation first and CR 204 due to Matt Anderson having to be in a meeting elsewhere.

Commissioner Houpt made a motion to go into Executive Session; Commissioner McCown seconded.

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

Commissioner McCown made a motion to come out of Executive Session; Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

RIFLE VILLAGE SOUTH – SALE OF PROPERTY AND MINERAL RIGHTS

Don DeFord stated the discussion regarding the sale of property at Rifle Village South occurred and public action is required. He reminded the Board of the statutory entities that would benefit from the sale of this property; Garfield County and the School Districts. Commissioner McCown made a motion that we authorize Lots 22 to 31 in Rifle Village South be offered for sale by the Treasurer, she had previously been directed to offer the mineral rights under those lots for sale; however, I would at this time like to amend that action to include surface and mineral at the same time. Commissioner Houpt seconded for discussion. Everything I've heard about this is that it's not property that you would want to develop and I would rather see us exercise our opportunity to make it open space instead of putting it up for auction. Chairman Martin – that's a good sentiment but I think that we also open ourselves to a lot of liability in reference to making it public access. Right now it is in a very unstable area of Garfield County subject to mud flows, to subsidence with the sink holes and also with extreme erosion and I don't know if we want to take on the liability of having anybody down there. It is visible from I-70 true; I don't want to see it developed either.

Commissioner Houpt – I think you can restrict use and I just think there's a better option than opening it up for a use that it shouldn't potentially be used for although we have that option too; we can make a decision on that if it comes before us. Chairman Martin – Absolutely, if a development comes to us through the land use process, we can restrict it based upon our own findings and own rules and regulations under geological hazards. Unfortunately, the request has been made. This will be a public auction. In favor: McCown – aye Martin – aye Opposed – Houpt - aye

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Liquor License Renewals for Battlement Mesa Management Co. d/b/a Fairway Café and Kum & Go LLC d/b/a Kum & Go #906 on Battlement Mesa – Jean Alberico
f. Authorize the Chairman to sign the Special Use Permit for an Industrial Support Facility which would include: Material handling, pumping facilities, warehouse facilities, storage areas, and accessory uses to the above within the RL Zone District and located approximately 6 miles west of the Town of Parachute on Highway 6 & 24. Applicant is Frac Tech Services, LLC – David Pesnichak
g. Authorize the Chairman to sign the Resolution of approval and Special Use

Permit for one (1) Temporary Employee Housing facility located approximately 20 miles north of the Town of DeBeque and within a well pad described as 598-25-BV. Applicant is Chevron USA Inc. – David Pesnichak

h. Authorization for Chair of the BOCC to sign letters for mineral lease distribution to school districts and municipalities – Patsy Hernandez

Commissioner McCown made a motion that we approve the Consent Agenda items a – h as presented. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSION:

HEALTH/SUBSTANCE ABUSE

Jackie Skramstad from Colorado West Mental Health, Diana Martinez from Center for Independence, Cheryl Cain from RSVP, and Bob Campbell a RSVP volunteer were present.

The subject today is "How Transportation Access Affects Health Care Access in Garfield County."

Cheryl Cain presented. The Commission submitted the following:

1. The rural and geographic issues in Garfield County greatly affect transportation and health access.
2. Access to health care is critical in keeping Garfield County citizens living independently in their homes as long as possible.
3. People who require specialized transport are the most difficult to serve.
4. The transportation link between Parachute and Rifle and from Rifle/New Castle and Glenwood Springs can be particularly difficult to bridge.
5. There is increasing need to access other support services in the Rifle area.
6. Volunteers 'mask" the transportation needs.
7. When a citizen needs to change to a new health provider because of transportation access, there can be negative consequences.
8. Some 'solution" is needed now and in the future.

Diane Martinez has facilities in Grand Junction for independent living and stated that transportation affects 40% of the residents. Many of the seniors have lived in the same house for 5 years or longer; they sell their home and move into areas where this is transportation. We can work together to solve the piece of the puzzle. In 2006 the Garfield County population was 52,000 and 10,000 of those have disabilities; that is 1 out or 5 or 20% of the population. In 2011 population will increase for different towns and areas, an estimated 18.5% total increase. When seniors sell their residences and move where there is transportation they find that the price of homes is out of reach. Cheryl – we want to increase awareness of disabled folks and stressed we need transportation. This is a diverse county and recognizes that good access to health care and living independently is a concern. Jackie Skramstad – Mental Health perspectives have challenges because a lot of the folks in the Parachute/Battlement Mesa do not have access to health care because of the lack of transportation. The case manager goes into the community but this doesn't help people to come to Rifle and we are limited to the number we can service. Case managers see an average of 10 – 15 people a day; another goes out one day a week to see families and children to allow access to health care. This requires some long range planning. We have tried to work on solutions; RFTA and the Traveler are options; we can buy bus passes and have tried to work with the Traveler. The real challenge has been the capacity and how many people they can move. Battlement Mesa and Parachute do not have public transportation and the route from Rifle is not sufficient in the number of times the bus makes the trips. We need to partner on how to reach this growing population. Commissioner Houpt feels we need to look at RFTA again and try to support a County-wide transit system because the Parachute/Battlement Mesa is only growing and will continue to be a growing concern. We also need to be very careful as to how we define that service Chairman Martin – suggested we contract for services and define and they actually be structured for our needs as the best way to go instead of a blanket membership to RFTA because that way we can define and pay for what we need. Plus we need specialized service and Dan Blankenship has been very willing to work with us and do it under contract to cover his costs. The other one is the capacity and the ability for RFTA to serve that simply because it is so far away. They are under constraints to equipment, employees and drivers etc. and to be adding more and more to it I don't believe they are going to be able to respond. We need other options. Commissioner McCown agreed we have problems with no easy solutions. Just because RFTA were to be a player, 99% of their traffic would be coming up valley. That's where that whole transportation system is going to end up and will be geared around. As far as getting people to Grand Junction, the majority of folks in the Battlement Mesa go to the doctors in Grand Junction. For those who do drive, they make a day of it, they do their shopping, go to the doctor and it's a road trip; the ones that can't do that definitely have a special need that there's no easy answer for. Cheryl said transportation continues to be an issue; some have friends and families and then we have volunteers they can ask to provide a service but most volunteers are elderly and when you have two fragile people leaning on each other or when they are asked to provide a service for someone and you don't know them, you have some liability issues you may not be able to deal with. Therefore we need solutions and we are here today to just increase awareness. We want to bring everyone to the table, all those in health care and come to the table and brainstorm. Jackie Skramstad – The people they work with, a lot are on SSI disability but they can still ride a bus and 1/3 of the people we serve would need specialized services. She didn't have specific statistics. She agreed that we need to come to the table and find solutions.

Chairman Martin stated that's why we have an advisory council and we lean on them to bring these issues to us.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR FEBRUARY 2008

Lynn Renick submitted the EBT/EFT Disbursements for the month of February in the amount of $$400,535.61 and requested Board approval. Commissioner Houpt so moved. Commissioner McCown seconded.

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

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

The department is requesting consideration and approval of the following agreement/contracts.

1. Out of home placement and purchase of services agreement with Denver Children's Home for State ID T232310 in the not to exceed amount of $22,081.92 and

2. Out of home placement and purchase of services agreement contract with Cedar Springs, for State ID W691975 in the not to exceed amount of $24,928.00.

Commissioner Houpt made a motion that we approve the out of home placement and purchase of services agreement with Denver Children's Home for State ID T232310 in the not to exceed amount of $22,081.92 and the out of home placement and purchase of services agreement contract with Cedar Springs, for State ID W691975 in the not to exceed amount of $24,928.00. Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR APPROVAL OF CONTRACT NEGOTIATION WITH MESA COUNTY UNITED WAY FOR 2-1-1 EXPANSION INTO GARFIELD COUNTY

Lynn Renick and Charity Brockman, Western Colorado's 2-1-1 Coordinator were present. Lynn reported on the contract negotiation with Mesa County United Way for the 2-1-1- Consortium for expansion into Garfield County. An information handout was submitted along with the business plan. The 211 is a free service that provides information and makes referrals to community services for health and human services. It is essential in emergency preparedness. It is a nationally designated phone number used to reach community information and referral services.

The start up and operational costs for the first year is estimated to be approximately $35,000.

TANF funds can be utilized for an estimated 75% of the contract. The Department is requesting approval to go forward with the 2-1-1- expansion into the County at an anticipated not to exceed contract amount of $50,000 which includes additional monies for the community data and resource gathering component which needs to be comprehensive and thorough in the initial phase of the project. Budget estimates for maintaining the project beyond the first year is approximately $20,000 which includes a .5 FTE within the contract. Lynn requested approval to go forth with this and stated she had increased the amount from $35,000 to $50,000. A first year commitment of about $50,000 and 75% from TANF is what they are looking at. The other funding would come out of the County's fund balance. This will not require an IGA; we will only be contracting with Mesa County United Way. Senior Services will absolutely be a part of this program. It will have a scope of services. There is an over arching memorandum of understanding with all consortium members and we will become one of those consortium members and an active player on the steering committee.

Commissioner McCown made a motion to move forward with the negotiation and present us with a contract that we can take some kind of action on. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM REPORTS

PRESCRIPTION DRUG DISCOUNT CARD PROGRAM – the rollout of the NACo Prescription Drug Discount Card Program begins on March 17, 2008. The County website contains information regarding the program. Several distribution points are identified and cards are now available to the public. The cards works similar to grocery cards; pick up the card and give the pharmacy the card when purchasing a prescription and they will get a discount of around 20%. Then the pharmacy will take it from there and report back to Human Services. If anyone is interested the website is under NEWS and it includes the current distribution sites: public health, human services both in Glenwood and Rifle, Catholic Charties and they are looking at pharmacies as the distribution points. Target population is for the under insured or non-insured but it is not to be used in conjunction with your current insurance; this benefit includes all Garfield County residents. Chairman Martin elaborated that other counties that have this and adopted it and taken on the responsibilities will have the prescription cards as well.

SINGLE ENTRY POINT/NORTHWEST OPTIONS FOR LONG TERM CARE MEETING

A memo was submitted regarding the presentation and meeting invitation to service providers and county representatives from the nine-county service area on Thursday, April 17 at 11:30 a.m. to be held at the Courthouse Plaza in Glenwood Springs.

BOARD OF HEALTH:

Mary Meisner, Matt Anderson and Paul Reaser were present.

GARFIELD COUNTY AIR QUALITY MONITORING CONTRACT – MATT ANDERSON AND PAUL REASER

Matt Anderson and Paul Reaser submitted the information having to deal with the Air Resource Specialists Incorporated for the air quality monitoring grant and requested the notice of award be contingent on approval of funds from the State. Matt stated they went out for an RFP and did compete it, the proposals came back and were reviewed. A summary and a request for the award was made.

A motion was made by Commissioner McCown to approve the grant for air quality monitoring to ARS in an amount not to exceed $100,504.00 and this would be contingent upon funding by the State.

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

OZONE MONITORING UPDATE – ANDREA HOLLAND-SEARS, USFS

WRNF Air Quality Monitoring: Andrea Holland Sears presented a summary of what they found during the air quality monitoring. This is a continuation of the ozone monitoring program that we've doing with Garfield County. Some of the other partners were recognized besides the Forest Service and the Garfield County working together. We have a research working station out of Fort Collins and they've done quite a bit of work and provided three out of the four monitors we used this year, some operation and maintenance of those monitors and also their lab has done the analysis for the passive monitors. Wilderness Workshop has been working with the Forest Service for a number of years to monitor air quality related values in their wilderness areas. They also helped us with this program in taking on two of our passive monitoring stations in the upper Roaring Fork Valley. She recognized that the program actually received seed money from the Aspen Ski Companies Environmental Foundation and some of that looped over into 2007 and recognized their continued help. The program objectives were to asset the ozone levels in both Garfield County where folks live and for the Forest Service. Our concern is the pristine air qualify and to maintain that of our Class I wilderness areas. Also, along with collecting that data this will help develop a baseline data so that in the future we'll be able to determine whether or not ozone levels are trending upwards or downwards. We also wanted to find a representative location or locations for long term ozone monitoring and it sounds like Garfield County has worked with the State and will be getting a continuous monitor in Rifle this year. The formula for ozone is a combination is two precursors' - nitrogen oxide and volatile organic carbons, they mix with sunlight and heat and produce ozone. We're finding out is that this is not just a summertime event. Garfield County and the State have been working on an emissions inventory

and this is where this information came from. This is representative of 2004 data. For nitrogen oxide the main contributor are vehicle emissions and stationary sources. Of the stationary sources over 90% of those represent oil and gas development. The VOC on the other hand is called biogenic sources aka plants and that's a number that doesn't change over time. In 2007 we had the same stations we set up in 2006. Chairman Martin added that fire does add to the ozone levels and these generally peak in July. Last year we had a number of fires in Montana and California that contributed to the high levels of VOC's. We need to remember this as we look at this graph and listen to this presentation. There is also a lot of camping going on the flat tops in the summertime and camp fires contribute to these factors as well. Andrea stated this information is coming to the County soon. She is working with Jim Rada as well.

CDPHE TOBACCO EDUCATION PROGRAM CONTRACT AMENDMENT

Mary Meisner submitted the contract for our Tobacco Education program. The original contract was for $17,249.00 and all the contract amendments were submitted and all they are asking for is a change in the scope of work. She submitted a summary of the exact scope of what the work changes involved. The letter will be attached as Exhibit A to the contract. Mary requested the Board sign the amendment to that contract. Mary also stated the School Resource Officers report that the number one issue of concern is tobacco in the schools. Mary reiterated the whole idea behind this education process is to reduce tobacco use.

Commissioner McCown made a motion the chair be authorized the sign the contract amendment.

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

UPDATE ON SOUTH BRIDGE – TOM NEWLAND AND CARTER BURGESS

Tom Newland, Carter Burgess and Mike McDill the City Engineer for the City of Glenwood Springs were present.

A slide presentation dated March 17, 2008 was given and a hard copy submitted for the record.

Tom Newland, public information manager of the South Bridge project presented and said he was working for Carter Burgess who is the consultant on the project. A regional map showing the project vicinity that basically shows the south Glenwood area around the airport where this project will likely occur. There's also a part of the area, the Four Mile area that will also directly benefit from this project. When we first starting looking at the project we assumed a study area generally in the Four Mile/Midland Road Intersection area across to the Airport and over to the Red Canyon/Buffalo Valley intersection on Highway 82. As we get into the process it is an alternative selection process and there are many alternatives they are considering. Tom gave a history of the Project saying a study was done in 1996 called the Dim Jim Study which was an alternative route and Four Mile improvement study and through that some alternatives in the Airport area came up with an alternative route. That was followed up in 2002 with a more specific South Bridge alternative road by HMTV and that study looked specifically at how the connection would be made between the Airport Road and the Highway 82. In conjunction with that study, an ad hoc committee was formed regarding the Glenwood Springs Airport and that committee did a lot of good work as far as researching the benefits and disadvantages of the Airport. They did not come up with a specific recommendation but they did come up with a lot of good pros and cons and some financial information regarding the Airport which will be used in the study. Then finally a federal earmark was granted to this project of $5.2 million in August 2005. The earmark was very general in its nature; basically all it said was Glenwood Springs South Bridge, New Opt System Bridge.

Related Projects:

There are some related projects going on at present; the main one is the Corridor Optimization Plan – that is a plan being done by CDOT, Glenwood Springs and Garfield County to try and figure out what the best alternative through town would be. That's an on-going study and will be beneficial to both studies; they go together because a couple of the alternatives in the Corridor Optimization Plan utilize the South Bridge alignment so we can coordinate efforts as we go through this process. There is also the RFTA Rio Grande Corridor study as a part of the Land Use Growth study that we have gotten our hands on; I think this was done to facilitate your Land Use Code and it looks at the County as a whole but it also separates it into areas and Four Mile is one of those areas. This will be very useful information for us as we consider future growth and the needs for the South Bridge project.

The Midland Avenue Traffic Calming Project was initiated earlier this year and has come to a conclusion with the recommendation in place of about 14 calming traffic devices along Midland Avenue between 8th Street and 27th Street. Then there is a couple of intersection improvements that have been studied, one at 27th and Midland and at Midland and Four Mile and both of those came to the conclusion that a round-about would work in both of those areas and I believe the 27th and Midland Intersection is in the process of looking for funding to get implemented. Then finally the State Highway 82 and Buffalo Valley Intersection was studied by CDOT at length just prior to the approval of the earmark and once the earmark was approved, study on that intersection plans were put on hold pending the study.

Action Plan for the South Bridge Project – there are several groups that have been put together, one of most importance is the project working group which has representation from all players – Garfield County, Glenwood Springs, NEPHA and CDOT. This group is responsible for moving the project forward through the steps and we are meeting just about every 2-3 weeks to accomplish that. In conjunction with the project working group the community citizens advisory group is also working on this project and it is made up of a mix of about 25 or 26 interested citizens and many are adjacent or affected property owners who have been working in conjunction with the project working group. I had a meeting with the citizens advisory group initially and by the way there is one tonight and then the next day the project working group meets to go over the same materials and they have the benefit of the citizen's advisory working group's recommendations going into that process. So those two work very closely together. We also have a public involvement plan which focuses on open house meetings; there's been one already and plans are to have another in April. Then a resource group is a combination of all the resources that include the Division of Wildlife, Fisheries and Wildlife groups, historic preservation and all those that are directly affected by the project; they are used in a scoping sort of way to kind to bounce off the alternatives and get their feedback as to potential impacts. Finally the process management group is the ice breaker and if the project working group comes to a standstill or can't come to consensus on an issue, we'll kick it up to the process management group which consists of Joe Ellison at CDOT, Jeff Haskell at the City of Glenwood Springs and Ed Green the County Administrator for Garfield County who will break the ice for us if need be. So far that hasn't occurred and don't anticipate doing it but its good to have this group in place in case we come to some decisions that warrant putting this group into action.

Purpose and Need – this is one of the most important things in the NEPHA process and by that is the National Environment Protection which we're required to follow because of the federal earmark. We're going through an environmental assessment process and the purpose and need sets the stage for this whole alternative selection so it's very important. Unlike the studies in the past this is not an alternative route or as a by-pass study. This is an emergency access/local access study and the purpose and need reflects that. The emergency access and federal earmark was really brought about because of the Coal Seam Fire in 2002 and the realization after that fire that a whole lot of people could have been left stranded on Four Mile and in the South Glenwood Springs area if the winds were right and the fire was a lot worst that it turned out to be. We're looking at increasing the capacity for evacuation, reducing the travel time for emergencies and also this thing called redundancy in the transportation system. Right now you have one way into the South Glenwood area and if you can provide another one that gives redundancy on your ways out and not only increases your ability to provide emergency access but local access is benefit by the redundancy factor to get less congestion and have more than one way to get out of an area. That's the purpose and need for this project.

Project Goals include environmental and we want to make sure we minimize the environmental impacts as a result of the project, community and neighborhood, likewise we want to reduce these impacts and the adjacent neighborhood as much as possible, of course financial impacts are always a concern as far as projects like this, we want something that gives us the biggest bang for the bucks; we want to tread lightly on private property, safety is always a concern, we want to make sure that anything that's designed meets safety standards and won't impact the ability for people to utilize the road system in a safe manner; we want to be in conformance with the existing plans for the greatest percent possible and we also want to prove multi-modal opportunities such as transit, trails and that sort of thing.

Alternatives

We are into the alternatives and screening process right now and a slide showing the representation of how this process works was explained as taking the alternatives and figuring out all the reasonable alternatives we can think of. We just did this about a month ago and put it through three screenings to come down to the preferred alternative. The first is the pre-screening or fatal flaw analysis. Fatal looks at "does the alternatives meet the purpose and need; are there any irresolvable environmental impacts; are there any exorbitant costs; are the alternatives based on proven technologies; are they constructible; and are they a part of the no action alternative". If you can make that screening process then you go onto the next process which is the Level One Screening. This is what we call the "qualitative screening process" and that's where we are at present. We've found the fatal flaw and are going into the qualitative process tonight and tomorrow. They really take a harder look at how the alternatives relate to both the purpose and need and also to the project goals. After you go through that process you go into the "detailed process analysis" and that's where you really start looking at the remaining alternatives and how much these are really going to cost. For example, Alternative A – that takes up 3-acres of wetlands where Alternative C takes up 7-acres. It gives real numbers of all of these alternatives during the detailed analysis and then finally comes out with either a preferred alternative or two or three at the most that we can carry forward to the environmental analysis.

Initial Alternatives

Tom went through these briefly showing the slides and illustrated these alternatives. He stated some were included because they were found to be outside that scope but based on the rules of alternatives analysis they were included as part of the NEPHA. One is Dry Park which would take you out south to Carbondale and then down to Hwy 133 to Highway 82. There's another one which is an old railroad bed which kind of winds down and does the same thing; and finally there's the Yank Creek Alternative that comes off Sunlight and down around through a couple of Forest Service gates and then down again. Those three alternatives are shown within the inset. The ones that are closer to town that we've taken a look at are improving the 17th Street Bridge and Midland Avenue to accommodate possibly the purpose and need. We've also looked at a couple of crossings in the Old Cardiff Glen Bridge area; one is a part of Glen proper and the other one goes through the south through some Glenwood Springs owned land and pops out on Highway 82 just south of the cemetery. We looked at one on Sopris Mountain Drive which goes just north of the new elementary school and connects across. The red one (referring to the slides) is a direct crossing from the Airport Road across the Airport and connects directly to the existing Highway 82 intersection at Buffalo Valley. We have the three alternatives that were looked at in the previous studies in the Airport area, basically they go right across the south side of the Airport, go around the backside and there's another one that actually goes under the Airport in a cut and cover tunnel. Some other ones that came up down below here are what we're calling the Prehm Ranch Road, which extends down to Four Mile Creek proper and then either crosses over next to the Orrison building or can continue though Westbank and connect to existing bridges. Then there's another one that comes down from Four Mile Road, down Four Mile Creek and then the same thing, crosses one way or the other at the Orrison building. Those were the alternatives that we came up with. There were 14 or 15 in all and then there are some non-structural alternatives: Transportation Demand Management, Transit Services Expansion, Intelligent Transportation System, Trip Reduction, Telecommuting, and Toll on the New Crossing. One other one that we looked at too with the "NO" sign was, well what if you put in one of these crossings down here and everybody from Four Mile and South Glenwood uses that access exclusively and you put a gate up here on Midland and that gate could be opened for emergency situations but for normal situations you can't go that way, so that's another one that was brought up. So, through the level screening process we eliminated about half of those alternatives and we're down to a few here. We're still looking at the 27th Street connection and the Cardiff Glen connections as well as the ones in the Airport area and the ones down Prehm Ranch and the Four Mile Creek one. Now the ones that have been eliminated are the emergency gate one and the ones that head down either Dry Park or those other routes that go around because primarily they didn't meet the purpose and need. We're diving into the next screen of alternatives and once we get the Level Two Alternatives we will have a public meeting and they will reveal what is left over which we hope is about a handful of alternatives to the public for their input and then we will go into the Level Three Screening where we'll really get to the nuts and bolts of quantitative screening of the various alternatives. Once the Preferred Alternative is selected we've dive into the EA documentation which is the bulk of the work and then we'll have the public hearing at the end of that just to give you an idea of bulk of the work. Once we get done with the evaluation and come to our Preferred Alternative we have a lot of work as the NEPHA documentation and the developing of the decision document but we hope to have an alternative approved by the HFWA in November of 2009.

Chairman Martin – that earmark itself has a life and it's September of 2009 and suggested to get it clarified to make sure that the earmark is either used or doesn't go away. Mike McDill has the answer, he's been in contact with Pete Metris with CDOT and what he's asked us to do and actually we weren't really planning on spending that earmark as part of the EA process but he asked for us to show some action on it which means "send in some bills". So in fact we are doing that right now and it keeps it alive. By going ahead and submitting these small bills compared to the construction at least, we're going to be taking care of that issue. Chairman Martin – then after all the process and we get the Preferred Alternative and the engineering done and the location selected then we talk about finances, etc. CDOT is still a partner in reference to the intersection over by Buffalo Valley and in that area. Mike McDill – CDOT is still a partner in the process. We have a lot of work to do on construction funding as I tell people, building these things is the easy part, it's going through all this process and getting everything arranged is the challenge. But CDOT is right at the table with us and when the earmark showed up, the allocation for CDOT disappeared and personally I'm confident that it will reappear again as we work with our local people. Chairman Martin – that alternative took in a lot of businesses out there at Red Canyon and that intersection design was put on hold, positive or negative, depends on how you look at it, but that is an issue that CDOT has in their scheme. Mike McDill – one more comment, I wanted to say from my prespective we've been through this process in different communities a few times and it used to be that people bent over backwards to try and to avoid all these federal processes; what we've learned is that they are really good processes for helping communities come up with really difficult decisions. My favorite example is Riverside Parkway they are building in Grand Junction right now, we worked with CDOT and tried to avoid going through this process and the NEPHA process and finally when we got into it, it went absolutely to a good decision and now they have a project that they can build. It will work. This is intended to give everyone a chance to get their input into it to come up with the best decision. Ed Green – the last meeting I attended with Mike, Pete indicated that there are really three layers to that $5.2 million; about $300,000 of which we don't have much chance at keeping; about $900,000 is at risk and the rest he feels pretty confident we will retain. Mike McDill – I believe the original one was actually was actually $5.1 something million. Commissioner Houpt – So at what point in this process do you want the City Council and Commissioners to weigh in? Or do we because, I don't see that on the chart – we pay but …. Mike McDill – There is a formal public meeting at the end that we'd have to get input. The City Council is on the citizen's advisory committee and we could take your weigh in right now if you'd like or we could come back at any time; or if you want to join the citizen's advisory group that would be fine too, however you would like to give us your feedback. Commissioner Houpt – well, let's talk because Ed is involved. Chairman Martin stated that Ed Green is involved, Jeff Nelson from the engineering office and Fred Jarman in reference to planning and land uses outside the fringe area that is driving some of those issues. They are doing the ground work and getting the facts. The elected bodies allowed them to move forward and do the ground work, it seems to go rather smoothly and we don't need to polarize a bunch of committees but we need to get the real facts. Commissioner Houpt – I don't want it turned back into a political discussion so it's really good that this process is moving forward; at the end of the day I want to make sure that it doesn't fall back into a political decision. Tom Newland said, as Carter Burgess would say, the purpose of all this process is to give the elected officials all the information they need to make a decision and the fact is the filtering process is just that. Each filter is based on information and how it fits with the problem we are trying to solve. It's a good process and it works and at the end there will be a recommendation sent to you to select a particular alternative that we recommend and there will be all kind of great reasons that's the one that's recommended over all the others. Chairman Martin – and if you really want to abuse yourself as an elected official, attend the meetings and sit in the back room and watch these guys work. Tom Newland – April 16th is the next public meeting. Chairman Martin said he attends but does not comment – he is watching the system work. It's the decision making process, the understanding, acceptance and the suggestions that are being made; it's not time for me to make a decision and tell you what's going to happen. Mike McDill – also on the citizens advisory committee I would say about half the people on that committee are not City residents but County residents, a couple of homeowners and homeowners associations up Four Mile that are potential affected and all adjacent landowners have been participating in these various meetings, etc.

DISCUSSION OF OIL SHALE PEIS COMMENTS –JESSE SMITH

Garfield County has been a cooperating agent and filed commented in July 2007. In those we took a position and proposed a 5th alternative. Most of the responding agencies did the same thing. Our alternative was to wait until the Research and Development was completed. The BLM chose to disregard that and picked Alternative B under the Public PEIS that puts at risk two (2) million acres. Jesse Smith presented the BLM Oil Shale PEIS Draft where the County was included as a Cooperating Agency. About a year into the project, the purpose was changed from awarding commercial leases to identifying what lands might be made available for commercial leasing at a future date. Jesse went on to explain the particulars contained in the draft.

Conclusion:

Jesse stated in his report that the Energy Policy Act of 2005 directed the Secretary of the Interior to undertake a series of steps. In Summary, Congress directed that the Secretary shall:

- Complete a PEIS for a commercial leasing program for oil shale and tar sands on public lands;
- "Not later than 6 months after completion of the PEIS, the Secretary shall publish a final regulation establishing a commercial leasing program;"
- Consult with the Governors of States with significant oil shale resources on public lands and other interested persons;
- "If the Secretary finds sufficient support and interest exists in a State, the Secretary may conduct a lease sale in that State under the commercial leasing program."

Given the above changes from Congress, it would appear that commercial leasing could move forward rapidly following final publication of this PEIS document; the BLM has determined a "No Action Alternative" (Alternative A) is not consistent under the Energy Policy Act of 2005. Commissioner Houpt complimented Jesse and said he illustrated the problem that is occurring with this process. There's not enough information, there's not enough analysis, we're making guesses on what may or may not happen, what could happen at the end of the day with the research and development phase and there's no basis for even coming up with an alternative at this point. Jesse made a really good argument for a "no action alternative" and he also made an excellent argument for a no decision. So when you shifted to

Alternative C it was a problem. BLM is required to have a "no action alternative" and it doesn't mean that research and development wouldn't move forward, that would still move forward but in essence wouldn't it have the same impact that you're suggesting the alternative had in the first place? Jesse – In the document they do say yes, they are required to put up a "no action alternative" - Alternative A – but that is off the table as far as the Energy Act is concerned and it will not be adopted. If they're taking that position upfront we tried to argue for waiting till the RD&D are done in our pre-comments back in July, obviously they threw those out. Commissioner Houpt – This is beginning to look like the Roan Plateau discussion where what would have made sense was taken out of the proposal initially and the same thing is happening here. Jesse – My concern was if they throw us out in July 2007 and we went in and said, well we prefer the "no action alternative" and they throw that out, then it's two (2) million acres; so I was trying then to say they're going to throw out no action so let's try to make a case for at least getting down to 840,000 acres. Chairman Martin – It's also a Catch 22 as far as development because they can't get to the land to experiment simply because they're not allowed to go it to prove out their theory and so it's a Catch 22 and it becomes this endless cycle – we can't prove it so don't give us an alternative. Make an alternative so we can maybe go back and get a lease and you've got to either say prove out your theory and allow them to do a pilot plot that is again defined and allow that to happen or stop the whole development process which I don't think they are going to do but you have to let them go onto the property to develop their plan. Commissioner Houpt – They already have property that they are doing their RD&D project on and it's a significant amount of land, it's enough for the RD&D phase and I think Jesse made some great points about just guessing about what the leasing would look like because we have no information in front of us now. I would prefer for this County to say because of what was indicated in the PEIS, we would support no leasing until the RD&D is over and if you're only putting two alternatives on the table, obviously we would support the least impacting alternative. I think we need to be clear about the fact and Jesse illustrated it well; we need to be clear that it makes no sense to put a leasing program together until we know what we're working with. Jesse – That was my first bullet under the recommendations at the very end; before any final analysis or a preferred alternative is completed, results of the current RD&D leases should be obtained. So I reiterated that there but then on down I went on to say at the very least we think Alternative C should be the preferred alternative. Commissioner Houpt – But what it doesn't say is because they rejected our previous recommendation to wait to lease until the RD&D was over with and because they're saying that the Energy Act won't allow for a no-action alternative, then you're putting us in the position of choosing between two alternatives. I'd rather just be more specific about that because in our previous letter we did say the alternative should really be a wait and see what comes out of RD&D. Commissioner McCown asked Jesse, when do you envision determining when the RD&D leases are done? I have a real problem and am struggling with this. Tresi is saying when their done; you're saying when information is available for analysis. I think that was driving the initial leasing for the RD&D projects – they had to prove them to be economically feasible, environmentally sound, and a number of things. They didn't have to wait until those projects were done. At some time during that process when they could reach a milestone and say okay, it's economically feasible we checked that one off, when it's environmentally friendly we checked that one off. It doesn't have to run a sustained operation for x number of years for it to be deemed complete and although we will recognize this now as a possible method of extraction, that was never in there. Jesse – No, in fact it could be a different date for all five of the RD&D leases. Chairman Martin – Because of the different processes and the way that they are going about it;, there are some that can do their traditional extraction and production and there are new ones that actually have to go into the field to do that, to actually bore their holes and do their different scientific experiments to come back and say it is scientific, That's the Catch 22. Some are able to go ahead and do that with standards or traditional extraction. The other approach is with your alternatives; you can't go out there and do that. Commissioner Houpt – And they do have the land for that and your language in the letter answers the question that Larry had because it's open enough that it talks about the need to just wait until the results of the RD&D leases are obtained and evaluated. Jesse – Under the Energy Act and under the PEIS document, the decision as to when they can lease is left to the Secretary of the Department of Interior and that's where the buck is going to stop. Chairman Martin – Excellent. They have to be satisfied that those procedures will work with their check lists and Secretary of the Department of Interior is the one that makes that determination. Jesse – My concern and I stressed it in here, he could make that decision at any time to lease and that would then immediately initiate a new NEPHA PEIS process. So we don't know what that time means. Commissioner McCown – no, but that would deal with specifics. Whereas this would be in the middle of the stream turn into a "what if" study on will this acre work and this acre not work.

Jesse – if I were going to bet money I would bet that the process that might ultimately be used isn't even known yet. Commissioner Houpt – I would probably support your position on that; we are so far away from understanding what this is going to look like that this seems like a ridiculous exercise. Commissioner McCown – Are you talking about the extraction process. Jesse – The extraction and processing processes. Commissioner McCown – Everybody's looking at this like a new industry and it isn't. I have a patent at home on my table from 1922 on a retort and it was done here in Garfield County. Everybody says we've got to go slow on this process but we have to remember that this has been going on for over 100 years – I don't know how much slower you can go on an energy related process when right now oil is trading at $110.00 per barrel. Jesse – They said in the 1890's there was a process that was used in Colorado to actually recover the petroleum process. Commissioner Houpt – So I don't think it would be inconsistent with your letter but I really think it's important to emphasis the fact that Alternative C is not our preferred alternative, it's really not – what our preferred alternative was what we recommended the first time and that's no leasing until we have results that can be obtained and evaluated on the RD&D phase. Then after that you really made a great argument for no action, so I just want to make sure that they get that message. I don't want them to get this letter and say oh, Garfield County loves Alternative C because it's not the case and suddenly we're backed in the corner. Would you rather put a couple of million acres on the table or a million and you know you balance the lesser of the two not even knowing what's its going to look like. Chairman Martin – Tresi, that's the sound bite everybody's waiting to get, you have three choices: no action, A, B or C. And what it amount to is it doesn't matter how much we put into here, the sound bite is will Garfield County chose Alternative C because of whatever and then we're stuck. Jesse's process is right – we're trying to come up with what is usable; a common sense approach, etc. We've got to allow the development to take place or say that it's not a resource and quit focusing all our energy around it. Commissioner Houpt – I think it's premature to say it's not a resource or to say go ahead. We're doing the research and development phase right now and all I'm saying is that if

Garfield County's going to hang their hat on Alternative C I want people to know why and the reason why is because BLM rejected our recommendation to wait to lease until you could obtain and evaluate results from the RD&D and they have rejected the no action alternative. Jesse – I could expand that first bullet under our recommendation to say that we would still prefer the recommendation we made in June of 2007 and given that this is not acceptable we'd prefer a "no action alternative" but if that is not acceptable then and only then would we look at an Alternative C. Commissioner Houpt – I could support that. Jesse – This document will be signed by John so it needs to be turned around quickly because it has to be electronically sent back to them by Thursday. Commissioner Houpt will support it if that is clearly made a part of that position. I don't support Alternative C and I think all I would be saying through this is, if you're going to give us two alternatives, I'd rather not support any alternatives but I don't want them by default to chose the worst alternative which I think is Alternative B. Jesse – That's where they are right now. Chairman Martin – If you don't get into the bray, your voice is not heard. Commissioner Houpt – I'd love to have you add that language, that's very important, otherwise I wouldn't be able to support this. Commissioner McCown – Well that first language that Tresi asked him to add was not or is not a part of any alternative that was ever discussed. Jesse – No, it was one that we created. Commissioner McCown – I know but it was never discussed, it was never accepted by the BLM for review so you can write down whatever you want. It's like saying I wish Santa Claus would come twice a year instead of once a year but it's not even being considered. Now if you want to consider the Alternative A – "no action" as your choice, say so, if you want Alternative B say so; if you want Alternative C say so, but don't say we sure wish you'd listened to us the first time because they didn't. It's off the table – that's not even a point of discussion so right now we are to a point of deciding A, B, or C. Commissioner Houpt – But I think it is a point of discussion. Commissioner McCown – Well it may be for the press but it's not for BLM. Commissioner Houpt – No it should be for BLM too, if they're going to be honest with having this public process they have to be honest to listening to the recommendation of the people who are spending a lot of time on this process and have a lot to lose and a lot to gain. I think it's very appropriate to include that language. Chairman Martin – I like the language, let's see if we can put it in there –this is a public comment process and we are part of the public – it is not 100% of what they have to do. They've changed directions twice before, this may also bring that about. So let's go ahead and put the comment in as part of the public comment with Jesse's added language and we'll sign it and send it in. Commissioner Houpt – Okay, I also know that that there are parties that are trying to get an extension. Jesse – I talked with Ron Cantina who had a discussion directly with BLM in Denver and he was told that this was not going to happen. Commissioner Houpt – It was a very short time frame. Commissioner McCown – But the public, the folks who are asking for the extension, were paid environmentalists that had the same time period to review this document as Jesse had. Jesse said there as a 90-day comment period. Commissioner McCown – And the RAC acted on that at our last meeting as well as the extension and we chose to not support the need for an extension because everyone was playing under the same rules. Jesse – Club 20 has made the same decision. Commissioner Houpt – it's kind of unfortunate because when I think anybody needs an extension it should be supported. Even though at the end of the day I don't know what we've accomplished for this process. It's still perceived as an important process. Chairman Martin said there's been a lot of taxpayer dollars in reference to this and a lot of time spent on it. Commissioner McCown – Under it's initial plan, had it stayed on that track, there would have been some very definitive results to come out this whether they be good, bad or indifferent, whether you liked them or not but there would have been some very definitive results. Under the changing course in the middle of the stream, the entire document that Jesse had to review and come up with specifics was very ambiguous. Jesse said the Board needs to direct John to sign this document with some amendments to it. Chairman Martin – And it's that we go back to the first alternative we submitted and say please reconsider; they can take that as public comment or not, but at least that is what we'd like to do.

Commissioner Houpt made motion that we authorize the Chair to sign this letter to the BLM with the changes in wording in the last section that points out our preferred alternative which was the recommendation we made in July 2007; then our preferred Alternative A which is no action, but then going with Alternative C because it has less surface disturbance. Commissioner McCown – seconded. In favor: Houpt – aye Martin – aye McCown - aye

GUIDANCE FROM THE BOARD – REDCLIFF MINE

Jesse –We received this PEIS document two and a half weeks ago and it is concerning the Redcliff Mine project near Mack, Colorado in Garfield County for a new coal mine. Ed asked me to look at this which I have gone through it and there's some direction that Fred needs. Chairman Martin – This is an old mine that's being redone.

Jesse – no it's an old mine that's going to be closed and a whole new mine opened. Chairman Martin – But the vein is still the same. Jesse - The McClain mine will be closed when this Redcliff Mine is opened. They are very different scopes in these two mines. The McClain Mine: 100% of the coal goes to the Cameo power plant by truck which is closing. This new mine will generate 8 million tons per year that will be shipped by rail. There has to be a new railroad spur run from Mack up to the mine and that railroad spur is entirely within Mesa County; the road impacts are entirely within Mesa County; the only portion of this project that's is in Garfield County is the actual coal that is going to be mined using a long wall process. That coal lies under Garfield County. The portal to the new mine would be in Garfield County as would a conveyor that will take the spit rock that they need to get out of the mine to a 190-acre dump site that would be within Garfield County. The buildings at mine portal entrance would be within Garfield County as well. This raises two issues: 1) under your land use plan, you have the option to require them to get a Special Use Permit (SUP) for this project because of some impacts in Garfield County. The McClain mine apparently whenever that was approved, you basically waived that right for a SUP because there wasn't an SUP on the McClain mine. Chairman Martin – Not way back when, that's an old mine. Jesse – Yes, if you chose not to require them to get a SUP they will have to come to you to get building permits for the buildings at the mine portal. Fred needs some direction, do you want your Building and Planning Department to require an SUP or not. Commissioner Houpt – Well, I think we should, it's a large surface impact, its part of our regulatory process, why wouldn't we – Fred do you have an opinion? Commissioner McCown – Well this could qualify for a major impact review, in fact I don't know how many employees we're going to get credit for at the mine site, but there's also a processing site in conjunction with this which may be across the border into Mesa County. Chairman Martin – It's got to be a joint review as well, there are 200 to 300 miners that will work there as well. Jesse – 300 is the number they have in here. Fred – The only reason for the review is the original mine was prior to the Zoning Code. I think the same Board would have reviewed that and Jesse is right that the portal, the area where the

waste rock will go and a variety of buildings will be within the County; it's BLM lands but as your Code is written right now it requires a SUP. Jesse – I have to file comments on this by Thursday of next week so this gives me a very short time frame. Chairman Martin – To give everybody a thumb nail sketch, this is going to be about eight (8) miles outside of Utah. Jesse – Our comment is basically to say to them we are going to require you to get a Special Use Permit for your operations within Garfield County and that would throw it over to the Building and Planning Department and they'd have to come in with that whole process. Commissioner McCown – Don't be specific and say a Special Use Permit, but I think you need to say you're going to be required to follow the Garfield County's Land Use Code which in turn will trigger whatever major impact review study or whatever. Jesse – Agreed, that's basically the only comment we need to make is that you're going to be required to follow the Land Use Code. Fred – As I understand it, Mesa County is also taking the same position with the land use perspective. Jesse – As it the Town of Mack because the railroad spur will terminate at Mack and they then will off-load the coal from a special train onto the main rail line. The one thing I was concerned about was the 190-acre rock dump but they clearly say is on land that BLM has agreed to because of very poor soils and it has minimal if any impacts on wildlife or environment. Chairman Martin – and they'll find uses for shale I'm sure; it will be a stock pile issue. Commissioner McCown didn't think this was a lot of rock compared to the amount of coal that's going to be coming out of there. Jesse said it is going to be a 110 car unit train, two full trips a day and all within Mesa County. Chairman Martin – And it's also limited to the Moffat Tunnel if it goes east simply because they'll have to schedule that and be in line. There are three metric trains that go to St. Louis and Kansas City that use this tunnel everyday. Jesse commented that he choked on one of the alternatives when they were looking at it on how to move the coal, one was to move it by trucks at 5 tons per truck and that would have required 1,760 round trips in a 24 hour period. That was just getting it to Mack. Fred asked if action from the Board would be to require a letter from the Building and Planning Department with the Chairman of the Board's signature stating they need to follow the Garfield County Land Use Code.

Commissioner McCown made a motion to authorize the Chair to sign a letter letting the BLM know that the Red Cam Colorado LLC would have to comply with all Garfield County's Land Use Regulations for their mining operation. Commissioner Houpt – second. In favor: Houpt – aye; Martin – aye; McCown - aye

AGNC – CR 215 – JESSE SMITH'S CONTRACT

Ed presented the need to have Jesse's contract extended and elaborated on the justification. Among those he mentioned the Glenwood RMP and the Whiteriver PEIS Projects. Ed asked for direction.

A motion was made by Commissioner McCown to extend the time track another 90 days elaborating on the fact that the Whiteriver RMP, the Glenwood Springs Kremmling RMP, this issue that has just arisen and following up on the Scio-economic study with AGNC should be to brought to some conclusion by the end of 90 days as adequate and addressing those 4 specific projects. Ed - And County Road 215; also, Judy would like to start assuming the PEIS studies obviously she can't for the new Coal mine but Jesse still needs to be involved in trying to get that transition. Commissioner Houpt – thinks it is important that this be understood as part of this too.

Commissioner Houpt seconded. In favor: Houpt – aye; Martin – aye; McCown - aye

JESSE'S NEW POSITIONS AFTER RETIREMENT FROM THE ASSISTANT COUNTY MANAGER

Jesse said he is the Local Governmental Designee for Montrose County Energy Issues and he is also assuming the Interim Finance Director for San Miguel County.

AMENDMENT TO ANTERO OIL AND GAS LEASE – BRIAN WADE AND CAROLYN DAHLGREN

Brian Wade and Carolyn Dahlgren were present. Brian Wade – On October 9, 2006 Antero and the County entered into an oil and gas lease that pertains to the minerals underneath the Airport. Carolyn Dahlgren presented the lease amendment to the Commissioners regarding Antero Oil and Gas Lease. She submitted the proposed lease amendment and an aerial diagram of the area. This is calculated to be 5.96 acres of unleased land and at a bonus of $1,450 per acre; the county's total bonus is $7,437.50. Because of the added lands we need to make up the difference on your past per well payment also. This comes to a total of $743.75. Combined, the payments will be for $8,141.25. We are adding land to the Antero oil and gas lease and therefore revenue to the Airport fund under our existing oil and gas lease that we refer to as the Agnes-Wilson will now be the Angus Hunt–Wilson because of some property that we got from the Wilsons in this tract. We are seeking authority to have the Chair sign the document with a changed exhibit.

Commissioner McCown made a motion that the Chair be authorized to sign the amended lease with changes as noted. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

PRESENTATION OF PETITION FOR CREATION OF THE TRAVELERS HIGHLAND SUBDIVISION IMPROVEMENT DISTRICT– KARL HANLON

Karl Hanlon submitted a document for the formation of Traveler's Highlands Subdivision Public Improvement District – Garfield County. In January David Hicks appeared before the Commissioners with a concern regarding building permits not being issued due to the access to Highway 6 from the platted public roads within the subdivision that were created before the zoning code in Garfield County. At that time the Commissioners suggested a public improvement district be formulated and indicated it would require an attorney to move this forward.

Today, the owners have decided to petition for this formation of a Public Improvement District and submitted the petition. The next step in the formation will be for the Board of County Commissioners to set a public hearing on the matter between 20 and 40 days from today. At this time the petitioners are asking that the petition be set for hearing at the earliest available date so that an election can be held subsequent to the hearing forming the Public Improvement District and work can commence as soon as possible on the necessary improvements.

Karl Hanlon submitted a list of ownership for the Traveler's Highlands Subdivision. There are 234 lots within the subdivision and the petitioning owners represent 172 of these lots or roughly 73%. Additionally, before the Board today is a request to authorize the review of building permits within the subdivision as significant progress has been made towards resolving the issues identified by the Board at the previous meeting.

David Hicks, Terry Kirk and Curt Spurgeon are representing the petitioners and have the power to enter into agreements relating to the organization of the District. Karl explained the 501 Public Improvement District is actually a separate political entity although the Commissioners sit as the governing body of that. The up and down of that is that is it is a separate public meeting that you have to open and close and deal with. The powers and authorities of that entity are somewhat broader than the Local Improvement District which is really limited to streets, drainage and lighting

improvements. The other difference is that under the Public Improvement District the assessments are made via the tax and under the 601 District they can be done as a special assessment, approved by Resolution approved by this Board. From the standpoint of the landowners it doesn't matter which one you move forward on. The Public Improvement District will require a hearing in the next 20 – 40 days from submission and acceptance of the petition; the Local Improvement District would require a hearing on a Resolution at least 30 days after publication of the creation of that Local Improvement District. My suggestion for today while we are sorting thought which one – I would like to set a hearing date about 45 days out, say we submit the petition in the next 5 days. If it's a 501 District or a 601 District we'd be within that time frame. The property owners want to get these improvements done this year and get started on it. We were just notified that Antero will be putting another pipeline across the front of the property and it's a good opportunity while things are torn up to try and get some of this stuff done all at the same time. The other outstanding issue was that you placed a moratorium on building permits and review; at a minimum at least allow us to start submitting these for review even if they are not issued so we are in the pipeline because we anticipate this being ready to go in 60-days. Carolyn asked Karl to address the ownership issue. Karl – The ownership issue interpreted under the 601 District is that because it's you acting through a special assessment district then the County owns the asphalt. For the Board this is an issue but you could always do another assessment or a continued assessment for maintenance. Under the Public Improvement district while you sit as the Board, it is technically a separate political entity and the County wouldn't own the asphalt. Don – in terms of the actual improvements are you intending to use this vehicle as financing for both streets internally to Traveler's Highlands as well as any intersection or CDOT right of way improvements? Karl – Yes, and my understanding and to clarify what I was told at the January meeting is that they are one and the same. The internal roads access the CDOT access so for the extent we would be working on the CDOT right of way we would be using this as the vehicle to complete that work; but our understanding was that the accesses themselves were being treated as public roads, not county roads. Don – In terms of improvements, you're talking about the connection roads between the subdivision and the highway; the roads in the subdivision itself are you going to do any kind of improvement to the right of ways in the subdivision. Karl – We were anticipating that we would like to use this as a vehicle to do that. Some graveling improvements have been done by various tenants and owners but we would like to formalize that and try to make it a more regular thing and address some drainage issues related to the roads. Either district allows us to address this as well as we move forward so we have a vehicle to accomplish that. One of the downsides to the subdivision is there is no Homeowners Association – it was platted in the1960's and the roads were accepted by the County just a few years ago but there's a disconnect on us having a mechanism to be able to make things happen. Don – In terms of the financing itself, is the intent to have the County front the cost and get reimbursed through assessments or taxes; or do you intend to sell bonds. Karl – There are three options: 1) if the County chooses they could recover it's cost via the assessments; 2) we could sell bonds or utilize the assessments to repay bonds; or 3) a loan to complete the improvement; or 4) a group of owners could complete the improvements and then essentially sell the improvements to the County or the special district and those assessments would provide reimbursement.
Don – If we are going for the sale of bonds we need to get an underwriter involved right of way if that's the intent. Karl – The initial improvements will be around $200,000 for those road connections – the critical roads; we put in $600,000 for the big picture of what it would cost to accomplish all of this. The other issue with bonds is this would require a Tabor election and that's a November ballot question and we'd be a year out so they want to complete the intersection improvements privately with an understanding or an agreement with whatever formed district or if it's the County with an Local Improvement District that we would get reimbursed for those expenditures and then we can deal with the longer term, underwrite, bond issues. It gives us more time. Commissioner McCown – Since this entails ongoing maintenance and other issues that may come up, I would clearly like to see this financed by this group of private individuals that are probably the direct beneficiaries of it as well but it would at least keep the operations of that Travelers' Highlands subdivision internal and give them much more control over their destiny. I don't think we want to go the bond route; bond attorney's drives the price up and cuts down on the end nickel that you get out of your bonds. If they can be privately financed then we move forward creating the district. They're paying themselves back, it's their nickel that's at risk and we do it through assessment and move on and it stays in place with their long range plans whatever that may be. They would have to present that but if additional streets, lighting, maintenance and all of that is incorporated into this plan it will stay in effect until a date certain or all amenities or improvements are complete. Carolyn – we can't avoid the BOCC being involved in it. Karl – The other difference between the Public Improvement District and the Local Improvement District is the Public Improvement District does require an organizational election; the Local Improvement District you form via Resolution. Don – We did this in a previous district but there wasn't the question of on-going maintenance and upkeep as well as what I foresee in this situation that they'll be a continued need for additional improvements. Commissioner McCown – When you come in with the creation of this, you have to have your plan and it has to have the total amount of money to be financed at one fail swoop. Don – Correct me if I'm wrong and my concern is that if it was not structured that way, a Public Improvement District allows that on-going quasi-governmental type of development, otherwise you're have a whole series of Local Improvement Districts which I don't think we really want to do; we'd like to see this organized once and then let the people who actually benefit manage the development of it. Karl said that's the way I originally submitted this as a Public Improvement District; it is a petition based on the comments I'd heard. That being the case I would ask that we set it, there's a statutory requirement that a noticed public hearing on the issue occur between 20 – 40 days out and he requested 30-days. Karl stated that in his letter, the conditioning landowners represent 70% of the landowners in the District. I'm comfortable with the outcome of the election. Commissioner McCown – Suggested the 21st of April to set a public hearing and made a motion to that effect at the 1:15 p.m. agenda time. Commissioner Houpt second. In favor: Houpt – aye; Martin – aye; McCown - aye

BUILDING PERMITS FOR THE TRAVELERS HIGHLAND SUBDIVISION

The Board approved the building permits to be submitted and reviewed but no issuance until the improvements are made. Commissioner Houpt is fine with putting these in the line unless these are bumping active building permits. Andy has a review and hold file he can put these in.

Waive Bond Requirement

Karl asked to have the Board waive bond requirement. Commissioner McCown – No, this is a problem without some kind of financial assurance. Karl was asking for this on the bond requirement. He said we can talk about it at the petition

hearing. Don suggested to wait for costs attached to it and then take a look and today we're just deciding what process to follow, it's premature. Chairman Martin suggested he bring this up on the 21st.

CDOT PERMITTING PROCESS – TRAVELERS HIGHLANDS

Carolyn requested an update.Karl stated they have the 5C's access permit which is active and anticipating submitting for 5 platted accesses and anticipating submitting for two access permits, one for the current access if there's any revision for the 5C and then for an additional access point as well for the west. We would hope with two access points it will eliminate some of the issues that CDOT would have with accell and decell lanes because there's sufficient circulation in getting onto Highway 6 & 24.

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

Georgia Chamberlain and Bob Slade were present. Georgia submitted the Treasurer's Semi Annual Report for the second 6 months of 2007 that require the Board's direction to her to publish in the newspaper of general circulation; the Property Tax Collection Report of 2006 taxes collected in 2007; the Treasurer's Fee Collection Report; the School Acquisition fees; Sales Tax Reports including the 2007 Distribution Report and the Graph Sales Tax 11-year Comparison; and the Public Trustee's Annual Income Report 2007. This will be on the website very soon.

Georgia collected in Treasurer's fees $1.5 million this past year which goes into the general fund. She included the school acquisition fees that we collected and what the balance was and the Board of County Commissioners by statute are required to notify the different schools of the amount of money that we have and if the schools want that money then they need to request it of this Board and then the Board will direct Georgia to distribute the funds. Last year we had a 14.22% increase over the 2006 collection. Bob Slade presented the Public Trustee's Report showing we processed 6,221 releases last year and the income was $93,315.00; the foreclosure amount earned was $13,617.52; we earned $18,969.28 on our bank accounts and we had some miscellaneous income totaling $220.75 for a total income for the Public Trustee of $126,122.55. She requested the Board approve these semi annual reports and direct her to publish in the newspaper. Commissioner Houpt so moved. Commissioner McCown seconded.

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

ABATEMENT OF TAX LIEN SALE # 2002-0176, SCHEDULE#R200494 ASSESSED TO ESTATE OF J. E. BROOKS, RDLJ LLC CERTIFICATE HOLDER – GEORGIA CHAMBERLAIN

Chairman Martin swore in Georgia Chamberlain.

Georgia Chamberlain submitted the abatement and Resolution for the Commissioners review and approval of the total of $1,767.75 to be tendered to the Garfield County Treasurer from the County General Fund, and that these moneys be applied to County costs incurred during the Treasurer's Deed application process and to the redemption moneys to be paid to the certificate holder, RDLJ, LLC. Certificate holder would prefer we didn't abate it; it was an erroneous description and resulted in a wrongful sale. Don asked the Board to authorize the abatement in the amount of taxes paid and cost incurred by the certificate holder as the abatement and then authorizes reimbursement of the Treasurer for cost expended as a separate item. Chairman Martin said which is not to exceed a total amount of $1,767.75. Don stated the abatement is a certificate holder who has paid an amount in order to obtain the certificate; the sale has to be rescinded and the taxes abated and we have to refund money to the certificate holder. Commissioner McCown – But we are refunding money to the Treasurer to re-coop expense to do the sale as a separate item. Don was concerned but the total amount is a not to exceed but we don't have a figure in front of you today that covers the amount of taxes plus the certificate holder's costs. In discussion, the determination was made that the actual abatement for taxes was $132.75 including interest on the tax lien sales certificate of purchase and $1,635.00 for the title search for cost incurred by the Treasurer's office. Don – The abatement is the $132.75; the second cost is the $1,635.00. Georgia said the Commissioners don't see in here the cost for advertising for sale at the tax lien sale.

Commissioner McCown made a motion we approve the Resolution concerned with abating tax lien sale 2002-0176 on Schedule R200494 in the amount of $132.75 for the abated amount plus interest plus $1,635.00 in expenses for the Treasurer. Commissioner Houpt – second. Chairman Martin – we know this is two separate actions; the taxpayer has to be reimbursed the $132.75 and it's a reimbursement back to the Treasurer that we're struggling with – that $1,635.00. That's clarified within the motion and we're just for the record clarifying what the action it to vote on. In favor: Houpt – aye Martin – aye McCown - aye

PUBLIC HEARINGS:

ABATEMENTS- – LISA WARDER

Lisa Warder was sworn in and presented the following abatements and requested approval.

ELEANOR W. SPENCE TRUST 08-173 - SCHEDULE NO. R111810

The taxes assessed against the above property for the property tax year 2007 are incorrect due to a clerical error. The property was split in 2007. This schedule was not deleted at that time. The amount of the abatement is $5,166.16.

JACK B. & NANCY M. HILTY 08-192 - SCHEDULE NO. R320039

The taxes assessed against the above property for the property tax 2007 are incorrect due to an incorrect value that was completed by the commercial appraiser and noted that 50% of the property is being used as residential. The Assessor classified the property as 75% commercial and 25% residential use. The difference in the assessment rate and the reallocation of value necessitates an abatement of 2007 taxes in the amount of $2,161.16.

GENE & CYNTHIA TREXIER 08-084-SCHEDULE NO. R040362

The taxes assessed against the above property for tax year 2005 and 2007 are incorrect due to numerous construction defects and this home is unable to receive a certificate of occupancy. The home is unlivable and unmarketable. The home has been put on at a minimal value according to confidential information from the homeowner. The abatement of taxes are for 2005 $1,508.80 and for 2006 $2,353.60. Exhibit C was added to this Abatement. This is not the homeowner's error; this is the appraiser's error.

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

Commissioner McCown made a motion to approve the abatement for Eleanor W. Spence Trust Schedule No. R111810 in an amount of $5,166.16. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion to approve the abatement of 2005 taxes of $1,508.80 and for 2006 $2,353.60 for Gene & Cynthia Trexier Schedule No. R040362. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion to approve the abatement of 2007 taxes in the amount of $2,161.16. for Jack B. & Nancy M. Hilty Schedule No. R320039.

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

RELEASE TO CONTRACT #10 FOR OLSSON & ASSOCIATES – MAREK KUBESA AND BRIAN CONDIE

Carolyn Dahlgren, Brian Condie and Marek Kubesa were present.

Carolyn presented the release to contract No. 10 for Olsson and Associates for the engineering services required for the upgrading of Runway 8/26 to ARC D-II requirements. The new runway will have a slightly different horizontal alignment and a significantly different vertical alignment to the existing runway. It will be 7,000 feet long and 100 feet wide. The project is located on a mesa which is up to about 100 feet above the surrounding terraiThe services to be provided under this Release to Contract are related to the 2008 construction project. This project has a total budget of approximately $4.2 million. The work involved comprises determining the construction limits for a project meeting the budget; assembling the previously prepared plans and specification into a bid package covering the selected work items; dividing the work into schedules to facilitate adjusting the awarded work based on actual bid prices to the available budget; obtaining bids; administering the construction contract; and providing construction inspection, materials testing and surveying services. The work has been divided into three tasks to facilitate project administration.

Task 1 – Prepare Bid Package – estimated construction costs of the work covered by this task is $2,605,395.

Task 2 – Bid Support Services – contractors will charge approximately $100 per set to defray printing expenses and to avoid frivolous acquisition of sets – total lump sum fee of $30,535.

Task 3 – Construction Phase Services which includes the relocation of four power lines with a construction cost of approximately $733,000 however the amount to be expended pursuant to this release to Contract No. 10 in calendar year 2008 shall not exceed $458,135. This appropriation is limited solely to work to be accomplished on the project during the fiscal year ending December 31, 2008. Carolyn requested the Board approve the Release to Contract #10 for Olsson and Associates in an amount not to exceed $458,135 for fiscal year 2008. Commissioner McCown – Are we comfortable without numbers; is our FAA funding enough in the stream; we're looking at a 90-day permit. From a liability standpoint this is all contingent upon funding. Brain stated Matt has gone over the contract extensively. Some initial concerns but after looking at the contract, the costs are fair and reasonable and everything looks good. Commissioner McCown – Referenced page 9 or 10, Roman numeral IV – task will run concurrently.

Carolyn stated the Board by motion can delegate the authority to notice to proceed; this has a number of tasks and will need Brian to have that delegated authority. Brian asked that the Board only approve this conditionally based on the service contract; he will bring this back to the Board in August of this year. Then we have to go out to bid again and notice it the proper way. He asked the Board to approve this conditional bond. Commissioner McCown – Exhibit B1 – different rate under compensation. Why this disparity? Matt can get an explanation but the total price in Exhibit B1 is the total price and total release price. Carolyn – Task One which is to prepare the bid package and bid support and construction phase process; what Larry is seeing is just one of three.

Commissioner McCown made a motion that we approve the release to contract No. 10 and that the Chair be authorized to sign after the amendment to the existing service contract is approved and signed. Commissioner Houpt seconded.

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

Delegation of the Board's Authority for Brain Condie, Airport Manager to issue Notices to Proceed on a Task by Task basis. Commissioner McCown – so moved. Commissioner Houpt – seconded.

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

CONSIDER THE APPOINTMENT OF GARFIELD COUNTY CITIZENS TO THE GARFIELD COUNTY PLANNING COMMISSION AND BOARD OF ADJUSTMENT – FRED JARMAN

Fred Jarman submitted the breakdown of openings for the Garfield County Planning Commission and the Garfield County Board of Adjustments. Fred explained the process of advertising and the rationale behind the staff's recommendations. Commissioner Houpt – Need a full slate of people and not seeing there is a full planning commission at the meetings. Fred – This is a citizen board and sometimes it is difficult to make all the meetings.

GARFIELD COUNTY PLANNING COMMISSION

Regular Members consist of:

Phillip Vaughan (Rulison)	seat open and he has requested reappointment
Cheryl Chandler (Silt)	seat open and she has requested reappointment
Sean Martin (Carbondale)	term expires in 12/08
Jock Jacober (Glenwood Springs)	term expires in 12/08
Bob Fullerton (Carbondale)	term expires in 12/08
Steven Reynolds (Glenwood Spgs)	term expires in 12/08
Existing vacant seat	OPEN – suggesting Terry Ostrom appointed as a regular member

Associate Membership

Terry Ostrom (Silt)	term expires in 12-09
Shannon Kyle (New Castle)	term expires in 12/10
Existing vacant seat	OPEN

There are three regular and one associate membership that need to be filled. The following written requests were submitted for consideration.

1. Phillip Vaughan (Rulison)
2. Cheryl Chandler (Silt)
3. Greg McKinnis (New Castle)
4. Steve Damm (Glenwood Springs)
5. John Neiley (Glenwood Springs)
6. Adolfo Gorra (Glenwood Springs)

Staff comments:

Regarding the Planning Commission, staff recommends that Terry Ostrom, associate member be appointed as a regular member to fill the vacant seat.
Commissioner McCown made a motion to appoint Phillip Vaughan and Cheryl Chandler as regular members as well as move Terry Ostrom to a regular member and appoint Grey McKinnis and Adolfo Gorra as associate members to the Planning Commission.
Commissioner Houpt seconded and stated she appreciated some of the in-depth information from the others but I would really encourage people to continue to submit their names; there are times when we don't get enough interest in some of these boards. Chairman Martin stated that everyone that submitted letters expressed a big interest in it and all of them have been involved in land use and have seen the ups and downs and some agreed and some disagreed but they all have individual points of view that need to be heard and with a mixture that we have there of both seniors, veterans that have been in there plus all of the representatives from Carbondale to Rulison and the only one we don't have is Parachute.
Commissioner Houpt – we also need to look at how many are actually involved in the development community because we seem to have an over abundance of people who are and it would be nice to encourage people who are involved in other areas to become involved as well and I would have put John Neiley's name forward although I think all of these candidates are good, I think he would have added a great deal as well.
In favor: Houpt – aye McCown – aye Martin - aye
Fred's task it to notify the appointees and let the other know that we will also keep them in mind for future board members.
GARFIELD COUNTY BOARD OF ADJUSTMENT
Regular Members consist of:

Steven Boat (Glenwood Springs)	seat open and he has requested reappointment
Tom Morton (Glenwood Springs)	seat open and he has requested reappointment
Brad Jordan (Glenwood Springs)	term expires in 12/09
Jock Jacober (Glenwood Springs)	term expires in 12/08
Leo Jammaron (Glenwood Springs)	term expires in 12/08
Associate Membership	
Thomas Barnabic (Silt)	term expires in 12/09
Existing vacant seat	OPEN
Existing vacant seat	OPEN

Staff received three written requests for appointment.
1. Dwight Juhl (Glenwood Springs)
2. Steven Boat (Glenwood Springs)
3. Tom Morton (Glenwood Springs)

A motion was made by Commissioner McCown to appoint Steve Boat and Tom Morton as regular members and appoint Dwight Juhl as an associate member on the Board of Adjustment.
Commissioner Houpt – also indicated there is open seat on the Board of Adjustments and asked Fred to submit letters to those people not appointed to the Planning Commission Board to let them know of the opening on this Board of Adjustment.
CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES FOR THE PHASE III OF THE ENCANA COMPRESSOR STATION. APPLICANT IS ENCANA OIL AND GAS (USA), INC. – FRED JARMAN
Fred Jarman presented. The Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for a natural gas compressor station on the North Parachute ranch (a 27,000-acre property) owned by Encana Oil & Gas USA, Inc located at the end of County Road 215 north of Parachute and is also formerly known as the old UNOCAL property where oil shale processing occurred. The location of the compressor is just beyond the private gate at the end of County Road 215 adjacent to a permitted produced water storage facility.
- More specifically, the Applicant requests approval for the third phase of an existing natural gas compressor station permitted by Garfield County. This compressor will serve as a collector point where gathered natural gas is sent for dehydration and compression of gas collected in the North Parachute Ranch.

STAFF RECOMMENDATION
The Board has recently approved Phases I and II without referring them to the Planning Commission. This phase will result in one additional electric compressor as well as a variety of buildings that will not have an adverse impact to adjoining properties. The nearest residence is over 5 miles according to the Applicant's sound analysis where measurements were taken that the existing facility is inaudible. Therefore, Staff recommends that due to:
1) The limited nature of potential impacts to surrounding properties;
2) The remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic; and
3) The fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities,
Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
Commissioner McCown made a motion to direct the staff to set this on the Board of County Commissioners agenda for a public hearing. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A SPECIAL USE PERMIT FOR "PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES" (WATER GATHERING SITE) OPERATED BY BILL BARRETT CORPORATION WITHIN THE ARRD ZONE DISTRICT AND LOCATED APPROXIMATELY 2.5 MILES SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 311. APPLICANT IS PERRY DAN RODREICK – DAVID PESNICHAK
David Pesnichak and Cody Smith from Wagon Wheel Consulting representing Dan Rodreick were present.

Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board there was a time period of 6 months since the records were checked.

The Board approved the noticing. Commissioner Houpt suggested to Cody that he follow the standard timeframe for noticing the landowners. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F – Memo from the County Road and Bridge Department dated February 27, 2008; Exhibit G – Memo from the County Vegetation Management, Steve Anthony dated February 26, 2008; Exhibit H – Email from Brit McLin of the Burning Mountain Fire Protection District dated February 20, 2008; Exhibit I – Letter from Michael Erion, PE of Resource Engineering dated February 28, 2008. Chairman Martin entered into the record Exhibits A – I. David Pesnichak presented the proposal. The Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for a Water Gathering Site on property owned by Parry Dan Rodreick and operated by Bill Barrett Corporation located on an approximately 10 acre surface lease area 11 miles south of the Town of Silt and adjacent to Garfield County Road 311. The proposed facility will be installed in the Grass Mesa area on the existing 21B-31-691 SWD well pad in the SESW, SWSE of Section 30, NENW, NWNE of Section 31 in Township 6 South, and Range 91 West. The Applicant is proposing to utilize an existing water gathering site within the 21B-31-691 SWD well pad to collect produced water from surrounding gas wells, separate residual oil and recycle the used water back into operations in the field via pipeline. The infrastructure is already in place and was utilized for the well which is on the existing well pad. Since the water gathering facility is now proposed to serve surrounding wells, it is necessary for the Applicant to obtain a Special Use Permit for the site. The Applicant has obtained the necessary Centralized E&P Waste Management Facility Permit from the COGCC and has bonded the site for reclamation and rehabilitation through the COGCC in order to use this facility to serve surrounding wells. Following discussions with the Applicant's representative, this facility is only to permit the existing tanks on the well pad and it is not to incorporate any open air ponds.

BACKGROUND

Referral to Planning Commission

This Application was brought to the BOCC on January 14, 2008 for referral to the Planning Commission. At this meeting, the BOCC voted 3-0 not to refer this application to the Planning Commission.

SITE DESCRIPTION

The site where the water gathering facility is located is situated on a relatively flat area just south of the Town of Silt. The well pad is located on approximately 10 acres (as described in the Integrated Vegetation and Noxious Weed Management Plan) operated by Bill Barrett Corporation and owned by Perry Dan Rodreick.

ZONING & ADJACENT USES

The subject property is zoned Agricultural/Residential/Rural Density (ARRD). The type of use requested falls under the definition of "Processing and Material Handling of Natural Resources" which are contemplated as special uses in the ARRD zone district. In the aerial photo of the area, the adjacent uses are primarily agricultural and ranching. There are single family residential uses with interspersed oil and gas development as well. The Applicant has represented that the nearest residence is over one (1) mile away while the COGCC Centralized E&P Waste Management Facility Permit indicates that housing is about 500 to 1000 feet to the south and east of the site. Without conducting a formal measurement, following a site visit it appears that the nearest housing is about 500 to 1000 feet away to the south. This home overlooks this facility from the top of a small hill to the south. To the north of the subject property, there is clear evidence of ranching and a barn for livestock. The surrounding oil and gas development includes nearby gas wells and pipelines.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) the fact that the site itself will be situated on an existing well pad with an active gas operation, 3) and that the unmanned facility will not create any noise, vibration, dust or exhaust over and above the impacts of vehicles disposing of the produced water into the gathering tank and vehicles conducting maintenance on the site, Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a Water Gathering Site operated by Bill Barrett Corp. and on property owned by Perry Dan Rodreick with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
   - 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.
   - Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
   - 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.
   - 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.
   - 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.
   - 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.

- 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.
- 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.
- Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
- Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
- Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. 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.
5. That all necessary building permits are obtained for the water gathering site.
6. Deliveries and construction to the water storage facility shall only occur during daylight hours.
7. The Applicant shall treat the gravel surfaces within the facility periodically as needed with an approved dust suppressant to control fugitive dust.
8. All construction and operation of the site shall occur in accordance with the Storm Water Management Plan (SWMP) as submitted.
9. All construction and operation of the site shall occur in accordance with the most up-to-date Spill Prevention Control and Countermeasure plan for this site.
10. All construction and operation of the site shall occur in accordance with the Wildlife Assessment and Management Report created by West Water Engineering and dated November 2007 for this site.
11. The Applicant shall obtain all necessary driveway permits from the Garfield County Road and Bridge Department. Specifically, the Applicant shall pave the driveway apron to a depth of 20-feet into the site and to a minimum of 4-inches in depth.
12. All industry traffic shall follow designated preferred haul routes to and from this site as further outlined in Exhibit F.
13. The Applicant shall make the seed tags available to Garfield County upon completion of the reseeding efforts a survey and weed management plan has been provided. Further, a county listed noxious weed, white top *(Cardaria draba)* is not mentioned in the weed plan; however this species is prevalent on the Rodreick's property in the fields to the east of the project area. It is likely that whitetop may be one of the initial invading species to this site post-disturbance. Any weed management contractor working on this project should be alerted to the threat of whitetop and be prepared to treat it early in the growing season should it become established on this site.

Cody Smith – The ponds are privately owned and used for irrigation only and nothing to do with the pads. As far as COGCC this is a separate bond. There is a state bond to cover all drilling and a basic $50,000 bond for this pad. This covers reclamation. This is an existing site and they will use the tanks only; most will run through pipelines. 90% of the water plans to come into the pad via pipeline. They do plan to re-inject water at the pad but to reuse as much water as possible. Commissioner McCown asked if Cody was okay with Condition No. 6. Cody said the applicant didn't say anything.

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

Commissioner McCown made a motion to approve a Special Use Permit for a Water Gathering Site operated by Bill Barrett Corp. and on property owned by Perry Dan Rodreick with the 13 conditions provided by Staff." Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR A "CONTRACTORS YARD" WHICH WOULD INCLUDE THE STORAGE OF PORTABLE RESTROOMS, MIXING TANKS, SUPPLIES AND TRUCK PARKING OPERATED BY JACKIE'S PORTA POTTIES WITHIN THE ARRD ZONE DISTRICT AND LOCATED APPROXIMATELY 2.5 MILES EAST OF THE TOWN OF SILT ON COUNTY ROAD 233. APPLICANT IS WAYNE POLLARD – DAVID PESNICHAK

REQUEST

Carolyn Dahlgren, David Pesnichak, Wayne Pollard, and Cody Smith from Wagon Wheel Consulting were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F – Staff Report; Exhibit G – Email from Brit McLin of the Burning Mountain Fire Protection District, dated February 20, 2008; Exhibit H – email from Jake Mall of the Garfield County Road and Bridge Department dated February 25, 2008; Exhibit I – Email from Steve Anthony dated February 27, 2008; Exhibit J – Letter from Chris Hale of Mountain Cross Engineering dated March 4, 2008. Chairman Martin entered into the record Exhibit A – J. The Applicant requests that the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a "Contractor's Yard" on a 35.313 acre parcel zoned Agricultural / Residential / Rural Density (ARRD). The intent is to utilize existing agricultural infrastructure to store portable restrooms, mixing tank, supplies and parking of pumper trucks. No water or wastewater facilities are proposed to be used at this facility. Traffic

generated by the proposed use will be up to twenty (20) vehicle trips per day at predicted peak future activity but is expected to be approximately twelve (12) vehicle trips per day with current operations. The activity area is represented to be less then one acre. The Applicant's request is consistent with the definition of a Contractors Yard approved by the Board of County Commissioners. The Applicant has represented that there will be no additional grading to the site. If the applicant changes the topography of the area, the Applicant may be required to obtain a grading permit.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractors Yard" in the ARRD zone district with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
    a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
    b. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
    c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
    d. Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
    e. Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes.
    f. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.
    g. All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening shall include sight obscuring wood fencing.
    h. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
    i. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
    j. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
    k. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
3. The "mixing tank" shall include an impervious secondary containment system designed to contain the full amount of the contents of the mixing tank (1,550 gallons) in the case of a leak or spill. In addition, all chemical must be stored in a sealed, air tight container to eliminate the emission of fumes, reduce the possibility of spillage and further prevent the chemicals from being available to wildlife.
4. At no time shall wastewater or other solid waste be transported to or stored at the permitted site.
5. All portable toilets and the mixing tank (including secondary containment) shall be stored either within the fenced area and completely obscured from site of the general public or indoors. In addition, all pumping trucks must either be stored within the fenced area identified within this Special Use Permit and completely obscured from site of the general public or within another structure or garage which similarly obscures the site of these vehicles from the general public.
6. At no time shall the total number of pumping trucks or other vehicles associated with this Contractor's Yard stored on the site exceed five (5) vehicles.
7. The Applicant shall obtain any necessary access or driveway permits from the Garfield County Road and Bridge Department.
8. In order to control dust, the Applicant shall periodically treat the driveway with an approved dust suppressant.
9. Since no wastewater treatment system is proposed for this use and that no water is proposed to be used in conjunction with this Special Use Permit, the Applicant shall not install any restroom facilities and shall not wash any trucks in association with the approved use.
10. Specific to water use in conjunction with the approved Special Use Permit, the Applicant shall not wash or clean any portable restrooms on the premises; trucks or other vehicles shall not be washed an the permitted site; and any water used to mix chemicals shall not come from any water rights associated with the Subject Property. The Applicant has represented that no water will be used from water rights belonging to the Subject Property in conjunction with the Special Use Permit.
11. The Applicant shall construct an eight (8) foot tall, completely obscuring, wood privacy fence in the area identified within the Special Use Permit to screen the portable restrooms, mixing tank and any vehicles associated with this Special Use Permit from the view of the general public. This fence shall have a lockable gate to prevent entrance by wildlife into the storage area.
12. All vehicles associated with this Special Use Permit must be licensed and in compliance with State and

Federal requirements.

13. Prior to issuance of the Special Use Permit, the Applicant shall provide evidence that all buildings to be used in conjunction with this Special Use Permit have obtained a Garfield County Building Permit. If it is found that a building which is to be used in conjunction with the Special Use Permit has not obtained a Building Permit, then the Applicant shall obtain a Building Permit for that building prior to issuance of the Special Use Permit.
14. The total area to be used for the Contractor's Yard shall not exceed one (1) acre.

Cody Smith asked the site plan to be pulled up and wanted to make a point of clarity. He said there will still be a round pen and the storage will be in the lower portion of that. His intent is not to store port-a-potties but they will have them on site. Wayne – there is no intent to store port-a-potties on site, if they're not being used, they're not making money. Some will be stored there for repair but mostly they will be on sites. We've actually owned this business since May 1, 2007 and until less than 30-days ago we had no port-a-potties at all, they've been in storage. One other thing for clarification on this is because of us having an employee on site, he must have a port-a-potty for the agricultural site. So the clarification of having a restroom facility I want to make sure we're talking the same thing. David said you need a port-a-potty for the agricultural site. That would be separate and independent of this SUP. Cody – By OSHA law he is required for every 10 employees to have one port-a-potty on site. Commissioner Houpt – If they're working on site; this is for a storage application and it is not relevant for this type of permit. Wayne said the only reason we've asked for any kind of an application is because if I work for the port-o-potties and drove the truck myself, according to what I understand I wouldn't need to do this. But because there are employees and for me to be able to store the trucks there and just plug them in to have them warmed to be able to start them, that's why I have to have this application. This is my personal residence and I do not want to turn it into a major contractor's yard. This is a situation where we did ask for up to 5 trucks because currently we only have 3 but after doing enough research it would take about 5 where I could call weekly routes to justify and going out and buying a light industrial use property or commercial use property that the county would have to move the entire operation off. Jim Roark – I live at 6303 CR 233 across the street from Mr. Pollard. When I first got the notice I was concerned that this construction site might be a gas laydown or a pipe storage yard, a man camp and then I came in and reviewed the application and found this was not the case, however, a few things that made me question the County: 1) this is 2.5 miles east of Silt instead of 2.5 miles west of Silt and 2) the size of the plot is 7/10th of an acre and it looks like a whole lot more than this. Which really hasn't got much to do with the application as long as I can be assured that this not going to be a step in the direction of the previous uses that I just stated. If that's not the case then I don't have any objection to the use as stated in the permit. Commissioner McCown noted the area that would reflect the 7/10th of acre and it is not this entire site. Jim said when he questioned the planning people they thought it would be the entire plot. Chairman Martin – no that is 35 plus acres. The rest will stay agricultural. Clarification was made that the SUP was only for the 7/10th of an acre. Commissioner Houpt – and that will be surrounded by an 8 foot fence to hide the storage in that area. Jim asked where will the excess potties would be stored. Wayne - There's some confusion everywhere; a lot of statements are correct but not totally correct. I do not plan on parking the trucks down there, the trucks are to be parked up there were the sheds are located, that's where the electricity is located and I need to plug them in. These trucks are basically one ton trucks and a lot of your Dodge trucks are larger than these trucks so we're not talking the big tank trucks, we're not talking 18 wheelers. I actually had more use on my property when I was operating this as a full fledged agricultural operation and had more activity than what we're proposing here now. Where the port-a-potties are going to be stored would be there in that corner, that's where I want to store them. The port-a-potties are approximately 5 x 5 feet so they're only going to be about 25 square feet; for the port-a-potty to be stored will cost him money. At any one time there will probably not be over 20. He was out bid on a project and had to bring them in to get them staged to go back out. These port-a-potties are always clean when transferred. We always dump on a daily basis at your landfills. Only time there would be any storage is a case where you clean out a few port-a-potties and the dump was closed and you would have to store waste overnight until the dump opened. They have to be dumped on a daily basis. A lot of the supplies that might be stored consist of toilet paper, salt tablets and stuff. The entire storage would less than 200 to 300 sq. feet; we're not talking about massive amounts of storage. Jim Roark – Wanted to be assured that the provisions of the permit are adhered to and nothing beyond that. This location and as far as the 7/10th of an acre, I thought it was the whole area, but now that it is this small area he doesn't feel it will be confined just to that area either so looks like to me there is some deviations in the permit already. Commissioner Houpt – That's what I want to get clarified also because we do have conditions in place that state the vehicles connected with this business will be screened within that privacy fence area. I'm hearing a different thing from the applicant. Cody – This is my fault for not clarifying that with David, but it is spelled out on the site plan exactly what is proposed for the uses out there and if you look at the site plan in the top right corner on that building with the lines through it, it does say proposed equipment storage building and then where the proposed water tank will sit. This will store the equipment. Commissioner Houpt – So the vehicles will be stored inside of that building. Cody – Correct. It is screened on three sides. It is open on the south side facing away from the County road. David – The Language No. 5 says it either needs to be within the fenced area or completely obscured from vision; or within another structure or garage. So as long as they are out of site of the public they are okay. Carolyn – As a special use permit is with the entire 35 acres, but Mr. Pollard is bound to follow the site plan and if he changes the site plan, he has to come back and do another special use permit. Commissioner McCown – And that would include some kind of change to a commercial yard that Mr. Roark alluded to, like a laydown yard or whatever. That would be a complete change in use which would entail a new permit and a new hearing, so at that time you would certainly be given notice and given the opportunity to speak on that change as well.

Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded. Motion carried.

Commissioner McCown made a motion that we approve the request for a special use permit allowing for a contractor's yard with the 14 conditions as presented by staff. Commissioner Houpt seconded.

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

CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION – APPLICANT IS THE ESTATE OF MARY E. LOGAN – CRAIG RICHARDSON

Donald G. Sillivan for the estate, Craig Richardson, and Carolyn Dahlgren were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Report. Chairman Martin entered Exhibits A – G into the record.

The Applicant, the Estate of Mary E. Logan represented by Mr. Sillivan, is requesting approval from the Board of County Commissioners (the Board) for an Exemption from the Definition of Subdivision (Exemption). If approved, the Exemption will create five (5) lots from a 91.29-acre parcel (lots 1-4 and the remainder of the subject property). The subject property is eligible for four (4) lots as identified in §4.52 (a) of the Garfield County Subdivision Regulations of 1984. County Road 335 right of way divides an 8.979-acre portion of the property accounting for the requested fifth lot.

STAFF RECOMMENDATION

Staff finds the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 218104100124, with the following conditions of approval:

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.
2. The Applicant shall include the following text as plat notes on the final exemption plat:
    a. *Control of noxious weeds is the responsibility of the property owner.*
    b. *One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries.*
    c. *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit.*
    d. *All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
    e. *All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
    f. *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.*

g. *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
h. *All new septic systems and residential foundations shall be designed by a professional engineer licensed to practice in Colorado.*
i. *Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contracts with background color.*
j. *Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.*
k. *Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and*

3. Prior to the signing of the plat the Applicant shall provide the following:

a) A water quality analysis conducted by an approved testing laboratory demonstrating both well meet State guidelines concerning bacteria and nitrates;

b) A pump test (four hour minimum) conducted on the four (4) proposed wells;
c) A copy of an Approved West Divide Water Conservancy Contract;

Craig - The parcel is eligible for 4 lots and the applicant wasn't aware that the remaining lot would be considered the 5th parcel. This is at the Board's discretion. If you chose not to, then the applicant would be required to dissolve one of these three proposed lots if you chose not to allow an additional lot.

The property is divided by CR 335. None of this property has ever been used as part of the ranch in the last 40 plus years. The only thing used on there and they are quite old is bee hives. The line that you see on the upper line is the center of the river. These properties go to the center of the river. It is a long slim property; this map does not show the entire property. It goes to a long skinny piece up along the trailer court and it is somewhat deceptive in size because a lot of the property is in the river. These parcels along the river set about 120 feet above the river where the building sites are located. The piece that I'm asking for the 4th parcel has a driveway already on it and it was given to me as an easement by Mr. Glare; my plan is to donate half of that property down to the corner to the Division of Wildlife. The reason for that is two fold: right now the public is dumping trash in there at a big rate and shooting in there a great deal and the Division of Wildlife would like to see that stopped and the simplest way is to donate that to them now hopefully. There's a little piece of their land that goes across on the north side of County Road 335. I'm asking for that to be done. Some of their land is on the north side of the CR 335; he is asking for this to be done, it isn't a necessity. I would definitely like to get the fourth lot; it's a piece of land that's never been used by the ranch, it's across the road and already separated from the other property. Craig – no matter what happens by the Board, the proposed Lot 1 will need to be closed; this plat does not show the entire 17 acre parcel and will need to be included in the plat.

Russell Talbott – owner of Apple Tree Park and an adjacent landowner to the proposed subdivision. A couple of concerns to voice and asked for clarification relative to the 5 parcels. What's shown on the map is four lots and with the 5th lot this makes up the 91 acres total as opposed to 30 plus in the four lots. One other point of clarification if you do a swap with the DOW does this require another lot. Mr. Sullivin – No. What I plan on doing is just a property line adjustment where I actually make my property smaller and plan to donate the land to the DOW. Russell – My two concerns I have are: 1) is indeed that Lot 1 running along the Colorado River for an extended way there that's below Apple Tree Mobile Home Park and 2) the other full map shows it on there. The concern I have there is two fold: 1) that's traditionally the public access to the river for the people that live in Apple Tree Mobile Home Park that currently fish down there and recreate down there. This has the potential of creating a restriction from their access. That's a concern of our and would like to see that public access to the river along that frontage as I know that's a concern for the County is to try and provide public access to the river as possible. Commissioner Houpt asked who's property it is? Russell – currently it is the Mary Logan Estate – It does belong to them, but current the access is being gained across their property. It has not been restricted historically. Mr. Sullivin – There's no fence keeping them out and no fence saying they can use it.– I don't have a problem Mr. Talbott and requested I do sell to them; I have no problem doing that myself, but my lender did. He likes river boat and I don't foresee it being a problem other than hassle him as long as he doesn't hassle somebody that comes up from ……what I'm going to do here, I'm going to give each of these four owners a 15 foot fishing easement along almost the mile or river frontage for each of them and that's all. Whether that owner would decide to have a problem would be something else. Now if he wanted that owner to deal with him and say okay I'll sell this property to you – fine, he can do that. I can't at this point. I would if I could because as I told him, I have no problem in doing that but I worked hard to get financing on this and I can't jostle with the lender. Russell – This is a very narrow strip of land and so the actual amount of ground is around 30 to 40 feet wide. Mr. Sullivin – At times it is even covered with water. Russell – That's an issue and it would certainly be an extreme hardship on that Lot owner to block or fence that entire area and try to keep people out. Mr. Sullivin – I'm personally not going to do that but what the new owner does, I can't tell you. The new owner will have to deal with Mr. Talbot's issue and I don't think that it is a big issue but maybe he does. Russell – The 2nd concern has to do with full public disclosure on the subdivision exemption plat as to display the actual fence line that surrounds the current wastewater plant. The amount fenced is greater than shown on the plat. What is shown currently is the easement, the actual amount is fenced greater than that and in light of the fact that encompasses a great amount of territory. Mr. Sullivin showed the easement on the plat. Russell - There's a road easement and an easement for the lagoon itself but that easement and actual amount of area that's fenced in is greater than the amount that it is actually the easement and I believe is an adverse claim.

Don Sillivan – I believe so too and don't have any problem with that. And if he wants a quiet title on that, he's been using it openly for more than 17 years and more than the required use and no problem. I wouldn't fight a quiet title if he filed. If this owner happens to put signs on there that's something I can't help – it's his property to do so.

Russell – my concern isn't whether it be contested or not, my concern is that the exemption plat in light of the desire to have that discloser on there is prudent to show that entire area on the plat itself. I do know also that there ……

Mr. Sullivin asked to clarify exactly what Russell wants. Russell – Just that the plat itself would show that fence line that basically is the historical fence line that surrounds the wastewater facility so that's its again that historically used area. I think that would be prudent to show it again. Mr. Sullivin – I think what the map shows is your easement line and that's what it's required to show. Is it not? Commissioners – Yes. Chairman Martin – and it's smaller than the fenced in area, am I'm taking that right Russ? Russell – The fenced in area is larger than the easement.

Chairman Martin – so obviously the fence is outside the easement and that's what he wants to have notified.

Mr. Sullivin – that's not my responsibility to do that – my responsibility is to show the edge of the easement; I'm not contesting him as far as his ownership because he's established that over time. I'm not going to try and fight that.

Carolyn – an easy way to handle that would be to add a plat note rather than expense of a survey. Russell – A plat note would work for him. Mr. Sullivin – My opinion is that I have shown on the plat the edge of the easement and it shouldn't be my requirement to show the fence, even though the fence is not where the easement is, it's larger; it is onto the property. I think if it's anybody's expense to do that it would be Mr. Talbot's but if he requires it by a note on there, we're giving up our rights to that property. Carolyn – The note would say that there is a dispute of the boundary line of the easement – this is what's shown by Book and Page. Chairman Martin – And the fence doesn't necessarily align with the easement. Craig – The language you prefer if this is approved. Commissioner Houpt – Would that cloud anything, would that problematic for you. Craig we would add a plat note identifying an encroachment on the easement? Carolyn – It wouldn't show the difference between an easement and the dispute, all it would say is there's a difference between

the fence line and the easement description, but that up to you. Commissioner McCown – Why would you need to say that on the plat? Carolyn – You don't have to; it's at your discretion. Mr. Sullivin – The Talbots have used this for 20 something years and you're probably going to need to go to court. Commissioner McCown – No one is Mr. Sullivin denying that but the point being I don't think that a plat note is the proper venue to address this; it's a civil issue that you and he can address at another time because the easement is going to stay where it is on that plat. Craig recommended requiring a condition that all existing easements be depicted on the plat. Don Sillivan complimented the planning staff saying they are the most professional staff - that I've been coming to Planning Commissions for longer than I care to remember and I found this staff to be the most professional of all of them.
Commissioner McCown made a motion to close the public hearing. Commissioner Houpt seconded. Motion carried. Commissioner McCown made a motion we approve the exemption of subdivision including the four lots as alluded to with the larger parcel across the river as the existing home parcel if you will adding "d" to number 3 which would be a copy of the well permits and number 4 would be a condition of approval that all existing easements be shown on the plat. Commissioner Houpt seconded. In favor: Houpt – aye; Martin – aye; McCown – aye.

CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION. APPLICANTS: PAUL AND CELIA NIESLANIK – CRAIG RICHARDSON

Paul and Celia Nieslanik, Karen Crownhart, daughter of the applicant, Kelly Cave with Dan Kerst PC, Carolyn Dahlgren and Craig Richardson were present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Report. Chairman Martin entered Exhibits A – G into the record.
The Applicants, Paul and Celia Nieslanik are requesting approval from the Board of County Commissioners (the Board) for an Exemption from the Definition of Subdivision (Exemption). If approved, the Exemption will create two (2) lots from a 66.017-acre parcel.
STAFF RECOMMENDATION
Staff finds, the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 239334400009, with the following conditions of approval:

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board;
2. The Applicant shall provide an approved well permit prior to Staff presenting the Exemption Plant to the Board of County Commissioners for signature;
3. The Applicant shall provide a water quality analysis conducted on the proposed lot prior to Staff presenting the Exemption Plat to the Board of County Commissioners for signature;
4. The Applicant shall provide an approved Basalt Water Conservancy District Contract prior to Staff presenting the Exemption Plat to the Board for signature;
5. The Applicant shall provide the results of a pump test (4hr minimum) conducted on the proposed well after completion;
6. The proposed access easement shall be depicted on the Exemption Plat;
7. The Applicant shall include the following text as plat notes on the final exemption plat:
   a. *Control of noxious weeds is the responsibility of the property owner.*
   b. *One (1) dog will be allowed for each residential unit within a subdivision exemption and the dog shall be required to be confined within the owner's property boundaries.*
   c. *No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
   d. *All exterior lighting shall be the minimum amount necessary and that all exterior lighting be directed inward and downward, towards the interior of the subdivision exemption, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
   e. *Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, <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. *Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contracts with background color.*

Craig reviewed some of the conditions listed above. Commissioner McCown asked if we need a driveway sharing agreement if something ever happened and these parties parted ways. Carolyn – Absolutely because this is an exemption and not a real subdivision the plat doesn't create the easement so there has to be a separate document which is a declaration. Craig said it was included in the packet. Kelly Cave said the wonderful staff covered it all and they have submitted the well permit, the Basalt Water Conservancy Contract and the pump test. Paul Nieslanik – Regarding the easement coming off CR 100, do we need a description of the road on the plat? Commissioners – Yes.
Kelly Cave – A hand drawing was submitted and it will be as-built so we won't have to do any more surveying.
Commissioner McCown – If it is surveyed, it has to be recorded. It has to be a legal description and to protect it. It would need to be recorded.
Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
Commissioner McCown made a motion we approve the exemption from the definition from subdivision creating two lots with the 7 conditions of staff.
Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT ALLOWING AN INDUSTRIAL SUPPORT FACILITY – APPLICANT IS ENCANA OIL AND GAS INC. (MARATHON OIL COMPANY LESSEE) – CRAIG RICHARDSON

Craig Richardson, Amy Stoodt project manager from Marathon Oil Company, 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. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F – Memo from the Grand Valley Fire Protection District, dated January 9, 2008; Exhibit G - Memo from the County Vegetation Management, Steve Anthony dated February 26, 2008; Exhibit H – Email from Garfield County Environmental Health**,** dated January 10, 2008; Exhibit I – Memo from Mountain Cross Engineering (Garfield County's Consulting Engineer) dated January 16, 2008; Exhibit J – District Court, Water Division No. 5 Court decree No. 99CW300; Exhibit K – Union Oil Company of California Case No. 82C@380; Exhibit L – Colorado Division of Water Resources Well Permit No. -23584; Exhibit M - Colorado Division of Water Resources Well Permit No. 6045F; Exhibit N - Colorado Division of Water Resources Well Permit No.25483; Exhibit O - Colorado Division of Water Resources Well Permit No. 25482; Exhibit P - Colorado Division of Water Resources Well Permit No.25480; Exhibit Q – Letter from Colorado Division of Water Resources dated January 25, 2008; Exhibit R – Memo from Garfield County Road and Bridge dated December 27, 2008. Chairman Martin entered Exhibits A – R into the record.
Marathon Oil Co. (on behalf of the property owner) has submitted a Special Use Permit to allow an "Industrial Support Facility – Pumping Facility" on a property situated within the Resource Lands – Gentle Slopes Lower Valley Floor Zone District, northwest of the Town of Parachute. The purpose of this application is to allow the construction of a pumping facility to supply freshwater for support of natural gas development activities. Pipelines uses to transport water will be permitted under a separate Garfield County Application. The total disturbed area of the proposed facility is represented as two and a half (2.5) acres and will consist of three (3) electric pumps located within a 50 x 80 pre-engineered pump house, an electrical substation, five (5) 500-barrel water storage tanks and a pipe manifold area. The application represents that the perimeter fencing will be utilized to prevent wildlife and livestock from accessing the facility. It is represented that water will be provided to the proposed facility via an industrial well owned by Solvay Chemicals. A water supply agreement has been include as Appendix G in the submitted application. The Applicant provided copies of well permits allowing for the proposed use. Staff discussed the status of the existing wells with Dwight Whitehead, Division of Water Resources. It was determined that through Court Decrees the wells are authorized for commercial and Industrial oil and gas operations.
STAFF RECOMMENDATION
Staff recommends approval of the proposed Special Use Permit allowing an "Industrial Support Facility – Pumping Facility" with the following conditions:

1) That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2) Volume and Sound generated shall comply with the standards set forth in the Colorado Revised State Statute;
3) The Applicant shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
4) All lighting associated with this use shall be directed downward and away from adjacent properties;
5) That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation for this type of facility;
6) The Applicant shall provide a copy of a stormwater management Plan;
7) The Applicant shall implement all recommendations identified in the Wildlife Assessment and Management Report completed by WestWater Engineering dated September 2007;
8) The Applicant shall submit revegetation security in the amount of $6,000.00 prior to the issuance of the Special Use Permit;
9) The Applicant shall obtain a building permit for the proposed pump house structure;
10) The proposed facility shall include a designated Fire Department 4.5 inch connection.

Amy Stoodt, Project Manager – with regard to access, during construction we will actually split access between EnCana's gate off 215 and the Turkey Crossing road that parallels 215 to keep the dozers off of CR 215. There will be a little bit of a split between construction and permit access. The stormwater management plan, the reason what wasn't

included is because there is a 1500 foot pipeline that runs from the Savoy wells to this location and we're on a 3rd reiteration between Williams and EnCana with a pad that's down there trying to route that and that right of way will be included in the storm water management plan so it's still in progress. The $6,000 bond is actually being done in our corporate offices as we speak; the building permit issue – we've applied for that because it's the same building we put on top of the warehouse that you approved recently and we're just waiting on this Special Use Permit approval and the fire department we have no issue with. Craig clarified that this was on the same warehouse facility. Amy – It's the same building. Craig – So we've already collected security for that have we not? Amy – This is a different facility. Craig – It is not on the same disturbed area. Commissioner Houpt – It's being moved. Craig noted that Marathon will be coming in with a separate pipeline permit to distribute the water collected for the facility, if required.
Commissioner McCown made a motion close the public hearing; Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown - aye
Commissioner McCown made a motion that we approve the Special Use Permit allowing an industrial support facility for EnCana Oil and Gas Inc. Marathon Oil Lessee with the 10 conditions as presented by staff. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
CONSIDER A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY FOR A TEMPORARY OFFICE. APPLICANT IS ENCANA OIL AND GAS (USA), INC. – FRED JARMAN
Fred Jarman presented and said this application has been set for April 7th.
From the March 10, 2007 Meeting, the motion was made but the vote was not taken.
TRANSFER OF OWNERSHIP OF LOCALIZER SHELTER – BRIAN CONDIE AND TIM ARNETT
Chairman Martin called for the question. In favor: Houpt – aye McCown – aye Martin – aye
NEW PLANNER FOR BUILDING AND PLANNING
Fred – Introduced new planning staff – Dusty Dunbar. She has good experience in Colorado and most recently from Castle Rock. Chairman Martin asked Dusty to comment on some words of wisdom for which she replied; "it's always darkest before dawn and the best time to steal your neighbor's newspapers". Dusty has lived in this area, worked in the area previously as Town of Silt planner, has a house in New Castle and also worked with the Town of New Castle as well as with Mesa County.
ADJOURNMENT

Attest: Chairman of the Board

_____ _____

APRIL 7, 2008
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 7, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
CITIZENS NOT ON THE AGENDA
WESLEY KENT – RULISON BLAST SITE
Wesley said the last time we were here the Board asked for some new information and he brought some things. One is a report by Gateway Enterprises on the study that the Rulison Blast area, they were doing some new monitoring up there and this is kind of a brief on their take and passed out the report. Another is a report from Dr. Moran from last year and his take on that; the other is a list of the violations from Presco from last year and they have completed going through the investigation but they are turning it over to CDPHE and will be levying fines on that and thought you guys might like to see. I'm trying to bring some new stuff to light to help make your decision because we know they're going to go after the ½ mile in 2009. I would like to request some information from the Board, like to request personally. We have been working and talking with Tim Pinson, former oil and gas liaison – he was going to produce a report that would help us out and I'm not sure what happened to the report or to him. Chairman Martin asked Don DeFord, in the packet you sent to Mr. Danielson there was some correspondence from Mr. Pinson who worked for the county at one time. Don – not certain that the report that Mr. Kent is referring to was in the packet that I actually released to Mr. Danielson; there is a discussion that we need to have later today that I anticipated initially for executive session to discuss whether or not certain documents that have been prepared by staff or experts retained by the County should be released to the public. There is a report from Mr. Pinson in that material but we need to have discussion of that and I anticipate a public discussion later and direction from the Board on those records. There was a volume of material given to Mr. Danielson but I think there are several pages the Board needs to consider and may or may not release. Chairman Martin – Mr. Green and Ms. Jordan will do a report from the DOE that we met with in Grand Junction last week and some information we will discuss as well. Don – So the record's clear, a discussion was held today with Commissioner Houpt as I have in the past on this specific issue of Rulison and both in terms of the factual presentations and discussions, she has recused herself from all of those matters in order to maintain her ability to consider the issue at the Oil and Gas Commission. Wesley also requested Dr. Thyne's report based on some of the information they had and it falls along the same lines. Wesley passed out to the Board the exhibits.
COUNTY MANAGER UPDATE – ED GREEN
ISSUES RELATING TO THE 125TH ANNIVERSARY CELEBRATIONS – LINDA MORCOM AND PATSY HERNANDEZ
The Question involves issues and decisions regarding the events planned and they stated the budget has not been finalized.

1) Invitation list for the event at the Hotel Colorado– Linda has received two different points of view. One from Chairman Martin and the other from Commissioner Houpt.

Chairman Martin stated we need to go ahead and invite all past elected officials and special dignitaries that hit the century mark and recognize them; state elected and general representatives from House and Senate District 61 and 57 – plus a great big invitation publically. Commissioner Houpt – Need to invite current local official from all municipalities, counties, state level, governor, state delegations, judges, honoring those who have held office county-wide in Garfield County; city, municipalities included. Chairman Martin we are working with the historical society on the list of those who should be invited. Commissioner Houpt – Elected officials, current and past and honoring lifelong people who are 90 years old and older. We are in agreement on this issue. Commissioner McCown said it sounds fine but the list is pretty large and we've already with Commissioner Houpt's suggestion filled one-forth (¼) of our possible attendees. Linda in item 2)

2) Sent out to groups that we identified; on it they must RSVP and she has a separate phone line set up for the RSVP's. She is asking them to leave their name and phone number if questions and if they are attending then to tell us the number who will attend. She wants a firm list of dignitaries.
3) Invitation to the general public including County employees; she will also put ads in the newspapers and will indicate to RSVP by a date, phone number, etc.
4) Once the maximum number reached, which is 390 by the Hotel capacity, she will put a message on the phone that we are at capacity and indicate we have a picnic coming up in July and encouraged them to attend that that time.

Commissioner Houpt – Past elected officials for all elected officials and guests. Commissioner McCown – You have 72 in municipalities. Commissioner Houpt – Regarding Amendment 41 which is back in effect, we need to consider the cost of meals. Linda stated only horsd'oeuvres will be served and she will make sure it is below the threshold. Commissioner Houpt – you're suggesting just inviting the current elected officials. Commissioner McCown – If we invite all the past elected officials in the towns it will overwhelm the numbers. Everyone gets an invitation – It will be in the newspaper. He would prefer the past local and current local officials versus the state people. This is a Garfield County function. Current elected and honoraries will bring over 90 people. Commissioner Houpt – So I'm hearing current elected officials and those honoraries over the age of 90 who were born in the County and Chairman Martin agreed because this is what it is about; as well as those who are alive that are previous past elected officials in reference to the County. If they are still here, they should be honored as well. Commissioner Houpt feels we need to recognize that the communities are part of the County too and it just becomes too large a number if we do past elected officials. Commissioner McCown – Well it certainly would if we include the cities. Chairman Martin – We'll have a compromise – we'll go ahead and invite all those elected officials that are present, do the honoraries that we have established in reference to their age and to their birthright of celebrating on this one and we need to supply those and we will go through the different municipalities, historical societies and folks and the neighborhoods and invite or request the public, if we have like, Ida Tonioli was born here and has been in Glenwood Springs all her life and she needs to be invited. She's been here close to 100 years. Pete Mattivi is 102 and he needs to be here – these are the kinds of people we need to invite and honor – this is our history. Commissioner Houpt – Its current county elected officials and elderly and current state officials. Linda asked if this will be free or do we charge. Chairman Martin – Free for all. Commissioner McCown – Free. Commissioner Houpt – Free. Medallion Design – Linda said she would like to get the Commissioner's approval on the design. This will be the medallion, showing photos, one will be given to all employees and to the dignitaries that are going to be invited and those who attend the event at the Hotel Colorado and anything remaining will be given out to the general public. She explained the design saying it is in gold one is a photograph that is processed where they take the design and photo processed and it will be laminated; and it will be in a clear plastic case for each one of them. The other one is a true Medallion, called 3D where it is actually stamped just like a coin in gold and it will be encased. Commissioner Houpt – Going back to Ed's concern, this cost has to be factored into the cost per person at that event too. Chairman Martin – This is an item of value. Commissioner McCown – Doesn't that law apply to people from private entities. This would be gift from a government to individuals and I don't believe that is in the statute. I believe it comes from businesses, entities to individuals. Otherwise they would not be able to accept our paychecks. I don't think the cost of this is an issue. Don – A legal issue – no, for Amendment 41 purposes. Chairman Martin – Don looks at the political issue and the use of taxpayer's money. We still consider the cost. Commissioner McCown – If it comes to $51.00 a piece it's not the end of the world as opposed to $49.95. Linda stated the estimated cost including the case is $6.00 a piece. On the back side is the wheat wreath with the 125th Anniversary. In the 500 quantity the cost would not exceed $6.00 each including the case. Collector's item – Historical. Chairman Martin – We wanted to limit them as a collector's item as historical. Commissioner Houpt – Seems if we have a commemorative piece this should be the same for all. Linda explained the photo saying it was a combination of 3 photos. The background is the Roan Plateau, the cowboy is from this historical society but since it was not used in the exact same photo it is okay to use in the medallion; and the barn is a photo that Linda took some time ago. Commissioner McCown if you used the two different designs and price you're talking the difference of $800.00 and we have 125 years for future Commissioners to save up for another one of these parties; let's go with the nice ones. Commissioner Houpt agreed and said to go with the one design. Commissioner McCown liked the stamped one best. Commissioner Houpt agreed and the idea of having one. Linda said the case for the stamped one is nicer too; it's round and fits nicely over the medallion and clear on both sides. Commissioner Houpt liked the idea of having it not just at the Hotel Colorado.

Linda said one will be given to every County employee, those who attend at the function on June 13th and at the picnic in July. Linda was planning to order 1,000. The Commissioners thanked Linda for all her work.

PAVEMENT STRIPING – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award and recommendation for paint striping various County Roads. The recommendation is to award the bid to Patriot Highway Marking for the areas as follows:

Silt area	$30,056
Rifle area	21,659
Glenwood area	24,140
Net Bid Price	$75,855

New Castle $,4,880 – New Castle is fine - it will be a piggy back operation.
The paint will be double yellow and broken lines due to the complaints about not being able to pass on the solid yellow lines when behind farm equipment, etc.
Commissioner McCown made a motion to approve the bid to Patriot Highway Markings, LLC. Inc. for a not to exceed price of $75,855.00. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

REGENERATIVE SWEEPER – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award and recommendation for purchase of a one (1) 2008 Tymco DST-6TRD-54-T Air Sweeper from Intermountain Sweeper Company at a cost of $227,865.00 and includes the pick-up. This price includes the broom assisted sweeping only when needed.
It will take a total of 45 days to obtain and it will be July before we put it to work.
Commissioner Houpt made a motion to approve the bid to purchase of a one (1) 2008 Tymco DST-6TRD-54-T Air Sweeper from Intermountain Sweeper Company at a cost of $227,865.00. Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

TANDEM DRIVE GRADER – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award recommendation to purchase for two (2) Volvo G940 Tandem Drive Motor Graders from Power Equipment Company at a cost of $238,212 after trade. This price includes a seven (7) year warranty on both machines. Blades being traded in are older than 10-years and over 10,000 miles.
Marvin had this company come in and they give a demonstration and it was very effective.
Commissioner McCown made a motion to purchase two (2) Volvo G940 Tandem Drive Motor Graders from Power Equipment Company at a cost of $238,212 Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

FOUR WHEEL DRIVE LOADER – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award recommendation to purchase one (1) Volvo L150F Four Wheel Drive Loader from Power Equipment Company at a delivered price of $178,032.00.
This will replace one we purchase in in 1985. This is coming out of the Landfill budget.
Commissioner McCown made a motion to purchase one (1) Volvo L150F Four Wheel Drive Loader from Power Equipment Company at a delivered price of $178,032.00. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

21,500 GVWR DUMP TRUCK – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award recommendation to purchase two (2) 21,500 GVWR 4x4 Crew Cab Dump Trucks with Sanders and Plows from Western Colorado Truck Center Two C-5500 GMC Topkick dump trucks with plows and sanders including trace for a cost of $150,020.
Marvin stated we have lost three transmissions but not related to what we are doing necessarily. These are two older 1987's dump trucks.
Commissioner McCown made a motion to purchase two (2) 21,500 GVWR 4x4 Crew Cab Dump Trucks with Sanders and Plows from Western Colorado Truck Center Two C-5500 GMC Topkick dump trucks with plows and sanders including trace for a cost of $150,020. Commissioner Houpt seconded. Increase in activity in Battlement Mesa – would you need these trucks if Battlement Mesa goes in another direction?
Marvin stated we could still use them regardless of what happens with Battlement Mesa.
In favor: Houpt – aye McCown – aye Martin - aye

APPLYING HOT BITUMINOUS PAVEMENT TO GARFIELD COUNTY ROADS – MARVIN STEPHENS

Marvin Stephens and Tim Arnett presented the bid award recommendation to contract for applying hot bituminous asphalt to various County Roads as follows:
CR 134 S. Canyon Creek Road (from south of the railroad tracks, do not pave on railroad right of way) – award to Frontier Paving for a total cost of $149,876.50;
CR 237 Harvey Gap Road (from intersection of CR 233 north 2 miles) – award to Frontier Paving for a total cost of $582.924.90;
CR 315 Mamm Creek Road (south from Jenkins cut off 2.77 miles and at Knuckle Creek intersection) – award to Frontier Paving for a total cost of $690,870.25;
CR 319 West Mamm Creek Road (end of pavement south for 2.6 miles) – award to Frontier Paving for a total cost of $868,890.80;
CR 320 Rifle-Rulison Road (start at CR 320 and CR 323 Intersections, head east 4 tenths (4/10th) of a mile on existing chip, next section starts two and one half (2 ½) miles east from blue paint to blue paint) this work is in two (2) sections for a total cost of $231,022.40.
Marvin stated the total for all road projects is $2,523,584.85.
Asphalt Patch for District 1 (to be picked up by County) 3317 tons
Grand River at $60.00 ton price for a total of $199,020.00;
Asphalt Patch for District 2 (to be picked up by County) 2025 tons
Frontier Paving at $51.75 ton price for a total of $104,793.75;
Asphalt Patch for District 3 (to be picked up by County) 2025 tons
Frontier Paving at $51.75 ton price for a total of $104,893.75
Marvin stated due to the ever increasing cost of fuel and the need to have the patch material hot, staff will get material from Frontier, Grand River, and United Companies. The closest haul time will account for the pit used.
Commissioner McCown made a motion we award the asphalt contract to Frontier Paving in an amount not to exceed $2,523,584.85 and assuming it will carry with it the same inspection program as far as 3rd parties.
Commissioner Houpt seconded.
Don – Question as it relates to Districts 2 and 3; some of these roads are haul roads so are any of these roads subject of grievance with the gas companies for reimbursement? Commissioner McCown – None of these are; there are other roads but not these. In favor: Houpt – aye McCown – aye Martin - aye

REQUEST TWO FTE AS LABORERS AT THE LANDFILL – KRAIG KUBERRY

Kraig Kuberry stated we lost all our laborers out there. Honor Camp changed their policies.

Commissioner Houpt made a motion to approve the addition of two (2) Full Time Employees as laborers at the Garfield County Landfill. Commissioner McCown seconded. Marvin stated it might be a challenge to hire these two positions.
In favor: Houpt – aye McCown – aye Martin - aye

NOBEL ENERGY REQUEST TO INSTALL 16" PIPELINE WITHIN COUNTY R.O.W. ON CR 306 – JAKE MALL

Jake Mall, Jim Kirkpatrick, land negotiator with Nobel and Mike Bonkiewicz District Manager were present.
Jake Mall submitted a request from Nobel Energy to install a sixteen inch (16") natural gas pipeline within the County ROW on CR 306 (Spring Creek Road). Nobel Energy will be required to replace four inches (4") of compacted three-quarter (3/4") inch road base on the length of CR 306 where the pipeline is being placed. The total length of the pipeline to be installed will be approximately 2900 feet in length. Jake stated the bonds are still in place and Steve Anthony stated it would be fine with him to leave the bond in place. Commissioner Houpt asked if there were driveways that would be affected. Jake said there are no residents; there is a temporary home but she lives in Fort Collins.
Discussion was held regarding the location of the pipeline. Jake stated the problems will be addressed and gravel will still be used. They need to address where the four (4) way intersection is located.
Commissioner Houpt verified that there would only be 10 minute traffic delays; she added that this is a problem.
Jake responded that it takes this long to do the work and it is very low traffic – 10 minutes is not a problem and will have it available for emergencies. They will consider the school bus route during the traffic delays.
Commissioner Houpt wanted to add a condition that landowners will be contacted so they will understand the issues even through there aren't very many, it does matter. She also asked about rocks that don't exceed 10" – where do they go. Marvin stated they are buried back in the ditch; all 10" and smaller. Linda Dixon – Family has land bordering on both sides up to Murray's and wanted to correct the statement that there were not private residences; there are not current driveways. It's not the delay but the road conditions and wanted to know if they will come back in and pave it (a commitment from the commissioners) all the traffic has gone up Spring Creek Road. What is your commitment about paving? Marvin – she is correct, it is an issue and this road does need to be looked into. Chairman Martin – can you live with the gravel? If I'm still around I'll put it as a priority. Marvin – looks like the Spring Creek Hill will be fixed. Linda – There is on-going litigation issues with the current property owners and her brother is frustrated with the condition of the road. Commissioner Houpt – energy development in this County is an issue and we need to figure out with the industry and the County can manage these roads. Commissioner McCown – Gravel is the best way to go. Nobel will address some of this. Linda – Nobel says they pay for the gravel but it must end up on the well pad because there's none on the County roads. This road needs to be bladed. It's been a pipeline issue and she wants to put Nobel on notice that we will be monitoring them and urged them to stay within your easement to dump your dirt. There's another operator in that area and they are getting a free ride. She added that federal gas is going in and Nobel came to us to go down the gulch and cut off that loop and of course we're saying we will have a meter and if you're going to be carrying federal gas we want a meter and want to see what gas is going across our property. It looks to us like Nobel didn't want to pay the freight to come across the private land owner and she is seeing a resistance as usual of a huge oil company who makes record profits trying to chisel the landowner and make as much as they can for themselves. When my dad granted the County road back in the 50's the document I have shows a 30 foot easement. We will be watching and they must stay within their easement. Chairman Martin – This requires a survey and we will make sure they do stay in the right of way easement. Don commented that we are starting to see some movement on the right of way acquisition issues up CR 206 and wanted to make sure that there will be nothing about this pipeline installation project that will interfere with that construction. Jake said the pipeline will be done in the next 4 -3 weeks and it takes 45 days weather permitting. Commissioner McCown – That will include all capping and gravel hauling on the road. Chairman Martin assured Linda Dixon that once weather permitting and once the project is started it will be a 45 day period until the completion of that and Larry wanted to make sure the gravel was in place, etc. Carolyn – There's an issue of security and the company wants to extend the letters of credits that they have and she will be working with Jim and our staff making sure the form the credit is extended.
Commissioner McCown made a motion to approve the placement of a sixteen inch (16") natural gas pipeline within the County ROW on CR 306 with the provision of the permit listed in the documents presented to us adding No. 20 that the adjacent landowners be notified prior to the start of construction. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

INTEREST IN SERVING ON THE STATE WATER QUALITY CONTROL COMMISSION – JUDY JORDAN

Judy Jordan presented a letter to the County Commissioners regarding the potential of conflict of interest if she was to serve on the Water Quality Control Commission (WQCC).
Discussion was held with respect if this was a conflict of interest and whether Judy would be representing Garfield County or herself. Judy – Only herself. Don asked Judy if she were chosen to sit on the Water Quality Control Commission would you be speaking on behalf of Garfield County; as Ed has noted and Judy has indicated this is really an issue that your personnel code resonates for the decision of the Garfield County Manager and not the Board. Commissioner Houpt commented that this would be no difference than what Dale's doing with his Commission and I think it shows the quality of personnel that we have in this county that they are being approached to sit on state boards and she would support this. Chairman Martin – Sees no conflict. Commissioner McCown said he was the one that raised the conflict question and I still see that possibility. And I see that same possibility as the conflicts that Tresi may have sitting on the Colorado Oil and Gas Conservation Commission as a representative of a local government whether you choose to or not your statements made in a meeting are going to thought of quite possibly unless you preclude every statement by "this is not Garfield County's position, this is my position" it's going to be construed as this is the position that Garfield County is taking on this particular issue; and I think with Judy that's going to get very cumbersome for you to operate number one and number two unless you consult with this Board on any issue that would involve regulations to water, you can't really make that statement representing Garfield County. You are a Garfield County employee and you can't go to a meeting and not represent Garfield County, if you do it's a conflict of interest with Garfield County. I have the same situation with Tresi sitting on the Colorado Oil and Gas Conservation Commission. If John and I as a majority of Board of County Commissioners vote on something and it goes to the Oil and Gas Commission and Tresi is there representing the elected officials throughout the state and Garfield County specifically

sends a directive up and she were to vote another way, I'm not sure how that would come down at the end of the day. So I see the possible conflict blooming and the only reason I raise that is because I saw those, I have no opposition of you serving on the Board, none at all but the Board that Judy's being asked to serve on is in fact a different type of Board than Dale was serving on. Yours is regulatory and that's the primary purpose of it. Commissioner Houpt – I think it is very important when you make decisions to qualify them and make sure people know that you're doing it in whichever capacity it is and it puts an added responsibility on how you communicate as a member of that commission but I think many people find themselves in that position who end up serving on these commissions. I think that when the state determines what type of makeup they want they've considered the fact that at times there will be conflicts and you can always talk to our legal staff about those issue. You may have to recognize if there is a conflict with the county and recuse yourself from that discussion. Chairman Martin – There is always the ethics issue that I'm sure you're very much aware of and if you have any concern and you get the information ahead of time and if there is a concern, then take it to your immediate supervisor and ask for direction. I do appreciate it and feel you can handle those and if there is a conflict you will point it out and step aside.

REVISION TO THE ENERGY ADVISORY BOARD BY-LAWS – JUDY JORDAN

Judy Jordan and Al Lambert chair of the EAB were present Judy Jordan presented the draft By-Laws of the Garfield County Energy Advisory Board and discussion was held. Al Lambert explained that the EAB is the first of its kind and continually involving change and as time goes by we have found it necessary to make some changes to the By-Laws to help us move forward. A committee was set up both of energy and people from the County to make those changes. They recommended changes to the EAB and it was– approved. Judy is the one who drafted the new By-Laws.

Judy reviewed the major points that were changed explaining they began with the Resolution passed by the BOCC and the initial By-Laws passed in 2005. Most of the changes were to clean things up. Some of the other changes include representation so the original By-Laws didn't make it clear as to who the certain representatives were example, industry operators but didn't say which industry operators. The By-Laws also called for certain groups within membership having veto power but it didn't designate who was a membership. The committee added all of the current energy operators and a list of members equaling 16 members that are specifically called out in the By-Laws that are energy operators. As far as veto power, we didn't really address that per/se but said representation is almost even across the various groups and so you could have one group if they all voted as a block having a veto.Commissioner Houpt – the way this is set up there is only one group who would have the capacity to do that and that would the industry that has fifteen (15) representatives and even all of the other groups put together don't have that many, the total number is fourteen (14). Have you had a discussion about adding an at-large person or whether there is a need for a balance?

Al said there is a need to bring more community personnel on board and make it so they will be back-ups. This will balance things out. Al said there is always an issue and with more members that problem would go away.

Commissioner Houpt would like to have reports and quarterly meetings. Chairman Martin agreed and encouraged face to face meetings as well as reports. We need to have a better exchange of information. Put it on the agenda if there is an issue and see how the EAB and the BOCC interact and what the recommendations could be.

Judy confirmed the Board would like the EAB to meet quarterly with the BOCC.

Commissioner Houpt suggested the EAB send a letter of who you are recommending for appointments to the Board.

Commissioner McCown asked if the EAB was delegated in the Resolution to meet monthly. Al – Yes. Commissioner McCown suggested to perhaps changing that in the By-Laws so those could be suspended through the summer months when it's hard to get people there. l said there is always an issue and they need to meet monthly.

Commissioner Houpt made a motion to approve the By-Laws of the Garfield County Energy Advisory Board as presented on April 7, 2008 with the elimination of the report that we state in the By-Laws that the reports will consist of compiling minutes. Cmmissioner Houpt also requested a current list of community representatives which would be Carbondale, New Castle, and Glenwood Springs. Commissioner Mccown seconded.

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

Commissioner McCown – I have a problem, I don't think you need to come every quarter and give us a physical sit down report; if we read a quarterly report and you report to us annually I think it's not utilizing your time to the best of everybody's interest.

DISCUSSION AND DIRECTION PROCESS FOR GARCO PARTICIPATION IN COGCC RULEMAKING

Timeline for Adoption of Rules to Implement HB 1298 and HB 1341

Don submitted the document for the Board to review. Judy and Don discussed the timelines established by the Colorado Oil and Gas Commission on their rule making process and wanted to discuss this with the Board and provide you advice on the timeline. The level of our participation and get direction from the Board on what you on want or anticipate for participation in that rule making process. This issue most certainly can create doubt and Commissioner Houpt will recuse herself from this discussion. Commissioner Houpt concurred. Don prefaced this by saying if the Board wishes to receive legal advice on the rule making process, we can do that. It's your decision, otherwise we'll just proceed.

Commissioner McCown said he feels we can start in the open session and if we run up against an issue we feel we need legal advice on we can move to that. Don – A couple of things. The question that we are immediately facing is whether or not the County wishes to participate as a "party" in this proceeding. The information that we all received tells us that we have until the 18th of April to make that decision and that brings center how does the Board wish to participate in this. Do you want to designate a representatives to speak on your behalf, in order to participate as a party, we need to file by the 18th a brief of communication indicating that and included in that is a summary of any policy of any policy, factual, or legal issues that the applicant may with to raise. My experience in the rule making process in front of other commissions tells me that this is a very general and broad statement about issues you may have. I don't think they are looking for a 50 page detailed analysis at this point but they probably will at some point. Judy Jordan – as Don and I discussed last week that there's a possibility that these regulations given that Garfield County, being the center of the energy development going on in the state that Garfield County may want to preserve the right to participate as a party and I don't know that there is a hot topic that we know of right now that we want to press on but it could well be as these develop that we want to have a seat at the table and proceed forward and the only real way to do that is to participate as a party. It doesn't say that we still can't comment if we're not a party but if we want to have an on-going role in the future when this is let go on July 1st, then we need to have a part in that. Don – On party status, so the Board

is aware of this, the oil and gas commission rules, at least to the best of my determination, are devoid of any direction concerning what a party is. But again from experience with other commissions the difference between party status and an interested person is that an interested person as Judy as stated, can still issue comments, you can still send your written position statements to the Commission but you may not have the ability to present your own witness, you may not have the ability to cross examine other witnesses, and potential importance that Judy hit on if for some reason we took great exception to a rule that was being considered or adopted by the Commission we might lose our ability to appeal that in a judicial sense if we wanted to do that. Commissioner Houpt – Just for clarification, you said that the Oil and Gas Commission but you didn't clarify that, you're right, it allows you to present your case, have witnesses, give testimony, have exhibits and cross exam. Don – And as I've indicated I can only assume that, because the rules don't specify that. Chairman Martin –In the explanation in Club 20 they were very specific and you have a very formal process of application, etc. and that's the burden of proof that you have to establish in these hearings. It's not a question do we want to, it's we must be a part of this. Commissioner McCown – I think unless that being a party gives also us privy to all other pieces of evidence that have been submitted as well upon our request from other parties. Don – All I can say is we all make that assumption because that is what a party status has meant in front of other commissions at the state level. Commissioner Houpt – That is what is intended and I thought it was in the statements specifically that parties will provide their exhibits to other parties. Don – It is in the statements which have come from the oil and gas staff which appear to be made up from original documents. Nevertheless I think we want to participate as a party then and what process do you wish to follow then that will lead to the generation of a document requesting party status subsequently we have to submit prehearing statements, participate in prehearing conferences. The schedule right now is that the prehearing conference is May 15; and then the 22nd is official meeting of the public hearing process but it's the 23rd of June when the first evidence if anticipated. Commissioner McCown asked if there was an anticipation of the extension of the deadline on this because every other document that comes out the EA community has asked for a 45 to 60 day extension to be able to read it properly. This is quiet voluminous with a lot of red ink on it with significant changes. Is anyone anticipating in May perhaps and before that those granted party status would be filing written documents if that's what they desired and it's entirely possible so appropriate experts could properly review the proposed rules and comment but we really don't know that. Commissioner McCown – Our initial comment is April 18th. Don – I need direction from the Board on do you want to delegate responsibility or not and to who. Commissioner McCown – On this initial we need to schedule sometime that John, myself Don and Judy can sit down and formulate a general draft that would let them know our basic concerns and without getting particularly specific and go out under Judy's signature but I think that we definitely feel we need to be a party to that because all three of us voice any concerns that we might have as far as be it economic because of the rules, be in encumbering the county with unfunded mandates that I found tend to appear in the rules in a couple of places that I have concerns about, those types of things. Don suggested if we could submit to you after consulting with other staff some deliberative documents for your consideration and then take this up as a work session and direction item at your next board meeting on April 14. That leaves us 4 days to get the document filed. Commissioner McCown has commitments on the 15th and 16th and it will take Judy some time to put these together. 1:15 p.m. – April 14th – time set for the continued meeting.

PROPOSAL TO ESTABLISH AN INTERACTIVE, GIS-BASED, WEB SITE TO PROVIDE THE PUBLIC WITH FREE ACCESS TO A GREATER BREADTH AND DEPTH OF COUNTY INFORMATION – ROB HYKYS

Rob Hykys submitted the GIS Web Server Project giving the background and how this would interface with the existing website. He stated this will add a Parcel Search and a Gas Industry Impacts and Evaluation site. The new system will establish Garfield county physical presence on the Internet for the first time. Going into detail, Rob explained that this project was identified in the IT Department Goals and Objectives for 2006 and the preliminary work began in 2006 but it soon became apparent that a broader range of expertise would be necessary to meet the objectives and deliver a quality project that would meet or exceed the expectations of the many potential users of this web-based, public access GIS. The supplemental budget request for 2007 is $137,373. A Power Point presentation was given by Rob that illustrated the method used to produce the maps.

GIS Web Server Project

Rob gave the background stating we are trying to get away from paper maps. With this new software one can make their specific maps and do it for free; we have talked about this for years. It is supported by the Assessor, the Oil and Gas Industry, and Building and Planning. In 2006 Rob met with other counties and researched to see what they were doing and how. One year of workshops and classes and we finally purchased the software to get a hands on experience. Rob said he planned to do this himself but realized he couldn't do it all. The Board approved signing a contact with Ideal Integration. We are ready to move forward to order the hardware and software. This is the most extensive project for GIS. Mesa County was used as the example. Today Rob is asking for $84,000 with the remainder in the next several months. Matt is recommending authorization to award the Hardware/Software contract to ESRI Inc. for the not to exceed prices of $84,400.00 pending completion of the contract details and legal review. He is also recommending authorization of the master contract to Idea Integration pending the completion of the contract and legal review. Carolyn questioned the competitive bidding under our Procurement Code.

Matt stated that he would check but to his understanding this is a single source. Matt will take a look at it and check to see that it is a single source. This will come back on agenda April 14.

REQUEST TO WAIVE ADDITIONAL INSURED REQUIREMENTS ON CONTRACT WITH COLORADO CORRECTIONAL INDUSTRIES – DALE HANCOCK

Dale Hancock submitted the contract with Colorado Correctional Industries "Rifle Honor Camp" to provide food service to the Garfield County Community Corrections facility as described in the attached scope of services.

Don – Dale is correct that we received a response for Community Corrections and we waived this additional insurance on other state contracts because the state won't agree to this clause. We have run into other insurance companies in the past and the Board has waived those requirements. Dale stated we have been operating on this for 1 ½ years.

Commissioner McCown made a motion that we approve the contract with Colorado Correctional Industries "Rifle Honor Camp" to provide food service to the Garfield County Community Corrections facility

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

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

SATANK BRIDGE UPDATE – JEFF NELSON AND MATT ANDERSON

Jeff Nelson and Matt Anderson were present. Jeff stated they went out for RFP for engineering and proposal came back at $47,000. We are receiving a total of $25,000 from Carbondale. The Board clarified that $30,000 was given to Carbondale. Jeff stated they used $5,000 on the assessment for the Colorado Historical Society and the cost estimated was to be $30,000 and it came in at $47,000.

Jeff requested a supplemental budget; this is just for engineering. A new bridge is $900,000. A rehabilitated bridge is a hair lower. Commissioner Houpt – We've talked about this bridge for years and we haven't reviewed the purpose of moving forward. It's a historical bridge; the only one in Colorado trussed like this and if we spend this kind of money, what kind of uses will it be for. Jeff said the direction given to him was to engineer this for a pedestrian, maintenance, not a pass through for vehicles, but for bicycles; ADA compliant, bobcats with brooms, pick-up loads for maintenance, and snowplows. This is not part of the trail system. Chairman Martin – Actually it's preserving the historical aspect of the bridge and he related it to the covered bridges in the east that have been restored. He sees this as a significant bridge the history of Garfield County; it was basically built with two men and a mule and wants to look for the partners if we are going to save it. Carbondale does not plan to have trails and it would require some negotiations with neighborhoods and the Carbondale trails forks there, but if they move forward with their water park project, affordable housing, etc., on the north side of the river and the use of the RFTA bridge this would tie a trail into that particular area and it would be very useful into the future. Commissioner Houpt suggested looking at the engineering. Jeff will bring back the prices to the Board. Matt – You wanted to see the rationale we had if we could get enough money to move forward and if we do they suggested an award to Lorah and Associates for $47,000. Jeff asked for a total up to $60,000; there are other issues that we have and I need to hire some geotechnical services also to monitor some information. This bid was competitive and they were the lowest. This will come back next week. Commissioner Houpt would like to move forward.

SACCOMANNO RESEARCH EXTENSION AMENDMENT – MATT ANDERSON

Matt Anderson and Jim Rada were present. Amendment No. 1 was submitted to the purchase of services agreement to extend the services of the St. Mary's Hospital and Medical Center for and on behalf of the Saccomanno Research Department, contractor until May 31, 2008. The original date was December 31, 2007.

Matt stated this is an extension only. Jim Rada talked to Dr. Coons on Friday. The second issue is that we are a victim of our own success due to a tremendous volume of date. The report should be released on May 1st and they will come and speak on May 5th and do a presentation. Jim would like to plan some community meetings in June to open up discussions. Commissioner McCown made a motion to sign the extension to extend the services of the St. Mary's Hospital and Medical Center for and on behalf of the Saccomanno Research Department, contractor until May 31, 2008. Commissioner Houpt seconded. Don confirmed that this is still being funded with the oil and gas fine money from EnCana at Divide Creek; is there any need for contact with the oil and gas staff at this point? Jim stated he had put Dr. Coons in contact with Debbie Baldwin of the Commission so hopefully they've had that conversation. No sign off is needed from the state or else that has not been communicated to Jim at this point.

Carolyn – services and money are the same. In favor: Houpt – aye McCown – aye Martin - aye

Ed Green - Executive Session Items

Negotiations and legal guidance regarding senior programs; legal guidance regarding a personnel matter; negotiations with Parachute; legal guidance/negotiations with DOE.

COUNTY SHERIFF UPDATE: LOU VALLARIO

LOU VALLARIO AND NEW UNDERSHEFFIT – COLT CORNELIUS

DISCUSSION OF SPECIALIZED EQUIPMENT

Lou has researched the acquisition of an armored rescue vehicle, specifically called the LENCO BearCat. This offers exceptional ballistic protection for tactical teams that are tasked with responding to dangerous types of operations. These may include officer rescues, civilian rescues, barricaded subjects, hostage incidents, negotiations, and high risk warrant services. Lou reiterated that he wasn't asking for new money for this purchase. If it is in everyone's best interest to move forward with this project, we plan on using existing funds from within our budget to cover the approximately price of $236.000. This has been an on-going discussion with Tim Templon for over a year. Colt gave an update saying he was the commander of the all-hazard response team and they have room for about 23 on the team; at this point we have 17 very dedicated people preparing for all sorts of things that could happen in this County. This vehicle will cover all thing that we would be called to do. On the team we get different calls from high risk situations and may face the threat of people who may want to do harm to us. Also there are times when we are called out to things that could be hazardous. This vehicle gives us more protection in a lot of various scenarios. We live in the world of possibilities and we are expected to be prepared for it – the what if's in life. This is not an assault type vehicle but for rescue purposes. Clearly if someone is hurt, we can drive into a situation and feel safe while doing the rescue. Trident supports it and the All Hazard Response Team supports it. Funding: The Sheriff has $150,000 in capital he can move for this purchase. Also the tax return overage that the Sheriff's office is getting which I believe is $90,000 plus. The funds are there and this is not a request for additional monies, we just want to relocate some funds and present the project to the Board. We want to get out there to the public on what we're thinking and why. He needs today a motion to support the transfer of funds of $150,000 in capital and then no money is due until it's delivered and that's four (4) to six (6) months out and we'll either have enough in the tax reserve. We're asking for an opinion, a support and whatever we have to do to make the change in our budget. Ed said it will come back to the board as a budget supplement; transfer of funds. Commissioner Houpt made a motion that we support the Sheriff's Department in the ordering and purchasing of the LENCO BearCat and we will wait to get your budget supplement before we put dollars toward it. Ed – one thing we talked about was the tires; they may need to upgrade the tires to bullet proof tires. Lou - They are called run flat tires. Commissioner McCown second. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/APPROVAL OF AGREEMENT WITH THE GARFIELD COUNTY ASSESSOR, AND THE COUNTY ATTORNEY FOR LEGAL NEEDS IN CONNECTION WITH THE CURRENT OIL AND GAS LEASEHOLDS AND LANDS.

Assessor John Gorman and Deputy Attorney Debbie Quinn were present. The agreement was submitted to the Board and Don stated this contract will be from January 1, 2008 through December 31, 2008 to provide legal and associated

services to the extent that such representation does not conflict with previously obligated statutory or contractual duties as County Attorney. It will cover the representation of the Assessor in connection with any legal issues that arise in the course of the ongoing and underreporting of the selling price or the quantity of oil and gas sold from oil and gas leaseholds and lands; provisions of legal opinions concerning audit issues to the outside auditor as necessary; and the representation of the Assessor in all legal actions arising from or related to the oil and gas audits. The agreement spells out the hourly rate to provide these services. Commissioner McCown commented on the $80.00 per hour and questioned the bargain price for our County Attorney to litigate. Don said if we were involved in Civil Rights litigation as a more prevailing party and asked for an award of attorney's fees, we would be able to ask the court to award fees based on the going market rate for attorneys. However, under the statute we are dealing with; we believe we can only charge an amount for attorney's fees that reflect actual costs. The amount that is shown in the contract is the amount calculated for reimbursement from the state and it is the model we have used in other contracts with the state and it reflects not only salary and benefits but an amount for overhead in the form of an allocation of office space, secretarial help and equipment. That dollar figure while we recognize is far below the market rate for attorneys, it does reflect the actual cost to the County.
Commissioner Houpt made a motion that we approve the agreement between the Garfield County Assessor's office and the Garfield County Attorney for 2008 as presented and authorize the Chair to sign.
In favor: Houpt – aye; McCown – aye; Martin - aye
CONSIDERATION/APPROVAL OF IGA WITH GARFIELD COUNTY HOUSING AUTHORITY FOR PROVISION OF ADMINISTRATIVE SERVICES IN CONNECTION WITH THE GARFIELD COUNTY AFFORDABLE HOUSING PROGRAM
The IGA concerning the administration of the Garfield County Affordable Housing program and the Board of County Commissioners of Garfield County was submitted. The term of this agreement shall commence on January 1, 2008 and continue through December 31, 2008. The dollar amount expended pursuant to this agreement shall not exceed sixty thousand dollars ($60,000.00) and it limited solely to the work to be accomplished during fiscal year ending December 31, 2008. The is a recurring contract.
Commissioner McCown made a motion that we approve the IGA with the Garfield County Affordable Housing Authority and the chair be authorized to sign. Commissioner Houpt second.
In favor: Houpt – aye McCown – aye Martin - aye
EXECUTIVE SESSION
Don requested an executive session to discuss: Legal advice on your code; provide advice on the open records request set for public discussion; question of retaining expert assistance on the Sunlight application as an extension of time may require executive session; deliberative information on another item at 10:15 a.m.; advice and direction I need to receive from the Board on CR 204 and 215; Frost project - road; CR 162 aka the Crouch Road; CR 306; discuss litigation with you and the Sheriff concerning Bert Huntley and ACLU cases; legal advice concerning contracting issues for the senior programs; 10:15 agenda item concerning the Garden Gulch Spill; and a brief opportunity for the staff to provide you with some information that initially should be considered deliberative in nature but you may wish to make it public.
Commissioner Houpt stated we had our Oil and Gas Commissioner hearings last Monday and Tuesday and Garden Gulch was presented and she participated in that discussion and she recused herself from this discussion.
Carolyn – added negotiation regarding purchase of land at the Airport; and the potential litigation over the roads in Traveler's Highland.
Commissioner McCown made a motion to go into Executive Session to discuss the Garden Gulch water spill.
Commissioner Martin seconded. Commissioner Houpt – recused herself. In favor: McCown – aye Martin - aye
Commissioner McCown made a motion to come out of Executive Session.
Commissioner Martin seconded. In favor: McCown – aye Martin - aye
Action taken:
No action – Legal advice only.
GARDEN GULCH WATER SPILL – ELIZABETH CHANDLER W/GRAND VALLEY CITIZEN ALLIANCE
Elizabeth Chandler presented photos displaying what was referred to as the Garden Gulch Water Spill.
Elizabeth stated that Grand Valley Citizens Alliance is not anti-gas industry. She had made a statement previously and wanted to clarify for the record that this was not a correct statement. She said leaving this to stand as it was stated, is too easy to dismiss us as unpatriotic lunatics with no common sense. In fact many of our members are royalty owners and very pro-gas development. The association's goal is to amplify the voices of our citizens. We want to help their voice be heard. They are pro-public health, pro-wildlife, we are pro-community; we advocate for best management practices and realize the economic value of the oil and gas industry. Today we want to spotlight the on-going concerns of citizens as well as the Town of Parachute and those who are depending upon the West Parachute Creek for water. The Grand Valley Citizen Alliance President, Elizabeth Chandler submitted photos, a summary, and a letter from Sid Lindauer addressed to the Oil and Gas Conservation Commission dated March 20, 2008 regarding the five spills of unknown substance into the West Parachute Creek. Elizabeth reported in her summary that after the first four spills into Garden Gulch were reported, Grand Valley Citizens Alliance and Western Colorado Congress joined with Sid Lindauer in filing a formal complaint with the Colorado Oil and Gas Commission (COGC). The issue is focused on the irrigation water to be turned on April 15, 2008 that livestock is currently drinking downstream of these spills. The concerning factors are that unknown chemicals could be harmful to these animals, crops and property, fish and wildlife. The complaint is requesting full disclosure of the contents of the chemicals; that CDPHE and the Division of Wildlife become involved; and the sampling be at the expense of the oil and gas industry responsible for the spills. The request before the Board today is to join in the complaint to the COGC in the efforts of this environmental group in acting to protect the health, safety, and welfare of the citizens of Garfield County. Issues to address: Failure to report to the Oil and Gas Commission to notify any of the downstream users when they became aware of the spills; Sid Lindauer is using that water to water his livestock and it would be nice to know the contents of that water so he would know if he is allowing livestock and horses to be poisoned; and also the need for the continual monitoring of the water; and for the contents of that to be know to the downstream users. Berry Petroleum has stated in an article published that they have looked at the benzene levels in particular, but this is slated for use as irrigation water so the whole totality of the water quality is

important, not just the level of benzene. We need to know the salt content; what will happen when that water is put across the surface of land. It's important when it is put across the fields that it not contaminate the water table and not be allowed to pollute the domestic wells. Also that the vegetation survives. Marathon did release the chemicals and said that they are known to be fracing fluids, hydrocarbons, stimulants and condensates. None of those really have a decent agricultural use. Elizabeth stated she had conversation with Jamie Atkins and he stated, "the river will get over it and the production pits contain just water and mud." Neither of those are true statements. So when the person in charge of the regulations is willing to out and out lie, it does not set a good precedent for us to believe that there is an on-going honest communication that we can trust. To this date, Sid Lindauer has never been communicated with results of any water spills, any plan for waters to be tested, and therefore he doesn't know if the water is safe for his livestock to drink. Chairman Martin – Jim Rada with the County EPA, the Oil and Gas Commission, Berry Petroleum, Chevron, Marathon, and the State Department have been involved and there were samples collected. We don't have the laboratory's report and the State EPA; the health department took all of the samples that were done, and the initial testing done by Berry Petroleum did not have any levels of pollutants above the standard drinking water. However, there are other issues as Elizabeth brought up, other contaminants that weren't tested for and they may have a long prolonged period of contamination that needs to be dealt with. That is in the hands of the Oil and Gas Conservation, State EPA, and the State Health Department and we're waiting for those results. Our request has gone out through Judy and Jim to get those back as soon as possible. As soon as we get them we will share them with Sid and I'm sure the folks need to get in touch with Sid and everyone else involved in the drinking water issue and the Town of Parachute. Elizabeth asked if the Board will you join in a formal complaint to the Colorado Oil and Gas Commission asking them to make sure that downstream users are notified of spills and that they formally notify people of the results of the water. Chairman Martin – we have already made that request. Jim Rada, yes that request has been made. Don said based on the last statement if the Oil and Gas Commission rules and we anticipate the possibility that the local government will make a formal complaint, have we made that? Chairman Martin – No, that's a decision and also Elizabeth has asked us if we are going to make a formal complaint based upon the information we have at this time. Do we have enough to make that formal complaint? Commissioner McCown – No, not at this point. Chairman Martin stated we do not have the physical evidence to do so, as soon as the information is produced we will make a complaint if necessary. Elizabeth disagreed and said we do we have a spill. And, it is very important that we act with urgency. The irrigation ditch is slated to be turned on April 15th; put yourself in the position of the landowners and the Town of Parachute. Do you want condensate in your sprinkling systems, watering your flowers, and kids running through sprinklers? So I do think we have enough to make a complaint and state that this is an urgent issue. She asked for a vote on whether or not the Board would join in the complaint and further stated that I have the right to ask for a vote on you joining us on our complaint. Commissioner McCown – I'd make a motion that at this time we do not enter into a complaint; we do not have enough evidence back from our technical staff to do so. Chairman Martin – second. Commissioner Houpt said just to remind everyone that she recused herself because in our state hearing last Monday and Tuesday we had a presentation on this issue and I engaged in that discussion at the state level. Judy – you discussed one aspect of the complaint which I think Elizabeth is talking about which has to do with the actually violation and enforcement, etc. The other question pertains more to who's notified in the event of a spill like this. The Regulations do not call for notification of downstream users at this point. However, you should know that the Energy Advisory Board did discuss this last Thursday night. The Town of Parachute said they are satisfied with where things stand now; they did unfortunately find out about the spills second hand rather than hearing from either the producers or from the COGCC ahead of time which they were not happy about, but they have since been informed about what's going on and they are satisfied at this point. The question is raised, is it not in reference to this particular incident but for future incidents in the revision of the regulations; do we want to consider asking the COGCC to add to the list of people who are notified the downstream users such as Parachute and perhaps ourselves. Chairman Martin – everyone should be notified on those particular issues.
In favor: McCown - aye Martin – aye Chairman Martin stated it is not that we are not concerned and if there is a need for it we will intervene.

ENCANA OIL & GAS (USA) INC. ANNUAL UPDATE – DAVID GRISSO

David Grisso submitted the annual update on the oil and gas development by EnCana.
He presented a power point including a map of the operations. He included in his report the statistics of the drilling rigs and locations including the current production. He showed a slide of the rig in South Piceance Creek. For the year 2008 they plan 124 wells. He commented that the Special Use Permit's that the BOCC has approved has produced less traffic/ EnCana received several an award last year as "Production Company of the Year" for the EPA Gas Star Program. There will be an Oil and Gas Forum on April 30th in Rifle sponsored by EnCana from 12 noon to 6 p.m. at the Fairgrounds; this is their 6th annual event. David added they have five (5) "Fit for Purpose Rigs" and have modified the ones that do not have this technology. The Board inquired if they are still receiving complaints. David said with the improved technology, the complaints are that they can hear the workers talking at the rig sites. As to the Battlement Mesa wells they are using designated haul routes and they meet with the Battlement Mesa Gas Committee quarterly and met with Road and Bridge and modified the routes. Chairman Martin mentioned at the meeting last Tuesday there were some violations taken place and they were not sure how to identify the subcontractors or trucks. David said they have the Community Counts Program running down there and this where we partner with Williams, Laramie, Nobel and we all four (4) work together to solve the problems and issues. Recently he met with these folks and they solved some of the issues that were happening to the east of Battlement. We're coming from Una Bridge. Commissioner Houpt requested David to talk briefly about the closed loop systems. David stated they've been running closed loop systems since October 2006 and that eliminates the need for your drilling fluids to circulate out to a reserve pit and back to the rig; now you just use your mud tanks on the rig and the cuttings come off that shaker and then they are processed right on location. We have been exclusively at that since that date. Commissioner Houpt has heard that this is very successful. David – It has it challenges and it has been successful. We drill a lot of wells on one pad and now you have the cuttings which are just rock, sand and dirt in stead of stacking up in a reserve pit it's stacking up on the site; COGCC permit requires leaving your cuttings on location; however you're stacking them up on top instead of the pit. So that's the challenging part, keeping our pads small and dealing with the cuttings. Hunter Mesa – questions by Fred Jarman on the Hunter Mesa water gathering facility; at one point EnCana was talking about the ability to clean some of

that water. David said success is measured by volume. We have success; the system was designed for fifteen thousand (15,000) barrels a day of produced water with that eighty percent (80%) recovery. That 300 TDS quality coming out which is about ½ of what the Colorado River runs at its best point of the year, we were only able to achieve 1500 barrels output of that and at the cost of it and it wouldn't run 24 hours a day so we scraped that program and we have tested a new program and it looks real promising. What we learned was we need to clean the water twice and the RO works well for polishing the water but we need to clean the water up-front and that's what we've been Testing all winter – now we need to get funded and will need a new SUP but it's still in design at the present. The RO will still polish the water and remove the last of the bi-carbons. That's what we've been testing all winter, a very small system, about ½ gallon a minute where we were designing for 5 to 6 hundred gallons per minute. It looks real good now and we have to get funded for this and we're going to need a new Special Use Permit because we'll need more area – the landowner is willing but we haven't gone into permitting. It's still in design right now, the large scale systems. Commissioner McCown asked if it would be a two-stage system and use the RO to polish it. David – it cleans is up and the water guys calls it a polisher. The RO will just remove the last bit of the chlorides and bicarbons from the water; then you'd be more up to the 90% recovery. Fred – Do you see demand for decreasing now with your ability to close loop everything? David – closed loop has nothing to do with produced water; as long as you're producing your wells you will have always have a need to do something with the produced water. Currently we are injecting in six (6) permitted deep zone wells with the State of Colorado and that's how we get rid of our water. If we ever develop other areas that need more water we will still need this capability to clean it up. We're using reinjection wells right now.

CONSIDER SCHEDULING THE NEXT SERIES OF BOARD OF COUNTY COMMISSIONERS WORK SESSION MEETING DATES FOR REVIEW OF THE COUNTY'S DRAFT LAND USE REGULATIONS – FRED JARMAN AND DON DEFORD

The following meetings were scheduled for Land Use:
April 16 – Rifle 2/3rd of standards.
April 22nd – Tuesday, Glenwood 1 – 5
May – 7th – Wednesday, Rifle 8 – noon
May – 14th – Glenwood, 8 - noon
May – 28th – Rifle, 8 - noon
Arrangements will be made with Geneva Powell for Affordable Housing and Peter Muller for the Airport.

ACTION TAKEN FROM EXECUTIVE SESSION

REQUEST AN EXTENSION OF TIME FOR COUNTY STAFF TO REVIEW THE SUNLIGHT REDEVELOPMENT APPLICATION AND REQUEST APPROVAL TO OBTAIN OUTSIDE TECHNICAL ASSISTANCE IN REVIEWING THE SUNLIGHT REDEVELOPMENT APPLICATION PURSUANT TO SECTION 4.12.05 – FRED JARMAN

Fred submitted a request stating the Building and Planning Department received an application for the redevelopment of Sunlight Mountain Resort which includes a Sketch Plan, Planned Unit Development and Amendment to the County's Comprehensive Plan. The purpose of this request is to allow staff an additional time period of 30-days to provide the applicant with a response, which would be no later than May 3, 2008.
Commissioner McCown made a motion to extend the time to May 3, 2008 for technical review.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
INDEPENDENT AND OUTSIDE EXPERTISE

1) transportation – outside expert
2) water rights with Four Mile drainage – outside the county
3) additional engineering reviews – drainage to avalanche only if needed

Cost centered and passed onto the developer.
Fred referenced the ability to go through an exemption process and not competitive selections and can go with the criteria. Chairman Martin suggested identifying these experts through the services contracts we have in place.
A motion was made by Commissioner McCown to authorize the hiring of experts in the water and geologic field and you use our service contract employees if that would apply. Commissioner Houpt seconded.
In favor: Houpt – aye; Martin – aye; McCown - aye

EXECUTIVE SESSION – CONTINUED ITEMS AFOREMENTED

LUKE DANIELSON – OPEN RECORDS REQUEST AND ROAD AND BRIDGE – PRESCO ISSUE
Commissioner McCown moved to go into Executive Session; Commissioner Houpt seconded. Motion carried.
Motion made and seconded by Commissioner McCown and Commissioner Houpt to come out of Executive Session; motion carried.
Action taken:

LUKE DANIELSON – OPEN RECORDS REQUEST

Don stated Mr. Danielson is representing a number of property owners in the Rulison area concerning records on a former action concerning Presco and he like the board to move forward publically at this time and decide as to some specific records of which I have withheld release at this time and whether or not you will waive any privilege and release those documents.
Commissioner Mccown made a motion to waive any privilege to the documents that have been held and that said documents be released on the open records request. Commissioner Martin seconded.
In favor: McCown – aye; Martin – aye No other public action at this time.

DEPARTMENT OF ENERGY – RESPORT BY CHAIRMAN MARTIN

Chairman Martin met with the Department of Energy along with Judy and Ed in Grand Junction and they met with the head person who was in charge of the nine (9) explosion of the Nevada site, Jack Craig from Pittsburg and a couple of things came out of that particular meeting:

1) DOE recognized a lack of information, facts and myths flowing around and they agreed to sit down with all governments and citizens and give an informational forum on every step through to present;
2) They will resist and not support any movement within the ½ mile circle;

3) There will be an option to gather information through private contractors if they were allowed to drill within the one and two mile area to gather information and use the new scientific data for fingerprints and movements of any kind of substance used in the atomic blast; at that point then the department of energy would probably have to buy a well but have all safety protocols in place and monitor it as well as be on site. So at that point it's up to the Oil and Gas Conservation Commission if they decide to issue any permits.
4) Ed said they made it clear that anything's that's even close to the ½ mile they critically evaluate.
5) Chairman Martin - Using the technology on fracing and also the advances on fracing that they see there needs to be a safety zone outside the ½ mile because of the technical advances of fracing and that is one of the considerations base on their modeling.
6) They are also going to see some information they haven't used in the past and that is the above land survey and then prior to the explosion and the survey after the explosion to see if there is subsidence or if there's any direction or movements or anything notable in their modeling and come back.
7) Also look at Dr. Thyne's information which they hadn't had before and we submitted to them and they are exchanging all information and will also wait for arrival within the next month or so for the first session on public information coming out.
8) Schedule for public meeting – no timeline – next month of so to follow up.
9) They are accelerating schedule.

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 rezoning a parcel of land owned by Eye Seventy, LLC. Applicant is Eye-Seventy, LLC – Craig Richardson
f. Authorize the Chairman to sign the Resolution of Approval amending the Text 3.01.03 of the Garfield County Zoning Resolution of 1978, as amended to include Contractors Yard as a Special Use. Applicant is Guy Middleton – Craig Richardson
g. Authorize the Chairman to sign the Resolution of Approval for a Text Amendment to Ironbridge PUD to allow Building Height Measurements to be taken and enforced from established grade. Applicant is LB Rose Ranch, LLC – Craig Richardson
h. Authorize the Chairman to sign the Resolution of Approval for Ironbridge Subdivision, Phase III. Applicant is LB Rose Ranch, LLC – Craig Richardson
i. Authorize the Chairman to sign an Exemption from the Definition of Subdivision Plat. Applicant is TLCCO, Inc. – Craig Richardson
j. Authorize the Chairman to sign the Special Use Permit for one Temporary Employee Housing facility operated by Williams Production RMT, Co. Applicant is ExxonMobil Oil Company. David Pesnichak
k. Authorize the Chairman to sign the Resolution of Approval for Special Use Permit for an Industrial Support Facility ("Central Production Facility") located approximately 12.5 miles north of the Town of DeBeque. Applicant is Chevron USA Inc. – David Pesnichak
l. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit for "Processing and Material Handling of Natural Resources" on well pad 21B-31-691 located south of the Town of Silt on CR 311 and operated by Bill Barrett Corporation. Applicant is Perry Dan Rodreick. David Pesnichak
m. Authorize the Chairman to sign the Resolution of Approval for a "Contractor's Yard" located west of the Town of Silt on CR 233 and operated by Jackie's Porta Potties. Applicant is Wayne Pollard. – David Pesnichak
n. Authorize the Chairman to sign the special Use Permit for an "Accessory Dwelling Unit" located south of the City of Glenwood Springs on CR 126. Applicants are George and Jeri Sherick. – David Pesnichak
o. Approval of the Board of County Commissioner Minutes for January 7, 14 and 21, 2008 and February 4, 11 and 19, 2008 – Jean Alberico

Commissioner McCown made a motion to approve the Consent Agenda items a – o;
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

EXTENSION OF OLSSON & ASSOCIATES CONTRACT (AMENDMENT #2) – BRIAN CONDIE

Peter Mueller with Olsson, Brian Condie, Matt Anderson, and Carolyn Dahlgren were present.
Brian Condie and Carolyn Dahlgren were present. Amendment No. 2 to the Professional Services Contract to the firm of Olsson Associates, Engineer regarding the services to be performed at or on behalf of the Garfield County Regional Airport in Rifle be extended from the date this is approved until December 31, 2008. The contract would then be available for up to five (5) renewals on one (1) year each. Carolyn asked Brian if we will be going out for a new 5 year engineering RFP under FAA standards later this year. Brain confirmed that was correct. Carolyn – And I am sure Olsson will be one of the responders. Peter Mueller – Absolutely.
Commissioner Houpt made a motion to approve Amendment No. 2 to the Professional Services Contract to the firm of Olsson Associates, Engineer regarding the services to be performed at or on behalf of the Garfield County Regional Airport in Rifle be extended from the date this is approved until December 31, 2008.
Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE TO CONTRACT #11 FOR OLSSON & ASSOCIATES – BRIAN CONDIE

Carolyn and Brian submitted the release to Contract Number 11 to include architectural, engineering and/or planning consultant services with the associated fees regarding the Airport Improvements (Omni Directional Approach Lighting System; Helipad, Central Terminal Area Taxilane, West Terminal Area Taxilanes) – Design and Construction Engineering. The total for all tasks is $120,250 (maximum). Public Restroom – excluded. $87,000.00.
Commissioner Houpt – Clarified that it's $37,500 plus $4500 plus $45,000 and that's how you came up with $87,000 but that includes Task. Brian corrected saying I took the $33250 off sheet number 3 which is the total and says that we have appropriated the amount that is equal to $120,250. Commissioner Houpt – But that includes Task 3. Brian – it

does. Commissioner Houpt – the confusion is do you want the total to include Task 3? You just don't want to subtract from Task 3? Is that correct? We're subtracting from Task 1 but we're adding Task 1, 2, and 3 to the total of what you're asking for today. Brian – That's correct. Commissioner Mccown – I know you've got this figured out and I know the FAA works in mysterious ways but you're saying we're going to possibly build in Task 3 the West Terminal Taxilanes but yet they're not going to be engineered in Task 1; are they going to be as-built? Brian – no, you will have to approve that later. Carolyn – Suggested taking it out of this contract. Commissioner McCown agreed and then when we approve it we'll approve both. Chairman Martin – that's $31,000 added. Carolyn – Today we are approving Task 1, 2, and 3. Brian – with the removal of that so it this brings it down to $70,000. Ed – Removal of the restroom? Brian – yes, that's down to $65,000.
Commissioner McCown made a motion to approve the release to Contract No. 11 excluding in Task 1 the public restrooms, the West Terminal Taxilanes engineering, and in Task 3 the public restroom construction monitoring, and the West Terminal Taxilane. Commissioner Houpt – seconded.
Carolyn – once the bid support and contract execution goes down since you're only dealing with two (2) contracts not three (3). Peter – so take out another $1500. Matt said it will not be exact until we figure in all the multipliers.
Carolyn – so it will be okay to keep it in as a not to exceed figure? The Board – agreed.
In favor: Houpt – aye McCown – aye Martin - aye
EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an executive Session to discuss the aforementioned items. In favor: Martin – aye McCown – aye Houpt – aye
Commissioner McCown moved to come out of Executive Sesssion. Commissioner Houpt – Second.
In favor: Martin – aye McCown – aye Houpt – aye
COMMENTS FROM CITIZENS NOT ON THE AGENDA
PARACHUTE COMMERCIAL PROPERTY - TRAVELER'S HIGHLANDS – ISSUE IF BUILDING PERMITS
David Hicks and tenants were present. David discussed the problems saying he received a letter last Friday via email and basically with the moratorium on building permits down there; my tenants and future tenants are in a quandary as to how to proceed and utilize their property. Halliburton has just put David on notice that they're unable to utilize their property because of the lack of being able to turn in and receive permits. This is my first notice from them that they are being harmed and then a lease with EnCana that they want to start but will need to have permits for office trailers. The issue where we're holding up permits, we turned in the paperwork that we are ready, willing and able to start a Special Improvement District but that the Tabor statues require that we wait till November to do anything that requires financing; setting up the bonds, etc. One other issue that everyone should be aware of is the Frac Tech site next to me at Traveler's Highland utilizes our entrance onto the highway and probably will from now on. I brought this up to Karl Hanlon because even if we set up the special improvement district which we can do as a vote of the members of the Traveler's Highland Subdivision, we can't bring Frac Tech into the game – they are not formally part of Traveler's Highlands – they are adjacent to the public roads in Traveler's Highland Subdivision. To form this district is probably going to require the County to set the boundaries of it because we can't reach outside the subdivision. Commissioner McCown – I think it may be bigger than that, I don't have the SUP in from of me, but going on memory, the Frac Tech approval for their SUP to build their facility required them to have access through CDOT and that will not be granted by CDOT unless it is either at the location you're indicating or one further to the east where their driveway was shown on the SUP application. If that doesn't happen, they won't need an access because they won't be able to go forward because they're changing their Special Use Permit and they'll have to start all over. David said they are in construction now and they're utilizing the roads in Traveler's Highland. I don't know how you would preclude them from using this one even if they add one. Anders Construction is happening across the state highway that you've got or will have shortly for a gravel pit across from us. Commissioner Houpt – There is another option and I think we alluded to it when we were discussing the special district, the entities in Traveler's Highland can come in and build these improvements and then get paid back later and that would free this up. You could move forward and building permits could move forward. Get paid back from the district. The district would pay back whomever built the improvements, you or someone would front the money, Halliburton or whoever, that put in the improvements adequate to satisfy the requirements of CDOT would then get paid back from the Special District once it's formed and the funds start coming in, you would be able to recoup those funds. Carolyn – It depends upon whether we go under the 500 series or the 600 series; the 600 series is the special assessment district and that's not a Tabor issue because it's an assessment, not a taxing issue. If you go under the 500 series though there is a Tabor issue. The other way to do it is an amended plat that deals only with access and under that we could have an SIA. I don't know if David Hicks owns all the lots that front the right of way for the state highway. David – They are mixed. Carolyn – In order to do that we would have to have all the affected property owners but I think the two (2) or three (3) major property owners are trying to get this done without involving everybody for obvious reasons. Commissioner McCown – But we told them earlier that the two (2) or three (3) major property owners, if they wanted to move forward with the improvements, the building permits would start flowing as soon as the improvements were in place and then at the November election providing it passes and you control the majority of the votes, so it wasn't expected to fail, then you would get repaid for your outlay at the time. Carolyn – in order to avoid the Tabor issue and go with the Section 600 Assessment District, not a tax, the problem with that, the county engineer has to essentially be in charge of the project and there's not a way to contract with David, you'd have to bid out all of the improvements, there's no way to avoid the County doing the bidding. David may be able to show there was competitive bidding for the improvements. David – there are a lot of issues here, but the immediate one is that there are tenants that were signed up long ago that are being harmed by this; neither they nor I had any clue that the County was going to stop issuing permits, so I'm willing to work with you but I need the permits released. Commissioner McCown – do you understand why we are not issuing permits? David – No I do not. Commissioner McCown – There is not a legal access for the activity to occur that you're applying for. Carolyn – They're not County roads, they are public roads. David – Karl can't be here today. But for each of the lots I own, I have legal access onto a public road and so I do have legal access as do each of my tenants. Chairman Martin – Within that subdivision.

David – the issue is access onto the State Highway 6 & 24 is between the County and the State. Commissioner McCown – No, not exactly. David – That's what Mr. Roussin and Karl Hanlon's thoughts are. Chairman Martin – Ours are; its between the landowner and CDOT. David – I've been told that I can't even apply for an access permit to the State Highway 6 & 24 without you signing off that I'm going in your stead. Carolyn – And we're perfectly willing to do what has to happen under the State Highway Access Permit. David – So what the state is saying, they don't agree with you, they say you have it and they won't allow you to subrogate that responsibility to me or whatever. Chairman Martin – and we did that with Terry Kirk and that was the agreement that he would go forward and do that access. Mr. Roussin explained to him that's what the access was and that's where it needs to be and he would then be responsible for it. That was the testimony we received in this Commission to allow the development and sales of lots and the combination of what we've got in front of us to develop. That was on the property owner at that time, the major property owner would guarantee the access. That access has to go through a state permit process and he had our permission to do such. That has fallen on the wayside; it is now on your shoulders because you're now the major property owner. David – We've gone through how I would possibly have known this buying the property, there's not constructive notice given to me or any other purchaser. So, what I'm sitting here trying to say, I've got tenants and on-going tenant requirements that cannot wait until a CDOT access permit; yes, we've said and we're fine in participating in getting this set up but how do we get the log jam that's right here right now out in front of us because it's huge.
Chairman Martin – about the only way we could do it is that you go forward with the major partners and do the improvements. Get that access built; get the drainage underneath the entrance way; pave it; move all the dirt and gravel off of there; and then you're set. David – You're talking six (6) months to one (1) year. I've been through a State Highway Access Pemit out on Highway 82 and I'd be lucky if I could get the access permit and get the construction done this season and this season being through October. I cannot wait. Commissioner Houpt asked Terry Kirk, has the access permit started with CDOT? Terry Kirk – As far as I know 5C has an access permit at this time across 4th Street; another thing we have right now is that EnCana has gone through there again with another pipeline and I think maybe even two (2) pipelines. It goes the whole length of the property underneath any possible access point. This is in CDOT's right of way. Roussin doesn't seem to return his phone calls. Carolyn – The information I have from Mr. Roussin, is that the 5C permit; it's ready to go and it's just a matter of these folks showing up for a pre-design meeting and then they can just pick up the 5C application and as soon as they get the engineering approved, they will then get their notice to proceed and what 5C asked for can get done this season. David – That's the crunch of the problem; 5C asked for just the additional traffic due to their six (6) lots. So they have an improvement that's been done on six (6) lots and so even if I participate in that, it doesn't give me or the County any additional right to be on the state highway. It's a completely new application. To bring in the entire subdivision and then what do you do with Frac Tech. I have no way to ever bring them in or ever get them to participate. Terry Kirk – There's another five (5) acres to the west that contiguous to it; the Strong gravel pit. So it would seem to me that if the County is willing to accept 5C's application for access as good to go, then that would be the way to go. Commissioner McCown – It's not the County that has to accept it. It's CDOT that has to accept it and it has to accept it with some reasonable assurance that the work's going to happen. And, there's nothing to say that, that particular access even thought it was just six (6) lots could not be modified at the time when you go in to pick it up because of the change in uses. Not creating and starting a whole new application process. But modifying that one – if it needs to wider, needs to be an accel and decel lane and at that time it could move forward under that same permit. David – They are based on a traffic study and the traffic study is useless because it doesn't have any of the information regarding anyone's development but 5C. The traffic study is thrown out and you have to start over with a new traffic study so essentially you've got to start a new access permit. Commissioner McCown – And you're asking us to allow building permits to continue and activity and development continue without any access permit at all, and we can't do that. David – I've got platted lots in the subdivision with public road access and I have tenants signed up expecting that and none of us had any constructive notice that you were going to shut us down somehow. So how do you rectify that? Commissioner Houpt – There's been knowledge for a number of years that there had to be an access permit. David – Knowledge by whom? Commissioner Houpt – Well certainly when Traveler's came in front of us, Terry was here and we had that discussion and that was part of the conditions. David – I was never part of any of those meetings – I purchased a platted subdivision from the prior owners and there is nothing in the public record in the chain of title to show me that there is cloud on the title nor is there for Halliburton or anybody else that goes through and researches the title work to say okay, is this viable, can he lease this to us, the answer is yes, is there access issue, no; so it's not just me that's got blind sided by this mess. Carolyn – Well that's what we'll be fighting about if we're in court because of course our perspective would be that everybody is charged with knowledge of the subdivision laws and the State Highway Access Code and the subdivision that you purchased the major lots in was a pre-subdivision law subdivision so it does not have the same kind of rights as a subdivision that the BOCC approved after subdivision came in. And, the BOCC's acceptance of those roads as public roads, not County roads was still done with the proviso that the general law of the State Highway Access Code would apply. So I understand but that's all the fancy words we will be using across the street. Commissioner McCown – I know that it was a condition at the time when Terry was here; thumbnail sketch but that basically is what was said. Carolyn – What David's saying, he wasn't present and that the Resolution accepting the roads as public roads didn't say that he would have to go get a State Highway Access Permit, it just had our regular language that's we're not accepting the roads for maintenance, these are public roads, not County roads. That's the legal fight that we've all been trying to avoid here. David – Not only the legal fight but it's the morale issue that I have to deal with; obviously if I had a clue that I didn't have the right to lease people property I wouldn't be doing it. I don't look for problems; they tend to find me I guess. Carolyn – One of the things that's missing here is a conversation here between CDOT and David. What I'm hearing is that if you pick up the 5C permit things will be okay at least for some period of time. Chairman Martin – There's a conversation coming up with CDOT and the director of this division of the state highway next week both with maintenance, access and also the director of this region. If we give them a heads-up maybe they can talk about this subject and see if we can come to resolution because they are the ones we are trying to work with also and to get that access up to their standards based upon the traffic study that they have showing the large amount of traffic in that area. They are depending upon some traffic study, not just what Terry did on his six (6) lots; they're looking at the overall picture. We need to have a conversation with David, the County and CDOT in getting this issue resolved. David mentioned CR 300 road as well. How do you get all the parties off CR 300

involved? All of us in Traveler's Highlands can't bite off fixing that entire intersection. Commissioner McCown – We have not permitted anything up CR 300. David – There's a gravel pit. Commissioner McCown – That was prior to this Board. All the wells that have generated the activity, we don't permit. David – The state wants it fixed to the current use, they don't care how it got there; I'm saying I'm doing a tenth of what's going on out there. Commissioner McCown – Another state agency permits that. David – You've got me in a Catch 22 – what do I do. I got to go spend a million bucks to improve the whole intersection; I can't do that. Chairman Martin – You can't expect any one to do it. Commissioner McCown – that's not the intent that I had when I made that statement about as far as improving that intersection; again, I think if you went under the 5C permit that's current and updated it that you would get by with a lot less than a million dollars in that intersection and you and all the owners – apparently if there's a waiting line and you're pre-leasing that property down there a year in advance it has a significant enough value that you can afford to improve that intersection. David – I'm not saying I can't afford to do part of the improvement; I've agreed. Commissioner McCown – And the other owners, I didn't say just you. It will be, once the district is formed, it will be proportionally shared by each lot owner – if you own 50 lots you will pay 50 shares; someone owns 2 lots, they'll pay 2 shares, etc. David – The issue is how soon will that happen and at what point in time are the permits released. That's the two big issues. Chairman Martin – As soon as we see the release to contract and the go from CDOT, I imagine that we can revisit that particular issue. Carolyn – You mean the State Highway Access Permit contract to get the improvements done? Chairman Martin – Yes, at that point. David – This is not a quick deal. I doubt that you could do anything this year; I've been through this on Highway 82 and it was a two-year process. Hopefully I've learned a few things but there's a lot of it and you have to follow the bureaucracy there. Chairman Martin – Let's give CDOT a heads-up and see if they will discuss this issue with us next week when they show up in reference to their quarterly visit and we'll ask that question. David gave Carolyn his email. David – Can we get these tenants out there – the leases were signed long before we came to the table in November agreeing that we would participate with you. Halliburton needs a permit for a tank. Carolyn said the BOCC's last directive was that Andy could accept the applications for review but he couldn't issue the permits and then obviously not CO's. Talk to CDOT – April 14th. Commissioner McCown said this Board's given you approval on this district; it's a simple vote on whether this happens or not – David owns the majority of land. Chairman Martin –The BOCC cannot issue permits; we are both in a Catch 22 here.
Commissioner Houpt – this is part of the regulations and you need to bring more formal information forward.

AMEND THE BUILDING ENVELOPE TO BRING EXISTING STRUCTURAL ENCROACHMENT IN COMPLIANCE AT 0134 RIVER GLEN – ASPEN GLEN, FILING 5, LOT 9. APPLICANT IS REVANA FAMILY PARTNERS – KATHY EASTLEY

Kathy Eastley, Carolyn Dahlgren, Brad Jordon representing Revana Family Partners were present. Kathy submitted the following exhibits for the record: Exhibit A – Garfield County Zoning Regulation of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application; Exhibit D – Staff memorandum; and Exhibit E – letter from Aspen Glen Design Review Committee (incorrectly dated October 25, 2007) received March 20, 2008. Chairman Martin entered Exhibits A – E into the record.

This is a request to amend the building envelope on Lot 9, Filing 5 of the Aspen Glen Subdivision. This request is to allow for the expansion of the envelope to contain the existing dwelling unit on the lot. The home was constructed so that it encroaches 1' for a distance of 8' on the north side of the structure and 6" for a distance of varying distance of 3' to 6' on the south. This amendment to the building envelope seeks to rectify the situation as identified on the plat below.

STAFF RECOMMENDATION

Planning Staff is in support of this amendment and therefore recommends that the Board of County Commissioners approve the request to amend the Final Plat of Aspen Glen, Filing 5, Lot 9 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. The plat be amended to replace the incorrect Certificate of Dedication and Ownership which is located in the upper right of the plat, with the proper Certificate as contained in the Garfield County Subdivision Regulations, as amended;
3. The plat be amended to include the required Attorney's Certificate;
4. The plat be amended to include reference to the applicability of the plat notes from the Final Plat of Aspen Glen, Filing 5, Lot 9.
5. The plat be amended to change the description of the "Setback Line" to "Building Envelope".
6. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner Houpt – In Leslie Lamont's letter, they supported it but the building envelope following the line of the house. Kathy – As the building permit was submitted it will follow the straight line.

Brad provided a brief history saying that the builder encroached on the setbacks and this ended up in some lawsuits. The first application we submitted was for a variance but based on the zone district, the setback requirements were well within our setback requirements by just adjusting these envelopes, or the two setback lines. This is far cleaner and simpler to use a straight line than following the building per/se and changing from a variance to a plat amendment. He agrees with the county and disagrees with the recommendation of Aspen Glen for redoing the jog.

Commissioner McCown made a motion to approve the building envelope adjustment and implemented the six (6) conditions of staff. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

AMEND THE FINAL PLAT TO SUBDIVIDE A TWO-FAMILY STRUCTURE AT 139 EAST DIAMOND A RANCH ROAD IN ASPEN GLEN, FILING 1, LOT D-43. APPLICANT IS ASPEN GLEN D-43, LLC – KATHY EASTLEY

Kathy Eastley, Terry Claassen and Carolyn Dahlgren were present._Kathy submitted the following exhibits for the record: Exhibit A – Garfield County Zoning Regulation of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application; and Exhibit D – Staff memorandum.
Chairman Martin entered Exhibits A – D into the record.
Per regulations for Aspen Glen, duplex lots are to be subdivided after the units are constructed. The lot configuration is determined after construction is completed to accurately display the common zero lot line of the adjoining units. The applicant has submitted a copy of the proposed Amended Final Plat demonstrating that the duplex units fit inside the original envelope. The application was referred to Leslie Lamont, Administrator, Aspen Glen Design Review Committee. Staff received notification via telephone that the Committee has no objections to proposed D-Lot division.
STAFF RECOMMENDATION
Planning Staff is in support of this amendment and therefore recommends that the Board of County Commissioners approve the request to amend the Final Plat of Aspen Glen, Filing 1, Lot D-43 with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval;
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner McCown made a motion that we approve the amended final plat with the two (2) conditions recommended by staff. Commissioner Houpt second. In favor: Houpt – aye McCown – aye Martin - aye

REFERRAL TO REQUEST COMMENT ON EXPANSION OF WWTF AND A NEW TREATMENT PROCESS AT A WASTEWATER TREATMENT FACILITY ON THE SOUTHWEST END OF NEW CASTLE. APPLICANT IS TOWN OF NEW CASTLE – KATHY EASTLEY

Kathy Eastley and Michael Howard were present. The New Castle Wastewater Treatment Facility (WWTF) is owned and operated by the Town of New Castle. The Town is seeking a plant expansion and a change in process at the facility. A Site Location Approval was referred to the Board of County Commissioners in January 2007. That application was for a permit increase however no plant expansion nor modification was requested at that time. CDPHE staff has put the permit increase on hold for replacement/substitution by this application for expansion of existing domestic wastewater treatment. The proposal requests to expand the WWTF from its current capacity to a phased expansion which would ultimately allow for 1.8 MGD, the maximum service anticipated as needed given the currently approved build-out of the Town. The proposal also includes new processes to be utilized in the treatment including flow splitting, extended aeration through a combination fixed film process (KALDNES), nitrification, denitrification, circular clarifiers with mechanical scraper arms, scum removal, RAS and WAS pumps, UV disinfection, aerobic digesters and a dewatering device.

A. Service area and Population
   The existing service area of the treatment facility will not change. Presently the population of The Town of New Castle is 3,450. This permitted increase will allow the Town of New Castle to provide service for a population of 5,300 which is expected to occur sometime after 2015.
B. Description of Selected Alternative
   No alternatives are discussed because this is only a permit increase in the hydraulic and organic capacities.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

The Town of New Castle Wastewater Treatment Facility is located within its municipal boundaries. Therefore, the Garfield County Comprehensive Plan of 2000 designation is City/Town. This will be a physical improvement and this is due to the growth of the town. The capacity and this will be as good as you can get for addressing wastewater.

ISSUES AND CONCERNS

Role of the Board of County Commissioners: 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 to determine whether or not the proposed wastewater treatment work is consistent with *"the long-range comprehensive plan for the area as it affects water quality and any approved regional wastewater management plan for the area"*.
Garfield County Public Health Department
Garfield County Environmental Health Manager reviewed the application and had a comment regarding odor at this Wastewater Treatment Facility. The Department's comments were a reiteration of concerns identified in the January, 2007 referral request. Jim Rada has stated that this plant experiences significant odor issues and notes this application does not mention any strategies for odor control. It is his recommendation that Garfield County take this opportunity to at least ask how this project will address the ongoing odor issues at the plant.
RECOMMENDATION
Staff recommends that the Garfield County Board of Health and Garfield County Commissioners recommend APPROVAL of the site application for the Town of New Castle Wastewater Treatment Plant, and request information regarding odor abatement relative to the proposed changes in treatment finding that it 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.
Approval as Board of County Commissioners

Commissioner McCown made a motion that we approve the site application for the Town of New Castle Wastewater Treatment Plan and send it to CDPHE. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Approval as the Board of Health
Commissioner made a motion that we go into the Board of Health. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown made a motion that we approve the site application for the Town of New Castle Wastewater Treatment Plan. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown made a motion that we come out of the Board of Health. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR A WATER GATHERING SITE (PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES) OPERATED BY BILL BARRETT CORPORATION AND LOCATED SOUTH OF THE TOWN OF SILT OFF COUNTY ROAD 326. APPLICANT IS CIRCLE B LAND COMPANY LLC – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren and Jimmy Smith of Wagon Wheel Consulting were present.
The Applicant is proposing to utilize an existing water gathering site within the Circle B Land Pad #6 well pad to collect produced water from onsite and surrounding gas wells, separate residual oil and recycle the used water back into operations in the field via pipeline. The majority of the infrastructure is already in place and is utilized for the wells which are currently on the well pad. Since the water gathering facility is now proposed to serve surrounding wells, it is necessary for the Applicant to obtain a Special Use Permit for the site. The Applicant has obtained the necessary Centralized E&P Waste Management Facility Permit from the COGCC and has bonded the site for reclamation and rehabilitation through the COGCC in order to use this facility to serve surrounding wells. The Applicant is proposing to install a pump house, electrical building, horizontal separators, water tanks and shed on the site in the future as demand increases. In addition, the Applicant is proposing an expansion to the current water pit on the site.
The application is for a water gathering site ("Processing and Material Handling of Natural Resources"), which is a special use in the ARRD zone district.
STAFF RECOMMENDATION
Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, and 2) the fact that plan will utilize existing infrastructure while allowing for future expansion in the future on already disturbed ground, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission. Commissioner Houpt – How close is this site from existing homes? David – Within a mile.
Jimmy – just over a mile. The reason for the SUP is the change in use; the client has requested to bring water from surrounding wells and it changes the use. Commissioner Houpt – Any concerns with property owners.
Jimmy said there is no concern from the existing landowner.
Commissioner McCown made a motion to schedule this before the Board of County Commissioners.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A TEXT AMENDMENT TO AMEND THE TEXT OF 2.02 (DEFINITIONS) OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED TO INCLUDE A DEFINITION FOR "MUSEUM/LIBRARY" AND INCLUDE MUSEUM/LIBRARY AS CONTEMPLATED CONDITIONAL USE WITHIN THE AGRICULTURAL RESIDENTIAL RURAL DENSITY (3.02.02). APPLICANT IS KIMIKO POWERS – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren and Ted Ciavonne representing Kimiko Powers were present. Craig submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Resolution on 1978 as amended; Exhibit D – application; Exhibit E – application. Chairman Martin entered exhibits A – E into the record.
The request before the Garfield County Planning Commission is to include Museum/Library as a contemplated conditional use within the Agricultural Residential Rural Density Zone District (ARRD). The Applicant proposes the following definition to be included in §2.02 subsection 2.02.391:

Museum/Library

A building or area within a building for preservation and exhibiting artistic, historical or scientific works or objects, together with the storage and use of educational and research materials relating to such works or object, which are systematically organized or cataloged for a reference by patrons there of. A Museum/Library may be either a public or privately owned and operated facility.
The proposed use appears to be appropriate and compatible with the environmental character of the ARRD. Impacts are reviewed as part of the Conditional Use Permit application process. The Board of County Commissioners may include conditions ensure the use is constructed and operated appropriately. Including Museum/Library as a contemplated use within the ARRD will not create hazards or extreme alternation of the natural environment. The nuisances identified in this standard (3) are generally the result of an industrial use The operation of a Museum/Library is not expected to negatively impact adjacent properties by generating the noise, vibration, dust, heat, smoke, odor glare, or any other objectionable influences or traffic hazards that can not be mitigated at the time of application submittal.
Conditional uses contemplated in the ARRD Zone District include:

- *Aircraft landing strip*
- *Church*
- *Community buildings*
- *Day nursery and school*
- *Group home for the elderly*

The use of Museum/Library is compatible with contemplated conditional uses within the ARRD Zone District.
Recommendation:

The Planning Commission reviewed the applicant's request on January 23, 2008 and voted unanimously to forward a recommendation of approval to the Board of County Commissioners.
Commissioner Mccown made a motion to close the public hearing; Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown made a motion to approve the Text Amendment to amend the text of 2.02 (Definitions) of the Garfield County Zoning Resolution of 1978, as amended to include a definition for "Museum/Library" and include Museum/Library as contemplated Conditional Use. Commissioner Houpt seconded.
Commissioner McCown amended his motion to include the definition of Museum.
Commissioner Houpt amended her second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A CONDITIONAL USE PERMIT TO ALLOW A MUSEUM/LIBRARY WITHIN THE AGRICULTURAL RESIDENTIAL RURAL DENSITY ZONE DISTRICT. APPLICANT IS KIMIKO POWERS – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, Ted Ciavonne for Kimiko Powers and John C. Martin 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. The Board approved the noticing. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E - Staff Memorandum Exhibit F – Email from CDPHE Water Quality Control Division dated March 17, 2008; Exhibit G – Letter from Colorado Division of Wildlife dated March 21, 2008 change of date ; Exhibit H – Memo from Garfield County Road and Bridge Department dated March 12, 2008; and Exhibit I – Email from the Town of Carbondale dated March 31, 2008. Chairman Martin entered into the record Exhibits A – I.

DESCRIPTION OF THE PROPOSAL

The applicant is proposing to construct an approximately 17,000 square foot two-story building to house the proposed Museum/Library. The Board will be considering a proposed Text Amendment to include the use of Museum/Library within the Agricultural Residential Rural Density Zone District. If approved, the Applicant will operate an Art Museum (Powers Art Center) on the subject property. The application represents a maximum of five (5) employees. Vehicles accessing the proposed facility will be limited to thirty (30) trips a day (60ADT) and will consist of passenger vehicles and school vans.

Museum/Library

The Applicant proposes the following definition included in the requested Text Amendment:

> *"A building or area within a building for preservation and exhibiting artistic, historical or scientific works or objects, together with the storage and use of educational and research materials relating to such works or object, which are systematically organized or cataloged for a reference by patrons there of. A Museum/Library may be either a public or privately owned and operated facility."*

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the requested Conditional Use Permit to allow a Museum/Library on a property described as Parcel No. 239326300006:

1) That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2) That the Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all applicable Building Code requirements;
3) All parking needs resulting from this use shall remain on the subject property;
4) Any expansion or alteration of the proposed use shall require an amendment of the Conditional Use Permit;
5) The Applicant shall provide a copy of an approved Colorado Department of Transportation Access Permit allowing for the proposed use prior to the issuance of the Conditional Use Permit;
6) All lighting associated with the proposed use shall be directed inward and down toward the center of the subject property;
7) The Applicant shall provide proof of an approved CDPHE-WQCD public water system to serve the proposed Museum/Library prior to the issuance of the Conditional Use Permit;
8) The Museum/Library shall be limited to sixty (60) Average Daily trips (30 round trips) per day as represented in the application;
9) All food waste shall be stored in Wildlife-proof refuse containers:

PLANNING COMMISSION RECOMMENDATION

The Planning Commission reviewed the Applicant's request on January 23rd, 2008 and voted unanimously to forward a recommendation of approval to the Board of County Commissioners.
Craig made a correction on No. 4 – "any expansion alteration of the proposed use shall require amendment of the conditional use permit." As of right now we don't have an amendment process but we hoping under the new Code their will be – so we'll say amendment or resubmittal. Applicant – A good presentation and we accept all conditions.
Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner Mccown made a motion to approve the Conditional Use Permit with the nine (9) conditions as listed by staff with the correction noted in No. 4 to read "shall require an amendment or resubmittal of the conditional use permit." Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR ONE TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED 20.5 MILES NORTH OF THE TOWN OF DEBEQUE AND WITHIN A WELL PAD DESCRIBED AS SKR 598-25-CV. APPLICANT: CHEVRON USA, INC. – DAVID PESNICHAK

David Pesnichak, Michael Howard and Julie Justice for Chevron were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield

County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F – Memo from the County Road and Bridge Department dated March 6, 2008; Exhibit G –Letter from Dean Riggs of the Division of Wildlife dated 12/18/2007 regarding now approved Temporary Employee Housing on nearby Well Pad 598-25-AV. Chairman Martin entered into the record Exhibits A – G.

The Building and Planning Department received a Special Use Permit (SUP) application for "Temporary Employee Housing" facility on property owned by Chevron USA, Inc located on an approximately 54,000 acre property approximately 20.5 miles North of the DeBeque, CO. This application for Temporary Employee Housing is to be located on Chevron's Skinner Ridge 598-25-CV well pad. This is the third of three anticipated Temporary Employee Housing facilities associated with the Skinner Ridge 598-25 well pads. More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. This site is remote and is intended to be contained on an approved COGCC well pad along with other drilling facilities. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however the housing facility will be at location for more than a cumulative of one year. The maximum number of people to be housed at a facility will be 24. The Applicant has stated that operations are anticipated to begin on the 598-25-CV well pad in August, 2008. There are 22 wells anticipated for this well pad and drilling operations are to take approximately 330 days. Overall, the approval of this Special Use Permit for Temporary Employee Housing will reduce traffic on the access roads to the site. For this reason, staff feels that additional road improvements are not necessary. The Garfield County Road and Bridge Department had the following comments regarding this application: Garfield County Road & Bridge Department has no objection to this application with the following comments (See Exhibit F): "Garfield County Road & Bridge Department has no objections to this application with the following comments. Garfield County is currently in negotiations with Chevron USA Inc. for road improvements to Cr. 204 and they are aware of their obligation for damage to County roads. Chevron would be required to participate in a dust control program for Cr. 211 as they have done in the past. Temporary housing reduces traffic volume on Cr. 204 and Cr. 211 which reduces impacts to the County road system and makes the roads safer for all users of Cr. 204 and Cr. 211. All vehicles hauling equipment and materials for this application shall abide by Garfield County's oversize/overweight system. All vehicles requiring oversize/overweight permits will have a letter on file with Garfield County Road & Bridge Department from Chevron USA Inc. stating that these companies can obtain oversize/overweight permits under Chevrons bond. As this application location is on a private road Chevron will be exempt from the driveway access permit requirement." This property is already characterized by intense industrial gas development, located entirely on approved COGCC drill pads and will ultimately reduce the amount of traffic to and from the site, it is Staff's opinion that this Temporary Employee Housing facility will not adversely affect any nearby neighbors as proposed. The property owned by Chevron USA, Inc is an approximately 54,000 acre property located approximately 20.5 miles north of DeBeque (See location maps). Generally the subject property is described as currently being used for increasingly intense industrial gas development. Topography on the property can be severe and ranges from valley floor to plateau.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.

10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractor's and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
24. No animals shall be allowed at temporary employee housing sites.
25. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
26. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
27. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
28. Each facility shall have a minimum total capacity of 6720 gallons of potable water storage which shall be refilled a minimum of every three days.
29. Each facility shall have a minimum total capacity of 6,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.

Julie Justice – currently we're taking about 7 months do drill one or two well. This is for essential personnel and for others who will be drilling the site at their option.

Carolyn - Every time you institute vault and haul, the Commissioners are to constitute yourselves as the Board of Health and specifically approve the vault and haul. The reason that we know this is because we've working on the ISDS issue for your new regulations and the state regulations specifically say that you have to as the Board of Health approve vault and haul.

Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

Approval as Board of County Commissioners

Commissioner McCown made a motion that we approve the special use permit for one (1) employee housing facility located 25.5 north of DeBeque with the twenty-two (22) conditions as recommended by staff.. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Approval as the Board of Health

Commissioner made a motion that we go into the Board of Health. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion that we approve the special use permit for one (1) employee housing facility located 25.5 north of DeBeque with the twenty-two (22) conditions as recommended by staff. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown made a motion that we come out of the Board of Health. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW TEMPORARY EMPLOYEE HOUSING WITHIN THE RESOURCE LAND ZONE DISTRICT. APPLICANT IS BERRY PETROLEUM AND MARATHON OIL COMPANY – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, Doug Dennison, and Amy Stoodt from Marathon Oil 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. The Board approved the noticing. The parcel is 880 acres. At the time of noticing the owner was Barry Petroleum; just a few days after the noticing, Marathon Oil bought ownership into the property. They renoticed and the one to Berry Petroleum was returned. Amy for Marathon stated as the new 50% owner they are willing to go forward. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application; Exhibit F – Letter from Colorado Division of Wildlife dated March 1, 2008; Exhibit G – Letter from Mountain Cross Engineering, Garfield County Consulting Engineer, dated March 10,2008; Exhibit H – Email from Garfield County Road and Bridge dated February 8, 2008; and Exhibit I – Letter from Grand Valley Fire Protection District dated February 27, 2007.
Chairman Martin entered into the record Exhibits A – I.
The Building and Planning Department received a Special Use Permit (SUP) application for a "Temporary Employee Housing" facility on property owned by Berry Petroleum Co. and Marathon Oil Co. described as Parcel No. 213532100009 (880 acres) and located approximately 18.7 miles north of the Town of Parachute.
More specifically, the Applicant requests approval for up to eighteen (18) Temporary Employee Housing units to house personnel for the purpose of natural gas drilling operations. The proposed housing units will provide housing for up to four (4) people in each unit (maximum of 72 employees). If approved, the proposed Temporary Employee Housing facility will be located on the previously approved Warehouse Facility and Staging Area. The Board of County Commissioners (the Board) approved the Warehouse Facility and Staging Area Conditional Use Permit on December 17th, 2007. According to the applicant, the site is relatively close to the Town of Parachute. The proposed housing facility will not be contained on an approved COGCC well pad. This facility will be considered a "Centralized Temporary Employee Housing Facility". Marathon Oil Co. anticipates the proposed location will be utilized for approximately four (4) to eight (8) years. The maximum allowable time length for a Temporary Employee Housing Special Use Permit is one (1) year. At the Boards discretion, the Special Use Permit may be renewed annually during a public meeting with notice by agenda only. The maximum number of people to be housed at the facility will be seventy-two (72). This application was reviewed by Staff in accordance with Sections 5.03 and 5.02.21 of the Zoning Resolution of 1978, as amended. The application submittal cites Berry Petroleum as the owner of the subject property. Following the submittal of the application, Marathon Oil Company and Berry Petroleum Company entered into joint ownership of the subject property.
SITE DESCRIPTION
The subject property owned by Berry Petroleum Co. and Marathon Oil Co. is a total of approximately 880 acres and is located approximately 18.7 miles north of the Town of Parachute. Generally, the subject property is described as currently being used for intense industrial gas development. Topography on the properties can be severe and ranges from valley floor to plateau.
STAFF RECOMMENDATION
Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be

onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review of the Special Use Permit shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.

11. Inhabitants of the temporary housing shall be applicant's employees and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more extinguishers of type 2A-10BC shall be located in an open station so that it will not be necessary to travel more than seventy-five (75) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for the facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
23. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is four (4) per housing unit.
24. The maximum number of Temporary Employee Housing units permitted under this Special Use Permit is not to exceed eighteen (18).
25. Sewage systems shall to be installed and maintained in accordance with the Garfield County and the State of Colorado ISDS regulations and shall be installed prior to the issuance of the Certificate of Occupancy.
26. The facility shall have a minimum total capacity of 24,000 gallons of potable water storage which shall be refilled a minimum of every two (2) days.
27. Wildlife-proof refuse containers shall be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.

Craig addressed Chris Hale's comments in Exhibit G, a man camp is four (4) to (8) eight years and this duration is for more permanent installation than of the SUP proposed; they are going to create a multiple ISDS and they will come in on a yearly basis and request renewal from the from the Board. No. 2 the applicants propose to install the man camp with temporary solutions to water and sewage as they work on a more permanent solution as we just discussed and they will continue to haul in water but they will install ISDS so the waste will be more permanent. The water supply is up to the applicant to make sure they are buying a legal source of water; the structure calls for sprinkling and the applicant will address this. Doug Dennison – ISDS – Some engineering has started. Last fall we did some perk tests and preliminary engineering was done; that engineering will be refined and completed and we'll submit whatever application is we find we can't do a separated system then we'll have to do the state site plan. On the water supply this is based on my previous history in that area and the likelihood of drilling a well with a good quantity of ground water is not very high and it has not proven to be feasible. Amy Stoodt – regarding fire suppression issues; we have a dedicated tank for that use. The Board will see an application for fresh water ponds that would be our primary source for that fire water long term. Those facilities will be up to 100,000 barrels of fresh water that would be available to us for that purpose that will sit adjacent to this facility. Condition No. 8 does not seem to apply to this facility because it is for 24 or less people. Chairman Martin – we're still going to see a 24,600 gallon tank up there?

Doug – the units are procured and Marathon will meet with Grand Valley Fire District and make sure they are comfortable with our water storage. David Blair, Grand Valley Fire Protection District – The only thing we would request on the pond is that they put in a dry hydrant so we have water access in the wintertime as well.

Carolyn the bonding company should require that this SUP be attached to that bond as well; otherwise the bond might say when you quit using it as a laydown yard you've got to reclaim it. So please get an amended bond to us.

Commissioner McCown made a motion to close the public hearing. Commissioner Houpt seconded.

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

Commissioner McCown made a motion we approve the SUP for temporary housing with the twenty-two (22) Conditions as noted by staff. Commissioner Houpt seconded.

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

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

CONSIDER A SPECIAL USE PERMIT FOR A CUTTINGS PIT (MINERAL DISPOSAL AREA) ON 6.33 ACRES LOCATED APPROXIMATELY 10 MILES NORTH OF THE TOWN OF DEBEQUE AND OFF COUNTY ROAD 211. APPLICANT IS CHEVRON USA INC. – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Julie Justice and Sally Culpin for Chevron were present. David passed out Exhibit O – A letter received on April 4 indicating that the applicant wishes to withdraw this application.

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN INDUSTRIAL SUPPORT FACILITY FOR A TEMPORARY EMPLOYEE OFFICE. APPLICANT IS AMERICAN SODA, LLP REPRESENTED BY ENCANA OIL AND GAS (USA), INC. – FRED JARMAN

Fred Jarman, Carolyn Dahlgren and Brett Crabb with EnCana 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. The Board approved the noticing. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E Staff Memorandum; Exhibit F – Letter from EnCana Oil and Gas USA to BOCC dated 3-24-08 and Exhibit G – the initial application. Chairman Martin entered Exhibits A – F into the record. The Description of the proposal was given by Fred saying this property was leased to EnCana Oil and Gas and they want to locate a 60' x 42' Temporary Employee office on the property. This is an Industrial support facility. Owner is American Soda and operator is EnCana Oil and Gas.

They have requested a 60 x 40 temporary employee office. It will specifically be three modular units together having 10 office spaces, 2 accessible bathrooms, conference room, small kitchen and storage rooms. They propose a vault and haul scenario. They plan to construct a larger facility and the Building and Planning believes they will do this. There isn't a well servicing this facility. This is a policy question as to what the Board would like to do. Focus on temporary and vault and haul system.

Conditions of Staff:

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be no increase in traffic on unimproved roadways and county roads which will promote safety and well being, 3) the proposed facility is in conformance with the Comprehensive Plan of 2000, 4) and that the proposed facility meets the requirements set forth in Section 5.03, 5.03.07 and 5.03.08, Staff recommends the Board approve the request for a Special Use Permit for an Industrial Support Facility in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility to be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. The Applicant shall comply with all standards as set forth in 5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
    a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes
    b. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
    c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
    d. Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
    e. Storage of flammable or explosive solids or gases shall not be permitted at this facility.
    f. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.
    g. Repair and/or maintenance activities shall not be conducted at the permitted facility.
    h. Heavy equipment storage shall not be conducted at the permitted facility.
    i. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
    j. Any exterior lighting shall be controlled by a motion sensor, pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
4. All Special Use Permits for Temporary Employee Offices are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
5. Water and wastewater systems proposed to service the Temporary Employee Office must comply with all applicable state and local laws and regulations.
6. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. The operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
7. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
8. The maximum allowable time length of the Special Use Permit for Temporary Employee Office is one (2) year period. Should the use exceed the two year period, the owner shall be required to install more permanent water/wastewater services such as well and ISDS.

9. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Office is 13.
10. The facility shall have a minimum total capacity of 4,500 gallons of potable water storage.
11. The facility shall have a minimum total capacity of 4,500 gallons of sewage and wastewater storage capacity.

Applicant: 80% of the building was leased from American Soda. The water and sewer lines do not go pass the railroad tracks. It's on the same system but on a much larger scale. Huge water tanks and it is tanked in.
Commissioner McCown made a motion to close the public hearing; Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

Approval as Board of County Commissioners

Commissioner McCown made a motion that we approve the special use permit to allow for a temporary office facility with the conditions of staff changing number nine (9) to allow up to twenty (20) occupants, less than permanent. Commissioner Houpt seconded. The intent is to build an office complex and this is to hold people who don't have office space right now until that is complete. Chairman Martin – a limitation of up to two (2) years.
Fred drew attention to Condition Number eight (8). What we're saying here is after the two (2) year period then it's basically revisited on this application. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A TEXT AMENDMENT TO SECTION 5.02.21, 5.02.22 AND 5.02.23 OF THE ZONING RESOLUTION OF 1978 AS AMENDED REGARDING TEMPORARY EMPLOYEE HOUSING (CONTINUED FROM NOVEMBER 19, 2007, FEBRUARY 4, 2008, AND MARCH 10, 2008). APPLICANT IS THE GARFIELD COUNTY COMMISSIONERS – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present. David submitted three (3) new exhibits, however he went through the entire exhibits: Exhibit A – Code Language which we've identified as the McCown proposal; Exhibit B – application, also known as the McCown proposal; Exhibit C – staff suggested changes to McCown proposal, identified as Staff Modified McCown proposal; Exhibit D – Planning Commission and Staff recommendation identified as PC and Staff Application; Exhibit E - letter from Sara Steinsign of the Glenwood Springs Association of Realtors dated April 3, 2008; Exhibit F – Email from Liza Bracken, dated April 4, 2008; Exhibit G – the what we have termed in the presentation, the Houpt proposal received April 7, 2008. Chairman Martin entered the new exhibits.
The Garfield County Board of County Commissioners ("Board") held a public hearing on March 10, 2008 regarding a text amendment to the Temporary Employee Housing regulations. Below is a list of the key events which took place at this hearing:

- Staff presented an overview of additional information requested by the Board at the February 4, 2008 public hearing.
- The Board heard public comment concerning the text amendment application.
- The Board expressed concern regarding several points of the Staff and Planning Commission proposed text amendment and continued the public hearing to the April 7, 2008 BOCC meeting date.

Staff understands that the Board desired additional time to review the proposed text amendment as well as the new public comments received at the March 10, 2008 BOCC meeting.

Correspondence since March 10, 2008

Since the March 10, 2008 public hearing, Staff has received input from Commissioner McCown indicating a possible application format and requirements for Small Facilities.

<u>The following exhibits are attached:</u>
Exhibit A – Code Language ("McCown Proposal")
Exhibit B – Application ("McCown Proposal")
Exhibit C – Staff Suggested Changes to McCown Proposal ("Staff Modified McCown Application")
Exhibit D – Planning Commission and Staff Recommendation ("PC/Staff Application")

Given the provided information, Staff understands that the McCown Proposal suggests the following:

1. Small Facilities should be limited to eight (8) people.
2. Occupancy should be based on people, not beds.
3. The McCown Proposal requires notification to the Fire Protection District and Sheriff's Office but the Notification does not require a Sign-Off from that district or Office. However, the Small Facility will need to be reviewed by the relevant Fire Protection District regarding initial fire suppression prior to submittal of the notice (checklist) to the Garfield County Planning Department (per Performance Standard L within the McCown Proposal).
4. Small Facilities should be exempt from all Garfield County Building Permit and Fire Code requirements. However, in the McCown Proposal such facilities will be required to abide by all pertinent State, Federal and Fire Protection District permits and regulations.
5. Small Facilities should be inspected by a third-party Professional Engineer licensed in the State of Colorado prior to occupation.
6. All submittals should be provided to the County within 48 hours of occupation. Submission requirements should consist of:
    a. A Notice document which would include identifying information about the unit, location and dates of intended use.
    b. A Certification performed by a licensed third party inspector (P.E.) verifying that the Small Facility meets the performance standards as outlined in the McCown Proposal.

Following a review of the McCown Proposal, Staff has several issues/questions which would need to be responded to prior to adoption.

1. "Manufactured Homes" – The McCown Proposal specifies the use of manufactured homes instead of Factory Built Nonresidential Structures. However, as Small Facilities will be required to abide by all pertinent State regulations, Resolution 35 of the Colorado Division of Housing requires that the units utilized within Small Facilities be Factory Built Nonresidential Structures as defined in Resolution 35 and not manufactured homes as defined in CRS 42-1-102(61).
2. "Essential Personnel" – The suggested language within the McCown Proposal uses the term "Essential Personnel". Since there is no accepted definition of "Essential Personnel", Staff does not recommend the use of this term.
3. "Licensed Third-Party Inspector" – Without a definition of what this means within the adopted regulations, the allowable field of inspectors is very broad. Staff recommends that the language be tightened up in the regulations to specify exactly what qualifications an inspector must possess to be able to inspect and certify a Small Facility. The McCown Proposed application (not regulations) states that either a Professional Engineer or a "commercial building inspector certified by the International Code Council" may inspect the Small Facilities.
4. Notice within 48 hours of Occupation – Currently, Staff recommends that all notification and submittals be conducted at least 24 hours prior to installation. However, this recommendation is based on the assumption that a Building Permit will be issued for the Small Facility. The McCown Proposal is for a notice period within 48 hours of occupation. Staff does not foresee any issues with the recommendation if no Building Permits are being issued, however it is unclear as to whether this means 48 hours prior to or after occupation of the facility. This language should be clarified before adoption of this recommendation.
5. That proposed application states: "The County Building Department's will advise the Applicant within 48 hours of receipt if any deficiencies with the application are identified." – As a clarification, this scenario is only a notice or checklist and as such there is no subsequent approval or denial. In other words, the checklist is not an application and hence there is no application. To this end, the County has no immediate recourse to require adequate or correct information. If it is found that the provided information as required in the Zoning Resolution is not accurate or correct, this matter will be considered a Zoning Violation and pursued as such.
6. Performance Standard L – As a point of review, as recommended the notice (checklist) and plans will need to be reviewed by the relevant Fire Protection District prior to submittal to the Planning Department to make a determination on the size of the water storage tank for initial fire suppression as required in Standard L within the McCown Proposal. The Fire Protection Districts have requested to have the ability to review each facility individually for initial fire suppression.

Based on a review of the McCown Proposal, Staff has provided a draft application form (Exhibit C – "Staff Modified McCown Application") which is in the same style as the existing Garfield County Building and Planning forms and changes several areas in response to the issues as addressed above. In addition, whereas the McCown Proposal modifies some of the language within the Performance Standards as suggested by the Staff and Planning Commission, the Staff Modified McCown Proposal utilizes the Performance Standards verbatim from the Planning Commission recommendation with some exceptions as outlined below. The differences between the recommended application and the staff drafted application are as follows:

1. "Manufactured Homes" – In order to maintain consistency with any State regulations, Staff recommends that all references to "manufactured homes" be changed to read "Factory Built Nonresidential Structures".
2. "Essential Personnel" – Staff recommends removing "Essential Personnel" from the classification and has replaced it with the following language: "The Small Facility shall be occupied by eight (8) or fewer employees, contractors or sub-contractors of the operator who are needed for onsite safety of the related commercial, industrial, extraction or highway operation."
3. "Licensed Third-Party Inspector" –Although anyone may become a building inspector certified by the International Code Council by taking and passing prescribed tests, Staff understands that the Code Council does not have a review board or reprimand for non-compliance with applicable regulations. To this extent, without the backing of a PE stamp and license, an inspector certified by the International Code Council lacks the credibility of a PE. To this end, for the reasons of uniformity and credibility, Staff has inserted language specifying that the certifying individual be a Professional Engineer (PE) licensed in the State of Colorado. This language should appear both within the Checklist and the Zoning Resolution.
4. Notice within 48 hours of Occupation – Staff recommends that all notifications and submittals of required information occur within 48 hours *following* occupation and removal of the Small Facility to allow for weekend installations.
5. The McCown Proposal states: "The County Department will advise the Applicant within 48 hours of receipt if any deficiencies with the application are identified." – Staff has left out this language from the Staff Modified McCown Application and regulations since it is not appropriate to a notice or checklist which does not obtain a formal determination of approval or denial. Further, in order to enable staff to act on submittal issues as Zoning Violations, Staff recommends inserting the following Performance Standards into Section 5.02.23 of the Zoning Resolution of 1978:

A. The Operator shall obtain a certification inspection conducted by a third-party independent Professional Engineer Licensed in the State of Colorado. The certification shall verify that at the time of inspection the identified Small Facility meets or exceeds the standards set forth in Section 5.02.23 of the Garfield County Zoning Resolution of 1978, as amended. This certification shall be on forms provided by the Garfield County Planning Department. The certification shall be provided to the Garfield County Planning Department within 48 hours prior to occupation of the Small Facility.
B. The Operator shall accurately complete an Administrative Checklist provided by the Garfield County Planning Department identifying the location of the facility (Section/Township/Range, relevant Tax

Parcel Number, and GPS coordinates or Latitude/Longitude coordinates); relevant zone district; maximum number of occupants; cumulative amount of time (in days) that the Small Facility will be at the specified location; identification of the State or Federal permitting agency overseeing reclamation, rehabilitation and revegetation of the Permitted Site and relevant permit number; date of installation; date of removal; name and contact information of the relevant landowner; name and contact information of the Operator; 24-hour emergency contact information for the Operator; building information (make, manufacture year, serial number, size (square feet)); signature and contact information of the Operator's contact person.

6. Performance Standard L – Considering input from the Fire Protection Districts in regards to the amount of initial fire suppression water which should be provided at a Small Facility, Staff recommends that the Operator consult with the relevant Fire Protection District prior to installation regarding appropriate sizing of initial fire suppressions tanks. A line has been added to Page 2 of the Staff Modified McCown Application regarding this requirement. However, should the Board wish to impose a specific size for the water storage tank, Staff recommends 2500 gallons of water storage for fire suppression per Small Facility based on initial reviews by the Fire Protection Districts and the Sheriff's Office.

III. Differences between Staff Modified McCown Application (Exhibit C) and PC/Staff Application (Exhibit D)

In addition, Staff has prepared a draft application for the Planning Commission and Staff recommended Small Facility regulations ("PC/Staff Application"). Below are the major differences between the Staff Modified McCown Application and the PC/Staff Application.

1. Submittal Timing – As the Staff Modified McCown Application does not require a Building Permit, this Administrative Checklist is to be submitted within 48 hours prior to the occupation of the Small Facility. On the other hand, since the PC/Staff Application would require a Building Permit, this Administrative Checklist would be submitted as an addendum to the Building Permit itself.
2. Building Information – Since the Staff Modified McCown Application does not require a Building Permit, additional information is required regarding the units to ensure that they are not recreational vehicles as well as keep track of the units which are being utilized on the Permitted Sites.
3. ISDS Permit Number – Both the Staff Modified McCown Application and the PC/Staff Application assume that the operators will be required to obtain ISDS permits from Garfield County for vault-and-haul systems. The Operator will be required to identify which permit number the vault-and-haul system is permitted under for the Small Facility. In addition, Staff is currently working to determine the feasibility of a general ISDS permit for Small Facilities. If this works out, the general ISDS Permit Number will be required in this line to indicate the permit number which allows for that particular vault-and-haul system. In addition, any other necessary changes will be made to the application form itself.
4. Performance Standard L (fire protection) – A section stating the requirements of Standard L and a line to indicate how much water storage capacity is required for the site per the Fire Protection District input is provided in the Staff Modified McCown Application. The PC/Staff Application satisfies Standard L through the Fire District or Sheriff's Office sign-off sheet.
5. Submittal Requirements – Staff understands that the requirements for a site plan are recommended to be dropped from the PC/Staff Application. As a result, there is not a checklist for submittal requirements within Staff Modified McCown Application. Further, it appears that the requirement for submittal of the State or Federal Permit (APD) has been dropped from the McCown Proposal. As a result, this submittal requirement does not appear on the Staff Modified McCown Application.
6. Performance Standard Submittal List – In order to ensure that Garfield County can pursue a lack of accurate information as a zoning enforcement issue, Staff has inserted Sections Q and R into the Performance Standards section of 5.02.23.
7. Certification by a Third-Party Inspector – As demonstrated in the Staff Modified McCown Application and the McCown Proposal, the third-party inspection is to be conducted by a Professional Engineer (PE) who is licensed in the State of Colorado. As stated earlier, due to uniformity and credibility concerns, Staff does not recommend the use of inspectors certified only by the International Code Council. Since the PC/Staff Application presumably requires Building Permits, only the Operator Contact signature indicating that they have read and understand the standards to which the Small Facility will be held is required.
8. Fire District and Sheriff's Office Review – Although both the Staff Modified McCown Application and the PC/Staff Application require review by the relevant Fire Protection District, only the PC/Staff Application requires that a representative of that department sign the form indicating that all necessary information has been submitted for that department to perform their intended function efficiently. The Staff Modified McCown Application (and McCown Proposal) requires that the Fire District or Sheriff's Office review for the size of the initial fire suppression tank at the Small Facility. The PC/Staff Application allows the Fire Protection District or Sheriff's Office review of fire extinguisher, smoke alarm and sprinkler system placement in relation to this checklist process.

In summary, as this memo points out, Staff received a proposal from Commissioner McCown, but has not received any comments from any other commissioners. So, Staff has only run a review of the McCown Proposal and compared it to the PC/Staff recommendation.

Staff sees that there are several major issues regarding the Small Facilities which require Board attention before this text amendment can move forward. These issues are:

1. Building Permits – Should Small Facilities be subject to Building Permits?
2. Notification/Review – To what degree should the Fire District and Sheriff's Office be notified of Small Facility development?
3. Occupancy – What should be the occupancy of Small Facilities?
4. People vs. Beds – Should occupancy be based on beds or people for Small Facilities?
5. Site Plan/Map – Should a comprehensive map/site plan be required for Small Facilities?

6. ISDS Permits - Should the Board pursue ISDS permit exemption for Small Facilities? Would the Board like Staff to keep pursuing the possibilities of a general ISDS permit for Small Facilities?
7. Fees - Should a fee be charged to recover costs associated with the Administrative Checklist? *(The current fee for Special Use/Conditional Use Permits is $400)*

In addition, there are a couple issues regarding the Minor Facilities (Administrative Permits) which require Board attention before this text amendment can be adopted. These issues are:

1. AWDP Option - Does the Board want to maintain the Area Wide Development Plan option for the Minor Facilities (Administrative Permit)?
2. Notice - Does the Board want to differentiate noticing requirements to neighboring property owners to simplify the notification process within the Resource Land zone district (200' from Permitted Site vs. 200' from Subject Property)?

The Houpt proposal:
In order to balance the needs of the industry with the needs of the landowners in Garfield County; it is my proposal that we adopt a regulation that provides the following for Small On-site Temporary Employee Housing:

- Permitting Process: Administrative –
  1 – 8 personnel (maximum is increased by 2 from original proposal)
  Same number of beds as personnel
  County sign-off requirements addition – signature of landowner
  7-day (instead of 14) appeal period for Small On-site Housing

Having an Administrative permitting process in place addresses issues raised by all of the various stakeholders.

- It reduces the time it currently takes to obtain permitting for housing, while giving the County authority to regulate such use.
- It encourages and facilitates agreement between the parties on location, duration and number of people being housed on a landowner's property.
- It allows the industry to obtain the necessary sign-off signatures themselves, which can speed the process up for them.
- My proposal decreases the number of days required for appeal for Small On-site Housing from 14 to 7 days.
- It recognizes the landowner's right to participate in planning for housing on their property.
- It notices neighboring landowner's who may be impacted by housing of employees.
- It recognizes the importance of allowing "essential personnel" 24 hour access to the site during the drilling and fracing process.

Doug Dennison, Cordilleran Compliance. As far as the proposals per David's thrust, there are not too many issues with the McCown or the staff proposal. There is still the question on the 3rd party and consider the International Code Council as a qualified individual to sign off on these facilities. Email – fire protection standard and not much of an issue, once set up they will travel with these units and any fire protection district would only be a one-time thing. He pointed out in previous language, the standards for the three different tiers, which are sprinklers – go through the process with the fire district and this won't be the case and needs to have this clarified unless it is mandatory by the state. These proposals focus on the small facilities up to eight (8) people. As industry folks have testified in the past for those housing for twenty-five (25) people and above, nobody objects to the Special Use Permit (SUP) process but some issues need to be discussed on the middle tier which is the nine to twenty four (9 – 24) personnel that are called minor facilities. One of the bones of contention is how building permit requirements are applied to those facilities. In previous proposals, our approach is to exempt those facilities from the building permit process like these proposals you have in front of you for the small facilities. From the industry's standpoint the up to eight (8) people and the nine to twenty four (9 – 24) are essentially the same, the need is the same, they are contained within a well pad, they are associated with a particular drilling operation, and when they are moved they are going to be moved with that rig. These units need to be established very quickly just like the small facilities and they're typically the larger size which is dictated by the remote location requiring more people to be on site. So, we would like you to consider how the building permit requirements are applied to those and similar comment about the language on the fire protection. There will be some that may not require sprinkler systems. Basing these tiers on people and not on beds, he pointed out at the last hearing that the middle tier would not have any notification requirements but in the staff's proposal we have put that back under that administrative process and it does require notification to the landowner and to the surrounding landowners; and it even has provisions for it to be called up to a public hearing if somebody can make that case. *Chairman Martin* –on that middle tier as well as the small one, that is still a state certified, non-residential unit or did they go ahead and put the residential unit on the small temporary? *DougDennison* – let some of the supplier's answer that question. The other point is with the exception of how the building permit requirements are handled, the standards that the industry has supported from day one is essentially the same for the big long-term centralized facilities all the way to the smaller facilities. I know there are some folks that have raised questions about people living on their property; fact of the matter is that every drilling operation in this County has always had a certain number of supervisory people living there. That's been the industry practice for decades and as I've explained before, if I was a landowner I wouldn't want that drilling operation there if there weren't people around the clock to manage it. I think this is an improvement over where we are right now. Where we will actually have standards that everyone of these facilities have to meet and you'll have some recourse to enforce standards if people don't. So, I think it's a good thing to look at standards for all of those facilities.
John Anderson - Holland & Hart representing Stallion Oil Field Services – the state certification program would be required for those minor facility units. The state certification process would apply to all factory built non-residential structures whether it be small, minor, or major. From our position the McCown proposal is very good, it made sense and is very workable from the industry's perspective and it seems like it addresses a lot of the concerns that various individuals and entities had. I also wanted to point out that the staff changes were very good and it made the McCown proposal go from good to very good. It makes a lot of sense; all the changes make it a very comprehensive, regulatory structure and it's our position that this is a very good system before you. The point that Doug made regarding sprinkler systems in Paragraph L of the Modified McCown proposal, it wouldn't require much of a change; all it would require is a provision "if a sprinkler system is required" a water storage tank shall be required - that's common sense.

Elizabeth Chandler – GVAC – agreed with Doug Dennison that by having the proposals and standards and certification is a step forward and is an improvement over the existing situation; we're all in agreement to have the workers protected and we certainly want safety standards for them as well as health standards. My issue is "Use by Right". In a standard surface operating agreement when you sign something that says as "other equipment" as needed I don't think a reasonable person envisions that as people living there. This gives me heartburn and I feel it takes over property rights and is a "taking". This is not appropriate. She said she is searching for a middle ground; some direct language that this may allow essential people to be on this site and gives the property right notification and if not then a SUP to give the landowner a right over their property. Things are getting closer to town; we're not giving these employees the right to be a member of the community and live with others. She related it to if we had teachers and others living in the community saying it builds community so we should encourage you in the minor department to look outside the box – this is talking about affordable housing. *Chairman Martin* insisted this is not affordable housing and he clarified the misconception of "Use by Right". There are currently no standards in place and this goes through an application and all the standards are looked at. We, the County, simply do not require a formal hearing; but we're not giving someone permission to go onto to someone's land – that is done when the landowner signs off on a Surface Use Agreement which the County has nothing to do with. That is between the landowner and the oil company. More discussion occurred with the same subject – a misunderstanding of the Use by Right. Commissioner McCown and Chairman Martin both maintaining the same position that this is not a "taking" of property rights. *Commissioner McCown* noted the Rio Blanco permitting of these units saying they permit every piece of equipment; there's no inspections, no permitting; they tag it as a rental unit. It's counted as tanks and is counted as temporary facilities. *Liz Chandler* – the landowner signs a surface use agreement, it seems deceptive to me to include people as equipment. It's not an informed use.*Commissioner McCown* – Do you think the oil and gas can come in and not have people to operate the equipment? That system runs 24 hours a day. *Liz* – working people are different than people living on your property. *Commissioner McCown* - what's so different than these workers compared to firemen and ambulance personnel? They work 4 days 24 hours and they get to sleep. The bell rings, they wake up; they are on site during the 24 hours for your protection. If the phone rings at 3 p.m. they are on site. The industry wants them on site; they do not infringe on any property rights, if anything this is simply a matter of waiving a building permit on a building as a "Use by Right". Exhibit G – *David* has a presentation – after the last meeting's discussion it became apparent the working group has been effective and have left out stakeholders; he looked at the notices and in order to balance the needs of the landowners and the oil and gas industry, he looked at an administrative permit. There is not an argument that essential personnel is needed, it's a question of what makes most sense for regulating that use and how to do it. There's a lot of activity on residential areas and he wants to make sure what everybody is doing. The original recommendation was up to six (6) industry workers and he agrees that eight (8) is a reasonable maximum. He suggested a sign-off form that the County would have and added a signature line for the property owner which would tell the landowner how many people, where and what length of time. This will still reduce the time to issue and it encourages and allows the industry to have the sign-off signatures. The industry is in control. *David* added that it decreases the days for appeal from 14 days to 7 days and recognizes the landowner to participate as landowners and to know the direct impacts; it allows essential personnel during drilling. I'm not in support of what was presented but moving the small facilities to the administrative process and adjusting it to a shorter time line; this addresses the property owners and the industry. These are major snags and important to put in place. The real estate agencies remember the standards that others are held to and have voiced those concerns to us. We are listening to all stakeholders and trying to find a compromise. *Sarah Steinsign* sits on the Government Affairs Director for the Glenwood Association of Realtors which comprises more than 310 realtors across Garfield County. She submitted a letter and stated that our members believe that the man camps should be held to the same standards as developers. While the oil and gas industry is essential to our economy, it does not deserve special treatment. Requirements for development of infrastructure, water, sewer, fire mitigation and roads should be in place as in it is any new housing development in the County. Clean up of a site after temporary housing has been moved is critical. We believe it is unfair and potentially unsafe to allow the oil and gas industry to self-regulate itself. Our recommendation is go with the staff planning recommendations; to have those checks and balances; and to have a place on the application where the landowner must obtain sign-off that they know and are in agreement. The signature line is great. *Commissioner Houpt* asked Sarah is she had ever been on a rig tour.
David Blair said he supports the planning commission recommendation; it is a very good compromise and it requires a review on behalf of the fire district; he likes the exempt process and going to a 3rd party inspection but questioned how that will that fit in and what is exempted. The "if" statement for sprinklers is bothersome but he likes the water on site for a wildland fire. The concern is over the permitting system. They have always worked with the industry and would still like to be involved. He didn't agree with the concept of no checks and balances and classified this as a huge oversight. David and the crew with Commissioner McCown's input have kept the fire districts in the loop and he asked not to remove the fire district as a signer; he said they could fax or email a response and it would only take 15 to 20 minutes to send it back. *Herman Stouffer* – representing Pepi Langegger, expressed concern to hold the oil and gas industry to the same standards that we have to live to when we have temporary housing. He wants to give landowners an opportunity to state their case and by notifying them as Commissioner Houpt supports in her proposal would be the one he favors. If there is no Surface Use Agreement (SUA) the industry can put up a bond of $3,000 with the state and not negotiate with you. Would you like to be in the same position if housing of personnel were to be one hundred fifty feet (150') from your house and if they were going to drill twenty-two (22) wells and you know it will take more than several months. His argument was that the personnel on site might change. He expressed once again about the affordable housing issue and stated property north of Silt in subdivisions are for sale and each one of you can find houses for sale and use for employee housing. Resort communities have problems from Vail to Snowmass and Aspen and there is a three (3) hours a day commute to have a job. The oil and gas industry needs to be there for safety reasons but you have people working there twelve (12) hours a day and you can have someone living twenty to thirty (20 to 30) minutes away. Herman said he came from a country where you have no rights. He agreed that the industry has a right to extract the minerals and they are not going to go away. He favors going with Commissioner Houpt's plan where the property owner can speak up as to whether someone can live on their property. *Amy Stoodt* of Marathon Oil referenced a couple points: 1) we have been called worst than equipment. 2) Seriously, Marathon Oil has eight thousand (8,000)

miles of pipeline and it's impossible to have rig sites and not have people on those locations to respond to emergencies. 3) Some of these workers live in Fruita and work on top of the mesa. *Dean Tinsley* of Williams commented on Liz Chandler's comments on SUA's saying that is a very valid comment and as an industry they would add language regarding housing. The McCown proposal hinted at it and people living on the rig site has been part of the industry for many years. Industry calling personnel, equipment is an invalid comment and he said they strive to have their personnel, whether it be one to eight (1 – 8) and nine to twenty four (9 – 24) where they can provide comfortable living quarters and a safe environment for the employees with TV, warm beds, and food – these are people that we place extraordinary value on and he takes her comments a little bit personally. Second, with regard to Mr. Blair's comment on the wildfire issue, it's ironic that the COGCC draft rules that just came out and they recommended review; they significantly increased the risk for wildfire in Garfield County and so there is definitely a dichotomy there between the COGCC rules and what's going here at the County level as far as his recommendations. Several years ago there was an effort to increase the well density in the Piceance Basin from forty to twenty to ten (40 to 20 to 10) acre spacing which means one well per 10 acres and several hearings were held at the COGCC regarding these increased density rules. One of the interested things about many of those orders that were written was that in areas of increased density SUA's are absolutely required to receive an Approved Permit for Drilling (APD) from the COGCC so I really think that the landowners have had and will continue to have a large say in how their land is used. They have the avenue to do that via the SUA. I do think that we should probably add some language in there about housing but the landowners absolutely, positively have an avenue to negotiate with the operators on surface use. If we were to do administrative approvals on the zero to eight (0-8) facilities, it would be approximately four hundred (400) a year so that's quite a bit for the County staff to handle and regarding this gentlemen's comments on the number of houses for sale, we'd need to buy in order to house our industry workers; it would take up most of Garfield County. This is not a housing issue and not an affordable housing issue as Chairman Martin said. This is a safety issue, it's an environment issue; it's removing traffic of the roads; and it's an efficiency issue - it's not a housing issue. *udy Jordan* – Laison for the County, posed a question saying as we know we had a discussion this morning about the new regulations and Mr. Tinsley is saying that the possibility of creating wildfires goes up and I think you need to know why that would be the case in the process of developing our comments to the COGCC. *ean Tinsley* – Oe of the things that is again interesting about the new draft rules; I would encourage the County staff and the fire district to look at these very closely because they do require, on the completion side, when you frac and produce a well, they require much more stringent regulations that would actually require some more flaring of gas and anytime in the high county or down in the valley, anytime you add more flaring to the equation it increases the possibility for wildfire. The industry has worked real hard to come up with some innovative things over the last ten (10) years to remove flaring from the equation and there are actually some clauses in the new rules that actually promote flaring. *hris Putnam* with Encana added a new aspect to the length of time the company personnel is on a shift saying the reason is two-fold: first we seek out highly trained personnel in order to do this job and to complete the well with competency, ensure safety, reduce liability and those people are not very numerous so in order to increase these to a twelve (12) hour shift and change staff, you might be dropping the competency level for person on location because we do seek out the most highly trained people to do this job; secondly it's like the telephone game, the more times you turn over this operation to someone else, the more you're increasing the changes of something being mis-communicated. If the person is on a location for the length of time to run an operation they are allowed to run that operation and nothing goes on that they don't know about; the turnover is greatly reduced and it's allowed that highly trained personnel to stay more on top of the situation. So there are practical aspects of have the same essential personnel at a rig site and it's not just for convenience. Chris clarified those other eight (8) essential personnel who are defined is driven by technology that we have developed in the oil and gas industry to reduce environmental impacts; so as we gain efficiency in that regard, more technology is required to drill directionally and to reduce the environmental impacts and in that technology more people are required to make sure that technology is run smoothly. As needed those people on the rig are very highly paid so no one would be on location unless absolutely necessary and mandated by the technology on location and as a company or a well demands that technology be available, the number of people fluctuate with the technology. Some of job titles were given: mud engineers, directional drillers, company man himself, air hands, fisherman, and tool pushers – people with precision jobs that are very qualified for what they do. *Frank Smith* – Western Colorado Congress (WCC) – thanked the Commission for hearing me today. My colleague on March 10 came here to express Western Colorado Congress concerns associated with the potential rules changes to Temporary Housing and I am here once again to mirror those same sentiments. WCC and the members of which hundreds (100's) reside here in Garfield County are concerned about not only the potential infringement of the property rights but they are also concerned about anytime where their voice could potentially be left out of the equation. WCC definitely appreciates Commissioner Houpt's Exhibit G and would suggest that would be a wonderful direction to go because of that extra line being placed on it where the landowner does in fact have to consulted and put an x right there by their name. That is extremely important in the process in order to require their voice as being heard. Surface Use Agreements, he asked Ms. Houpt, according COGCC right now, what sort of proportion is out there if you are at liberty to say, what portion is out there where there are SUA's in place. Is it at least in majority? *Commissioner Houpt* – can respond but don't have the numbers in her head. Not every permit has a SUA and she also knows that several companies work diligently to get them put in place but it's not a hundred percent (100%) and depending upon how you calculate them, I've seen lower percentages than not. We're getting better at getting those. *Commissioner McCown* –there are some areas in the State, not Garfield County, but some areas in the state that the landowners prefer the bonding on process and then they are able to collect for any damages that occurs during the process. That in turns skews the amount of Surface Use Agreements (SUA's) and bonding on. I think you'll find in Garfield County than less ten percent (10%) of the wells drilled are bonded on. *Frank Smith* – anything less than a hundred percent (100%) is wrong. WCC feels that would be the wrong direction to head into and to assume that all landowners present or non-present have given their permission through that SUA for people to be on site is not a hundred percent (100%). *Chairman Martin* said that he hopes we all achieve a hundred percent (100%) but he didn't think we will. He called attention to the check list both in the review process of large facilities, medium facilities, and small facilities and everyone of them has the landowner name, the address, the phone number, email and again the contract that they either a Surface Use Agreement (SUA) or not on these processes and we want the best practices; we want the citizens to be protected; we want the companies to be

allowed to develop; again we're looking for the compromise that polarizes the communities with this issue. Either you're for it or against it. And the majority is in the middle. We're trying to find that balance. And the balance is the approach that we have a three tier item; are we going to have more than eight (8) people. You're in the middle if you're going to have more than nine to twenty-four (9 -24). Each level has performance requirements, inspections, and more review process than ever before. Even more than Rio Blanco has and I've reviewed theirs as well. My prediction is that once we perfect this and adopt this, the State of Colorado is going to come in through the Department of Health and say wait a minute; we're going to preempt you and have our own rules and regulations. And all of this has gone for nothing. I see that happening, at least we're going to be proactive in that and right or wrong, we're going to make a statement here and go ahead and put some rules and regulations in place; standards that we can all live by. And if we need to improve them such as a signature line on an application from a drilling company or oil company that says the signature is required for a landowner that may be very difficult to get because it becomes another document that ties the landowner to direct liability because that landowner then becomes part of the application. Maybe they don't want that; maybe they do. But, at least the information that has been identified as to who is there, etc. and who and how to get a hold of them; and if the landowner has got a real problem we have a liaison and we also have the Energy Advisory Board that he may be voicing his concern to, so. I think that we're on the right line.
Commissioner Houpt – So you don't see a need to have the landowner's even sign off even if you go with the "Use by Right" - I'm really quite appalled. *Chairman Martin* – A "Use by Right" again is not giving an oil company the right to go on someone's property, put anything there that isn't identified in the Surface Use Agreement. A "Use by Right" again is the ability to have it go through a check list through our staff that meets certain requirements and certain obligations, reporting as well. As these standards are checked off by the State of Colorado and if they meet that and it's a zero to eight (0 – 8) man facility that's the "Use by Right" that they can file with our staff and that staff can follow up and inspect it. That staff knows that those minimum standards are met by the oil company and if they're lying on it, its perjury and you have them on a criminal charge. *Commissioner Houpt* requested that David present his Power Point Presentation, which he did and completely explained what is listed in the staff report that is included in these minutes in the staff memorandum. *Herman Stouffer* - just listening to the whole thing, it might make sense to make a difference where there is company owned property, federal, or state property, Garfield property, or private property. Maybe that would eliminate some of the questions. The other thing is and I assume it happens to you too, when you were sworn in you were asked to uphold the Constitution and look out for the welfare and health of the people you are representing, and I hope you keep that in your mind when you make your decision to go on with the permit. *Chairman Martin* – It's not just the people I represent, but all of people; yes I am sworn to hold up their rights. *Herman Stouffer* – This is very important. *Chairman Martin* – Agreed.
Close Public Portion
A motion was made by Commissioner McCown to close the public comment period of the zone text amendment hearing. Commissioner Houpt –second. In favor: Houpt – aye; Martin – aye; McCown – aye
Discussion was held between the Commissioners as follows:
Building permit and fire codes - exempt or not
Commissioner Houpt, yes I think that that's very important but I've taken that a step further and I believe there should be an administrative process. *Chairman Martin* – my question then to the technical part which is Andy, we just went though a minimum standard review of non-residential structures and all the codes that need to be met - building codes, electrical codes, ventilation codes, insulation codes, snow loads, etc. and they have to meet a certain zone in reference to these units that are coming in and considered non-residential units. *Andy Schwaller*, Chief Building Inspector – all the units out there would be considered non-residential factory built units. *Chairman Martin* – are they not certified with the minimum standard for those zones by the State of Colorado and issued a permit? *Andy* – The snow load is something that is done by the local jurisdictions. *Chairman Martin* –So at that point they do meet minimum standards or the International Codes, or at least the State Code recognized for safety. *Andy* – They meet the amended IBC that the state has adopted. *Chairman Martin* – So they are not being exempted at any rate if they have that sticker. *Andy* – That is correct. *Commissioner Houpt* – But if the local staff goes out to inspect that or if there's not the 3rd party inspection which I'm assuming we're going to have too, then you wouldn't know what facility was placed on there – that's why people come through the County so that you know what's being placed. *Commissioner McCown* – No, there's a facility number attached and all of these reports will match the state number. Andy – The only thing that we would not know is if it's a state unit we won't know exactly how its set up; how it's tied down; what it's sitting on; how the water's hooked up; and how the sewage is hooked up. *Commisisoner Houpt* – Is that important? Andy – For the smaller units it's not as important as it is for the bigger units. The smaller units are single trailer manufactured units that are limited in the access or egress of them; if you're the nine to twenty-four (9 – 24) you might have three or four (3 or 4) stacked on top of each other or attached somehow so that's more of a critical issue to see how they are put together and how they are held. Everything should be tied down whether it's a small or big unit; it should be attached. The water hook-up, if that leaks, it's a huge cost to the industry. The sewage hook up is pretty critical so it's not going someplace that it should not go. *Commissioner Houpt* – So there are things that are worthy of inspection. *Andy* – Yes, inspection by someone. *Chairman Martin* – There is a state certification in reference to tie downs on these units as well they have a minimum standard certificate of inspection that they need to meet. We just went through those new regulations. *Andy* – Not exactly, the installation program is for residential units only. *Carolyn* – It is important to keep in mind that what Andy is talking about is non–residential factory built units; we're not talking manufactured homes as was included in one of the comments. *Chairman Martin* – It never entered my mind – it was all non–residential; that's what we've been working on in reference to the standards and the building codes, etc., so that the state can certify those and that we can have some idea of what those minimum standards are to help everyone out including Andy as well as the industry. We also wanted it zoned so they could have snow loads and if they were able to come up with that structure strength and recommend the different zones within Colorado then that would also be in that check list of certifications coming from the state with their numbering system. That's what the whole idea was. So, Andy could go ahead and say this is the structure, this is how it's laid out, this is what the industry is going to use, and the state approves these units in these areas. *Commissioner Houpt* – Andy, would you explain why they're called non-residential when they're being specifically used for residential use. *Andy* – It's essentially the state's definition; the state says anything that is not a

single family residence is non-residential. And maybe it's an office building, like a hotel or in this case a boarding house or rooming house. So it's just their definition. *Chairman Martin* – look at the physically permanently attached to the ground, one way or another, so it's going to be mobile, it's non-residential and they can use it temporarily and they can move it with the rigs, but it's not a permanent structure. *Commissioner McCown* – Andy, did you get to look at the standards that were presented in the check list in both forms - both the "McCown proposal and staff modified proposal". Were there any voids in the standards in that check-list that concerned you as the Chief Building official? *Andy* – Really the only thing and we'll probably get to it anyway, is the ICC certification; I've got an ICC certification and it's not difficult to get. *Commissioner McCown* – I can tell you the reason that I suggested that. I was acting on the statement that came from yours and the Planning Department's recommendation. *Andy* – Sure, it was something worthy of looking at. *Commissioner McCown* – That's not a deal breakers if it's so critical that a physical engineer (PE) signs off on these; we've got the leverage we're looking for. *Andy* – Exactly. *Commissioner McCown* – But other than that, was there anything else that particularly concerned you? *Andy* – No. *Chairman Martin* – Did we answer the question yet? Did we exempt them or not? I don't think that the units, if they are state certified, they are not exempted from anything. *Carolyn* – You still have to exempt them from your building permit. *Commisisoner McCown* – Yes, from our building permit; and I'm saying yes on the small units. *Commissioner Houpt* – I'm saying no. *Andy* said another question brought up by Doug Dennison was not to require a building permit for nine to twenty four (9 – 24) – that might be a huge mistake. Part of the building permit process is a plan review and the plan review is critical for these units because they are multiple units stacked and something is done with them. *Commissioner McCown* – We haven't gotten to that one yet. *Chairman Martin* – And I think with the newest legislation that we worked on and the newest requirements and the fact that the state is willing to work with that certification I think most of Andy's concerns will be addressed in reference to the standards and they will not technically be exempt but may be in the safety – I think they even addressed the sprinkler systems in those particular ones if they are going to be in there or not with their recommendations, so. *Andy* – The catch phrase with the sprinkler systems is that whatever the state requires will be out there and in one year, March 19th, , 2009 everyting will have to have the state's requirements which would actually be for five (5) or less people may not require a sprinkler system. So anything bigger will have sprinkler systems. *Chairman Martin* – in reference to the smaller one to eight people (1 – 8) people I have to agree with Commissioner McCown and the reason being is because we worked so hard on this legislation to make it safe to live in as well as be around with all these codes. I think it relives a lot of work for Andy. *Commissioner McCown* – Will the older units have to be retrofitted? *Andy* – As per the state, they shouldn't be out there without the state certification on them after March 19th, 2009. *Commissioner McCown* – Again that's based on occupancy; if that occupancy is limited to less than the number is. *Andy* – five (5) or less. Vote 2 – 1 No building permits on the smaller units one to eight (1 – 8) essential personnel. McCown and Martin – agrees; Houpt – disagrees *Chairman Martin* – On the others, the minor and major, I agree that the process needs to be followed. And if we're stacking them and hooking them together, reviews need to be done and hookups need to be inspected. *Commissioner Houpt* – I'll go on record saying that I disagree strongly and I think we're shirking our responsibility as a County to regulate housing that's being put on the ground. *Chairman Martin* – And I see it as an arm of the state and we're only living up to the requirements that they asked us to live up to.

Next item – Notification Review – Sign off as a Notice

Commissioner McCown – I see it as a notice. *Commissioner Houpt* – I think it should be a consultation as recommended by staff where there is sign-off on there recognizing that the fire district and sheriff's office has seen everything they need to and are satisfied with what's going on the ground. *Chairman Martin* – On Exhibit D, which is the administrative check list, small employee housing, there's a fourth page, and one of those is a referral document in reference to the sign-off on the fire districts signature saying that they meet those certain restrictions or requirements. Is that what you're talking about or are you looking for a much bigger review and sign-off by the fire district. *Commissioner Houpt* – Well the staff has recommended a sign-off so that would be sufficient. *David* – The standards are really the same one way or another. The question is whether the sheriff and/or the fire district has the ability to sign-off and say, yes, we've received everyting that we need, adequate quantity for the jobs that they need to perform. *Commissioner Houpt* –And that's what I would expect. *Commissioner McCown* – I guess I don't understand why these small units and we keep using eight (8), it can go up to eight (8) it can't exceed eight (8), it may only be three (3) people; why a fire district can't say we need 3,000 gallons of fire protection water on every well pad that goes into Garfield County. *David* – This is a discussion that we've been back and forth on. *Commissioner McCown* - Why would it vary if these units are on the site or if they're not; if there's a fire that erupts on the well site, the primary concern is going to be wildfire so I don't know why Dave and Mike and whoever else can't say, okay on every well pad we want 2,000 gallons of water storage – it can be for fire suppression for these units, it can be for wildfire mitigation. And as part of the standards on inspecting, there's a 2,000 gallon tank that moves with every unit – it's full of water for fire protection – that's all it's for. That's pretty simple. *David* – Within the staff memorandum we pointed out that the fire districts have requested to have the ability to review these individually. Before that we recommended it be 2500 gallons and that came from some feedback and trying to make it standardized so it would be more of a cookie cutter approach. Our understanding is that really each of these are individual sites and the primary purpose, even though they should be hooked up to sprinkler's systems if they're there, is for wildfire suppression and the wildfire potential varies from site to site and distance that would be needed to get to a site. And for those reasons they wanted the ability to review those. *Chairman Martin* – Back to Exhibit L – a storage tank shall be received to provide to the sprinkler system and initial suppression activities; the size of the water tank shall be determined based on sprinkler calculations and the initial suppression demands; the size of the water tank shall be determined by the fire protection district and/or sheriff if it is not located in that district. If we set that standard and we know what that is and then on your other check list require the size of water tanks, sprinklers, activities, etc. how many gallons on the check out list by the fire department - is that sufficient or do you need more review? *Commissioner Houpt* – If it's signed by the fire district that tells me that they have an opportunity to review this. If they want to add comments there's room in there to write in what they want. I think it's important that we know that they've weighed in. *Commissioner McCown* – well they're going to weigh in but it will be 48 hours after occupancy. *Commissioner Houpt* – Well, we haven't voted on that. *Commissioner McCown* – I see in the building department on a Saturday or a Sunday when a rig move takes place to see if all of those blocks are checked. *Commissioner Houpt* – They know where they are moving before they move. *Commissioner McCown* – They don't.

Commissioner Houpt – They would have to prepare for that. *Commissioner McCown* – Only when it's going to be set up. *David* recommended that if you do want to go with a cookie cutter approach even maybe setting a minimum of 2500 gallons and have the fire districts review them and another issue is if it's not within a fire protection district. *Chairman Martin* – The sheriff has no fire fighting equipment to put that fire out. *Commissioner McCown* – It's mutual aid. *David* – So it's another issue to be weighed so it might make sense to say a minimum of 2500 gallons allow the fire districts to review them as they come in and if they want to recommend higher they have that ability. *Commissioner McCown* – I would go with that.*Carolyn* – So no signature. *Commissioner Houpt* – Yes, signature, right? *Commissioner McCown* – No, a standard requiring 2500 gallons; if there's a need for additional water the fire department has to say additional. *Commissioner Houpt* – I think it's important that we know whether they have seen that application or not or that check list, whatever we're calling it. So I would stand firm on needing a signature from either the fire district or the sheriff's office. *Chairman Martin* – On the two, large one and the medium, I agree. On the other one I think if we have an agreement with the fire district on what a minimum is and that is checked off the list that they meet that requirement, they know what it's for, they can pick up and move but it is there every time and if it's not inspected then they're in violation of the zoning codes and they can be cited for that. *Commissioner Houpt* – And who's going to cite them; who's going to be watching? *Commissioner McCown* – A 3rd party inspector. *ommissioner Houpt* – I totally disagree with the conversation so far on these first two.
Vote – 2 – 1 - No Notification Review – No Sign off as a Notice
Martin and McCown agree – Houpt disagrees
Next item – Occupancy – Up to eight (8) people on the small ones
Commissioner McCown clarified this does not mean beds, only eight (8) people.
Vote – 2 - 1
Martin – 8 people; McCown – Eight (8) people maximum occupancy; Houpt – disagrees.
Commissioner Houpt – I would say a maximum of eight (8) beds assuming they would want their own. You are opening yourself up to some interesting discussions down the road. *Chairman Martin* – The pads are supposed to be maintained as small as possible; that's what the safety issue and approach is supposed to be. They're not going to be putting three (3) and four (4) extra units on there because their pads are getting smaller and smaller. *Commissioner Houpt* – Okay, I guess I disagree on this one as well. I would agree with the eight (8) that's been requested by the industry but I do not agree with more than eight (8) beds. I don't think there's anyway then of verifying how many people are actually living in those facilities.
Site plan/Map
Commissioner McCown – Are you talking the plan that comes in on the APD? *David* – It would be more extensive than comes on the APD in terms of it would verify that all the equipment is located within the area of reclamation/rehabilitation as well as putting all the information on the notice sheet onto that plan so that when the fire district or the sheriff's department goes out to one of these sites they pick up one piece of paper and it's got everything on it. It is consolidated in one location and there are some very specific standards laid out within the minor permit and the small permit that go into scaling it and what exactly needs to be on those. Chairman Martin – It's very useful for safety; for set up and inspection; and if there's uniformity then it needs to be posted so people know what's going on – that's also best practice that we need encourage.
ISDS
Commissioner McCown – I am looking toward a general permit. *Commissioner Houpt* – So there should be a permit in place. *Carolyn* – It could be a blanket permit; a nationwide permit. *Commissioner Houpt* – So they don't have to have a permit per site. *Commissioner McCown* –It would be covered by unit. *Jim Rada* – The way the regulations are written, a vault and haul is an ISDS; all ISDS require permits so each site would have to have a permit. To try and do it would be less stringent than the state which would not be approved by the state. The Board of Health should adopt a blanket Resoltuion that would cover the use of vault permits and that way you wouldn't have to go through that entire process every time. *Chairman Martin* – I think that's what we're looking at. *Commissioner Houpt* – Asked for clarification – it would still have to be approved by site. *Jim* – The way the regulation reads if vaults are approved by the local Board of Health, they can be used at the local jurisdiction. So you could adopt by Resolution the ability for certain entities to use vault systems under a blanket Resolution. *Commissioner Houpt* – But there would still be a permit in place for each of those vaults? *Jim* – Yes, that would be required by regulation. *Commissioner Houpt* – But that vault would move from location to location and haul as well. The permit would be in place and required by and would move from every locations and not require a new permit at every move. *Jim Rada* –Agreed. *Chairman Martin* – They would have to meet certain standards, strength, capacity and a few other things.
Martin and McCown – Yes on Vault and Haul ISDS permits by blanket Resolution Houpt – No comment.
Fees
Commissioner McCown – On this one I'm troubled with fees because I don't see the County is producing a lot in the service line of this and so I would if any, very minimal. *Chairman Martin* – Are we going to have an application fee in reference to the review process? *Commissioner McCown* – But there's not going to be any building permits on the small facilities. *Chairman Martin* – I'm talking about all three, so two of them are going to do a formal application and associated fees are already established. Are we going to have a fee in reference to the small ones?
Commissioner Houpt - And so assuming that the majority of the Board votes for the McCown proposal I would agree we aren't doing anything; we have removed ourselves from the process and so we shouldn't charge a fee. If we keep ourselves in the process then I think a reasonable fee is appropriate. *Andy* – There would be an ISDS permit fee. *Commissioner McCown* – But if it were a blanket one that would go with every unit and not be reviewed at every location; the initial installation would be charged a fee. Adopted rules from Rio Blanco, an administrative fee. David attached this to the staff report in Exhibit E – from March 10th. *Carolyn* – Right now you are just thinking about the front end and that there is no application and there is no permit therefore there's no need for a fee; but what comes along with the "Use by Right" is the other end of it. If there's a zoning code violation and there is County staff spent chasing down that violation. So you might want to think about that from the front end. *Commissioner Houpt* – It does refer to a fee but I can't find that fee. *Commissioner McCown* – It's Exhibit F in the big packet. *Commissioner Martin* – Here you go, Rio Blanco, the application which is three (3), four (4) pages. *Commissioner Houpt* – It talks about a fee schedule

but I don't see that fee schedule. *David* – I believe they base theirs off what they call a temporary permit and I believe they referred back to whatever they have in place for that. I'm not sure if I put that in here, I don't think I did. *Commissioner Houpt* stated she didn't see it. *Commissioner McCown* – We are not doing anything so I don't think we need to charge a fee on the small ones.
RV's
Commissioner McCown – on the RV's; No *Commissioner Houpt* – We agree on that. There's one we all agree on.
Minor Facility
Commissioner McCown – I like the concept of the area wide development plan. The one (1) that EnCana did, way back when I don't know when it was but; other than the press getting it wrong on the number of people that was going to be living there they permitted 32 facilities at the same time. None of which would all be used at the same time and it worked pretty smoothly. I don't know if something like that would still work. I don't think we should take it off the table. It gives an option. *David* – Essentially the reason it was put in was to try to expedite the process, encourage people who are doing these to think long term larger scope. The reason it was recommended to be taken out is that looking at the numbers we are not really looking to do that many minor administrative permits. *Commissioner McCown* – Well we did one today. We did two the last meeting. *David* – The question is whether under this new set-up it would be small or minor. And probably in Chevron's case they are more remote, they would probably still be minor. As they get closer to town you will probably see a lot more small. The thinking was that there is still a lot of paper work, there's a lot of chasing on our end with an area wide development plan. So if we are not going to have enough of them to really make it worth our time then do we really want to have it? Is it going to be more of burden than a benefit? *Commissioner McCown* – Put EnCana up on their ranch property because they have the control of that whole area. *David* – I certainly have no issues leaving it in. *Commissioner Houpt* – Maybe in the resource lands area but I think not in the more populated areas. I'm not quite sure how I could envision how that would work. *David* – It would work the same way as….. *Commissioner Houpt* – Well on paper. *Commissioner Martin* – Acceptance you mean? *Commissioner Houpt* – Yeah. *Commissioner McCown* – Bear in mind we've never permitted a minor facility in an elevation lower than six thousand feet (6,000'); so I don't see the need for that occurring. That's why 95% or 98% of what we are talking about is probably all going to be wrapped up in small facilities. *Commissioner Houpt* – Well that's why I would think it would be appropriate in resource lands because it seems to fit better. *Commissioner McCown* – But you have resource lands in the valley floor which could be adjacent to populated areas. *Commissioner Martin* – It could be in the agriculture area. Should they have a full review? *Commissioner Houpt* – Probably not because we have too many questions than answers on that. *Commissioner Martin* – On that one, do we keep that one? *Commissioner Houpt* – No. *Commissioner McCown* – Don't keep an area wide plan? *Commissioner Houpt* – But we don't know what the… *David* – It's all the same requirements; it's a different process so you can permit more at one time. And I think it, generally from a public perspective; I think it's actually beneficial. Because, you can look at one plan and see everything that is going on or at least at that time the plan was submitted instead of trying to dig through individual permits, okay where's this one; it's more or less laid out right there. *Commissioner McCown* – The only thing if you remember in the area wide plan it gave the locations they were going to be using during the year. They just didn't give which order they were going to be using. *Commissioner Martin* – And there is a requirement that the property owner be part of that application or give notice etc. Also, it would have a requirement of notifying adjoining property owners. *David* – And that is one of the big benefits too is that all that notification is done up front with area wide development plan as opposed to individually, which again I think is beneficial to that first time, one property notice will say there's another facility going in over here. *Commissioner Houpt* – So if you do an area wide development plan, the only problem I had with it was and maybe I just missed it in here; how do you know when it goes in a certain location? *David* – There is notice requirements…*Commissioner Houpt* – How do you know? *David* – They tell us when it's going in and when it's coming out. *Commissioner Houpt* – Okay, that's fine. *Commissioner Martin* – Then there is the other inspections and what have you that you will see. And, also in reference to the notice of the two hundred feet (200')… *Commissioner McCown* – Are we saying the plateau area of resource lands two hundred feet (200') from the permitted site and in the valley floor two hundred feet (200') feet from the property? Is that where we are going? *David* – Right, so anything zoned resource land they would only have to notice two hundred feet (200') from the permitted site as it is defined in the regulations which is essentially the APD area. *Commissioner McCown* – But again it could be in the valley floor resource lands and there could be a house right… *David* – Potentially, that's the downside. We are looking for an easy way to differentiate. *Commissioner McCown* – Why don't we say resource lands on the plateau you notice two hundred feet (200') from the permitted site. Resource land in the valley floor, its two hundred feet (200') from the subject property line. *David* – That is certainly a possibility. *Commissioner Martin* – I like that much better. *Commissioner Houpt* – Yeah, I certainly don't want it to go down to the valley floor and I don't know if it's important to put a minimum acreage in there. *Commissioner McCown* – The elevation will take care of that. *David* – The difficulty with doing acreage I think is that a lot of these; the way we define a lot isn't the same way a lot of other people define a lot, and so fifty thousand (50,000) acres translates into a dozen or so Assessor's parcels numbers. It gets tricky is what I'm trying to say…. Commissioner Houpt - You know, is there a way to put a clause in there that if this application would impact neighboring landowners then there would be more extensive notice required? I'm afraid of blanket exemptions like this. I think it works…… *Commissioner McCown* – It would be subjective for the staff to determine if something like that is going to… *Commissioner Houpt* – Create more traffic or …… *David* – Applications that are administrative or check list style I think it's probably better to make it cut and dry and less subjective. *Commissioner McCown* – Plateau versus valley floor and we're good. *Commissioner Houpt* – Unless there is a huge traffic issue. We haven't seen that yet but it doesn't mean we wouldn't. *Commissioner Martin* – Who will stop it from happening anyway? *Commissioner Houpt* – Well I think we have seen some applications where the required noticing has been pretty onerous on a small piece in the middle of fifty thousand (50,000) acres, remote locations. I say try that and if it doesn't work then we can change it. *Commissioner Martin* – And that's the whole approach we've got going, and going in if it's not working, if there are bumps along the way and we need to readdress this, then we need to do so. And we have that ability because it is a text amendment and again the staff will make recommendations, show us the bumps and if it's not working we revisit it. Then we have public meetings like this so we can explain our actions and

make the changes or leave it the way it is. *David* – So are we then saying that except for gentle sloped, lower valley floor it would be two hundred (200') from the permitted site in the resource lands. *Commissioner Martin* – Yes. People or Beds. *Commissioner Houpt* – We already did that. *David* – That appeared twice. It applies to Small, Minor and Major facilities really. *Commissioner Martin* – That's the same as we have with RV vehicles. No. *Commissioner McCown* – I still think we have got to count people. *Commissioner Martin* – The industry brought back a hot sheet and that happens to be eight (8) beds and you have eight (8) people and they are there for ten (10) hours a day, seven (7) day or fourteen (14) days and then all of a sudden you turn around and you have your new professionals or they take a day off and they come back; somebody else has been in their bed for a day or two. That's hot sheeting. I don't know. I still think we want to keep as small as possible. *Commissioner Houpt* – Get someone in there to clean it. I know they do that. I just don't think you need to double the number of beds. *Commissioner Martin* – If I have a whole bunch of people and Andy goes in there and he counts twenty-five (25) people all living on the floor and sleeping bags everywhere, we know we have a violation. *Commissioner McCown* – I guess what I don't want to get into is a situation or you may have two (2) units going to a rig move and those two (2) units just by the sake of whatever is available and I'm sure not talking representing the industry here but; they may have five (5) beds each in them and even though they are going on a site that only allows eight (8) people if you were counting beds, that would not be allowed. And so you would have to prohibit one (1) of those from going on that site and I don't think that is practical, I don't think that is what we are looking at if there could only be eight (8) people staying in those two (2) combined units even though there was ten (10) beds in the two (2) combined units. I think we are still achieving the same goal we are looking for and that is eight (8) people. *Commissioner Houpt* – I just don't want the assumption to be that we support the notion of everybody having their own bed. I think there are services out there that would solve the issue of hot bedding. *Commissioner McCown* – Well they will have their own bed that's the whole thing but there would only be eight (8) people there. *Commissioner Martin* – The other one is that these eight (8) essential people are not the total number of people working on a rig in any one day. *Commissioner Houpt* – Well we know that John but what I'm looking at is the size of structures that are going on the pads and the number of beds that could potentially be filled on a regular basis and nobody would know it. So if you don't count beds you really have no way to regulate how many people are sleeping on that pad. *Commissioner Martin* – We're going to hold them to their honesty and that there are eight (8) people and that's it. *Commissioner McCown* – Okay, where are we at now on the check list. *David* – I've got a few empty pieces here, Tresi you want to do beds? *Commissioner Houpt* – Yes. Decision earlier was for people, not beds. *David* – The ISDS Permits we seem to kind of skip over that real quick. General permit? *Commissioner Martin* – That's a general permit. *Commissioner Houpt* – But still we permit every site. *David* – Yeah, they still obtain a permit but it is more expedited. *Commissioner Martin* – I think we are all set on that. That's two (2) that we all agree on. *Commissioner McCown* – Well maybe we don't because I'm hearing a different story on having to permit each site. I think that it is permitted once with the haul and vault and then that number appears when it's moved to the next location on the check list. That does not require another permit. *Commissioner Martin* – But we have to go ahead through the Department of Health, allow that through resolution to do that. That's the second step. *Commissioner McCown* – The blanket permit, that's what we are talking about. *Commissioner Houpt* – I'd like to ask Jim a question about moving these units. Is there any concern about a need to do a follow-up inspection after it's been moved and jostled?
Jim – We talked a little bit internally about process on that and if there is a requirement for notification of moving or certification when the site has been moved; then perhaps a certification by the engineer or whatever the ultimate third (3rd) party signatory would be that the ISDS went in according to performance standards which are the County Regulations would suffice. *Commissioner Martin* – With a notification that is a permitted vault system and identified *Jim* – Yes, and put a reference on the application. Provided they are using all the proper materials, the right type of tank it's not the junk tanks we often see, meet the standards it shouldn't be a problem. They empty all of that out and they can just lift it and put it on a truck and haul it to the next site. *Commissioner Houpt* – So whoever inspects can make sure that vault coincides with what had been approved previously? *Jim* – What I understand about this industry is they're making an investment in buildings and infrastructure and all that travels with the units. They are not going to make, a thousand gallon plastic tank costs money, fifty or one hundred feet (50 or 100) of pipe cost money - there going to move it. If it breaks they're going to have to replace it because it won't meet County Regulations any more. *Commissioner Martin* – You don't want too much extended pipe out there. We will have to visit the Board of Health in reference to a resolution allowing that to happen. *Carolyn* – We have to have a hearing on the building code too. *David* – We will continue to prep to proceed with that. *Commissioner Martin* – what other questions do you have?*David* – Looks like ***fees*** is the last one. *Commissioner Martin* – I do believe the application fees, inspections and what have you in association with the two (2) applications large and minor needs to remain the same.
Commissioner McCown – Minor and Large. I would see us, what is going to be the time spent compared to a Special Use Permit? *Carolyn* – I think Fred needs to talk about these. *Commissioner McCown* – That's what I'm asking. *Fred Jarman* – The idea is that there is very little time spent with the one you're talking about now. *Commissioner McCown* – Well the first one, the small zero to eight (0-8), no fee because we are not as a County providing that much service. We are talking about Minor and Large. *Fred* – The, outside of having a hearing the Minor is going to take just as much time looking at what the application contains. It's not coming to you so we won't have this kind of activity going on so it will be a little bit less in time but the staff time; they are very close in being the same. *Commissioner McCown* – Same as an SUP? *Fred* – Yeah, you just typically don't have this. Now there is the event in a call-up that you might have this. You don't take that entirely out of the equation. The only comment I was going to make and maybe Carolyn hit it was with the fees on this scenario; there is the other side where it, lets say there is some kind of violation. There is time and effort spent on your staff side to go investigate all those things which not only pulls in my office but Jim's office and most likely Carolyn's office. So there are those kinds of things and what other counties have done is collect a fee for that very purpose. It's not a lot of money but it at least helps offset some of those issues. That is clearly up to you whether you want to do that. *Commissioner Houpt* – So do you have recommendation on that or do you want to work on a fee schedule? I'd like us to get our classes back. *Commissioner Martin* – There is also a provision that allows us to go ahead to catch fees and time in reference to any action we can request that but again that would be up to the other party to pay it or to be ordered by a court. *Commissioner Houpt* – But you're not talking about a loss… *Commissioner Martin* – I know it doesn't usually but there is that possibility

Commissioner Houpt – So that was as clear as…… We know we are doing fees for the Minor and the Major. For the small I think we need to find out what the costs are and I think its fair to….. *Fred* – As Larry mentioned there's the one time fee in the event that the scenario that Jim painted for you where you are going to do a vault and halt scenario, you're going to get that fee perhaps at the first shot and as that travels then you wouldn't have to re-assess that same fee. But at least there is an initial fee. That is time spent. *Commissioner McCown* – I just don't like implementing a fee not having a reasonable idea of what's it's going to be with the thought being, well we're going to have problems with this and we're going to need the lawyers and we're going to need my time and we're going to need enforcement. Because if you look at the number of housing and different types of land use activities that are occurring throughout our County today; how many zoning violations are we involved with right now? On the scheme of things it's not significant so I hate to charge a fee thinking it's going to be coming on the other end. Because the building permit doesn't pay for the zoning violations. You're talking apples and oranges here. *Commissioner Houpt* – You know we haven't really decided what this process is going to look like so it's a little premature to talk about fee structures. *Commissioner Martin* – Well you have to have that reasonable mix and that's what I'm saying, you have to justify what the fees are. You can't just pick it out of the air and say this is what it is. At this point what are we really investing into again other than the Major and Minor the Small, what do we have invested? Again we are going to pick up our permit fee. Do we need any fee for transportation what have you for the initial review, application process, and secretarial stuff? That's what we need to be doing. Do we need to map it, do we need to make sure we follow-up on phone calls etc. Is that within our review? *Fred* – You're going to incur all those costs. *Commissioner Martin* – How much is it that; we do this every day for everyone else and how much do we charge for those folks and again are we justifying our time or are we really having a reasonable nexus to charge a $50.00, $100.00, $1,000.00 fee for well site? I don't think we have a lot. *Fred* – Just by way of example, I had to ask Andy this; but, we have for example the sign code. Anybody can walk into the County and apply and get a sign permit right over the counter and it's a fifty ($50) buck fee. To some degree there is a cost for all the reasons that you mentioned John, that's intended to cover. It's minimal but there is cost to your organization to do that. *Commissioner McCown* – At what point would you charge this? *Fred* – Dollar figure? *Commissioner McCown* – No, what would trigger it? *Fred* – A way to do is to say when you're sending in the check list that has been signed off and along with it is a check for $50.00 or whatever it is. Commissioner Martin – Is this a processing fee? *Fred* – Yes. Handling fee is another way to look at it. *Commissioner McCown* – I just didn't think we were going to have an involvement in the holding of these records on the Minor permits.

Fred – It's interesting you raise that because right now the first tier, the slowest tier if you will, we're going to have file cabinets. Now, I'm mean that's the practical reality we're going to have a whole set of paper work that deals with just these things. You figure 90% of the industry is looking at that scenario and the other 10% might be the hybrid of the Minor and the Major.

David – On the same point there, I think that it's definitely valuable to have these entire facilities match. That we know where they are and maintain a database of when they are going on and when they're coming off and that goes over to GIS Department. *Commissioner Houpt* – I think that's a good point. *Commissioner Martin* – We also want to coordinate with the Sheriff in reference to the information, fire departments and what have you. I think we need to sit down and reference the fee to be announced. I don't think it needs to be more than fifty ($50) bucks but let's go ahead and look at it and see if we have a recommendation and actually put some thought to it and make sure we are able to justify any cost. *Commissioner Houpt* – Let's put some thought to it because I have to wonder how much effort is put into the sign process. Is that time consuming? *Andy* – We have three (3) or four (4) a year so it's not anything huge. The code, Chris does look at them and determines if the size is right. If it's legal what they are trying to do and then a permit is issued. If he's in the office it's over the counter, if he's not in the office it's done and the people come back and pick it up. *Commissioner Houpt* – Okay. So you can, what you do is compare that with what work is done on other administrative processes that you charge fees on. But I think the recommendation has to come from you guys. We shouldn't pull something out of a hat. *Commissioner Martin* – Justify the time, justify all the expense you're going to incur that you may or may not know at this present time. So I think that needs to be announced but we're again, we will keep it to its defensible position. *David* – I think that the purpose here in putting this on was to determine if you think a fee should be charged and I think that a lot of determining a fee again depends, like Tresi said depends on what the process looks like. That could change it significantly. *Commissioner McCown* – What do we need to do to establish this process? Commissioner Houpt – I think we have two (2) very distinct proposals on the table. I'm going to put a motion out there to approve a rule just for the Small facilities that are established that would follow an administrative permitting process allowing up to eight (8) personnel, eight (8) beds with County sign off requirements adding landowners to the application (otherwise the application was great) and seven (7) days appeal period instead of fourteen (14). *Commissioner Martin* – And that is to be outlined in Exhibit G? *Commissioner Houpt* – Correct *Commissioner McCown* – Second for a point of discussion. What would happen if the landowner didn't sign it? *David* – Very similar to any other land use permit if they don't sign off we can't process it. *Commissioner McCown* – So they could have a Surface Use Agreement in place, they could have their mineral rights leased and if a landowner does not sign off on this County land use permit the drilling basically can't take place? That is going to be a bit preempted I believe and probably would run into some litigation. *Commissioner Houpt* – I think it would be a very unusual situation if you had a surface use agreement in place that actually had discussion of temporary housing for essential personnel in there that the property owner wouldn't sign. I can't imagine. *Commissioner McCown* – Today this surface use agreement is not a hundred percent (100%). *Commissioner Houpt* – Well that's true. *Commissioner McCown* – They do, the state does allow for bonding on for the purpose of drilling and retrieving those minerals. And this would not allow the personnel to go on to run those pieces of equipment. *Commissioner Houpt* – Well, it would allow them to go on, it wouldn't allow them to stay on and I would think that the landowner once they understood the significance of the safety issues would want to work with them. But it would also give them the opportunity to talk about how many people to expect to stay on your property and how many units would be on your property. *Commissioner McCown* – I think we are taking this to a County level that should be done at the state level at the time the Surface Use Agreement is presented to the COGCC. *Commissioner Houpt* – Well, the state doesn't do housing, so. It's at the County level right now. *Commissioner Martin* – We're going to be seeking another compromise here. I think I heard from the industry that they are willing to go ahead and make sure that the Surface Use Agreement addresses the essential personnel and I think we also need to send

a request back down to the Energy Advisory Board that we have done in the past on educating folks on Surface Use Agreements. Then, work with the state to see if we can't get in the Surface Use Agreement the identification as a requirement. But I don't think we can do it in our own requirements. I think that you're right Larry we'd be looked at as trying to stop the drilling in reference to the APD and Surface Use Agreement without a signature. It has it's pitfalls but it's a good thing that the surface owner is also advised what is going on. If we can achieve that in a different way that will again strengthen our approach that it needs to be notified, the owner of the property has to be again be identified, contacted and the whole works and if we really have an objection we have a process in place. Again back to Judy as well as the ability to have an onsite inspection, onsite review etc. called by that property owner and use those rules in place that identifies the concerns. At that point those concerns are known to the state, to the local agency, to the driller, the company, the mineral right owner and property owner and if it's about housing I think they are going to have quite a discussion on that site. If there is no surface use agreement signed, you still have to fall back in reference to the state regulations and that means that they need to bond. At that point the surface owner may object to having those folks there. But again it is up to the state to either not approve that drilling permit or to allow it to happen with a bond. I think that is where it needs to be. *Commissioner Houpt* – All of our other levels of approval of housing require the landowner's signature. So I don't see that it wouldn't be appropriate in this situation as well. *Commissioner Martin* – Any further discussion on the motion and the second in reference to Exhibit G in allowing that to go forward as our rules and regulations on Small, Minor?
In favor - Houpt Opposed – Martin – aye McCown – aye
Commissioner Martin – Again the reason being I think we are going to have some other issues there that will try and preempt the state. *Commissioner McCown* – I'm going to make a motion on the Small Temporary Housing Units that we adopt the modified McCown version which would be the administrative version that would not include any permits required from the building and fire code. It would be a notice; it would have a maximum occupancy of eight (8) people. You would need the site plan kept in. We would work to achieve a blanket ISDS permit and maximum of $50 per application would be charged for a fee and no RV's would be allowed on the small facilities. *Commissioner Martin* – Second, with discussion. *Commissioner Houpt* – I just really think that we're taking this a few steps too far. I think it is very important that the fire district and the sheriff have the opportunity to sign off on these. I think it is very important that our County staff be involved in permitting housing facilities. I understand completely that it is essential to have certain personnel on the pads. I don't disagree with that but I think that this proposal doesn't get us there. It just takes the County out of the discussion too much. *Commissioner Martin* – Larry anything? Commissioner McCown – No, for the last several weeks I've said everything I can say about this. There has been so much misrepresentation. There have been accusations that this is in lieu of affordable housing or obtainable housing and on these small units it's just not that. I mean it is about the operation of drilling that well and it's about the critical people that need to be there and they don't go home at 5:00 pm, they are there all the time. And it's nothing new. That was a new one today I heard now all of the sudden we got people staying there. Those people have been staying there for thirty (30) or forty (40) years. They have just not been regulated. Now we're trying to find something that will allow standards and the type of housing that they are still going to be staying in and if we don't approve this today, they're going to be staying there. Because the state will allow it and I think you stand a better chance with the County standards than what you might get from the state. Those folks have to be there; it is not a choice. Those aren't resort areas. Those people don't sign up; oh boy I want to go to a drill rig and stay two (2) weeks that's my idea of a vacation. They are there working. They are there because they have to be there. And nobody can identify what it means but everybody knows what they are and that's essential personnel. It's not about affordable housing; it's not about available housing. The folks that work in this industry can afford to buy a house anywhere they damn well please. It's not a matter of where they want to live. It's where they are working. *Commissioner Houpt* – And I completely agree with that. I also believe that when you have housing on the ground it is imperative that the County regulate that. *Commissioner Martin* – I look at it as we are trying to establish an extension to what the state has put in place with the Division of Housing. And again we worked on a legislation bill to allow this to happen because of certifications, inspections, and minimum standards etc. which have been done and are in place. The industry has also asked for that. I know that the employees have asked for that. What is the minimum standards, what can we be safe with? Andy has made that a loud statement. We need to know where the wiring is, where the water goes, what powers this, how much insulation, what's the snow load, how old are they etc. We've got that. The state is giving us a permit, a minimum standard or a standard that is acceptable. I think we also owe it to the landowners to make changes in the surface use agreement and I think that is another process. Not here. And that is that we will continue to push for full disclosure that these are essential people that they need to be there. It is not giving anyone the right to put anything on a piece of property that they don't own. They have to have certain standards in place. If they don't do it they are subject to fines under this again small use. Under zoning codes, we do have proof that we do regulate it and we can go out there and check. But it also provides if the sheriff is notified not only by his GIS but also all of the other things as part of the application. The fire department also has input because they are putting the standards in place on these units that say this is what needs to be there and then we have that check off certification by a PE that says these are here. Not always agreeing with Tresi. Not always agreeing with Larry. I think the approach is that we need to get it done. If this doesn't work, then we need to revisit it and then bring more folks in and adjust it. This is a start and I agree with Larry that if we don't do something they're still going to be there tomorrow and the next day. There is not much we are going to do to get them off simply because they are doing their job. David – I have a point of clarification with the staff recommended changes to the McCown proposal. Are those part of your motion with the change from the standard L requiring minimum of 2,500 gallons. *Commissioner Martin* – In reference to summary issues is that what you are asking? *Commissioner McCown* – Well I don't have a bit of problem with 2,500 gallons but on this one the required size of water storage tank for initial suppression activities, I think that is going to be agreed upon by the fire district and whatever that is would become one of the standards that they have to comply with every time they move this.
Carolyn – Are you accepting staff recommendation of third (3rd) party certification and PE? *Commissioner McCown* – Yes. *David* – The whole list of I guess six (6) here.
All in favor – Martin and McCown Opposed – Houpt
On the Minor and Major

Commissioner McCown – Do you need a motion, were we far enough on that or do you need a motion with a point of clarity? *David* – I think it would be best to have a motion.
Commissioner McCown – I make a motion that on the Minor facility that is handled by an administrative permitting process that the Area Wide Development Plan be kept as an option. Primarily in the plateau area is where this would be permitted in resource lands. Notice would be two hundred (200") feet from a permitted site in the plateau area, two hundred (200') foot from the subject property in all other resource lands. Again we are talking about people that would trigger this becoming a Minor facility. So nine (9) through twenty-four (24) would be a Minor facility and twenty-five (25) through seventy-two (72) as we saw today would be a Major facility. Notification to everyone that would meet this notification would be at the time of application for this even though it is administrative.
Commissioner Houpt – Was there anything else you had a question on for Minor?
David – That was it. *Commissioner Houpt* – I'll second it. *Commissioner Martin* – Any discussion?
All in favor – Houpt – Aye McCown - Aye Martin - Aye
Commissioner McCown – And on the Major facilities it's going to be a full blown special use permit just like….
David – We are going with people there too. *Commissioner Martin* – and no RV's. *Carolyn* – And last but not least what is the effective date? *Commissioner Houpt* – Well we haven't voted on the Major yet. *Carolyn* – Sorry, I thought you were done.
Commissioner McCown – I make a motion that the Major be continued as a special use permit just as they are being done today. *Commissioner Houpt* – Second. *Commissioner Martin* – Any Discussion?
All in favor – Houpt – Aye McCown - Aye Martin - Aye
Commissioner McCown – I would not see this becoming effective probably before the first of September, 2008.
Commissioner Houpt – Do you have a recommendation on that Fred? You don't. *Commissioner McCown* – I think there is some recertifying going on with some of the homes or the units in the area and it may take longer to get those certified. *Commissioner Martin* – They have to be certified units and there is a time period from when they sign the legislation, I think June 1st. Asked if anyone knew, Andy? Andy – the State allows I believe until March 1st, 2009 to get everything with a certification on it. *Commission McCown* – Okay. *Commissioner Martin* – I think we can get it done sooner than that. *Commissioner McCown* – September 1st is when this will become effective. *Commissioner Martin* – Date certain? September 1, 2008 that is what the motion is then. *Commissioner Houpt* – I'll second it. I'm not going to support it because I don't support the Small facilities. *Commissioner Martin* – We have to have something into effect so we can start doing something.
All in Favor – McCown – Aye Martin – Aye Opposed – Houpt – Aye
Commissioner McCown – I make a motion we go into The Board of Health. *Commissioner Houpt* – Second.
Carolyn – This is an amendment to your ISDS regulations. *Commissioner McCown* – Yes. I'm just going to give directions. In Favor – McCown – Aye Martin – Aye Houpt – Aye
Commissioner McCown – I would like to make a motion that through our staff we seek the possibility of a blanket ISDS permit that can be used for vault and haul operations. *Carolyn* – And set for hearing on? *Commissioner McCown* – Whenever the information is available to bring it back to use but it needs to be up or down by September 1, 2009.
Carolyn – Then I am assuming on the building code that you want us to go forth with the building process.
Commissioner McCown – Schedule that, yes. *Commissioner Houpt* – Was that a motion or directions? Okay, second.
All in Favor – McCown – Aye Martin – Aye Houpt – Aye
Commissioner McCown – I move we come out of Board of Health.*Commissioner Houpt* – Second.
All in Favor – McCown – Aye Martin – Aye Houpt – Aye
ADJOURNMENT

Attest: **Chairman of the Board**

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APRIL 14, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, April 14, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean
Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM (DBE) FOR GARFIELD COUNTY – MATT ANDERSON
Ed Green, Matt Anderson and Brian Condie were present. Ed – In reference to the DBE program, we need to have this to accommodate our FAA program at the Airport. The FAA has been adamant anytime we use their funds or grants. Matt said we have been working with this with the County Attorney's. This if the fourth draft. The three percent (3%) of subcontractors are required to be Disadvantaged Business Enterprise (DBE's). Ed said the oddity of this is it's a grant program and they indicate there are some mandatory programs that do not apply but this one does at the Airport.
Matt stated they are adamant to have this rule in place for the Airport. We comply with 49-26 at all time.
Carolyn stated this is an absolute for the FAA funds. Matt recommends authorization to adopt the Disadvantaged Business Enterprise (DBE) program pending further legal review. Garfield County currently follows DBE regulation on other projects from DOT such as the South Canyon Trial. Ed – We are trying to address a specific program at the Airport at the present time. Commissioner McCown – If the contractor bids the construction and doesn't have a

subcontractor, how do they comply? Ed – If they want the bid, they have to. There is a one ($1,000,000) million dollar limit however. This is no different than what has been in place for years. It is likely to drive the price of construction up. Matt will check into the fact that if there are no minority subcontractors available, then he didn't think you had to be in compliance. It is the effort in seeking minority subcontractors that is required. Matt assured the Commissioners that we follow the DBE regulations on all our projects where federal funds are involved. Carolyn – We need a DBE person appointed as well. Brian Condie could be the DBE person for both the Airport and Road and Bridge.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the DBE program for Garfield County and appoint Brian Condie as the contact person for both the Airport and DOT and the Chair be authorized to sign after the contract has been approved by the legal department; however this will be on the consent agenda. In favor: Houpt – aye McCown – aye Martin - aye

LENCO BEARCAT VEHICLE PURCHASE CONTRACT AWARD AUTHORIZATION – MATT ANDERSON

Lou Vallario and Matt Anderson presented. Matt is recommending awarding a contract to LENCO Inc. for the purchase of a Bearcat Armored Vehicle. This award will be made off the GSA contract through the State of Colorado and the 1122 program designated by the National Defense Authorization Act. Award is contingent upon availability of funds and legal review. Total price for the vehicle is $236,362.00. Commissioner Houpt stated there was a lot of concern about this in the community. Matt stated we are working with the state and need to get this authorized to get a contract and will bring this back; it also depends upon the availability of funds. The tires will stay the same and not include the bullet proof tires. Commissioner Houpt – If the Sheriff believes this vehicle is important, she would question why the bullet proof tires were not included. He has to make a decision about the vehicles he has in his department and we would hope it would serve the purpose. Commissioner McCown – He could add those bullet proof tires later. Commissioner Houpt doesn't want to pay for this; she wants it to come out of the Sheriff's department.

Patsy said there is $150,000 set aside for a communications trailer and it could be used to purchase this vehicle. The sales tax recovery fund is also available and additional funds called SCAPP coming into his budget that will off-set this but she will still have to prepare a supplemental budget amendment.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the contract and the 1122 program. In favor: Houpt – aye McCown – aye Martin - aye

GIS WEB SERVER PROJECT – AWARD OF HARDWARE AND SOFTWARE AND AWARD OF CONSULTING CONTRACT – MATT ANDERSON

Matt Anderson and Rob Hykys were present. Matt is recommending authorization to award the Hardware/Software contract to ESRI Inc. for the not to exceed price of $84,400.00 pending completion of the contract details and legal review. He is also recommending authorization of the master contract to Idea Integration. Rob has two separate parts to this contract. Some have been going on since 2006 with the plan. We have several more consulting sessions before this is complete. Matt recommended having two separate contracts – one for the hardware and one for the consulting.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to award the contract for Hardware/Software to ESRI Inc. for the not to exceed prices of $84,400.00 and a master contract to Idea Integration for Consulting on the project for an amount not to exceed $50,000. In favor: Houpt – aye McCown – aye Martin - aye

Ed's Ex Session – Housing Authority – Fire Season Discussions

COUNTY ATTORNEY UPDATE – DON DEFORD

AUTHORITY FOR CHAIR TO EXECUTE PURCHASE AGREEMENT RE: AIRPORT EXPANSION PROJECT AND ALL CLOSING DOCUMENTS WITH AIRPORT LAND PARTNERS, LIMITED

Commissioner Houpt – We had discussed no surface occupancy and she didn't see it in there. Carolyn – There are still blanks that she needs to fill in. Commissioner Houpt – Negotiations with other land use were held before she was a Commissioner; there are no discussions about water rights in this contract. Carolyn - We don't need them for the airport purposes. This is for runway and safety purposes. Water rights are not needed for irrigation; we have City of Rifle water. Carolyn will check the former contracts and will make sure this is in this current contract about no surface use on the land.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the Chair to sign this purchase agreement for the Airport expansion project and all closing documents with Airport Land Partners with the "no surface occupancy" added. In favor: Houpt – aye McCown – aye Martin - aye

EX SESSION – LEGAL ISSUES – AND THEN PUBLIC DIRECTION

CR 204 – Contract negotiations and Jeff, Pasty, Matt, Judy and Ed will be needed for various topics to be discussed in this session. Don stated he needed to give legal advice on the rule making process for the Oil and Gas Commission; discuss the Board of Equalization process; provide an update on the Vezzoso litigation; and Ed's Ex Session items on the Housing Authority and fire season discussions.

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.

DIRECTION – PARTY STATUS COGCC RULEMAKING

Commissioner Houpt will not participate in these discussions. These are timelines established by the Colorado Oil and Gas Commission on their rule making process. Commissioner McCown stated at the last meeting that Commissioner Martin, Don DeFord, Judy Jordon and he needed to schedule a time they could all sit down and formulate a general draft stating basic concerns without getting into specifics. He feels they all need to be a party to this because they all had concerns regarding unfunded mandates which tend to appear in the rules.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists

e. Application for Change of Trade Name on a Liquor License for Beau Jo's Glenwood Springs LLC d/b/a Buffalo Valley Inn to Beau Jo's Glenwood LLC d/b/a Beau Jo's at Beau Jo's at Buffalo Valley Colorado Style Pizza Grill & Family Tavern – Jean Alberico
f. Liquor License Renewal for Aspen Glen golf Club Management Company d/b/a Aspen Glen Club and Catherine Store Wine & Liquor Inc. – Jean Alberico
g. Authorize the Chairman to Sign the Resolution of Approval Allowing a Two Family Dwelling Unit – Applicant – McComas Properties, LLC – Craig Richardson
h. Authorize the Chairman to Sign the Resolution of Approval Allowing a Resort – Applicants are James and Doris Bair – Craig Richardson
i. Authorize the Chairman to Sign the Resolution of Approval for the Fairways Subdivision Preliminary Plan – Applicant – Battlement Mesa Partners – Craig Richardson
j. Authorize the Chairman to Sign the Resolution of Approval Allowing an Industrial Support Facility-Pumping Facility – Applicant – EnCana Oil and Gas USA – Craig Richardson
k. Authorize the Chairman to Sign the Resolution of Approval Allowing a Plant for the Fabrication of Goods Processed from Natural Resources – applicant – Blue Ox Logcrafters, LLC – Craig Richardson
l. Authorize the Chairman to Sign the Conditional Use Permit Allowing an Aircraft Landing Strip – Applicant – Donald Throm – Craig Richardson
m. Authorize the Chairman to Sign the Resolution and Special Use Permit for an Industrial Support Facility for a Temporary Office – Applicant – American Soda, LLP – Fred Jarman
n. Grants – Sales Tax Recovery Distribution for March - $64,380.27 – Georgia Chamberlain

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

UPDATE IRON BRIDGE ON AFFORDABLE HOUSING ESCROW AGREEMENT

Tim Thulson said he needed direction on the escrow agreement that has not been deposited. Tim stated they have been busy on other things but this should be posted no later than April 30th. Don stated the concern is that it is a requirement of the SIA. Tim – It is a requirement of the existing PUD; it wasn't addressed in the PUD amendment. It was to be posted before Phase III. Carolyn stated she asked Tim to come and present the case why this didn't happen in February. Don suggested to agenda this for the first meeting in May. A date of May 5th at 10:15 a.m. was set for an update.

TRANSPORTATION ISSUES AND FUTURE PROJECTS – WELDON ALLEN, REGIONAL DIRECTOR FOR CDOT

Weldon Allen Regional Transportation Director; Joe Elsen Program Engineer East, Jim Nail Traffic Engineer, and Commissioner Doug Aden who serves as co-chairman of the Governor's Transportation program were present. Weldon provided an update on the projects. Region 3 is the largest CDOT region consisting of 30,000 square miles and covers over 50 municipalities. The summary of the report is contained in the report; the state is under-funded and there's a huge gap between projected revenues and projected needs.

The recommendations made to the Governor for $1.5 billion funding sources were:

• Increased vehicle registration fee	$100 average fee increase	$500 million
• Increased motor vehicle fuel tax	13 cents per gallon	351 million
• New daily visitor fee	$6 daily fee	240 million
• Increased sales & use tax	.35% increase	312 million
• Increased severance tax	1.7% effective increase	96 million

None of these recommendations offered by CDOT has been well received in the Legislature. A ballot question may be included. CDOT is not going to be able to maintain the current state highway system. CDOT has not increased the gas tax since 1999 and have absorbed 7% inflation. The toll bill on I-70 is not well received and the question remains are the people willing to pay an additional tax to pay for the improvement of the public transportation system in the state. The federal government will not be able to bail us out. Congress is in the same position as the state in that they can only spend money that actually comes in. Fuel tax is a fixed price per gallon. There's a lot of pressure at the state and federal side regarding the price of fuel. Weldon said he is looking at various program cuts in Region 3. He continued saying we are shifting gears in a maintenance program. In Region 3 we have followed the recommendation and use funds to keep roads in a target level condition. There will not be a HB 1310 transfer this year; it's less roadway surface projects. This runs about $25 to $30 million per year. The STIP will be reduced and change significantly as well as will the long-term 29-year Statewide Transportation Plan. Regional program priorities will also change. They are going to a maintenance program where patching will be the focus. We do have funds that roll from year to year because we've been planning projects and we've established construction funds in those from 2005, 2006, 2007 which are not show in the STIP so with that said there will some construction projects going on but they will be completed with "old money". We've actually had it shelved and we've put into a project and the design is completed and we'll let those projects out, but there is very few. When you add a winter year like the one we had 2007-2008 where $80 million statewide was spent just on snow removal that impacts the overall budget as well so something has to go in the end result. It's a 2-edged sword, more people come and you have a better ski season but then that means less money to put on the roadways. Commissioner Houpt stated the impact of a lower budget for CDOT may give the public an incentive to support these new funds for money. It certainly is going to impact everybody. Commissioner McCown – On your system quality all the way across rest area is goose eggs; are you going to close your rest areas? Weldon - No, that's not what's that is referring to; what we have now is actually a "no replacement" program. We have a program where we maintain the existing rest areas as they're built so across the state the commission put a substantial amount of funds toward rest areas across the state and that has all been completed. Commissioner McCown – The maintenance of them, what will happen to the on-going costs. Weldon – In this line item it is for construction only. The rest areas are maintained in our maintenance level of service. The rest area in Rifle is ours but we went into an IGA years ago with the Rifle Chamber of Commerce – the front building is actually ours and we do not own it. That building can reside on the property and they can conduct chamber business on the property. Commissioner Mccown referenced a very heavily used facility there and that is the dump station for recreational vehicles which has been closed for an exceptional long time this spring; I've received a lot of calls wanting to know what's going on. Weldon – We close them in the winter because they are

impossible to maintain in the freezing conditions. We've had an extended spring. Toby stated the problem we're having now with the oil industry; they are coming in off hours when we're not staffed. And they are also taking water from us in the building, so we're in discussions as to where we're going with that as far as manning it, locking it up after hours, those kinds of discussions and also there's some waste issues; they've been dumping there as well and it goes into the Rifle system. Chairman Martin suggested addressing that in your MOU with Rifle and put somebody out there. It would be a lot less expensive. There's a lot of users after hours. Weldon said Rifle has been fair and over the years; they've sent an officer through as much as they are able to be but whenever you're looking at 24 hours a day it becomes an issue. There's quite a bit we can look at such as a camera. It's good to know you're receiving those calls and we'll look into it. Commissioner McCown – Normally it is not closed beyond April 1st. Weldon said we will have it resolved by this afternoon. The oldest rest area is the West Glenwood Rest Area and we are entering into conversation with the City of Glenwood Springs on the possibly of closing that rest area. It is in need of replacement and the funds are not there; this is a rest area that also exists within an infrastructure of a town. There's also the No Name Rest Area within two (2) miles from it. To be logical and to be efficient with the taxpayer's money, we may be closing this and it will be due to budget restraints. Joe Elsen – Construction Projects – Referred to the Map on page 21. This is referring to the Garfield County projects, Rio Blanco SH 13 Slip because it's been moving like three (3") inches vertically every week and we will get in there with a geotechnical fix and put foam blocks in to remove some of the driving force. That projects actually kicks off this month; it's about a $2.5 million cost and structured it as a cost plus time project and it is to be complete in 137 days. Joe listed the other projects in this area naming the No Name Tunnel rehab job. We are going in and removing the panels and doing some crack sealing and it will be tiled and similar to the Hanging Lake Tunnel; some I-70 culvert repairs, it's off the road and is a direct follow up on when we had the sink hole in Vail. The State Hwy 133 Carbondale reconstruct, the bridge replacement is going very well and it should be completed by fall. Accomplishments include the Rifle East US 6 paving project; we put $4 million of concrete in Glenwood Canyon and this is the first phase of many and trying to attack the deep sections first then go to a bonded overlay of concrete over the bridge structures and concrete slabs. Toby Brown – Maintenance program. The projects coming up include the Hanging Lake Tunnels mentioning 850 accidents during the course of a year which is significant and they are in the process of changing the scope of the dispatching out there from being reactive and relaying information to take a more pro-active role and becoming a Traffic Operation Center, which is part of the BMS that we have. If there's a closure in Vail we can take a more positive approach and get the traffic detoured or moved to different locations. Mudslides are anticipated this year due to the heavy snowfall. CDOT is very concerned about this on Douglas Pass.
Traffic light - Buffalo Valley – poles are up and a signal light will be installed. We think it will be installed the first or second week of May. This was due to some federal funding.
The goals for CDOT in Garfield County for this year include:

- Crack seal and repair Hwy 6 between Glenwood and West Glenwood;
- Continue to repair and crack seal all of Glenwood Canyon;
- Repair wide center line crack in Glenwood Canyon with a mill and fill operation, stone mastic, etc.;
- Work with engineering, other agencies and the public to find ways of reducing animal accidents on Hwy 82 to include new deer fence, and more escape ramps;
- Work with the Tamarisk coalition to continue to eradicate Tamarisk along the Colorado River and revegetate with native plants;
- Continue to expand on our weed spraying efforts to include continued partnership with the County Weed Managers;
- Work on drainage issues throughout the County; repair chain link fence between I-70 and the Hot Springs Pool;
- Repair and remove top rail from chain link fence at New Castle and Rifle; and
- Work on various underpasses throughout the County to repair concrete retaining slabs.

Toby stated that plans are to control Exit 116; we have installed a traffic light to address backed up traffic.
One of the concerns the Commission has is that the contingency is as low as it's been. We had a budget of $43 million for snow and ice removal and $10 million special earmarked contingency over and above that. We went through the entire amount and we'll probably be asked for another $17 million to project to get through the snow and ice removal and that additional $17 million comes out of our contingency. Joe was showing some of the preliminary options for the problem that just occurred at Hwy 6 with the mud slide the last few days so this is a great concern. Jim Nall mentioned the impact of the trucks from the oil and gas industry. They've been taking a toll on our interchanges and our intersections and I have been working with local communities to resolve some of these issues. We've been working with the Town of Parachute, Battlement Mesa and Garfield County has been a participant working on that interchange to see what we can do currently to resolve today's issues. We plan to put a signal light there shortly but it will be a short term fix and there needs some decel lanes or turn lanes on the off ramps. He added there is too much traffic and not enough turning radius on the small bridge. There is some talk about a new interchange which may be the long term fix. We participated in the original BRT (Bus Rapid Transit) and are looking into a funding scenarios and it seems that we need to give people choices, not cars. BRT is the first step heading toward that direction. Rifle Roundabout – This has been a project we've worked on for four or five (4-5) years. We have finally received FHWA approval and Rifle has a contract on board and this should get started this year. The City of Rifle and CDOT are happy. This is one of those things were we couldn't do alone; the City of Rifle bonded for as part of the impacts. CDOT helped with the signal lights. Silt Roundabouts – This will be at the interchange however, due to limited funds, we are looking for partnerships and the Town came up with some funds. On the issue of accidents, mudslides, other incidents in the Glenwood Canyon and beyond, Chairman Martin suggested having signs regarding lane closures at the Glenwood 116 exit so that people will not get bottlenecked. He suggested putting a gate and a sign at US 6 & 24 letting travelers know they can go west but not east. Jim liked the idea and will bring this up to the committee. Commissioner Houpt said that parking areas for the BRT would be needed as part of the plan. Weldon –The point Chairman Martin made about the signs is good and very important. This way we could disseminate information to the truckers and not allow them to jam up against the closure. When they do this they inhibit our ability to move around with our emergency equipment.

Parking – We need to provide areas and we are investigating areas; there are very few truck stops in Glenwood or Eagle that would store significant amounts of trucks and we will probably ask the cities and counties in these areas to help us to come up with long term solutions and avoid the unsafe condition. Commissioner McCown thought it would be great to have a network on communication to get the trucks from backing up at one stop. Weldon – This is called a "staged closure" and we will have triggers in place to where those triggers will set off whenever a Type 2 closure comes into play and we will only allow what that community can tolerate in traffic before we stage the closure back to the next area. Those folks who will not pull off the road or will not take that alternate route; that, we can accommodate and not come up against a closed facility without services. Counties and cities need to be partners. Tammy stated CDOT has three (3) separate planning studies going on in Garfield County; one is the Parachute West Environmental Assessment; we're really close to submitting that to FHWA for review and it looks like we should have a signed document by early fall; the other is the Environmental Assessment that we're working with the City of Glenwood on the South Bridge EA which is in response to the federal earmark. That one we are in the alternative development and we plan on having an open house at the end of April for public comment on the alternatives. And the other planning study working with the City of Glenwood and totally funded by the City right now is the State Hwy 82 optimization plan. Weldon – We haven't done a 1601 in Garfield County before. For the record, 1601 is referring to a procedural directive that we have in place with CDOT. In that procedural directive the funding for the design and construction for of those facilities are born on the back of the locals, it's not a CDOT project. The locals come to us, request that these be developed, we work in conjunction with them in our planning department and we work with all the NEPHA requirements but then once we're ready for design and construction the funding of those facilities they are born on the backs of the locals. Why, it's because we have hundreds and hundreds and hundreds of miles of interstate and everywhere there's a development or an improvement that comes in, someone wants an interchange. Really, the Transportation Commission would be building new interchanges and not be able to take care of our infrastructure. Doug – this policy has been in place; all locally or privately funded go along with all these accesses. Ed stated we are in the process of doing our 5-year plan. Weldon said from the diminishing budget if it was not for our existing partnerships – Silt, Rifle, all over the 82 corridor, then it would be a struggle to meet the needs and he thanked Garfield County for all the help and willingness to be our partner. We are committed to serving you in Garfield County. Chairman Martin stated we are sitting down with Jim, Weldon, maintenance, Parachute, DeBeque and Garfield County and looking at the utilization of Hwy 6 from DeBeque all the way through to Parachute and see if we can't come up with a different scenario or a different use or increased use so we can relieve some of the unnecessary use of the interchange at I-70 and CR 215. Weldon – The energy industry has figured that out; they found out that they can save time by using the DeBeque interchange. Parachute is leveling off more than at first and they are also using the Rulison interchange. Our concern is that there is extreme growth fixing to occur at the DeBeque interchange. Schlumberger is moving to DeBeque and they are going to be building a 300 plus acre facility; DeBeque is in the annexation process of many developments that are going on having to do with and we fully anticipate the DeBeque interchange will become as congested or more so than Parachute. Chairman Martin – we're also in a project with Chevron looking at that 10-mile corridor just north of DeBeque which ties into Mesa County, DeBeque and CDOT. Commissioner McCown said the good side of the Schlumberger development in DeBeque; it will take them out of the DeBeque Canyon because at present they are coming from Grand Junction so it will get them off your interstate system for the most part and get then on secondary roads to serve the wells.

UPDATE ON BUS RAPID TRANSIT PROJECT – DAN BLANKENSHIP, KRISTIN KENYON AND JASON WHITE - RFTA

Dan Blankenship, Kristin Kenyon, Dorthea Farris and Jason White from RFTA presented. Kristin gave the update and report of the project and new costs of the BRT. The vision of BRT is to have all elements of this in place by 2017 and to be competitive with the private automobile whenever possible. The ridership growth shows 4.4 million rides last year and they project to increase this. The Hogback route has increased 30% over last year; the possibility of increasing the route to Parachute is in the plan and we hope to increase the current Hogback route in frequency. Also we need a plan to extend the bus service. There is a plan in place to extend the Hwy 133 corridor.On March 13, 2008 the RFTA Board of Directors met and reviewed initial recommendations and cost estimates for the Bus Rapid Transit project and associated improvements. They also discussed options for funding the implementation of improvements. They believe the improvements may be implemented in phases according to funds available and the priorities of local agencies and RFTA. Property has been purchased in New Castle and Rifle. The budget is estimated at $180 million to $190 million. The plan is to have a Ballot Question for November to increase the local revenues. Property has been purchased in New Castle for a parking area for the riders on the bus. Dan Blankenship thanked the Commissioners for the contribution for the Hogback route and they project that route to increase to about 100,000 riders for 2008. The RFTA Trail sections are projected to open June 15th and a celebration is planned in July. There is 34 miles of paved trails and this is quite an achievement. The RFTA Board went through about five (5) major scenarios but there were fifteen (15) variations that they took a look at. Looking at just Garfield County in what a 4/10th of a percent sales tax increase would generate plus the $10 vehicle registration fees; each of the incorporated areas in Rifle, Silt, and Parachute and then unincorporated Garfield county based on work done by Ford, Frick and BBC for RFTA on the sales tax reports they estimated 2009 at five point five million ($5,500,000) in annual revenues that would be generated if all these communities came into the program There are other ways that revenues can be generated such as a county-wide sales tax up to one percent (1%) for transportation; each community could form their own RTA's and there's a lot of different ways that transit services could occur in the I-70 corridor. Without Garfield County communities the budget would be roughly three point four million ($3,400,000.). The next RFTA Board Meeting is May 8th and it is at this meeting that the ballot question will be decided. Dorthea Farris chairs the RFTA Board and is very interested in soliciting Garfield County as a member. Having all the Counties involved would assist greatly in assessing funds for public transit. She appreciates all the help and appreciates the Board taking a look at the parking areas in the County. She stressed the need to have Garfield County's support with membership on the RFTA Board. Support for the tax question is essential. We have trails to connect to the parking areas to ride the bus. Commissioner Houpt inquired about the proposed ballot question asking if that would be one question with the exception of those jurisdictions who are not current members.

Dan replied that last time we had two ballot questions, one in Pitkin and one in Eagle County, Carbondale, Basalt and Glenwood Springs where there was a mini regional question where they all voted on 2/10th of a percent. That passed

57% to 56%. This year as long as we keep the sales tax rate the same and the funding source the same 3/10th of a percent, we could have one ballot question that would include all eight (8) member jurisdictions.
In the other communities, it might be possible if Garfield County were to say we're on board for 4/10th of a percent and Silt, Rifle, and Parachute agreed, then we could have one vote on that. We found that the elected officials in all of these jurisdictions didn't want to be pulled in by the other jurisdictions. I believe it to be more realistic that each jurisdiction might be willing to put something on the ballot and we will have to ask their permission and hold two (2) public hearings, an IGA and a ballot question, etc. Chairman John is interested in a year to year contract; that is his comfort level and he would not favor a permanent tax. This way we can do a quality performance and Dan has been very good about supplying the buses and the service and we paid for that particular service. Commissioner Houpt said the reality of this issue is that with BRT it is more of a long term planning process and if everyone went on a year to year contract it would never be able to put together a long term system that will serve the entire County. I get calls from people asking, when are we going to have more service in western Garfield County. My response is not until we become members because you have to have that on-going revenue, therefore I support membership. Dorthea said there is a 2019 projection. CDOT talks in 20-30 years plans and they are in a mess. This plan is a good plan and all have agreed but we need money. The valley is changing and this needs to be addressed. Chairman Martin – CDOT came in with a proposal of five (5) new taxes just to stay afloat and if we propose another tax that makes it six. Then if we look at what the recession is doing outside of our little bubble and changes in revenue sources from federal government all the way through to highway taxes and all the revenue sources that are going down, we box ourselves into a corner too and that we look at a 23% increase in our property taxes and we will hear a lot about that coming up in another two (2) months and we'll have lots of protestors because next year is another reassessed evaluation and then not only did we put six (6) new taxes on the ballot but now we're going to have an increase of assessed valuation and we're going to increase another twenty percent (20%). So that's what I always look at with taxes and say the nice approach is to establish what we need in expense, work out our contracts and be able to do that year to year. We can make those adjustments and still live up to our contract. We may need to reduce our servicing contract; we're still supplying that particular service that is needed and if we have a need such as extending from Rifle to Parachute and extended it from Glenwood Springs to Eagle or even down to Grand Junction working with our different partners, we increase our contract for services and we pay into that. I know it's very cautious, I know that it's not a taxing question but I am much more comfortable with that approach than to tax somebody and then see all the taxes increase. It's going to really be an increase in taxes and we in the West do not get taxed very much. Back East they really get taxed. Dorthea would like to keep all of these options open keeping in mind that you need to provide to the people to say what they do or do not want. It's important to give the people an opportunity to vote. A good way to end this is to say I know where between fifteen and twenty billion ($15,000,000,000 and $20,000,000,000) a week might come from and there's money out there that could be spent for national infrastructure. Commissioner Houpt asked to keep us appraised on this ballot question, and if we don't move forward with membership then give us a realistic number that we should pay on a contract this next year. We have to recognize that RFTA, without Garfield County, has been serving our constituency for years and we need to grow with the need and we're not there to support you on an on-gong basis. May 8th is when we will determine the ballot question and they have asked the RFTA board to get the comments for the ballot question. Chairman Martin – It is up to the citizens but as an elected official I have to look at all those options that are coming down the pike on raising taxes. Looking at my emails and why we had frozen the mill levies for the school; why we didn't reduce our overall mill levies for the County because of the assessed evaluation; and why they are paying between twenty three to twenty eight percent (23% – 28%) more on their property taxes plus the cost of fuel, plus the cost of everything associated with it and guess what isn't going up - their revenue sources and we're all in the same scenario, there's isn't a business or a state anywhere that's not affected and it will only get worse. Commissioner Houpt said you are asking a question as to whether this Commission would support a ballot question. Dan stated that transit offers people some insulation against the higher prices they are experiencing at the pump, at the store, on goods and services they receive which are all going up because gas and oil prices are going up. Some of the information I've read is when people can save money on transportation, then that money stays in the region and can be spent for education and for their mortgages. It is a way to save people money and we're just asking the Board to think about that, because over time those prices are going to continue to go up and this is a relief valve the people may want you to provide for them. Dorothea – This is not just a service to one community; the congestion that is relived by having the public transit affects everyone in the valley. Commissioner McCown – What is the need for those people to commute everyday to Aspen? Given the ridership on the sale the Hogback route was less than two percent (2%) of the ridership that you alluded to in 2007.So as you move further up it must be from Glenwood Springs to Pitkin County and Aspen is where the bulk of ridership is and if those people could live where they work, would they need to ride the bus from Glenwood Springs to Pitkin County and Aspen? This is not a transportation issue, it's a housing issue; folks can't live where they want to work or where they need to work and they will never be able to live there because of some of the philosophies that Pitkin County has put in place for minimal growth and not allow a workforce to live there. Dorthea said there are more than 2500 affordable housing in Pitkin County which is more than many communities have. Commissioner McCown – This shows a tremendous lack then if you still have this amount of ridership demand on transportation to get up there and get to work. You're focusing, everybody in that corridor is focusing their needs towards transportation and not housing and that's taxing people that never ride the bus, that never utilize the facility. For the few that do and to serve that need of getting those people there to work, we're not taking here about transportation, we're not talking the total lack of the ability for people to live where they work and that according to the projections, it only going to get worse. Dan said the highest percentage of folks we're transporting from Rifle to Glenwood to work and from Silt so it's not just upper valley that has this issue. Commissioner McCown – Dan, if you look at the numbers you gave us on the Hogback route that is 2% of the total ridership. So, given that number, if that person gets on at Rifle and rides all the way to Aspen, it's still less than 2% of the ridership. Dan said I agree it is but what I'm asking people to look at is to look down the road another twenty to thirty (20 to 30) years. You look at all the development that is going to be occurring in the I-70 Corridor and there is a lot of housing coming out of the ground in Rifle and a lot more that are being planned. Commissioner McCown – But would they rather live in Basalt or Aspen rather than in Rifle just because that's all that's affordable and still make that commute. The outsourcing of jobs out of Garfield County to Eagle and Pitkin at twenty twenty five

(2025) is tremendous. There's no trade off for us to provide the housing, the law enforcement, the human resources that go into that and the education. We're taking care of the workforce and now you're coming to us for transportation funds to pay to get that workforce to the point that is needed and back home in addition to all the other services. Commissioner Houpt said it looks like she is the only one who supports this approach. Dorthea – if there's no willingness to participate, then we will come to you saying this is the service and this is the cost and if it doesn't come in, that service goes away.

ABATEMENT – MACHEBEUF APTS., INC. - #-8-130, SCHEDULE P053031 – LISA WARDER

Lisa Warder explained the abatement was for 2007 and the Division of Property Taxation has determined that this property is granted Tax Exemption status effective January 1, 2006. The amount to be abated is $1,087.48.

ABATEMENT – ROARING FORK TRANSPORTATION - #08-172, SCHEDULE R340852– LISA WARDER

Lisa Warder explained the abetment is for 2007. The property was sold on October 15, 2007 to a tax exempt entity. The taxes have been pro-rated from January 1 to October 14, 2007. The abatement amount is for $1,290.67.

ABATEMENT – RICK L. HALEVY - #08-159, SCHEDULE R009751 – LISA WARDER

Lisa Warder explained the abatement is for 2007. The taxes are incorrect because the parcel had improvements for tax year 2007 and was assessed as vacant land. The abatement is for $3,522.20.

ABATEMENT – LEONARD & KAREN ENGLAND - #08-194, SCHEDULE R042834 – LISA WARDER

Lisa Warder presented the abatement for 2007. This property was assessed as vacant land however the owner had a foundation and framing as of January 1, 2007 and the records should reflect this as residential property. The abatement is for $1,425.83.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the public hearing;
In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for Machebeuf Apts., Inc. - #-8-130, Schedule P053031 for $1,087.48.
In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for Roaring Fork Transportation - #08-172, Schedule R340852 for $1,290.67.
In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for Rick L. Halevy - #08-159, Schedule R009751 for $3,522.20.
In favor: Houpt – aye McCown – aye Martin – aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Abatement for Leonard & Karen England - #08-194, Schedule R042834 for $1485.
In favor: Houpt – aye McCown – aye Martin – aye

Lisa will clarify the second abatement on the on RFTA.

EXECUTIVE SESSION – OIL AND GAS DIRECTION

Commissioner Houpt recused herself from this discussion.

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

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

AUTHORIZE THE CHAIRMAN TO SIGN THE FINAL PLAT AND SUBDIVISION IMPROVEMENTS AGREEMENT FOR PHASE IV OF THE SPRINGRIDGE RESERVE PLANNED UNIT DEVELOPMENT – APPLICANT – SPRINGRIDGE AT GLENWOOD SPRINGS DEVELOPMENT CORPORATION – FRED JARMAN

David McConnahey, Michael Howard and Fred Jarman were present. Fred Jarman presented a letter from Garfield & Hecht, P.C. along with the signed documents for Springridge Reserve, Phase four (4). These documents were held until they submitted security. Fred just received two original letters of credit and the bond for Road and Bridge. David said the only logistical issue is that the developer of Springridge at Glenwood Springs Development Corporation has exercised its option to purchase the land from landowner Deer Park Ranch so the Development Company is the signatory to the SIA and needs to take the deed over to the title company so they can record the deeds before the plat and then we present a letter to the title company with all the documents that need to be recorded in the correct order.

A motion was made by Commissioner McCown to authorize the chair to sign the final plat and subdivision improvement agreement for Phase IV of the Springridge Reserve PUD. Commissioner Houpt seconded;
In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR ONE TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215 AND WHEELER GULCH ROAD AND OPERATED BY BERRY PETROLEUM COMPANY – APPLICANT – ENCANA USA INC. – DAVID PESNICHAK

David Pesnichak, Michael Howard, Bryan Burns, Environmental Specialists with Berry Petroleum and Chris Freeman, representative for Berry Petroleum were present. Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Letter from Rob Ferguson of the Grand Valley Fire Protection district dated April 7, 2008 and Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated March 24, 2008; and Exhibit H – email from Jake Mall from the Garfield County Road and Bridge dated April 10, 2008. Chairman Martin entered Exhibits A – H into the record. Planner David Pesnichak explained: The Building and Planning Department received a Special Use Permit (SUP) application for one "Temporary Employee Housing" facility on property owned by EnCana USA, Inc and located on an approximately 45,000 acre property approximately 12 miles North of the Town of Parachute. The facility is to be located on the approved "K-15" COGCC well pad operated by Berry Petroleum off CR 215. More specifically, the Applicant requests approval for one

Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. The site is located on Berry Petroleum's K-15 well pad located off Wheeler Gulch Road and within EnCana's North Parachute Ranch. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however the housing facility will be at location for no more than one year. The maximum number of people to be housed at the facility will be 24.

Staff recommendations:

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meets the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractors and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and

comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.

17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
19. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic feet) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
20. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
21. The facility shall have a minimum total capacity of 12,000 gallons of potable water storage refilled a minimum of every six days.
22. The facility shall have a minimum total capacity of 21,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every eleven days.
23. The Applicant shall verify that all issues as identified within Exhibit F are rectified to the satisfaction of the Grand Valley Fire Protection District prior to issuance of the Special Use Permit.

The applicant addressed the County's opinion on the fire suppression tank and he assured 2500 gallons of water will be available at all times. EnCana has requested we reduce the size of the facility to minimize impact.
David stated as long as there is 2500 gallons of water at all times then his experience with Grand Valley Fire is that this is acceptable.
A motion was made by Commissioner McCown 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 Special Use Permit for One Temporary Employee Housing Facility located north of the Town of Parachute off County Road 215 and Wheeler Gulch Road operated by Berry Petroleum Company for EnCana USA Inc. with the twenty-three (23) recommendations by staff. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A CONDITIONAL USE PERMIT FOR A HOME OCCUPATION LOCATED ON A PARCEL SOUTHWEST OF THE TOWN OF SILT AND DESCRIBED AS 1580 CHAIR BAR RANCH ROAD – APPLICANTS – DONALD AND LINDA WHILLDEN – DAVID PESNICHAK

Nick Goluba, Donald Whillden, David Pesnichak, and Michael Howard were present.
Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff memorandum; Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated March 5, 2008; Exhibit G – Memo from Michael Erion P.E. of Resource Engineering Inc. dated March 28, 2008 and Exhibit H – E-mail from Brit McLin of the Burning Mountain Fire Protection District dated April 3, 2008.
Chairman Martin entered Exhibits A – H into the record. Planner David Pesnichak explained: The Applicant is requesting approval from the Board of County Commissioners for a Conditional Use Permit to allow a Home Occupation. A Home Occupation is defined in the Section 2.02.29 of the Zoning Resolution of 1978, as amended as the following: *Any use for gain or support carried on as an accessory use within a dwelling or a building accessory thereto, wherein such use would not create the appearance or impact of a commercial activity.*
PROJECT DESCRIPTION
The Applicant proposes to construct a new structure to conduct the sewing of parachutes used for boating (See description and diagram below). The Home Occupation is to employ two (2) employees.
STAFF RECOMMENDATION
Staff finds that the proposed Home Occupation cannot be conducted in compliance with the Garfield County Zoning Resolution of 1978, as amended. Impacts from the proposed use as represented by the Applicant will not adversely impact adjacent uses, however adequate legal and physical water for the proposed use has not been demonstrated. Staff recommends that the Board of County Commissioners **DENY** this request for a Home Occupation for the property owned by Donald J. and Linda L. Whilldin at 1580 Chair Bar Road.
David submitted an analysis for the application.
There is no water right attached to this property for perpetuity
However, should the Board find that the Applicant has adequately demonstrated that legal and physical water exists for the proposed use, Staff recommends the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless altered by the Board of County Commissioners.
2. No retail or wholesale sales of any kind associated with the activities of the Home Occupation shall be allowed to take place at the property.
3. The Applicant shall obtain all necessary building and ISDS permits for any structures associated with the Home Occupation.
4. All operations of the Home Occupation shall be conducted within the accessory building (barn) as proposed.
5. The Home Occupation shall employ two (2) or fewer employees.

6. No signs advertising the Home Occupation may be placed anywhere on the subject property.
7. All outdoor lighting shall be directed downward and inward and shall not protrude outside the property boundaries.
8. 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 by the Applicant.

Nick Goluba – The issue is the water and the property is on a shared well which is not viable to amend the well permit to allow for this usage. Trying to drill another well on the property would not be viable either due to the lack of water resources in that area. This was the best and only way to get water to the proposed use and there will only be two employees in the facility. Water usage will be minimal. The well shares three lots of which there are two homes on the well at this time. The third lot is owned by the applicant. Don has a cistern now and doesn't want to drink the water in that area from the well. Chairman Martin – It is in our regulations but very few people between Silt and Rifle don't have a cistern and haul their water even though you have a well. Commissioner McCown – In Michael Erion's report it says that such arrangement is not recommended but it is allowable under County regulations. Michael Howard stated the Commissioners have to be comfortable with the legal and adequate water issue; he has made a commitment to do what he says and it will continue but if there is not adequate water you could revoke the CUP as well. There are provisions for that. Commissioner McCown – Three fourths (3/4) of the well permits we see that come before the County are supplemented by a cistern and water hauled from a public water system so under the technical review it is allowed under our regulations.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close public hearing.
In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown moved to approve the CUP for a home occupation with the eight (8) conditions listed by staff and looking through here and didn't see any that related particularly to an additional ISDS system and am assuming that is a condition of approval and would not preclude that the applicant would be able to allow for bottled water for consumption by the employees and that the cistern that would supplement the lack of water be used solely for the restroom facility. Commissioner Houpt – Condition No. 3 – does this satisfy your ISDS?Commissioner McCown – Yes, I read past that one. Commissioner Houpt seconded. Having great concerns about this as there is a real conflict because we have a great deal of oil and gas development going on that we allow vault and haul systems for temporary housing, and it has to be renewed every year and gives the Board a certain amount of control over what happens with that water system. In this case I'm not sure how we keep track of this. This is a very small staff but I think it's not a great solution for a water issue. I don't want to send a message to anyone that's watching this that this is a really great solution for water issue. Chairman Martin – Hauling water is a way of life for many people. Commissioner Houpt – Typically when we approve an application it is after legal and adequate water has been proven, and I'm not sure that hauling water for a long term business is proven to be satisfactory. Commissioner McCown – this system in this valley does not carry a source of permanent water. In favor: Houpt – aye Martin - aye McCown - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW AN INDUSTRIAL SUPPORT FACILITY – MATERIAL HANDLING, STORAGE AREAS (GARDEN GULCH COMPRESSOR SITE) – APPLICANT – CHEVRON USA – CRAIG RICHARDSON

Craig Richardson, Michael Howard, Stephen A. Bain with Welborn, Sullivan, Meck & Tooley, P.C., Joe Kellogg, Brian Danforth and Joel Dobransky were present. Michael Howard reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application and Exhibit E –Staff memorandum. Chairman Martin entered Exhibits A – E into the record. Craig stated that Petroleum Development Corporation (on behalf of the property owner) has submitted a Special Use Permit to allow an "Industrial Support Facility – Material Handling, Storage Areas" on a property situated within the Resource Lands – Gentle Slopes Lower Valley Floor Zone District, northwest of the Town of Parachute. The purpose of this application is to allow modification of an existing facility. The existing facility is situated within a 3.5 acre site on the subject property. The proposed modification will utilize the existing facility's footprint. The Applicant intends to remove an existing flare, glycol regenerator, discharge separator and above-ground tank and meter from the facility. The existing Ajax compressors, separator, meter tanks and emergency vent stack will remain on-site along with the addition of two gas driven compressors, a third future compressor, glycol contactor, glycol regenerator, BTEX unit, pig receiver, inlet separator, discharge separator, fuel and gas scrubber, enclosed flare, associated above-ground storage tanks.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing an "Industrial Support Facility – Material Handling, Storage Areas" with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. Volume and Sound generated shall comply with the standards set forth in the Colorado Revised State Statute;
3. All lighting associated with this use shall be directed downward and away from adjacent properties;
4. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation for this type of facility;
5. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility;
6. The proposed facility shall comply with all performance standards identified in §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
7. The applicant shall provide a revegetation security in the amount of $14,000 prior the issuance of the Special Use Permit.

Craig said the staff does recommend approving this striking number seven (7) in the staff report because it is a duplication of Condition of number 3 and including number seven (7) for the revegetation security.

Applicant: This application was submitted one year ago and is basically an upgrade in the facility. They have put in better, cleaner compressors and should be quieter. We've already obtained air and water permits. This is in a remote part of the county and no objections have been received. In September there was a problem of noticing; so they put in the items prior to sitting before the Board today due to the timing issue.

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 to approve the a Special Use Permit to Allow an Industrial Support Facility for a Material Handling, Storage Areas (Garden Gulch Compressor Site) for Chevron USA with the seven 7 conditions as recommended by staff**.** Commissioner Houpt – Seconded but stated that it is very important to keep the process in order; she has a real problem with the jobs starting before the approval process. \

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

CONSIDER AN EXEMPTION FROM THE DEFINITION OF SUBDIVISION CREATING TWO (2) LOTS – APPLICANT – TOMPID IRREVOCABLE TRUST – CRAIG RICHARDSON

Craig Richardson, Michael Howard and Richard Tomlinson were present. Richard is the son of Wellie D. Tomlinson and he had proof of the ability to represent his father in this request. His father maintains the mineral rights.

Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F -Application; Exhibit G – Staff memorandum and Exhibit H – E-mail from Garfield County Road and Bridge Department dated February 26, 2008. Chairman Martin entered Exhibits A – H into the record. Craig explained the request and presented a power point review.

STAFF RECOMMENDATION

Staff finds, the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for Parcel No. 239920100013, with the following conditions of approval:

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board;
2. The Applicant shall provide a an Access Easement to be recorded at Garfield County Clerk's Office at the time of filing the Final Exemption Plat prior to Staff presenting the Exemption Plant to the Board of County Commissioners for signature;
3. The Access Easement shall be depicted on the Final Exemption Plat;
4. The Applicant shall provide the results of a pump test (4hr minimum) conducted on the well serving the proposed Exemption;
5. The Applicant shall provide a written statement from the qualified professional conducting the pump test regarding the adequacy of the well to serve the proposed exemption based on an assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
6. The Applicant shall deed a 30-foot right of way from the center line of the existing road the length of the property that borders County Road 313 for future road improvements (Garfield County Road and Bridge request);
7. 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.

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

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

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

d. 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.

e. 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.

f. Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contracts with background color.

Applicant: The road easement will be submitted; pump test wasn't done because of the snow. Trying to get this finalized so he and his wife can build the house.

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

A motion was made by Commissioner McCown to approve the Exemption from the Definition of Subdivision creating two (2) Lots for Tompid Irrevocable Trust with the seven (7) conditions as recommended by staff. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY – APPLICANT – WILLIAM AND EUNICE SMITH – CRAIG RICHARDSON

Craig Richardson, Michael Howard, William Smith, and Ross Kauffman with Beacon 360, LLC. working for the lessee Sensis Corporation were present. Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application and Exhibit F – Letter from Brian Condie, Garfield County Airport director dated March 11, 2008 and Exhibit G – updated site plan. Chairman Martin entered Exhibits A – G into the record. Planner Craig Richardson explained the requested Special Use Permit will allow construct a Control Beacon Interrogator Automatic Dependent Surveillance – Broadcast System. Specifically, the requested Special Use Permit will the construction of a 30' monopole communication mast supported by three (3) guide wires to host an air traffic control antenna. The proposed facility is part of the proposed Garfield County Airport Air Traffic Control System and will host a "receive only" antenna to report aircraft positions the FAA Denver Traffic Control Center. Out going communication from the proposed facility will be via a telephone landline. This is located off CR 311.

Staff recommends approval of the proposed Special Use Permit allowing a "Communication Facility" on a property owned by POW Inc. with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
3. The communication facility shall be available for future co-location and the denial of a requested co-location shall be based on technical reasons, not on competitive interests.

Applicant: Staff summed it up well; it is one of nine (9) beacons being placed around the Airport. This is a function of the beacons being placed in the correct places.

Mr. Smith stated he didn't have a problem; it is located about six hundred feet (600') from his house.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Special Use Permit to Allow a Communication Facility for William and Eunice Smith with the three (3) conditions as recommended by staff. In favor: Houpt – aye McCown – aye Martin – aye

Update on the Vezzoso Litigation will be handled next week.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

APRIL 15, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO
And
CONSOLITATED METOPOLITAN DISTRICT

The special meeting of the Board of County Commissioners began at 9:00 A.M. on Tuesday, April 15, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Jean Alberico Clerk & Recorder, Bob Jasper, Jake Mall and Chris Coyle were present along with other members of the Special Districts in Battlement Mesa.

CALL TO ORDER

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

AGENDA ITEMS INCLUDED:
ROADS, GROWTH AND GOVERNANCE
SERVICE ASSOCIATIONS
BATTLEMENT MESA METROPOLITAL DISTRICT
STRATEGIC PLANNING PROCESS
BATTLEMENT MESA SERVICE ASSOCIATION AND
CONSOLIDATED METROPOLITAN DISTRICT
ADJOURNMENT

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

Attest: Chairman of the Board

_____ _____

APRIL 21, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, April 21, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

REQUEST FOR APPROVAL OF TWO (2) NEW MEMBERS FOR THE HUMAN SERVICES COMMISSION.

Resumes were received from Cynthia F. Fleming, Esq. and Janet Wolfson, Division of Vocational Rehabilitation.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Cynthia Fleming and Janet Wolfson to the Human Resources Commission. In favor: Houpt – aye McCown – aye Martin - aye

ACCEPTANCE OF STATE GRANT FOR 2008 – BRIAN CONDIE

Ed reported for Brian that he had received a letter from Kaitlyn Westendorf, Grants Administration, CDOT-Aeronautics Division advising our grant was awarded. Three copies of the Grant Agreement has been submitted for the Chair to sign along with a resolution requesting this assistance and assuring sufficient local funds are available and designating. Brian as the Project Director. This is the state supplement to the federal grant.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to receive the grant from CDOT and the Chair authorized to sign. In favor: Houpt – aye McCown – aye Martin - aye

REMOVAL AND RELOCATION OF HOLY CROSS ENERGY LINE AT THE AIRPORT – BRIAN CONDIE

Ed reported for Brian that he received a letter from Holy Cross indicating they have completed a design and cost estimate for removal and relocation of the line at 0375 County Road 352, Rifle, Colorado. The estimated cost for this removal and replacement of the overhead power line is $80,600.00, which is due as a non-refundable contribution. The County's contribution will be adjusted to reflect the actual cost by making a refund or further assessment. Holy Cross states their power facilities must be installed on an easement. There are also three (3) conditions noted. Brian went over the conditions. Carolyn stated she needs to find the reception number, check the recorded document, and make sure it is County Airport property. The deed was not available at this meeting.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the signature of the Chair subject to legal review and if it not on County property then it will come back to the Board.
In favor: Houpt – aye McCown – aye Martin - aye

APPOINTMENT OF RIFLE CORRECTIONAL FACILITY WARDEN TO GARFIELD COUNTY COMMUNITY CORRECTIONS BOARD

A letter from David M. Scherbarth was submitted indicating his interest in becoming the Correctional Facility Warden. This position is open due to the resignation of Robert Johnson on March 28, 2008. Some changes have been made to the workers program and word on the street is that the operations are run out of the Delta Facility.
Dale explained the grading system and it could very well be possible that this is due to the classification process. Dale will review this issue and report back.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint David M. Scherbarth to the Community Correctional Board. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF IGA FOR MOSQUITO CONTROL – STEVE ANTHONY

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to authorize the renewal of the Mosquito Control contract and authorize the Chair to sign. In favor: Houpt – aye McCown – aye Martin - aye

OIL AND GAS COMMISSION RULES

Don stated that last week discussion was held regarding a time for reviewing the Oil and Gas Commission Rules and the Board mentioned having a workshop session concerning the rules. Commissioner Houpt has recused herself from this discussion. Don asked how to schedule this; one of the Commissioners will act as the County's representative and will be receiving direction. The anticipation of our oil and gas meeting is related directly to the direction given to Judy to submit a staff report to both John & Larry to provide a synopsis all the staff's comments. Judy will have it on May 5th. However, we have to have our statement prepared and ready to submit by May 9th; therefore some formal direction needs to be given on May 5th as to what it should look like.

SCHEDULING THE WORKSHOP – EXECUTIVE SESSION

Commissioner McCown's intent is to determine the response and would like some guidance at that point. The date of Thursday, May 1st was set at 9:00 a.m. in the County Attorney's Office for legal advice on the response.
Don stated the staff report is a true deliberative document and will be provided for the Board to set forth their final decision. This will be a privileged document until the Board decides to release it whenever, if, or at all. On May 5th there will definitely be a public discussion.

EXECUTIVE SESSION: LITIGATION UPDATE; Legal Advice – Land Negotiations and Dale needs to be present; County Road 204 and contract negotiations; personnel item on the oil and gas liaison position and the role of that position.

TEMPORARY HOUSING QUESTION FOR LEGAL ADVICE AND RESEARCH

Chairman Martin - The newest piece of information that he has heard is that the decision made by the majority of this Board on the Temporary Housing on the small facilities zero to eight people (0 to 8) people living on someone's property is a taking issue. John added that he did extensive research on this issue including case law to Rocky Mountain

Mining law, Rules and Regulations of the Oil and Gas Commission and had spoken with several attorneys. This is a very basic and the core of my belief is that we protect the property rights of our citizens. I would like to share my findings and also to request a legal opinion as to whether this is a takings or not and to receive direction. John drew a diagram of a parcel of land illustrating the corner of the property as an approved portion of land used by the oil companies to extract the minerals. If the property is a fee simple property, meaning the property owner pays taxes, but the surface and minerals are separated, two owners with divided interests, then if there is an application for an APD (Approved Permit to Drill) for those minerals and either a Surface Use Agreement or a bond that is guaranteed by the state to pay for damages and to reclaim the surface use, then this protects the property rights of the surface owner. The property with the APD then is not a violation, not a taking. It is a temporary use of the surface and once the surface is no longer needed then the rights to the surface are restored. This is not an action held against the property unless it is property outside of the APD. An action for the APD is not a taking. Here it is again and I do not believe that our rule on Use by Right for the small temporary facilities is a taking. I find that it is not. Commissioner Houpt stated that she doesn't completely agree with John. Chairman Martin said this is a question of this Board regarding surface and mineral use; do we feel that our regulation is a taking. Commissioner Houpt said she thinks it's improper and does so because the surface owner needs to be a part of that action. Clearly they should be in the loop on who's going to be living on their property, the number of personnel, and how long they will be there, and the impact on their property. She didn't support this and did not support waiver of their signature and feels it is wrong to take them out of the loop.
Chairman Martin stated this is activity permitted by the Oil and Gas Commission and it is dominate and it does not affect the rights of the property owner; it is not a taking if it doesn't go beyond the APD.
If you include the signature of the property owner, he signs off on the APD then that person becomes liable of the activity of the drilling but if the property owner doesn't sign other than the SUA then they are protected both civilly and criminally. This is a legal question. Commissioner McCown said all we did was waive the need for a building permit. Carolyn Dahlgren – And the need for a land use permit. Commissioner McCown – There is no land use permit required for a building permit in one of the cases that would require public notice or a land use review for a building permit. Commissioner Houpt – But this is housing for people who aren't part of, who don't own that piece of property and so it is a different kind of use and that's why the discussion of whether it should be administrative or use by right came into that discussion as well. So it was the waiving of a building permit and it was the decision of making it a use by right instead of an administrative process. Don said my question with John in raising the issue with me, and I didn't know if you needed legal advice of this issue, but if the Board wishes legal advice on this issue we will explore it further and we will do it for the whole board if you wish us to do that. Chairman Martin– That's the question I'm putting forth. I feel the regulation is within our realm and I believe that it is not a taking by the research and by the unanimous decision of all the attorneys that I talked to as well as the case law and the rules and regulations that I have read and my interpretation of it; again it's fairly straight forward and simple and the question of "do we require more permits", yes we could. We chose not too simply because of the cost to the County, the inspection and the time involved of our staff not the oil and gas developer and if we read the recommendations we'd be hiring two or three people just to inspect these sites for the County. Commissioner Houpt – That's our responsibility. Chairman Martin – It is and it is also the option to rely upon state agencies as well because we are an official arm and extension of the State of Colorado and so working in tandem is the way we chose to do. If that's a taking; then we need to ask the question.
Commissioner McCown stated that it may be fruitful to put the accusations to rest and recommended that the legal department give us an opinion on the takings question. Don – Whether the enactment of the temporary housing regulation constituted a taking of private property? All the Board – Yes. Carolyn – Small facilities.
Chairman Martin – Because in the application of the other two, minor and major, the applicant has to be the surface owner as stated in our regulations. Also that surface owner then takes on the responsibility and risks involved with that application. Don – We will address that and give you an opinion on it and we will submit it to as an attorney/client privilege document and as usual you can decide what you want to do with it. Also, in Executive Session, Michael Howard needs to provide an update on the Vezzoso 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 REPORTS
Commissioner McCown — Land use review here tomorrow at 1:00 p.m. – subject pipelines regulations.
Commissioner Houpt – the code re-write here; Wednesday and Thursday I have meetings on the I-70 collaborative effort team meetings and then a Rocky Mountain Rail Authority Board meeting in Denver on Friday. Over the weekend I worked on the Habitat for Humanity house in Carbondale and it's always been such an impressive process; you know that we have incredible need for housing in this County and you're working side by side with people who are making that a reality for a family and it puts things back into perspective – it's not building a hundred at a time but it's making the real impact for people who are finding themselves shuffling from one house to the next because they can't afford a longer term commitment. Chairman Martin – It is satisfying Tresi and I know because we had affordable housing for 53 years in my family for folks with fixed income, retirement, etc. and the adjustments you have to make. Last week I met with the Summit Pre-school in reference to their situation down in Rifle. They are looking to try and work with County as well as a new private landowner and relocate the Summit Pre-school that has 147 kids and wishes to expand to infants as well. We will have another meeting on Monday in reference to the findings on both ends. Also, I attended the County Health Fair and also helped raise money for the Pee Wee Hockey for Glenwood on Saturday as well as cooking pancakes; then to the Energy Fair in New Castle where we had Mr. Green's vehicle and the Town of New Castle was so impressed with your vehicle Ed as well as the concept of our motor pool that they would like to sit down with their new administrator who will be here in two weeks and they want to go ahead and discuss our approaches and how we purchase these vehicles, etc. They would like to work with us on the hybrids, etc. Then I was a representative for the Day Care Provider's luncheon and awards and money issued to the daycare providers. And what was very encouraging was it was about 50% males - fathers and grandfathers and men who like working with children and also take care of children who are now coming forward and assisting the day care providers in the programs. I also met with the folks on

Tuesday in Carbondale in reference to reviewing the grass fire and some of the precautions that we can set and work with the fire department and sheriff on some of the indicators so that we go ahead and prevent some of these items from happening through citizen groups and awareness. Then the 23rd is also Office Professional Day for those that have office professionals working with them – Wednesday is their day. Late Wednesday and on Thursday and Friday, I will be out of pocket

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant Lists
c. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit and a Special Use Permit for One (1) Temporary Employee Housing Facility Located Approximately Twenty (20) Miles North of the Town of DeBeque and within a Natural Gas Well Pad Operated by Chevron USA Inc. and Described as 598-25-CV – Applicant – Chevron USA Inc. – David Pesnichak
d. Authorize the Chairman to Sign the Resolution of Approval for Special Use Permit for One (1) Temporary Employee Housing Facility Operated by Berry Petroleum, Located North of the Town of Parachute and on a Well Pad Identified as K-15 – Applicant – EnCana Oil and Gas (USA) Inc. – David Pesnichak
e. Authorize the Chairman to Sign the Resolution of Approval and the Conditional Use Permit for a Home Occupation Located at 1580 Chair Bar Road – Applicant – Donald and Linda Whillden – David Pesnichak
f. Authorize the Chairman to Sign the Resolution of Approval for Spring Valley Ranch Planned Unit Development Amendment – Applicant – Spring Valley Development, Inc. – Fred Jarman
g. Authorize the Chairman to Sign the Resolution of Approval for 'Spring Valley Ranch Preliminary Plan for the Planned Unit Development – Applicant – Spring Valley Development, Inc. – Fred Jarman
h. Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit for a Communication Facility – Applicant – William and Eunice Smith – Craig Richardson
i. Authorize the Chairman to Sign the Exemption from the Definition of Subdivision Mylar for Upper Divide Subdivision Exemption – applicant – Upper Divide LLC – Craig Richardson
j. Authorize the Chairman to sign an Amended Plat for Aspen Glen, Filing 1, Lot D-43 Located at 139 E. Diamond A Ranch road to Allow for the Subdivision of a Duplex Unit – Applicant – Aspen Glen D-43 LLC – Kathy Eastley
k. Authorize the Chairman to Sign an Amended Plat for Aspen Glen, Filing 5, Lot 9 Located at 0134 River Glen to Allow for an Amendment to the Building Envelope – Applicant – Revana Family Partners – Kathy Eastley
l. Authorize the Chairman to Sign a Resolution Concerned with Amendment, Repeal and Re-enactment of the Garfield County Emergency Medical Services Resolution – Dale Hancock and Carolyn Dahlgren
m. Approval of the Board of County Commissioner Minutes – March 10, 2009 and March 17, 2008 – Jean Alberico
n. Liquor License Renewal for J. Thomas Schmidt & Co. d/b/a Ironbridge Club – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items a – p absent item L; carried. Item L discussed separately.

Item L **-** Authorize the Chairman to Sign a Resolution Concerned with Amendment, Repeal and Re-enactment of the Garfield County Emergency Medical Services Resolution – Dale Hancock, Carl and Carolyn Dahlgren

Carolyn stated this is a drafting question and not legal issues. She put the packets together forgetting that Carl had send some changes, so this my fault. Discussion and the document was reviewed.

Definition of licenses; page 4 – number 2; page 7 – subsection 3, I; page 9 – formatting issue; page 9 – subsection k, III – formatting; page 10 – paragraph 3B – exhibits and not just certifications added B1 and B2 and subsection C; page 11 – IVA1 materials with application; page 13 C – license and permits and D; otherwise it is in the packet.

A motion was made by Commissioner McCown and seconded Commissioner Houpt to authorize the Chair to sign a Resolution concerned with Amendment, Repeal and Re-enactment of the Garfield County Emergency Medical Services Resolution with the corrections made today. In favor: Houpt – aye; Martin – aye; McCown - aye

REGULAR AGENDA: HUMAN SERVICES COMMISSION

TEEN PREGNANCY COALITION

Saundra Swanson representing the Teen Pregnancy Coalition which is formed of interested personnel, teen moms, Youthzone, Resource Families, Yampah Teen Parent Program and many other agencies presented the information. The seventh annual National Day to Prevent Teen Pregnancy will take place on May 7, 2008. The purpose is to focus the attention of teens on the importance of avoiding teen pregnancy and other serious consequences of teen sex. On this day the teens (nationwide) are asked to take a short online quiz which asks them to reflect on the best course of action in a number of tough sexual situations. Teens can participate by logging onto www.stayteen.org. There will also be a hard copy version available so that teens without internet access can still participate. A sample letter (through Family Visitor Programs) was sent to the schools in our area inviting them to participate in the Seventh Annual National Day to Prevent Teen Pregnancy. Statistics were provided indicating in 2006 that 11% of all Garfield County births were to mothers between the ages of 10-19. Saundra stated less than 1% are in the category of wanting the pregnancy.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENT FOR MARCH, 2008

Lynn Renick presented the client and provider disbursement for allocated programs totaled $206,620.25 for the month of March, 2008. Client benefits for Food Assistance and LEAP totaled $212,363.82 bringing the total EFT/EBT disbursements for March to $418,974.07. Lynn requested approval of the disbursements. Commissioner Houpt so moved; Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

The department is requesting consideration and approval of the following agreements/contracts. Lynn requested approval of the Board for the following out of home placement contracts:

- Out-of-home placement contract with Shiloh Home, for State ID Y398466, in the not-to-exceed amount of $23,106.24.

Commissioner Houpt so moved; Commissioner McCown seconded.

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

- Out-of-home placement contract with Hand up Homes, for State ID Y693086, in the not-to-exceed amount of $14,780.64

Commissioner Houpt so moved; Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

- Out-of-home placement contract and Purchase of Services agreement with Excelsior Youth Center, for State ID GA481856, in the not-to-exceed amount of $16,383.36

Commissioner Houpt so moved; Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

- Out-of-home placement contract agreement with Excelsior Youth Center for State ID Y497462 in the not-to-exceed amount of $21,369.60.

Commissioner Houpt so moved; Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

PRESENTATION ON THE FAMILY CONNECTIONS/FATHERHOOD INITIATIVE
AUTHORIZATION OF SIGNATURE ON THE RESPONSIBLE FATHERHOOD GRANT APPLICATION TO THE COLORADO DEPARTMENT OF HUMAN SERVICES

Steve Aurand and Rachel Windh presented a power point presentation on the Fatherhood Initiative.
The Department has completed the first six (6) months of the Responsible Fatherhood grant which is a federal grant being administered by the Colorado Department of Human Services. Next year's funding and grant request for the Federal Fiscal Year 2009 has been placed in the Board packet and the Department is requesting approval and signature on the grant application.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Fatherhood Grant Application to the Colorado Department of Human Services which is $50,000 and authorize the Chair to sign. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF ADULT PROTECTION TEAM BY-LAWS AND APPOINTMENT OF MEMBERS

The Multi-disciplinary Adult Protection (MAP) Team has been meeting since the beginning of the year. The group has develop and agreed upon by-laws and is requesting approval of these by-laws and the appointment of the individuals to serve on the MAP Team. Lynn submitted the memorandum and explained that the following individuals have been actively involved in the development and implementation of the MAP team and have agreed to participate as members. Requests for additional names will be made as individuals are identified. The Department is requesting the following names to be appointed by the Board to the Garfield's Adult Protection Team: Mildred Alsdorf, John Lutgring; Terri Gedees; Brenda Scimsher; Linda Byers; Kate Somsel-Longmore; Karen Meier-Binde; and Lynn Renick
Carolyn suggested this be done by Resolution and the Board agreed.
Commissioner McCown made a motion appointing the following to the Garfield County Adult Protection Team: Mildred Alsdorf, John Lutgring; Terri Gedees; Brenda Scimsher; Linda Byers; Kate Somsel-Longmore; Karen Meier-Binde; and Lynn Renick. Commissioner Houpt seconded the motion.
In favor: Houpt – aye McCown – aye Martin - aye

PRESENTATION ON THE 1451 COLLABORATIVE MANAGEMENT PROGRAM

Sandy Gardineer, Susan Garcia and Joyce Christensen were present.
A power point presentation was presented by the members of the Interagency Oversight Group and HB 1451 was explained. This is an effort for at-risk kids. The goal is to make this as a model for all middle schools. Intervention can make a difference in a child's life. This would provide a one-stop program.

PROGRAM REPORTS:

- April is Child Abuse Prevention Month and the Month of the Young Child. A brunch was held on Sunday, April 20, 2009 to recognize the commitment and work of the community's day care providers. The department is also providing training on April 22nd and April 24th to kick-off Garfield County's Family-to-Family Initiative which focuses on the partnerships between the community, county department and families to work toward successes in child protection interventions.
- May is National Foster Care month. The department is hosting a Recognition Picnic on May 10th to honor our County's foster parents, kinship and adoptive families.
- May is Older Americans Month. The MAP Team has been providing information at the area Health Fair sites and additional public service announcements are planned during the month to highlight pertinent issues facing our County's seniors.
- Eligibility Program Update – The department is working toward the implementation of phone interviews for the Food Assistance (Food Stamp) program to begin July 1st. Face to face interviews are currently required in order to receive benefits.
- NACo Prescription Drug Discount Program – A March report is included in the Board packet for information regarding the County's first two weeks of program implementation.

BOARD OF HEALTH:

A BRIEFING ON THE GARFIELD COUNTY COMMUNITY HEALTH RISK ASSESSMENT – DR. TERESA COONS

Theresa Coons and Jim Rada presented a power point to provide the Board with a briefing on the natural gas industry in Garfield County. The risk assessment was done by Dr. Russell Walker, Mesa State College and the Health assessment by Dr. Theresa Coons, Saccomanno Research Institute.
This is an overview of what information the Board will see in that report. This is neither a technical nor a conclusion of the report. This is a two-part assessment, risk and health. Dr. Russell is in the process of identifying the sources of contaminants and potential for human exposure, then developing a model for risk to humans.
Part of it is to identify the pollutants from specific natural gas operations and other types of pollutants but the focus was the natural gas industry including air, water and soils. Air – Air sampling data from GPHE will be included and it will discuss gaps where data is not gathered, discuss limitations, predict VOC concentration in air and focus on benzene

because of its carcinogenicity (cancer risk) at different distances downwind from a source. Soils – The report will discuss and describe available data and address spills by condensate. Water – Describe and discuss available data identifying the gaps and lack of data except for the vicinity of the gas seep in West Divide Creek. They will provide a qualitative characterization of threat to human health.

Human Health Assessment – A snapshot in time/baseline and comparison groups – comparing the health of residents to Delta, Mesa or Montrose counties and is the health of residents of areas of Garfield County that are heavily impacted by the natural gas industry different from the health of residents of less impacted areas of Garfield County. This would be done by zip codes. Theresa said they will attempt to compare the health in other parts of the western slope counties. Chairman Martin – Stay and influx – are they bringing things in with them due to growth and humanity. Theresa said they can look at trends and the rate of growth.

Human Health Assessment Data Collection

Qualitative Data – Perceptions and concerns
Qualitative Data – health measures
Self-report Health Status – household survey

Comparison – How comparable are these other counties to Garfield County addressing the population, age demographics, race and ethnicity, average household size, birth and date rates and medium household income.
The environment, health, societal/health, societal/ wildlife/livestock were the perceptions and concerns.
1990 to 2006 were involved in the comparisons. They obtained the data from the State of Colorado records.
The household survey was discussed; this was a phone and mail based survey in all the various zone districts. Statistics were provided and they completed 2.8% of the households in the entire County. A total of 2,511 calls were made and surveys were mailed to 1,731. Out of the 2,511 only 219 calls were completed, 2,336 refusals or no contact; and out of the 1,731 only 166 returns were completed. Theresa reported on the survey sections and found about 50% had lived in their residences for more than five (5) years. They asked about health status and issues related to specific diseases and if they were better off now than they were five (5) years ago. They asked about factors that could influence health such as tobacco use, jobs, access to health care and income. Timeline – The Completion of draft report will be ready by the first week of May; stakeholder review of the draft report will be done in 30 days and then they will release the final report and make reports to the public in June. Content and report – We are not just looking at the data and will have a possible recommendation they can make to the Board. The industry is a stakeholder and has been providing information for the data study. Jim Rada will set up public meetings to answer questions concerning the reports. Jim is working through the Energy Advisory Board on the public meeting schedule.

APPROVAL OF COMMUNITY SERVICES BLOCK GRANT CONTRACT – LAUREL LITTLE

Laurel Little for Victoria Kennedy who is the Nurse Manager for pre-natal community presented. This is where the Block Grant contract funds are used.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the State of Colorado Community Services Block Grant Contract for $45,000.
In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION OF THE 2ND SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 2ND AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Commissioner McCown stated he thought these continual adjustments would go away and thought in the broad based employee salary equity adjustments that the need for these continual equity adjustments would no longer be needed.
Ed – We approved 4% plus 1% and there can be a host of issues related to equity issues not covered as we are doing business. We will not use the full 1%. Commissioner Houpt – Was the process of job descriptions not a final review?
Ed – Some things are still popping up as we are using those job descriptions.
A motion was made by Commissioner Houpt 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 2nd supplemental to the 2008 approved budget and the 2nd amended appropriation of funds.
In favor: Houpt – aye McCown – aye Martin - aye

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

W. C. Tomlinson – Exempt from definition of Subdivision and waiver of Paragraph 4 & 5 on a pump test on his well.

Last week the Tompid Irrevocable Trust was approved and following conditions (number 4 & 5) of approval that included: *4) The Applicant shall provide the results of a pump test (4 hr minimum) conducted on the well serving the proposed Exemption; 5) The Applicant shall provide a written statement from the qualified professional conducting the pump test regarding the adequacy of the well to serve the proposed exemption based on an assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day*.
Richard Tomlinson was present at the hearing last week and said he is the son of Wellie D. Tomlinson. He also had proof of the ability to represent his father in this request. His father maintains the mineral rights. Today, W. D. Tomlinson of 3369 County Road 313, New Castle, Colorado appeared before the Commissioners with a concern about the exemption from the definition of subdivision and requested a waiver on the conditions as shown above on the pump test on their well. His request is for a number of reasons. Chairman Martin – Our attorney will give us the options we have simply because we heard this last week and it was in the conditions of approval and according to your son, the pump test may not be obtainable under the circumstances. Carolyn Dahlgren explained there is a process question and a content problem. The process issue is that these hearings about exemptions are supposed to be noticed public hearings; so in order for you to change anything you would have to start all over again and renotice all your neighbors and if there were any separated mineral interests they would need to be included in the notice. There may be people who might have something to say about it and they would have the opportunity to come back and tell the Commissioners why you should or shouldn't be allowed to do that. Under our regulations the Board does not have the authority today to treat this like an extended public hearing – you have start again with a new public hearing. The second issue is the way our regulations are written it says, "prior to the signing of a plat, all physical water supplies shall demonstrate the following……" It's mandatory, rather than it saying under the facts, the BOCC can require this or not require it.

However, I don't know what would happen if you came back to them in a new hearing, maybe they would decide that based upon the facts they weren't going to apply that regulations. I have to tell you as a lawyer I'd tell the Board to be careful because why is this property different from anyone else's property; why would you be treating this piece of property different than all the other properties in which you have required this four (4) hour pump test. Mrs. Tomlinson said it may damage our well. Chairman Martin – That's some of the issues that need to be discussed. If you decide and I wanted you to hear from our attorney on the options that we have and what options you have. If you wish to go ahead and discuss this with your son on why you can't meet these particular requirements, then you need to decide as a family that you want to start over and address those conditions number 4 & 5 on the recommendations of approval and give us the reasons why. You do run a chance of not getting it waived or the conditions could remain as is, as requirements.
Mr. Tomlinson stated this well has been in existence since 1989; it has provided water to our house everyday for nineteen (19) years and we've had no problem with it. It is a well run on a solar pump and no electricity is up there and it is fed into a thousand (1,000) gallon cistern tank and gravity fed down to the house. I have forty (40) pounds of water pressure at the house and for nineteen (19) years; no problems. I don't want to have somebody come up there, we did talk to a well pump person, and he stated he would bring a generator up there and a two hundred twenty (220) volt water pump, pump our well dry and then test it for the four (4) hours. Why? If a well's been in existence for nineteen (19) years without a problem, why do we have to prove it's a well? Carolyn – To prove that it will have adequate water for the two (2) lots that you're going to have. Mr. Tomlinson – We've had four (4) people in the house now for three (3) years – no problem. Chairman Martin – And so those are the options that we have and we're bound by those as you are, so that's why we needed you to understand what they were and that you need to sit down as a family and decide as a family which way you want to go. Mrs. Tomlinson – Would we just resubmit what we did already?
Chairman Martin – Yes, and you would start all over. In reference to those two (2) issues Conditions 4 & 5 because we can't make a decision on changing those conditions unless we have a public hearing process. Mrs. Tomlinson – So we just get back on the calendar? Chairman Martin – That is the only option to change those or you have to live with what is there on approval right now. Commissioner McCown – There's no guarantee that if you get back on the calendar the same conditions wouldn't apply because in our regulations it says "you shall prove this up" so this doesn't give us as Commissioners a lot of flexibility in saying, well these are good people and we're not going to make them do it, but the people that were here right in front of you, we made them do it so it doesn't give us a lot of options. Chairman Martin – There was another one and that was to confer with a water engineer in reference to the calculations based upon your solar pump, your volume or that over a period of four (4) hours using that instead of putting the two twenty (220) and pulling that much water; but that's something you need to discuss and satisfy that need. Mr. Tomlinson – If it ain't broke, don't fix it.

CONSIDER APPOINTMENTS TO THE BOARD OF ADJUSTMENT – FRED JARMAN

Fred presented a list of names indicating when their term expired and is requesting the Board to appoint Garfield County Citizens to the Board of Adjustment. Based on the breakdown given to the Board there is one (1) remaining Associate Membership that needs to be filled. As a result, staff has received one (1) written request for appointment which includes the following citizens:

1. Steve Damm (Glenwood Springs)
2. Will Perry (Carbondale)

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to appoint Steve Damm and contact Mr. Perry for his interest for any vacancy on the Planning Commission and if interested to contact Fred.
In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO ALLOW A CONTRACTORS YARD – APPLICANT – CANBERRA CONCRETE PUMPING INC. – CRAIG RICHARDSON

Craig Richardson, Jimmy Smith from Wagon Wheel Consulting, Inc., and Carolyn Dahlgren were present.
Guy Middleton from Canberra Concrete Pumping Inc. has submitted a Special Use Permit (SUP) to allow a contractors yard on a property zoned Agricultural Industrial (AI). Currently, a Conditional Use Permit (CUP) allowing the storage of one (1) Canberra Concrete Pumping truck and associated pumping equipment regulates the activity on-site. The Applicant is in violation of the existing CUP with two (2) trucks on site. The requested SUP will allow the storage of up to four (4) trucks and associated equipment indoors. Hours of operation will be from 6:00 am to 6:00 pm. The subject property is located adjacent to the Town of Silt. Due to the limited size of the proposed operation, staff recommends the Board of County Commissioners not refer this application to the Planning Commission.
Jimmy Smith - Mr. Richardson is correct that the existing facility is out of compliance and Mr. Middleton wants to bring it into compliance with the proposed expansion to the existing building.
Commissioner Houpt asked if he will remain out of compliance until this is completed; or is he going to get into compliance and then go through the process. Craig said it has been policy in the Building & Planning Department if an active application is on file and they are actively pursuing, not just laying stagnant, then we have allowed them to continue to operate with a permit while the process is going on. Jimmy – Currently this time of year his trucks can be parked outside the building and not use the building – it's primarily for wintertime operations and protection of the trucks but it will be used year round. The expansion of the building is what we needed a Special Use Permit for.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to schedule before the Board of County Commissioners. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO ALLOW A CAMPER PARK (HERONS NEST RV PARK) – APPLICANT – SIMON CASAS AND GENOBEVA LOPEZ – CRAIG RICHARDSON

Craig Richardson, Janet Aluise for the applicant and Carolyn Dahlgren were present.Craig presented that Herons Nest R.V. Park which is currently operating under an existing Special Use Permit (SUP), Resolution 1978-147. The existing SUP allows for thirty-eight (38) camper recreational vehicles (RV) spaces and thirty-two (32) tent spaces. However, the previous owner created an additional eighteen (18) camper spaces without obtaining approval from the Board of County Commissioners. The current owners are seeking to bring the facility into compliance with Garfield County Regulations. The request will be for a total of ninety (90) camper spaces. The subject property is located east of the Town of Silt adjacent to I-70. Staff is recommending that the Board not refer this application to the Planning Commission.

Janet – We believe we will be in compliance with your code and we believe you'll see that and we don't believe it should be referred to the Planning Commission. Commissioner Houpt – Currently there's fifty-six (56) camper spaces and they want to expand to ninety (90)? Craig – Yes, over a period of years but the Board's approval would be for ninety (90) but we must be sure they can accommodate that water and wastewater generation, etc. and all that will be done through our referrals. Commissioner Houpt – This seems like a big adjustment and this would be better suited to go to the Planning Commission because of the change in the dynamic; when you go from fifty-six (56) to ninety (90) it almost doubles the amount of trailers out there.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to refer to the Planning Commission. Commissioner McCown said there's no need for it to be referred.

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

Commissioner McCown moved to schedule this before the Board of Commissioners.

Commissioner Houpt – Seconded for discussion saying when doubling the size I think it's important to have this reviewed by the Planning Commission. Chairman Martin agreed with Commissioner McCown and said he thinks we can make a decision based on the requirements. In favor: McCown – aye; Martin – aye; Opposed: Houpt - aye

CONSIDER A TEXT AMENDMENT TO THE ZONING RESOLUTION OF 1978 TO ALLOW STORAGE, PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES FOR WATER IMPOUNDMENTS WITHIN THE PLATEAU IN RESOURCE LANDS ZONE DISTRICT (HUNTER MESA)– APPLICANT – MARATHON OIL COMPANY – FRED JARMAN

Fred Jarman, Doug Dennison of Cordilleran Compliance, Amy Stoodt of Marathon Oil 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. Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum and Exhibit F – Application submitted by Marathon Oil Company. Chairman Martin entered Exhibits A – F into the record. Planner Fred Jarman explained as natural gas drilling generates large amounts of water from the drilling process as a by-product, some operators have preferred to transport this water to large storage ponds either for evaporation, treatment and discharge, or for reuse in the facing process. Other operators also obtain permits from the COGCC to reinject this water back into the ground.

Fred stated the company wishes to construct evaporation ponds on the plateau and as a necessary component of fracing you produce a lot of water and the question is would you amend your zoning to allow for the storage of water. These are not the ponds on a well pad consistent with a specific drilling. A slide show pointing out CR 215 in the valley and also pointing out Garden Gulch to get to the top of the plateau was highlighted. This is contemplated in the Comprehensive Plan. The applicant and the Planning Commission recommended this be a Conditional Use Permit. Fred stated this is a way to mitigate dust and allows the industry to have water for wildfire suppression.

PLANNING COMMMISSION RECOMMENDATION

The Planning Commission unanimously recommended the Board approve the following amendments to the text of the County's Zoning Resolution of 1978, as amended:

1) Amend Section 3.10.01 to include "Water Impoundments" as a Special Use;

2) Amend Section 2.02.53 to replace the existing definition of Water Impoundment with the following:

Water Impoundment: Includes wastewater treatment settling ponds, surface mining ponds,

Detention and retention ponds, artificial lakes and ponds, and similar water features. Also included, but not limited to produce water and condensate impoundments as the terms are used by the oil and gas industry.

3) Amend Section 2.00 to replace the old definition of Water Impoundment with "Water Reservoir" as the following:

Water Reservoir: A natural or artificial place where water is collected and stored for use, esp. water for supplying a community, irrigating land, furnishing power.

4) Amend Section 2.02.31 and Section 5.03.07 to add "Water Impoundment" as defined in Section 2.02.53.

Suggested Findings:

1. That the meeting before the County Planning Commission and 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. Such use in appropriate to the physiciographic and general environmental character of the District to which it is added;
3. Such use does not create any more hazards to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted tin the District to which it is added.
4. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is added;
5. Such use is compatible to the uses existing and permitted in the district to which it is added;
6. That the proposed text amendment can be determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
7. That the application has met the requirements of the Garfield County Zoning Resolution of 1978 as amended.

Commissioner Houpt asked Fred if he had a sense of why this hasn't been a permitted use in the past.

Fred wasn't here at the time when the Resource Lands zone district (RL)was put in place and commented it might be an oversight because if you look to the uses already on the plateau they are very similar to a host of other uses in other zone districts that are associated with mineral extractions. We have bootstrapped the water impounding term in as storage, processing and material handling so it was never a clean fit to begin with. This makes a lot more sense and feels it is a good thing to mitigate the impacts that we are seeing from liquid management throughout the County.

Commissioner McCown said it also allows for the pipeline use bringing the water to these central facilities to eliminate truck traffic.
Amy – This is a text amendment change; this Board has seen pieces and parts of Marathon's overall plan and this is essential to that with a pipeline design that you will be seeing very shortly that will actually bring water to the Mesa and avoid truck traffic. Additionally; to be able to recycle water off of our rigs. We're probably in the neighborhood of twenty thousand (20,000) barrels a day and if you start calculating that out for the life of the projects it's tens of thousands of trucks so if we can recycle water on top of the Mesa it's not only good for the industry but also good for the environment and the community. Our overall plan has a consolidated facility that allows us to minimize what is on each pad location and we handle all of those liquids in one location.
Commissioner Houpt – It's very important and timely and as such I feel compelled to mention this, but it's really important that the handling of those liquids in the future be done in a manner consistent with your plans especially if we allow for a special use to permit these. Amy – Some or all of you know that the reserve pits on location are not designed for long term water storage. That's one of the issues that this industry has in the rocky terrain on top of the Mesa. These facilities can be designed for long term storage, they can be built with the slope that allows us to deal with the rock that's on the surface and protect liners from the issues we've had on the Mesa recently. You can have a bigger footprint than you'll generally need to have on your location and better manage what you're building.
Doug said that he had noticed in your list of the current allowed uses, it had water impoundment under conditional uses and if that's accurate, do you need to change that to water reservoir. Fred agreed. Doug – A related question for consistency, it seems like it would be helpful to change the other zone districts to refer to water impoundments; other facilities would still be under that storage, processing and material handling definition. Fred said we couldn't do it under this action. Carolyn asked Amy a question to make sure we have a clear public record, the staff recommendations changes your application and changes what Marathon is asking for, so are you okay with what staff is suggesting rather than the very words of your application. Amy – We are in agreement and this will line up with what the industry has worked on with the Planning Commission and the Board. Fred – As we did with the Planning Commission, he asked Amy to talk about why couldn't closed loop drilling handle this kind of excess water on the plateau and why do you need to go to larger facilities. Amy – The three (3) phases, the drilling completions and then ultimately the long term production of the well. During the drilling phase there is an opportunity through a closed or semi-closed loop system to reduce the amount of water and fluids on locations but there will always be some. In the completion process that's where the primary water is used and that's the majority of this recycled water that we would be handling throughout the drilling completion phase of our project; most of the wells are on top of the mountain and when they come on they have a significant amount of water that comes back with them. Long term they still carry thirty to forty (30-40) barrels a day and you multiple that out by seven hundred (700) wells and you still are handling a significant amount of water for the life of your asset that you've got to handle. We feel this is a better way to do it versus hauling it off the mountain to a hazardous waste facility. Commissioner Houpt – Hauling it off to a hazardous waste facility opens up another question and asked Amy to go into how you treat that hazardous waste on site. Amy – Basically, what we'll do is essentially separate any of the hydrocarbons and condensate from the water, the water goes to these ponds and hydrocarbons and condensate will be handled the normal way; it would all be centralized versus on fifty (50) locations. Condensate is actually a valuable commodity so it is a sellable and useable item. Fred – Question on the water – some of the companies have tried to move toward an reverse osmosis (RO) kind of mechanism to clean and then ultimately be able to discharge some of that water. Has Marathon looked at this direction? Amy – We have talked to a couple of companies who have done some testing in Rio Blanco County and we see this as a future thing that the State and County need to be comfortable with, but we are keeping our finger on the pulse of what's going on.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.
In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown to approve zone text amendment with the four (4) conditions as shown in our packet with the suggested findings of staff. Commissioner Houpt – Clarified that it be a special use. Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT FOR EXTRACTION AND MATERIAL HANDLING OF NATURAL RESOURCES FOR A ROCK QUARRY MINE ON THE PLATEAU – APPLICANT – MARATHON OIL COMPANY – FRED JARMAN

Fred Jarman, Doug Dennison, Amy Stoodt, and Carolyn Dahlgren were present. Doug clarified this is land that was acquired and the notice was amended to include Marathon and Berry. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Staff memorandum; Exhibit F –Applications submitted by Marathon Oil Company and Exhibit G – Letter dated 4-14-08 from Richard Prather, Lyle Prather, Ned Prather, and Donna Koehler. Chairman Martin entered Exhibits A – G into the record. Planner Fred Jarman explained the layout on the map and estimated where the Prather property is located - to the west and on another plateau.
DESCRIPTION OF THE PROPOSAL
The Applicant requests approval for a Conditional Use Permit to operate a construction materials surface mine. This proposed use involves removing natural shale / rock / gravel material from an existing hillside located on the plateau to be used exclusively on roads and pads serving natural gas exploration and production in the area. It is approximately seventeen (17) miles from Parachute. The mine site will comprise a total of ten (10) acres, equivalent to seven point five (7.5) football fields once fully mined. The subject property is approximately three hundred thirty four (334) acres in size and is owned by Berry Petroleum Corporation. The method of extraction is a bulldozer which will dig the material out which is then crushed / sorted and then loaded into dump trucks to be transported to construction sites around the area.
The applicant proposes the life of the extraction activity to depend on the pace and amount of material extracted for various needs of the applicant. The applicant intends to use the material exclusively for Marathon's gas production projects (primarily roads and pads) in the area which will use private internal roads to haul the material. The applicant proposes very limited use of CR 215 to commute to the site from the lower valley floor. Hours of operation are

proposed from 7:00 AM to 7:00 PM, Monday through Saturday. Six to eight (6-8) dump trucks will be accessing the site every day with between one (1) and two (2) operators staying at the site daily. Water trucks will be used for dust control as needed.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties due to the topography, 2) the remote location of the facility being seventeen (17) miles NW of Parachute, 3) materials produced from this mine will be transported entirely on private roads having virtually no impact on the County road system, and 4) provides an "on-site" location for gravel rather than placing additional burden on gravel resources in the Colorado valley floor, staff recommends the Board approve the request for a Conditional Use Permit for extraction, processing, storage and material handling of natural resources for the Marathon Circle Dot Quarry Construction Materials Mine 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. No Conditional Use Permit shall issue and no work can begin at the site until the Applicant has provided the County with an approval from the Division of Minerals and Geology.
3. The Applicant shall provide a copy of the reclamation bond that has been approved and held by the DRMS prior to the issuance of a Conditional Use Permit.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: The mining activity shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: The mining activity shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
7. Emission of heat, glare, radiation and fumes: The mining activity shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
8. Storage of Heavy Equipment will only be allowed subject to the following standards:

l. 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;

a.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;

b.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 7 a.m. to 7 p.m., Monday - Saturday; and

c. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

9. That all equipment hauled to the site will abide by Garfield County Road & Bridge Department's oversize/overweight permit system.
10. That the Applicant shall meet with the County Vegetation Manager and obtain an approval for the proposed noxious weed management plan and submit that approval to the County prior to the issuance of a Conditional Use Permit.
11. The Applicant shall provide an illustrative graphic rendering that shows the topography and vegetation covering established with full reclamation prior to the issuance of the Conditional Use Permit.
12. The Applicant shall provide photo documentation of the pre-disturbance of the site in order to compare to the post disturbance. This information shall be provided to the County prior to the issuance of the Conditional Use Permit.
13. That no activity shall occur at the site until all of these conditions have been met.

Fred reviewed the recommendations at the request of the Board. Carolyn brought up the issue of ownership of the resource. The deeds to the property have specific reservations of "all minerals" and they refer to a prior deed in which the minerals were reserved by Reed Ranches and then there were conveyances out to Ruth Latham of an undivided one half (½) interest in and to all minerals owned by Latham Ranches in another warranty deed. Gravel and common rock, sand and shale are sometimes included within the definition of minerals. It's a question of the your measuring the risk. Sometimes when a conveyance or a reservation is to all minerals, that includes the rock and gravel, sand and shale and sometimes it doesn't. The state of the law in Colorado is that it's a matter of intention of the parties and in order in figure that out you'd have to go back a number of conveyances and try to figure out what were those folks thinking when they either kept or gave away "all minerals"; were they thinking oil and gas, were they thinking of coal, hard rock minerals, gold, whatever; or did they think specifically as to the gravel and rock and sand; did they think that this kind of "mineral" went along with the surface. The question here is the Reed Ranches and the conveyance to Ruth Latham; are those folks or any of their prodigies out there thinking they own the rock and so they would fight Marathon on their right to get the rock and gravel. So if you go forward and this does get approved, I would simply ask that in the conditions of approval it be made specific that we're relying on their representations that they have done their due diligence and they do not believe there is anybody out there claiming this rock and gravel. What would happen, the parade of horribles, is these folks or some of their children, grandchildren, whatever would take Marathon and Berry and the County Commissioners to court and they would say since you approved the permit you also are responsible for a conversion of something they owned and of course we would immediately want to get out of that lawsuit and say we relied totally on their representations and if anybody owns them money its Marathon and Berry, not us. That's the risk you have to measure and I'm hoping that Amy has had conservation with her corporate counsel so she can tell you what's been done to clarify the ownership of this resource (aggregate) as a kind of mineral. Commissioner McCown said at the end of the day you would be talking about a royalty. Carolyn – It says reservation of all minerals.

Commissioner McCown – But it would be different than any other extraction; you would pay the owner of that mineral a royalty or a percent for extracting that mineral. Carolyn said the separated mineral interests were noticed but she does not know who they are; she is reading from the deed about Reed Ranches and Ruth Latham. Amy responded to clarify the ownership of this aggregate saying that through the research that both our corporate and external attorneys have done, the Reed Ranches granted back to Robert and John Latham, the current mineral owners and believe that through that research that the surface rights have been severed from the normal mineral rights; they also found case law that establishes that the surface owners which are Berry and Marathon have the right to the rock, gravel and sand as part of the surface estate. That was established in Kennedy versus Keith 2005 finding at the state so we have no reason to believe that anyone would have ownership claims to these minerals. Carolyn – The case that was cited would be great if it said that simply; what it really says is that it's up to the intention of the parties originally but I take it from what Amy's saying is that Marathon and Berry think the risk is very low. The Latham's were all noticed and they didn't call Berry and Marathon and say wait a minute that's our rock. Commissioner Houpt asked Amy to respond to the Prather's letter. Amy said she understands the situation that the Prather's family is in; they've have a hunting and agricultural business on the Mesa for many years and now they are surrounded by oil and gas. Understandable they are concerned about the activities however I do have to disagree with a lot of the points in the letter with regard to the drastically increase in truck and other traffic on Garden Gulch and Parachute Creek. Actually it decreases; we will be bringing no gravel from the valley floor that would be going up Garden Gulch Road and up Parachute Creek, it would all be coming up on private land. As far as the dust and air borne pollutants of course as part of the mining permit we also have to have an air permit for this facility and we will obviously have obligations out of that air permit to control the dust. The machine that we are using has dust abatement on it and then of course how do you manage dust on the access roads themselves is an on-going issue with every private road that gets built up there and this will really be no different from that. With regard to the dust on the Mesa from the trucks, it actually reduces it from a valley haul; this property basically sits in the middle of the Marathon acreage and so instead of hauling all the way from the valley floor clear to our north end, we can actually haul north and south which reduces the miles that we have truck traffic. Additionally, we actually are using and plan to continue to use large haul trucks that are used in the mining industry versus normal size dump trucks and belly dumps that come from the valley which means you can move more yards and material in one move versus multiple trucks to reduce truck traffic. For clarity they indicate that we already have a quarry operating and we don't. From the state you're allowed to basically alter what you are building and we're running into a lot of rock on our facilities and we're crushing it and using it and that's what they are seeing is that crusher operating for that purpose at this time. The last point is that the agricultural piece of that, when we purchased this property both Berry and Marathon agreed to allow the agricultural use to continue over the life of these assets so we're not trying to impede cows or anything else from being on this land. Commissioner Houpt – I don't have a good sense of how close this proposed use is to the Prather property. Amy - We know it's over one quarter (¼) mile away and the property is primarily used for hunting at this time. Doug – From the actual quarry location to the nearest property boundary, the Prather's property is well probably well over one half (½) mile and there is a drainage circle/gulch that is in-between this quarry location and the Prather property. Amy added that the permit from the State Division of Mining has been granted and the bond is in place at this time. Commissioner McCown – In your presentation Fred, you said that this rock is being crushed on an as needed basis; I see on the site plan that you are stock piling and I would imagine with an operation of this size that you want a little reserve on hand. So, are you going to establish some reserve and if so is this material going to be used on Marathon and Berry operations and well sites, or is it just Marathon.
Amy – Yes, is the answer to the stock piles; the crusher that's in operation has the ability to make four (4) sizes of rock which have actually become very critical to what we're tying to construct up there with regard to having fine gravel to backfill the pipelines and then we use the larger stuff over the roads so we would stockpile in those sizes. One of the reasons we pursued a state permit is so that it could be multiple companies or more than just Marathon from an industry perspective. Those agreements haven't been reached but that's the intent of actually permitting this with the state as a mine versus just normal operations of altering material you are constructing with. Fred – Noted on page 2 of 13 on the application there is a note here that says "as materials are moved from the site the flat surface will be used for an occasional staging area for construction of natural gas equipment". That's actually a different use and this Board would have to approve a different scenario than just what you're doing today. Amy – That equipment being the actual haul trucks and loaders etc. that have to be staged in a quarry in order to operate it is the intent of that statement. We're anticipating four large haul trucks, it takes a loader and an excavator to actually feed material through to the crusher and then the crusher in order to stockpile so you have to have conveyors and stacking machines in order to do that effectively. Fred didn't want this Board to think there was a laydown yard coming along with this application.
Carolyn – Will you be selling to other companies or is it still the owners of the property just Berry and Marathon that are going to be using this? Amy – The sole use right now is Marathon and we are still talking about sharing agreements with our partner who owns this property with Berry however, there is the complexity of the state level and why we had to permit it as a mine so that if we needed or wanted to sell to our contractors or another company we could.
Carolyn – Okay, so are you asking this Board to approve the possibility of commercial sales? Amy – I believe at this point we want it to remain as private and we will come back with those agreements as they come to fruition. Fred – It is and Amy's response is probably right because it would be changing the use of this right now and obviously the trips; the nature of the proposed use is as a sole private use. You would have to come back and amend. It is a different issue.
Chairman Martin – And you would have to have the accounting practices, the weights and a bunch of other things that you would have to report on your mining activities and again it might even change your mining permit.
Fred said if it grew beyond ten (10) acres it's a different security, etc.
Commissioner Houpt – The maximum amount of space this whole process will take including storage of the equipment that you're using on site is nine (9) acres. Amy – That's correct.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown to approve the conditional use permit to allow for extraction and material handling of a natural resource for a rock quarry mine on the plateau with the thirteen (13) conditions as noted by staff. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MAY 5, 2008
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, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE: ED GREEN
LIMITED AMENDMENT FOR TASK ORDERS #1
Ed Green was present. The Colorado Department of Public Health Task Order #1 was presented and the request before the Board is to approve as presented. This is specifically to provide care coordination for families who have children with Traumatic Brain Injury (TBI) and are enrolled in the TBI Trust Fund Program. The renewal term is from July 1, 2008 through June 30, 2009.
Commissioner McCown – I make a motion we approve the contract with CDPHE for the Head Injury Trauma Contract. Commissioner Houpt – Second. Ed Green stated this allows us to spend the money through '09.
In favor: Houpt – aye McCown – aye Martin - aye
APPLICATION FOR NEW MEMBER FOR HUMAN SERVICES COMMISSION
The following name as a new member for the Human Services Commission was submitted and the request for approval was made to the Board. Representing Grand River Hospital District (GRHD) Dustin Dobson and he also has a personal interest in serving on the Board and is most interested in seeing the needs of our residents met. His qualifications are thirteen (13) years as senior level administrator in health care, in skilled nursing facilities and acute care providers in New Mexico and Colorado. Commissioner McCown asked if this was to fill a vacancy and Ed stated yes. Commissioner McCown made a motion to approve Dustin Dobson to the Garfield County Human Services Commission. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
CONSIDERATION OF SIGNATURE AUTHORIZATION FOR THE 2-1-1 CONTRACT WITH UNITED WAY OF MESA COUNTY AS FISCAL AGENT – LYNN RENICK AND CAROLYN DAHLGREN
Lynn Renick and Carolyn Dahlgren were present. Lynn presented the contract for the 2-1-1 with United Way of Mesa County as the fiscal agent. Lynn had discussed this previously with the Board and agreed to bring it back for approval and signature of the Chair once finalized. Lynn requested the Chair to be authorized to sign the contract in the not to exceed amount of $50,000.00 anticipating that 75% will be paid through our County funds. Lynn feels virtually ready to go as soon as a contract is signed. The large amount for the first year is for two things; half time position and secondly and most importantly, the gathering of data and input of data into the system. The scope of services outlines the services. Commissioner Houpt asked why there are two different agreements. Lynn explained the issue was that there were three operating partners. Hilltop, Mesa County Human Services as well as United Way. The agreement basically outlines who is going to do what administratively. In the discussions with the County Attorney's Office we thought that because of the administrative responsibilities it went over into some liability issues and we might need to do an agreement with all three signatures. Commissioner Houpt – So which one are we doing or do we know at this point? Lynn stated she really needs Carolyn Dalhgren here to explain. Commissioner Houpt – On the second one there is a question on the not to exceed amount, there are two different numbers in the same paragraph; $42,000.00 and $50,000.00. Lynn stated as far as she knew it was only $50,000.00. Commissioner Houpt stated I do have a program question, as you put together the network and communication structure, is this something you will work with the Human Service Commission? Lynn – Absolutely, actually on May 14th we have half an hour on the agenda. Carolyn stated because there is a loose consortiums there's a verbal partnership among different entities in Mesa County. My advice to you is that you have a contract with all of those folks because they each have a different responsibility under their loose consortium verbal agreement. Someone is going to be the fiscal manager, someone the HR person, someone else will do XYZ and then us. She thinks there are four; Department of Human Services, Hilltop, United Way and Garfield County. They asked that you send the money over to the fiscal agent which is United Way. The difficulty with that is there is no underlying agreement in which United Way said it is going to spread out the money in a certain way. Should there be any problems the only person you (the County) could hold liable would be United Way and that would be only for whether or not it distributed the money. Commissioner McCown asked that in reality aren't we just contracting for a service and we don't care how the money gets distributed as long as we get the service we are contracting for? Carolyn explained there is no entity to contract with to get that service. United Way does not provide the service; it just moves the money around. The service is provided by the consortium with Hilltop actually being the Human Resources entity for hiring the people who actually do the service. Commissioner Houpt – So do you need both or just the second one that is the four (4) party agreement? Carolyn – We were hoping to hear back from the Department of Human Services in Mesa County as to whether or not they were going to be willing to sign this agreement and Hilltop and United Way. We haven't heard from their County Attorney's office. Lynn stated the last she had heard the County Attorney did go over to talk to some people at the Department of Human Services.Commissioner Houpt – Is this something we need today? Carolyn felt the most efficient thing would be to ask for a signature authorization on the four (4) party contract. That is the clearest one legally and if for some reason that can't happen we will bring it back to you. Lynn – One reason we are pushing this is so they can hire the second half time person. Commissioner Houpt stated there was a correction to be made on page three (3) of that agreement, paragraph B in the not to exceed paragraph. It reads the amount of $42,000.00 and then in parenthesis $50,000.00. Carolyn – Another way

to do it would be to contract with the HR managing partner which is Hilltop, but that is not how they want us to do. They want us to recognize their consortium; but their consortium isn't a legal entity. Lynn – I am confused on responsibilities. Carolyn – I think that would be the best way for us to handle it at this point and if we can't get it as a four (4) party contract then it will come back to you.
Commissioner McCown – I make a motion the Chair be authorized to sign the four (4) party agreement with the correction noted on the amount of the contract as $50,000.00 in paragraph B.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
CONSIDERATION OF SIGNATURE AUTHORIZATION FOR THE CHILD CARE SERVICE QUALITY AND CAPACITY ENHANCEMENT AGREEMENT WITH GRAND VALLEY EDUCATIONAL FOUNDATION AS FISCAL AGENT FOR KIDS PROMISE – LYNN RENICK AND CAROLYN DAHLGREN
Lynn Renick, Carol McClung, head officer at Kids Promise and Carolyn Dahlgren were present. Lynn presented the scope of work and plan of action stating the funding available under this project may be used for minor renovation to the child care program, equipment/supplies, education for the Contractor, and start up personnel costs to meet licensing requirements. Mt. Callahan Center is closing its doors at the end of May. A group of citizens and Carol McClung are moving forward with plans to open a child care center at Crown Peak Church. They are looking at approximately sixty (60) infants through pre-school age children and thirty (30) school age children. They are hoping to open this the first of June. Lynn stated the Department of Human Services has money to help; basically they have $50,000.00 for equipment/materials and $50,000.00 for salaries to get up and running for two months. There is not a full contract because of the 501 3C status. The Grand Valley Educational Foundation is willing to act as the fiscal agent for this contract. Carolyn – We have an existing foundation that exists as a 501 3C with the IRS; however, it's only function would be to hold money. It does not provide the service. The entity that is being formed would actually be the service provider. So we have an entity that exists, it just doesn't have its 501 3C status with the Federal Government worked out yet. You could contract with this entity that has been blessed by our Secretary of State and one of the promises would be that it would get to become a 501 3C. Carol McClung stated she has the application for the 501 3C and is in the process of completing it. I expect that once it is completed it will take sixty (60) to ninety (90) days before the paperwork is done. People I've talked to say to expect six (6) months. She stated she is playing it safe and going through Grand Valley Education Foundation. Carol named the people involved in Grand Valley Education Foundation and explained who was involved in the Kids Foundation. There is one more position on the Board available in the Kids Foundation. Carolyn – Could you provide the Commissioners with a filed stamped copy of your Articles of Incorporation? Does the new entity have insurance or could they readily get insurance? Carol – Yes, we don't have it yet, we are comparing rates with three companies. Commissioner Houpt stated she had heard from one of the town leaders and a member of the Education Foundation that there were some fiscal issues that ended the last program and that created this situation. Commissioner Houpt is glad to see that a new Board is set up but is wondering will the Board take care of the budgetary issues and manage the program? Carol – Yes. Commissioner Houpt stated if we are investing public money into a program she thinks we need to have some assurance that there is a business plan that gives us (the County) the confidence that the money will be handled properly and effectively and that this is a sustainable and viable non-profit venture. Carol – I'm hoping to draft a business plan and pass it by Steve Carter at our next Board meeting to make sure it is all legalized. Commissioner Houpt asked if that is long term with the situation with the church.Lynn –It is my understanding that it can be long term. There are some discussions with other properties as well. Commissioner Houpt asked Lynn if she thought it was premature before we have a business plan to commit money to the program. Lynn – Two things: Carol already has a budget for start-up and she has shared that; and I have seen the plans and we can certainly work with Ms. McClung and the Board of Directors to put together a business plan for you. Why I am here today rather than waiting is because June 2nd is coming up fast. She stated they needed to purchase equipment and materials before that date. Commissioner Houpt asked if there is a threshold number for a healthy effective child care facility. She feels the number is pretty high when you are talking about the number of kids being served. Both of you, I think this is something we need to think about as we invest in different programs.
Lynn – Thirty (30) is a good quality child care center number however; it almost takes at least sixty (60) to break even. The rule of thumb in my opinion is sixty (60) to seventy-five (75). Commissioner Houpt asked what the child employee ratio was and she knows there are some State regulations that guide that ratio. Lynn stated there were and she could get that to the Commissioners. Lynn has also discussed with Carol that they will need a written agreement with the church. Carol – Our mission is to provide an education base and we will follow the guidelines for staff ratios per child. A gentleman from the state took a tour of the building. Carol explained the plan to have older children upstairs and the younger children downstairs. They will utilize different entrances. Staff is available now. Commissioner McCown asked if we had an entity to contract with today. Carolyn explained that we (the County) have an entity but it is not approved by the IRS as a non for profit. Under Colorado law it is a non-for-profit corporation.
Commissioner Houpt stated as she understood the Grand Valley Education Foundation is really the entity we would be contracting with fiscally. Carolyn stated it is the same problem we just discussed; Grand Valley doesn't provide day care services. Grand Valley doesn't manage the day care facility they are only the fiscal agent. The way that Carolyn has drafted it; Grand Valley will make sure they do what they are supposed to do for the reasons that this contract is in place etc. She has not spoken with anyone from the Educational Foundation to tell her that they are willing to provide any oversight. Commissioner McCown asked are we going to be asked to contract with Grand Valley Education. However; there is no contract with Grand Valley Educational Foundation and Carol's group and Garfield County to tie all three (3) together. Carolyn stated you could decide to not follow your own policy about contracting with only 501 3C organizations and contract with Kids Promise that does not have its status under Federal law yet. You could do that and make it a condition of your contract that they have to have the 501 3C status within a certain amount of time. Commissioner Houpt asked why we don't do a three party agreement. We did it with 211 with the four (4) party agreement. Lynn – It makes more sense at this time. I also verified with the State licensing person last week that they are actually going to be licensing Kids Promise. Commissioner McCown stated conceptually we are all fine with this program. He doesn't have a problem making a motion that the Chair would be authorized to sign this three (3) party contract once it's put in place by the County Attorney and agreed to by the other two (2) parties. Today we can't take any action and I would make that motion. Commissioner Houpt – Second.

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

CONTRACT APPROVAL FOR THE 3RD FLOOR COUNTY COURTROOM RE-MODEL – MATT ANDERSON

Matt Anderson presented the plans and contract for the remodel of the Courtrooms on the 3rd floor of the Courthouse to accommodate a new district judge to start July 2, 2008. Two bids were received and Groth construction was significantly lower. The recommended award is to Groth in the not to exceed price of $120,000 plus $6,030 in alternatives. Matt stated they only received two proposals and they were both low. They asked Mr. Groth to clarify their proposal and he confirmed it was correct. Matt feels there is no risk for additional costs after the contract award. One of the reasons for the low estimates, we believe, is probably because of the overhead cost for Groth Construction. Also there were some items left out of the requirements such as the ceiling. They were going to completely re-do and replace it. Commissioner McCown asked Matt if the ceiling will be an add-on or a change order later and Matt stated not at this time. Commissioner McCown asked if it would be done later and Matt stated that might be up to the architect or people at the courthouse. Commissioner McCown stated if it needs done now is the time to do it.
Matt stated he could go back and ask the architect and the other folks at the courthouse. Commissioner Houpt – Sounds like you took some things out of the original bid also. I haven't seen the plans and would have liked to see them. Why was ceiling taken out? Matt stated he wasn't quite sure and thought that the court room personnel and the architect made that decision. Commissioner Martin stated it was in good shape and it wasn't that long ago that it had been done. Commissioner McCown – I make a motion we award the contract for the third floor remodel with Groth Construction in an amount not to exceed $126,030.00. Matt stated there may be an add-on after we award the contract. He felt they would be included in the alternatives. Commissioner Houpt – Second. I would like to receive a copy of the plans. Matt stated he would provide the plans and specifications to her. In favor: Houpt – aye McCown – aye Martin - aye

RESOLUTION CREATING EMTAC AND APPOINTING MEMBERS – CARL SMITH AND CAROLYN DAHLGREN

Carl Smith, Matt Olive, Nancy Frizell and Carolyn Dahlgren were present. Carl presented the Resolution creating the Emergency Medical and Trauma Advisory Council and suggested board members to serve as he had been directed by the Board. The Resolution lists the members and the organizations they represent. Carolyn reviewed the resolution she had drafted and would like a motion to go forward.
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

Executive Session – Ed Green

Ed stated he would like to discuss the following; contract negotiations regarding land acquisition; legal guidance regarding personnel policies; discussions regarding negotiations with CDOT regarding the County Road 215 & I-70 interchange; and discussion regarding affordable housing in Carbondale.

COUNTY SHERIFF UPDATE: LOU VALLARIO

LOU VALLARIO INTRODUCED TROY EID, UNITED STATES ATTORNEY, DISTRICT OF COLORADO.

Attorney Eid wanted to say thank you for the chance to be here. He said they handle about 3,000 cases in the District of Colorado. He wanted to thank us for our support of Trident Strike Task Force which has been invaluable. It will continue to be his policy, as unpopular as it may be nationally; it will be my policy that we take all cases involving criminal aliens wherever they emerge in Colorado. We pick cases from people who have been previously convicted of committing at least one violent felony somewhere, served hard time, deported and they come back. Whanever we pick-up someone who has a criminal record and it comes to our office we prosecute it every single time. Typically now when we pick them up and it is an unlawful entry they usually get an average of seven and a half (7 ½) to eight (8) years in the federal system. I just wanted to thank you.

COURTHOUSE SECURITY DISCUSSION

Lou Vallario, Jeff Chaney, Judge Lynch and Matt Anderson were present. Lou stated there has been quite a bit of breach in the building regarding security. He found out that at some point previous to the current HR manager, Human Resources was directed by someone administratively to issue County ID cards to people coming into the building. That caused a great concern to him because the list was about thirty-seven (37) people. Some of them couldn't even identify as to why they were given cards and Lou had no knowledge of it. It is frustrating to say the least. What concerns him is someone having a pass to get by security. It's not that we don't want them in the building or that we can't give out visitor passes. I have to look in the world of security and what concerns me is somebody that does have a County pass that they can wave past our security and get into the building giving the example of say perhaps a maintenance company. We don't know anything about that person; we don't know that they are waving by security and then they may go up to a very messy divorce and could potentially start harming people in that court room. We need for the time being, while the building is in the current situation, to have security not breached by quite honestly somebody in County Administration or whatever. Once we rearrange the security station and get it to where the second floor is open as we are trying to do, it will be a different story. Until then I want to reiterate we can't have people outside of the Sheriffs office issuing these badges. We have started collecting all the passes. I think at least two (2) or three (3) that we collected actually weren't people on the list but has since been handed to somebody and handed to somebody else and that creates problems. We are here to protect the safety of the people that work in the building. I can tell you every courthouse across the State is going to this and there will be grants out there for this to happen. So whether we like it or not in today's society it's a reality and all I ask is that we don't breach security; we tighten down and anybody who needs to come and go in the building either needs to get something from the Sheriffs office or a visitor pass once they go through the security system. Commissioner Houpt – I think it makes sense as long as we have the system in place and it has to work for your folks, then I think it is important that we follow your recommendation.

SPAY AND NEUTER PROGRAM – ADDITIONAL FUNDS REQUEST

Keith Clemmons – animal control was present Lou Vallario introduced Keith Clemmons who is our new second animal control officer. Keith gave an explanation of what they are doing now in the County. They have already done 600 plus spay and neuters for the first quarter. Breaking it down that would equate to approximately 10,800 dogs and cats off of the streets. We have spent $39,000.00 at the end of the first quarter. To finish out the year they are thinking another $30,000.00 would be needed. Lou stated they were originally given $50,000.00. There will be a little slow down for

these services in the summer months. CARE Shelter has $75,000.00 and up through the first quarter they have spent $8000.00. Commissioner Houpt stated recently Care has indicated they wanted to come back to us for more flexibility so they can do some education. How are you working together with CARE on the spay and neuter programs?
Keith stated all the dogs taken up there go into the adoption program which they do get spayed and neutered before they leave the shelter, also all their vaccinations. Commissioner Houpt asked where the 600 came in that he talked about. Keith stated those are the ones that were impounded or surrendered. Most of the private sector is utilizing the program so they won't have extra dogs or cats. Commissioner Martin stated that was the active program that was advertised. Lou reminded the Commissioners about the coupon program. Commissioner McCown asked how the first quarter numbers were for CARE and Lou stated he didn't know. Commissioner McCown said what he was hearing right now the program that is going to suffer is not the CARE spay and neuter because they have only used $8000.00 but the citizens of Garfield County that would choose to go to their own vet is the program that is running out of money.
Lou stated yes, the voucher program. If our animals are impounded and eventually get turned over to CARE that money is CARE's funds. Lou stated he is amazed that they have done so much in such a short period of time. Commissioner Houpt asked if they (citizens) paid a portion of the cost. Keith stated they do and the vouchers can range from $25.00 to $50.00. Lou and Keith explained the ranges of the vet prices in the Valley. Commissioner McCown explained if CARE has $30,000.00 left over at the end of the year in their spay and neuter fund he would expect that to stay in that fund. Lou stated we are basically asking for an additional $30,000.00. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

COLORADO RIVER LITTLE LEAGUE – LOU VALLARIO

Lou stated he received a call from the Colorado River Little League Baseball Team in Silt, and they were wondering if there was a need for an old trailer in the landfill. He would like to take and put it at the ball field to use for storage. Commissioner Martin stated unfortunately we can't give away property but the Road and Bridge had indicated they would love to donate to someone. Commissioner McCown stated we can give it to Silt Parks and Recreation. Commissioners all agreed they would look into it and get back to Lou.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE -

Don DeFord stated he needed to discuss an update on two personnel issues in his office, he needed to provide the Commissioners with an update and receive direction on contract negotiations for County Road 204, would like Matt and Jeff present for the discussion. I need to see if the Board needs any more direction concerning the legal issues on the rule making process in the Oil and Gas Commission; update on the Vezzoso litigation; update on the Vanblay litigation; house keeping matter I need direction concerning Silt; Williams Energy; and a request to vacate a road. Direction and advice on conflict of interest policies for both my office and the Department of Human Services.
Commissioner Martin stated he had one item in reference to the model traffic code.
Commissioner Houpt stated she would like to add a personnel discussion in the finance department.
A motion was made by Commissioner McCown to go into executive session.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye
A motion was made by Commissioner Houpt to come out of executive session
Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin – aye
Carolyn stated there was a request for approval of two (2) different purchase agreements on two (2) different pieces of property to be purchased by the BOCC; in an as is condition, with a physical inspection deadline but no environmental inspection and looking for not just signatures but also authority for the Chair to sign all documents related to closing. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign the resolution of approval for the Pioneer Glen Subdivision to create 6 lots within a 35 acre property located west of Battlement Mesa PUD off County Road 300. Applicant is Specialty Restaurants Corporation. – David Pesnichak
f. Authorize the Chairman to sign the Aspen Glen, Filing No. 1, Lot F22 amended Final Plat. Applicant is Michael Easley – Craig Richardson
g. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit allowing a Temporary Employee Housing Facility. Applicant is Berry Petroleum Co. and Marathon Oil Co. – Craig Richardson
h. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit allowing for an Industrial Support Facility – Material Handling and Storage Areas. Applicant is Chevron USA Inc. – Craig Richardson
i. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit to allow an Industrial Support Facility including Warehouse/Staging Facility. Applicant is Harry and Rhonda Naugle – Craig Richardson
j. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit allowing for Communication Facilities. Applicant is Williams Production, RMT – Craig Richardson
k. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit to allow a Museum/Library. Applicant is Kimiko Powers – Craig Richardson
l. Authorize the Chairman to sign the Resolution of Approval for a Text Amendment to 2.02 and 3.02.02 of the Garfield County Zoning Resolution of 1978, as amended. Applicant is Kimiko Powers – Craig Richardson

m. Authorize signature for Greater Sage Grouse Conservation Plan
n. Liquor license renewal for Retolisa LLC d/b/a Columbine Restaurant – Jean Alberico

A motion was made by Commissioner Houpt to approve the consent agenda items a - n.
Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION/DIRECTION REGARDING PRE-HEARING STATEMENT COGCC RULEMAKING – JUDY JORDAN

Don reported that the meeting previously scheduled at the last Commissioner meeting had occurred on Thursday, May 1, 2008 with Commissioner McCown and Chairman Martin present. Commissioner Houpt had recused herself due to the position she holds on the Oil and Gas Commission. Staff had presented draft comments that the Commissioners had reviewed and notes were made. Don stated what they needed today was a discussion in the context of the Colorado Oil and Gas Commission rule making process as to whether or not you wish to proceed as a party. If you do wish to proceed as a party, we need the Board of Commissioners to identify the issues you want addressed as a party. The sum discussion of who you want to participate in support of the issues you identify and also we have a pending motion to limit the scope of the rule making and proceedings filed by the Colorado Oil and Gas Commission. We'll go through this in more detail when we get to that. Essentially it is a motion to sever the process, consider some of the proposed rule changes initially, and then move on to other rules at a later time. Commissioner Martin stated the first item that we need to decide as a Board is, are we going to continue as a party to the action. My motion would be to say yes. Commissioner McCown – I would definitely support maintaining our party status. Commissioner Martin – Now we need to establish the items we wish to address during this pre-hearing statement. Commissioner McCown - How specific does this next level need to get Don? Don – I can tell you that some parties in the past, in other rule making processes have been very specific in identifying issues they want to address. In this case I also expect that to be the case. I've previously discussed a little with you the request for party status for instance submitted by Weld County. They identified some specific issues that they have. In other words if there is a rule change being proposed that you think would be adverse to the interest of Garfield County and its citizens, you need to tell us what rule that is and generally how you want to approach it. On the other hand I could see that there would be broader issues just generally on the rules and you can identify those as well. But really what the Oil and Gas Commission wants to know at the pre-hearing conference is, it's an organizational issue for them and they want to know what are the issues you're going to present, how long will it take you to present them and who is going to testify and why can't the entire case be presented as written testimony. They do want to limit as much as possible verbal testimony. In that regard I should say they are no different than other rule making agencies. They like to see things submitted ahead of time and in writing. So when I show up on the 15th with Judy representing the County at the pre-hearing conference in this matter, they are going to want to know what are you going to address and who are you going to put on to address it. Commissioner Martin – I think the first item we need to look at is the overall effect on that Oil and Gas Conservation Commission staff itself. If the fiscal analysis of the entire process, staffing and also cost of their existing budget and what it's going to do to their budget and to also established what is going to be passed down cost wise through the fiscal analysis to the counties is number one. The other one is the lack of definitions in reference to their rules and regulations. They have a lot of new terms, they have terms they have used throughout their new document and it has no definitions. As you know a lot of litigation and other issues depend on how they define certain terms. I think that is very lacking in this document. Next is going to be the fiscal impact to the County itself or all counties as well as the industry as well as the municipalities on the 303 Rule. I believe it is with the shut down of the one quarter of the operation or the timing issues they have proposed. What is that gong to do to the overall states' economy as well and I haven't seen any documentation on why that rule would be good and what the pros and cons to that is? In fact there is no science that I have seen yet in reference to that request. Commissioner McCown – I would concur with most of that. The rules on their face, not knowing how they're going to be interrupted or be implemented. If they are interrupted and implemented to the letter of the law, I think a good portion of them are unenforceable. I have issues with the five (5) mile drainage issues, the five (5) mile radius of any drainage or any headwater issue. If I'm reading the rules correctly that would prohibit any activity within five (5) miles of the Colorado River because all of the towns up and down, at least between Glenwood Springs and Grand Junction, pull their water out of the Colorado River. The headwaters that feed the Colorado River, Parachute Creek, Divide Creek, Mamm Creek, all of those drainages; five (5) miles from the headwaters of those would be an area that would be virtually un-accessible. It's not just for drilling; it is for oil and gas facilities. I believe and that would also include pipelines, roads, the siting of facilities, if you will. The timing delays are an issue that I guess I would take issue with as well. If you read it, again it's going to depend on an interpretation and implementation but it's there. If you were to shut down operations from January 1st to March 31st, blanket across the state west of I-70, which is ironic there must not be any wildlife, rather I-25; on the east side but that is a ninety (90) day period that all drilling activity would have to cease. In the past there has been the ability for the operators to negotiate alternative issues with the Division of Wildlife. That may still be there, it doesn't say that it is. When there was a no drilling restriction placed by the BLM on Federal land, the operators have been able to pull back to private property and continue their drilling activity. There is a significant concern that if all drilling and again this is interpretation and implementation, if that rule as written today is implemented; no drilling would occur in Garfield County for the first ninety (90) days at the beginning of each year. Those rigs would either have to be paid for stand-by time or the operators would probably lose those rigs to companies in other areas that are facing the same shortage of drilling rigs as they are in this area. It would be virtually impossible to get them back. So that is a big issue. The bigger the rigs the more it costs per day for stand by and you're up around $20,000.00 per day. How do you make that back? Commissioner Martin – That's the domino effect to the municipalities and the private sector. What happens to the financial impacts there? You did mention the BLM. Commissioner McCown – The BLM is not a party. Commissioner Martin – But they have conflicts that I have read in their rules and regulations. There are direct conflicts with the State rules and regulations from pits and a few other timing issues. Since the Oil and Gas Commission is gong to be overseeing all drilling on federal and private lands, how have they resolved those issues between the BLM because we see those conflicts. We would like a conversation on that. Commissioner McCown – At this time a well drilled on federal land, of course we know that the BLM manages the forest service land for them, but on federal lands it still requires an APD from the Colorado Oil and

Gas Conservation Commission and does that still remain in effect since the BLM did not ask for party status in this. If there is an inherent conflict on rules and policies of these new rules and what the BLM and Federal Government may have in place, which one is going to trump the other one and can in fact the BLM lease ground for drilling without the APD coming from the Colorado Oil and Gas Conservation Commission. I think that is a big unknown at this point. There is a lot of very minute specific verbiage things that there are problems with. I think that the staff is looking at some issues and has looked at some issues. It's a matter of refinement with John and I before we could go specifically on each issue that we would have a problem or be in agreement with on some of the things the staff has reviewed. I'm not sure there has been science presented by the Division of Wildlife that the oil and gas activity is detrimental to the deer, the mule deer, and the elk population enough to warrant this closure. I have a problem that the Oil and Gas Conservation Commission singled out Garfield, Rio Blanco and Mesa County as opposed to a drainage which is normally how they enforce their rules and implement their rules. They are usually basin wide. They are not County rule. In this set of rules they are. They specifically call out Garfield, Mesa and Rio Blanco Counties rather than a basin wide rule. As an example Rule 501 may have verbiage in it that any aggrieved party may have standing and then if you look in the definitions there is no definition to aggrieved party. Would a person that drives down Interstate 70 and has to look at any gas activity would they feel that they are an aggrieved party by having to look at that.
Commissioner Martin – I think those terms used that way need to be defined and that was throughout the whole rule changes. Commissioner McCown - Is that enough to start with? Or do you have to play your cards now? Don – You do really have to at this point. Let me just pick out an issue for instance. Larry you identified that you are concerned about the identification of Garfield, Mesa and Rio Blanco as geographic areas rather than basins. The question then is we have to identify what we want the rules to say. In other words, do you want it to identify a basin, do you want to not identify a County and who is going to testify; that identification by County instead of basin is a problem.
Commissioner Martin – Based on their science, what has been presented and why that rule came about identifying those; we would like to see that information and how they could support that foundation.
Commissioner McCown – They don't have to have a reason to list counties, we are asking that they list basins as they have historically done since the Oil and Gas Commission. Don – And why? Commissioner McCown – Because it gives a more consistent operational venue because the Piceance Basin actually runs up into Moffat County. Moffat County is excluded from this. They are excluded from being listed as particular county that the same activity could occur in but are exempt from any of the sanctions that might apply. Commissioner Martin – My questions would be, is it because of the depth of involvement right now and not into the future but try to take care of this issue and Larry's point is shouldn't it be basin wide because it has the potential in all areas. Commissioner McCown – We've had the DJ basin, that's how the Colorado Oil and Gas Commission does business by identifying basins and that is how they assign their field inspectors by basins and we are in the Piceance Basin. Don – Let me pursue that a little further, so when I list a witness to support our position that it should be basins rather than geographic areas, is it alright if I list one of you as a representative of the County? Commissioner Martin – Sure. Commissioner McCown – That's fine or you can list yourself and say well historically this is what's it's been. And you can quote water studies; you can quote any number of activities that have occurred and they have occurred in the Piceance Basin. They have not occurred and been limited to a county. A good example Don on that would be, remember the extended casing rule that took place after the Goad blowout? That was a Piceance Basin rule. That was not a Garfield County rule. Commissioner Martin– I think we have identified different terms in the staffs review process. I think in our other pre-hearing conference, executive session, we identified numerous definitions. Don – Is it alright if I list those definitions that the staff listed? Commissioner Martin – Yes. I think your next question is how am I going to support and ask for the fiscal notes etc. It is actually a statute in reviewing new legislation that there is a fiscal note attached to all rule changes or statute changes. I have to refer back to those statutes. If we are changing statutes and requiring our legislatures to do that this rule change is based upon two pieces of legislation. And as such these rules and regulations you're going to have to show what the overall cost is going to be by implementing them right down to how many more people you're going to have to hire, what the time is going to be, what the impact in equipment etc, how much in travel enforcement, court time etc. What is going to take and projection of the violations and the time of prosecution? That is probably pretty standard in reference to fiscal notes under legislation. Commissioner McCown – I think there is going to be other organizations that will address this but the landowners rights, the surface use agreement that the landowner and the mineral owner have worked out with the producer; how are they going to be respected and honored under these new rules where there may be a conflict? Again it could be the ninety (90) day no drilling option. That could cost that landowner and mineral owner revenue. The siting of locations on a consultation by either party may vary. The siting of a well, the siting of whatever may vary from what the surface owner and the company that is going to do the development have already agreed to.
Don – So is your position on the various consultation provisions for CDPHE and the Division of Wildlife are required to be consulted? Is it your position that the surface landowner should have control over that? Commissioner Martin – I think so. Commissioner McCown – I think so if there is a surface owner, if there is an agreement if you will, because we know we are going to have severed minerals. Then you get into the inherit rights of the mineral owners, but if there is a surface use agreement in place already, yes it should trump the other agreements. The consultations that might occur I think there are going to be other folks, both individuals and organizations that are going to address this same thing. Don – That goes to my next question, is there a Garfield County government interest in this that you want to support through testimony or not? Are you looking at just saying that the surface owner should be protected or is there a benefit to the operation of Garfield County Government that you want to put on evidence too that would support your position on this? Commissioner Martin – Do we wish to testify? We want to protect our rights, I mean the citizens rights and it puts Judy in a tough spot when she says I've been invited to the table where the owner and the company wants it here but because of the rules and regulations and the Division of Wildlife and the Health Department say no, we want it in another location. Don – The reason I'm saying that is the surface owner's desires may not always be benefit to adjoining property owners. It may not always be beneficial to the larger interest of the general populace. But they may benefit the surface owner. So what interest are you protecting by presenting this position and testifying? Commissioner Martin – I thought we were protecting the individuals. That's what I was looking for. Commissioner McCown – Maybe that's not our fight to fight. But that's an issue that's been brought to us. Don – And if you want to I will but I'm just trying to flush out what we are putting in the issue. Commissioner McCown – It's a lot like the

cultural studies we have talked about; a lot of landowners will not allow someone on their property to conduct one of those studies because they don't want them to find anything that is going to lock down the use of their property. They'll prohibit somebody coming on their property if that's their purpose and that's their right if they own that property. Don - Generally our position in the past has been; that's a position that the surface owner can take to protect themselves but they're the ones that need to put it forth and argue it. Commissioner McCown – In the past that has been a civil issue that we have not been involved with. Maybe it's just as well that we don't. But I was just bringing it out as an issue that has been brought to me by property owners and organizations that represent property owners. Commissioner Martin – It is something that needs to be touched on I think. But again putting on evidence in reference to that; that would be an individual. I know we have had many different conversations on how an individual has made approaches to it. I think you're right, it's an individual battle. Commissioner McCown – Again this is global, this would be like at 30,000 feet but I don't think written into these rules there is any process for amendment for these rules. Commissioner Martin – In other words if it's not working it needs to be adjusted. Don – The amendments to the rules are really governed by the Administrative Procedure Act and any rule can be amended or repealed as long as you follow the provisions of the Act. Commissioner McCown – Since they're going through and rewriting all of the rules, can a person choose to amend one rule? Don – Absolutely. Commissioner McCown – But they chose not to amend one rule they chose to rewrite all the rules. This process that we are using as party status has never been used before as far as the rule change. Even a one (1) rule change. Don – Yes. Commissioner Martin – Again this is pre-conference? I don't know if we have 100% of the items in there yet. Don – Right now I've got a list from both of you and not hearing objections that's what I would put in a pre-hearing statement. Let me go back on the drilling limitations, the ones I've seen in here unless you've identified others relate to the 1200 Series on wildlife and time limitations. And of course they are interrelated. I would be trying to identify Garfield County government impacts and I think what we were talking about really are fiscal impacts on the operation of the County government. It is my anticipation I would list one or both of you as the individuals to testify about that. Commissioner Martin – Right. Don – Okay. John identified two fiscal issues: one fiscal impact on the County and then a fiscal impact which is related to the timing limitation. There is the fiscal impact on the State which also I think I would relate potentially to fiscal impact on the County because inherently the State government when they can't perform enforcement it falls to the local jurisdictions. I think that is a fair comment to make. Geographic issues that have been identified and the definition issues that have been identified, are there others? Ed – On the ninety (90) days I think one of the things we talked about before was that it puts at risk the most valuable rigs. The Simops rigs that can do directional drilling and could potentially leave you with the ones that don't, which would increase the number of well pads dramatically in the area.
Commissioner Martin – It takes us back a step in what we have encouraged and that's the multiple directional drilling, the least impact that we can have on property owners, limited number of spacing, etc. Actually if those rigs do go away during that period of time they're hard to get back. I think we have stepped back another ten (10) years. 40-acre spacing, 20-acre spacing on the surface instead of underground and I don't want to see that happen. Also they talked about the possibility of flaring and not pushing forward the best practices on recycling and recovering and closed lines for water. That is getting down into the technical stuff but some of these rules don't encourage that and that's what I'm afraid of. We want to encourage to make better practice than what we have right now. Don – The inability to not just do directional drilling but some of the other issues that John just mentioned certainly impact the citizens of Garfield County. Commissioner McCown – Well they will. Don – Garfield County led the battle to get directional drilling maximized in this area. Ed – The Simops rigs are designed for us. Commissioner Martin – And also this formation and rock structure. Commissioner McCown – But there certainly isn't anything that would prohibit them from operating in other areas. Commissioner Martin – We would just lose them and have to step back with the secondary rigs. Commissioner McCown – It's a cascading thing on the economy that we don't know how it is going to play out. But if you go to the Rifle area and go up the Airport Road, 90% of the entities on that road are industry support entities for ninety (90) days; what will they do with their imports. They're indirect support agents that support that industry. There are thousands literally of dump trucks, all kinds of vehicles that would be servicing well sites. There would be a "stop in your tracks period" for ninety (90) days that I don't know if people that are supporting this industry, not the industry themselves, but the people that are supporting could survive for that down time. Commissioner Martin – If you're going to get into particulars in reference to the requirement to making impervious roads to all sites that is a tremendous impact of our natural resources and the force to make us develop more and more aggregate uses is above and beyond what our master plan allows. Because of that requirement we are going to have to do such and exhaust our supplies faster. That is one of the economic impacts we need to look at too because of that one (1) rule. The type of roads and how they are to be constructed, pipelines, etc. Commissioner McCown – We talked briefly and this goes back to the Clean Water Act, but through Jim's department if you go in and improve on any roadway, even if it were in existence; it would have to meet the criteria under the Clean Water Act. I think the term he used the other day was they can't convey any silt or whatever off site. Historically the Forest Service roads that are there now and a lot of the BLM roads are designed to for gathering systems. They gather water through the ditches, and water bars across the road then divert to an impoundment completely off site that the ranchers use for stock water and the wildlife uses. Under these new rules that water will have to be held within the confines of the road and much smaller impoundments and they will evaporate in a short period of time and then there will no longer be any water on most of these areas for livestock or wildlife. It's one of those scenarios where the best intention of an Act that has been put into place doesn't necessarily in the long term benefit all the players that use that land. Don – Should I add an issue for the Board about the impact of the storm drainage requirements on the agricultural industry in Garfield County? Commissioner McCown – I think so. I think we can definitely justify supporting that one. Commissioner Martin – That's one of those conflicts that federal statutes and management practices have verses what the state implementation of a rule is. That's a conflict that needs to be resolved. Those are some of the examples and I think there are numerous others but I think that is it for right now. Ed – Are there any specifics in the list that staff came up that you want omitted? Commissioner Martin – I think we are going to review that. Commissioner McCown – We are still looking at and trying to come up with something by the end of the week. Don – By Friday I have to submit this. I would suggest I will try to put together a draft and circulate it to both of you and get response and comments. But I think I have enough to get the outlines of a pre-hearing statement. Commissioner McCown – I don't know if we have taken a position on, or if we need to officially on the filing of the

motion. Don – Yes you do. Commissioner McCown – Given the size and the scope of the undertaking of re-writing all of these rules, I would certainly support phasing the implementation and the changing of these rules to a more manageable level. I think it is more practical. I don't know if they will succeed but I think it is more practical and manageable not only from an enforcement and implementation standpoint but just from a point of addressing the problems. Don - Mr. Wonstolen identified the following rules as ones he would like to limit consideration at this time. He wishes to limit consideration for the first hearing to Rule 216, which is proposed on the comprehensive drilling plans. 513 which is the geographic area designation rule. Rule 1201-1209, which you already referenced, that's the wildlife protection rules. 303, that identifies particularly Form 2A which has more extensive requirement on sighting issues and as you have already discussed is currently required for Garfield County. 305 Notices and 306, the consultation issue which you identified as the one you want addressed. He wants to limit consideration to those rules at this time. That's the one (513) on the question do you want to support, oppose or take no position regarding his motion? Commissioner Martin – To get some good rules out of it and also good discussion and disclosure on all issues on any side, I think it is a logical approach and I would support it. Commissioner McCown – We are going to have constituents that don't agree with that but I believe that the smaller pieces that you try to eat this elephant the better you're going to be able to digest this. Don – If I put together and ask you to review a response generally supporting the position of the Colorado Oil and Gas Association on bifurcating the hearing and limited discussion that would be alright. Both Commissioners shook their heads yes. Commissioner Martin – The reason I would is because I think it is more in-depth, I think it's willing to put out the reasoning behind it on all sides, time to understand it and to move forward to make sure that it's a good rule or not. It's a better approach to making rules than it is just writing them down saying it's going to be in place and that's all there is to it. Hopefully everyone will have a chance to go through it and digest it. Commissioner McCown – Does staff have anything you would like to add? Fred Jarman – With the list of comments that your staff has put together are you moving through those and then you will see which are the ones you want to move forward to? Commissioner Martin – Yes, by the 9th. Don – Hopefully, by the 8th. I have enough information. Right now with staff here it is helpful also. I anticipate listing both of you as witnesses but I want to confirm also schedule wise if both of you are available June 23rd and perhaps the 24th. Commissioner Martin – What about the fifteenth? Don – That is a pre-conference. Commissioner Martin – I've got the 15th available. Don – Actually no, we'll need a County representative at that. Judy is there as an administrative representative. Commissioner Martin – I have the 23rd through the 27th open for the rule making that you're requested. Commissioner McCown – 23rd I'm good, the 25th I have a commitment back here. Don – May 15th? Commissioner McCown – No I will be in Steamboat. Commissioner Martin – I'm available Don – On May 22nd, is when the hearing officially starts although they are not anticipating public comment. Neither Commissioner available May 22nd. Commissioner McCown – Given most of our points and if we submit that in writing, is there still a critical need to be there as a witness? Don – Yes. The reason for that is we don't know what the other parties will say. If you have checked the website you know that the Oil and Gas Commission staff has already tendered their pre-hearing statement which with testimony exceeds nine hundred (900) pages. I anticipate their presentation will probably be taken first. It could easily take two (2) days or more. Commissioner Martin – And the list of parties is still at eighty-five (85) or has it grown? Don – It is. Commissioner Martin – And if it's any indication if we go through you can figure anywhere from three (300) to nine hundred (900) pages per each one. Weld County had three hundred (300) pages I believe. Don – The only reason if we need you there is to respond to a position that's taken or add to the comment. Commissioner Martin – I'm available by telephone but I'm out of state. Commissioner McCown – If they are pushing that and other entities aren't there and solely submit written communication, then there is no cross examination of those entities either. Don – That's correct. Commissioner McCown – So you couldn't ask a question about their presentation if they weren't there. Don – Particularly considering the process one thing I haven't explained very well is we submit a pre-hearing statement. All the parties and then we go to the pre-hearing conference then we have an opportunity, I think it was June 6th that we have to submit a rebuttal pre-hearing statement if we wish. That's like re-direct. So we get another opportunity to submit issues and comments in response to those that have been raised. It's not like you won't have a chance to respond. You will. In the past when we have participated in rule making with other agencies, we have not presented, you have not presented verbal testimony. I think Jim has testified. Judy – One point of clarification, I have a list of rules for consideration. I have 306 written down here. Commissioner McCown – No, he mentioned 303, 305 and 306. Don – 306 is listed in his motion as a consultation role. Judy – But at the bottom where he actually enters….. Don - Yeah, he didn't include it did he? We might want to do that because it is an issue for the Board. Commissioner Martin – It also affects you directly. Don – I will put that in the response and add that to the list. I will copy Judy on everything since she is an official County representative and if all three (3) of you could get comments back to me, we will get it finalize and filed.

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR A CONTRACTOR'S YARD IN THE ARRD ZONE DISTRICT AND LOCATED ON A 4.82 ACRE PROPERTY EAST OF THE TOWN OF CARBONDALE AND DESCRIBED AS 138 FLYING FISH ROAD. APPLICANT IS MICHAEL ROSENBERG. – DAVID PESNICHAK

David Pesnichak, Carolyn Dalghren and Michael Rosenberg were present. The applicant requests that the Board of county Commissioners approve a Special Use Permit allowing a Contractor's Yard on a 4.82 acre parcel zoned ARRD. The intent is to utilize the property to store and process felled timber from Snowmass Ski Mountain. As the owner of the business has a contract with Aspen Ski Company and lives on the property, no additional water or wastewater facilities are proposed to be used at this facility beyond that of the single family residence. No employees have been represented to use or access this proposed property and no signage is proposed. Traffic generated by the proposed use has been represented to be three to four vehicles per day (approximately 6 – 8 ADT.) This traffic is in addition to the expected 9.57 ADT as generated by a standard single family dwelling unit. The applicant has represented this application as follows: The applicant has leased the subject parcel to James Holton who has a contract with Aspen Ski Company to clear and maintain runs on Snowmass Mountain. He works high on Snowmass Mountain from June through October where he cuts and processes the trees that are felled. Prior to Holton's operation these threes were dumped into slash piles and burned. Mr. Holton wants to use the parcel to do occasional minor cutting, joining and planting in the off season and storage. The commercial items currently stored there but NOT used there are 1 box trailer,

2 flatbed trucks, a compactor, a mini track hoe, a backhoe, 1 skid steer, 2 30-floot flatbed trailers, a fifth wheel truck, a 42-foot trailer, a portable Wood Mizer, some concrete retaining blocks that are used behind the trencher.
Much of this equipment will be rotated out during the fall and winter months and therefore will be there only infrequently and temporarily. During the summer months, the vast majority of the time these items are out at the job site and therefore will be located on the parcel only infrequently and temporarily.
Staff Recommendation:
Due to the anticipated limited visual, traffic and infrastructure impacts of this proposal, staff recommends that the Board of County Commissioners direct staff to schedule this item before the Board and not refer it to the Planning Commission. Commissioner McCown asked if this was a firewood processing facility.
Michael Rosenburg stated it is to store cut lumber. 99.9% of the cutting, milling and planning is in Snowmass. It comes down to being stored and used wherever. It is Mr. Rosenberg's tenant who will be utilizing this facility. Commissioner Houpt asked is this a residential area? David stated the area is predominately residential.
Commissioner Houpt – I wonder if it should go to the Planning Commission. Michael Rosenberg stated there are commercial dump trucks parked there and in all honesty Flying Fish Road cuts the property. All the residential homes are on the south side of Flying Fish and the closest one is over three hundred (300) feet from the north side where the storage would be. In the application he has provided photographs. Commissioner McCown made a motion to schedule before the Board of County Commissioners. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A REQUEST FOR THE WAIVER OF AN ANNEXATION IMPACT REPORT FOR THE TOWN OF PARACHUTE, COLORADO EXXON MOBIL ANNEXATION. CRAIG RICHARDSON
Craig Richardson, Carolyn Dahlgren, Tim Thulson and Steve Carter were present.
Craig Richardson, Planner submitted the following report to the Board.
The Town of Parachute, Colorado (the Town) has submitted a request to waive the requirement to submit an Annexation Impact Report to Garfield County for an annexation proposed by ExxonMobil Corporation (Exxon). The proposed annexation consists of 186.28-acres. Colorado Revised Statutes 31-12-108.5 requires the following to occur: The proposed annexation includes the portion of County Road 215 adjacent to the subject property.
As stated in the letter from Robert Knight, Parachute Town Administrator dated April 25th, 2007 (attached to this memo) Exxon plans to extend the railroad line to the subject property and construct a rail yard. Currently, industry must utilize existing rail yards within Garfield County, requiring the transfer of goods and equipment via Interstate 70. The construction of a rail yard on the subject property will help decrease the volume of traffic at the I-70 and County Road 215 interchange. It is staff's opinion that this annexation will not have an impact on Garfield County infrastructure. As such, staff recommends that the Board of County Commissioners waive the requirement to submit an Annexation Impact Report for review by the County. Tim Thulson stated their plan now was to zone the property line west of 215 light industrial. There is no site plan all right now. Preliminary estimates now estimate we would void 22,000 trucks per year. Tim stated the town is in favor of this and urge the report be waived. Steve Carter stated the town has been working closely with Exxon Mobile. He believes this would be in the town's best interest and the County's as well.
Commissioner McCown stated he was under the impression unless something has changed, but at one time there was an ordinance that prohibited any gas drilling within the confines of Parachute City limits, if so is Exxon aware of that should they have an opportunity or a need to place a well on this location? Do you feel you have the power and would be pre-empting the Town of Parachute to allow this? Tim stated they were addressing that initially and he has all the well permit numbers, they aren't looking into establishing any more pads and re-drills off the existing pads. We are looking into grandfathering that under the ADA. Steve Carter stated there is no ordinance that prohibits it; we have a lease with Williams on the public rights-of-way which prohibit any drilling on the public rights-of-way and the parks etc.
Commissioner McCown – I make a motion we waive the annexation impact report. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A REQUEST TO VACATE A PORTION OF CR 118 SOUTH OF CARBONDALE. APPLICANT IS IRON ROSE LAND & CATTLE II, LLC – FRED JARMAN
Fred Jarman, Don DeFord and John Neiley for Iron Rose Land & Cattle II, LLC were present.
Don DeFord reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Staff memorandum and Exhibit D – Application ; Exhibit E – Email from Pitkin County Planning Department dated 2/4/08;Exhibit F – Email from CDOT dated 2/3/08; Exhibit G – Email from the Garfield County Sheriff dated 2/5/08; Exhibit H – Email from the Garfield County Road and Bridge Department dated 2/5/08; Exhibit I – Letter from Resource Engineering dated 2/6/08; Exhibit J – Letter from John F. Neiley dated 05/01/08; Exhibit K – Letter from Wyatt Keesbery, District Foreman Garfield County and Exhibit L – E-mail from Mark Hamilton at Holland & Hart LLP dated 5/5/08. Chairman Martin entered Exhibits A – L into the record. Fred Jarman explained: The applicant requests the Board of County Commissioners to vacate a portion of County Road 118 from its intersection at the applicant's ranch entrance back to State Highway 133. Presently CR 118 begins at the west side of the State Highway 133 crosses the Crystal River then turns south as it enters the applicant's property (former Perry Sopris Ranch) and generally terminates in hay fields (with some evidence that a road alignment continues on to the south to re-connect SH 133 but is not presently travelled by the driving public). A map showing with dash lines where the road would be vacated. Today as one leaves SH 133 and crosses the Crystal River, CR 118 presently provides direct access to the Colorado Division of Wildlife Fish Hatchery and to this applicant's ranch. The applicant requests to only vacate the portion of CR 1118 that lies within his property and that serves no other property. This action would result in preserving CR 118 under County jurisdiction as it is presently used today and will not result in closing access to any other property. The applicant provided the centerline survey of the portion of the road to be vacated.
Planning Commission Recommendation

Based on the information given in the application and the staff's research, the Planning Commission recommended the Board of County Commissioners approve the request to vacate a portion of CR 118 as described in the applicant's survey finding the following:

1. That proper public notice was provided as required for the hearing before the Board of County Commissioners.
2. The subject County road or public road right-of-way does not provide any access to public lands;
3. The subject County road or public road right-of-way does not abut or is not connected to any property including any easement owned by the federal government, State of Colorado, municipality, County, or special district, where such property or easement constitutes a public park, recreational area or trail;
4. The subject County road or public road right-of-way is not currently used or will not be used in the foreseeable future for any County or public road purpose;
5. That for the above stated and other reasons, the proposed public right-of-way vacation is in the best interest of the health, safety and welfare of the citizens of Garfield County;
6. Any resolution shall include a "Whereas" statement that indicates that the Town of Carbondale shall still have access as it has historically had in order to maintain the Bowless and Holland Ditch that the Town owns; and
7. The applicant shall reach an agreement with the County Road and Bridge Department regarding a turnaround design that meets their requirements and shall construct any associated improvements requested by the Road and Bridge Department prior to the vacation of CR 118.

Fred recommends the County vacates this portion of the road. John Neiley thanked Fred for his assistance. John feels they have met all the requirements procedurally and factually to vacate this portion of the road. The need for the vacation obviously is that the ranch is in new ownership and is being renovated. It will be put to use as agricultural and cattle operations again and Mr. Baley wants to make sure he can do that without the risk of public access running through his cattle herd. One issue was Mr. Stover's mailbox and John has spoke with him on the phone and explained that the County Road and Bridge Department wants us to construct the turnaround and he could put his mailbox anywhere on the cul-de-sac turnaround you want. The Town of Carbondale, Mark Hamilton had sent some proposals and we had no problem with providing an easement to them to maintain access to the ditches. They talked about reconstruction and realigning of ditches for the flow of irrigation water. They were unsure how long that will take but they are happy to give them access. The only concern John has about number seven (7), which is essentially we have to construct the turnaround prior to the actual vacation being recorded. John just wanted to put on the table if there was some way we could make a condition that we have to do it but not make the vacation of the road dependent on the actual construction itself. Commissioner Houpt asked if John Neiley was fine with Marks' language which is more comprehensive than Fred's language in number six (6). John Neiley stated his language is fine. Commissioner McCown stated he could see a possibility of that if the turnaround that the County is requesting doesn't follow directly in line with the vacation of this road. He could see a lack of maintenance occurring if we can't turn our rigs around. Commissioner McCown is concerned about your request to delay the actual construction of the turnaround until a point in time the realignment of the ditches is completed so as not to have to do it all. He agrees with John, but are you willing to forego any maintenance on that road until that time which may in fact have to occur. John Neiley – I understand your concern and actually I put together some language to address that because currently what the road and bridge people are doing is they are driving up where the roads forks off. I suggest the applicant shall continue to allow un-obstructed access to the Road and Bridge Department to use the existing road as a turnaround until such a time the new turnaround is constructed. Fred – We would like to see things buttoned up rather than leaving it loose. Fred stated it is more the comfort level of the Commissioners and Road and Bridge. Fred likes the language of number seven (7). Don DeFord asked John Neiley if he submitted as part of his application a proposed resolution to vacate a road. John Neiley – No. Don – Another question, in regard to the proposed road vacation, we talked about this as one ranch through which that road goes, is it actually two (2) or three (3) large parcels that are used as one (1) ranch? Or is it in fact one parcel? John Neiley – The portion through which the roadway goes through is one parcel. The ranch itself actually was gobbled up into two (2) different ownerships. Crystal River Ranch owns the upper portion; but it is all one piece of ground and it is under one common ownership. Commissioner Martin – Isn't it also under conservation easement, or most of it? John Neiley– I don't believe that it is. Commissioner Houpt asked if there was some language we could put into this condition instead of tearing things up twice, set the deadline at the point where the other discussions come to conclusion. Fred – Perhaps we take a bond or a letter of credit, maybe within a two (2) year time frame if its not acted upon then we act on the letter of credit and do it ourselves. Commissioner McCown – One year or two years if they haven't done it we would step in and do it. Fred asked Larry if he saw the issue with maintenance that John was raising until that time. I would assume the County would continue at the same maintenance program until such time the change is made. Commissioner McCown stated not as long as what the applicant has testified to that continued use of the existing turnaround method, which is the hammer head, would not be taken away with the vacation of this road. At the end of the day we want a turnaround like was discussed and if this seems to be perpetually hung up in negotiation, we are going to build it and we will give you (John Neiley) the first option to build it. Commissioner McCown stated he would be comfortable with one year. Don – I'd like to present you three sections of your Resolution on Road Vacations suggesting that you're probably not in a position to take final action today. It may be an opportunity to come back with a written document. Don read section Roman numeral nine (9) C5 of your resolution requires that the applicant submit a form of resolution vacating the subject road as prepared by the applicant and reviewed and approved by the County Attorney's Office prior to the BOCC hearing. You don't have that today as the evidence shows. Sub-section E states the BOCC may elect to approve the resolution vacating a County or public road right-of-way in a form modified or altered from that presented. In that event the Board shall specifically direct the staff to make alterations to the resolution presented by the petitioner or applicant. Not by a motion specifying those alterations, such motion shall also include a continuance to allow the staff and the County to accomplish the request of alterations. Lastly, final action, no final action on a petition or application to vacate a County or public road right-of-way shall occur until a resolution, a final approved form has been considered as part of the public hearing process signed by the Chair of the Board of Commissioners pursuant to motion and recorded. There are a number of things that would have to occur before you can close the public hearing today. What Don is suggesting is that the Board specifies the day the conditions you would like to see and continue this matter so the applicant can present a form of resolution to

vacate the road. Commissioner McCown asked the applicant if the May 19th meeting would be too soon and he replied he would not be here on that date. They agreed upon the June 2, 2008 BOCC meeting.
Commissioner McCown - I would recommend the staffs recommendations one (1) through five (5) inserting Mark's comments in number six (6) and in number seven (7) inserting in one year from the date of vacation the required road improvements will be made. Incorporate that in your resolution and it goes back to Don for final review on June 2nd.
Commissioner Houpt – I would agree with this.
Commissioner McCown – I make a motion we continue the public hearing to June 2, 2008 in the 1:15 time frame.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES FOR CHANGES TO THE MIDDLE FORK COMPRESSOR STATION. APPLICANT IS ENCANA OIL AND GAS (USA), INC. – FRED JARMAN

Fred Jarman, Jason Eckman and Lyndel Loman were present. Carolyn reviewed the noticing requirements for the public hearing and determined they had an imperfection on the parcel. The Commissioners decided to accept the notification. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A –Proof of Publication; Exhibit B – Proof of Mailing; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum and Exhibit E – Application submitted by Marathon Oil Company. Chairman Martin entered Exhibits A – F into the record. The Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for expansion of an existing natural gas compressor station on a 27,000-acre property owned by Encana Oil & Gas USA, Inc. The site is located at the end of County Road 215, approximately 10 miles north of Parachute and is also formerly known as the old UNOCAL property where oil shale processing once occurred. The location of the 9-acre compressor facility is just beyond the private gate at the end of CR 215. More specifically, the Applicant requests approval from the Board for expansion of an existing natural gas compressor station. This compressor station currently serves as a collector point where gathered natural gas is sent for dehydration and compression of gas collected in the North Parachute Ranch. Phase I was approved (Resolution 2005-85) for three electric compressors and six natural gas compressors currently exist on the site), one slug catcher, one JTZ skid (liquids condenser and separator) and removal of one natural gas compressor. Phase II was approved (Resolution 2007-44) to add four electric-driven compressors.

SITE DESCRIPTION

The proposed site where the compressor is located is situated on flat river basin land that is situated at the general confluence of the West, East, and Middle Forks of Parachute Creek. The compressor is located on approximately 9 acres of the total 27,000 acre parcel owned by EnCana. The area where the compressors are located is surrounded by steep slopes and canyons forming the general confluence of the three creeks. Much of the area near the compressor has been denuded by the former oil shale operations and continues to be a location which contains staging areas for heavy machinery, large water hauling trucks, drilling rigs, and pipes associated with natural gas exploration. Dense mature riparian vegetation exists along the creeks as they pass through the area.

ZONING & ADJACENT USES

The subject property is zoned Resource Lands (Gentle Slopes and Lower Valley Floor). The type of use requested falls under the definition of "Processing and Material Handling of Natural Resources" which are contemplated as special uses in the Resource Lands (Gentle Slopes and Lower Valley Floor) zone district.

The property is also now known as the North Parachute Ranch which was the area where a majority of the oil shale exploration and development occurred. The compressors are currently located on approximately 9 acres of a 27,000 acre property which is surrounded by properties also owned and utilized by the energy industry such as Chevron, Exxon/Mobile, Williams Production RMT, American Soda, etc. Neighboring uses on those lands include rangeland grazing, farming, and resource extraction (natural gas drilling).

The compressor station is described as an unmanned facility. The traffic impact section of the application, states that "no full-time employees are located on-site. The compressors are monitored remotely from EnCana's Parachute office." The Applicant proposes to add a bathroom facility to the maintenance building where water would be hauled in and wastewater is handled with an ISDS. Staff, as commonly recommended, does not recommend that hauling water serves as a long term source and also generates traffic. This is a policy question for the Board to determine if a well should be drilled to accommodate this long term water use. The application states that the compressor, once constructed, is expected to generate an average of 6-12 automobile trips and 1-2 tractor trailer trips per day into and out of the facility. Most of this truck travel will be coming from and going back to drilling sites on the North Parachute Ranch property on private roads constructed by the industry or from Parachute on CR 215. The road to the compressor site is an existing road that meets the County's standards and the County does not foresee a major increase in traffic flow after the construction period and the compressor is online. No improvements to CR 215 are necessary as a result of this compressor expansion. The property is located in an extremely secluded portion of the property which is practically screened by adjacent steep topography and is located approximately 3 miles from the nearest residence. It cannot be seen from CR 215. As noted earlier, the proposed use will have relatively limited impact to surrounding properties. It is situated in a remote private location on the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic. Further, the site itself is situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities. No screening is necessary as it is already screened by steep topography. While no lighting is proposed, any future lighting shall be directed inward and downward. The Applicant plans to paint all the equipment beige in order to better blend in with the surrounding environment. The facility site has been designed to insure protection of ground water and nearby streams through the development and implementation of a Storm Water Management Plan specific to the area which is contained at the rear of the application. Staff notes that while this plan is specific to the Compressor site, Encana has also submitted a larger Storm Water Management Plan for the general area. Further, containment facilities are designed into the facility for any hazardous material stored or used during operations. Compressors produce considerable volumes of noise and vibration but whose acceptable levels are regulated by the COGCC Series 800 rules. As stated earlier, Phase I included three electric compressors housed and seven natural gas compressors which are not housed. Phase II expanded the housing facility for the electric compressors from its current

64' X 57' 8" to 165' 4" X 57' 8". This increased housing space allowed for a total build out of seven electric compressors and reduced the number of natural gas compressors to six. This proposed Phase III will add the following:

- 1 electric compressor
- 1 maintenance building (50' X 50')
- 1 PDC building (40' X 20')
- Expansion of a switchyard substation
- 1 Mars 100 Turbine building (50' X 30')
- 1 centrifugal compressor building (50' X 30')
- 1 pump house building (25' X 25')
- 1 pump breaker house building (12' X 60')
- 1 water treatment building (50' X 50')

The Applicant has supplied a noise study conducted by HFP Acoustical Consultants, Inc. The study has concluded that the sound levels generated by the compressor station are and will be in conformance with the state guidelines. Noise generated will have very zero impact on adjacent properties since the compressor is located in a canyon-like area that will prevent any sound from traveling as well as being located well within the boundaries of the subject property far from adjacent properties. In any event, EnCana shall adhere to the noise standards specified by the Colorado Oil and Gas Conservation Commission rules. Given the remote location of the new facility, Staff agrees that noise will not be a nuisance to area residents particularly since the nearest residence is 5 miles away and will not be able to hear any noise.
The site is located within winter rangeland for mule deer, elk, and turkey as identified on the Division of Wildlife's wildlife distribution maps. The 9-acre site is currently disturbed and provides little habitat for wildlife or vegetation. The Applicant has fenced the entire site to minimize conflicts with wildlife. The Application contains a study prepared by WestWater Engineering that recommends mitigation that specifically deals with the following topics:

- Improving Undisturbed sagebrush shrublands
- Minimize footprint of temporary disturbance
- Re-seeding
- Fence Maintenance
- Surface Water or Fluid Ponds

Because this facility has increased in general footprint and operational intensity over three phases, Staff suggests the Board require the Applicant to adhere to these recommendations. Once fully operational, is expected to generate 7-14 vehicle trips per day into and out of the facility because most of the monitoring of the Compressor's performance will be done remotely. Also as mentioned above, most of this truck travel will be coming from Parachute on CR 215 which is capable of handling the additional trips. The operations at the facility will not involve any abutting property. The proposed facility will not encroach upon existing setbacks or reduce current separation distances to abutting properties. Staff agrees that the existing facility is located well within required setbacks and is sufficiently separated from adjacent properties in all directions. The application includes a reclamation plan that would govern treatment of the site once the useful life of the facility (20+ years) has expired which includes:

1) Removal of all surface equipment;
2) Restoration and re-contouring of grade to approximate original conditions;
3) Replacement of stockpiled topsoil; and
4) Compliance with all prevailing Colorado Oil and Gas Conservation Commission and Garfield County regulations governing final reclamation.

The Applicant has already provided the Garfield County Treasurers Office with a Permit Bond for $36,000 to cover the existing site / operations. The Garfield County Vegetation Manager provided comments indicating the vegetation management plan, including weeds and reseeding is acceptable and the revegetation security has been addressed in an earlier SUP and a security has been provided. Should the Board approve the request for the Compressor Station, Staff suggests the industrial performance standards be considered conditions of approval as they are specifically intended to ensure that any industrial use such as the proposed Compressor function in accordance with the proper best management practices and within the parameters of the State Statutes.
STAFF RECOMMENDATION
Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities, 4) the proposed expansion is to an existing compressor facility, Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for a compressor on the North Parachute Ranch with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Volume of sound generated shall comply with the standards set forth in the Series 800 rules of the Colorado Oil and Gas Conservation Commission (COGCC).
5. Vibration generated: the compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: the compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

7. Emission of heat, glare, radiation and fumes: the compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
8. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
9. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
10. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
11. That all proper building permits are obtained for the structures associated with the operation of the Compressor prior to the issuance of a Special Use Permit.

Fred stated the applicant has met all of the industrial performance standards and they would like to add a bathroom. They would like to haul water in. This is really a question/issue for you. It adds a few trips on the road with very minor impact. Commissioner McCown asked if this would be non potable water. Fred stated this is potable water. They would have a contract with a provider and it was approved by CDPHE as a water provider. The question for you is does this make sense? This facility will be here for a long time. Commissioner Martin – The real issue is trying to find usable water. Fred – There is an existing bond in place already because this is Phase III. We do recommend you approve the expansion with conditions on page thirteen (13). Carolyn – The bond may need to be amended because the bonds often refer to a specific resolution number. Assuming you go forward and approve the bond may need to be extended in time or at least amended to refer to the new SUP. Otherwise you won't have a bond for this SUP you will only have it for the past SUP. Commissioner Houpt – In your narrative you talk about existing gas compressors being phased out and moved, is that part of the plan for this phase? Lyndel – Yes it is. All the gas compressors should be removed. They are actually shut down right now. Commissioner Houpt – I think that when you have something that will be in place this long it is advantageous to have a water source. Is there concern about doing a well? I'm not sure why it's being proposed that there will be an ISDS but hauling water, I think it makes more sense to have water on site.
Lyndel – You're probably correct we just haven't looked into it. Commissioner McCown – I assume you bought this property. You bought the old Lyndel Ranch and I know there is a well out in that field, whether it's restricted use and inhibits your use or not. I know we have houses all over the County that use cisterns, they have a well and have met the requirements of a well but it pumps nothing but dust. I would not see this as being a great deal different from them.
Commissioner Houpt asked Fred if there was a condition on ISDS. Fred – The ISDS is testimony in the application and they said they were going to do that. Maybe they can use the well Commissioner McCown mentioned. Fred suggested a condition of approval that might say in good faith the applicant shall demonstrate that they have looked for a water supply source on site and if there are none that the cistern scenario will work fine. Commissioner Houpt stated that would be fine with her.
A motion was made by Commissioner McCown to close the public hearing. Seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the SUP for a material handling facility, natural gas for a pressure station as it is with the conditions listed by staff adding number twelve (12) that the applicant shall show due diligence obtaining a permanent water supply on the ranch site in lieu of that a cistern adequate size for the facility would suffice. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
EXECUTIVE SESSION:
Commissioner Martin – I would like to request an executive session in reference to a demand to convene a common court with our legal system. Commissioner McCown – So moved. Commissioner Houpt – Second.
Commissioner Martin – Motion to come out of Executive Session?
Commissioner McCown – So moved. Commissioner Houpt – Second.
All in favor: Houpt – aye McCown – aye Martin – aye
No action taken.
Commissioner McCown - I move we adjourn.
Commissioner Houpt – Second. All in favor: Houpt – aye McCown – aye Martin - aye
ADJOURNMENT

Attest: Chairman of the Board

_____ _____

MAY 12, 2008
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 12, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
PROVIDING 3/4" & 3/8" CHIP SEAL TO VARIOUS COUNTY ROADS – MARVIN STPEHENS
Marvin Stephens and Tim Arnett were present. These are the roads scheduled for the 2008 season.

Chairman Martin mentioned some of the roads are shown for ¾ inch and the others are3/8th inch. Marvin stated that some of the roads allocated funds from last year will be done this year.
The award to United Companies to provide and apply chip seal to the following County roads was submitted for a not to exceed price of $306,151.03.
A motion was made by Commissioner Houpt that we approve the award United Companies to provide and apply chip seal to the roads as proposed for a not to exceed price of $306,151.03 and this provides 3/8 inch aggregate and 3/4 inch aggregate and then fog seal. Marvin – If there is any money left over he would like to do some small jobs.
The Board agreed this would fine. Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

RECOMMEND AWARD OF THE WATER MASTER PLAN – BRIAN CONDIE

Brian Condie, Matt Anderson and Carolyn Dahlgren were present. The score sheet was explained by Matt and mentioned this was only two parts of the evaluation total. Brian interviewed the two top companies. Scores were broken down but price wasn't the full score. An RFP was publicized and after five (5) weeks, several proposals were submitted. Brain explained that after the process of interviewing both Nolte and High County Engineering, the following was submitted to the Board for selection.

- Nolte - $37,604 with a score of 85
- High Country – $26,200 with a score of 80

Brian recommended Nolte due to their experience with aviation and their knowledge of water systems. If you were unable to negotiate with the City of Rifle, then they have the knowledge of how to build a system off of a single line. The legal department will review the contract. They can meet the fire flow off the single line as well. Nolte gave us more options. This would be for Task One for a not to exceed price of $37,604.00.
Commissioner McCown so moved. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin – aye

NAMING OF A LAKE ON THE FLATTOPS FOR A GARFIELD COUNTY FAMILY

John Martin stated he had been approached by the Forest Service as well as the USGS folks and a request came to them through the Gallagher family, Walter Gallagher for his grandfather, naming a lake that is upon the Flat Tops off the Coffee Pot Road, Gallagher Lake. Under the geographic name proposal it qualifies because the folks have been here more than twenty (20) years and have contributed to the area quite a bit and would like to see the lake named. It is there waiting for our recommendation if the Board so chooses. We can name a new lake on the Flat Tops Gallagher Lake which would recognize grandpa Gallagher. And I propose that we do so and send in the action saying that we recommend and support this request. Commissioner Houpt said we didn't have anything in our notebooks about this request or the process that we would typical go through about any policies we might have regarding this issue.Chairman Martin reiterated it was the USGS and Forest Service and this is just an application that was made to them and these agencies want to know if we would support it. Commissioner McCown asked what if another application shows up and we're asked to support it as well. Chairman Martin said on the timeline this is it. It needs to be in this week. The Gallagher family went through the process and this is the only application. It is a nice tribute to grandpa Gallagher. Chairman Martin also explained the reason the County is being called in is because this in on the Flat Tops Wilderness Area and that's within our borders. If we had objections to it, then it would be grounds to deny the request. Commissioner McCown and Commissioner Houpt both stated they would support this action. Commissioner McCown made the motion to accept the request. Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown – aye Chairman Martin said he will make sure this gets back to the US Forest Service.

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-fund Transfers
d. Changes to Prior Warrant Lists
e. BLM Lease Offer – Brian Condie
f. Authorize the Chairman to Sign a Special Use Permit Allowing a Contractors Yard – Applicant; George Strong – Craig Richardson
g. Final Approval of DBE Program Document – USDOT FAA
h. Authorize the Chairman to Sign an Informed Consent Memo re: DHS Conflict Case #M997952
i. Authorize the Chairman to Sign an Informed Consent Memo re: DHS Conflict Case #QO14424
j. Liquor License Renewals for Kum & Go LLL d/b/a Kum & Go #929 on Battlement Mesa and Ken Seidel enterprises LLC d/b/a the Arroyo Saloon on Battlement Mesa – Jean Alberico

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the Consent Agenda Items and the Chair to sign once the documents are produced.
In favor: Houpt – aye Martin – aye McCown - aye

COMMISSIONER REPORT

Commissioner McCown – Wednesday, we have land use in Glenwood in the morning; Thursday, Energy Conference in Craig and Associated Governments of Northwest Colorado in Craig and the Energy Conference carrying over to Friday in Craig.
Commissioner Houpt – Last week the Oil and Gas Conservation Commission hearings; this week rewrite code on Wednesday, and she is part of a panel on oil and gas for the High Country News Annual Meeting on Thursday.
Chairman Martin – Last Tuesday the Key Club at the Glenwood Springs High School asked for help and he participated in their fund raiser and pancake breakfast. The profits will go for mosquito nets for children in Africa. Wednesday and Thursday the Toxic Era Meeting was in Grand Junction and Jim Rada attended as well. Saturday, the Foster Care Appreciation Luncheon at Gregory Park in West Glenwood; this coming Saturday participate in the Bike Rodeo and free helmet give away for the kids in Silt and hopefully we'll have about 300 kids there. Wednesday is the Oil and Gas Conservation Hearing as well.

DAVE MERRITT – CITY OF GLENWOOD SPRINGS

Chairman Martin asked Dave to tell us what the City is doing now. Dave is the first City Council member that we've seen in one of the meeting in a long time. We are hoping for good relationships and good conversations going there back and forth. Dave stated things are going good in the City. Since the citizens are giving us the authority to precede with a larger application broadband we need to more closely evaluate to take it the next step forward – a big step. Moving into the summer paving session; regular construction contracts going out for our water line replacements; sales tax revenues are holding up well. Chairman Martin - $64,000 just in April so we'll do that distribution and hopefully everyone will have a nice windfall. Dave – Everyone is glad that Legislature is out of session now. Personally, Dave stated he left the Colorado River District three (3) months ago and is with HDR and doing some private consultant on water; HDR is a full service consulting firm. He now has an office in Glenwood Springs. Chairman Martin invited Dave and the City Council members to make reservations for the upcoming 125th Anniversary Celebration for Garfield County. Dave stated he will be in Silverthorne that weekend and is sorry he will miss it. Dave will mention the celebration at City Council this Thursday.

ROAD AND BRIDGE – ROAD GRAVEL ISSUE

Carolyn Dahlgren addressed the road gravel issue on County Road 162 relating this to the Adrienne Crouch issue and felt some research should be done; she will bring this back to the Board. She added that Mr. DeFord will give Marvin a call. The last thing we want to do is put material where we do not need it.

ASSESSOR – ABATEMENTS

Chairman Martin swore in the speakers.

John Gorman and Lisa Warder presented the following abatements.

ABATEMENT – GREY WOLF DRILLING RIG #809 – ABATEMENT #08-227 SCHEDULE P910050

Lisa stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect due to a clerical error. Drilling Rig #809 was not in Garfield County during 2006, taxable in 2007. This rig should have been de-activated for tax year 2007. The 2006 value erroneously rolled over into 2007 therefore the abatement of $3,648.64 should be paid.

ABATEMENT – PAMELA AND ROLAND PAUL MCKEE – ABATEMENT #08-184 SCHEDULE R044155

Lisa Warder presented that the petitioner states that the taxes assessed against the above property for the property tax year 2007 are incorrect due to a clerical error made resulting in an over valuation of value for this Condominium unit during the split process that took place in 2007. The abatement refund amounts to $4,955.08.

ABATEMENT – LAROCA ASSEMBLY OF GOD – ABATEMENT #08-193 SCHEDULE R005292

Lisa Warder presented that the petitioner states that the taxes assessed against the above property for the property tax year 2007 are incorrect because this property was classified Exempt by the Division of Property Tax file 23-01169-01. Due to clerical error, the exemption value was added to the property record without deleting the vacant land value. Therefore the abatement of taxes for 2007 in the amount of $2,556.68 is necessary.

ABATEMENT – FILIPPONE PROPERTIES, LLC – ABATEMENT #08-233 SCHEDULE R312167

Lisa Warder presented that the petitioner states the taxes assessed against the above property for property tax year 2007 are incorrect because this property had the incorrect allocation of residential and commercial. The change in assessed value calls for an abatement in taxes in the amount of $2,263.60.

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 Abatement – Grey Wolf Drilling Rig #809 – Abatement #08-227 Schedule P910050 in the amount of $3,648.64.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve Abatement – Pamela and Roland Paul McKee – Abatement #08-184 Schedule R044155 in the amount of $4,955.08.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve Abatement – LaRoca Assembly Of God – Abatement #08-193 for 2007 Schedule R005292 in the amount of $2,556.68.

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve Abatement – Filippone Properties, LLC – Abatement #08-233 Schedule R005292in the amount of $2,263.60.

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

SPAY AND NEUTER FUNDS FOR CARE – LESLIE ROCKEY AND CINDY CRANDELL

Leslie Rockey, Director of Colorado Animal Rescue and Cindy Crandall, Board of Directors were present.

Request is to redirect some of the funds so they can further the education and awareness of their program and use a portion of funds in a 3-month blitz of the importance of spay and neuter. They have been requested to put some notices in both English and Spanish. Storm King Mobile Home Park is very interested and perhaps other mobile home parks could use the same restriction of no animals unless they are spayed or neutered. Commissioner Houpt is fine with redirecting some of the funds because education is a big part of the program. Commissioner McCown – Why is there a vacuum around your program because the Sheriff is doing a great deal of spay and neuters. He feels the Sheriff could offer some help in the way they are successful. If requests come in for an amount of funds to do spay and neutering from other sources what would we do. Cindy says the vets tell us to give CARE all the dogs you can.

A motion was made by Commissioner Houpt to allow Care to redirect $6000 that we've already allocated to an educational campaign. Commissioner McCown asked if this would require an amendment to the contract. Commissioner Houpt – Have them receive the $6000 and they sent us a comprehensive report on how they spent the funds. Motion amended. Commissioner McCown seconded. Carolyn will amend the scope of services and CARE will invoice us for the $6,000 and also send a report. In favor: Houpt – aye McCown – aye Martin – aye

CTSI – PRESENTATION REGARDING GARFIELD COUNTY LOSS ANALYSIS FIVE-YEAR SUMMARY – GEORGE TINKER

Catherine Ross, Director of Human Resources and George Tinker of the CTSI Loss Prevention Team presented the County Workers' Compensation Pool as of December 31, 2007 in charts and figures. Slips, trips or falls ranked highest in the number of claims - $29,448,159 and a total of 6,070 claims; lifting was close behind with 3,159 claims for a total

of $20,112,433; and vehicle-other driving came in 3rd with 1,109 claims for a total of $12,089,885. This is why Garfield County stresses safety as a high priority in the performance evaluations of all employees. CTSI has 52 out of the 64 counties in the State of Colorado in their program. The number of claims for Garfield County was 109. The total dollars incurred $451,442 and the average incurred $4,142 for the year ending December 31, 2007. The top five in frequency was Law Enforcement, Road and Bridge, Administration, Miscellaneous and Weed and Pest Control. George thanked the Garfield County Board and Administration for the great efforts in keeping the loss at 5%. Commissioner McCown asked how footwear could be implemented for safety concerns in specific departments. George stated proper footwear could be recommended for home visits in the Department of Human Services.

UPDATE ON IRON BRIDGE ESCROW AGREEMENT – TIM THULSON AND CAROLYN DAHLGREN

Tim Thulson and Carolyn Dahlgren were present. Carolyn stated that Ironbridge hasn't done what they said they would do as related to their escrow agreement. Tim explained the situation saying there is a holdup in New York getting the document completed. The terms are not a problem and he doesn't know what the hold is about. April 25 they closed on four (4) units, approvals are in Andy Schwaller's office, and they are working with the Housing Authority on deed restrictions. Commissioner McCown said with the check here there is action but we cannot cash it until the document is sent. Commissioner McCown made a motion to continue this June 2, 2008 at the regular meeting at 10:15 a.m. and if the document shows up sooner, it will be on the consent agenda for approval.

REQUEST FOR A SPECIAL USE PERMIT FOR "EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES" IN THE ARRD ZONE DISTRICT TO ALLOW FOR A SHALE BORROW PIT ON A 4,332-ACRE PARCEL LOCATED NINE (9) MILES SOUTH OF THE CITY OF RIFLE ON A PARCEL OF LAND KNOWN AS TEEPEE PARK RANCH – APPLICANT: BLACK DIAMOND MINERALS, LLC – KATHY EASTLEY

Kathy Eastley and Michael Howard were present. The Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for shale borrow pit on Teepee Park Ranch located 9 miles south of the City of Rifle. Teepee Park Ranch is a 4,332 acre parcel which is currently undergoing Oil and Gas exploration activities. The applicant, Black Diamond Minerals, LLC would like to utilize this on-site resource for road improvements/maintenance and well pad construction. The shale borrow pit is currently existing and although not currently in use, had been used historically for on-site road maintenance. The proposal is to extract the 1,500 cubic yards of rock for well pads, 2,100 cubic yards for road improvements for a total of 3,600 cubic yards of shale. Estimated volume for future maintenance is 150 cubic yards per year. Equipment to be used in this process is a loader, two rock haulers, one backhoe and a rock crusher.

STAFF RECOMMENDATION

The Board has recently approved Phases I and II without referring them to the Planning Commission. This phase will result in one additional electric compressor as well as a variety of buildings that will not have an adverse impact to adjoining properties. The nearest residence is over five (5) miles according to the Applicant's sound analysis where measurements were taken that the existing facility is inaudible. Therefore, Staff recommends that due to:

1) The limited nature of potential impacts to surrounding properties;

2) The remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic; and

3) The fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / processing activities,

Staff recommends the Board directs staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown to schedule this hearing before the Board of County Commissioners. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

REQUEST FOR A SPECIAL USE PERMIT TO ALLOW FOR AN ACCESSORY DWELLING UNIT ON AN ARRD ZONED 35-ACRE PARCEL OF LAND LOCATED SOUTH OF NEW CASTLE AT 4786 COUNTY ROAD 312 FOR CHERYL MONGER – KATHY EASTELY

Kathy Eastely was present and the applicant did not show up for the hearing.

REQUEST FOR A SPECIAL USE PERMIT TO ALLOW "EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES" IN THE AI ZONE DISTRICT TO ALLOW FOR A SAND AND GRAVEL PIT WITH TRANSPORT OF MATERIAL ACROSS THE COLORADO RIVER VIA A CONVEYOR SYSTEM AND "DEVELOPMENT IN THE 100-YEAR FLOODPLAIN" – PROPERTY IS LOCATED 202 MILES EAST OF THE CITY OF RIFLE BETWEEN STATE HIGHWAY 6 & 24 AND THE COLORADO RIVER – NORTH BANK GRAVEL – APPLICANT: LAFARGE, N.A. – KATHY EASTLEY

Kathy Eastley, Michael Howard, David McConaughy and Helen Migchelbrink were present.

There are three owners and David McConaughy testified that he had permission from all owners to be the legal representative. Michael reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Kathy submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E –Application materials; Exhibit F – Staff memorandum, Exhibit G – Mamm Creek Special Use Permit; Exhibit H – Mamm Creek Access permit; Exhibit I – CRMS 112c Permit to Permit Construction Material Mining Operation; Exhibit J – Wetland Delineation; Exhibit K – Wetland Banking Contract; Exhibit M – Recovery Agreement – U.S. Fish and Wildlife Service; Exhibit N – Colorado Department of Transportation – Access Permit and NTP; Exhibit O – Private Road Crossing Agreement – Union Pacific Railroad; Exhibit P – Fugitive Dust Plan – Air Permit 01GA0979F; Exhibit Q – Spill Prevention and Control Countermeasure Plan; Exhibit R – Stormwater Permit and Renewal Application; Exhibit S – Settling Ponds Locations; Exhibit T – Outlet Channel Details; Exhibit U – Rifle Watershed Permit; Exhibit V – Phasing and Timeframe of Operation; Exhibit W – Greystone Environmental Report – Slope Stability Analysis dated March 17, 2005; Exhibit X – Letter dated 2-19-08 from Chris Hale, PE, Mountain Cross Engineering, Inc.; Exhibit Y – Letter dated 2-18-08 from Steve Anthony, Garfield county Vegetation Manager; Exhibit Z – Letter dated 2-19-08 from

Cynthia Love, Division of Water Resources; Exhibit AA – Letter dated 2-19-08 from Matt Sturgeon, City of Rifle; Exhibit BB – Letter dated 2-26-08 from Jake Mall, Garfield County Road and Bridge; Exhibit CC – Letters dated February 11, 2008 and February 5th from Doug Grant; Exhibit DD – Email dated February 27, 2008; Exhibit EE – Letter dated February 26, 2008 from Dean Riggs, Colorado Division of Wildlife; Exhibit FF – Email dated March 4, 2008 from Helen Migchelbrink, LaFarge; Exhibit GG – Email dated February 26, 2006 from Chris Hale, Mountain Cross Engineering; Exhibit HH – Letter dated March 8, 2008 from Helen Migchelbrink, LaFarge; Exhibit II – Letter dated March 13, 2008 from Neighbors of Northbank Holdings; Exhibit JJ – Email received from Nella Barker; Exhibit KK – Well Permit; Exhibit LL – Photos submitted at Planning Commission March 26, 2008; Exhibit MM – Email dated April 8, 2008 from Kevin Whelan, Rifle Fire Protection District; Exhibit NN – Letter dated April 21, 2008 to DRMS regarding amendment to reclamation plan; Exhibit OO – Email dated May 2, 2008 from Dan Roussin, Colorado Department of Transportation; Exhibit PP – Letter received May 6, 2008 from Lee and Darlene Estes; Exhibit QQ – Email dated May 5, 2008 from David McConaughy; Exhibit RR – Letter dated May 3, 2008 from Doug Grant with attachments; Exhibit SS – Letter dated May 8, 2008 from Doug Grant with attachments. Chairman Martin entered Exhibits A – SS into the record.

The Applicant requests approval of a Special Use Permit for "Extraction, Storage, Processing, and Material Handling of Natural Resources" for a Gravel Extraction operation and Development in the 100-year Floodplain. On January 21, 2008, the Board of County Commissioners referred the request to the Planning Commission for a recommendation.

GENERAL LOCATION / SITE DESCRIPTION

The 237-acre property is located on the north bank of the Colorado River corridor approximately 2.2 miles east of the City of Rifle between the Colorado River and State Highway 6 & 24. The property can be described as having three distinct geographic areas which include 1) an upper bench that lies along the Union Pacific Railroad corridor, 2) two lower river terrace fields / pastures comprising the majority of the property, and 3) the riparian areas in and along the Colorado River. The areas in the Colorado River corridor are comprised of heavily vegetated islands and river braids with significant stands of cottonwood galleries which are also located within the 100-year floodplain. The property has historically been used as irrigated pasture land served by the Stobaugh and Eyre Ditches. Presently, there is natural gas drilling occurring at various locations throughout the 237 acres.

ZONING & ADJACENT USES

The property is located within the A/I zone district which contemplates Processing, Storage and Material Handling of Natural Resources as a Special Use requiring approval by the Board of County
Commissioners. Additionally, a portion of the property has been designated as lying in the 100-year floodplain. The map below shows the location of the property relative to the County zoning map:

The property is surrounded on three sides by the A/I zone district, while properties to the north are zoned both Commercial General (CG) and ARRD.

The property to the south is currently approved for gravel extraction by way of a Special Use Permit issued by the BOCC approximately 7 years ago (Mamm Creek). The property to the west is the active Glen's Pit which was the result of a SUP approved by the BOCC in 2006. The property to the east is undeveloped Colorado River bottom land. The land to the north, CG and ARRD, is primarily agricultural in use.

Of significant note, there is a 2-acre property that is land-locked on the north portion of the property owned by John McBride which contains a cabin. Additionally, the subject property is encumbered with five (5) active gas well pads.

GENERAL PROJECT DESCRIPTION

The project generally proposes to mine sand and gravel from the subject property in two distinct mining areas resulting in the ultimate construction of two lakes with a water surface area totaling 70 acres. The sand and gravel resources, once extracted and crushed, are to be conveyed via land conveyor to the overhead conveyor which will cross the Colorado River. The North Bank mining boundary and disturbance area are located outside the 100-year floodplain however the overhead conveyor, where it crosses the river and islands, is located within the floodplain. The resource, once conveyed to the Mamm Creek Gravel site operated by LaFarge, will then be processed into saleable material.

The application as submitted originally envisioned the operation extracting approximately 450,000 tons of material per year with the overall plan anticipating a mining life of 9 years with 3 additional years to establish full reclamation. The net resource extracted (depending on market conditions within that time frame) is expected to be 5,400,000 tons. Though the amount of available resource has not changed (5.4 million tons) the Applicant has submitted additional information which changes the original request:

1. Average extraction per year of 500,000 tons;
2. Time period of 8 years mining life, keeping reclamation to 3 years additional.

The application proposes to access the property directly from SH 6 & 24, an access which requires a private crossing of the Union Pacific Railroad corridor. Vehicles accessing the north bank property will be limited to 12 trips per day (6 in, 6 out) per the State Highway Access permit. The proposed operation will include the use of portable equipment that includes a loader, jaw crusher and generator, as well as an area for parking employee vehicles and a port-a-potty. The only structures requested as a part of this application are the temporary overhead conveyor bridge(s). All of the portable equipment and structures are to be removed from the site once mining been completed. The gravel pit hours of operation are proposed to be from 6:00 a.m. to 8:00 p.m., Monday through Saturday and 8:00 a.m. to 1:00 p.m. on Sundays from March through November. The operation hours during the December through February period shall be from 6:00 a.m. to 6:00 p.m. Monday through Saturday. Minor maintenance of equipment may occur during non-daylight hours.The gravel operations include multiple conveyor systems: an overland conveyor system and an overhead (bridge) conveyor system. The overland conveyor will transport the material from the area of excavation to the crusher and subsequently to the overhead conveyor. The overland conveyor is a portable system that will be moved from phase to phase along with the portable crusher. Post-crushing, the aggregate will be transported to the Mamm Creek processing facility via the overhead conveyor system across the Colorado River. The overhead conveyor system is comprised of two suspension bridges and an elevated conveyor truss over approximately 700 feet of the braided

Colorado River system and two islands. One suspension bridge will span the northern branch of the river and be approximately 150 feet long. A second suspension bridge will span the main branch of the river and be approximately 250 feet long. The remaining 300 feet of islands and southern overflow channel of the river will be spanned by an elevated conveyor truss with supports approximately 50 feet apart. All supporting structures are located outside of the floodway. The conveyor is designed to have greaseless rollers and a system to scrape material from the belt before it cycles around in order to minimize the potential for oils and earthen material to fall off the conveyor and into the Colorado River. The Applicant has stated that the overhead conveyor will have a catch-pan, located on the underside for that portion of the conveyor that spans the Colorado River. Both the overhead conveyor system and the overland conveyor system are temporary uses for the duration of the mining activity. Upon cessation of mining, the entire system will be removed and the ecosystem will be restored to its previous state.

100 YEAR FLOODPLAIN

FEMA has not performed any detailed floodplain analyses of this section of the river at this time; however, the Army Corps of Engineers (ACOE) cross-sectioned the river in 1984 and used that information to complete a floodplain study in 1987 which the County has commonly referred to in matters regarding development in the floodplain. Portions of the 237-acre property fall within the 100-year floodplain. The map above is from the ACOE 1987 Study that comports with the HCE letter. The application states that the extraction and construction site lies outside the 100-year floodplain; however, the overhead conveyor, where it crosses the river and islands is within the floodplain.

The application states that all the supports to the overhead conveyor, while being located in the floodplain, are not located in the 100-year floodway and further provides analysis performed by High Country Engineering (HCE) that determined the minimum low chord elevation (5344.26 feet in elevation) to allow the Base Flood (100-year event) to pass without any deleterious effect to the 100-year floodplain. Mountain Cross Engineering, on behalf of the County, has reviewed the request and has commented that the information provided shows no impact to the base flood elevation.

STAFF COMMENTS / RECOMMENDATION

Based on the review by staff, as well as the referral comments from various local and State agencies, the following issues have been identified:

A. The accumulation of impacts related to industrial activities, both on this site and in the general vicinity should be considered. The natural resources associated with this area are sand/gravel and gas, with these activities occurring in close proximity to one another. This is particularly evident on the North Bank which has five (5) Antero Lease Gas Pads, all of which are currently in process of being drilled – or soon to be drilled. The gas pad delineated as "C" on the site plan sits within the Mine Permit area and although these are similar uses of industrial nature there is concern of conflict in the uses. Further, the multiple uses occurring on the site may make it more difficult for Garfield County and other permit agencies to properly monitor the activities associated with this SUP application.

   The Applicant has provided information regarding the extraction which will occur around the pads and drilling activities, including a Slope Stability Analysis for Gas Well Pads and Access Roads. This report states that a "100' setback from the gas well will be maintained, to a high wall slope no greater than 0.5:1 as required by the DMG Permit #N2000113. As soon as feasible, overburden backfill will be placed against the high wall and graded to decrease the high wall to a minimum 3H:1V slope." See **Exhibit W**, Slope Stability Analysis.

B. Garfield County requires a very thorough review of Special Use Permits. The scope of the review involves the coordination of permits and review by Local, State and Federal agencies that have authority over certain activities, with the County granting land use approval. The County review process functions to determine the appropriateness of the use at the particular location and to ensure a comprehensive review of all aspects of the proposal including operational, potential impacts and proposed mitigation. This process of coordinating the information regarding permit(s) status may unearth conflicting information and conflicting recommendations from the myriad permitting and review agencies. One of Staff's responsibilities is to review, identify and question the information submitted by the Applicant so that the decision-makers, as well as the general public, are thoroughly aware of the details, impacts and mitigation of the proposed land use.

   With that said, the most glaring conflict of information identified by staff is the maximum amount of material requested to be extracted on an annual basis. There appears to be a range of 450,000 to >600,000 tons identified in various submitted documents, with the original application requesting extraction of 450,000 tons per year. Various other agencies may have reviewed the proposal with the request of 600,000 tons per year. Given that the Applicant has estimated that the total amount of resource contained on the North Bank is 5.4 million tons and has a requested time frame at 9 years, the anticipated annual yield would be 600,000 tons. If the application is approved as is, 450,000 tons would be the amount (maximum) approved for extraction annually and would leave an estimated 1.35 million tons of material in the ground at the expiration of the Special Use Permit. Understanding that the 5.4 million tons is not an exact figure of the available resource, the Special Use Permit timeframe request may need to be extended or the annual extracted amount would need to be increased for the Applicant to meet the intent of what they have requested in this application.

   The approval of annual extraction at 600,000 tons for 9 years would most probably deplete the resource on-site. Staff is not necessarily opposed to extracting more in a shorter period of time, however Staff may be opposed to an increased time period for the activities. The reasoning being that the increase in the impacts of expanded production would not be as dramatic as they would be for extending the life of the use. Even so, the maximum cap of annual yield may not decrease the timeframe needed to extract the material which the Applicant states is dependent upon market forces.

   Another reason that Staff has a concern with the maximum annual yield is the potential for additional impacts resulting in extracting an additional 150,000 tons per year. The minimum that the County should consider for an annual cap on extraction is 600,000 tons per year otherwise the nine year life of the pit would either have to increase or material would remain in the ground. Conversely, a greater the amount of annual yield may lessen the life of the pit and therefore mitigate potential long-term impacts of the use. The Applicant has submitted additional information that includes phasing and a timeframe for the extraction activities. This information

may alleviate the issue of annual production as instead it provides mined acreage as a limitation rather annual yield of material. From a land use perspective, Staff is less concerned with the amount of product (particularly since there would be no additional road impacts associated with the transportation of the material) rather than with the amount of area disturbed and timeframe for the overall operation. The reduction of one year, as well as area limitations and timeframes for disturbed areas has certainly satisfied staff concerns. This analysis assumes the ability of the Applicant to comply with all permits issued for both the North Bank and the Mamm Creek SUP.

C. Use of an off-site location for processing material extracted from the North Bank Proposal could set an unwanted precedence of allowing importation and exportation of raw material for off-site processing. Unintended repercussions could result, particularly with regard to traffic. However, in this particular instance, the exportation of resource from North Bank is contemplated to occur via overhead conveyor rather than through the state or local road system. Additionally, the properties and related Special Use Permits are commonly held.

D. Post-processing egress will still need to occur from the Mamm Creek site. The Applicant has stated that this would not compromise the restrictions of the existing CDOT Access Permit since there are no extraction activities currently occurring at Mamm Creek. The current lack of activity at Mamm Creek is a result of the increased production that occurred resulting in earlier depletion of the resource, except for that area adjacent to the Eagle Nest which has been put on hold. That area will probably be subject to extraction at some future time, but how that may impact the Access Permit has not been discussed by the Applicant.
As stated earlier in this memo, CDOT is requesting a re-application for the Mamm Creek site access permit to assure traffic volumes consistent with, and clarifying, the prior approvals.

E. One issue identified through the review and referral process is the implementation and compliance of local, state and federal permits and plans related to the land use approved by the County. Past experiences at currently permitted or completed gravel pits has shown that assuring compliance with the plan and permit standards may be lacking. This occurs not out of ignorance or apathy regarding compliance issues, nor intent on the part of the Applicant, however there are few tools available by which the County can compel compliance with State and Federal plans or permits.

F. Visual Impact of this proposal is mitigated to a certain extent by the land layout and proposed mining areas which will locate the activities below the level of Highway 6 & 24 visually screening the activity. The active gas pads are located on various portions of the property, including the upper bench and will screen the mining activities as well. The vegetation along the river corridor adequately screens the activity from the south. The only visual aspect of this plan will be the overhead conveyor which will have two towers as tall as 30 feet and be 17 feet wide. Photo simulation of the conveyor was provided in the application.

G. Staff finds that the John McBride property, a 2-acre parcel surrounded by the North Bank property, will likely be the most impacted by the proposed use as its proximity in the north central portion of the property provides little distance from the mining activity and therefore impacts including visual, noise and dust.

H. The property contains 4.87 acres of jurisdictional wetlands which will be lost on the property due to the proposed activity. The Army Corps of Engineers has issued a 404 Permit and a Wetlands Banking contract has been executed to mitigate the loss. The Banking contract is with Springwater Ranch in Grand Junction has been executed.
Though wetland banking is an acceptable form of mitigation for the loss of wetlands, the mitigation occurs off-site, in this instance in Grand Junction. Staff is hopeful that the reclamation plan for the two lakes may in fact lead to the natural creation of new wetland areas on the North Bank site.

I. A Floodplain Permit has been submitted in conjunction with this application due to the construction of the bridge over the Colorado River which will have support piers within the river. These piers do not occur within the 'floodway' but rather within the 'flood fringe". The Applicant has adequately addressed the standards for development within the Floodplain.

Based on the aforementioned, Staff recommended the Planning Commission forward a recommendation of approval to the Board of County Commissioners for the Special Use Permit for the North Bank proposal with finings of fact and suggested conditions of approval. Referral comments from the Rifle Fire Protection District have been recently received and therefore were not considered by the Planning Commission at their public hearing. The comment from Chief Whelan:

"The only comment on this or any of the other previous gravel pits is that it would be great to develop a water source (dry hydrant) for our use in the area utilizing the ponds. Since the reclamation does not involve any building that would be permanent, to require this would be unnecessary. It would just be a good idea to have another water source in the event of a fire in the area.

Development of a water source for our use would have to be reviewed and the issue of maintenance would need to be addressed. In past conversations with our Board of Directors we have discussed the possibility of a cost share program with the developer."

PLANNING COMMISSION RECOMMENDATION

The Planning Commission (by a unanimous vote of 5 to 0) recommends the Board of County Commissioners APPROVE the Special Use Permit for Extraction, Processing, Storage, and Material Handling of Natural Resources and Development in the 100-year floodplain for the North Bank Site Extraction and Processing on property owned by North Bank Holdings, LLC, Gypsum Ranch, LLC, and Jim and Jean Snyder with the following conditions:

(Note, the Planning Commission made changes to the original conditions of approval which are shown by adding additional language that is <u>underlined</u> and striking language by ~~strike-through~~. Since additional information has been submitted since PC review, staff has added and amended conditions regarding hours of operation, access issues, and fire protection. The additional staff language is identified in ***bold italics***)

1. That proper posting and public notice was provided as required for the meeting before the Planning Commission.
2. That the meeting before the Planning Commission was extensive or complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at that meeting.

3. That the above stated and other reasons, the proposed Special Use Permit has been determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That the application has adequately met the requirements of the Garfield County Zoning Resolution of 1978, as amended.
5. That all representations of the Applicant, either in testimony or the submitted application materials, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
6. A well permit must be obtained from the Division of Water Resources prior to exposing greater than 40 acre feet of groundwater on the site.
7. The Applicant shall provide a mapped inventory of noxious weeds on the site. This map shall be submitted prior to issuance of the Special Use Permit.
8. The gravel pit standard hours of operation will be 6:00 a.m. to 8:00 p.m., Monday through Saturday and 8:00 a.m. to 1:00 p. m. on Sundays from March through November. The operating hours during the December through February period will be 6:00 a.m. to 6:00 p.m. Monday through Saturday. Overburden/topsoil removal may only occur Monday through Friday between the hours of 8 a.m. and 5 p.m.
9. All operational activities including, but not limited to employee parking, fuel storage, sanitation facilities and equipment storage shall be limited in location to that area which is within the Mine Boundary as identified on the site plan and is being actively mined at the time. It is understood that these operational activities will occur within each phase as it is being mined and therefore will be not be in a fixed location for the life of the use.
10. In any mining phase, the mined slope length ~~of 2H:1V~~ will be backfilled at a minimum of 3H:1V prior to topsoiling and seeding.
11. The amount of mined slope allowed to be present that is not backfilled at any given time is 1000 feet.
12. The amount of backfilled slope that is not top soiled is limited to 400 feet. Topsoiling is required on all surface areas down to 5.0' below expected water level.
13. Seeding and mulching according to the approved plan will occur on all top soiled areas each spring (March 15-April 15) or fall (September 15 to November 15) no matter how small the area is.
14. Within 6 months of completing mining in any phase, as designated on the Proposed Phasing Schedule of Mineral Extraction, that completed phase must be reclaimed to include topsoiling, seeding, mulching, sapling planting. The seeding timeframe referenced in Condition 13 may be extended due to inclement weather. ~~Prior to activities occurring in Area A (A1-A5), the lake in Area B shall be fully reclaimed with water filling of the lake.~~
15. Pursuant to the revised reclamation plan submitted to the DRMS, a revised bond shall be calculated to cover the revision and secured with DRMS to cover its implementation and a copy of that bond shall be submitted to Garfield County Building and Planning.

The Planning Commission adopted the following condition, which has been partially satisfied by the applicant and therefore should be replaced with the above language.

The reclamation plan approved by Garfield County in the Special Use Permit shall be resubmitted to the DRMS to become the only reclamation plan (tasks / timetables) used by both the County and DRMS. Additionally, a new bond shall need to be calculated to cover this plan and secured with DRMS to cover its implementation and a copy of that bond shall be submitted to Garfield County Building and Planning.

16. All of the conditions are binding of the County permit and the State Division of Reclamation, Mining and Safety. The Division of Reclamation, Mining and Safety can withhold the reclamation bond if the final reclamation is not executed according to the plans.
17. The County will be invited to any bond release inspection of the State Division of Reclamation, Mining and Safety. The County will have the opportunity to demonstrate that any item of the permit has not been complied with and that bond should not be released.
18. The Operator acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if continued violations of the permit occur over a period of time.
19. The Applicant shall be required to submit a report annually, until such time as the release of the reclamation bond of the gravel operation for staff reviews. Upon review of any deficiencies pursuant to conditions of approval or other local, state, or federal permits, Staff may forward the report to the County Commissioners for full review of the Special Use Permit. This report shall include GPS measurements shown on a map showing the current disturbance, what areas have been backfilled, where topsoil stockpiles are located, all site structures, what areas have been seeded, mulched and what is planned for the ensuing 12 months. This map shall be overlain on the approved site plan which includes the approved phasing area locations, mine permit boundary and 100 foot Colorado River Setback. Copies of annual reports required by and submitted to other agencies including, but not limited to, the City of Rifle, will be attached to the annual report submitted to the County.
20. The County commits to notifying the operator of any compliance concern and allows an inspection with site personnel and the designated County inspector prior to contacting any agency.
21. The County can request a site inspection with one calendar day's notice to the Operator. Full access to any part of the site will be granted. On request, all paperwork must be shown. The County cannot request a large number of inspections that would interfere with normal operation without cause.
22. A full list of all permits related to the special use shall be provided to the County. Any person at any time can call the following agencies directly and request an inspection if they believe a condition of that agencies permit is being violated.
    a. CDPHE Air Quality Control 303-692-3150
    b. CDPHE Water Quality Control 303-692-3500
    c. US Army Corps of Engineers 970-243-1199
    d. Division of Reclamation, Mining and Safety 303-866-3567
    e. CDOT Grand Junction office 970-248-7000
23. All mining activities shall be required to comply with the following performance standards:
    (1) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.

(2) Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

(3) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

(4) Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

(5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:

(A) Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;

(B) At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;

(C) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;

(D) Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:

1. The minimum lot size is five (5) acres and is not a platted subdivision.
2. The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.
3. All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.
4. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
5. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

(E) Any storage area for uses not associated with natural resources, shall not exceed ten (10) acres in size.

(F) Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

(6) Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

Kathy stated the following two conditions were made by staff since the Planning Commission hearing.

24. The applicant shall apply to the Colorado Department of Transportation (CDOT) for a revised State Highway Access Permit for the North Bank Special Permit Activities. Activity at the North Bank SUP may occur prior to issuance of the access permit, however no conveyance of material may occur to the Mamm Creek site for processing until such time as the Applicant submits the access permit to the Garfield County Building and Planning Department.

This is a direct result from some correspondence we had from CDOT regarding the access permit; and

25. The applicant shall consider provision of a dry hydrant which utilizes the ponds for fire protection.

That condition also was a post Planning Commission hearing as a recommendation from the Rifle Fire Protection District.

Commissioner Houpt –This is an overlay Special Use Permit (SUP) for the Mamm Creek SUP that's in place, with that in mind do we know and have we documented that the applicant is in compliance with the already existing SUP.

Kathy – To my knowledge there has been no enforcement activities associated with the Mamm Creek SUP and we have included Exhibit G that contains the SUP conditions. There is no condition on here for an annual review. However, Condition Number 21 states that Special Use Permits shall be reviewed one year from the date of issuance of the permit. Commissioner Houpt – So as of the first year they were in compliance but after that there was no requirement for that. Are the floating islands still in question, that's not a condition but that's what has been recommended from the Department of Wildlife (DOW). Kathy – Correct, the DOW has recommended it, staff did not add it as a condition and the applicant has additional information to provide on that. Commissioner Houpt - Your addition to the type of work that can be conducted during hours from the 6 a.m. to 8 p.m. period, the hours of operation, essentially are you saying that no heavy equipment can be operated prior to 8 am and after 5 p.m.

Kathy – Not necessarily. There's no heavy equipment that's operated; it's only the equipment that exceeds the state statue noise levels. They will need to comply with the 55 dBA; we were provided information that during topsoil burden removal the standards may reach 68 dBA so any equipment that exceeds the 55 dBA would be limited to the 8 – 5 time period. Commissioner Houpt – Are there any safety issues for river travelers going under the conveyor system? Kathy – There has been adequate head room provided in that but they have reviewed it by the 2 year flood, the 20, 50 and 100 year flood and there was adequate head room for any onset. Commissioner Houpt – And there's no concern from anything falling off the conveyor belt. Kathy – The safety measure as far as the conveyor belt, the applicant can go into detail on that as well. Commissioner Houpt – Is any of this particular application in

the floodplain? Kathy – The mining boundaries are a minimum of a hundred foot (100') buffer between the mining boundaries and the river, so the area has adequately been shown to the mining activity in the disturbance area located outside of the floodplain. The reason for the floodplain permit is the conveyor system has some piers that need to be placed in the river however, they are not in the floodway, but they are in the flood fringe.

David McConaughy – This has been a very long process and the lengthy staff report and everyone, especially Ms. Eastley has spent a great deal of time analyzing this. We did have a very detailed and thorough discussion with the Planning Commission where a lot of people gave testimony. Basically we agreed with everything the Planning Commission said and have no problem with the Planning Commission recommendation as written. The only thing I wanted to do was to address the changes staff has proposed to that recommendation. Condition 8 on the hours of operations and we'll talk about the noise study later but basically there is a possibility that we may exceed the fifty five (55) dBa limitation for a brief period of time as we're stripping the overburden and that's measured at twenty five (25) feet past the property line. After it's stripped the operation is actually going down into the ground so then the berms and pit will block that noise. It's not even certain that it will necessarily ever exceed that threshold especially at some of these other properties. Mr. McBride is of course right there so we did want to acknowledge that we might be over the limit for a couple of weeks and the question is, do you want to restrict the hours during the day for that initial top soil removal phase because that will have the effect of increasing the number of days that would be an issue. Our estimate is it will be approximately two or three weeks if that's an issue at all but, we recognize the hours and could be pushed into another week. So, would you rather have it go an hour later or would you rather have it go over a week or later. David did want to clarify one thing which is that if the restriction is 8 – 5 there's some activities that could be occurring before and after that like warming up the equipment and maintaining and greasing the rollers. After that I'm assuming it's just the noise generating activity that we need to cover.

Helen Migchelbrink – The noise report that was submitted is of the state statute where you have to go twenty-five feet (25') off the property line to any potential residence so the highest it would be is the 68 db's which is basically a back up alarm as far as if you were to compare it noise wide. However, the further away from that the noise it lessens. So it is a worst case scenario and the other thing that Kathy pointed out, the state law anticipates these temporary activities so it doesn't really violate the state law to exceed it for a short period of time.

David McConaughy– As to the clearance of the conveyor for boaters, the answer is it's an eight feet (8') from free board and twenty-five (25) year event.

Helen Migchelbrink– No, it's eight feet (8') of free broad (from the water surface elevation to the bottom on the conveyor in a two year (2) event which is normal high water even and then at the hundred year (100) event there is six feet (6') of free board. So if you've got a hundred year (100) year event you can still go under there. The Garfield County regulation is one foot (1') of free board.

David McConaughy – So basically, if the river's flowing at 30,000 cfs and if I'm standing up, I might hit my head but I'm probably not going to be standing at 30,000 cfs. The other was Condition 24 about the CDOT permit. As all of you probably remember there was quite a bit of debate about that at the Mamm Creek Special Use Permit hearing and really in my view, the source of confusion there was that the permits when they were issued used the term called ADT (Average Daily Trips) and the State Highway Access Code has since been amended to the term AADT or (Annual Average Daily Trips) and so the question was well what does ADT mean. Does it mean AATD or does it mean something else and I think the consensus in my opinion is that it needs to be interpreted as AADT because that's what CDOT defines. CDOT contacted us in the County and suggest us that it might be to the benefit of everyone to amend those permits to get rid of that term and replace it with something that actually is defined in the State Highway Access Code. They've also indicated that since that first permit was issued the road has been chip sealed so it could probably handle a lot more traffic today than it could have then but if we do get a new permit it would probably most likely be less restrictive than the one in place. The only hitch there is that the wording of that existing permit says that if the CDOT permit is amended it this would require the amendment of the Mamm Creek Special Use permit so we caught in this chicken and egg situation where if we have to amend the permit then we have to come back to you to amend the other permit and we're just trying to avoid being caught in this endless loop of amendments and back and forth and no one seems to have the actual say. The bottom line is we can live with the permit as written today, we have an existing permit for those facility operations and we believe we're entitled to operate those approve operations under the existing permit, so that's what we would like to do. We do intend to go a head and apply with CDOT for their permit for an amended permit but don't believe that should be a condition of this because we don't actually need to do that under the operations. Again, I don't want to get stuck in this situation where we're - I assume they would issue a new one and very quickly but I don't know that and want to avoid being held hostage by just the process of one agency or the other and have to come back to you under this other Special Use Permit. So we would like you to go ahead and adopt this as the Planning Commission recommended and we'll live by whatever permit is there – either the one that's there today or if CDOT amends it we'll live by that. So it is what it is Condition 25 we're happy to be consider putting in a dry hydrant; this is not a bad suggestion.

Helen Migchelbrink – Addressing the floating island issue, LaFarge has committed in writing in the application as well as to the Planning Commission to work with DOW to put in the floating island as they recommended.

Commissioner Houpt – On just the conveyor as well, what protections are in place so that debris doesn't fall off into the river and potentially hit one of those river travelers we were talking about.

David McConaughy – Well there's two (2), one (1) is the conveyor itself is like a trough – a V so it's not just flat where things could wash or blow or fall off the side and it's not in our interest to have material fall off because we'd like to sell that material; and there's also a pan under it and there's a belt flipper so that after the material comes back the belt is scraped and then it flips upside down, so going back across the river it has the same side up. So any material would be on the top and not the bottom. There are three (3) levels of protection there.

Commissioner McCown asked for clarification and received it on the conveyor that the belt flips upside down so there's no material on the bottom. Chairman Martin swore in the speakers that came in after he had sworn others in to give testimony.

Doug Grant, 110 Homestead Drive, Basalt. My comments are for the most part on the Mamm Creek SUP. First of all the SUP and the gravel pit on that side was permitted as a site specific permit and no where reviewed in the process

of importing material and processing it on the Mamm Creek site. There's been a lot of assumptions by the applicant that all the permits for the Mamm Creek site will be valid for the operation of importing and processing materials on the site and in a lot of cases the permits that are there are not good for that. One in particular is the CDOT access permit. It was specific for the site from the three (3) farm access points. I've been in contact with Weldon Allen, the Regional Director at CDOT and he tells me that the permits will be changed to a DVT not any ADT or AADT and most likely for this site for this process that they're planning importing and processing material the way he sees it now would be one (1) access point, not at the facilities area, not any others, just one (1). Depends upon where they want it I guess. They could have it at the facilities area and not at the gravel pit but one (1). So that brings in my concerns about the facilities area, there's narration in the permit that where they conveyor is where the asphalt plant would be; the asphalt plant, concrete batch plant and pre-casting area were permitted to be in the facilities area. The reason its in the facilities area and the site was designated east of Dry Creek, is because it's out of the hundred year (100) floodplain and that's where it is was supposed to be done. So if they only have one access can they put a road from the pit over to the facilities area not withstanding an overland conveyor to get the material over there? Then comes berming – in the Mamm Creek SUP a special condition, an Army Corp of Engineers permit that it would be bermed to prevent river capture and the safety of the facility in the fifty (50) or hundred year (100) flood event. I have maps here that show the proposed hundred year (100) floodplain berms and also the facilities area if you need to see where they are now. The pit, Mamm Creek SUP is supposed to be reclaimed as part a backwater area of the main channel of the Colorado River. It's partially reclaimed now, parts of it are and parts aren't, there's places where water can run in and out, there's berms that are totally gone, there's a few berms maybe in place at best they may be fractured meaning water could go in anywhere. Does it still comply with the Army Corp of Engineers permit and is the public even safe going into the area now, and will they be doing the fourth (4th) phase by the eagle nest at the same time they're doing the Mamm Creek pit. In the staff's report there's ambiguity in how many tons per year annual production is going to be. The Mamm Creek pit was 250,000 tons a year or as market conditions allow. This one has gone anywhere from four hundred fifty to six hundred thousand (450 to 600,000). Staff says oh, no problem with the truck traffic and they're talking about the other side of the river, North Bank, because the traffic is not going to be over there. Another hundred and fifty to two hundred thousand (150 to 200,000) tons of truck traffic on the Mamm Creek side where the road access goes past our house makes a big differenence. I think that the one thing that needs to be done here is that every person that holds a permit for the Mamm Creek SUP, every person or governmental agency should be contacted and letters written that they are okay with the proposed process that's going on here or the permits need to be changed. And then also, if there's any change in the two hundred (200) ADT traffic count, access permits for the Mamm Creek SUP it requires an amendment or opening of the Mamm Creek SUP and some of these others changes the Mamm Creek SUP may require a review and just to permit this today and say oh yeah we will comply with all of Mamm Creek SUP later puts people in an armstrong position where, well, I've already got my permit for North Bank, you're holding me up. Mr. McConaughy has already said that, he doesn't want to be caught in this endless loop. Well, it needs to be fixed and straightened out now. Doug concluded that he wanted to make sure that all his letters are in the record. He may want to speak later.

Chairman Martin - They are right up to May 8th. *Doug Grant* – I would like that one included also, that's the one about the Army Corp and has the permit. *Chairman* It is, it is Exhibit SS. *John Kelley* – Representing John McBride, from the law firm of Oates Knezevich Gardenswartz & Kelley in Aspen and as your planning memo states, the most affected property in all of this is the McBride property. And I'm going to limit my comment primarily to the McBride property. Nowhere in the planning memo or any of the materials I've seen and granted it I got into this very late in the game, have I seen any attempts to mitigate anything for the McBride property. There's an a hundred foot (100') setback for gas wells, there's hundred foot (100') setbacks for this there's 100 foot (100') setbacks for that, there's nothing for the McBride property. And I understand it's difficult to mitigate that and what we would suggest I guess is that the development of the ten (10) acre parcel B1 just be eliminated or severely restricted so there is some mitigation for the McBride property. It seems to us, and this is not, it's referred to as a cabin, it is more of a house that's partially underground but it is a house and it is a residence and I think the County has an obligation to see that there is some significant mitigation for the McBride property because it is the affected property in this whole thing. And John is just one guy but he has rights too. Secondly, this whole issue of the floodplain, John and entities owned by John's family were the owner of the entire parcel and when he went to build his house he wanted to build it down below on the bench and he was told he could not build there, it was either in or too close to the hundred year (100) floodplain and now for gravel development purposes they are allowing that. He was denied that right himself, that's why he built up where he did and now I think they can go within twenty feet (20') of him or something. That just doesn't seem reasonable to me. I looked at the Rifle Comprehensive Plan, I looked at your Comprehensive Plan and it says in your memo that you generally give a lot of credence to what Rifle's plan is and Rifle's plan doesn't permit gravel development in here as I read it. It permits the rehabbing of prior mining. Now, I understand that your IGA may not totally bind you but I think you ought to be thinking about that and I would really like you to be thinking about serious mitigation, something that really means something for the McBride property because essentially if you've got these operations as I've been told by Kathy Eastley, that they may be, this property is going to be rendered worthless or uninhabitable for a significant period of time. Finally, there's an issue of his well and his septic system and how all of that would interact with what's going on here with stuff being as close as it is. Whether there would be potential pollution of his well, destruction of his septic system, all that sort of thing. John not only has his little parcel there but he has a lease from the owner of this land for the island out there where he also has a little cabin on stilts and he has the right to use that for thirty (30) years for fishing, hunting, recreational – all those. And I would like the Board to consider that nothing be done here or approved here that would interfere with his right of access to the island and to use those wetlands areas for the purposes contained in the lease. *John McBride* – I made a mistake of buying this property thirty-three (33) years ago and we ran it as a small farm for years; one of the reasons we bought it was because not only was it is nice little farm that belonged to John and Grace Everett, but it's an incredible riparian area which I have watched for years, full of wildlife and hunted down there and I've seen everything you could imagine. Yesterday I saw a flock of

white pelican's flying up the river. John's right, when I sold to the people that bought it and they turned it over to LaFarge, I kind of anticipated that it was still going be run as agricultural and that there would be a few wells around and a small pit at the west end. It has turned out quite differently from that and it has become sort of an industrial area and nothing is irrigated any more, trees are dying and fields are growing with weeds and we've got a lot of oil and gas equipment and now what's coming in the future with gravel. It's much bigger than I ever anticipated but low and behold we did get keep a portion of it. It meant so much to our family and we kept the homesite and we got a thirty year (30) lease on the island right opposite it on either side of parcel B1 where there is a small cabin. When we built the cabin we were told we couldn't have any utilities or plumbing facilities down there. Actually, originally when we bought it the property did not include any of the islands; the property was smaller, it went to the meander lands because the Colorado River was considered navigatatable by the BLM and then later on they turned that over and started taxing us for that. I guess, I just don't think there's any way when I read through the whole report from Kathy that you can comply with the industrial standards you point to, be they state, federal or local with regards to noise, dust, vibration, screening or storage, etc. cause we're in a promontory right there looking right down onto it and right down on the river. Originally, when I went in about ten/twelve (10-12) years ago to build the house we had another house on the property. That's occupied as well as many other places now including a bathroom and a couple horse sheds etc. and trailers etc. Originally when I wanted to build that thing I didn't want to build on the upper shelf, I wanted to build on what you show up there as B3. So B3 in the corner up there, no one wants to build up where you see and hear and feel the trains go by and so we wanted to build down below. We wanted to, your office up there, Building and Development were told no way can you build on the lower shelf that is all floodplain that's why you see no homes anywhere on the lower shelf; it is floodplain. Now suddenly it's not floodplain, this I do not understand at all. Be it as it may, whatever you approve, I know I sold it, we know things are going to happen but I think the existence of the B1 cell right between property we own and we lease long term is impossible; it is also the smallest one up there and I think that it doesn't work because if that is filled in at water level, the water level there is going to be above our septic tank, leaching field will also be above the depth of the well which goes deep down by the house. So, I'm not there all the time, we kept it and it was subdivided off because we loved it and wanted to use it periodically but clearly it could become a full blown house, a first and second story could be built above it and there may be others along there. When I was given the plan by LaFarge, their beautification plan, they have a high line of maximum disturbance along the edge of the bank and then it just disappears at our site and comes up on the other side and goes around; well we're right in the maximum disturbance area. I think if there's a way to eliminate B1 it would not be nearly as bothersome. As you all know, any of you that have spent time down there, there are very strong westerly winds up and down the river and anything that goes onto the west of us is going to be problematic but especially what is right below. So, I hope that you consider eliminating that, I also hope that you consider thinking carefully about what Kathy mentioned, the precedent of this conveyor belt over the river. If CDOT and the railroad is going to dictate what you can do, when we had the property with unlimited access and apparently Antero does and the people who live there, when we did the north forty (40) we had to provide, anticipate nine point five (9.5) movements per resident. And this business about six or twelve (6 or 12) it is just nothing compared to what the uses are going to create. And I don't know how CDOT can discriminate between well, this is for sand and gravel but that's okay, that's oil and gas and that's where residents live and people going back and forth. I don't understand that but I think that if they are starting to control what you can do on one side of the river or the other. You're going to find that conveyor belts are going to spring up and down the river in this area from New Castle to Rulison and it's not going to be in the best interest of Garfield County to have that happen in an area which I think is extraordinary – it's a beautiful, beautiful area full of wildlife and so hope you consider this application very carefully. *Don Lloyd* – I live actually right behind the Estes property and feel like we'll be impacted there particularly by noise, dust, and smells; I'm not as prepared as some of these gentlemen, we just live simple lives. But friends, we've been hammered here with this oil and gas, it continues to come, we get the beeps and the smells, we get the benzene type smell; these folks don't necessarily have that. We've got the trains and we're willing to put up with that, the trains and such, but here we're going to have a crusher now that's going to come up and add to the noise we already have, it's limited to some decibel level or whatever it may be but when that south wind blows we're going to get the noise and it blows. It's just that we just feel overwhelmed by all of these things that continual hammer us in the area. I moved to that area to get away from the city, to get away from the whole gamut of things that would bother you and here it is again something else coming up so I have a real problem with the whole project; I would just like to see it not be there at all. If I had my say, it wouldn't be there. And I wish I had my say so we ask that you consider that. *James Carnahan* – I live directly east of Lee Estes' property on Highway 6 & 24 there. Just almost directly across where they are accessing this property for the pits and the gas wells and I think, it's like Don's talking about here, we're overwhelmed with what is taking place in the last few years as a combination of gas and this gravel pit is just going to add to it, yeah. It used to be a nice little place to live but it's not that way and if you guys approve this gravel pit it's our way of life that is going to be destroyed. And I'm not selfish enough to say that because I know there's a need for gravel in Garfield County and the gas wells have their rights too, but we, I would ask for some consideration for the people that live there also. I've also talked to your Planning Commission about – as far as I'm concerned I don't want to live there anymore because of what's going on there. I have a small registered cow operation, approximately thirty five (35) cows. My grandkids come and spend a couple days a week with me but from the combination of the gas gases, the noise, and the dust and what's going to brought in by this gravel pit, it's a place I don't want to live any longer. I've confronted your Planning Commission about what can be done there; we're now agricultural/industrial. I asked is there any consideration to let us rezone anything there to where we can get away from this. So far from what I'm been told, there will be no consideration given to us to make any change there. One thing I'd like to talk to about is like the access coming in there. Is there somebody here from LaFarge today? You're saying like six (6) people in and out of there a day, how many employees do you have? *Eric Recontine, area manager for LaFarge* – On the North Bank side when this begins operation we'll have a loader operator and a grounds guy. The pit will not be more than two (2) people running the North Bank side everyday for operation. Our main people will be down at the plant facility where we are crushing the material. Again, our intention is to reduce nuisance to the neighbors by

having limited crews up in the North Bank side and diverting truck traffic essentially not going through Rifle but actually coming out of the existing access permit a short distance to the highway. So, again the crews on the south side, maybe three or four guys (3-4) on the north side. *James Carnahan* – Also, I find that hard to believe that you're going to have six (6) people coming and going in there per day per trip on an average but what I've been told with the Oil and Gas Commission is they would have like fifteen trucks (15) a day going into that site. At times there's fifteen trucks an hour coming in there a day, it's not always that way but then it sometimes is that they run all day and all night. I don't believe that, I really wonder if CDOT has a realistic view of what's going on there. The way it's set up, the access going in there, the water trucks going that are turning east going out of there have to swing over into the west bound traffic to get out of there because the access won't allow them to come out there evenly. And as a result of that the other trucks have to stop and let them come in, so when you guys add your traffic to this, along with the gas well traffic, it's already a disaster now, it's just going to be compounded and it's unrealistic. *Lee Estes* – 29979 Highway 6, these are both my neighbors and to speed things up I'd like to tell you that I agree one hundred percent (100%) with everything they've told you and I would like to tell you some other things. The impacts from the drilling, and then you add the impacts from this pit and we are in a tough situation. I think it has destroyed our property values; I've been to Grand Junction and looked for different property and it would be real hard for me to find some property that I like as much as the property that has taken me twenty six (26) years to acquire and get it to the condition it is today. But we're going to have move; my wife and I are, we're in a quandary, it's destroyed our lives is what it's done. But that being the way it is the other thing I would like to add is about the hours of operation for the pit itself. The applicant states that it is consistent with other pits in the area; it isn't consistent with the Silt Sand and Gravel pit; it may be consistent with the Glenn Pit where United is working now, but as I recall two (2) years ago when that permit was approved Commissioner McCown put the extra hours on there because I think he was afraid United or Bill Bailey wouldn't have enough gravel to supply Garfield County, there was going to be a lot of paving going on. I thought that would be a one time shot. But Lafarge hours even exceed that by far. The hours they would like to work it just blows me away when I look at it. 6:00 a.m. until 8:00 p.m. Monday through Saturday; 8:00 a.m. to 1:00 p.m. on Sundays from March through November; and then from December through February they want to start at 6:00 a.m. and run until 6:00 p.m. at night. They are going to be starting way before daylight and work until way after dark – that is kind of hard to believe. Okay, the Condition 21 in Silt Sand & Gravel pit, their hours are from 7:00 a.m. till 8 p.m. Monday through Saturday with crushing, digging and heavy hauling allowed from 7:00 a.m. until 6:00 p.m. allowing for administrative and maintenance activities to take place until 8:00 p.m. No operation shall take place on Sunday and that's what I'd like to see for this permit also. It just shocked me when I read the proposed hours. I would like to add one other thing about impacts down there as far as the drilling goes and I know drilling and gravel are two different issues but we have to deal with both of them; they are both the same to us. And I knew that the Colorosa property which is east of my property line and the North Bank property line is the same line so there's a new road built off to the B pad down into the meadow and a new location is built down there on the Colorosa property and there's five (5) big pipes in the ground and they are going to be drilling down there also. It's a possibility if Antero had enough rigs we could have two (2) rigs working right there side by side within three hundred feet (300') of each other plus the operation for the mining. I don't think anyone here would like to be subject to that. So I like Don, I would just like to see this application scrubbed; I don't think it's the place for it because it is a beautiful area and it's going to have a terrible impact on the wildlife and the human life. We hear lots more about the wildlife as far as drilling on the Roan goes, but not much about the humans – we should get a little consideration also.

Chairman Martin – And as you all know we do not permit oil and gas drilling; the State of Colorado does. *Lee Estes* – I know that but like I just said, it's all the same to us. It doesn't matter who permits it. They all make noise and they all make dust. *Claire Bastible* – 88 Weant in Carbondale. I'm speaking on behalf of myself, no affiliations with any organization. I'm just an individual watching what has been happening with this proposal and my concerns are wildlife habitat concerns along the river. I was reading this thirty six (36) page report from the staff and really noted that not only is this area excellent riparian habitat but it I think you need to consider the cumulative impacts to riparian habitat by all of the gravel and activities next to the river that are currently occurring and it's stuck me to read the report that it stated and I quote "under the proposed mining plan primarily impacts to wildlife would be direct habitat loss reduced effective habitat fragmentation and constriction of wildlife corridors along the Colorado River and disturbance to adjoining habitats due to the operations". And, the report also says that although riparian habitat occupies three present (3%) of Colorado's landscape, it attracts up to eighty percent (80%) of wildlife species. And I think there is a concern that we are seeing with all the activity all along the Colorado River that we're losing a lot of critical wildlife habitat in our riparian areas and this is kind of another example of where those uses will be heavily impacted as well and I just kind of wanted to bring that into the picture; it's a small site but I think its part of a cumulative impact that's occurring along our Colorado River watershed or riparian areas where we are seeing so much impact to the riparian wildlife habitat and its really disconcerting especially in this corridor between Rifle and New Castle. So I just wanted to bring up that wildlife concern. *Doug Grant* – Again, I've got those two plans or maps–if you'd like them, it shows. *Chairman Martin* – If you would like to submit them as evidence or as an exhibit, we'll keep them for the record. *Doug Grant* – I would like to but I don't want to hand them over to the County – they never come back. I'd like to see somehow to get a copy and give them to you.

Chairman Martin – We can give you a copy Doug. *Doug Grant* – Alright. One thing on another berm not the floodplain berm, on the Mamm Creek side there was berming and landscaping plans submitted to help screen the site and I don't think there was ever any berms with trees and shrubs on them that are permanent. Part time those big piles with some dead Cottonwood sticking up, those are things I call violations, things that the public like to see to help make it look a little better trees and I think there were several things I reported many times to John Martin about the traffic and I think they exceeded their access permit several times, if you calculate the tons that they pulled out of there and related it to tandems and belly dumps it goes way beyond even if we measured it three hundred sixty five (365) days. One last thing, I've haven't been privy to all the sand and gravel meetings and I'd like to say right here now that you're hanging your hat a lot of USGS survey that was done and USGS unless it is politically motivated doesn't point to one source of material for gravel. It's a no brainer that all of our alluvial gravel follows the

Colorado River and Garfield Creek, but there are many other sources, I know of two large sources of aggregate material gravel, construction material rock outside of the river corridor and near our areas here. Similar to what Fry's have in the canyon at Floyd Hill; it does not have to be a mass stripping of our rivers to get construction gravel – I think that's a misconception and I think that's a mis-application of the USGS surveys and things that they put out. *Chairman Martin* – And Doug we are aware of those other places and they have been mapped as well outside of the river corridor. We will put the maps presented by Doug into the record but he would like a copy back to him. *Dan Grant* – 110 West Homestead Drive – I would also like to enter some letters for exhibits here, these are all the same letter, just copies so each of you could have one. It deals with alleged violations or non-compliance if you approve this permit as I see it now. Now some of these alleged violations have questions because obviously we are not privy to all the technical revisions that they done in the past. I know of at least two (2) if not three (3) technical revisions that have been done so they may have some things that they have done that maybe what I'm saying in there is really not true. A good example of this is we've already beaten it to death is the ADT thing; we were told by CDOT it was a one way and I personally contacted four (4) other regions, two (2) other guys in Denver about the thing. They told me one thing and the local guy tells us different, so you don't know who to believe as you go along here. So, I guess as David McConnahey mentioned, I think it would be something that you need to look at to keep this endless loop from happening because I think there's going to be several changes needed and in there I suggested that they provide a site plan at Mamm Creek how exactly they're going to handle the material and how that complies with that permit. The thing I see that jumps out to me right away is where they dumped the conveyor drop point is not in the facility area. Now maybe they're going to drop it, pick it back up and move it to the facilities area and bring it back or something but there's some questions there in my mind. So I said I'd like you to look at that and investigate those things because you know you're going to hear from us at least about questioning. Like I said, we apologize for that, we're in the gravel business and we don't mind the gravel and we don't mind them over there. We've never minded these people mining gravel; we do have a problem in the way that they're doing it – okay. Now example of this would be, my question is one, just off the top of my head, the future mining for the Snyder area by the Mamm Creek, is that still future mining. Seems like to me that would have been easier to put into place now. And then the eagle's nest also and how is that going to be handled. If you have looked into these possible violations I've listed on there you might have them figured out how they're going to do the mining of those areas in the future too so they don't have to come back here again and you don't have to listen to this stuff again. Operation hours is not on that list but the hours, now I don't understand how it works but my understanding is when they are in violation they have called you in the past. Now who they call I don't know, they call and say hey, we're going over because there's a need, okay like right now there's a crisis or whatever and I know we deal with the oil and gas people for example and they are always in crisis – they need material now and if you would open up twenty four (24) hours a day they would get the material. Notwithstanding you could also say that are some times when they need stuff. So running over these hours, but there again, how do you say okay, it's okay go over these hours. We've found that sometimes you just have to say, no, we're closed. But anyway, Number 22 on your list of things there, a list of permits provided to the County, there were some missing but then in Kathy's presentation she did cover them such as the Rifle watershed permit and I think there are two others that were not there but I guess she covered those. The floodplain in the Mamm Creek area, they have these maps and had the study done and yet at that first annual meeting Rod Johnson was there and he says that the hundred year (100) floodplain is little nebulous of where it is and I find that hard to believe because it's on the map that they produced. And what is their facilities area, not that, their scale house was outside that area. Moving on, to another concern, it's not stating in the mining technique about mining vertical slopes. Now, I'm all for getting out as much gravel as you can but the problem I see with mining a slope vertical especially near the hundred year (100) flood buffer area, you are supposed to have, if you make that narrower and narrower, it increases the change of pit capture. Now what we're talking about there is obviously if you leave some gravel there and put the dirt on the outside you've got a better chance of the keeping the river from coming in there and capturing that. One thing as you've done in the Mamm Creek permit about the FEMA study, you might want to indemnify yourself also in case this project is ever captured by the river and there's other people down river wanting to sue etc. regardless of whether they can sue the County or not, I have a feeling the County and the City of Rifle are going to be paying the lions share of the bill to do something. Now last time in the Planning and Zoning meeting I questioned this and was not sure how it was done; I questioned how the hundred year (100) year floodplain is measured, from what point is it measured to get a hundred feet (100'). And one of the LaFarge representatives said that they are going to take some point over by Mamm Creek, bring in it across over there and it's all surveyed in. So all these points are surveyed in where this is, but my concern was well you go off of the twenty year (20) floodplain, the fifty (50) year floodplain, what side of the river are you doing this from, like where is the river when you measure this. So, being snoopy myself, I called the Army Corp of Engineers and found out that it's a one point five (1.5) floodplain event. So a normal one point five (1.5) or two years (2) like a normal year that's where the river is and you measure back up there a hundred feet (100'). So if the river's at hundred year (100) flood stage obviously it's a lot higher, so I was just curious how that was done and I found out for myself and there again I clarify that information came from the Army Corp of Engineers and sometimes they don't understand my questions and we get nebulous answers, sort of like CDOT. Number 20 on your County recommendations by staff, I was just wondering if that one is also going to be in your regulations I guess for everybody where that the County commits to notify the operator of any compliance concerns and I think that's good but hopefully if it's something that's really important that you could actually go there and find out without giving them too much notification to check into it. The question I would have is it the designated County inspector goes with the personnel from the mining company to look at this possible compliance violation. A similar event was done there are the Mamm Creek pit, Rifle had a guy come in and inspect for double containment. The applicant said there were going to use double steel containment, well there's many ways of doing double containment. You can put concrete and then your tank inside it; you can put a plastic liner and then your tank inside of it or you can put a double steel tank. Okay and they said they were going to use double steel tank. When the inspector finished and wrote his report up he said that the people on site told him that their tanks CDOT approved and anybody that knows what CDOT approved means that means these tankers running up and down the road here

are CDOT approved, they are single walled steel tanks. That it, they don't have any rubber liner underneath them or whatever. So, I wonder how informed the County inspector's going to be because in asking some questions about the Mamm Creek application we were told that some of the papers looked like they were missing from that particular application a couple of years ago. Onward, Condition 21, one day notice, to me I don't think you should put yourself in a position where you have to give a day's notice about some kind of site inspection. MSHA doesn't give any notice, they just show up, they're there and they can come on the site anytime and inspect, I'm not sure why you need the day's notice. There again, I have no problem if that's what you going to do for everybody I guess but you know the problem I see with this whole thing is any new technical revisions, you know I may say just like I said in there, I have problems with there may be non-compliance yet I'm not familiar with every technical revision they've done and so it may not be the case. Number 5 on your storage area and I think Kathy said this is right out of your regulations about storage things there and yet it's all in there. They have the right the way I read it, they have the right to do some of these things here and the thing that caught my eye was the acres for the equipment storage and then down below on Number 5e it says that they also have ten (10), could use up to ten acres (10) for the use of non-associated pit activity stuff or something to that effect. My question, what are they going to do. What are you referring to on this ten acres (10); are they going to have a storage site for the oil and gas guys that are on that site also through their permit. You know what, I can't thing of any reason to let them have an additional ten acres (10) for some other storage on this site for anything else that they are doing. To me anything they do should be able to store on that site. You know mining activity, reclamation activity, whatever they need to do, they should be able to store it there but just to give them an extra ten acres (10) to do; I'm not sure what that includes. I really appreciate you guys giving us a little time to speak unlike the last time because after all I do wear down and finally just shut up I guess. *John McBride* – For the record some photographs that LaFarge sent me of what I will be looking down upon. *Chairman Martin* – We need to identify the maps that Doug Grant submitted – Exhibit -TT; then the Items from Dan Grant, Exhibit - UU; now the item that John McBride is presenting, Exhibit - VV. Copies were submitted to the applicant. *Commissioner McCown* – Mr. McBride, one question if you don't mind, you said you weren't there all the time, is this your place of residence or do you stay there part time or what percent of the time of year do you live there. *John McBride* – In the time I've owned the property I've never lived there, we live on an upvalley ranch and we use that for the majority of the time as a calfing place and put up alfalfa and I've never lived there full time however, you know we do have a permit for a normal house there and whatever. *Commissioner McCown* – No, I wasn't questioning that, I was just thinking of the disturbance but you don't live there. Okay. *Dan Grant* – Another note scrabbled in the bottom, I apologize but the one question I had was about the noise here on the McBride property; the applicant said they are going to use two to three weeks (2-3) to clear out the topsoil from an area to be mined and I think they said last time they may be in two (2) of these areas at a time possibly because you can't just do one and wait until you're all mined out before you do the other, I was just wondering are they going to try to clean both of them at once. That would be four to six weeks of (4 to 6) weeks of the noise thing all in a row which may be good or bad or is it going to be spread out, you know especially near the McBride property. There could be something done there or if they figured out, I guess, I've never visited the site but the house is on a cliff, you can't put anything between the McBride house and the activity, but that's one way CDOT got away with the noise thing is by placing those vans between the two, of course blocks his view and he may not like that unless you give him a parachute, I meant a periscope or something like that, sorry. *Chairman Martin* – Parachute? *Lee Estes* – One little question, Kathy did I hear you say that you were going to start on right under John's house or are you still starting on the east end. *Kathy Eastley* – B1is the proposed first phase. *Lee Estes* - Is that the one right under John's house? *Chairman Martin* – Yes. *Lee Estes* – That's where you are going to start? *Chairman Martin* – That's what's being proposed. *Lee Estes* – Oh, I though it was right up on my end; on the east end. *Kathy Eastley* – In the center of the property identified right here in B1. This is the access into the site from Hwy 6 and then the McBride parcel and then the ten (10) acre site where the proposing to start. *Lee Estes* – Okay, that makes quite a bit of difference to us. Thank you. *Commissioner Houpt* – And then from there they would go through the B's. *Kathy Eastley* – And then they would start with the A's. *Chairman Martin* – That's what is being proposed. Mr. McConaughy. *David McConaughy* – Thank you. David was examining the documents and photos. *Chairman Martin* – There are three different maps. *David McConaughy* – I've seen those, I just wanted to make sure those maps are in our application and included in the site plan. I guess we would just like to respond to some of the public comments and most of these folks were testifying before the Planning Commission as well. We believe we are in compliance with the existing permit on the south side on Mamm Creek, all the existing permits. We've haven't received notification from Army Corp of Engineers or from the County to indicate otherwise. Your own staff seems to think we are in compliance. The only folks who suggested we're not in compliance are the Grant brothers and I think it's just worth pointing out that we are out of gravel which means that the Grant brothers are now not facing competition. And Mr. Grant did put something in his letter which he didn't speak here this afternoon which I think is worth pointing out which was the suggestion that any traffic permit ought to require a three hundred sixty five (365) day traffic study, in other words we ought to wait a year with the traffic counter before coming back for a vote. And I'm an advocate here and I don't claim to be unbiased. If this process were delayed for another year the Grant brothers stand to make money and let's just be honest about it they're just as biased as I am and so I think you need to take that with a grain of salt. I'm glad they're here and offer their concerns but let's be realistic about who's alleging things that aren't being backed up. With respect to the McBride's, Mr. McBride did tell you that he did sell this property and he didn't have to sell what is now shown as area B1, he could have kept it and taken less money, he could have sold it subject to an easement to prohibit mining activities or to have a bigger parcel to allow a bigger buffer and so I think what we have here unfortunately is just a situation of seller's remorse and we do need to respect the rights of the current property owner who paid a pretty penny for this and who also has some rights and has decided that they would like to develop it and they have property rights too, so again, I'm sorry that he regrets making that sale but as far as I know he cashed the check so it's not his property anymore. And he doesn't have the right to say you can't use it at all. Now, having said that mitigating the impacts to that parcel are important and we do care about it and that is in fact why we amended the phasing plan, it's not a coincidence that it's going backwards from B to A and it was originally going from A to B and we actually specifically changed it to try to

accommodate or try to mitigate some of the impacts on that property, so I'd like this to be recognized that we explained that. *Eric Recontine, area manager for LaFarge* – My understanding is that in the initial application, this is before my time as area manager, just looking back in the files to understand the initial application what was sent to the State and to the County, was that the conveyor processing will come to the section line and the initial starting phase for the mining we'll be selling was A and then working with the previous landowner for the site. It was my understanding that again that he wanted the area near his house mined out sooner. So we decided that yes we could do that and run a conveyor over land across Cell A to B1 and mine out B1 first. There might have been other reiterations of the negotiations but this is the final one that we're obviously proposing today and then we've agreed to do that. That's an additional cost to the company of course for the additional conveyors that we need to run up to B1 but what that does however is we can control noise mostly by being below the ground surface. The primary crusher, the loader and conveyor as long as they are located below ground surface will really have no impacts to the surrounding land owners. It's a highway of the mine that will actually act as a buffer to the noise and bounce that backwards toward the pit. If we mined A1 first of course we'd be underground and then mining from A5 to A1 then to B1 we would be underground through the entire operation and by the time it passed by Mr. McBride's property excluding the additional stripping of the topsoil. Again we're tyring to mitigate noise in many ways, there's plenty of technology we use to do that and we're proposed white noise back up alarms so that the equipment was backing up and not making a beeping sound and this based over time is much quicker. If you plan your stripping into a certain traffic pattern you don't have to back up you actually provide a stripping in a circular motion and that eliminates any backing up at along the property boundaries. There's again, berming along the primary crusher so as we put the primary crusher down below grade, we can probably provide shields from the primary crusher if it's required by putting sand bags, by putting in a metal shielding, that would decrease noise to the crusher as well. Again our time and attention is to decrease the noise on the North Bank property and the nuisance on the North Bank property by allowing us to crush on the Mamm Creek side. We only have again the loader and one hand on the north side of the property with the conveyor system across and then the most activity occur on the existing Mamm Creek area as will truck traffic. *Commissioner Houpt* – When you were talking about mitigation with Mr. McBride did you talk about setbacks and I don't have a clear understanding and missed it in here, what type of setbacks you have with B1. *Chairman Martin* – David, that's the same question I was going to look at but Exhibit I in reference to the mining permit under Section D2, on the mining permit, "operations shall not affect the stability of any adjoining property and the setback would be two hundred feet (200'). Is that what you understand in reference to the mining operation unless you have an agreement in place through compensation with Mr. McBride? *Helen* – That's my understanding, it gives a two hundred foot (200') setback.*Chairman Martin* – And that's identified to the mining permit, which is Exhibit I, D2 and it does specifically say a setback not to adversely affect the adjoining property by two hundred feet (200'). *Commissioner Houpt* – And Mr. McBride has concern about his water well and his sewer, I mean ISDS. Could you please address that? *David McConaughy* – Well, today's the first time I've heard anything about a well issue we will of course be down gradient from where the well would be, down the slope and I'm not a water engineer but I don't intuitively see how that would be an issue, may be with oil and gas. I had heard some suggestion that part of the leach field for the septic system may be beyond the property boundary in which case, in hindsight they probably shouldn't have sold that but if he did and that's true then it's a trespass. *Commissioner Houpt* – Easy, go a little easier on him, I'm sorry. *David McConaughy* – It's a trespass if, I have a problem with an adjacent landowner trying to say I sold this to you but you can't use it. I have a philosophical problem with that. *Chairman Martin* – So noted. *David McConaughy* – So that's all I know about the septic is that there may be an encroachment and …. *Chairman Martin* – And it's not identified on a plat for a sale. *David McConaughy* – I've not seen it. *Eric Recontine, area manager for LaFarge* – I'd just like to say as to the well, the mining will not affect. Again if there is a well within six hundred feet (600') of the mining we're obligated by the state to compensate that landowner for their water right and make up for that by either providing him water from off site or pumping to his well – that's state law. As far as ponds themselves, again they would reflect the ground water table so there would be no difference in the ground water table. *Commissioner McCown* – Actually, after the lake is filled it might enhance the water table. *Eric Recontine, area manager for LaFarge* – Absolutely. *Commissioner Houpt* – In terms of the hours of operation, Mr. Estes was correct, we had a very long discussion about this with our last permit and you know I think anytime you have a neighborhood close by where you have full time residents, you have to be sensitive to the impacts that you have when you have ag or residential lifestyles interacting with industry and personally I even thought the hours suggested by staff were longer than I would have been comfortable with. And so if that's in question I would be more than happy when we go through this to debate that a little bit longer. *Helen Migchelbrink* – Remember Mamm Creek does have those hours, so we're talking about….*Commissioner Houpt* – Mamm Creek does but this is a new Special Use Permit. There's been a lot of question about or some question about the eagle's nest and that this is a permit that's overlaying the special use permit that has the eagle's next on site. Can you relay concerns that people may have about activity around the active eagle's nest? *Eric Recontine, area manager for LaFarge* - We really have no authorization to mine within that quarter mile. We'll be in violation if we do. *Commissioner Houpt* – Okay, thank you. *David McConaughy* – I'd just like to say that I think most of the comments we heard are about the impact from the oil and gas activities and that's not part of our permit application and not something that any of us have any control over. The question is, this area is zoned to contemplate gravel extraction. There is some testimony about the City of Rifle's Comp Plan and I would just point out that the City of Rifle did issue the watershed permit so they seem to agree with us that this is an appropriate activity or they would not have issued that permit. And the question really is can the mining occur in a responsible manner and based on the different permitting agencies and there are eight to ten (8 – 10) and we think we meet all of these requirements and that we can do it in a responsible manner and short of saying there will be no more gravel mining the question is what conditions are appropriate. So, we want to be a Stewart of the environment and to comply with these conditions and therefore I urge you to accept the recommendation of the Planning Commission. *Commissioner Houpt* – With respect to these pictures that Mr. McBride gave us this was represented to him that this is what he would see from his property. I'm just wondering at what stage this is and how long that would be the view from their property. *Eric Recontine, area manager for LaFarge* – I'm not sure.

Commissioner Houpt – Mr. McBride you gave these to us. *John McBride* – These are the photos you sent me.

Eric Recontine, area manager for LaFarge – Yes – that a primary crusher and that's the conveyor leading to the field back there. *Commissioner Houpt* – So what amount of time would be in that cell? *Eric Recontine, area manager for LaFarge*- Those would follow the mining phases throughout the length of the mining. *Commissioner McCown* – So when this B1 is mined out, it would move to B2 and that equipment in the B1 area would be a conveyor. *Eric Recontine, area manager for LaFarge* – Yes a conveyor line and then things would be moved over. *Commissioner Houpt* – And what amount of time are you projecting for B1 to be in operation? *Eric Recontine, area manager for LaFarge*- One year per phase. *Chairman Martin* – That's what the timetable has listed. *Doug Grant* – I'd like to respond to a comment Mr. McConaughy made about the traffic count, if you read my letter it was specifically in the contents about when we did a traffic study where we thought they were in violation and we had a meeting for that violation where we found that they were running between five hundred (500) and twenty five hundred trips (2500) a day not the two hundred (200) ADT out of the Mamm Creek facilities in the pit. We were told specifically by the attorney for the applicant that we have to do three hundred sixty five (365) days to get an accurate traffic count. Our traffic count of a week, or two or three was not sufficient, that's the context if you read that is if we have to count for three hundred sixty five (365) days to get an accurate traffic count then does not the applicant have to count for three hundred sixty five (365). *Chairman Martin* – All right. That goes back again to the definition that CDOT gave us and instead of average daily trip to average yearly and that was the confusion we had, everyone did and that's why we wanted it a little more specific Doug. *John McBride* – I just wanted to respond to some of David's comments. I'm not whining about the sale, I'm not claiming that we should have put an easement there or anything like that, what's happened has happened. I'm only asking you to comply with the adopted industrial standards that Garfield County has accepted and I do not believe that you can do it in four categories for B1, period. I don't need a lesson in property rights. *Chairman Martin* – Okay John; if it were to be approved, it would have to be met.

John Kelley – A general question about enforcement, how is the enforcement going to work, is it going to be on a complaint basis, is it going to be on a somebody just going out showing up saying I want to inspect. Are you going to have for example I've seen a lot of Special Use Permits where they have an annual review which the public is notified and people can come and say this, that, or the other thing and if the applicant is doing what he's supposed to then everything is fine and not much happens. I was just curious just how that happens. And again, I may be ignorant of your code but I'm curious about how the enforcement would happen because a lot of this, the proof is going to be in the enforcement because these things get approved and then people tend to go down to the next application and forget about them. I know we've heard, I know nothing about these other sites, we've heard complaints about the other sites but I'd just like to hear about that. *Chairman Martin* – John, by all means, everyone that you named is a possibility in reference to a hearing. *John Kelley* – I would urge you to do something on an annual or whatever makes sense basis. *Chairman Martin* – If this passes or if any Special Use Permit passes that would be specified in reference to an annual, if it should be more than one year, if it's going to be complaint driven, or all permits and all issuers of permits have the right to inspect and also do an enforcement of any violation. We'll get to that in deliberation. Fred, our staff person has a question. *Fred Jarman, Building and Planning Director* – My question is, if the applicant could speak to the design characteristics of the discharge back into the Colorado River for the dewatering and how that is going to be located in or not within the floodway. That's my question. *Helen* – I'll just speak before Eric talks about it specifically but we did have it designed by High Country Engineering not to be in the floodway. *Fred Jarman* – Does this map reflect that? *Helen Migchelbrink* – Yes it does. *Chairman Martin* – The circle is the pond. *Eric Recontine, area manager for LaFarge*- The intent is we're going to cut dewatering trenches complete to a mine cell, create a sump, from that sump we will pump the dewatered water to a settling pond which it will settle out, from there it will be discharged to the river. Prior to being discharged to the river, it is tested a month later, I can't remember the exact timing on the testing, it is tested prior to discharge to the river. *Fred Jarman* – A follow up question. So out of the round circle that I'm looking at there, is there going to be a hose that's going over land into the river for the water to convey to the Colorado. The route of this is how, in a lot of applications that we review, it shows a cut basically with the rip rap soil so that those waters go back in after they've settled so to speak. How is yours going to work? *Eric Recontine, area manager for LaFarge*- Typically we would pipe that back in. *Chairman Martin* – That's in Exhibit KK in reference to the maximum amount of gallonage per minute back to the permit that was issued and inspected by the Department of Water Resources. Anything in conclusion, this is your last chance. *Commissioner Houpt* – I do have another question, the landowners to the north of you are concerned about noise, fumes, dust that will be carried with various wind patterns, was that part of your comprehensive study that you did; did they take into account those winds?

Helen Migchelbrink – Well, let me speak to the dust and the air permit; we've alluded to capacity limits of twenty percent (20%) irrespective of high conditions, so in a high wind situation we're held to it just as we would in dead calm. So our air permit does restrict that. The noise study was done using state standards but Tresi I cannot speak to noise transmission by wind. I don't believe, actually I think it's considered in terms of when they go to the twenty five foot (25') off that but whether or not it was specific to wind conditions I can't speak to that. It is addressed in the report. *Commissioner Houpt* – It's not. *Chairman Martin* – Question of staff in reference to Exhibit MM in technical revision of the permit, it is very specific in which way the sequence of mining is to be done. Is that a requirement now to go back and get an amended mining permit as we heard starting with B1? *Michael Howard* – It's been a representation that it would be amended to reflect B1 as the start. *Chairman Martin* – That was a permit that was issued with the date in when you were to start and which phase would go through David.

David McConaughy – And we went ahead and submitted that application to the Division of Mining Safety after the Planning Commission hearing. If we have to go back to the original planning we could pull it. *Chairman Martin* – That's what I'm looking at, is this what's in my packet and had been and then when I heard the change I needed to make sure that you're going back for revision. That could take some time too. Sixty days. *Helen Migchelbrink* – Tresi, if I could add a follow up comment as I put my engineering brain back on, if you go back to the report and you look at the individual noise generation by each of the components that would be generating noise, other than what happens during the overburden removal, none of the components, in other words the wind couldn't accelerate the dB rating of them; the worse possible scenario was it would deliver it further than the twenty five foot (25')

offset. So I'm pretty confident that we still would not exceed state standards either in a high wind storm which pushes the sound more toward the north. *Commissioner Houpt* – I do understand and that's after the initial stage. *Helen Migchelbrink* – During the overburden removal where it gets to as high as sixty eight decibels (68 dB), conceivable that sixty eight decibels (68 dB) could be carried further than the twenty five feet (25') in a wind assuming a wind is a transmission for sound. But it doesn't accelerate the sound; I guess is what I'm getting at. *Commissioner Houpt* – And how long does that process take? *Helen Migchelbrink* – Typically two to three (2-3) weeks although if it's limited to the five (5) days that two to three (2 – 3) week window might be expanded. Commissioner Houpt –What happens if you're in the middle of that process and you have a high wind pattern come up because there's a lot of dust blowing potential there too; what typically would you do in terms of operations? *Eric Recontine, area manager for LaFarge* – In certain circumstances we would shut down the facility and stop operations; that's a call made at the site during that day if we're having a lot of dust leaving the site. *Commissioner Houpt* – Do you foresee treating your B1 cell differently than the other cells in terms of mitigation during operations? *Eric Recontine, area manager for LaFarge* – No, I think all the cells really need a water truck on site at all sites. We Mag Chloride all our internal roads to keep dust down; again dust control is a big factor with water trucks and some times we will temporarily seed the stockpiles, let them generate and grow before you push them backing the hole for reclamation. That's helps quite a bit with dust control as well. As far as the noise goes we have a lot that from high traffic patterns so if you actually have it set up correctly you don't need to back up a lot. *Commissioner Houpt* – One more question and I have been debating whether or not to ask this question but since the same partnership owns the piece of land I'm just wondering for what period of time heavy extraction activity is going to happen while heavy gravel activity is going to happen; I mean we know the gravel activity will go on into the future but the most impacting operation for oil and gas, that overlap of time when you have drilling and fracing and scraping and crushing and …… *David McConaughy* – I don't know; we have no control over what Antero is doing other than we are aware they have a lease there and they have some …. *Commissioner Houpt* – Okay. So there's no drilling plan in place. *David McConaughy* – We agreed not to interfere with each other but beyond that, we have no control what Antero can do. *Commissioner McCown* – But in your report David, haven't you pretty well committed to a consistent pattern on your mining operation and the fact that to your scaling, back to the one graph or the sheet that shows the mining operations lasting about a year a piece and I think in order to accomplish that it's going to take a pretty consistent mining operation to maintain that level, isn't it – I don't see much variance there. *David McConaughy* – That's right, once we get going it will be consistent but how that relates to the oil and gas fact, I don't know. *Commissioner McCown* – We're not permitting that today, though. *David McConaughy* – If you go back to that other slide that shows, you can see the A, B, C, D and E, the lease does specify those are the five (5) pads and so once those are installed, they should be done, there is not going to be a sixth (6th) one at least as far as I know, but our agreement says we will accommodate those five (5) pads. *Commissioner Houpt* – Have any of those been drilled and completed? *David McConaughy* – I think three (3) of them have. *Scott Balcomb* – I'm the managing partner of the landowner; all pads with the exception of the D pad are constructed, all necessary roads for the drilling operation are constructed. Antero is the lessee and they're under a continuous drilling obligation which would I think require to conclude their activity and be done with the site except for reclamation activities probably by the end of 2009. Possibly they could stretch it a little longer but we'll preferably get them to compress the impact stage as much as we can and get in and get out. There will be some overlap with the gravel operation as you can see by that schedule but we felt that the most impact in the neighborhood came from the oil and gas operation and by getting it over with faster we felt we were doing it the best way we could. *Commissioner Houpt* – So has A been drilled or not? *Scott Balcomb* – At least a dozen wells have been drilled now out of the total of a maximum of twenty four (24), so they are moving it along as rapidly as they can. *Commissioner Houpt* – Twenty four (24) on that pad? *Scott Balcomb* – No, twenty four (24) on the entire property. *Kathy Eastley* – I'd like to clarify one of the issues and a response to the CDOT requesting a new permit for the traffic coming out of the Mamm Creek site. Now the conditions that are laid out on Mamm Creek Special Use Permit, it states that any change in the maximum ADT allowed by CDOT will require an amendment to the Special Use Permit. Now I think the condition as staff has written in the current application satisfies the requirement for amending that permit but it doesn't necessarily kick in to require a new or amended Special Use Permit for Mamm Creek. Clearly the condition as I read it is that the maximum ADT needs to change which would require amending the Mamm Creek Special Use Permit. So I think from the staff standpoint there is no amendment to Mamm Creek required. *Commissioner Houpt* – Well that would be CDOT's decision, right? I mean what you're saying is they have to reapply in case there is a need for that. *Kathy Eastley* – Perhaps, but even as we talked earlier about the overlay will not impact the Mamm Creek Special Use Permit; the condition as it reads is that activity associated with North Bank. Perhaps Michael can explain a little better.*Michael Howard* - In other words unless the application request is to increase that two hundred (200) there would be a requirement to amend the Mamm Creek site; Mamm Creek SUP would not be in question unless that application to CDOT requested an increase in that traffic. *Commissioner Houpt* – So there wasn't a specific amount of time tied to that access permit because that would be the difference. *Michael Howard* – No amount of time was tied; they are just looking to clarify what CDOT meant by the original two hundred (200) ADT. Our anticipation is as long as they are complying, at least Kathy and I wrote it that way, we tried to make it as long you are complying with the current CDOT permit they wouldn't be a need to amend it. *Chairman Martin* – And Mr. Roussin's letter that's referred to as May 2, 2008, and that is the exact clarification of traffic volumes on the permit and that was sent to Fred for an exhibit. *David McConaughy* – And I guess where I'm getting confused is I don't know that CDOT would necessarily issue a permit for the same access point for the activities from North Bank, maybe they would, maybe they wouldn't as separate permits but either way in talking with Dan Roussin I think what they would like to do is get rid of that ATD in terms altogether and do as Mr. Grant suggested the daily volume of some sort. So does that increase two hundred (200) DVT or not, it's apples and oranges, I think it's just begging for more confusion. *Doug Grant* – In my understanding in talking to CDOT is it would be a new permit whether it would go above or below the two hundred (200) they were aiming to clarify just like David said so it would be a a daily vehicle trip (DVT) but my understanding is it would be a new permit and whether they would allow them to keep say the three (3) accesses for the Mamm Creek Special Use Permit and/or have a special permit again for the North

Bank. I'm not sure how that would work; in my talking to them they indicated it would go away and there would one (1) access permit again, so that's why I'm saying, there's confusion here big time and you know how CDOT was the last time. *Chairman Martin* – Yes, and that's what this letter says also Doug. The representative of LaFarge and CDOT will talk and make sure that is clarified. And that's what this letter is telling us. *Commissioner Houpt* – And that is what this condition is saying too and it really, you've sat through those hours of discussion of trying to determine what that actually means – it's pretty difficult, so I don't know if I would agree that it would confuse matters, I think it would clear up some of the …. *David McConaughy* – My only request is try to keep that in CDOT's jurisdiction and make them happen without it triggering some new hearing processes back before this Board. *Chairman Martin* – Then we have our counselor to give us advice, any change. *Commissioner Houpt* – It doesn't say you have to. *Michael Howard* – I think, maybe he's requesting that the condition 24 read that they will comply with any CDOT permit that is required. *David McConaughy* – That would be fine with us.

Commissioner Houpt – But I think we're asking for more. I think we're saying discuss this with CDOT, not just comply so I like your wording Kathy. *Chairman Martin* – So Doug, do you have the burning desire to talk? Come on now, I want to get everything that I can get in and give everybody a fair shake here but we are stretching it out. *Doug Grant* – I'm trying to be fair here too. It was my understanding though that the first permits were based on two hundred fifty thousand (250,000) tons. Now we're asking for four hundred fifty to six hundred thousand (450,000 to 600,000) tons. And it was just stated that we may want to increase that access permit, so to me there's still lots of questions about that in particular and one other thing I might add is I don't know if the Army Corp knew what this North Bank was asking for here so how would they respond. Actually the Army Corp from my understanding partially intervened from Sacramento on the federal level on this and I don't know if they've been notified as to the change other than the local office here has looked at the North Bank side. So how would they respond? *Chairman Martin* – I think the staff person is going to have to explain that one as well. *Commissioner McCown* – What are you asking that they respond to, Doug? What is your question?

Doug Grant – My main concern is that the pit was supposed to be protected from the hundred to fifty (100 to 50) year flood even by a berm. *Commissioner McCown* – By a berm, the Mamm Creek pit. *Doug Grant* – I'm talking about the Mamm Creek pit, yes. *Commissioner McCown* – That's the Mamm Creek Special Use Permit, right. *Doug Grant* – Yes. The Mamm Creek Special Use Permit and now it's in partial reclamation where part of the river can go in and out of some of the phases. The berm is not complete in circulating the area or completing in circulating just the proposed area they want to use where they process the material or the facilities area has partially been changed to a river channel. So my concern there is what is the position of the of the Army Corp, is it protected or is it not from the capture of the river in a fifty to a hundred (50 to 100) year flood event which we may see in the next two months what going to happen there; what is their position on the berms because they're not there. There's a fractured one there – it's open to the river channel right now. That's my biggest question. *Kathy Eastley* - Specifically and unusually the only agency that required a melding of these two permits was the Army Corp of Engineering; they asked for and requested of the applicant that they submit an amended permit to the Army Corp of Engineers adding the Mamm Creek site in, so if there is any agency, that is of the overall impacts of the proposal I would assume it would be the Army Corp of Engineering. *Helen Migchelbrink* – If I can speak, I would like to speak about the CDOT access permit because now I'm confused. The reason is that we have a valid existing access permit that was issued by CDOT. Apparently, they erroneously used ATT instead of ADT or whatever it is. My point is this, is CDOT requiring LaFarge to resubmit for a new access permit? *Kathy Eastley* – No, I think it was a suggestion that you reapply and in discussion with you all, I thought that was something that you were willing to do. And that is why staff put it on as a condition. *Helen Migchelbrink* – But the problem I have Kathy is when you go into CDOT realm sometimes they get really busy and they will hold up activities based on a new permit when you have an existing valid permit that allows traffic to go in and out; it just seems like it's an unfair burden on the applicant to take that risk when LaFarge is saying they will live with the maximum ADT that's been granted. And I'm not suggesting that we wouldn't want to go there but if you read the whole condition it restricts certain activities waiting on the outcome of that permit that we would have no control over when we already have a valid permit with access points identified. *Kathy Eastley* – And I think that staff's attempt in writing this condition was to allow certain activities to occur even while you were waiting for the permit from CDOT. So activity at North Bank can occur; it was the permit from Mamm Creek that the CDOT was asking clarification of. *Chairman Martin* – That's what I'm reading from Dan Roussin, he's asking to sit down with LaFarge and to review and to clarify his language and your language is what this letter is asking to do and that you have verbally agreed to do such. *David McConaughy* – I did and responded in another email. *Commissioner McCown* – But I think it does still remain a fact that should CDOT in their infinite wisdom go up to five hundred (500) ADT that's going to trigger an amended Special Use Permit for Mamm Creek and I can see no advantage for the applicant to go through that brain damage. *Kathy Eastley* – Nor can I and our attempt was to not have that happen. *Commissioner McCown* – How can we avoid that if its in our regulations? It's a change in the original Special Use Permit. *Michael Howard* – If it goes above two hundred (200) and they want to exercise that right to go above two hundred (200) I don't think there's a way to avoid that. *Commissioner Houpt* – But doesn't that make it a part of the umbrella permit that's coming forward? *Michael Howard* – I don't think you want to look at it as an umbrella per se. I mean it's an overlay but think of it this way, Mamm Creek can operate the way it is, it's independent of North Bank. North Bank though is dependent upon Mamm Creek, so if Mamm Creek was shut down for a violation of whatever, of going over two hundred (200) automatically North Bank would be shut down. But if North Bank was shut down for a violation of something, Mamm Creek could still operate. So they're not specifically interrelated, does that make sense.

Commissioner Houpt – So shouldn't we switch this around and say that they shall reapply but there can be no activity with North Mamm Creek instead of the existing permit? I don't know but I think it does make sense for CDOT and the applicant to sit down since there's a change in use and when there's a change in use, perhaps…. *Michael Howard* – Perhaps there's a change in use, perhaps there's not a change in use. I think the applicant is saying there's not going to be a change in use. *Kathy Eastley* – Wherever the material is coming from the Mamm Creek will still function as Mamm Creek has always functioned. They will have an asphalt batch plant, they will have a concrete batch plant and they will utilize aggregate in making that material. What has changed is where that

material is coming from. *Commissioner Houpt* – And the length of time that the activity will occur and perhaps the amount of material that …. *Kathy Eastley* – There was no time period placed on Mamm Creek so there's no expiration even though they may have exhausted the material, the aggregate from the Mamm Creek site. It's a sticky area, it's definitely difficult to figure out what happened back then but there was no expiration on that period of time when they could operate either from a gravel perspective or from a processing prospective. The gravel perspective has not gone away; they're going to continue processing. So there is no change. *Michael Howard* – You can rephrase 24 if you want. *Doug Grant* – I've got another letter if I could introduce it into evidence but that's exactly the dilemma here for the Mamm Creek Special Use Permit it was never approved for the importation of material to be processed at that site. It was permitted, site specific to process and use the mined material on this site. That's the dilemma CDOT has is that the material is being imported, the access point are farm access points they had a legal right to have three (3) access points and thusly they can upgrade them to mining, but they don't have, the way I understand it, legal access at those three points for the importation and processing of material from another site like they are doing. Now this letter, if I could introduce it as evidence. *Chairman Martin* – All right. *Doug Grant* – I wasn't going to but it's a letter from Weldon Allen, could I read it or is it better just to give it to you. *Commissioner Houpt* – You can read it. *Chairman Martin* – Either one, whichever you chose. Then we'll need a copy to put into the exhibits. *Doug Grant* – It's an email to me and the date is 5-5-2008, "it's good afternoon Doug, apparently Dan Roussin from CDOT permit office has been verbally communicating with Garfield County and I know that he's been talking to Fred Jarman for some time. Now the letter says I'm instructing him today that I wanted this conversation in written format, as a result please see an email sent from Dan Roussin to Fred Jarman in Garfield County instructing him that CDOT will require a new permit and traffic study for the change in LaFarge pit's use. Have a great weekend and thank you for your interest. Sincerely, Weldon Allen." *Commissioner Houpt* – That kind of spells it out. *Chairman Martin* - Mark that as an exhibit. *Kathy Eastley* – That refers back to the correspondence that we have as an exhibit in here, Exhibit OO from Dan Roussin to Fred Jarman. *Commissioner Houpt* – And 24 accomplished that. Okay. *David McConaughy* – Offer procedural history here about the overlay content. We originally applied for this permit and described the property as the North Bank property only. Staff looked at it and said hey you've got this conveyor belt leaving that property boundary and landing on the other side of the river. The current Mamm Creek SUP doesn't show a conveyor belt therefore you need to ask for permission for that. That's why we amended the application to include the south part of the river was to say it's extraction on the north site and delivery via a conveyor to the south bank, everything else we can live with and abide by the Mamm Creek SUP including processing, selling, etc. That's sort of how we got to this point but we're specifically not asking to change any of those conditions on the other permit, just the conveyor. *Commissioner Houpt* – No I would just agree with staff that Exhibit OO is consistent with the wording in 24.

Commissioner McCown - I would make motion we close the public comment portion of the public hearing. *Commissioner Houpt* – Second. In favor: Houpt – aye McCown – aye Martin – aye *Lee Estes* – Where are we on the hours of operation? *Chairman Martin* – We're going to deliberate on that Lee.

Deliberations:

Chairman Martin – This in deliberation, this is out of the public comment period, at this time the Board will go ahead and make all comments and discussions. Please bear with us. *Commissioner McCown* – No, we repeatedly have concerns of hours of operations and it is a critical factor to the neighbors but there are a lot of activities and some of them are CDOT generated that require paving at night. That's the only time they'll allow work to take place on the interstate highway. We are by our regulations prohibiting everyone in this valley from bidding on that process and I don't know if that is fair to the folks that are coming before us for Special Use Permits. I think we need to have some kind of a condition of approval that if night work is required on our highway system that's the only time they will allow that activity to occur there needs to be an allowance in these contracts because if they can't get aggregate they can't get asphalt and they can't get trucks out of there at night they're not going to pave, so nobody in this valley is going to get to bid on the paving at night. *Commissioner Houpt* – Well maybe CDOT needs to have a staging yard. *Commissioner McCown* – You can't stage asphalt. It all has to be applied hot; it comes right out of the plant. Anyway it's a problem and it is taking all of the folks in this valley out of the possibility of bidding on that which makes it a lot more expensive to apply the asphalt and so fewer roads get fixed each year. *Commissioner Houpt* – And I think it's a really valid point depending on where the gravel pit is. If you're in a location that's not going to impact an existing neighborhood then I would agree with that but if you are I think it's really important to have specified hours of work. *Commissioner McCown* – But everyone we've permitted has had those specified hours that prohibit anything after 8 o'clock and that would disallow them to get that work. I'm still troubled by Number 24 – I don't like the verbiage; I don't like the way it's written. I don't have a problem with the applicant having to reapply but it's saying that no activity can occur at Mamm Creek and that is bogus because Mamm Creek has a legitimate permit right now. CDOT is the permitting entity; if they have a problem with then let them pull it. They are the only ones who can, we can't. CDOT gave them that access permit, Garfield County didn't and if CDOT has a problem with that access permit they have within their authority to pull that and by pulling that, that would shut down the operations at the Mamm Creek pit. Nothing else can occur because the trucks can't leave. Now that does not prohibit and should not prohibit the mining activity that we're talking about today on the North Bank pit if they want to stockpile the aggregate at the Mamm Creek and process it later, it shouldn't stop that just because they're dealing with CDOT on getting a permit to get trucks out of there. So that's the problem I have with it; this overlay and how it all dovetails you shouldn't shut down operations on the North Bank pit if there is a problem with the CDOT access permit; they should be able to continue to mine, stockpile material, process material, do whatever. The problem is the trucking. *Commissioner Houpt* – So you're fine with the first sentence in 24. *Chairman Martin* – How about saying the applicant shall have an approved Colorado Department of Transportation permit. *Commissioner Houpt* – No, that takes away the point of this. *Chairman Martin* – No, if they are in violation, it goes away. *Commissioner Houpt* – No, if we delete the part about no activity begin able to occur but say and it's consistent with exhibits that the applicant shall reapply to CDOT for a revised access permit from the Mamm Creek Special Use Permit. *Commissioner McCown* – Why should they reapply? What necessitates them applying other than this condition? *Commissioner Houpt* – Isn't CDOT expecting them to? *Commissioner McCown* - They already have an access permit. *Commissioner Houpt* – CDOT expects them to and there is an additional use. No matter how you

state it, the SUP in front of us creates an added use onto that permit. *Commissioner McCown* – Continued use of the same activity; there was nothing in the Mamm Creek SUP that prohibited….. *Commissioner Houpt* – Don't you think that has to be up to CDOT. *Commissioner McCown* – Absolutely. *Commissioner Houpt* – And CDOT says they shall apply. So why not support CDOT and take out the wording that wouldn't let them move forward with their activity.
Chairman Martin – An answer real quick, if they didn't have an approved CDOT access permit, I don't think they would be operational. It's getting to both of your points because CDOT will rule if they have one or not. And as Larry says, if they don't, and if there isn't a change, again, if it isn't set… *Kathy Eastley* – For clarification Condition 24 on the screen is different than Condition 24 in your staff report. We rewrote Condition 24. *Commissioner McCown* – This is still saying no conveyance of material may occur to the Mamm Creek site for processing. That's the part I don't like.
Michael Howard – And I think what you're saying Commissioners is that you want it to read "the applicant shall comply with any CDOT approvals." *Chairman Martin* – At that point, it's up to them to have a proper permit reviewed by CDOT and issued by CDOT with the clarification they've asked for in there.
Commissioner Houpt – It's quite different; if you don't see that it's quite different then why don't we go with staff's wording and take out the restriction of activity. That would end this argument. *Chairman Martin* – Larry. I think it's going to come to both ends here in that if they don't have the permit they can't operate, no matter who. *Commissioner McCown* – This is saying they must apply for an access permit for the North Bank SUP and they're going to apply for that at the Snyder property – not adjoining. *Commissioner Houpt* – You guys have really confused us, so you're not talking about the Mamm Creek access. *Kathy Eastley* – We're talking about the Mamm Creek access but for the North Bank SUP which is causing the …… activities. *Commissioner McCown* – But it won't even be adjoining the same property they are applying from it at all. *Michael Howard* - This was a difficult proposal. *Commissioner Houpt* – The standard hours of operation, Condition Number 8 I do support kind of what staff has put in here but I would say "heavy equipment will be operated between 8 and 5 with no activity on Sunday or do we have it 7 and 6. Unfortunately, no decision on the process on gravel pits in the other application. We debated this forever trying to find a way to accommodate neighborhoods and accommodate the gravel pit industry and unfortunately we haven't made a decision on the process that we went though a couple of years ago on gravel pits that many of us sat through and probably would have an easier time with this if we had. I agree with those. *Chairman Martin* – Well, I think we're following the same guidelines and also the rules and regulations that we put in place there. *Commissioner Houpt* – Now, overburden and topsoil removal may occur Monday through Friday between the hours of 8 to 5; I also feel that we heard testimony today saying there would be no noise once they got beyond that time, but if you're talking about neighbors who are up hill to the activity, kind of a difficult time seeing that. *Chairman Martin* – You have Larry's issue and that is the special request from CDOT and I'm hearing other folks in reference to night paving or even the concrete which we'll see in Glenwood Canyon this summer most likely replacing the concrete and that's coming from the same areas. They may want to do it at night like they did Glenwood Springs so that's one the issues we have to consider this as well on that time line. Larry's approach was to allow special circumstances with a permit issued by CDOT for that type or a paving project that has to be done at night to allow that to happen with special consideration. *Commissioner Houpt* – So when do people get a break if we have the standard hours being 6 – 8 and Monday through Saturday.? *Chairman Martin* – That's not happening in reference to night shifts. Do we want to consider it and that's what Larry has brought up. It's worth discussing. *Commissioner McCown* – And if we don't put it, if we don't start allowing it; it's going to take a Special Use Permit amendment and right now we don't have that ability without opening up the entire SUP. Hopefully at the end of our rewrite of our land use we will and that will allow this to possibly happen administratively.
Commissioner Houpt – My problem with starting out with this application is we already have neighbors who feel as if this is going to an extreme burden. *Commissioner McCown* – In conjunction with the oil and gas drilling that's going to be over in 2009. *Chairman Martin* – Which is 24 hours a day; Lee has to live with. *Commissioner Houpt* – Okay, I heard something different, I heard that gravel pits – I think that they did indicate they were over the edge with the notion of having both going at once but I didn't hear that it would end after drilling and fracing. *Commissioner McCown*- No, this will go to 2015. *Chairman Martin* – There's eight (8) years beyond. *Kathy Eastley* – There's eight (8) years of mining and three (3) years of reclamation. *Commissioner Houpt* – So with that in mind, I'd like to start with this Condition 8 first sentence the hours of operation. In our last hearing for a gravel pit we had a very long discussion of what kind of activity could take place from 6 to 7 and what kind of activity could take place beyond 6 p.m.
Commissioner McCown – From 7 to 6 crushing and every operation can take place from 7am to 6pm; from 6am to 7am equipment can be started, warmed up, maintenance preformed, from 6 to 8pm at night additional maintenance could occur but no production activity could be done. *Chairman Martin* – That was the approach on the Silt property.
Commissioner Houpt – My understanding was that it was more office generated office work that could take place.
Chairman Martin – Just starting it up and letting it warm up in a normal fashion is just as effective. *Commissioner Houpt* – But we had them parked at the opposite end of any residential. *Chairman Martin* – Or in the operation area.
Commissioner Houpt – Okay, I lost that debate obviously, but I did win the "no operation shall take place on Sunday."
Chairman Martin – As Fred says, consistency is always the object of planning and I always rebel against consistency and I like to be individualistic and I like everybody else to be that way to. *Commissioner Houpt* – Well, I'd like to say that in this particular instance it took us hours to get to this particular condition on the Silt pit and it was because of the concern and it's important to respect other activities in a neighborhood and if you have residential activity – if people live in the area, it's very important to respect that and I think that if we allow crushing and other equipment operations until 6pm then we're infringing on that, so I would want to use the same hours of operation and activity used in the Silt pit process as in this application as the one that we had adopted for the Silt pit. Does that mean you guys agree with me on that? *Chairman Martin* – Not necessarily, we're going through these. You've made your point. *Commissioner Houpt* - Clarification on Condition Number 14 from staff, wondering why that last sentence was deleted. *Kathy Eastley* – The Planning Commission recommended that it be deleted. *Commissioner McCown* – It's pretty easy if you look at the mining plan as you go across there and then the reclamation you cannot fill the lake and still be mining in the same open cell. It shows it in the picture. *Commissioner Houpt* - In 23 (5) I agree it makes sense to delete (e). There is no request to create a storage area. *Michael Howard* – One clarification before you make the motion, if you noticed she just transposed the Planning Commission recommendations with some changes and additions, I would ask if there is a motion that you change wherever it says in the Planning Commission based on those recommendations to the Board of

County Commissioners. *Commissioner Houpt* – One more of 5d2 where it talks about the location of equipment being stored no closer than three hundred (300') feet from an existing residential dwelling, I think under the circumstances if heavy equipment is going to warm up for an hour it's going to be important that they be further away from a residential dwelling that three hundred feet (300'). *Commissioner McCown* – They still have to meet the same sound requirements. *Commissioner Houpt* – Fumes as well. *Commissioner McCown* – The fumes still have to meet the same requirement – "no order or emissions can leave the property." *Commissioner Houpt* – These conditions are put together to create clarity on what our expectations are and so for the record. *Commissioner McCown* – Yeah but it's clear that we can also have a ten (10) acre storage yard and we took it out so they're either for clarity and consistency or let's decide on what they really are. *Commissioner Houpt* – They're conditions – we're creating the conditions right now. *Chairman Martin* – Under the same one 5- 4 you'll see any maintenance, repair activity requiring equipment boundaries which will generate noise, orders, or glare beyond the property – I think that's what you were getting at.
Commissioner McCown - I want to strike D3 as well – storage of equipment. Well it says it has to be stored inside an enclosed building or in an area where screening is at least eight (8') foot in height; it's going to be stored in a pit; that won't work. What was the discussion on Condition 8 finally? *Commissioner Houpt* – My recommendation is that we use the language that we had for the Silt gravel pit. *Commissioner McCown* – 7am to 6pm. *Commissioner Houpt* – Well the gravel pit operations are from 7 to 8pm Monday through Saturday with crushing, digging, and heavy hauling allowed from 7 to 6 pm allowing administrative and maintenance activities to take place until 8pm. No operation shall take place on Sunday. *Commissioner McCown* – I think it's too short of hours in the summer. *Chairman Martin* – Any special provisions to contract at night paving or concrete. *Commissioner Houpt* – Not for this one unless if it stockpiled at the Mamm Creek site on the other side of the river, the problem with that is this a huge change for this application and the public hasn't had an opportunity or the applicant hasn't had an opportunity or staff to weigh in on that issue. And I think it's a big enough issue – we're doing a code rewrite at this point – if there's industrial activity that you need an administrative permit for, maybe… *Chairman Martin* – Only that's what is taking place right now on Mamm Creek and it's a continued operation other than the material is being imported across the river. *Commissioner Houpt* – No, Mamm Creek doesn't do 24 hours. *Kathy Eastley* – This whole issue, delete all of 23 and say the applicant must be compliant with Section 503.08 which is the performance standards in the regulations which includes everything on Condition 23. *Commissioner Houpt* – No, we're talking 24 hour operations when CDOT has a highway program going on; that's a huge new provision that nobody got to weigh in on. *Michael Howard* – Pointed out that the Mamm Creek operation doesn't allow for 24 hours operation anyway so they couldn't do it even if you put a provision in to allow it; they would still be restricted by whatever the Mamm Creek SUP says. *Commissioner McCown* – I was just bringing that up as a point counselor, that everything we're permitting that's related to gravel has an 8pm sunset and nothing else can happen and yet you've got CDOT contracts and Airport contracts oftentimes that say this must occur from 6pm until 6am. *Chairman Martin* – We'll see more of that especially with the runways. *Commissioner McCown* – The only point I was bringing up. *Michael Howard* – Understood. *Commissioner Houpt* – Well we didn't decide on Condition Number 24. *Commissioner McCown* – I did. "The applicant shall reapply to the Colorado Department of Transportation for a revised highway access permit and continue as normal." *Chairman Martin* – And if they attach history and get clarification on that, if they're in compliance its okay, if not, they have to fix it until they are. *Commissioner McCown* – But it clearly does not stop operations at the North Bank fill; process and stockpile material the only thing it affects is the hauling it out. *Michael Howard* – So you're ending the sentence after "state highway access permit period " and then the rest of the sentence is the same. *Commissioner McCown* – Yes I am. *Chairman Martin* – This definitely puts it on CDOT that they are going to have to either continue that permit or they will have to reissue with new conditions.
Commissioner McCown – I make a motion that we approve the Special Use Permit to allow extraction process and storage and material handling of natural resources with Conditions 1 through 24 with the changes on No. 8 to allow for standard hours of operation to be from 7am until 6pm for all heavy and production activities; 6 to 8 pm for maintenance and clerical work, no activity on Sunday; overburden topsoil removal may occur Monday through Friday between 8 to 5; No. 23 striking 5(3) striking (e) and on No. 24 changing the verbiage that the applicant shall reapply to the Colorado Department of Transportation for a revised state access permit. *Commissioner Houpt* – And with that 25; does yours have 25? *Chairman Martin* – Yes, applicant can consider the provision of a dry hydrant and they did testify that they would. They also said they would consider the floating ponds in their testimony. *Commissioner Houpt* – I'll second that motion. Striking e and on 24 change shall apply for a revised state access And 25 – dry hydrant and will consider floating ponds. *Commissioner Houpt* - She commented that I think that we as a County really dropped the ball on our gravel pit discussions, the staff didn't; the staff did a remarkable job but we as Commissioners dropped the ball and so this application is not perfect, the conditions aren't perfect. It has taken a long time to discuss because we don't have a sense of what we really want to see. We don't have a corridor vision, we don't have a way to address the concerns that landowners have on noise and odor mitigation. We have really dropped the ball on this and I hope that now we will resurrect that discussion. And it's incumbent on us to do that staff. Staff has done a very thorough job with that. I think it's important for the applicant if this passes today to keep in mind everything that you've heard. There's a lot of impact going on as a result of what's occurring on your property and it's not just the gravel pit activity, it's the energy development activity as well and what a wealth of resource you have. But please listen and work with your neighbors and make sure that if there is a concern that you guys can work together on that and I would say the same thing to the neighbors, please make sure that you stay in touch with the applicant if this passes today. I think that anytime that you have something as high impacting as this it is critically important that this not be the last time that people communicate but that it continues through the process. And I also want to commend the applicant for the very thorough application. It was very well done. *Chairman Martin* – First of all I have to say that I disagree with you that we dropped the ball; we have a plethora of information that we did use that we have used as criteria as well as our performance standards which we have adopted, etc. and it was a consensus of everyone that seems to be participating in the discussions on gravel pits that we do the right approach or one or two tweaks that we may need to do which is also scheduled for continued discussion and adoption and it's a matter of timing, it's not that we dropped our ball. It happens to be that there are so many things in front of us that we're trying to get to and it is scheduled for the Planning Commission on June 11th. And a lot of good work there, a lot of good participation and I don't think that this application strayed very far if at all from the recommendations that were made. *Commissioner McCown* – I totally disagree that we dropped the ball. Anyone that

feels that way should have to sit up and read this book tonight. If there isn't a wealth of information about everything that you every wanted to know about a gravel pit, it's in here. And the only naysayers are in the audience that operate without any conditions on their Special Use Permits and I applaud you for having that grandfathered, I wish you the best with them, but if anything ever changes I'll expect to see a book just like this – I won't see it, but I will expect to see a book just like this coming in because that is the standard we have set. We don't need new regulations that Routt County believes in to permit our gravel pits. Anytime an applicant has to submit this much information for us to read and look at and the staff to comment on and the outside agencies to comment on there's adequate information here. Now whether there's the political will there to make them, that's up to this Board. And yes you cannot have an omelet without breaking an egg and I've know Lee Estes a long time and I respect him as a friend and he and I have probably lost friendship over gravel pits and gas wells. But I still like him as a friend. I have to do what is best for Garfield County and I feel that we did today by hearing this and by making the motion to approve this. Where we did mess up folks is by allowing houses to be built on every square foot of aggregate in the Roaring Fork Valley without developing the resource. We as folks that do the land use permitting should have made them pony up 4,000 tons for every roof top they were going to permit in this valley for an aggregate source. But one of these days everything that occurs in the Roaring Fork Valley unless some stroke of God comes down, is going to be hauled up Grand Avenue from a point somewhere out here on a railroad yard that's offloading aggregate from Utah. And it's going to be a huge facility that will dwarf anything we have seen in Garfield County as a permitted pit and the truck traffic is going to grind things as we know them today in Glenwood Springs to a halt. So if we fell short, that's where we fell short by not making it a condition of approval to provide enough aggregate for the development that we approved in the Roaring Fork Valley. Because there are homes setting on a wealth of aggregate in this valley right now. In favor: Houpt – aye Martin – aye McCown – aye David McConaughy stated they have read the regulations and welcome the opportunity to work with the County.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated we need to discuss the potential litigation regarding the Storey matter, provide update and advice on legal opinion on personnel matter; discuss and receive direction regarding contracting on personnel matter that may also require brief public action; discuss CR 162/Crouch; provide an update on title issues on that and lately this may be the only public item needed for the Board to take public action and that is regarding a response to motions pending for the COGCC meeting.

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:

RELEASE OF WAIVER AGREEMENT – EMPLOYMENT ACTION

Don stated that he needed the Board to take action approving a release of waiver agreement eminating from an employment action that is otherwise confidential under the open meetings act

Commissioner Houpt – So moved. Commissioner McCown – Second.

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

Action Taken:

PIONEER NATURAL RESOURCES FOR A REGULATORY ANALYSIS IN THE COGCC RULE MAKING.

This is reserved for two Commissioners, McCown and Martin, Commissioner Houpt has recused herself from this issue and I need a motion authorizing the chair to sign a response to the motion of Pioneer Natural Resources for a regulatory analysis in the COGCC rule making.

Commissioner McCown – So moved. Chairman Martin – Second.

In favor: Martin – aye McCown – aye

COGA TO BIFURCATE THE RULE MAKING PROCEEDINGS AND CONTINUE THE PUBLIC HEARING

Also, Don said he needs a similar motion regarding a response to the request of COGA to bifurcate the rule making proceedings and continue the public hearing in that matter. The response is in the nature of support.

Commissioner McCown – So moved. Chairman Martin – Second. In favor: Martin – aye McCown - aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

MAY 19, 2008
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 19, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

CONTRACT AWARD FOR FIRE SPRINKLER SYSTEM AT THE FAIRGROUNDS – MATT ANDERSON

The contract is to repair the two (2) each four inch (4") cross mains on the fire sprinkler system at the Garfield County Fairgrounds. Three (3) bids were submitted with Excel Fire Protection having the lowest bid. Matt is recommending the award go to Excel in an amount not-to-exceed $13,596.00.

Matt stated Friday (May 16, 2008) he received notice that Excel Fire Protection may not be able to hold their price. Matt would like to know if they could have authorization to award to the next lowest bid at $14,000.00.

Commissioner McCown – I make a motion we approve the repair of the sprinkler system at the fairgrounds awarding the bid to the low price of $13,596.00 or the second lowest bidder at $14,640.00 should the first one withdraw their bid. Commissioner Houpt – Second. Don DeFord asked Matt if he knew if the specifications required compliance with Rifle's building code and the fire district requirements. Matt stated he was pretty sure they did but he could not give a positive answer. Don stated his office has received several informal comments about the lack of a compliant fire protection system. Matt – City of Rifle sent a check list of what had to be done.
Commissioner Houpt stated to take it a step further she thinks she is hearing Don ask, "are we certain what these folks will put in place will comply with Rifle's regulations". Dale Hancock came up and stated the specific request was to meet with the Rifle Fire Protection District to get their blessing on it and they said yes. Commissioner McCown questioned; in these proposals will that equip these lines so that they automatically drain down when the pressure is off and this doesn't occur annually. When the fire department comes and tests our system, doesn't drain it, and it freezes…. Commissioner McCown stated he hoped this was incorporated in this or it is going to do it again this year. The last time it broke the fire protection district was testing our system, did not drain it down, it froze and broke, and now we are fixing it at their request. There's a possible liability issue hooked in here somewhere. Don stated there are some liability issues on both sides. Commissioner McCown stated he didn't mind authorizing to fix it; but, included in that fix should be some type of a fail safe drain down system when the pressure is relieved and will not do it again. Matt stated he will talk to both companies today and will make sure it is included if it is not. If there is a significant price increase he will come back to the Board. Ed stated he received some e-mails that there is a major rally to occur June seventeenth (17th). The fire district wants this done before they will approve that rally.
In favor: Houpt – aye McCown – aye Martin – aye

AUTHORIZATION TO SIGN FAA GRANT OFFER – BRIAN CONDIE

Brian stated he was there to have the Chair sign a grant we still don't have yet. They gave us a number; but, they wouldn't confirm that number. We are still on the schedule; we came up with in January to start June second (2nd). We are being told they will get us the actual grant offer in the next two weeks. Due to not having a meeting within the next two (2) weeks; Brian is asking that the Chair be authorized to sign when we do receive the grant for a total of $3,502, 545.00. Peter Muller stated the actual grant may be different. Brian stated we are just asking for authorization for the Chair to sign the grant offer when we get it. Commissioner Houpt – So moved. Commissioner McCown – Second. Commissioner Martin asked if Carolyn Dahlgren will review this. Brian stated Carolyn needs to sign after Commissioner Martin. In favor: Houpt – aye McCown – aye Martin - aye

CONTRACT AWARD TO BEMAS FOR EARTH WORK AT THE AIRPORT – BRIAN CONDIE

Five (5) bids were received for this project with Bemas Construction having the lowest bid. Brian is recommending the award goes to Bemas in an amount not-to-exceed $2,124,533.48 for Schedule I. Brian also noted this project is subject to the availability of federal funds, and the scope of work may change if necessary in order to fit the funding level. Peter Muller stated bids were opened on May eighth (8th) and they received five (5) very good bids which were under our engineers estimate. The low bid was Bemas Construction, which was $2,124,533.00. The grant we talked about is in excess of that amount, and it will also reimburse you for some of the engineering. There will also be money in the grant to cover utility relocation. We have been aware of Bemas Construction for a long time; we've checked around with people who have worked with them. Quite a few people that I know personally have done significant projects with them, and have also done projects in a similar situation. They do not have a reputation for having to come back and trying to make up for what they left on the table. Everyone rates them A-, B+ which is pretty good for a contractor. This not a very big project for them and we really have no hesitation giving them the award. What we would ask is that the Chair be authorized to sign the necessary contract documents etc. We will give the contract to Bemas to execute and then they will return it to us once we have the grant; then we will give to the Chair to execute.
Ed Green asked if the goal could be fulfilled either with the prime or sub-contract. Peter stated yes, the goal is three and one half percent (3 ½ %) and they are awarding a little over three and one half percent (3 ½%) to another construction company. Brian restated that this is the authorization to sign conditional upon the grant. Commissioner Houpt asked why he supposed the engineering estimate is so high. Peter stated his estimate was so high because we have become so accustomed to it. We also got nervous in our engineers estimate because the price of oil has gone up. He suggested we may not be subject to the price increases in oil.
Commissioner McCown – I make a motion we award the contract to Bemas Construction in an amount not-to-exceed $2,124,533.48 and that the Chair is authorized to sign all the necessary documents to allow the work to proceed. Commissioner Houpt – Second.
Brian added it is contingent upon FAA grant. In favor: Houpt – aye McCown – aye Martin – aye

EXECUTIVE SESSION REQUEST

Ed Green asked for legal guidance and negotiations associated with a land acquisition.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don stated he had no items for public discussion although there may be some public action emanating from executive session. I need to provide you with an update and receive direction on contract negotiations with Chevron on County Road 204. I need to see if you need legal advice concerning item 4A on the agenda (COGCC rulemaking process). This is one I anticipate public discussion. Very brief update on the status of new hires for the County Attorney's office, and litigation in the Sheriff's office, and we need to receive direction concerning a code enforcement matter. Commissioner Martin has a question on the mobile home park scheduled for 10:15 a.m.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of Executive Session; motion carried.
Action Taken:

COUNTY ROAD 319 – CODE ENFORCEMENT

Don stated the oil and gas hearing will come up at 10:15 a.m. and he would like to deal with it at that time. There was a code enforcement issue concerning property off of County Road 319, and we have now been informed that the property

constitutes commercial lots and is treated as vacant land, it is not shown as agricultural classification in the Assessor's office. Hence a grading permit is a required item under your building code. With that information public, we would like direction regarding that property. Carolyn – Mr. Sills has been grading without a permit; our building code requires the grading permit because of the tax classification of the property. He has received formal notices and informal notices; stop work orders; a formal building code; zoning code violation; and today he is still grading. We want to know if you want us to go to court under your building code and zoning code. If we do there is a possibility of being a joint plaintiff with the City of Rifle because the City of Rifle has a water shed permit issue. If we are joint plaintiffs we would not be enforcing Rifles code, and they would not be enforcing ours. It is just that it is the same property owner and it would be a matter of judicial economy to get both plaintiffs in the same lawsuit instead of filing two.
Commissioner Houpt – I make a motion we authorize the staff to move forward in the process of litigation and if appropriate join in as plaintiffs with the City of Rifle.
Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant Lists
c. Authorize the Chairman of the Board to Sign a Special Use Permit to Allow a Two Family Dwelling – Applicant: McComas Properties, LLC – Craig Richardson
d. Authorize the County Treasurer's Office to Release $5,197.50 to RFTA for use in Bus Stop Improvements near the turn off to CMC from Highway 82.
e. Approval of 2-1-1 Purchase of Services and Intergovernmental Agreement with United Way of Mesa County, Hilltop Community Resources and Mesa County Board of County Commissioners – Lynn Renick
f. Approval of Child Care Service Quality and Capacity Enhancement Agreement with Grand Valley Educational Foundation and Kid's Promise Foundation – Lynn Renick
g. Modification of Premises for Liquor License for J. Thomas Schmidt & Company d/b/a Ironbridge Club – Jean Alberico
h. Approval of Board of County Commissioner Minutes for April 7, 14 and 21, 2009 and May 5, 2008 – Jean Alberico
i. Liquor License Renewal for Shadetree Enterprises Inc. d/b/a The Guzzler Located on Battlement Mesa – Jean Alberico

Commissioner McCown stated with the exception of items "e" and "f" I make a motion to approve the consent agenda.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT

Commissioner Houpt – The Colorado Recycling Conference is taking place in Aspen on Tuesday and Wednesday and we will be represented at that conference. I have a meeting with the downtown business group on Wednesday, and there is a recycling meeting on Wednesday here. There is a rule making hearing in Denver on Thursday, and an I-70 Coalition meeting Thursday afternoon, and a Rocky Mt. Rail Authority Board Meeting on Friday.
Commissioner McCown – This Wednesday and Thursday I will be in Steamboat Springs at the Northwest Resource Advisory Council. Last week we had land use on Wednesday here. I went to an energy conference in Craig on Thursday and Friday.
Chairman Martin – May fifteenth (15th) Don, Judy and I went to Denver in reference to the oil and gas prehearing conference. We are waiting for more information from the hearing officer so we can continue our approach. We will follow-up; Don is going to another meeting on May twenty-second (22nd). I will be out of state. We had the MS Walk on Saturday in No Name and had a good turn out. Went to Silt and handed out free helmets to make sure all the kids were safe. My mother-in-law had her eighty-fifth (85) birthday and there was a big celebration on Sunday. I will be leaving tomorrow for the Western Interstate Region; which I am on the board of directors and will back on Friday. I have a meeting on the twenty-seventh (27) with the Leadership of Parachute which we have some mutual issues that will be discussed; from transportation, sweeping, patching and approach to government. We have an invitation for the thirty-first (31st), which I won't be able to attend for the RSVP and they would like a representative from the County there. Lynn Renick volunteered.

HUMAN SERVICES COMMISSION:

SUICIDE PREVENTION COALITION – SCOTT PANKOW

Laura Little and Scott Pankow present. Laura – The Prevention Coalition is now in its third (3rd) year. The coalition effort so far has resulted in accurate counting; specific data, so we can track numbers and trends more accurately. We have done some development and distribution of written materials. This year we also participated in the Latino Youth Summit, Spring Valley, and we reached about two hundred (200) high school kids with the message.
Laura introduced Scott as the principal of St. John Middle School in Parachute, and a member of the coalition.
Scott gave a brief history of what schools have in place; what they have done and what Scott has brought to this point. All schools have safe school initiatives; they have crisis teams, district plans, and policies; but, as we are seeing with kids today the pressures are on and mounting. Teenage suicide is at an all time high. This is the first time in history that kids who have been surveyed do not see a brighter future than what their parents have. Meaning; they don't think they will have their own home, have a better job, make more money etc. There is also so much pressure that mounts on kids. There have been kids on their first day of school who have had suicidal thoughts just because they couldn't remember their locker combination. Once you start hearing those things and those factors; it really heightens the awareness. Yes, we have policies in place; but, my first year was as an administrator at St. John Middle School, and a young boy was shot, and we actually had a boy who witnessed that event. A lot of depression; a lot of warning signs, and as a staff we are coming together and saying; "gosh how can we support this kiddo". As we are trying to figure that out we had another boy who died in our school; so that added two (2) more kids dealing and struggling with this in their life. As we wrapped ourselves around that; unfortunately at the high school, another girl had passed. Being my first year in Garfield County coming from Mesa County; it was a tough year but I knew right a way there were some interventions that were needed. Sheila Lynwood does the Teen Link Program, she got hold of me, she's out of Mesa County, and before I knew it I was on the Task Force for Suicide Prevention. We presented this to the school board and

they were very supportive of bringing it to the school. The second year was the first year that we actually implemented it, and did the training with the entire school. We have an advisory time in the first hour of the day and use that time for actually three (3) weeks in a row to get through the training. There are two (2) volunteers who did a lot of the training and the teacher would be in the room to facilitate discussions. In that first year we had about fifteen percent (15%) of the kids identified as having suicidal thoughts, depression, and we had a process in place to identify those kids. Fifteen percent (15%) is actual real numbers that were looked at; in fact, we actually mentored a kid the first year, brought in parents, and also had a couple of adults identified, which was surprising to us. The first year was good and they trained everyone from seventh (7th) and eighth (8th) grade; this last year we duplicated the training again and took it to another step at the eighth (8th) grade level. They are really looking for more dialogue, discussion and talking. We have things set-up in my building like a safe to tell box; kids know more than we know as parents and adults, even if you have good communication with your kids at home. Parents only know one third (1/3) of what happened in their day. Kids know who is depressed or thinking about suicide, and they actually have a way to report, in a safe way, to give us a heads up. We had it again in the second year, the video discussion; once we identify them with counselors then we get outside agencies. This year we had a kid whose uncle committed suicide in Rio Blanco County; kids came up to me even before breakfast and said I may want to watch out for so and so. We are feeling this is going in the right direction. We are getting with Sheila and looking at restructuring the curriculum; so it may be introduced at a developmentally appropriate level at sixth (6th) grade next year, seventh (7th) a little bit more, and eighth (8th) grade is when you need to really hit these kidos and talk to them. Eighth (8th) grade pressures and as they are going to ninth (9th) grade; we know the drop out rate and huge pressures. I've reached out to some of my fellow principals and it is difficult to get it into schools; but, obviously if you save one life it's worth the time and efforts.
Commissioner Houpt – I'm so impressed with what you and the whole group have accomplished and I appreciate the leadership your school is taking. Commissioner McCown – Maybe I miss understood you and I hope I did; is there a problem getting this program into the schools? Scott stated it was a problem about time. I've talked to some of the principals and told them how I would do it, and really it is a structuring thing. The group is hoping I've modeled it and will show them how to take time, and fit it into their day.

BOARD OF HUMAN SERVICES

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

April 2008, client and provider disbursements for allocated programs totaled $232,218.22. Client benefits for food assistance and LEAP totaled $159,458.54. Total EBT/EFT disbursements for April equaled $391,676.76.
Commissioner Martin – Do I have a motion? Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL OF KIDS FIRST AMENDMENT – LYNN RENICK

The department is requesting consideration and approval of the amendment for the dates of January 1 through June 30, 2008, in the additional amount of $7500.00; for a total not-to-exceed the annual contract amount of $21,054.00. The amendment includes additional staff time for the referral specialist. Referral calls and requests from Garfield County have been totaling over forty five percent (45%) of the agency's calls.
Commissioner McCown asked if council has blessed this. I make a motion we approve the amendment to the existing contract for a total amount not-to-exceed $21,054.00. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL ON COLORADO WORKS POLICIES – LYNN RENICK

The Department of Human Services required Board signature on all department policies. The following three policies are for consideration and approval.

1. Non-TANF County MOE (Maintenance of Effort) Funding – new policy
2. TANF/Colorado Works Other Assistance – revision of existing policy to include a $10/day incentive for completion of the 'mini-LINK' class through CMC.
3. TANF/Colorado Works State Diversion – revision of existing policy increasing potential state diversion grants to $5,000.00.

Commissioner McCown – I make a motion the Chairman be authorized to sign the three (3) contracts.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSENT AGENDA ITEMS "E" – LYNN RENICK AND CAROLYN DAHLGREN

2-1-1 CONTRACT

Carolyn explained that Lynn has had meetings over in Mesa County, and there is still discussion going on as to whether or not this should be a four (4) party contract; or if the consortium over in Mesa County is going to refuse to contract in that fashion, and instead just want you to provide the $50,000 to their fiscal agent. I've have been working with a couple of lawyers in the Mesa County Attorneys office; Lynn has been working directly with the parties, and I think the ball is in their camp right now. Aren't we waiting for them to respond?
Lynn – Right, I think there was partial confusion on the fact that United Way would not be the only fiscal agent; hopefully, we have gotten beyond that at this point in time. At this point; Mesa County DHS, Hilltop, Community Resources, and United Way are going to be sitting down, pulling in the County Attorney's office in Mesa County, to try to determine how we can get beyond this. Everybody wants to do it that is not an issue; it is just figuring out the contractual issues. Carolyn stated they are just reporting back to you. We thought we would have a done deal on John's authority to sign it; it would be over with, and you would see a signed contract on your consent agenda; but, it didn't happen. Kids Promise seems to be moving along more rapidly. The Grand Valley Educational Foundation is meeting this afternoon and it is our expectation they will sign the contract. Carolyn is asking that the Board put this off until later in the afternoon. The other issue is Lynn and I simply didn't know what levels of professional liability insurance to require. They have gone out and gotten their own; but, I have e-mailed CTSI to ask what their advice is. We need at least one more telephone conversation with them, hopefully this afternoon. Commissioner McCown – And still John has been authorized to sign once it's approved. Lynn wanted to have a brief discussion on the DHS all staff event they are trying to do. They have been looking at trying to pull someone in who is more inspirational; but, yet entertaining to work on retention and different things. We have located a motivational humorist which a couple of us have actually had the opportunity to see. He is expensive; but, has also offered in-state Colorado discount and government discounts; to

not just do a key note presentation; but, also a break out session with staff. As you all know most of our staff deal with people in crisis all day. Be it financial, family crisis etc. The cost is $6,500.00 for a three (3) hour presentation plus break out sessions. The monies would be TANF participation; we received about $51,000.00 this past year. Commissioner Houpt stated she noticed the cost but given the nature of the session; I think you could receive pay backs in your department ten (10) times over. I would support you doing that, and it's in your budget. Commissioner Martin stated "go for it".

PROGRAM AND DEPARTMENT UPDATES

Lynn introduced Judy Martin; she has joined us as of May first (1st) as our Senior Services Program Manager. Just to let everyone know we have received a recommended amount of $127,013.00 for our Senior Nutrition program for '08 and '09 which will begin in July. We are planning to take that over in July, and we will be presenting a supplemental budget request for the first of June. We will also be bringing contracts in June so we can get up and running in July.

1. The Department and Child Welfare Division hosted a Recognition Picnic on May tenth (10th) to honor our County's foster, kinship, and adoptive families at Gregory Park in Glenwood Springs. Approximately fifty (50) adults and children were in attendance.

2. Senior Services Update – The department would like to welcome Judy Martin who began her position as Senior Services Program Manager on May first (1st). The Northwest Colorado Area on Aging has recommended a total of $127,013.00 in SFY 2008-2009 funding for Garfield County's Nutrition Program; and $104,220.00 for Caregiver Support/Senior Services and Equipment Program in Garfield, Rio Blanco, Moffat and Routt Counties. In June, the department will need to prepare a supplemental budget and contracts for consideration by the Board to finalize the transition of the Nutrition and Transportation Programs to Garfield County.

3. The office of the State Auditors will be conducting a site visit to the department on June fourth (4th) as part of their statewide audit on the Department of Health Care Policy and Financing's Single Entry Point program. Also, on May 6th, a representative from the Colorado Department of Human Services Internal Audit Unit completed a site visit to Garfield County to review its work processes in CBMS security profiles, and access rights.

4. The River Bridge (Child Advocacy Center) update – There have been some changes in Childhelp staff at the River Bridge. Susanne Whiting, the department's forensic interviewer, and Meghan Backofen, the mental health therapist, continue to provide services without interruption during these changes.

Lynn introduced Susanne Whiting, who is our forensic interviewer with the Child Advocacy Center; she is doing a great job and developing relationships with law enforcement. Introduced Sherry Wall, new adult protection worker.

BOARD OF HEALTH

NURSING SERVICE CONTRACT WITH CDPHE – MARY MEISNER

Mary stated this is for nursing services we provide in various programs, and it is $108,928.00.

Carolyn reminded the Commissioners that all three (3) of these contracts are task orders on top of the basic master contract with the state.

Commissioner Martin – Do I have a motion? Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

T. B. CONTRACT WITH CDPHE – MARY MEISNER

Mary stated this contract is with the Colorado Department of Public Health and Environment for $14,500.00.

Commissioner McCown – I make a motion we approve the T.B. Contract. Commissioner Houpt – Second.

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

TOBACCO PREVENTION CONTRACT WITH CDPHE- MARY MEISNER

Mary stated again this is with the CDPHE for $68,437.00. Missy Britten, in the audience, is our tabacco prevention coordinator and she has worked very hard on this contract.

Carolyn stated there is a typo on page two (2) we would like you to cross out and initial. You may be getting $70 million dollars……

Commissioner McCown – I make a motion we approve the Tobacco Prevention Contract with the correction as noted. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

Mary Meisner introduced Barbara Kelly, who is a public health nurse generalist, and she is also working with our pre-natal program as a pre-natal case manager.

TREATMENT OF LAGOON WASTEWATER AT THE WEST GARFIELD COUNTY LANDFILL – JIM RADA; MARVIN STEPHENS, TIM ARNETT, CARL TRESSLER AND KEN HAMILTON; WHO ARE REPRESENTATIVES OF ENVIROTEC SYSTEMS WERE PRESENT.

Jim is recommending an award go to EnviroTec Systems, Inc. to provide and install a membrane bio-reactor at a cost of $54,978.00. Jim stated that $200,000.00, to repair exiting sludge impoundments was budgeted for 2009. Staff is asking to use $55,000.00 from this budget amount to cover the cost of installing a membrane bio-reactor.

Jim gave a presentation to the Board and stated that we are being overloaded by the Oil and Gas Industry. The landfill lagoons are currently full; no waste has been received since October/November 2007. At least one (1) or both of the existing lagoons need repairs and maintenance and a plan has been presented. Jim thinks the funds were approved. Jim did some research to see what other facilities we have available in the County to take this waste water. Rifle told him they are taking about four (4) loads a day and they have the capacity to take about four (4) more loads total at the Waste Water Treatment Plant. Silt takes some; but, has had to begin to turn away some of it because of the make up of that waste; it is too strong for their treatment plant. Jim talked to Jim Duke at the South Canyon Landfill and his composting operation is currently overwhelmed. What we are proposing to do is to install a membrane bio reactor filtration system. This would be under the Garfield County ISDS permit and would be able to treat up to three thousand (3,000) gallons per day. How the MBR works; the water comes out of or is drawn by a pump, out of the lagoons into a primary settling tank and then it flows through a filter into a treatment tank. It is drawn by a vacuum pump through membranes that are sub-micron size so they will filter out most of the bacteria and suspended solid materials. From there it flows through a UV disinfection system, and this system incorporates air into the system, and those membranes are scoured by the bubbles. This technology has been in effect for a number of decades. Concerns he tried to address at this point; they did get the power supply evaluated at the lagoons, at the landfill, and we have been told by the electrician there is adequate power there. They are hoping to get the lagoons drained down, get the old ones repaired,

create some capacity in there and maybe the shut downs will be shorter in length. We may be able to add units in the future. Jim talked to the State Health Department last week; they indicated as long as we isolate each lagoon, and treated two thousand (2,000) gallons per day per system, we could put additional systems out there. Not sure we want to go that route at first; because one of the things they are trying to do is to encourage this type of application out in the oil field and trying to reduce the amount of waste being brought to the landfill. Engineering and installation costs are included in the quote. Jim sees some great benefits to the community; it provides long-term option for us for disposal of this waste. It allows for the reuse of a valuable resource in our community and opens capacity at the landfill lagoons and other facilities. We hope to create an opportunity for this technology to be used in other applications; initially and primarily in the oil and gas industry. Additionally we hope to have some other impacts by not having to have so many trucks driving or reducing their mileage. Jim went over the financial benefits. Membranes last five (5) to ten (10) years which is a good length of time; all electrical components have at least a three (3) year warranty and no operator is needed. A preventative maintenance plan has been provided to ensure continued operation of the system. They will also include a quality assurance program. Commissioner McCown asked if we could permit one of these in the County today for home use; at 3,000 gallons a day. Jim – We could, and it would be the 1,999; but, when you add the peaking factor it goes up to 2,998. Commissioner McCown – We could permit a 3000…… Jim – We could; but, what we are trying to do here is to incorporate quality assurance and when you have water being discharged to the surface or to the atmosphere; under the ISDS Regulations the Board of Health has to approve if it leaves the property origin. Commissioner McCown – I just didn't want the folks watching to get the assumption that now 3,000 gallon per day ISDS are legal. All of your numbers, as far as the payout, is based on the 3,000 gallon per day production. I'm assuming this water is taken into the machine by a skimmer? We are getting the purest water off of the top of the lagoons to run through this system? We're not sucking out the sludge? Jim – It will be drawn off the top, there will be a filter on the intake, a filter on the overflow from the first to the second tank. Commissioner McCown – What is the maintenance on those filters; how labor intensive is this going to be for the operators at the landfill? Jim – I don't think the intent is to have the operators at the landfill dealing with any of it. By having a service contractor in the area working on this; they will be checking on these things at each visit. Commissioner McCown – How many membranes are there in this unit? Jim – "Four". Commissioner McCown – At $5,000.00 a piece? Jim - $5,000.00 total. Commissioner McCown - The disposal of the water; I don't like the concept of treating water and putting it back in and re-treating it again. Jim – That would only happen, Larry, if we produce more than the big tank (7,000 gallon tank). What we are intending is that they will be draining that tank every day. Maybe on Sundays you will get two (2) days work in there; but, by using the 7,000 gallon capacity we should have two (2) days of storage. Commissioner McCown – I talked briefly with Marvin and Craig before the meeting; I don't know if the landfill has the capability to consistently use 3,000 gallons of water a day. Especially in the winter with the icing problem; I realize roads get dusty in the winter; but, when you put water on those roads they also turn to ice in the winter. Same thing with composting; even though the heat generated from the compost may keep some of it thawed out, 3,000 gallon of water a day during the winter months is very hard to get rid of. That is the critical time that we need this unit because we loose our evaporation. I'm having trouble balancing the benefits and the affects of this on the disposal side; unless we are going to set up a section of frac tanks up there, and let people pump out of those tanks to use the water for whatever purposes. Jim – In response to that; we could likely set aside an area of the landfill that is not in the works, or is under re-veg, or reclamation activity, and spread that water lightly on that area over the winter time. Some of that will just evaporate into the air. Obviously we get periods when there is snow on the ground out there; but, there isn't always a lot of snow on the ground. The rates we are talking about applying this water in terms of dust mitigation would be very light. I believe these guys can adjust their valves on their spreaders. Commissioner McCown – That adds to my concerns of how we're going to get rid of 3,000 gallons a day of treated water. Jim – There is the opportunity, in the course of modifying their lagoons, that perhaps there would be an aerator installed that could keep those lagoons from freezing solid. To keep the water moving might help with some evaporation. Not sure how many acres are out there; but, if we could work up a plan up for those periods of time and spread the water out on the ground lightly. Commissioner McCown – This service contract is going to take care of irrigating all the land around the landfill too? Marvin – I don't think that is going to happen. We will have to load it up with a water truck and dispense it. Commissioner McCown – So we're going to drive up through the sage brush and water all of our property; set up some big guns, or what are we going to do? Marvin stated he didn't think there would be a problem setting up a couple of guns. It's not going to solve the whole problem; but, it will buy us some time, at least three months. I'm hoping we don't have to shut down. One of my goals is to see if we can keep it open a little bit longer, and have some water that we can use. Commissioner McCown – I agree with that; but, the longer we keep it open with this system the more it compounds the problem of getting rid of the treated water. It's a win win for us, I'm not opposed to it; but by eliminating one problem I don't want to create another. Jim –It is our intent to, if we already have eight (8) applications sitting in the building department for this type of system, if we start pulling that volume out we are going to increase capacity in the lagoons. Dave Disk – From Meeker, stated he would like to answer a few of the questions. I have eight (8) of the permits sitting in front of the County; I operated lagoons, I've operated treatment systems. It is County property, County roads, and you can use this water for dust mitigation on other County roads; all you have to do is send the driver through to use as dust control as long as it's used within the County for your ISDS rates. You have a lot of re-claim pipe lines with new vegetation it can be sprayed on there; you cannot allow it to puddle but you can allow it to be used to enhance evaporation. It works excellently as a mitigating factor to the environment we live in. Commissioner McCown – I understand that; that puts us in the business of selling water. Dave – I run an aerator year round in Meeker and it's a lot colder up there. I don't have to use my discharge permit as long as I have my aerators on; it's evaporating enough to handle a trailer park. Commissioner McCown asked if the aerator kept the lagoons from freezing and if it will handle the 3,000 gallon a day of fresh water that is being put back in. Dave – Yeah, this one flows about 2,200 gallons in and allows it to have a discharge permit, and I have not had to discharge in five (5) years. Commissioner McCown asked if it will evaporate that much a day in the winter.
Dave – Even in the winter. I have three (3) other ponds. We put in extra evaporators or aerators; but, there is a need here not only for the dust control but the reclamation. Commissioner McCown – The problem we run into with dust control and excuse me, we could use that on the land fill. We can use it on our County roads if we convey it; but, when we start selling that, or allowing other entities to use that product - - we don't know where it's going to be used.

Dave stated he is just giving a suggestion. Jim – That's not the intent of this application. Commissioner McCown – That's why I was confused on how we are going to get rid of the water and that is probably my biggest concern. Marvin – In the wintertime I have the same concern as you, Larry. Commissioner McCown – When we get to a point where we can't get rid of it; we just shut it down. I don't support it going back into the lagoon and skimming it, and treating it again. That doesn't make any sense to me. If we can't keep it segregated as treated water…….
Marvin – We have two (2) lagoons out there that we planned on making into one big one (1). One of my thoughts was to keep the two (2) together, like they are right now, and use one (1) as a discharge. Commissioner McCown – And put out of it when we need to, and once it evaporates; it evaporates. Commissioner Houpt stated, it doesn't sound like you can't get around the challenges. She feels we have the technical experts on hand to help. Carolyn – Mr. Martin, can I ask a follow-up question on the 2,000 - 3,000 gallon issues? I actually focused on the part of the regulations that say the water can't go off the property on which it is being treated. I didn't focus on the 2,000 – 3,000. Can you speak to the states regulations on that? Jim replied that in the states regulations, they refer to the 2,000 gallon per day on an average day of the flow basis. In designing a treatment system there is a flow, a peaking factor of fifty percent (50%) added for any type of ISDS design. Which, in this case, would bump our design; I think they state design capacity to 2,000 or 3,000 per day. Carolyn – What happens if we do go over the average daily flow in any one (1) year? Jim – We talk to the engineers and we throttle it back. Carolyn – What would happen is; we would actually get some sort of cease and desist order from CDPHE. Jim – No, as long as we are not in any violation of the limits; I don't think the State is interested. We are going to engineer into the system a means of monitoring a flow coming out. We have been checking with the Solid Waste Division at the State Health Department, to make sure we weren't in violation of any of the landfills operation, and they have indicated they're all for what we are planning to do.
Commissioner McCown asked what their determination was on the water leaving the property, Carolyn.
Carolyn – That is straight forward in the regulations; it has to stay on the property. I wanted to caution all of you about selling water; we have not looked at that at all. Don asked Jim; when you talk about the 2,000 gallon a day average, over what period of time is that average. Jim – I believe they use a thirty (30) day average. That offers a little bit more flexibility also to the flow rate. Don stated, so you could adjust in that time period, and if you had days that Larry and you were discussing; we reach capacity in storage; it would probably assist. Jim – Very much like the quality requirements; they are averaged over a period of samples or a number of samples. If you exceed on one sample; but, you're below on another, you do fall within the requirements. Commissioner McCown – Marvin, since we are looking at taking $55,000.00 out of the $200,000.00 that was appropriated to improve the scales, or the ponds, are we are still going to have enough money to make those improvements? Kraig Kuberry – We won't have the money to do it this year; maybe not have enough next year. Marvin – Hopefully if we can get one of the ponds dried out this year, the cost won't be quite as much. Commissioner McCown asked if we had aerators in our pond. Marvin – Yes, and those will be running along with this. Commissioner McCown – So is our goal at the end of the day to drain one (1) lagoon and dry it up so we can improve it? Or are we going to just depend on this system to take care of the majority of our problems and then just shut down the in-take?
Kraig – My goal right now is to empty all three (3) ponds and then we can start dumping into the pond we just rebuilt while rebuilding the other two (2). Commissioner Houpt – This would help with that process… I make a motion we approve the treatment of lagoon waste water at the Garfield County Landfill and that we award the purchase order to EnviroTec Systems to provide and install a membrane bio reactor at a cost of $54,978.00. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye
CONVERTING A MOBILE HOME PARK INTO PERMANENT AFFORDABLE HOUSING – COLIN LAIRD
Colin Laird and Geneva Powell were present. Colin has proposed to the Commissioners the possibility of partnering with the Roaring Fork CDC to convert a mobile home park into permanent affordable housing. To date, the Roaring Fork CDC has secured enough money to potentially put the property under contract. Colin has had initial conversations with the Garfield County Housing Authority, the Colorado Department of Housing, private developers, and local banks concerning their interest and participation. All have expressed interest in this effort. The Town of Carbondale has conceptually agreed to waive some fees and invest some cash into the affordability of the project. Given the current lack of affordable housing in many areas of Garfield County, the Roaring Fork CDC is asking the Commissioners to consider and conditionally invest $5,000.00 per unit ($300,000.00) in this project to ensure the permanent affordability of these units. Colin explained that some of the most affordable living spaces in our region are in the middle of Glenwood. They are often zoned as commercial property and have slowly been bought and redeveloped. Carbondale, the one downtown, is going to be part of high end homes and I think we are going to see more and more of this happening. The price for purchasing these properties and keeping them as a mobile home park, from the private sector investment standpoints, is very unlikely. The folks living there will have to find some where else to go and that is not easy to do. There is a whole possibility of purchasing this land and keeping it. If it is bought on the private side it is unlikely to keep as another home plan. As a nonprofit developer we could do one (1) of two (2) things; subdivide and sell the lots back to existing residents, or turn the whole park into what is called community land trust; this keeps housing affordable. Folks would not own the land but they would own their houses and have long term leases; upwards of 99 years. This is happening in numerous places across the country. I think the County has sub-divided and sold their lots back to residents. We have had initial conversations with the Town of Carbondale and they are interested. This is all conceptual and I've thrown out some numbers. We don't know if we can pull this off; but, we do know we can with some help from local governments. We have done an initial survey of the residents and there is no sub-leasing in this mobile home park. Most of the folks still have some loans on their units. The income range; roughly half are 80% AMI and below, the other half is roughly in the 50 to 70% range. They are making 80 to 100% of AMI. What Colin is really asking; is this of any interest? If there is interest; what is the range of interest and what are the key questions we could come back and answer before any commitment. Commissioner Martin stated the first is; the participation through the County has to be through Geneva Powell. Commissioner Houpt stated she would like clarification on where you are and what you need from us at this stage? You are talking about this being in a conceptual stage; but, what does that mean and what kind of commitment do you need through the housing authority. Colin – Where we are; the ownership group is interested in selling. They do not have an offer at this point; they did have an offer. Carbondale is still interested. Again, the numbers have been very vague in the sense there are probably some waived fees. If it is going to be lot sales,

we have done some rough numbers. It is roughly $100,000.00 a lot; it may be a little bit more. We would like to make the lots cheaper. The park was bought ten (10) years ago. Commissioner Houpt stated the reason she asked for more clarity; I have the sense that at this point you need some type of support on a conceptual level except you're talking about numbers, and you're talking about $300,000.00 in your current memo. But, you were also talking about what sounded like more money to me. I'm not getting a sense of whether you are looking for a specified amount of money; for matching monies with other housing funds that could come in, or if you are looking for more at the end of the day. Colin – I wish I had an easy answer to that. I need to know, 1) is the County interested, and 2) is there a limit for what that interest might be like? We put $80,000.00 in there; clearly more makes it affordable to the current residents. But if I have a general range then I know who else I have to talk to. The amounts may be determined by how many partners. Commissioner Houpt stated she is very interested in hearing from Geneva. Commissioner McCown asked who you envision operating and managing this facility. Colin – If you take a straight lot sale; there would be a homeowners association set up and they are on their own. Commissioner McCown asked from an affordable housing standpoint; the Garfield County Affordable Housing Authority would only be used as a conduit to pass Garfield County's money through. They would not have anything to do with the management? Colin – No, they would manage sales of the units. Commissioner McCown asked what if that creates displacement of existing homeowners, and what if it entails the purchase of these units. I think our Affordable Housing Regulations prohibit the purchase of existing homes. Carolyn stated she didn't know and would have to go look. Commissioner McCown stated he reviewed this in Section 8 in our new land use. Geneva – It would be mitigation for a new development; going out into the community, buying something that is run down and old. Colin – What we are trying to do isn't in your regulations; we would have to figure that out. The simplest approach would be to hold a lottery if necessary. But, you need a land trust approach potentially, there is an ownership group that owns the land, and they set up some qualifications.
Commissioner Martin stated he needed to see Geneva; as he doesn't make enough money. These people make more money than I do. Colin stated some people may not be eligible. Commissioner McCown stated we are looking at a displacement issue. Commissioner Houpt stated otherwise it is total displacement if it is sold for commercial use. I would like to hear from Geneva about her perspective on looking at an area that has affordability in it, and being a part of that. Geneva wanted to first briefly address the guidelines. She stated we have the opportunity to make an amendment to the regulations, or another clause, or a paragraph, or a sub-part. This particular mobile home park has been very well managed; it's one of the better ones that we have looked at. The residents own their own homes; they are not rentals, and that is very appealing. I learned earlier today that the owners that are in there are going to sell their units and they are over twenty (20) years old. The housing authority will have a lot of questions as to how this is all going to work out. It is a difficult endeavor at best; but, I think we have some good models we are looking at. The housing authority would not be in favor of misplacing households. We were happy, when we got surveys back, to find out that income levels of the people living there are in the eighty percent (80%). At the end of the day I guess the guarantee to the County would be that we would guarantee the re-sale of these units to a non-profit organization. The non-profit would secure the land and be committed to keep housing on the land. And at the end of the day; the only thing we might be able to say is that we helped preserve sixty-four (64) units of housing, to maintain homes, and not be leveled for commercial use of the land. Commissioner Martin stated there had been another issue in reference to mobile homes that are twenty years (20) and older. They are actually very well maintained and are very good structures; however, according to rules and regulations, if they are twenty years (20) or older, and they wish to sell them, they can't. They have to replace them. Which displaces that because it's a good unit; I think that needs to be looked at on a case by case basis? But, to sell a unit that's twenty years (20) old is wrong; we are facing that throughout Garfield County on these units. Commissioner Houpt – I think the benefit to this can be worded or looked at a little differently, and be made into a stronger argument to not only support this project; but, as you said Geneva, use it in different circumstances. We're talking about the need for affordability in this County, and that is only going to grow. We're talking about preserving some affordability in the Carbondale community instead of losing it, and you lose sixty-four (64) units, you have to have sixty-four (64) units somewhere else. That is a very expensive and time consuming prospect, and with the cost of land it would be very difficult to do. I personally think this is the type of creative approach to sustaining affordability that is important for all of our communities, and for the County to look at into the future. I certainly support this; I would like to have a clearer understanding of at what level we would need to support this through the Housing Authority to make it work. Geneva raised a very important point; if you start out with lots that are inflated to a level that makes them possible, then to sell it in the second generation of sales, we haven't accomplished a great deal. I think we need to realistically look at what all of the various partners can and are willing to put into this, and see where the state is and what kind of funding is available. I certainly would support this at a level that we've committed to support new housing developments. Commissioner Martin stated that one of the cautions we have to bring out is the identification of non *ad valorum* dollars that we can use on this particular one. We are just about tapped out with the project in Rifle and the other commitments we have. We need to look and see if we can even play this game in reference to dollars. Commissioner Houpt – Well, that may be true; but, when we talked about Rifle we also talked about the importance of identifying money that could go to other projects in the Carbondale area. The discussion had been going on and I think we do need to look at those dollars and Ed, I don't know if you have had an opportunity to do that. Ed stated it would come from the general fund; we have $13.7 projected for the year Commissioner Martin asked if we could identify that as non *ad valorum* tax dollars. Ed stated we have gone through that exercise before John, and you can. Commissioner Martin as long as we can keep the statutes clear and we are not using ad valorum tax dollars, which we are not allowed to do, I don't wish to visit across the street okay? Ed stated, fortunately we have sales tax, and fees that we have collected in the general fund. As Tresi indicated $1.5 million is targeted for the Rifle project. Fortunately for us we over achieved at the end of every year. Commissioner McCown asked Colin; to the best of your knowledge is the sole intent and purpose of buying this property for affordable housing. Is there future anticipated use as river access for recreational activities by the Town of Carbondale? Colin - It doesn't have river access; the water treatment plant is on the other side. They are interested in the other side of the river for that purpose. The time frame for doing this; we probably wouldn't need money until next fiscal year. We would go through the planning process to figure out; are we annexing, subdividing etc. That is going to take five (5) to six (6) months.

Commissioner McCown asked how much input will the existing residents have into which avenue is taken as far as developing. Colin stated they haven't really determined that yet. They have had a general meeting and maybe John can speak to that. They are all very interested in buying. They have provided the survey information very quickly. We would, at least, try and find a way to make it work for them. Commissioner McCown stated if our primary concern is displacement; I would think they would be foremost at the table when it came to negotiating this.
Colin stated they would give the residents the first right to get in there. What we have learned from other projects is that not everybody's willing, or able to do that. Commissioner Martin stated that some of the research that also needs to be done is the density in the zoning, the set-backs and the different requirements. If it was privately owned, simply because it is taking a piece of property and condominiumizing that piece of property, then does it really meet the zoning requirements, set-back etc. Unless you have spacing in between and if so you do have displacement. Colin stated; in talking to the fire dept…… Commissioner McCown – I can't think of any mobile home parks in Garfield County where the owners own the ground underneath them that has this kind of density. I don't know how that would apply to our zoning regulations. Commissioner Martin - If they are individually owned lots within their sixty-four (64) lots is what we are talking about within this particular acreage, which is nine (9) acres. You would have to look at that; that's pretty dense. Commissioner McCown – In good concept; I don't have a bit of problem as long as logistically we can work out the displacement, the ownership, is it going to be the land, is it going to be both or is it going to be one entity that is going to own the land. The other entity, the private parties are going to own their units on the land. I still want to see some logistics before I commit a number if you will. Commissioner Houpt stated we need a number too. I certainly support it as well. Colin stated they will come back to the Board with a firm number knowing that you are interested, and try to answer some of these questions. Commissioner McCown asked Colin to make sure Geneva is involved in the operation and on-going use of this facility. Commissioner Houpt asked if this works for the current property owners. John stated they have a number of partners, and they want to sell. We had a contract that we could have accepted in January; but, I said let's back off and see if we can do this. So we have just been holding back trying to see if we could get somewhere with this concept. I don't want to displace these people.

RELEASE OF ROAD BONDS GAIC NUMBERS FS4931962 AND 63, NORMAN A. CARPENTER, RESOLUTION 2003-39 (SUP TIMBER HARVEST; COUNTY ROAD 320) – CAROLYN DAHLGREN, MARVIN STEVENS AND MICHAEL VAN DERPOL

Teepee Park Ranch LLC is requesting that we acknowledge satisfactory performance under the terms of our road use permit, or overweight permit, and further that we release their surety and bonding company from all obligations provided pursuant to that permit. Marvin Stephen submitted a memo stating it is his opinion that Teepee Park Ranch LLC has satisfactorily performed all conditions of their permit, and that there are no potential claims that may be asserted by Garfield County against Teepee Park Ranch LLC under the terms of that permit. It is also his opinion that the County Commissioners should release Great American Insurance Company, the surety company, from the terms and conditions of bond number FS4931962. Carolyn stated that Jake and she spent quite a bit of time on the telephone with the bonding company, and with the legal representative of Norm Carpenter, who was the latest owner of this property. Your last resolution covering this property was 2003-39; that resolution required, and I am quoting "a road bond will remain in place with the County to overlay 1.6 miles of County Road 320 with asphalt at the completion of the timber harvest". The timber harvest factually happened at some point last year, and the property changed hands. My understanding is that County Road 320 doesn't need the overlay right now. Although the special use permit runs with the property; the bonds don't run with property. The bonds are in the name of a particular owner of property. What Carolyn understands from this trail of bonds and resolutions; it's done, it's over with. The bonds should be released, have to be released. We can deal with the new company which owns the company, which is an oil and gas company and require bonding for their use of the roads. But; there is no timber harvesting going on and this SUP is dead in the water. I would in fact recommend this SUP be removed if you will, as a cloud on the title to the land, because the property is no longer being used for timber harvesting. I do want to make clear the actual resolution runs with the land; but, not the bond. Commissioner McCown asked how we would impose the road bond on the new owners if they chose not to cut timber. Carolyn stated we can't. We have to do it through their over-weight and over-use regulations under our….. Commissioner McCown – We are assuming they will be overweight and over length. Carolyn stated then they needed to be getting permits through Marvin's shop, and that is where we would get their security. Commissioner McCown – They will be prohibited from using this section of road that would be overlaid.
Marvin stated right. Commissioner McCown stated the timber folks were allowed to use this section of 320; no other oil and gas activity is. Marvin said they had a meeting with the gas company and they assured us they would not be harvesting any timber. Carolyn – If indeed you want to revoke the permit, so that no one else can go in there and pick up that permit for timbering; then we need to have a revocation hearing under section nine (9), whatever it is of your regulations. I'm 99% sure that everyone involved will say great; get rid of the old permit, we don't care any more. Commissioner Martin – Except the reclamation needs to be verified; because the reclamation was a requirement as well. Commissioner McCown stated there is a big void between our State Forrester that is supposed to check into this. Carolyn – He is supposed to give a report every year; the new owner of the property, whether or not they were logging, is supposed to be coming in and having a formal meeting with you, has not happened. Commissioner McCown asked if the responsibility lay on the initial applicant for the special use permit to make that reclamation, or does it transfer to the new owner who has no interest in logging. Don DeFord said; as Carolyn indicated the permit runs with land and that is what you referred to as the cloud on the title; that is the problem. It really runs to the new property owner when they acquired the property, and that is who we seek relief from for violation of the special use permit, is the current property owner. So they acquired that liability along with the benefit of the special use permit. They may not, as a company view it as a benefit, because they had no intention to log on it. But; nevertheless it was a benefit to that property had they chose to do so. Commissioner McCown asked if the bond would remain in place at that time. Don stated no because the bond is written personally; that is why they are in violation of the special use permit right now. They do not have in place a bond as required by that resolution. But; that doesn't eliminate the rest of the requirements of the special use permit such as regulations. That is one element for which they are not in compliance. Carolyn – What I am hearing is; I didn't know this, that there were actual violations. Commissioner McCown stated I don't know that there is. We haven't dismissed the bond; so there is no violation, there is a bond in place. Carolyn stated no, the bond is

useless because it is not in the name of the current owner. Commissioner McCown asked; why are you before us today asking that we release this bond? Carolyn – Because it is useless and the bonding company wants a formal document from you so they can finish their process. But; we can hold on to it and say no, and tell Norm Carpenter, x-owner, to show up in front of you along with the new owner, and give you a report on what has and hasn't been done on the property. Commissioner McCown – Maybe, that would be the leverage we need to get Norm Carpenter back in here to comply with this reclamation on his slash piles. Carolyn stated she didn't know it was an issue, the reclamation on his slash piles. Commissioner McCown stated that a report was given to at least two (2) of us that it is; but, the only way to get that information is to trespass. I'm a little reluctant to go forward with that; I haven't seen the slash piles. Carolyn stated the SUP has not been revoked; so those responsibilities are still on the book. We would normally notify the current property owner; in this case I'll notify the current, and the old property owner, and say come talk to us about your reclamation. But in terms of using this bond; it's gone. Commissioner Martin – That may be; but, the cloud is still there and to get some type of action in front of us we need to say we are not doing anything until you come before us. Don stated he thought it was the right approach; refuse to issue a formal release. Although I agree with Carolyn we probably couldn't enforce it; but, in any event don't release it, and issue notice to appear to the current owner and the issue of the permit to appear before you for a report on why the permit should not be enforced, or revoked, and then have a hearing. Commissioner Martin stated they would expect the state forester to verify, because that was part of the action. Commissioner McCown stated it would probably be at least thirty days (30) days before they could verify. Don stated we would have to give appropriate notice anyway. He felt this was something the planning department needed to be doing through their enforcement office.

DISCUSSION OF THE 3RD SUPPLEMENT TO THE 2008 APPROVED BUDGED AND THE 3RD AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Don stated this is a noticed hearing and he has been provided with a copy of the publication providing such notice; there is no minimum time frame, and the contents of the notice, which was published on May 15th, indicates you have a hearing today to discuss the third (3rd) supplement. It is appropriate for you to proceed. Commissioner Martin swore in the speakers and stated the Exhibits were A, and asked if there were any other exhibits. Cathleen stated just Exhibit A. She explained there are two parts; budget supplemental increases for the 2008 budget, which are all expenses, there are no revenues indicated on the sheet. Second (2nd) portion is the contingency transfer request. Cathleen is requesting the Board to allow the changes submitted. Commissioner Houpt asked; under building and planning, on the transfer request, it is her understanding that the employee listed on that chart is not terminated. Cathleen stated they were aware of that and it came after-the-fact of the meeting. They will reverse on the next one. Cathleen explained the process. Commissioner Houpt asked; under the Coroner are all these new part-time hires? Cathleen stated that she, Don and Patsy met and they determined that the Coroners office employees, actually they were paying them through the accounts payable system, and it was determined…….. Don stated, let me go ahead on this, we have a fairly extensive meeting with the finance office, the Coroner, myself, Ed, and a number of deputy coroners were being paid as if they were contract employees. But they would submit their request for pay, there were questions on what they were invoicing, what the time periods were, and what their status was. Statute provides that the Coroner has the authority to appoint deputy coroners, making them therefore, employees of his office and employees of the County. What you are seeing is a move to take what were people who viewed themselves under contract, and making them part-time employees in the County. Commissioner McCown asked if they capped their hours. Don stated he thought they did; but, it's been a while. Ed stated they capped the hours as far as the benefits. For each time they go out and pick up a body; but, we didn't cap the hours as far as administrative work. We decided to have it all at twenty-five dollars ($25.00) an hour. Cathleen stated it is twenty-five dollars ($25.00) an hour and they stated it varies anywhere from ten hours (10) to forty hours (40) per week. It all depends what is put in this contingency as if it is part-time, so twenty hours (20) hours per week for the rest of the year for all of them, and there are no benefits attached to that. Commissioner McCown asked if personnel would have standing if they got over, consistently over, twenty hours (20) per week. If they got thirty-two hours (32) a week consistently would they have standing for benefits? Don stated yes; it is something the Coroner will have to monitor because that is not anticipated in his budget. Commissioner McCown stated if he has one person who is more able to respond than all the others, and they start getting the hours; that is an additional cost that I don't think anyone weighted in on. Don stated if it becomes a problem the coroner will have to come back to the Board. Commissioner McCown I move to close public hearing. Commissioner Houpt – Second.

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

Commissioner McCown – I make a motion we approve the resolution concerned with the third (3rd) amendment to the 2008 Budget and the third (3rd) amended appropriation of funds. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

DIRECTION TO STAFF RE: PARTICIPATION IN COGCC RULEMAKING PROCESS – COUNTY ATTORNEY

Commissioner Houpt left the room for this discussion. Don DeFord stated he wanted to confirm the discussion that Commissioner Martin had earlier as part of the Commissioner reports. We attended the pre-hearing conference in Denver last week; John, myself, Judy Jordan, along with many others. There were significant representation from the industry, from municipalities and counties, from the landowners, and mineral interest holders. Don stated he will generally refer to as the environmental and wildlife community as well. His perception was, John will have his own view of this, it seemed to Don that the acting director and the hearing officer had a difficult task in dealing with the number of people who have entered as parties in this matter, and obviously have an interest at stake. Don wanted to discuss; where we go after that hearing, particularly as it relates to counties. The counties and municipalities, as a group, have been allocated initially five hours (5) of time to discuss their concerns. Mr. Eppel emphasized at the beginning that was the initial concept of the commission; but, one of the purposes in the pre-hearing conference was to discuss that timing. For counties and municipalities, it was evident there were a variety of concerns and Don thought that he and John both emphasized that Garfield County really had its own concerns and interests. As one of the major producing (perhaps most active counties in the state) we felt Garfield County's interest and concerns were unique. Don felt the commission staff was fairly receptive to our position in that regard. The proposal that the counties and municipalities gave to the commission staff, was that instead of allocating the five hours (5) per representative over

maybe ten days (10) worth of participation (starting on June 23rd) it would make more sense to put all of the counties, and municipalities in one time block (one day) so that our concerns could be heard at one time with questions answered at one time. The staff appeared to be receptive to that proposal. Remember this is in addition to written testimony we have already submitted. Don stated they would not know for sure if it is an acceptable proposal until June 23, when the commission itself will consider the manner in which it will proceed, and also consider procedural motions. Don stated he will specifically ask if other attorneys do not, that they give us some feedback on that so, we know how to prepare for the hearing. June 23 will not be a public hearing presentation; but it will be to consider procedural issues, and procedural motions. Among those motions will be the motion to bifurcate, and the motion to extend the time for hearing submitted by COGCA in which we support it. Don does not anticipate changing the Garfield County position. Also pending is the request of Pioneer Natural Resources to conduct a regulatory analysis; I haven't heard a response yet from the commission at the pre-hearing conference. If there is no response, I think our position should remain the same. I also think our position should remain the same if there is a response; but, it does not address County issues. Commissioner Martin stated to note that we have also adjoined Pioneer in reference to that. Don stated he thought John is correct on that. One other issue that may come up on June 23; question of the pending pre-emption of concerns of Counties LaPlata, Gunnison, San Miguel -- they have joined. Mesa County has not joined; but, has a somewhat similar position pending, and we have not taken a position on it formally. It is possible there will be no consideration of that motion, because it is really not a procedural motion. We have all been told there will be no evidence presented on June 23, strictly legal issues. Don does not believe they will proceed on the issue; but, in the event they want to proceed on the pre-emption issue, he is not suggesting we do anything other than what has been done, which is not take a position. Don just wants to make sure that is what the Commissioners want to do. Commissioner Martin stated he thought that was the way they needed to go. Don stated that in a general sense the proposal, as he reads it, is just as you see it John. It sets a floor, which is the state regulation and leaves the question of operational conflict still to the courts where it has been for many years. Commissioner McCown stated that is the position we have taken for many years. Why we haven't adopted rules is basically because, like LaPlata County who has been taunted for years having oil and gas regulations, those regulations simply mirrored the COGCC rules. We saw no need to do that; they were being enforced at the state level. Don stated, if it is alright with the Board my position, at least on June 23, will be Garfield County formally has decided to take no position on the request. Right now we have June 10 set for public comment in Grand Junction. Don's understanding of that is he wants to see it confirmed, strictly it is for the public to come in and make comment; it is not an opportunity for the parties to make formal presentations. On June 23, we start the formal hearing process with the party presentations; Don would like to see conformation of the position that was related to you concerning government entities. We would have an opportunity either to lead that off, or in the alternative, this is what we need to know, would it follow the state presentation. Remember the rules are the States and in normal due process hearings; the first obligation is for the proponent to put on their case. Commissioner McCown stated that involves over nine hundred (900) pages. Don – Larry, that is a critical item, because if the State goes first and puts on their case, and there is cross examination and clarifications; that could easily take the whole week. Don's suggestion is that other than our formal presentation; I don't know that I would encourage county representatives to be there on a full time basis, unless you see merit in that. Commissioner McCown asked Don if he saw that coming to any definitive closure on June 23. The order of presentation and if the State is going to open with their case and then next will be governments, then next the industry, then next divisional wildlife; is that how you envision on June 23 some perimeters being set?
Don stated yes. Right now the way the order is written, as he said everyone had their little time block, but then they also went on to say that each series of rules would be considered in sequence. When that came out the anticipation of all the parties would have been; let's take the three hundred (300) series, which the State would make a presentation on why the rules, draft form, are as they are. Then everyone would have a response to that. If we change that batting order then that might change that process; or it might not. He is still going to ask that the governments be allowed to go first, because of the logistic issues. We'll come back from the June 23 meeting with more; Don will do a memo for the Commissioners at that point. Don anticipates being the only one (1) there on June 23 unless Judy can make it.
Commissioner Martin stated; to get to the magnitude of the folks who may be listening, the magnitude of the information that was supposed to be forwarded crashed the States computer system and bounced back every document, every map, and every response to 90% of the people that were there. The commission themselves have a tremendous amount of documents to go through. Don stated he will have all materials available in his office and through Judy's office that we receive, and makes it through the State computer system. On June 2, I will need to know if you want to submit a rebuttal statement. Don does not anticipate and he does not have the time to review the many thousands of pages of material. If the oil and gas liaison has a position she wishes to have set for the rebuttal or the Commissioners; let me know on the second (2nd) and we will do that. There will be one copy, hard bound, in Don's office and the rest is available on the computer. Many of the graphic presentations did not make it through the State computer system. What the parties are doing is putting web links on the submittals if you want to see them.

CONSIDER A SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES (PRODUCED WATER GATHERING FACILITY) ON A 280 ACRE PARCEL LOCATED SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 326 – APPLICANT: CIRCLE B LAND COMPANY – DAVID PESNICHAK

Cody Smith, Wagon Wheel Consultant, was present. Carolyn stated it was her understanding the applicant wanted to open the hearing but ask for a continuance, is that correct Cody? Cody stated that was correct. 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. Cody stated his request is in Exhibit L, to continue this hearing onto a June hearing or the next available hearing to allow Bill Barrett some time to address some concerns with the conservation easement. They felt they were in compliance and are right now in negotiations with Aspen Valley Land, and also to address concerns of surrounding landowners. Commissioner McCown informed Cody the next meeting is June 2, is that too soon; would you prefer the ninth?
Cody preferred June 9. Commissioner Martin asked if anyone in the audience had come for prepared testimony. No one had. Commissioner McCown I make a motion we continue this hearing until June 9, at 1:15 time slot.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONDITIONAL USE PERMIT FOR A HOME OCCUPATION – LOT 1A, PARK SUBDIVISION AT 1215 COUNTY ROAD 112 – APPLICANTS: CHARLES KNUTH AND HEIDI MCGUIRE – KATHY EASTLEY

Charles Knuth, Heidi McGuire and Nancy Smith were present. Nancy will answer all questions. Charles Knuth answered questions regarding the posting of the property. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Kathy Eastley submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Application materials; Exhibit E – Staff memorandum; Exhibit F – Letter dated April 9, 2008, from Jake Mall Garfield County Road and Bridge; Exhibit G – E-mail dated April 17, 2008 from Janet Buck, Town of Carbondale and Exhibit H – E-mail dated April 29, 2008 from Jim Rada, Garfield County Public Health. Chairman Martin entered Exhibits A – H into the record. Planner Kathy Eastley explained: The Applicants propose to conduct their business in existing space above a two-car garage which currently exists on the property. The second level of the garage is currently utilized as storage space and is proposed for conversion into a studio to be utilized by the property owners to conduct their business - event production & corporate theatre. The work includes preparatory set-up via phone, fax, internet and email with the actual production completed on-site of the event or show. The business consists solely of the property owners and there are no employees, no vendor/suppliers/inventory or shipping traffic associated with the use. Customers will not visit the site as the prep work is done electronically. The Applicants have been utilizing space in their home to accomplish the prep work for their business; however, they now seek to have a separate area dedicated solely to this use. The structure, as it currently exists contains a two-car garage on the first level with approximately 784 square feet of storage space. The applicant will utilize the existing space and are currently in process of designing an expansion to the structure which will add a garage bay as well as expand the second level area.

STAFF RECOMMENDATION

Staff finds that the proposed Home Occupation can be conducted in compliance with the Garfield County Zoning Resolution of 1978, as amended. Impacts from the proposed use as represented by the Applicant will not adversely impact adjacent uses. Staff recommends that the Board of County Commissioners APPROVE this request for a Home Occupation for the property owned by Charles Knuth and Heidi McGuire at 1215 County Road 112 with the following conditions

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners, shall be conditions of approval, unless altered by the Board of County Commissioners.
2. Appropriate building permits shall be obtained for the proposed changes to the existing garage structure.
3. No retail or wholesale sales of any kind associated with the activities of the Home Occupation shall be allowed to take place at the property which requires any visitor traffic.
4. All operations of the home occupation shall be conducted within the dwelling or accessory building.
5. No signs advertising the home occupation may be placed anywhere on the subject property.
6. No employees are allowed for the home occupation. Only the property owner and any family members residing at the subject property may be involved in the home occupation.
7. The Applicant shall be prohibited from erecting any signage or lighting associated with the Home Occupation.
8. 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 by the Applicant

Kathy stated the only response they received regarding the application was from Jim Rada from the Garfield County Public Health. It was regarding a change of ownership on their well permit. This site currently has an existing special use permit for a resort, and the applicants do not want to use that special use permit at the current time. They would simply like to use the site for their business. Staff is recommending approval with the conditions as outlined in the staff report. Charles stated he believed Kathy had described everything well and don't have anything to add.

Commissioner McCown said; the statement was made that you had no intention of using the special use permit that is now on the ground on the land. As a condition of approval you would not have a problem with the County starting a procedure to revoke that special use permit? Charles stated they would have no problem regarding the resort.

Commissioner Martin asked if there was any testimony from the audience. Charles stated there was one condition that the ownership of the well be transferred, and that permit has been completed and submitted.

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

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

Commissioner McCown – I make a motion we approve the conditional use permit with the eight (8) conditions from staff; adding number nine (9) and that would be the revocation of the existing special use permit allowing for a resort.

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

REQUEST A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT – 0594 COUNTY ROAD 110, CARBONDALE – APPLICANT: GARY JOCHUM ADU – DUSTY DUNBAR

Gary Jochum was present and answered all questions. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Memo from Steve Anthony, Garfield County Vegetation Management Director, dated May 13, 2008 and Exhibit G – Memo via e-mail from Jake Mall of the Garfield County Road and Bridge Department dated May 14, 2008 and adding Exhibit H – Garfield Comprehensive Plan. Chairman Martin entered Exhibits A – G into the record. Planner Dusty Dunbar explained: The applicant requests the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 4.51-acre parcel, and located south and east of the City of Glenwood Springs. The proposed ADU is to be a new free standing unit. Access for the ADU will be provided via an existing driveway off County Road 110 that presently serves both the principal dwelling unit and a residence on an adjacent parcel.

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. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits.
4. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
5. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
6. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.
7. The Applicant shall obtain approval for a septic permit which can accommodate the accessory dwelling unit prior to the issuance of Building Permit.
8. The Applicant must provide to Garfield County Vegetation Management a noxious weed survey of the parcel and develop a noxious weed management plan in response to finding any weeds listed on the Garfield County Noxious Weed List.

Commissioner McCown questioned; in the application there is a blueprint or a drawing of the ADU which shows square footage of 2,468 square feet, and I did the calculations on the numbers in each room and came up with 2,756.

Dusty stated it must have been the un-revised version she sent by mistake, because they did take a look at that, and the applicant has modified the structure so that it satisfies that size requirement. Commissioner McCown asked to look at the newest version. Gary showed Commissioner McCown the amended blueprints. Dusty stated that she met with the building officials on this plan to make sure we were satisfying the building code, and it has to do with the kind of square footage that you calculate that total on. Storage is not included, garage is not included; but, heated living space is. If the closet is on the inside of the house, it counts; if its storage in the garage it does not.

Gary stated he had nothing to say unless there are questions. Commissioner McCown stated he would certainly hate to approve and that would be in the building code, and then the gentlemen gets to the building permit stage……. Gary stated the confusion could be that he hand drew his plans. Commissioner Martin stated just as long as you know there can't be more than 1,500 square feet.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.
In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the special use permit with the eight (8) conditions from staff.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PRELIMINARY PLAN FOR VALLEY VIEW COMMONS TO CONSTRUCT A 56 UNIT RESIDENTIAL SUBDIVISION WITHIN THE BATTLEMENT MESA PUD – APPLICANT: DARTER LLC – DAVID PESNICHAK

David McConaughy, Terry Lawrence, Darter LLC/Grace Homes and Chris Hale from Mountain Cross Engineering were present. Carolyn asked David who owns the property now. David replied, it is owned by Darter LLC. Carolyn asked David about the mineral interests; are they reserved to the Hoagland's. David stated that was correct, and the Hoagland's reserved the minerals when my client acquired this from them. David advised the Commissioners this is his fifth (5th) application regarding the larger parcel. Darter LLC is now the sole owner of the remaining parcel; but the Hoagland's were the mineral owners. Because they were a co-applicant originally they did not get mailed a copy of the notice of today's hearing as a separate mineral owner. David did obtain a waiver signed by the Hoagland's for any notice requirements. Carolyn asked if the document was an original. David stated it was a fax because he just received it this morning, and he can submit the original to Carolyn. Lisa Shone posted the property and David brought an affidavit from her. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A – Garfield County Subdivision Regulations of 1984 as amended; 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 – Memo from Steve Anthony of Garfield County Vegetation Management Department dated February 1, 2008; Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated January 15, 2008; Exhibit H – Letter from TC Wait of the Colorado Geological Survey dated January 24, 2008; Exhibit I – E-mail from JT Tomatzke of the Colorado Division of Wildlife dated January 24, 2008; Exhibit J – Letter from Craig Lis of the Colorado Division of Water Resources dated January 29, 2008; Exhibit K – Letter from Michael Erion P.E. of Resource Engineering dated February 5, 2008; Exhibit L – Resolution dated August 14, 1975 establishing Battlement Mesa Planned Unit Development; Exhibit M – E-mail from Chris Coyle of Balcomb and Green dated February 5, 2008; Exhibit N – Meeting Minutes from January 17, 2008 by Felsburg, Holt and Ullevig regarding project update and funding options for Battlement Mesa Parkway/I-70 Interchange signal design; Exhibit O – Proof of Mail Receipts; Exhibit P – Proof of Publication; Exhibit Q – Letter from Rob Ferguson of the Grand Valley Fire Protection District dated January 23, 2008; Exhibit R – Additional water supply information from Thomas A. Zancanella dated February 7, 2008; Exhibit S – Letter from Craig Lis of the Colorado Division of Water Resources dated March 14, 2008; Exhibit T – Updated Weed Management Plan and Weed Survey dated May 1, 2008 and Exhibit U – E-mail from Steve Anthony of the Garfield County Vegetation Management Department dated May 8, 2008. Chairman Martin entered Exhibits A – U into the record. Planner David Pesnichak explained: The Applicant is proposing 56 multi-family dwelling units on four lots with provisions for commercial uses on Lot 3. A total of 16 building envelopes are proposed to facilitate the anticipated 56 dwelling units. The proposed commercial use is for 37 self-storage units which require a Conditional Use Permit under the Mixed Use Zone District.

This Conditional Use Permit shall not become effective until the Final Plat creating Lot 3 is recorded. The development will be served by a looped street that has two access points from existing Valley View Drive and Stone Quarry Road. All internal streets are to be entirely within the seventy foot wide (70') access and utility easements and shall be dedicated to the Board of County Commissioners on behalf of the public. Both water and sewer for this project are to be served by the Consolidated Metropolitan District. This Application was heard by the Planning Commission on February 13, 2008. At this hearing, the Planning Commission voted 5-0 to recommend that the Board of County Commissioners approve the submitted Preliminary Plan.

Staff Recommendation

Staff recommends that the Board of County Commissioners APPROVE the proposed Preliminary Plan 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.

Site Disturbance and Soil Management

2. In accordance with the comments received from the Garfield County Vegetation Management Department, the following documents shall be submitted and approved by the Vegetation Management Department prior to Final Plat:

- Soil Management Plan following the provisions as outlined in Exhibit F.
- Information identifying the area to be disturbed in terms of acres and subsequently reseeded on road cut and utility disturbances.

Easements

3. The Applicant will need to delineate and legally describe all easements on the final plat and convey all easements shown on the plat to the Homeowners Association. This dedication needs to be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the final plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, water system easements, storm-water drainage easements, and all internal roads required as apart of this development.

Impact Fees

4. The property is located in Traffic Study Area 1A which requires a $4 per Average Daily Trip (ADT) fee be paid to the County in a traffic impact fee. This fee will be figured at the time of final plat. The Applicant shall pay ½ of the total impact fee at final plat and included as a component of the Subdivision Improvement Agreement (SIA). The remaining half shall be divided among the lots to be paid at the time building permits are submitted to the County for individual lot development.

David McConaughy asked to go back to one of David Pesnichak slides that showed the lots. With only four (4) conditions we are pretty happy with staff's view. He did want to clarify the point about the roads, and he went over the maps and showed roads. He wanted to be clear on the different building envelopes; those are to be re-subdivided in the future to ultimately create individual multi-family units, and that is part of the application. You can see that every building envelope is entirely outside of the seventy foot (70') wide easement area for access and utilities. The issue that came up; is how you measure the set-back, and part of the reason is we are proposing an easement to make that move. The travel lane is considerably narrower than seventy feet (70') which is required by your regulations. If you create the property boundary at the edge of that easement; then you create a set-back problem even though we are probably a good twenty (20) or thirty feet (30') back from the edge of the pavement. That is part of why we wanted to be clear that it is proposed as private; but, by describing it as an easement it allows us to build what you see there. If we have to dedicate the right-of-way as a separate parcel then the set-back measurement gets a little funny in terms of how you position the building inside that building envelope. He feels they are on the same page as staff. Commissioner Houpt asked if staff wanted to respond to that. David P. stated that he didn't have anything major to add. They don't see any issues in terms of the set-backs. The only issue in terms of the dedication is the enforcement for parking and speeding. It would be a huge issue given the length and curve and nature of the streets. Commissioner Houpt asked if they were too narrow for parking. David P. stated they are proposing parking; do not know exactly where. I believe there are twenty-one (21) off street parking spaces. Commissioner Martin stated there is actually a technical issue on enforcing parking on these streets; simply because we have no provision to do such. David M. stated one thing they could do; if there is a problem in how to enforce those requirements, we certainly have the option of making the County a third party beneficiary of the covenants. It would give you the right but not the obligation. Carolyn – No. There will be no dedication to the public on the face of the plat; rather there will be a conveyance from the developer to the HOA of the easement. The words of that easement will allow the public access onto those private roadways; but, that will not be enough to give the sheriff enforcement authority over parking, speed limit etc….

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing.
In favor: Houpt – aye McCown – aye Martin – aye

Commissioner McCown – I make a motion the Board approve the proposed preliminary plan with the ten (10) plat notes and the four (4) recommended conditions from staff as shown in the staff report. Commissioner Houpt – Second. Carolyn asked if would it be appropriate to add, this is a suggestion, because of the issue of the sheriff not being able to enforce speed limits and parking; would it be appropriate to add a plat note rather than just the description as a private easement. We could have a plat note that also says; be advised that the HOA is responsible for parking and speed limit enforcement on these private right-of-ways not the sheriff. Would that help? Commissioner McCown – I don't think we can transfer that authority to a homeowners association to enforce. Carolyn stated it is a private right-of-way; they can do it. Commissioner Houpt stated it might help to clarify things. Carolyn – At least to make it clear that the Sheriff doesn't do it. Terry stated they have two (2) or three (3) of the deputies right now on the adjoining property that live there; so it helps a lot. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT FOR A CAMPER PARK LOCATED APPROXIMATELY ONE MILE SOUTH OF THE GARFIELD COUNTY AIRPORT ON COUNTY ROAD 319 – APPLICANT: 319 WATER COMPANY – DAVID PESNICHAK

Larry Mincer and Jimmy Sills were present. Mr. Sills answered all noticing requirements. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Staff memorandum; Exhibit E – Application ; Exhibit F – Memo from Steve Anthony of the Garfield County Vegetation Management Department dated April 15, 2008; Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated March 27, 2008; Exhibit H – Memo from Will Spence of the Colorado Division of Wildlife dated April 15, 2008; Exhibit I – Memo from Matt Sturgeon of the City of Rifle dated April 14, 2008; Exhibit J – Memo from Jim Rada of the Garfield County Public Health Department dated April 14, 2008; Exhibit K – E-mail from Mark Kadnuck of the Colorado Department of Public Health and Environment (CDPHE) dated April 10, 2008; Exhibit L – Memo from Michael Erion of Resource Engineering dated April 15, 2008; Exhibit M – E-mail from Kevin Whelan of the Rifle Fire Protection District dated April 16, 2008; Exhibit N – E-mail from Jimmy Sills of 319 Water Company dated February 25, 2008; Exhibit O – Fax from Jimmy Sills of 319 Water Company dated April 22, 2008; Exhibit P – Fax from Jimmy Sills of 319 Water Company dated April 23, 2008; Exhibit Q – Letter from Mark J. Vanarelli of the Colorado Division of Water Resources dated April 17, 2008; Exhibit R – Letter and additional information as required by Planning Commission dated May 2, 2008; Exhibit S – E-mail from Jim Rada of the Garfield County Public Health Department in response to information provided in Exhibit O dated May 9, 2008; Exhibit T – Letter from Michael Erion, P.E. of Resource Engineering Inc. in response to information provided in Exhibit O dated May 9, 2008; Exhibit U – E-mail from Matt Sturgeon, Assistant City Manager of the City of Rifle to Jimmy Sills dated May 7, 2008; Exhibit V – E-mail from Jimmy Sills to Matt Sturgeon in response to Exhibit R dated May 8, 2008; Exhibit W – Stop Work Order issued to Jimmy Sills of 319 Water Company dated February 21, 2008; Exhibit X – Stop Work Order issued to Jimmy Sills of 319 Water Company dated April 1, 2009; Exhibit Y – Stop Work Order issued to Jimmy Sills of 319 Water Company dated April 15, 2008 and Exhibit Z – Follow-up letter and conditions of approval from the Planning Commission public hearing dated April 24, 2008.
Chairman Martin entered Exhibits A – Z into the record. Planner David Pesnichak explained: The Applicant is proposing to build and operate a 100 space Camper Park on a 35.75 acre property just south of the Garfield County Airport on County Road 319. No tent spaces are proposed. Each space is to be provided both wastewater and potable water hookups. Wastewater is to be accommodated by three Individual Sewage Disposal Systems (ISDS) while potable water is to be supplied by a central water system. At the Planning Commission hearing on April 23, 2008, the Applicant reduced the number of Camper Spaces from 100 to 60 spaces in order to provide 100 gpd of wastewater and match the required 100 gpd of water supply per camper space. As a result of this change, the Planning Commission is recommending by a vote of 6 to 0 that the Board of County Commissioners approve the Special Use Permit as amended. As a result of the Planning Commission hearing, the Applicant has submitted an updated ISDS plan and site plan on May 2, 2008. This plan was reviewed by Jim Rada of the Garfield County Public Health Department and Michael Erion, P.E. of Resource Engineering on May 9, 2008 (See Exhibits S and T, respectively). If approved, the development of any additional camper spaces above 60 would require a new Special Use Permit through Garfield County or annexation into the City of Rifle. The Applicant is proposing to construct a "Camper Park" to accommodate 60 self-contained Recreational Vehicle (camper) spaces. Each space within the park is to be served by central water and wastewater hook-ups. Water is to be supplied by a shared well which has been demonstrated to produce up to 35 gallons of water per minute while wastewater is to be accommodated by three onsite Individual Sewage Disposal Systems (ISDS). The Applicant has represented that the intent of the Camper Park is to fill a niche for Recreational Vehicle spaces to accommodate temporary workers and their families needed within the gas industry. As this type of use is not consistent with the intent of the Camper Park regulations (geared toward tourism) within the Garfield County Zoning Resolution (Section 5.02), the Applicant is requesting a waiver from Section 5.02.20. Section 5.02.20 requires that "Occupancy in camper parks by any individual shall be limited to no more than one hundred twenty (120) days per year in any one (1) or combination of camper parks in the County." This request is discussed later in the Staff Report. The Applicant represented at the Planning Commission Hearing that the Camper Park would be open to recreational tourists as well. The Applicant has represented that the hours of operation are to be 24 hours a day, 7 days per week. The traffic study indicates that trip generation from the site is to be approximately 177 ADT. The report goes on to state that this translates in to 32 trips during the a.m. peak and 48 trips during the p.m. peak. Overall, the Camper Park is to increase the traffic on CR 319 by 13% while the a.m. and p.m. peak hours will be an increase of 20% and 34% respectively (based on 100 space camper park). David identified definitions from Section 2.00 of the Zoning Resolution which are relevant to this application. The 35.75-acre property is located approximately 1 miles south of the Garfield County Airport and the City of Rifle limits. Access is provided via County Road 319. Physically, the property is undulating and generally rises upward away from County Road 319. The property is covered mostly by sage brush, pinion juniper and dry grasses. (See street and topographical map on following page) The Property is also adjacent to the Rifle Airpark Annexation.
STAFF RECOMMENDATION
At this point, Staff finds the application to be deficient in the following areas:
1) The Applicant has not demonstrated that the proposed wastewater disposal system (ISDS) can meet the applicable ISDS standards and regulations. Relocating ISDS #2 as outlined previously will likely result in major site plan alterations and/or require CDPHE approval (will no longer qualify for Policy 6); and
2) Grading and Site Disturbance has occurred on the Subject Property. Three (3) Stop Work Orders have been issued to the Applicant by the Garfield County Code Enforcement Officer (See Exhibits W, X, and Y) and County Staff is currently exploring additional legal action to obtain compliance. The Applicant has also been notified by the City of Rifle regarding non-compliance with the City of Rifle's Watershed Regulations (See Exhibits U and V). This grading and site disturbance will hinder the process of: 1) Obtaining a Watershed Permit from the City of Rifle which prohibits site disturbance prior to issuance of the permit, 2) Conducting and approving an updated Integrated Vegetation and Weed Management Plan for the Special Use Permit, and 3) Issuance of the Garfield County ISDS Permit as soil compaction appears to have occurred in the area of ISDS #3.

In addition, it appears that the area of disturbance could be greater then 1 acre and Staff understands that a Stormwater Permit has not been obtained from CDPHE. CDPHE has been notified of this issue.
As the issues of grading and site disturbance directly affect the permitting potential of this development, Staff suggests that these issues of non-compliance be considered in the Boards deliberations.
3) The rearrangement of the ISDS's as submitted on May 2, 2008 has relocated the systems outside of the areas where the percolation tests where originally conducted. In addition, the grading and site disturbance has likely resulted in soil compaction in the area of ISDS #3. As a result, new percolation tests need to be performed and evaluated by the Garfield County Engineer and Garfield County Public Health Department.
4) A new site plan needs to be submitted which does NOT depict any more then 60 Camper Spaces. Anticipated future development should not be shown on the proposed site plan since any additions above the requested 60 Camper Spaces or alterations will need to obtain a NEW Special Use Permit from Garfield County or the development will need to be annexed into the City of Rifle.
5) Although the Applicant has submitted an application to the WDWCD to amend the water allotment contract and a letter from the Applicant's legal council laying out the anticipated plan to gain legal water for this development, the Applicant has not demonstrated that legal water is available to the Camper Park to date;
6) The Applicant has not adequately determined the traffic impact on the County Road system;
7) The Applicant has not recorded an access easement or boundary line adjustment to guarantee legal access to the subject property;
8) The Applicant has not obtained a City of Rifle Watershed Permit (must be obtained prior to site disturbance);
9) The Applicant needs to provide a current weed inventory and map. The Applicant must also provide a weed management plan (integrated vegetation and weed management plan) that reflects the inventory. The site shall not be disturbed prior to conducting and approval of the integrated vegetation and weed management plan;
10) Soil management, revegetation, and reclamation plan and financial security, in accordance with the Garfield County Weed Management Plan 2000, adopted by Resolution No. 2002-94 and recorded in the Office of the Garfield County Clerk and Recorder as Reception No. 580572, Book 1251, Page 566, as amended. The Applicant has provided the plant material list and revegetation plan for the Mamm Creek Commons project. Staff assumes that they want to utilize that plan for this project. The Applicant must quantify the area, in terms of acres, to be disturbed and subsequently reseeded on road cut and utility disturbances. This information will help determine the amount of security that will held for revegetation. Staff recommends a revegetation security once this information is provided;
The Applicant must provide a Soil Management Plan that includes:
Provisions for salvaging on-site topsoil.
A timetable for eliminating topsoil and/or aggregate piles.
The plan shall provide for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more.
11) The Applicant has not submitted a solid waste disposal plan;
12) The Applicant has not obtained a permit from the CDPHE for a Community Water System;
13) The Applicant needs to meet with the Rifle Fire Protection District to find solutions to issues raised within Exhibit M.
Based on these deficiencies, Staff recommends that the Board of County Commissioners **deny** this request for a Special Use Permit.
David stated some other considerations; the applicant has been issued three (3) stop work orders as shown in Exhibits X, Y and Z, the property is taxed as clad 0200 or vacant commercial lots and it is not agricultural. It appears to be greater than one (1) acre and as far as we know a CDPHE permit for storm water has not been obtained; the CDPHE has been notified of the issue though. Other issues surrounding the disturbance and grading is permit issues; obtaining the watershed permit, conducting, and improving revegetation and weed management plan, and potentially the issuance of Garfield County ISDS permit for ISDS number three (3). Lastly the applicant is requesting a waiver from the 120 day occupancy limit as outlined in section five (5) of the zoning resolution. Essentially the applicant will need to pursue one (1) of two (2) paths of either a variance with the Board of Adjustments, or text amendment to the zoning resolution of 1978 to obtain, or go beyond the 120 day occupancy limit. Larry Mincer informed the Board that they met last month with the Planning and Zoning Commission; reviewed the proposal and the Planning and Zoning voted to approve the application with several conditions. Most of those were referred to in connection with this report; in fact they cover almost four (4) pages. We have reviewed all of those conditions and we don't seem to have a problem with them. We started out knowing we had an issue with regards to the water and the water quality. That required a one (1) year testing plan, which was completed the first (1st) part of this year; following we had an engineering report and a submission. My understanding is we have submitted to water quality control for that (someone stated not yet) so we are preparing to submit for their approval. Mr. Sills stated, before I get into the sewer, I want to hit on this water real quick. It takes one (1) year of testing to become eligible to submit for a community water system. We went through that process; there was a trace of uranium found in our well. We have ordered the equipment to fix that; we have obtained the building permit to build an addition to our pump house, and the equipment is on its way, and it should be installed in less than ten (10) days. That is something that has to be fixed no matter what happens with this proposal. As part of the water on this proposal; it goes through some certain steps. The first (1st) one is we go back to the West Divide Water Conservation District and we get a revision to our contract with them. That meeting, I believe, is on May 29, after we get that we go to the well permitting people and get our well permit changed so that it meets the West Divide Water Conservation District, and after that we file the water to the State as a community well system. We are very much aware of the conditions and what we have to do to address the water. The septic issue is one that was brought up originally, because our engineer is on vacation and could not be here. Jeff Odor, with Bullseye Engineering out of Rifle, who did the design; originally designed our one hundred (100) spaces using the one hundred (100) gallons per day that was in the State regulations; which, Jim Rada later pointed out this County requires it to be fifty (50) gallons per day. That is the reason we cut the number of units from one hundred (100) to sixty (60). The locations of the septic and the leech fields have been re-submitted, and I heard David speaking about the ISDS number two (2); which, might be too close to an intermittent stream. I've been there for thirty (30) years and I don't know how intermittent that stream is; that's okay if

we have to deal with that issue, we certainly can. There is a secondary treatment resolution that can be done with that, and we are fine with that being a condition of approval. When my engineer returns from vacation; he and Jim will get together and work it out, and get it done. Larry Mincer stated that the applicant has applied with the City of Rifle for the watershed permit; that application is pending with them. The applicant received a watershed permit in connection with an adjacent development and had no problems with their requirements. As far as the stop work is concerned; he was issued the stop work order in April, and I don't know whether the correspondence from Andy Schwaller on April 4, was one of the e-mails that you have; but, his first statement in there was he was sorry he may have jumped the gun on the work permit. He and Jimmy then met and went over it; after studying a little bit he recommended that we get the grading permit. It was beginning to move toward where that permit was necessary. Since that time; there hasn't been any work done on that property. I don't know what day that was. Commissioner Houpt stated she had a stop work order from February. Mr. Sills stated that he believed the document that you're seeing; the first time I saw it was when I got the staff report, is something that may be a person named Brett Closs filed with the County objecting to something, I don't know what that is all about. The quick summary of the stop work order problems is; on April 1, Chris issued me a stop work order. On April 3, I responded to Chris about that, on April 4, that is when Andy sent me an e-mail saying we are sorry we jumped the gun, on April 16, I spoke to Chris and said I was continuing to work and doing some infrastructure work. You don't have to have a grading permit to put in trenching, sewer, and utility lines. That is per section 12 J103-2 item five (5) says; "excavation for utilities and trenching for utilities is exempted from a grading permit application". So we have been doing some of that, and then I believe the city was brought into it because of the watershed permit. I had actually applied prior to hearing from Matt about that; now we have our watershed application in, and I don't believe we have violated any County regulations, and I would care to argue that with anyone who wants to. I have the documents here that say what I am allowed to do on my property and I believe I can do things on my property. Larry Mincer asked Mr. Sills if there had been any work since the middle of April.
Mr. Sills stated no, we are working on the property across the way, which is where we are building the new building right now. I can't say that we haven't done anything on the water company; but, we have basically stopped working on the water company. If we need some fill dirt we will go over there and get it, you know. But as far as working on that site; we have not put in any additional services. Larry Mincer stated that one thing that needs to be looked at end of their presentation packet is the list of the conditions which were approved at the meeting at the Planning and Zoning Commission. I don't believe there have been any changes to that since then, is that correct? David P. – That is correct. Larry Mincer – We started to work on all of them, so they are not something that can't be met. The proposal can hopefully meet with more pressing needs, more immediate needs, for some housing so that we don't get into problems pushing them into hotels and motels around the area. With this facility we would be able to meet some of those goals. John Terry –Resident of the Grass Mesa area that is being discussed today. What I haven't seen mentioned was the road conditions on Grass Mesa. For one (1) thing that permit is for our access off 319, which would be to the west and to the southwest higher up on Grass Mesa. Another thing that has come to my mind; being aware of the housing shortage they do have around here, and unfortunately they think housing shortage is because of the oil and gas companies. Unfortunately, with my experience and as a retired police officer from Illinois; I've seen temporary camper sites turn to permanent residence with trailers. I've seen them come up and I've seen them go down. Unfortunately, when I see them go down; I see a lot of folks that shouldn't be in the area. Because let's say the production of oil and gas that they are brought into the area; that is not the best way to raise your children in the area. Already we have had problems with our children because of the building because that affects the school bus routes. Right across from one of the construction sites now, we have postal mailboxes and I'm sure that will change also. I don't know what kind of consideration that has with the postal people because from what I understand; once it's in it's in. There is a lot of talk about possible annexation from the City of Rifle. Well, you can go ahead and annex; but that doesn't mean you will have police coverage, or fire coverage out there. That's the problem we face right now is where we live which is ten miles (10) outside of the airport lets say. I just see a continuation of a problem; I don't see any solutions. I can understand where someone may say it's my land; I can do what I want with it. Unfortunately, when I said that; I had EnCana and other numerous oil companies pop-up well sites two hundred yards (200) outside my door. So it is not what you want; it is usually what is best for the community. Commissioner Martin stated just for clarification; it is a land use that comes under Garfield County Rules and Regulations, oil and gas on the location does not, in reference to permits. You have to separate those two (2), we understand the concern. Laura Cando – Resident of Grass Mesa – Our concerns are as John said; first of all it sounds like it is supposed to be a camper park; however, it's allowed to maybe change later on. It is very vague and it also, like John said, establishes a certain type of person to be in the area versus if it is a camper park and you come for the environment, or lakes, or fun, whatever. That is an industrial area down there; buildings are going up everywhere. One building is right across that is also owned by the same property owner. You're going to get a certain characteristic type of person at the bottom of our hill. We generally feel safe and secure up there; however, if you put in a different type of environment or ability for a different type of environment, you are going to get a different type of people, and then we will no longer feel safe up there. Our kids play, the bus stop is at the bottom of the hill, also the traffic going in and out of it sounds like it will be a large site area. The traffic coming into Grass Mesa and also 319 will be hard to deal with. The water, it sounds like the water that is proposed from one property to the other property; is there going to be construction for that water to move to be accessed by the second property. It doesn't sound like there is a well on the second (2nd) property. Just a large concern for the change and what it can change into. So if we could maybe outline certain things; or more definition as to what it is. Is it going to be a campground, or is it going to be housing for other people, or is that what we need to do is define it.
Brett Closs – Resident Grass Mesa – I agree with everything John and Laura talked about. My main concern is safety of our families and our kids, and any body else that might be in the area; because like Laura said we are not going to get a bunch of bankers and lawyers moving into the camper park. Especially if the 120 day occupancy is waived; that means they can be there forever. What kind of a person are you going to get who is going to live in camper there forever. Those kind of areas, I think, need to be further away. Put them out in the sticks somewhere; I know they already have some man camps, and they are not anywhere near that close to a town like that. Also, if I was told right, the City of Rifle denied a request for an extended stay hotel within their annex city limits. Somewhere over by Wal-mart; is part of this to try getting this camper park in before they annex that area? Are they trying to slip in the back door? Would the

City of Rifle, if they knew about it, would they even consider annexing it? The law enforcement; I haven't seen a sheriffs deputy on County Road 319 since Thanksgiving, I don't know where else they go; but, I think we need not to buy the armored truck and get a couple of more deputies out there instead of having that thing parked in the driveway over here. It does not belong where it is proposed to be. Jim Salensky – Resident Grass Mesa – I share may of the same concerns as rest of the group. I think you as Commissioners can probably see there is a lot of concern from our neighborhood. In fact we generated a document asking for a denial of this request; we have about twenty-one (21) signatures out of the seventy-seven (77) lots, and still working toward getting additional signatures as well. Based on what I have observed today; there is more interest and discontent with this proposal than any of the other ones I've seen yet today. In terms of security, I believe it is even in the zoning regulations for a campground; the campground has to provide their own security. To give you an idea; Rifle Gap State Park, which has eighty (80) sites, they employ three (3) full time park rangers, and the maximum stay at that location is fourteen (14) days. Those park rangers are essentially the same as a state patrol officer; they have the same authority. They also employ four (4) seasonal rangers to assist during the summer months. I would like to suggest to the zoning staff; as well to maybe take a look into what 319 Water Company, or whatever the owner officially proposes to do in terms of security. As you can probably see that is one (1) of our main concerns; security, the type of people that we estimate may be involved in living in this area. I think we all know there has consistently been somewhat of a drug problem in these types of neighborhoods, and that is our concern that people will be coming up on the Mesa, driving down the roads looking for things that maybe they can take and purchase other drugs with. Again, I would like to express our concern and ask that the Commission deny this request. Jeffrey Lang – Resident Grass Mesa Ranch – There really isn't anything else I can add that hasn't been said here. I really hope you guys take this under consideration and I think if it does go through it will be a problem child. Karl Hanlon – Representing the City of Rifle – From the City's standpoint our concerns are the failure to obtain the watershed permit in a timely manner, and failure to respond when the stop work order was issued. The list of conditions on this application is lengthy; if this were a preliminary plan application there would be time for those things to be addressed prior to issuance. A special use permit is a little bit different creature. Our request would be that those items; including the watershed permit, be addressed prior to the approval of the special use permit so that we can ensure that those happen. Procedurally we are concerned about that the special use permit issues; there will be little leverage left absent significant costs and expense for court action to ensure that the watershed permit is obtained, and those items addressed. Appreciate your time and consideration from the City of Rifle. Mr. Sills – First, Karl just spoke as far as things being a condition of approval; we understand that. As far as the watershed permitting, the water, the septic systems; we very well understand that those are conditions of approval. The folks that spoke about the concerns as far as safety; the sheriffs, I take a little bit of exception to that and I see the sheriff out there pretty regular, and I've been very happy with what our sheriffs department does. We have identified and presented a set of rules and regulations; there will be a full time parks manager employed on the site. I don't think David mentioned that. We have prepared and presented to David a list of the conditions; the first (1st) condition, I'm sure you can see this is a zero (0) tolerance park. Any violation and they are going to sign that. There are going to be workers from the oil and gas industry there; but, it is not built for that only. I was here in the '80's when the oil and gas people pulled out, so if that should happen again tomorrow I would still want to have the park. I take exception to it being addressed as a man camp; I don't feel it is. We have 35 acres; we are putting sixty (60) spaces on them, which we could probably cram those same sixty (60) spaces on two (2) to three (3) acres of land, and meet the County regulations. We are not going in there and just seeing how many people we can throw together. We understand the 120 day requirement is not an approved issue; that is something we have to apply to the Planning and Zoning Board and to the staff. Right now we have no waivers from that; people cannot stay in that park beyond the 120 days. As far as our well; actually our water has already been bored across the road, we bored it across County Road 319 two (2) or three (3) years ago. We have actually applied for another well permit on this parcel that we plan to drill and hopefully it will be a good back-up water supply for our one (1) well. We think this will help us as we go forward with our community water system. The City of Rifle was brought up by one of the speakers earlier; the City of Rifle has all this application. They have responded to it; that is in the exhibits here. We are not annexed into the city; we may never annex into the city. As far as the access; I want to point out that the closest Grass Mesa resident from my property is 2.3 miles. I provided this easement for the owners of Grass Mesa back in '79; they have two (2) access and egress points. They have two (2) other ways of getting on and off of their property if they choose to. Talking about the bus stop; I'm sure Larry will recall the last time we were here the bus stop was an issue. Larry Mincer - Jimmy Sills does not have to provide you people with a bus stop for your children. We are in fact doing that; we have now created a site for that. EnCana is working with us; we are going to build a very nice bus stop. Somebody comes on to your land and puts mailboxes on your land; that's okay with me; but, we shouldn't be bringing it up as an issue. That's pretty much all I have to say.
Carolyn stated she was about to ask permission to bring up this very basic issue that our current regulations do not allow a stay beyond 120 days; but, I think what I just heard was that Jimmy said that he knows that, and that he is going to process a text amendment. Mr. Sills – I think there are two (2) ways we can do that, and I have to ask Larry, I'm not sure which of the two (2) we would be going through. Carolyn stated; either way, are you saying you would abide by our rules and regulations on the 120 day stay unless and until a change occurs. Mr. Sills – Yes absolutely.
Larry Mincer – Jimmy has talked to the people at Grass Mesa about this and in some respects, and there is a letter. (Passed out Letter from the Directors of the Grass Mesa HOA) It deals with the concerns that were expressed, and states as far as an association is concerned, the plans for the development of the land would be an asset to the community. That doesn't mean individual owners might not have a different opinion and they do. Mr. Sills stated this letter was given to me prior to the RV park thing. I don't want any confusion about that. I have asked to meet with Grass Mesa Homeowners Association to discuss the RV Park. This letter was simply because of something that was going on at that time and it is not intended, or handed to you, to indicate that the Homeowners Association is supporting this RV Park. I want to be very clear about that. Commissioner Houpt stated that's good because it doesn't seem to be the case. Larry Mincer stated that so far we have heard from four (4) or five (5) of the residents, and one (1) of them indicated he had a letter signed by twenty-one (21) of the seventy-seven (77). Now, that is a low percentage.
Jim Salensky presented and identified this new exhibit as a letter that the homeowners association generated to ask for signatures. Commissioner Martin entered the letter as Exhibit BB. He also asked if they had twenty-one (21) out of the

seventy-seven (77). Jim Salensky stated the seventy-seven (77) lots; of which he believes that EnCana Oil and Gas own, about nine (9) of those, they did not approach EnCana. There would probably be a conflict with them looking for housing for their employees. Larry Mincer – One of the conditions that were dealt with at the planning and zoning meeting was the issue of safety, and I think as Jimmy indicated there was information submitted after the meeting. To the extent that there may be workers involved in the oil industry; they also have a hammer over their head from the employer if they don't abide by rules and regulations. We want to make sure that we do have some regulations in place to minimize the destruction as much as possible. Commissioner Houpt – Our staff is recommending denial for a number of reasons and I haven't heard you address that specifically. Larry Mincer stated that staff recommendations were similar to the ones that came out of the planning and zoning. We have addressed some; but, in all cases they are making these requirements, the conditions of the permit, and one (1) of the things they recommended we do, is to revise the individual septic system proposals based on the information that has been provided. That was done; but, as was reported it hasn't generally been cleared. Our understanding and we realize unless the proposal is cleared, and approved, we are not going to get the special use permit. That may take some additional amendments; but, that's the process that we have been going through with the County for the last year or so. I talked about the work orders and Jimmy said there hasn't been any work on that site since about the middle of April. We were dealing with the County and then all of a sudden we get a stop order from the City of Rifle; which was a little different. I don't know what else you can do besides stop; I don't think you can do anything to violate that since then. We indicated there was a condition in the conditions of approval relative to the percolation tests that might have to be re-run. I think that was made a condition of approval. At the request of the staff and planning the initial discussion we reduced from one hundred (100) spaces to sixty (60) spaces. Obviously it caused blocking off and if it has to be remapped that is something that can certainly be done. We understand we have to get the community water system in place, and I think I addressed the issues on the access easement. The conditions that were listed on the second page; five (5) through ten (10) are all a part of the conditions of the special use permit that was approved by the planning and zoning commission. Brett Closs – Besides there being a whole bunch of what if's up there; I know probably trying to get a permit to build a house, I wouldn't get it. In fact the last guy who when for the ADU he stated he had to have his septic permit first, and that is just for a little 1,500 square foot house. This is way above and beyond that and also Mr. Sills mentioned that the closest resident up there is 2.3 miles away; that is true. But, the first half of that road is BLM and our Grass Mesa Road is right across 319 from the entrance to the proposed campground. I can almost bet you that half the people in the campground are going to have a four-wheeler, and they're going to be shooting right across Grass Mesa, right across 319 and right up our road and right up on top. Those guys, a lot of them hunt; they have guns, they have pick-ups. We already have enough trouble as it is trying to keep people from going up there. Now we are going to have sixty (60) camper spaces over there and all they have to do is go right across the road, word gets around. Those guys all work in the same place and it won't be long before we are going to have to beat them back off of our property; because the access is so easy right there. Plus the EnCana employees can't use that road, although they still try to get up there. The EnCana access road is two (2) miles to the south; once these guys figure out, well they're not going to drive two (2) miles to the south and then go up. I guarantee you it will get bad; I've lived up there for twelve (12) years and it gets worse every year, and that's with no one else living around there. There is going to be problems. Mr. Sills – If I may respond to that; I know this because BLM contacted me just recently. No one has an easement through our property except for the Grass Mesa folks. So, people wanting to access BLM land on that property should not do so without our permission. BLM actually talked to me about seeing if we would grant that permission. If that needs to be something that we don't do, I'm fine with that. We are hitting on some same issues today that we dealt with the P & Z Board members; the Board of County Commissioners sent me to the P & Z Board so we could work through these issues. We went to the P & Z Board and they approved; staff recommended denial at that as well. They voted six (6) to zero (0) to approve our application and I will just thank you for your consideration. Commissioner McCown – David, regarding your concerns you listed; I've been looking through the conditions that the planning commission set forth, and other than a little verbiage, that I would change, it seems like all of those conditions would address yours; that they had to occur prior to the issuance of this special use permit, and that would also entail any further work taking place without the proper permit. David – Certainly; the no work taking place, grading, or moving dirt prior to issuance of the special use permit that goes without saying. The difference between what's happening here today and what happened with the planning commission is the primary issue with the planning commission was a discrepancy between the amount of water that was going to be required per camper space. So, one hundred (100) gallons per day and a waste water facility that was able to handle fifty (50) gallons per day, and that discrepancy, it doesn't exactly pass the straight face test. What the applicant did was reduced the number of camper spaces down to sixty (60) in order to accommodate. So we received those plans back on May 2 and the primary issue now is with the location of ISDS #2, and whether getting that ISDS to comply with the ISDS regulations will require a major shift and change with the site plan that is proposed to you today; and whether more issues will come from that review as well. We are not comfortable that what you have in front of you today is able to meet the ISDS regulations and that it will require significant site plan amendment in order to do that. For further clarification I would like to defer to Jim Rada since it was his comments that caught this. Commission McCown – I'm perfectly aware of the comment; but, my question is if all of these conditions are met, prior to the issuance of the special use permit, what are your concerns. David – The concern is that we don't have an amendment process for a special use permit, so once the site plan that's approved here today, Mr. Sills is stuck with. Without that kind of amendment process we're looking at having to come back to you again if it really does change significantly, or if we do approach other issues that aren't foreseen at this point. Commissioner McCown – Would one of those super septic deals that we are going to get for the landfill work on this; they wouldn't even need an ISDS. Jim – They would have to have a place to dispose of that. Commissioner McCown stated they could put it on their roads. Jim – If they have enough roads to apply it to, potentially yes. Chris Manero – Colorado River Engineering – I am working on the water system and Kevin designed the ISDS; but, I think the question is what can be done engineering wise that wouldn't alter the site plan as far as the space layout. I think there are multiple options available that you can still alter leech field locations, or new locations that in some point in time, if you couldn't make that work engineering wise, then Mr. Sills would have to come back and reconfigure his road layout or amend his site plan. With the thirty-five (35) acres there is room to shift these fields around and work on those areas of influence. There's

technologies there's some shifting; it is going to require more perk tests. There is more engineering that needs to be done and I think the approach we're taking was to work on those without designing the camp facilities around the waste water system; but, to make the waste water system fit in the way around the camp site layout. Technically I think there is a lot of ability to shift and still make things work without having to reconfigure the entire site plan. Commissioner Houpt – Well, setting that aside, the staff has very specific concerns about technical aspects of this application; but I think the neighbors brought up other concerns that I have to say I share some of those concerns. I think that as we continue to see the energy development industry grow in Garfield County; our goals should be to integrate and enhance our communities instead of segregate and create little trailer parks for people who are here temporarily; but we are talking about an industry that is going to be here for thirty (30) years. I personally think a camper park is not a good use for this type of community. It makes no sense to me to start just establishing camper parks anywhere there is a free piece of land in this County. It provides for no responsible planning, no vision; we are just throwing people out into a field with trailers and I think it's wrong. I think its wrong for the people who own properties close by because it impacts the values. I think its wrong for the people who end up in those situations and I think it is wrong for us to pretend that it's an okay way for us to deal with housing shortages. I think we need to spend more time integrating the folks into our communities who are coming in to work in our communities for a number of years, and not create camper parks. I mean how temporary can you get and so on top of the concerns that staff has raised today; that to me is a huge concern that I have with this application. Carolyn wanted to clarify on the record that apparently we have an amendment to the application. This is a true camper park with the 120 day limitation. This is not temporary housing for oil and gas. Mr. Sills – That is very true. Commissioner Houpt – Although there has been reference to that throughout this. Carolyn – That is why I am asking that it is actually an amendment to the original application. Mr. Sills – No, our original application identified this as being used for tourists as well. Commissioner Houpt – Well, kind of, it was thrown in there saying we would allow people in who didn't work. Mr. Sills – I think in our original application, very very first application, we identified that. Commissioner McCown – I am really personally troubled by this social classification of people that work in the gas industry. Are they not eligible to stay in our motels; are they not eligible to stay in our RV camp grounds? The City of Rifle, the largest town in Garfield County, has zero (0) RV parks. But they don't have one because land is not available; inside the city limit. That's appealing, or cost affordable to put one in; but every time one of these units comes up, this is a camper park. It's not affordable housing, it's not temporary housing, it is what we are permitting today; but low and behold those terrible gas workers may stay there and ruin it for everyone else. I hope that no one in this room has to ever leave their home area and go work out of it on construction somewhere, and has to stay in a motel, or has to take their camper with them and live off site. During the week while they are gone working; if they are gone for two (2) weeks and then get to go home, and be chastised and characterized, as we are the people in this industry that are paying $.70 on every dollar that we are spending in Garfield County. I think it's a damn shame. Commissioner Houpt – I think that's why it makes more sense to integrate people into the community; because otherwise you are going to set them up for that. You are going to create these little sub-communities where the people who are coming in and working in a growing industry in our County; aren't part of the community. They are going to be here a long time and I just don't think…… Mr. Sills – We're just going to talk about the people that work in it. I'm a construction worker, so you know what; we're not second class citizens. We shouldn't be treated like that. The point of it is; we come here and we are in our camper trailer while we are looking for a more permanent place for our family to be. Do you want us to go park on Mr. Brown's farm until someone comes and runs us off and we go park on Mr. Smith's farm? Why not have it in an area that is secured and is designed for that. Commissioner Houpt – Well then you don't need a variance on 120 days if that is the purpose of this camper park. Mr. Sills – I'm not having…..
Larry Mincer – Okay, number one (1) we wouldn't have to get a variance if they don't stay past 120 days. This may become a possibility and if so we will deal with it. Mr. Sills – We haven't asked for 120 day variance. Commissioner Houpt – That was part of the application packet. Larry Mincer – I realize that was initially mentioned in there; but P & Z…….go ahead. Fred Jarman – I want to clarify from your staffs perspective; as you have read in your materials, we are – to clarify and add to David's point, which is getting to your question. We would be remiss if we as your staff, your technical side, weren't able to provide you with a recommendation where we have had the ability to look at something that will work, or won't work. Your own requirements, your own regulations, the most basic of which require you to have a site plan that bears fruit; that shows that this can work. You do not have that on your table today. We can't with good cause say this will work. Even the engineer, you just heard, indicated a variety of things; but there are number of ifs in his statements. We don't even know if that will work and it will ricochet through the entire plan, and we don't even know what that will look like. You certainly don't know what that looks like. It was just a comment; I just wanted to really re-emphasize what David's analysis shows. We would love to come to you and say we really had a chance to look at this Mr. Sills plan; we know it will work. We cannot tell you at all that is the case today. Our feeling is it sort of under minds the process; if that really were the case then we wouldn't have a need for meetings like this. People could just submit materials and say; just give us the permit and we promise we'll get all the stuff to you after the fact. David – A couple of other points; in regards to the family, it came up in the public comment, and just to clarify the temporary employee housing versus the camper park. The applicant does want to have family on site; the temporary employee housing regulations do not permit family to be on site. In terms of the annexation into the City of Rifle, obviously that would be, from an environmentally standpoint for water and sewer that would be ideal. But we are not here to bring that to you today. The City of Rifle has submitted comments that have indicated; unless it is developed to their standards they won't annex it. I'm not too sure how strong a statement that is; but to throw that out there, that is on the table from their comments. Looking at security you do have one statement under supervision; under 502 19 that says, "the dually authorized attendant or caretaker shall be in charge at all times to keep the park, it's facilities and equipment in a clean, orderly and sanitary condition". The applicant has included that in their management plan; that has been submitted to us. Which is; at this point all we can ask for.
Jeffrey Lang – Grass Mesa – I would like to say that my wife does work for the oil and gas in Oklahoma and I am paying $2,000.00 per month to rent a home. So, what you are saying is not necessarily true.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the Public Hearing.
In favor: Houpt – aye McCown – aye Martin - aye

Commissioner Houpt – I want to make a motion to deny this special use permit for the reasons, the technical reasons, stated by staff. Commissioner McCown – Second. Commissioner Martin – We need camper parks and we also have elitist's attitudes; we also have prejudice. We also have an application that the staff really doesn't feel comfortable with and we have heard testimony on both sides. Commissioner Houpt –I would like to respond to your comment about elitist's attitudes. I think there is a difference between people being concern about integrating people into the community and setting up camper parks in different places for people who may temporarily live there, and may live there on a long term basis. I think that we need to embrace the people moving into this County to work on energy development in a more realistic and real way, and incorporate them into the community instead of segregate them into camper parks around the County. Commissioner Martin – And that is only one half of what my comment was, it was on both sides. You need to keep an open mind in reference to that; there is always two (2) sides to the argument. We get put in the middle to make the decision. Commissioner McCown –My comment goes even broader than that. It might be my choice to live in an RV park if I want, and I'm out of town working. I shouldn't have to, if I could find one, I'd rent a house. I happen to have an RV; maybe I want to live it when I take it out of town to work. Maybe that is part of the reason I bought it; I can deduct that off my taxes. I don't get anything out of rent. This is one of the few special use permits I've ever seen, since I have been here, that there were staff comments and then there were conditions of approval that addressed those staff comments; but that wasn't adequate because it didn't agree with the staff comments. But yet it offset every one of those staff comments and the reason for none. I have been under the impression for a long time that when you condition a special use permit, a conditional use permit, any land use, nothing happens at the issuance of that special use permit until everyone of those conditions are met. Not one (1) of them, you don't get your special use permit, if you get two (2) of them, you don't get your special use permit; you have to get twenty three (23) of them to win. And there is twenty three (23) conditions and in there. It addresses ISDS's, if you don't get me the adequate setbacks; guess what no issuance of the special use permit. Mr. Sills will come back with a new plan; because there is no issuance of a special use permit. Now, you say there is no amendment to the process; we have twenty three (23) amendments to the process. Every one of those has to be met prior to the issuance of that special use permit, not one camp trailer can go in there. I don't know how else we as Commissioners can work, that's how we have worked for twelve (12) years. That's the kind of land use actions we have taken; we have applied conditions to every land use permit, I don't think there has ever been one go through that didn't have conditions of approval, nor will there ever be one. Those conditions have to be met prior to the issuance. Water is one, watershed, ISDS and everything is in here as a condition of approval. I thought that's what they were. Commissioner Martin – I compared it to Eagle County, Mesa County, Delta County, Rio Blanco County, and every one of them has RV parks. Actually Garfield County does too in a certain way. We do have the regulations in place and if one of them want to do an expansion; they need us to hear that and soon. I've seen in Mesa; they put a brand new one in. The first day that it was opened; it was completely full. They only have fourteen (14) days and they have to move out. I own houses and I live in an RV on other occasions and I love living in my RV with my horses in the back. It is a choice of lifestyle.
In favor: Houpt – aye Opposed McCown – aye Opposed Martin – aye
Commissioner McCown – I make a motion we approve the special use permit for a camper park in AARD zone district with 319 Water Company; with the twenty-three (23) conditions of approval, changing number twenty (20) to read that the special use permit shall be reviewed by the Board of County Commissioners in one year from the date of issue, and shall be reviewed every thirty (30) months from the next day forward upon issuance and all of the other conditions. Commissioner Houpt – Second for discussion. I still stand by the staff's recommendation on this application. Commissioner Martin – I don't know how hard we can beat this one up. They must meet all twenty three (23) requirements or subject to termination if you fail to follow these terms. Actually there are several that have sub-comments. In favor: McCown – aye Martin – aye Opposed Houpt - aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JUNE 2, 2008
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 2, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton, Deputy Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE: ED GREEN

APPROVAL OF CONTRACT FOR BUDGET CONSULTANT – MATT ANDERSON

Ed Green, Cathleen VanRoekel from Finance and Matt Anderson Purchasing presented the Board with a contract award for the Finance Department Budget/Accounting Consultant. The proposal to fulfill the requirements of $130.00 per hour plus reimbursement for travel expenses of up to $5,000.00. It is estimated that the requirements will not exceed $75,000 for the consulting services. Matt requested the Board exempt insurance requirements for this because CPA's normally do have insurance and malpractice insurance; for this requirement she is just assisting the finance with creating these documents and will not actually be producing any certified documents. Don was satisfied with the contract as presented. The recommended award it to CBS Accounting LLC, Christine B. Stouder, CPA's for the amount not to exceed $75,000 for the requirements and not to exceed $5,000.00 for travel expenses. Kathleen said the budget process begins in June and Christine will be needed for the three fold procedures 1) budget processes; 2) train Theresa Wagenman, and 3) to have a budget for the Board.

A motion was made by Commissioner Houpt that we approve the contract award to CBS Accounting LLC. for the amount of not to exceed $75,000 and $5,000 travel expenses and that we waive the typically required insurance and this contract will be for budget and accounting consulting services with the County. Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

UTILITY REQUEST IN COUNTY RIGHT-OF-WAY - CR 114– JAKE MALL

Mike VanderPol for Jake Mall, Debbie Dulley and Kirk Bentley were present.
Mike VanderPol submitted a request for this to be removed from the agenda. Jake received an email regarding the guardrail, stating: after walking the site again with the contractors, the section of the County road has an old guardrail made out of railroad track and the question to Jake in the email was a matter of removing the railroad guardrail and it was a matter of safety to get the utility line through. The question was will we replace the same guardrail and put it back in place and if so there was a concern about the integrity of the guardrail and safety of it. This was something we wanted to get approved and didn't realize it would delay the approval. Ed – As an alternative, would Kirk be willing to replace it with approved guardrail? Kirk – If this is what the County requires. Mike VanderPol said he was sure that is what will be required. Kirk agreed to all the conditions.
A motion was made by Commissioner McCown that we approve the utility location in CR 114 with the conditions as shown in the staff packet adding the final condition which would be that any guardrail that would be removed would be replaced with an approved guardrail system by the Road and Bridge Department.
Commissioner Houpt seconded. Don asked for clarification on the drawings; are any of the improvements subject to this permit, will they be located in the actual paved portion of CR 114. Kirk – No. Don – And in terms of the improvements and completion of the improvements, are these improvements secured by your existing SIA letter of credit or will there be an additional security required here. Kirk – There will be additional security and they will give a letter of credit to the Road and Bridge Department for $100,000 which has already been approved. Also, a $2500 vegetation bond is needed as well just for this. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF TWO BONDS FOR ENCANA OIL & GAS – REPLACED BY TWO NEW BONDS – MIKE VANDER POL

Mike VanderPol submitted that EnCana has tendered correspondence to the Road and Bridge Department requesting that we acknowledge satisfactory performance under the terms of our road use permit or overweight permit and further that we release their surety and bonding company from all obligations provided pursuant to that permit. They are changing insurance companies from RLI Insurance Company to Traveler's Insurance Company and the surety for the two bonds will be for the same amount of money. Mike stated he has the replacement bonds in hand.
A motion was made by Commissioner McCown that we approve the release of bonds from EnCana Oil and Gas USA Inc. with the bonding company RLI Insurance Company both of these as RLB0009336 and RLB0009335 as they have been replaced by the new company. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

FUNDING FOR A NEW POSITION IN THE ASSESSOR'S OFFICE – JOHN GORMAN

John Gorman Assessor presented a request to fund a new position in his office due to the staggering growth in the County and the work load associated with his office. This will be for an Appraiser I with a cost estimated at $30,208.00. John fully described the need and purpose for this new position.
A motion was made by Commissioner Houpt that we approve the request for a new position in the Assessor's office Data Collector, Appraiser I in the amount not to exceed amount of $30,208.00
Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin – aye

PROBLEM – NEW SOFTWARE AND NEW SERVERS FOR THE DATA PROCESSING FOR THE ASSESSOR AND TREASURER'S OFFICE

Charles Zelenka, John Gorman and Lisa Warder were present. John Gorman explained the need for the new software and equipment. Charles said the equipment in place is approximately five (5) years old. When backup is done in the night it takes a long period of time. The Assessor's office will be bearing the entire cost of this new software. The Treasurer will purchase the new software next year. If the Clerk and Recorder stay with the same equipment it will make the three (3) offices work well together. Charles stated this is an upgrade and supports different functions. The entire amount is about $15,000. Don had a problem of not having this on the agenda. He suggested that it be agended for next week. Charles stated there are some problems already and the capacity of the hard drive is maxed out. It takes almost the entire night to complete the backup. Commissioner McCown suggested this be placed on the consent agenda so the Board can take action on this request.

COLORADO DISCRETIONARY AVIATION GRANT AGREEMENT 08-RIL-02 – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren were present and provided the letter from the Grants Administrator for CDOT-Aeronautics Division notifying the County that funding was awarded for $77,289.00 to construct a new helipad. The local match is $115,934.00. This is the second round of funding from the state and it's from the money that was misappropriated and found and then given back to the State. They will help us out in our installation and cost of the new helipad for the BLM. On Friday we have a signed copy of our lease back and then they started moving in. We're done with the engineering on the actual helipad and we will get that out to bid and hopefully we can accept this grant and allow them to help us pay for that. Don – Carolyn had a question that Don asked, in terms of the helipad is this for our existing helicopter operations or is this a new helipad? Brian – This is a brand new helipad for the Airport mostly for BLM in the summer months during fire season. We can lease it out and charge BLM for use of it and then in their off season, anyone else can use it. Don – So the private helicopter operator has their own helipad? Ed – PBS has their own.
A motion was made by Commissioner McCown that we approve the grant with the Colorado Aeronautic Board in the amount of $77,289.00 for the purpose of building a helipad. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

COMMUTER PASSES – KATHERINE ROSS

Katherine Ross presented a proposal and estimated cost of providing employees of Garfield County with commuter passes to help offset the high price of fuel. This would be a benefit to the employees.
She listed the number of employees, the types of passes requested and a total of $30,612 annual costs. She explained the procedures that would be involved. RFTA can raise their rates at any time and if the prices increase she will come back

to the Board. Ed stated this will also eliminate the parking problem at the Courthouse. Commissioner Houpt stated she is glad there is a punch pass opportunity and glad to hear the support from other people besides the employees who will use the program. Katherine stated this program will need to be monitored carefully. The photo ID would be able to be used for non-employment related activities. The punch pass would not but it would be restricted and monitored.
This would be handled just like a benefit to employees just like health care like any other comp benefits. RFTA has a bus pass program where we can purchase them and the way the program will work is that the departments or elected official using that County credit card would make the purchases of the passes and monitor their use. There may be some income tax ramifications for the some individuals if it's over the IRS guidelines of $115.00 per month. So, there are some guidelines in that communication to assist employees with that. RFTA can change their rates at any time, we have no control over what they are in which case I will monitor those on a monthly basis and if it changes dramatically I will come back to the Board to see if they want to continue the benefit. We talked to the department heads and elected officials; everyone is positive about it and they see this as a benefit and also to help the environment by getting the extra cars off the highway. I did some calculated estimates of what the annualized cost may be. My calculated estimate would be approximately $30,000. The question to the Board would you like to implement this commuter pass program.
Ed said another benefit is that it reduces the parking problem in the community. Katherine stated there was a much stronger interest than we expected from the Glenwood Springs area; we actually expected a much stronger interest coming from the west end of the County. Commissioner Houpt stated she was glad there's a punch pass opportunity as it gives people more flexibility. I think this is an important benefit and glad that you receive support from those who may not even use this benefit but believe that it's an important one for other people. Commissioner McCown – Question on the punch passes, they could be used anytime by an employee right? Katherine Ross – That's one of the things that would have to be worked out. For users that want the benefit, the safest one is like your employee ID; it has a picture and there is a way to monitor it. When you have the picture ID and have that pass, you can use it anytime so would you technically be able to use if for non work related use. However, that is the same cost either way. On the punch, first of all there's no photo ID so it requires more monitoring or some honesty. Punch passes are punched when they are used so no, the purpose of these passes is to use them to come and go from work or work related activities. If you have a photo pass it gives you broader perspectives otherwise we don't see an issue with that but if you have a punch pass you are restricted to use it only to come and go from work. Commissioner McCown – I'm looking at an approximate average of $640 per employee benefit. Total number of employees divided by the approximate cost and I just wonder how we're going to handle the employees that this service will not work for as far as giving them a benefit of equal value. Katherine – I don't think that's essential. Employee benefits are applicable to all employees if you can take advantage of them. For example, the family leave benefit even though it's a legal requirement and it can be used for the adoption of children. The benefit applies if you meet the eligibility requirements. So it's giving the employees consistent opportunities to become eligible. Commissioner Houpt – And we have been providing service for some of our employees with Road and Bridge and that's not a benefit that everybody receives so I would agree. Ed – The other big disparity is in our medical plan the fact that we essentially subsidize the cost for families. You offer the benefits to folks and they take advantage of them or not. Commissioner McCown – I would rather see us go to a 4 – 10 hour work week and stagger the employees on Monday and Friday and cut down on the trips for everyone. Commissioner Houpt – Maybe we do that as well. Commissioner McCown – Not just a benefit for 48 people but for everyone involved in Garfield County and still the provide the service. Commissioner Houpt – I imagine that more than 48 people will end up using this; gas is getting to be expensive and a lot of people commute from different distances. Commissioner Houpt – I'm going to put a motion on the table that we implement a commuter pass program as outlined by our Human Resource Department and we monitor it closely. I'm not sure how we put a dollar value on that but I imagine the monitoring will go through the department heads and onto Katherine. Katherine said she will monitor the cost of it and it will be recorded in the finance office by the use of credit cards.
Commissioner Houpt – As we evaluate this you will be the person who would be taking the lead on working with that because it is an employee benefit, so I'm making a motion that we do implement this program as presented.
Commissioner McCown – Second.
Commissioner McCown – Yeah, I think coming to us in the middle of the year like this, it should be a budget item that comes on next year with a little more thought and processing; I don't know how in detail the survey was if we only got forty eight (48) employees out of over four hundred (400) employees. It's a very small percentage that we're serving and I just don't feel that it's appropriate on the ID passes that's going to be the bulk of this it looks like. The punch passes; I'm not sure how we monitor them. I guess whenever they run out of punches and they have to go back to their department head for a renewal and it's only been a week, we could question their ridership however, on the others on the Hogback Route with the ID card, you can come to town on Saturday and do your shopping and to me that's no different that driving a company car to the grocery store to do your shopping and we prohibit that, so I'm opposed to this – I don't think its been thought out thoroughly, I think it's benefiting a very minimal percentage of our employees, I don't agree with that even though that's how our benefits may work, that's not necessarily something I would support. So, I'm not going to support this. Commissioner Houpt – And I would like to reiterate why I would support this; I believe that it's important for us to retain quality employees in this County and it's becoming very expensive for people to commute from long distances and this is one opportunity we have to keep those people on line who may otherwise leave our employee for a location closer to home. Gasoline prices have become very expensive, congestion is huge in the morning and this would be a good solution and benefit for people who work for Garfield County. Hopefully, we will be able to retain people if we look towards benefits such as this. I do think we need to monitor the punch passes and make sure that that use isn't being abused; if it is maybe we will have to go back to just the regular picture passes but I think this is a very important benefit in this day and age. Katherine – On page 3, I would make it read stronger that passes, no matter which one you have are just to be used for work. Commissioner McCown – Why would anybody want a punch pass when the County is paying for the $150 ID pass that you can ride anytime.
Katherine – Because we have some employees who only work three (3) days of work a week or just come in three (3) days per week. Commissioner McCown – But the only reason they would want the bus pass instead of the other one since the County's buying it is for income taxes. Commissioner Houpt – We have to prove need. I think strengthening that language and proving that this is a use for your employment purposes is part of our policy.

Commissioner McCown – Are we going to change our departmental policy on start times and whatever to coincinde with bus schedules. Are we going to give these people an additional preferential treatment to coincide with bus schedules? Katherine Ross – Each department has various start times and schedules. Commissioner McCown – So they will get another benefit if it does coincide with the schedule. Katherine – No, they would have to take an earlier bus to get to work earlier as opposed to coming in late. Commissioner McCown – But we have it in our plan, we have restrictions on how soon an employee can come before start time to work. Katherine – If they punch in they get paid, yes. Commissioner McCown – To be on site, I believe is how our Personnel Policy reads. Katherine – If so we will have to make those adjustments. Typically these types of programs are to defray the cost of fuel. Commissioner Houpt said she will change her motion to read that I would support Katherine making the language clearer that it is just for employment uses only. Chairman Martin stated this is a pilot program and it may need to be eliminated. If it doesn't work we will either change the program or drop the program.
In favor: Houpt – aye Martin – aye Opposed: McCown – aye

REQUEST FOR APPOINTMENT TO GARFIELD COUNTY COMMUNITY CORRECTIONS BOARD – DALE HANCOCK

Dale presented a letter of request to serve the Community Corrections Board by Louis Giradot. A detailed letter explaining his position and purpose to serve was submitted in the packet. The Sheriff has supported the appointment.
A motion was made by Commissioner Houpt that we approve Louis Giradot. Commissioner Mccown seconded.
Dale stated the program has been in operation for one year and he plans to bring in Randy Hollingsworth and Steve Reynolds to give an update. In favor: Houpt – aye McCown – aye Martin - aye

AMENDMENT TO IGA WITH RIFLE FOR THE PUBLIC SAFETY COMPLEX

The third amendment to the IGA for construction of the public safety complex was submitted and Randy Withee gave the update and said this is for the courthouse. He stated September 2nd is the open for business date. It is coming along now that the weather has been cooperating. What's in front of the Board today is the City of Rifle would like to amend the IGA that's in place and ask for the County contract for the furnishing plus the cable network that will be inside. They want to tag along and have the County pay for it. Randy said they want to get this through and the networking portion is about $28,000 as the cost for the city; the state is furnishing the courtroom furnishings and the only portion for the County is the DA and the Sheriff's office. Randy answered Commissioner Houpt's question that this was not included. We had $30,000 for furnishings and that should be sufficient. Don had a couple of issues on the amendment, normally I do have a problem with an IGA that is vendor specific and I talked with Matt about that earlier. We can reach an agreement with Rifle that they would participate in our procurement process. However, until we have completed that process and selected a vendor, I don't believe the IGA should be specific to a vendor and I'm specifically talking about furnishings but there may be more network wiring if that hasn't been the subject of a contract award at this point. Secondly, the question that Larry asked is relevant and there should be a not to exceed amount in this contract for both entities so that we have some outside budgetary limitation on it. Commissioner Houpt said we are missing some information and the timing might be problematic in terms of when we have contracts in place; if we are entering into an IGA with somebody we have to have everything in place before we agree to that. Randy said this should come back to the Board on Monday. Matt Anderson stated that currently we are tying to create a furniture solution for Garfield County with an agreement with Sandy's Office Supply in conjunction with our state furniture contract and when the total goes over the threshold, we compare the two and make an educated decision on what type of furniture to go with that company. Right now the estimated time for the agreement to be in place is depending on Sandy's Office supplies and Matt is stressing the importance of getting the information. This shouldn't take more than a week or two. No initial order for furnishing for the courthouse has been done and in my opinion as long as we have a master agreement in place before any of the furniture is ordered, we should be okay.
Commissioner Houpt asked if Sandy's is the vendor we want to go with; are they coming up with the best prices and have we done a competitive bid on this. Matt stated that this is what we are working on and there will be a time for comparing prices, the delivery time, and needs. Don clarified that this will not be competed except on the state contract. Matt stated that it is on each order and we will have different types of agreements in place and then to compare those. Matt will make sure that he gets with the County Legal Department and hammers out all the details.
Randy said Current Solutions has most of the networking in place and they want a consistent cable buying throughout the facility. Don asked if Rifle had budgeted for these costs. Randy said it was part of the IGA.
Don clarified that we could specify a not-to-exceed cost in the IGA. Commissioner Houpt is pleased that the City and County are working jointly on this process. Don's concern on furniture is that on an entire new building we should have done estimation on the type and cost of furniture. Matt sated there are a number of factors involved and believes that if we bid this out will not be as efficient. Commissioner McCown asked if furniture was a line item in the original IGA. Don said no. Commissioner McCown - Then we will have to look at this next week. Commissioner Houpt said we need to know our expenses as well. Chairman Martin agreed we will need our numbers before we can go forward.
Randy said that $30,000 was already approved for our part of this. Most of this is for the Rifle costs. This could also go on the consent agenda for next week.

EPSDT CONTRACT WITH HCPF – MARY MEISNER

Ed presented for Mary Meisner the amendment No. 2209-9006 to increase for FY 08-09 by $23,212.00 for a cumulative not-to-exceed amount of $92,847.00 and requested the Board approve the contract amendment No. 3.
A motion was made by Commissioner McCown that we approve the EPSDT contract with the Colorado Department of Health for an amount of $23,212.00. Commissioner seconded In favor: Houpt – aye McCown – aye Martin - aye
Ed's Executive Session topic for which he needs Dale to attend; this is negotiations for an alternate site for an animal shelter.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario presented the update and commented on the topic on the agenda - the commuter passes. One of the things we have thrown out as a concept and idea and worked with Katherine was the possibility of a van pooling concept with our employees. This would work better for the Sheriff's department. Everyone starts at 6 0'clock and gets off at 6 o'clock and we could grab a bunch of people and drop them off so this is something else we are looking at.

Commissioner Houpt -We are doing that for Road and Bridge. Lou – The concepts are making sense, the furthest guy west could drive a van and pick up along the way, the next person getting off shift could back west and visa versa. Katharine and Lou are working together. Ed is not sure of a 15 passenger van may not be the best solution; he suggested something like the Traveler. Lou said we would have to see how many people would take advantage of it, not everybody lives as far west as others. Patrol Deputies have vehicles but for detention employees this could work.
A difference in a van versus the traveler types is $15,000.

RIFLE COURTHOUSE – FURNITURE AND SECURITY

Lou is putting together a scope of work for the security and go out to bid. We're going to be doing the x-ray and other equipment needed for the security. We are realigning staff and some responsibilities and increasing the need for space. We are putting one of our staff at the Airport building; cubical space for the patrol guys will work well. We have the workout equipment out at BLM and it is drawing a lot of attention with his folks. One of the offices we are able to use is where we moved the training coordinator to Rifle and he appreciates this.
Ed stated the building has been slowed due to the T-circuits being able to get those install in a timely manner..

CR 300 – SPEED LIMITS

Marvin and Lou are going to the next Grand Valley Citizens Alliance (GVCA) meeting as there are some citizen concerns about lowering speed limits on CR 300 and other traffic concerns. One thing we are talking about is rather than constantly lowering our speed limits and adjusting to commercial traffic we may need to be more cognizant of what the majority of people are doing, what is an appropriate speed and then focus on those commercial vehicles as far as trying to slow them down. Lou said 25 mpr on CR 300 is slow and we are talking about bringing it back to 35 mpr and then working with gas industry and construction companies and do some type of program in house getting these guys to just drive five (5) miles slower or obviously the enforcement piece of that. So we're going to reconsider that and probably bring this request back up to 35 with advisory signs on curves, etc. Commissioner Houpt referenced that on I-70 there are different areas where they do have specific signs for trucks, so why not just put a lower speed limit sign for trucks. Lou said this can be done but we need to do is establish by a Resolution and define a GVW just like the City of Glenwood did with no truck traffic over x amount of GVW except local delivery. We talked about that along with dedicated routes and enforcing that. This would require some legal aspect of setting up traffic schedules.

OIL AND GAS SECURITY CONFERENCE – Lou attended the Conference held at Jackson Hole, Wyoming and gleamed some great information. All the oil and gas companies have their own security companies. There are some things out there would tend to scare you. There are a lot of issues about environmental concerns and illegal activities that go on. The biggest thing we talked about was the copper prices as they are going through the roof; over $3 a pound now and people are stealing this stuff. In Glenwood just outside the city limits by the airport, there was a company where a lot of copper was stolen. Rail yards are getting hit hard. Meth seems to be the biggest short term issue across the board and there were people there from Texas, Mexico, Wyoming and Colorado. It was a great conference. Lou did a presentation on traffic impacts on communities. We will be hosing it next year in Glenwood.

MODEL TRAFFIC CODE REVIEW – We need to set a date so we can sit down and make a proposal.
Chairman Martin suggested Lou set a time and let him know. Lou said it would solve a lot of traffic concerns and looks forward to getting this done this year and adopted in 2009.

COUNTY ATTORNEY UPDATE: DON DEFORD

DISCUSSION RE: BOARD OF EQUALIZATION

Don presented a proposal and an impressive resume of experience from Johanna Saizan Payne for the position of hearing officer to conduct the property valuation appeal hearing for the Board of Equalization.
John Gorman stated the rates of appeals have been very low this year and there are very few protesting their values and he expects to respond to those and satisfy their concerns.
Don recommended that we may not go forward with the hearing officer and just have two Board members available for one or two days. Dates needed for the hearings included July 28 through August 4.
John Martin and Larry McCown are available on July 24th and 28th. Commissioner Houpt – Uncertain. August 5th was reserved as a backup and John Martin and Larry McCown were both available. The sessions will go from 9:00 a.m. – 5:00 p.m. with a break for lunch.

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE – Provide update on Martin litigation; recent order from COGCC on scheduling; further updates on CR 204 joint funding; CR 118: Judy on the Rulison Project; John on auditing of oil and gas. Carolyn has a topic to continue and involves relocation and she will provide an update on the new noticing requirement; the Sheriff will be needed on one other item; and Ed on property acquisition. Don said he would like to start with the Airport and John's and Judy's item. Sheriff items last. Jeff Nelson will be needed for CR 204.
A motion was made by Commissioner McCown that we go into an Executive Session to discuss the aforementioned items. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner that we come out of Executive Session. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Public Action Taken:
Don stated that his office needs public action concerning direction on a condemnation involving the Continental Rifle property for the benefit of the Airport. Commissioner McCown made that we move forward with the condemnation of the property since negotiations have been ongoing and have stalled on the price of the value of the property. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

NEW DEPUTY COUNTY ATTORNEY – PATTY FREDRICK

Don DeFord introduced Patty Fredrick to the County Commissioners, the staff of the County as well as the public; Patty is our new Assistant County Attorney starting today. Patty comes to us with quite a background; she's the former deputy County Attorney for Adams County and has been the advisor for the Secretary of State and my office thinks we are very fortunate to have her. The Board welcomed her to the County.

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 for the Special Use Permit for Processing and Material Handling of Natural Resources for Phase III of the Middle Fork Compressor Station. Applicant is Encana Oil and Gas USA, Inc. – Fred Jarman
f. Authorize the Chairman to sign the Special Use Permit for one Temporary Employee Housing Facility located on a well pad within the North Parachute Ranch, operated by Berry Petr4oleum and described as K-15. Applicant is EnCana Oil and Gas (USA), Inc. – David Pesnichak
g. Authorize the Chairman to sign the Resolution of Approval for a Special Use Permit for a 60 space Camper Park located one mile south of the Garfield County Airport off County Road 319. Applicant is 319 Water Company, LLC – David Pesnichak.
h. Authorize the Chairman to sign the Resolution of approval for a Preliminary Plan for "Valley View Commons" to create 4 lots and 16 building envelopes (56 Dwelling Units) on a 7.9 acres parcel located within the Battlement mesa PUD. Applicant is Darter, LLC – David Pesnichak
i. Authorize the Chairman to sign the Subdivision Improvement and Final Plat for the 3-lot, North Bell Ranch subdivision located north of the Town of Silt. Applicant is Nathan Bell – David Pesnichak
j. Authorize the Chairman to sign the Resolution of Approval for a special Use Permit allowing for Extraction, Processing, Storage and Material Handling of a Natural Resource. Applicants are North Bank Holdings, LLC, Gypsum Ranch Co., LLC and Jim and Jean Snyder. – Kathy Eastley
k. Authorize the Chairman to sign the Resolution of approval for a Conditional Use Permit allowing for a Home Occupation on Lot 1A, Park Subdivision, 1215 CR 112. Applicants are Charles Knuth and Heidi McGuire – Kathy Eastley

A motion was made by Commissioner McCown that we approve the consent agenda as presented.
Commissioner seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/DIRECTION – CR 204 – JOINT PARTICIPATION AGREEMENT – DON DEFORD

County Attorney Don DeFord and Stacey Saunders and Michael DeBerry from Chevron were present.
Don stated they have arrived at a final agreement after some lengthy negotiations on CR 204 we have arrived at a proposal we would like to make to the Board. Previously in Executive Session I provided the Board with the final draft of a document that Ms. Saunders and I have worked on and developed over the course of the last several months. The purpose of this document is to develop a funding agreement between Chevron and Garfield County for the redevelopment and reconstruction of CR 204. The document is publically available and each Board member has a copy of the document; I have also discussed with the Board and provided you with legal advice concerning the contents of the document. Don outlined briefly the import of the document, Chevron will commit generally under the terms of the agreement $25 million for the reconstruction of the road and the County will generally commit $3 million dollars for the reconstruction of the road; one-half of which will emanate from a DOLA grant and one half will come from the Garfield County Road and Bridge fund. The concept is that we will reconstruct this road if it can be done within the available funding. The intent will be to go out to bid soon within the next week or so to receive bids by the middle of July, after which we can make a decision as to the adequacy of funding to construct all or a portion of the project. The contract is constructed so that we could construct this road in phases if that's what funding allows. There are a number of details in the document and this is just a general summary of it. Chevron representative Michael DeBerry said that certainly I would like to say this is a wonderful opportunity for Chevron as a member of industry in this County to move forward in a proactive collaborative factor, acting as a responsible citizen and partner. Our staffs have worked long and hard and very diligently with Garfield County Engineering and Road and Bridge Department and our own organization working to come up with a wonderful enhancement to be constructive in the County that's important to our business needs as well and we're looking forward very much in moving forward. Chairman Martin – Also, note that Chevron is also a very large fee title owner in Garfield County, the land itself is a hundred plus thousand acres of land so they are property taxpayers as well as a business and we thank you very much. Commissioner McCown made a motion that the chair be authorized to sign and that we approve the joint participation and the cause agreement for the reconstruction of CR 204. Commisisoner Houpt second that but I do have to make a comment however. I appreciate the amount of time and great thought that has gone into this contract and applaud everyone for a fine job, there is a paragraph in here that I have great difficulty with and that is on the severance tax credits. In Colorado right now the whole distribution of severance tax is under great debate and this particular opportunity under the statute is also under discussion and philosophical on what types of projects this type of credit should go to. I can't personally support this as part of this contract and I'm sorry that it appeared in this contract because it kind of forces my hand but until we decide, until counties are more clear on how this severance tax credit impacts future impacts within our counties and until we have a clearer understanding of what that the PIE, that distribution is going to ultimately look like because I know its going to be played with next year in the legislative session as well. I'm really hesitant to commit to supporting this level of project for that credit and I do want to put on the record that I support this partnership; I just cannot support this paragraph on supporting the movement for the severance tax credit on the project. Chairman Martin – And for those interested the title is 39.29.107.5 of the Colorado Revised Statutes and it's been used forty one (41) different times over the last nineteen (19) years and again it is to assist you in that application and using those credits as allowed by statutes. And the last one to do it was Delta County. It is something that we look at and I understand Tresi's concerns.
Don said with a motion and a second one thing I forgot and want to make sure the Board is aware of this, my understanding is that the concept of the agreement has been approved by Chevron but they have not approved the final contract form, is that correct. Stacey Saunders replied that is correct and we're prepared to recommended the contract proceed. Chairman Martin clarified that this also needs to go to the Chevron Board of Directors.
Commissioner Houpt once again suggested that Chevron delete that one paragraph she alluded to previously and then they would have full support of the Board. In favor: Martin – aye McCown – aye Opposed: Houpt

VACATION OF CR 118 – CONTINUED

Don asked the Board to continue this item. Don has a letter from John Neiley indicating the landowner concurs with a continuance. We would both like to continue this matter until July 7, 2008 so that the landowner has the opportunity to complete construction of the improvements the Board requested and it makes a much cleaner process when that is done. Commissioner McCown made a motion that this CR 118 vacation issue be continued until July 7th at the at the 10:16 a.m. time frame. Commissioner Houpt seconded. In favor: Martin – aye McCown – aye Houpt - aye

ASSESSOR:

ABATEMENTS FOR JIM SCHWALLS & ASSOCIATES, INC. – ABATEMENT 08-250, SCHEDULE NO. R311988

Notification to the taxpayer was accomplished.

Chairman Martin swore in the speakers who wished to give testimony.

Lisa stated the petitioner Jim Schwalls, a tax representative, states that the taxes assessed against the above property for property tax year 2007 are incorrect based on excessive income analysis. The abatement request is proposed to the Board for denial based on the data submitted by the agent is not within the data gathering period as prescribed by law.

ALLEN W. & SHERRY M. TARDIF – ABATEMENT #08-248, SCHEDULE #R080882

Lisa stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect because the parcel had improvements as of 2007 and should have been taxed at the residential rate for 2007. The abatement amount if for $1,430.66.

TPI PETROLEUM, INC. SCHEDULE P310652 AKA VALARO ABATEMENT NO. 08-249

Lisa Warder presented the abatement stating this was requested by TPI Petroleum, Inc. or otherwise known now as Vallario. I do have some documentation submitted as exhibits for this abatement. Exhibit A which is a copy of the commercial personal property declaration; this is confidential information only to the Commissioners; I have a copy of Exhibit B is also confidential document; it is the personal property worksheet for tax year 2005.

Don asked not to have these admitted as exhibits. Commissioner McCown asked for the abatement number.

Lisa gave that as Abatement 08-249. I actually do have an exhibit that is not confidential that I can give you and its Exhibit C and it is a memorandum from the Division of Property Tax concerning the Valero court case that was recently settled in District Court. Chairman Martin – That is a public document and we will accept that. Don – Lisa that was actually a ruling of the District Court Judge. Lisa – Yes and a memorandum from the Division. Don – The reason I said that is my understanding was that this was actually litigated and didn't believe it was settled. That's only important to the extent that the counties who litigated that are proud of their accomplishments. Lisa - We are one of them by the way.

ABATEMENT #08-244 SCHEDULE #P310652; JOHN D. LINDSEY

Lisa stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect due to clerical error. This property is unbuildable due to the proximity to the railroad tracks. The abatement refund is in the amount of $5,503.21.Exhibit C – was admitted into the record and these are open for public record. Denial of this abatement is based on the equipment and prices that were originally paid and purchased. They put these on the Assessor's records and this is a value placed on this property for 2005. The State of Colorado differs on price and it shows we did value the property. The Assessor is recommending denial of this abatement. Valero gave us a declaration in 2005 telling us what equipment they had at this location in Glenwood; they gave us what the prices were originally paid; and they gave us the years they were originally purchased. We put that on our records exactly as they gave it to us; we used the division property tax tables to value them and that is the value that is placed on this property for 2005. They did go to court to say the State of Colorado is not valuing personal property correctly. It was a difference between value and use and value and exchange and as you can see documentation from the division shows that we did value the property correctly in accordance with the Division of Property Tax and we are recommending denial. The abatement to be approved is for $5,503.21.

ABATEMENT 08-232, SCHEDULE #R080486; RIVERSIDE PARTNERSHIP, LLC –

Lisa stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect because the property was both incorrectly classified and also overvalued. The abatement refund is for $8,796.56.

ABATEMENT #08-235, SCHEDULE #R005371; NELSON AND DIANNE OWEN

Lisa stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect because the property was split into two schedule numbers and RO11374 should have been deleted and was not due to clerical error. The abatement request if for $4,940.44.

ABATEMENT #08- 236 R008245 - VICTORIA A. & JASON W. POWELL

Lisa stated this property had a foundation as of January 1st and so it should have been on the residential rate, not the vacant land rate. The tax is $1,766.09

MOTIONS

Commissioner McCown made a motion to close the public hearing. Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown - aye

ABATEMENTS FOR JIM SCHWALLS & ASSOCIATES, INC. – ABATEMENT 08-250, SCHEDULE NO. R311988

A motion was made by Commissioner McCown that we deny the abatement.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

ALLEN W. & SHERRY M. TARDIF – ABATEMENT #08-248, SCHEDULE #R080882

A motion was made by Commissioner McCown that we approve the abatement in the amount of $1,430.66.
Commissioner seconded. In favor: Houpt – aye McCown – aye Martin - aye

TPI PETROLEUM, INC. SCHEDULE P310652 AKA VALERO ABATEMENT NO. 08-249

A motion was made by Commissioner McCown that we deny the request for abatement.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT 08-244, SCHEDULE #R080486; JOHN LINDSAY

A motion was made by Commissioner McCown that we approve the abatement for $5,503.21.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

ABATEMENT #08-235, SCHEDULE #R005371 – RIVERSIDE PARTNERSHIP LLC

A motion was made by Commissioner McCown that we approve the abatement in the amount of $8,796.56. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye

ABATEMENT #08-235, SCHEDULE #R011374 – NELSON AND DIANNE OWEN

A motion was made by Commisisoner McCown that we approve the abatement in the amount of $4,940.44. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye

ABATEMENT #08- 236 R008245 - VICTORIA A. & JASON W. POWELL

A motion was made by Commissioner McCown that we approve the abatement in the amount of $1,766.09. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

SPRING VALLEY HOLDINGS WATER ISSUES – DONNAYNE LAGIGLIA

Donnalyne LaGiglia and Lou LaGiglia presented an in-depth report to the Board regarding.
December 7, 2007 – Spring Valley submitted final approval. An update on the LaGiglia water issues was given. Their water line was destroyed to build the neighbor a right of way agreement to build a house on top of the water line.
The well was built and meeting with Tom Gray presented a document to the LaGiglia was less than the legal limit. The entire document was read into the record explaining the LaGiglia position on the water line understanding during the public hearing held on December 7, 2007 when the Spring Valley hearing was held. Lou stated that his wife went over the key points. When they tested the well within 600 feet it did affect his well. No responsibility for the supply of water to the LaGiglia property will be done was stated by Danny Gray to Lou. They still need to come back to the Board of that easement. Chairman Martin asked if this information has also been referred to the Planning Department. Response – No. This will be referred to the Planning Department. Commisisoner Houpt said this was a lengthy discussion and their conditions of approval clearly as represented in discussion at the hearing covered these issues and neighbors were to be made whole and there is nothing we can do today. Donnalyne stated that Danny Gray sent them a letter and it was included in her communication given to the Board, Item J. We basically said to Danny, let's get back to where we were with Tom and follow through; Danny was ditching that whole plan. Commissioner Houpt – And you had actually signed off on that. Don – The Spring Valley Development company representatives was not notified that the LaGiglia family would be here today. This needs to be reviewed and obtain a transcript of that hearing. Legal and Planning staff need to discuss this and come back to the Board with a recommendation. The Board will notify the LaGiglia's when this will come back before the Board possibly within the next couple of weeks.

UPDATE IRON BRIDGE ESCROW AGREEMENT – TIM THULSON

Tim Thulson, Balcomb & Green on behalf of LB Rose Ranch LLC and Don DeFord were present.
Chairman Martin has been authorized to sign this Escrow Agreement.
Tim submitted the signed agreement and will submit this to the Clerk for signature of the Chair and attestation.

CONSIDERATION OF QWEST RELOCATION PROPOSAL – EAST END OF AIRPORT – BRIAN CONDIE

Brian Condie and Carolyn Dahlgren provided the charges required to relocate the telephone facilities in the amount of $18,811.10.
Commissioner McCown made a motion we approve the agreement with Quest to relocate the line to aviation equipment in the amount not to exceed $18,811.10. Commissioner Houpt seconded.
In favor: Houpt – aye Martin – aye McCown - aye
Executive Session – Continued – COGCC scheduling for rule making; Judy has a report to submit to the Board as a confidential deliberative process document; John Gorman need to talk to you and provide you with an update on gas auditing
A motion was made by Commissioner McCown that we go into an Executive Session to discuss the aforementioned items. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we come out of Executive Session. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A PLAT AMENDMENT FOR PINYON MESA SUBDIVISION, FILING NO. 1, LOT 1. APPLICANT IS PINYON MESA DEVELOPMENT, INC. – CRAIG RICHARDSON
CONSIDER A PLAT AMENDMENT FOR PINYON MESA SUBDIVISION, FILING NO. 1, LOT 21. APPLICANT IS PINYON MESA DEVELOPMENT, INC. – CRAIG RICHARDSON
CONSIDER A PLAT AMENDMENT FOR PINYON MESA SUBDIVISION, FILING NO. 1, LOT 48. APPLICANT IS PINYON MESA DEVELOPMENT, INC. – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren and David Smith were present. This is a request to amend the Final Plat for Pinyon Mesa Subdivision, Filing No. 1, Lot 1, 21 and Lot 48. The developer placed a building envelope on the plat just as he wished, there's no reasoning behind it so he wants to enlarge it now so it is applicable and complies with all our zoning and Subdivision Regulations and staff recommends that the Board approve the request. The owner of the parcel would like to increase the size of the platted building envelope. The request complies with all applicable Garfield County Zoning and Subdivision Regulations.
STAFF RECOMMENDATION
Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve the request to amend the Final Plat of Pinyon Mesa Subdivision, Filing No. 1, Lots 1, 21 and 48 with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

David Smith commented on why this is where it is saying that it was an oversight on the part of the developer that we didn't expand the building envelopes to meet the setbacks of the PUD and that's what these amended plats seek to do. All the other requirements are covered and still apply.

A motion was made by Commissioner McCown that we approve the plat amendments to the Lot filing No. 1, Lot number 1, 21, and 48. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER THE REFERRAL OF A SPECIAL USE PERMIT TO THE PLANNING COMMISSION FOR A CONTRACTOR'S YARD WITHIN THE ARRD ZONE DISTRICT AND LOCATED APPROXIMATELY ONE (1) MILE EAST OF THE CITY OF RIFLE ON COUNTY ROAD 352 NEAR THE GARFIELD COUNTY AIRPORT. APPLICANT IS BRUCE SNODE. – DAVID PESNICHAK

David Pesnichak, Julie Justice from Bettie and Chadwick and Carolyn Dahlgren were present. Commissioner Houpt recused herself due a conflict of interest. The Applicant requests that the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a "Contractor's Yard" on a 6.69 acre parcel zoned Agricultural / Residential / Rural Density (ARRD). The intent is to utilize the parcel for the parking of five (5) trucks used to deliver water to oil and gas companies and drilling sites. The parking and activity area is to be approximately 125 feet by 60 feet (7500 square feet). No water or wastewater facilities are proposed to be used at this facility. Traffic generated by the proposed use will be up to twenty (20) vehicle trips per day. The Applicant has represented this application in the following manner:

STAFF RECOMENDATION

Due to the anticipated limited visual, traffic and infrastructure impacts of this proposal, Staff recommends that the Board of County Commissioners direct Staff to schedule this item before the Board and not refer it to the Planning Commission.

A motion was made by Commissioner McCown to refer this to the Board of County Commissioners for a public hearing and not refer this to the Planning Commission. Commissioner Martin seconded.

In favor: Martin – aye McCown – aye Houpt – recused herself due to a conflict of interest.

CONSIDER A REQUEST FOR A 1-YEAR EXTENSION TO AN EXISTING SUBDIVISION IMPROVEMENTS AGREEMENT FOR PANORAMA RESERVE SUBDIVISION. APPLICANT IS CORT LEWIS – FRED JARMAN

Fred Jarman and Don DeFord were present. Fred stated this is a request to extend the life of the Subdivision Improvements Agreement out to one year so instead of sun setting August 13, 2008 it would come to close on August 13, 2009. Fred attached with the cover letter from Ms. Geiger as the recorded and approved SIA as it stands today. This was a fairly small three (3) lot subdivision and had minimal improvements that needed to be made, and we see no reason why the Board should not grant the year extension to it. Fred said the hiring of contractors is a challenge for them right now.

A motion was made by Commissioner McCown extend the time of the SIA until August 13, 2009.

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

REQUEST FOR APPROVAL FOR A NOTICE OF CANCELLATION OR NON-RENEWAL FOR A RECLAMATION BOND FOR AN ADMINISTRATIVE PIPELINE. APPLICANT IS ENCANA. – FRED JARMAN

Fred Jarman presented.

This is the result of some correspondence received in the Planning Office. This is to cancel one policy and renew the bond under another company. The bond is the same for the pipeline and one of the first administrative pipelines and recommended the Board approve the request.

A motion was made by Commissioner McCown that we approve the cancellation or non-renewal for a reclamation bond for an administrative pipeline for EnCana. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR AN EXPANSION TO A VETERINARY HOSPITAL WITH TEMPORARY HOUSING FOR INTERNS AND LOCATED APPROXIMATELY FOUR (4) MILES EAST OF CARBONDALE, ADDRESSED AS 17776 HIGHWAY 82. APPLICANT IS ALPINE ANIMAL HOSPITAL – DUSTY DUNBAR

Dusty Dunbar and Carolyn Dahlgren were present.

REQUEST

The applicant has operated a veterinary clinic on this site since 1970. The proposal seeks to remove a portion of an existing structure and eliminate another existing structure to construct a new 11,092 square foot structure with central receiving area and two wings to serve as treatment area for large and small animals, respectively.

STAFF RECOMMENDATION

Staff finds that because this use type is unchanged (the veterinary clinic has operated on the site since 1970) and the project is limited in its complexity, it is appropriate to recommend that the Board direct Staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commission.

A motion was made by Commissioner Houpt to schedule this SUP request for an expansion to a Veterinary Hospital before the BOCC. Commissioner McCown seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT FOR A REVISION TO AN EXISTING COMMUNICATION FACILITY , LOCATED APPROXIMATELY TWO AND ONE-HALF (2.5) MILES NNW OF THE END OF COUNTY ROAD 211 NEAR THE CONFLUENCE OF CLEAR CREEK AND TOM CREEK, NORTHWEST OF DEBEQUE. APPLICANT IS CHEVRON USA – DUSTY DUNBAR

Dusty Dunbar and Carolyn Dahlgren were present. This proposal is to modify an existing communications facility (originally permitted in 2007) that enables communications to operations in Grand Junction from an unmanned location. Revisions include increasing the communications tower height from 30' to 50' and to construct an additional 10' by 12' shed for communications – related equipment.

STAFF RECOMMENDATION

Staff finds that because this use type is unchanged, and the project is limited in its complexity, it is appropriate to recommend that the Board direct Staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown to schedule this before the BOCC.

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

CONSIDER A SPECIAL USE PERMIT FOR A SERVICE PAD/BOOSTER COMPRESSOR STATIONS TO SUPPORT NATURAL GAS PRODUCTION WITHIN THE RESOURCE LANDS ZONE DISTRICT, LOCATED APPROXIMATELY TWO AND ONE-HALF (2.5) MILES NNW OF THE END OF COUNTY ROAD 211 NEAR THE CONFLUENCE OF CLEAR CREEK AND TOM CREEK, NORTHWEST OF DEBEQUE. APPLICANT IS CHEVRON USA – DUSTY DUNBAR

Dusty Dunbar and Carolyn Dahlgren were present. This proposal is to permit construction of an additional well pad (adjacent to an existing well pad) to provide for two (2) booster compressors that will be used to transport gas production in the To Creek area of Chevron's Skinner Ridge Natural Gas Field.

Staff recommendation: Staff finds that because this use type is unchanged and the project is limited in its complexity, it is appropriate to recommend that the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

A motion was made by Commissioner McCown to schedule this before the BOCC. Commissioner Houpt seconded.

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

CONSIDER A SPECIAL USE PERMIT FOR THREE (3) TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED APPROXIMATELY 17-20 MILES NORTH OF THE TOWN OF PARACHUTE OFF GARDEN GULCH ROAD AND WITHIN WELL PADS DESCRIBED AS F-01, O-32, AND O-29 AND OPERATED BY BERRY PETROLEUM COMPANY. APPLICANT IS BERRY PETROLEUM COMPANY. – DAVID PESNICHAK

David Pesnichak, Carolyn Dahlgren, Brian Burns, Chris Fremont were present.

Carolyn reviewed the noticing requirements. Berry Petroleum owns the surface but not the minerals. Carolyn determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. David entered the following exhibits:

Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum, Exhibit E – Application and Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated May 6, 2008. Chairman Martin entered Exhibits A – F into the record. The Building and Planning Department received a Special Use Permit (SUP) application for three "Temporary Employee Housing" facilities on property owned by Berry Petroleum Company and located on an approximately 1214.78 acres approximately 17 to 20 miles North of the Town of Parachute. The facilities are to be located on the approved "F-01, O-32, and O-29" COGCC well pads operated by Berry Petroleum.

More specifically, the Applicant requests approval for three (3) Temporary Employee Housing facilities to house personnel for the purpose of natural gas drilling operations. The sites are located on Berry Petroleum's F-01, O-32, and O-29 well pads located off Garden Gulch Road. The Temporary Employee Housing facilities will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however the housing facilities will be at location for no more than one year each. The maximum number of people to be housed at each facility will be 24.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facilities meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facilities serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one

(1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.

11. Inhabitants of the temporary housing shall be applicant's employees, contractors and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24) per facility.
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic feet) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
21. Each facility shall have a minimum total capacity of 12,000 gallons of potable water storage and be refilled a minimum of every six days.
22. Each facility shall have a minimum total capacity of 12,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every six days.

A motion was made by Commissioner McCown close public hearing.
Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
A motion was made by Commissioner McCown to approve a Special Use Permit for three (3) Temporary Employee Housing facilities on property owned by Berry Petroleum Company and operated by Berry Petroleum Company and located on well pads described as F-01, 0-32, and 0-29.
Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

CONSIDER A SPECIAL USE PERMIT AND CERTIFICATE OF DESIGNATION FOR THE EXPANSION FROM TWO (2) TO SEVEN (7) REVERSE OSMOSIS BRINE WATER EVAPORATION PONDS WITHIN AND SERVING RIFLE GAP STATE PARK. APPLICANT IS THE UNITED STATES BUREAU OF RECLAMATION. DAVID PESNICHAK

David Pesnichak, Mike Havens and Carolyn Dahlgren were present. Carolyn reviewed the noticing requirements and determined that they were accurate and timely and advised the Board they were entitled to proceed. Faxed copies were accepted by the Board. Chairman Martin swore in the speakers. David submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E –Staff memorandum, Exhibit F – Application; Exhibit G - Letter from Jake Mall of the Garfield County Road and Bridge Department dated May 7, 2008; Exhibit H – Letter from Robert J. Peterson, Environmental Protection Specialists, of the Colorado Department of Public Health and Environment to Mike Havens of the Colorado State Parks dated April 28, 2008; Exhibit I – Memo from Steve Anthony of the Vegetation Management Department dated May 23, 2008; Exhibit J – Email from Jim Rada Garfield County Environmental Health Manager, dated May 23, 2008; Exhibit K – Letter from Resource Engineering, Inc. Michael J. Erion, P.E. dated May 28, 2008. Chairman Martin entered Exhibits A – K into the record. The Building and Planning

Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" and a request for a Certificate of Designation for expansion of an existing Reverse Osmosis Evaporation Pond Expansion. The site is located off State Highway 325, approximately 4 miles north of the City of Rifle and within Rifle Gap State Park. More specifically, the Applicant requests approval for a Special Use Permit and Certificate of Designation from the Board to increase the number of the reverse osmosis brine water evaporation ponds within Rifle Gap State Park from the existing two (2) to a total of seven (7). This facility currently serves to evaporate off the water created from the reverse osmosis treatment for the potable water used within Rifle Gap State Park. Once the water is evaporated, salts and other once dissolved solids are left at the bottom of the pit. This solid residue (brine) is then disposed of accordingly. The water to be treated originates from three (3) ground water wells which are nearby and within the Park. The Applicant has represented the application in the following manner: There are two (2) existing reverse osmosis evaporation ponds located within and serve Rifle Gap State Park which were installed in 2004. At that time, it was the view of the Hazardous Materials and Waste Management Division of the State Health Department (HMWMD) that a Certificate of Designation was not necessary for this type of facility. In the fall of 2007, the HMWMD reevaluated it's regulatory authority and it was determined that the evaporation ponds as proposed require a Certificate of Designation from the local governing body with jurisdiction (Garfield County). As the Garfield County Zoning Resolution contemplates evaporation ponds as "Material Handling of Natural Resources" within the ARRD Zone District, in order for the BOCC to issue a Certificate of Designation a Special Use Permit (SUP) must first be issued in order for the facility to comply with existing zoning. Compliance with zoning is one of the requirements for approval of a Certificate of Designation. The governing statute for Certificates of Designation can be found in C.R.S. 30-20-102 though 30-20-104. C.R.S. 30-20-104 outlines the "Factors to be Considered" for a Certificate of Designation. These "Factors to be Considered" are outlined below and will be evaluated later in the Staff Report:

(1) In considering an application for a proposed solid wastes disposal site and facility, the governing body having jurisdiction shall take into account:
   (a) The effect that the solid wastes disposal site and facility will have on the surrounding property, taking into consideration the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;
   (b) The convenience and accessibility of the solid wastes disposal site and facility to potential users;
   (c) The ability of the applicant to comply with the health standards and operating procedures provided for in this part 1 and such rules and regulations as may be prescribed by the department;
   (d) Recommendations by local health departments.

SITE DESCRIPTION

The proposed site where the evaporations ponds are located and where the new ponds are to be installed is located north east of Rifle Gap Reservoir near the visitor center and is situated on top of a small ridge overlooking the Reservoir. The total area of the site has been estimated to be approximately 3.6 acres of the total 770 acre parcel owned by the US Bureau of Reclamation. The area where the ponds are located is not visible from the Rifle Gap Reservoir or any of the recreational amenities. In addition, site access is limited to authorized personnel and is not open to the public. Please see the photos below of the subject site:

STAFF RECOMMENDATION

As a process of order, the Board of County Commissioners should first make a determination of approval or denial regarding the Special Use Permit. If it is found that the Special Use Permit is in compliance with all applicable regulations as established within the Zoning Resolution of 1978, the Board of County Commissioners should then make a determination regarding the Certificate of Designation. Staff recommends that any conditions which are apart of the Special Use Permit be carried over to the Certificate of Designation in order to maintain consistency.

Due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the site such that it is not visible from any public vantage point, and 3) the proposed expansion is to an existing water treatment and evaporation facility, Staff recommends the Board approve the request for a Special Use Permit and Certificate of Designation for "Processing and Material Handling of Natural Resources" for the addition of five (5) new evaporation ponds within Rifle Gap State Park to treat potable water used within the Park with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
3. 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.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
12. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size
13. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
14. 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.
15. That all necessary Garfield County building and grading permits are obtained prior to construction.
16. The applicant shall submit a noxious weed inventory, map and weed management plan for all Garfield County listed noxious weeds and any State List A or B species. In addition, this plan shall contain a commitment to timely treatment of all County listed noxious weeds. This inventory, map and weed management plan shall be reviewed and approved by the Garfield County Vegetation Management Department prior to issuance of the Special Use Permit or Certificate of Designation.

No additional remarks other than what David had in his staff report. This is an existing facility. Commissioner Houpt – One concern, the depth of these ponds could go to six feet. Mike – Yes, we are required by the regulations to have two (2) feet and overflows on the ponds when it gets within 6 inches. Commissioner Houpt – These are lined ponds and a concern for wildlife if they fall into the pond. Has DOW weighed in on that? Mike – The two existing ponds are lined and haven't had a problem with large livestock. No dead animals have been pulled out and there is a lack of wildlife due to the activity. We looked at it for migratory birds as part of the EIA and determined not to be a problem; the birds would prefer the fresh water available. Mike stated the operation plan and would have the water operation and park rangers keeping track of the site and a variety of park staff operating the facility. If there was ever a problem they would remove the hazard. Commissioner McCown – Toxicity of the residue has to be tested on where it will be taken, is there an alternative to the landfills. Mike – There is always an alternative and they do have it, when a pond becomes so salty they will stop the water flow into it and let it dry out taking several months to a year and they take the waste and characterize the waste for appropriate disposal. sThe waste will have sulfite and salts but they will test prior to disposal.
A motion was made by Commissioner McCown to close the public hearing.
Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
Commissioner McCown moved to approve a Special Use Permit for an expansion of the evaporation pond facility located within the Rifle Gap State Park for the Bureau of Reclamation with the conditions provided by staff with the 5 conditions. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye
Commissioner McCown moved to approve a Certificate of Designation for an expansion of the evaporation pond facility located within the Rifle Gap State Park for the Bureau of Reclamation with the conditions provided by Staff with the e5 conditions of staff. Commissioner Houpt seconded. In favor: Houpt – aye Martin – aye McCown - aye

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

JUNE 9, 2008
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 9, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

PURCHASE OF SERVICE AGREEMENT FOR NATURAL GAS EQUIPMENT AUDIT (FOR THE COMPLETION OF WORK BY VISUAL LEASE SERVICES WHOSE CONTRACT EXPIRED 12/31/07) – JOHN GORMAN

John Gorman presented the purchase of services agreement and stated for a variety of reasons, including but not limited to the slow transfer of required detailed information from taxpayers, Visual Lease Services (VLS) was not able to complete the delivery of their work product to the Assessors Office by the end date of the above referenced contract. Therefore, the contract presented today has been written to:

1. Create the mechanism to pay VLS the remaining monies left from the 2007 contract
2. Establish, for 2008, a principle/agent relationship between the County and VLS in order that
3. the Assessor's Office, by the ability to share information, in conjunction with VLS, might more accurately value the property under review – not only now but also in any proceeding in which this office will be required to defend our estimates of value to which defense VLS is committed in the future.

John feels there are some important features in this contract; section five (5) and section seven (7).
Commissioner Houpt asked if the contract picked up from January, and John Gorman stated yes. Commissioner Houpt stated; I make a motion we approve the purchase of service agreement for the natural gas audit with Visual Lease Services in an amount not to exceed $88,875.00. Commissioner McCown – Second. Don DeFord stated for the record this money was budgeted last year. In favor: Houpt – aye McCown – aye Martin - aye

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS 2008

COUNTY FAIR PARADE ROUTE REQUEST – MARVIN STEPHENS

The Garfield County Fair Parade will be held on Saturday, August 9, 2008 and begins at 10:00 a.m. The Chamber is requesting they be allowed to block West 16th Street from the east of Hwy. 13 on/off "ramp" to Railroad Avenue (approximately .6 miles), from 7:00 a.m. until approximately 10:30 a.m. Traditionally 18th Street has been used as one of the staging areas for the fair parade; however, with the construction of the new Justice Center that area is no longer an option. The Commissioners all agreed.

HOUSEHOLD HAZARDOUS WASTE EVENT RESULTS 2004 THROUGH MAY 2008 – MARVIN STEPHENS

Marvin presented the following statistics: HHW Event totals for 2004 – 2008

1.	Paint and paint related-gal	2166
2.	Used oil/petroleum products-gal	2061
3.	Solvents/cleaners-gal/lbs	37
4.	Pesticides-lbs	797
5.	Herbicides – lbs	695
6.	Batteries-lbs	39
7.	Fluorescent lights-lbs	40
8.	Other toxic waste-lbs	239
	Total gals/lbs	6074

EXECUTIVE SESSION:

Ed Green stated he had two items for executive session; negotiations regarding senior programs and negotiations with DOE regarding Rulison.

COUNTY ATTORNEY UPDATE – DON DEFORD

POWER OF ATTORNEY – PITKIN AVENUE PURCHASES

Carolyn Dahlgren stated that back in May the Board authorized the purchase of the property, and Commissioner Martin was authorized to sign the purchase agreement and all closing documents. Dale Hancock ended up going to the closing and the title company accepted him as an agent with apparent authority. The title company asked for a copy of the minutes; whereby you approved the purchase and we gave them that and the minutes clearly said John Martin was the only one with signature authority. This is a clean up after the fact, with a specimen of Dales signature is essentially a retroactive power of attorney. Carolyn stated she didn't do the case law to see if Colorado Case Law allows that. In this instance; we are the purchasers not the conveyors so there is less of an issue. This will be recorded in Jean's (Clerk & Recorder) real estate records so that should there ever be a question of Dales authority to accept this deed, the delivery of the deed, and to sign all of the paperwork; this will be in there. What Carolyn is asking for today is authority for the Chair to sign a power of attorney; saying even though the Chair was authorized to sign what you really meant was that Mr. Hancock can also sign. In the future, to be cautious, we should always authorize our administrator if indeed you want the administrator to show up at closing instead of the Chair. Carolyn stated she may be coming to the Board to ask for someone other than John to sign on the conveyance of property from Mr. Howard to the County. Commissioner Houpt asked in this type of situation, if John is authorized does it also mean that either Larry or she could sign. Carolyn stated only if John is not available. Yes, Dale and Ed have apparent authority; but in the world of real estate that generally is not good enough, you need to be authorized by a document that is recorded in the Clerk and Recorders records. Commissioner Martin stated he didn't believe he was gone; he thought he was available but Dale handled the whole situation and he went. Carolyn again stated they needed to use caution. Commissioner Houpt stated she assumed it would have been a Commissioner who would go to the closing. Don DeFord wanted to give a quick comment; the issue is not that it can't happen this way, it can. It is just cleaner to authorize up front. We are asking you to authorize signature of the resolution that ratifies the actions Dale took. Commissioner McCown – So Moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL AND AUTHORIZE THE CHAIR TO SIGN PURCHASE OF PROFESSIONAL SERVICES AGREEMENT

Don DeFord asked to discuss in executive session.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated he would like to discuss the following in executive session; I have a concern about potential contract litigation in the administration; as Ed has noted to provide you with legal advice concerning the IGA for senior programs; an update on the status of right-of-way for County Road 309; and item B, approval and authorize the Chair to sign purchase of professional services agreement.

Commissioner McCown – I have one on a land use issue and would like some legal guidance.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried. In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

PROFESSIONAL SERVICES AGREEMENT

Don DeFord stated he would like the Chair authorized to sign the Professional Services Agreement. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant Lists
c. Grants – Sales Tax Recovery Distribution for May $64,387.27 – Georgia Chamberlain
d. Authorize the Chairman to Sign the Resolution of Approval for a Text Amendment Regarding Amended Special Use Permit Standards (Section 5.02.21), Administrative Permit Process (Section 5.02.22) and Use-by-Right Standards (Section 5.02.23) for Temporary Employee Housing as Approved by the Board on April 7, 2008 – Applicant; Garfield County Board of County Commissioners – David Pesnichak

e. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit and Certificate of Designation for Expansion of the Brine Water Evaporation Facility Located within and Serving Rifle Gap State Park – Applicant; The United States Bureau of Reclamation – David Pesnichak
f. Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit, and Special Use Permit for three (3) Temporary Employee Housing Facilities Located North of the Town of Parachute off Garden Gulch Road and within Berry Petroleum's F-01, O-32, and O-29 Well Pads – Applicant; Berry Petroleum Company – David Pesnichak
g. Request and Approval of Supplemental Budget for a New Server – John Gorman
h. Authorize the Chairman to sign the Special Use Permit for an Industrial Support Facility for a Temporary Office for EnCana Oil and Gas (USA), Inc. Located on Property Owned by American Soda, LLP – Fred Jarman
i. Authorize the Chairman to Sign the Tomlinson Subdivision Exemption Plat and Resolution – Applicant; Tomlinson – Craig Richardson

Commissioner McCown – I make a motion we approve the consent agenda as presented. Commissioner Houpt – Second. Consent Agenda Items a - i; carried. In favor: Houpt – aye McCown – aye Martin - aye

BLACK DIAMOND MINERALS LLC, UPDATE ON TEEPEE PARK RANCH – JACK LUELLAN, ESQ AND JIM BECKWITH, ESQ.

Jack Luellan, Black Diamond Minerals and Jim Beckwith, on behalf of Mr. Carpenter were present. Carolyn stated everyone was here because the Commissioners were asked to release road bonds related to TeePee Park and that was not done. Your decision not to release the bonds had to do, from my understanding, was whether or not you felt the underlying SUP for logging; the conditions had been met for that SUP. One of the conditions included was that any new owner of the property would come and talk with you. The old owner is no longer logging as represented by Mr. Beckwith. In your packets you have the actual Resolution, and you have the reports that were required back in 2003. Some of the obligations under the old SUP; although no longer consistent with what the new use of the property is, are interestingly covered by the new watershed permit which Rifle has given the new owner. She has not actually reviewed the document. Her understanding of what your action was; you were concerned that reclamation had not occurred under the old SUP which runs with the land. The new owners get the rights and obligations of that old SUP. If they don't want to log, so be it; but they still have to deal with their obligations under the old SUP until that SUP is relinquished and revoked. Commissioner Martin asked if Carolyn was basing that on two different articles under the Resolution of 2003-39; which is number three (3) and number ten (10). This transfer of ownership as well as the road itself has to be completed after logging no matter what. Carolyn stated there is a question; the current resolution deals only with one (1) road not two (2) roads. The old resolution dealt with two (2) roads. Today we are not asking you to take any action. I'll have to schedule a re-consideration of the release of the bonds. Commissioner McCown asked; when you are saying old resolution which one are you referring to? Carolyn – The 1997 Resolution which was replaced by the 2003 Resolution. Commissioner McCown stated; so the 2003 is the only one in place at this time. Carolyn stated yes.
Commissioner McCown stated and it's the one that has the road issue in it; one road number four (4). Commissioner McCown asked if the timbering was completed. Jim Beckwith stated oh yes; last load under the permit went out in October, 2004. Jack Leuallen stated; just for the record the new owner has absolutely no interest in logging whatsoever. Carolyn stated, that being the case perhaps we should schedule this for an agreed upon revocation and relinquishment. Commissioner McCown stated no you misunderstand. Upon completion of the timbering; County Road 320 was to get an overlay. Mr. Beckwith just testified that timbering has been completed. So I see that the overlay needs to happen per that agreement. My question to you Mr. Beckwith was had the timbering been completed and you said yes.
Jim – I believe the date was October 24, 2004. Commissioner McCown stated; to me once that timber harvest was completed that's what triggered the paving of the road. Commissioner Houpt stated the wording is very clear and read the resolution. Jim stated he understood; but the road bond that remained in place was by Resolution 97-70, which is the other resolution and that bond is for repair of the road caused by logging trucks. I have asked Carolyn recently for any reports, any quantification or any thing else relative to what damage our logging trucks did to County Road 320. For reference; our equipment never went in by CR 320. Our equipment went in through Rulison which would have been a different route getting into County Road 317, Beaver Creek Road. We are not involved in the issue of equipment. First of all it is undisputed. Commissioner McCown, we are done with our thinning of the forest. And that has been done for well over three (3) years. The issue has been whether or not CR 320 has to be repaved; if we have any assessment to Mr. Carpenter relative to the cost of repaving. That assessment must be in proportion as to what damage his equipment did. Our logging trucks were legal loads; they were not overweight loads, and we have yet to see that. There has always been a question and a dispute relative to the 2003 Resolution. That came about because as many of you will recall; you told us we could not amend an existing SUP. And yet if you look at the original resolution and the second resolution; in order to understand what we had to do, we had to interpret them together. So there is a legal question Commissioner Houpt; whether one is separate or you have to look at both. Relative to the bondsman; you have to look at both because the bond was already in place when you came down with your 2003 Resolution. We already notified you way back in 2003 with this document; which was our harvest project report to you in the application that we had the dispute relative to County Road 320. From the stand point of should the permit continue; as far as we are concerned, terminate the permit. Whether it's consensual or otherwise; that's four (4) years ago almost. Anything that is current ecologically or environmentally; I have no doubt it is going to be discussed and covered in existing applications or future permits, oil and gas whatever else. This one is history. The only issue between us is County Road 320 and I request that you release the bond. Commissioner Houpt stated; and our position is on our resolution. Jim stated; your position I don't know it because I haven't seen any written report; all I have had is a series of phone calls from Carolyn and a series of emails from Carolyn, indicating you wanted this meeting perhaps to answer questions. But; it is not a hearing, not being set down for a hearing as far as I know, perhaps it needs to be. We feel it is long ago and that bond, if you look at the original 97-70, it's only effective period was during the active period of logging. If the period of logging was done, then that bondsman has in fact a defense to any claim that you make. From that standpoint, we can debate it, we can dispute it; but that is our position. I think that is essentially what you were asking me to come and talk to you about today; what is Mr. Carpenter's position? Commissioner McCown stated; I think you left out one other

gate, and that is litigate. Jim stated he would hate to see us get into litigation. Commissioner McCown stated he was not advocating that he was just saying you left that possibility out; because I clearly understand, or I clearly read and remember my motion differently than you just presented here today. If you look at number nine (9), the haul route will be along County Road 320 to the intersection and up CR 317 in Rifle. This is on the 2003 Resolution. That's why I asked our counsel which resolution is the only one in effect and that is the 2003-39 Resolution. This one superseded the other one and it is null and void upon the approval of this one. Carolyn stated that's how this issue came up. I received a communication from the bonding company that is still reflecting the old resolution. Carolyn wrote back to the bonding company and stated they had the wrong resolution. That is what started the whole debate. We may need to continue this and you may need to look at the minutes from your own meetings in 2003 to see what representations were made and what was behind this resolution. Jim asked Ms. Dahlgren; is there a record that Resolution 97-70 was ever repealed. Carolyn stated she has not reviewed the minutes; however, her memory is that in that discussion it was said that this resolution would get rid of the old ones, and only this one would be in place. But you are right, it's still a record; nobody ever put in a resolution repealing the underlying ones. Jim stated; and the 2003-39 Resolution nowhere refers…..okay. Commissioner Martin stated we will wait for a report and put on the agenda for a discussion or a public hearing. Carolyn stated it will come out of the Building and Planning Department. Commissioner McCown stated to make sure Mr. Beckwith and the other gentlemen are kept in the loop as far as scheduling this hearing, they will have to be noticed. Commissioner McCown asked if we would be the noticing party. Carolyn stated yes. I take it this will be on the release of the bonds. The question of the release of the bonds as well as the revocation and relinquishment of the SUP. Commissioner McCown stated yes and he thought there were still questions; we were hoping for some type of documentation from the State Forrester as far as the disposition of slash piles and how it was handled. Carolyn stated she wanted to caution them that under that resolution, the last one 2003, number thirteen (13) states on or before October 1, 2003 the consulting forester will do an on-site inspection to review applicants compliance; a report will be prepared after the site review presenting the findings. You have that; that happened. Commissioner McCown stated for one (1) year. Carolyn stated that in this resolution it did not make it an annual event. Commissioner McCown stated he realized that; but, if we are going to terminate this timber harvest special use permit we have to make sure that everything has been properly disposed of as agreed to in their harvest management plan. Carolyn stated she thought the new owners would have something to tell about that. Jim – Mr. Gherardi was not scheduled to be here. Commissioner Martin stated what we are saying is we need the final report from him stating that everything had been completed in reference to this resolution of 2003. Carolyn asked; do you want that from Mr. Gherardi, or do you want Mr. Hofer who was your consulting engineer. Commissioner McCown – I don't care. Carolyn stated there will be a question about who pays for that person's services. As I said at the beginning guess what, Black Diamond as the new owners, the obligations of the underlying SUP, which has not been revoked, ends up on your shoulders. Normally the Building and Planning Department would schedule that consultant and then bill you for the fees. Commissioner Martin stated, again you are looking at number ten (10) the transfer of ownership of the property subject to the special use permit issued according to this resolution. The new owners shall meet with the Board at a regular scheduled meeting and publish an agenda item. I think they should also live up to the requirements if necessary; we'll see if we go that far, let's schedule it. Commissioner McCown asked, do you want a date certain from us today or do you want to let the conversation between the Planning Department and these individuals drive that schedule. Carolyn thought that was better. The bonding company has been a part of this series of telephone calls and emails as well. The decision was made by the bonding company; I think appropriately that there wasn't really anything for the bonding company to do today. Clark Gilbert plans to be here when the next one is scheduled. Jim stated; for the record I won't worry about next Monday. Commissioner McCown stated he would anticipate a minimum of 30 days. Carolyn stated the new owners have a few words and Jack stated they really didn't need to say anything today. Commissioner McCown asked Jack; do you anticipate the next meeting, the scheduled hearing if you will, fulfilling the obligation of meeting with us and letting us know your plans as to number ten (10) I believe. Commissioner Martin stated it needs to be an agenda item. Jack – Absolutely. I do have representatives from Black Diamond here in case you have specific questions; otherwise we are more than happy to provide all that at the next hearing. Carolyn stated there is a question about whether or not there is a special use permit applied for by the new owners for something totally unrelated to logging. As you know we have talked before about your zoning enforcement powers being different than your zoning granting powers, so I am assuming that the new SUP at that hearing will happen as scheduled. Commissioner Houpt – I would think so, we are just trying to clean up this old agreement with the previous owners.
Commissioner Martin – Okay we will schedule it as a public hearing

COMMISSIONER REPORT

Commissioner Houpt – Tomorrow oil and gas has a public hearing in Grand Junction, at the Convention Center for anyone interested and the regular hearing on the 11th. On the 12th the I-70 Coalition has a Land Use Transit Forum in Copper Mountain; a workshop on regional planning on Friday at CMC Campus; and Friday evening our 125 Celebration at the Hotel Colorado.
Commissioner McCown – Last Tuesday, met with the Friends of Animals in Rifle, discussed animal shelter and a sanctuary and we are looking at changing our land use regulations to allow that to happen. They are in the infancy stage; but they are moving forward. We had land use last Wednesday, and Thursday was the Northwest Oil and Gas Forum.
Chairman Martin – Spoke to the Clerks Association on Tuesday; the open house for airport was canceled; fund raiser in Silt on Saturday for wildlife; on Wednesday this week we have a freshman class coming in; and I will be a speaker for the RE-1; and, I am meeting with the Grand Valley Citizen Alliance on Thursday.
Commissioner McCown – Asked for an executive session regarding land use this afternoon.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown moved to come out of executive session. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PLAT AMENDMENT FOR PINYON MESA SUBDIVISION, FILING NO. 1, LOT 36 – APPLICANT; GERALD AND CHARLENE PHINNEY – CRAIG RICHARDSON

Carolyn Dahlgren, Craig Richardson, and David Smith for the applicant were present.

David Smith was present for the applicant.
The owner of the parcel would like to increase the size of a platted building envelope. The proposed building envelope is consistent with all applicable Garfield County Zoning, Subdivision Regulations and the Los Amigos PUD setback requirements.
STAFF RECOMMENDATION
Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve the request to amend the Final Plat of Pinyon Mesa Subdivision, Filing No. 1, Lot 36 with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner McCown – I make a motion we approve the Plat Amendment for Pinyon Mesa Subdivision, Filing No. 1, Lot 36. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONTINUED HEARING TO CONSIDER A SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF NATURAL RESOURCES (PRODUCED WATER GATHERING FACILITY) ON A 280 PARCEL LOCATED SOUTH OF THE TOWN OF SILT ON COUNTY ROAD 326 – APPLICANT; CIRCLE B LAND COMPANY – DAVID PESNICHAK

Carolyn Dahlgren, David Pesnichak, Cody Smith, Wagon Wheel Consulting and Bill Mitchell were present.
Carolyn stated there is a big issue here. Her understanding is that the applicants are actually ready to ask you for another continuance on this. After looking into the legal issues surrounding the effect of the conservation easement, my recommendation would be for you to start all over again with this hearing, for the applicant to start over again with AVLT as a co-applicant. That is based on my understanding of our special use permit application regulations that require the application should be filled by the owner or owners of the subject lot right along with the Colorado Conservation Easement Statute that says," a conservation easement can only be created by the record owners of the surface of the land". And then what the conservation easement does is then split the estate, if you will and the surface of the land. The surface owner gives away some of his/her or its right to use the land and reserve some for itself. We are not used to dealing with a split estate in the surface; we have become used to the idea of a split estate between mineral and surface. It is my understanding of our regulations and this law together; what we have here is two (2) owners of the surface and I don't know that the applicant agrees with that. I'm not even sure they are prepared to address that today. That would be my recommendation to you as a Board. When we first got this application the conservation easement was not included in the packet, it was only from a letter from AVLT that we even knew the conservation easement existed. I don't know if it was an oversight, I don't know what happened but it took a while before we became aware of this as a staff. Commissioner Houpt asked; what do you need us to do. Commissioner Martin stated I'd like to hear from the applicant as well. Bill Mitchell – I haven't read the rule that Ms. Dahlgren is referring to. It seems a stretch to me to say that they are a record title holder to the surface. That would be similar to saying a bank is a record title holder when they hold the mortgage on the property. We need to know how to proceed forward. We are continuing this hearing today because we are talking to Aspen Valley Land Trust and hopefully we will answer all of their concerns and everything will be fine. But to start over again would only cause more delay. The reason that Aspen Valley Land Trust was not part of the application initially is because we are operating under oil and gas leases that were issued in 1972, and some conservation easement was actually entered in 1988 I believe. The conservation easement is subject to the oil and gas easements. Until today, I thought we were the record surface owner and that was the way we were preceding. We just want to have more time to work out concerns. Commissioner Martin asked if he had a date. Bill understood the next docket would be July 21st and that is fine with them. Aspen Valley is also delighted that this matter be continued. Commissioner Houpt – I understand you need to have time to know whether you would challenge the recommendation that our attorneys made; but, I am inclined to follow the direction posed by our attorney and require that AVLT be part of this application as a property owner. Commissioner Martin stated there are two (2) ways to do it; start over, and we have also delayed our hearings when there is another party that has to give permission to continue and to actually be a party to the action. Someone that was forgotten, someone that had a small interest and acting in the capacity of a partial owner saying that I hereby grant my authority for them to go forward; I think we have done that before. This is something I think we are going to see more of with conservation easements. Carolyn stated that is just that your regulations were not written with this idea in mind because it is only in recent years that these conflicts have begun. I agree with Barrett's and Circle B's representative that the oil and gas leases were in place prior to the conservation easement; but oil and gas leases give you a reasonable and necessary use of the surface. They don't give you 100% use of the surface. That is how the issue is joined and if AVLT and Circle B end up in court that will be the fight. Interestingly the conservation easement is considered the dominate estate over the underlying fee; but I cannot find a Colorado case that says whether the conservation easement or the oil and gas leases are dominate. I don't think it has ever been litigated in Colorado. Commissioner Martin stated we have had a request for continuance and also advice to go ahead and start the process over. What is the pleasure of this Board?
Commissioner McCown – I'm troubled by the county attorneys opinion. I personally, if that is the way it is, I don't agree with that philosophy by any means. I have real problems with conservation easements completely changing the land use from an area and us not having any party or any involvement or a seat at the table to that land use. In this case I will support Carolyn and make a motion that this hearing be discontinued and that the applicant be required to come forward with the proper and legal representation, and that would be your responsibility to find that out. In fact if AVLT is the co-applicant, I don't agree with it; but, if that is what court law says they would have to join you in this application and that would settle it real quick whether they want to play or not. Commissioner Houpt – Second.
Commissioner Martin stated he has run into the conservation issue before; even on a personal note. It does take title role in the land use as to what can and can't be done; it is like a transfer of development rights. I think it is wise to start

over. Bill asked, in proceeding forward we were hoping to get on the July 21st docket. Do we first need to get a resolution as to that interpretation, and if so how do we do that and then still maintain the docket on the twenty-first (21st)? Commissioner Martin stated the only way he sees doing that is by getting the permission and partnership with AVLT before you can go forward. Commissioner Houpt stated what the motion says is that you have to re-submit with them, and I don't think there is anyway you can get on that docket at that date. Commissioner Martin – You're out a minimum of sixty (60) days. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR A CONTRACTORS YARD – 0285 COUNTY ROAD 261, SILT – APPLICANT; DUANE & LINDA STOREY – DUSTY DUNBAR

Carolyn Dahlgren, Dusty Dunbar, Duane and Linda Storey were present. Carolyn asked if they were both owners of the property and they stated yes. Carolyn stated that she looked at the assessor's record and they were both listed as owners; but, in their application packet they did not show a deed that shows that you both own the property. You gave us a deed showing someone else owning the property. Carolyn asked them to please bring in the deed and give it to building and planning. Carolyn continued to review the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar submitted the following exhibits: Exhibit A – Memo via e-mail from Jake Mall of the Garfield County Road and Bridge Department dated June 3, 2008; Exhibit B - Mail Receipts; Exhibit C – Proof of Publication; Exhibit D - County Zoning Regulations of 1978 as amended; Exhibit E – Staff Memorandum; Exhibit F – Application; Exhibit G – Garfield County Comprehensive Plan of 2000, as amended and Exhibit H – Town of Silt Comprehensive Plan of 1996, as amended; Exhibit I – Letter from the applicant. Chairman Martin entered Exhibits A – H into the record. Planner Dusty Dunbar explained:

The request is to allow a Contractor's Yard in a residential zone. Contractor's Yards are contemplated in the Agricultural Residential Rural Density Zone District (ARRD) as a Special Use (§3.02.03).

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractor's Yard" with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. Volume and sound generated shall comply with the standards set forth in the Colorado Revised State Statute 25-12-103, and 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.
3. The Applicant shall comply with all performance standards identified in §5.02, and §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
4. The 300-foot requirement distance requirement for the enclosure of a Contractor's Yard is waived for the Storey residence only. The temporary fence enclosure and structure for the Storey Contractor's Yard may be placed at a distance shorter than the required 300 feet, however the Contractor's Yard must be at the required distance to all other existing residences.
5. All storage of equipment and materials shall be conducted within the proposed storage building or area adequately screened on all sides with a solid-board 8' fence to be completed within 90 days of permit, which shall comply with Garfield County requirements including standards as to setbacks, height, sight distance and shall not block access easements on the property.
6. No materials and wastes shall be deposited upon the property in such way that they may be transferred off the property by any reasonably foreseeable natural causes or force;
7. The Applicant shall prepare and submit a Stormwater Management Plan to utilize Best Management Practices, and shall implement the plan in conduct of this permit.
8. Storage of flammable material shall be conducted so as to meet all applicable regulations utilizing the practices identified in the Stormwater Management Plan;
9. Periodic mitigation measures to address fugitive dust shall be performed to maintain the driveway at an acceptable level, no less than once a year.
10. No more than two commercial vehicles may be parked on site.

Commissioner Houpt asked if they were asking for one (1) or two (2) commercial vehicles. Dusty explained that one (1) is normally parked there as back-up. One may travel there on occasion to exchange out the other vehicle. Commissioner Houpt asked about the structure shown in the picture at the back of the property. Dusty explained it would almost be right in front of that structure. Duane explained that any other placement of the building would take away from a residential setting. Our best interest is to keep it in a residential situation. I actually have a problem with contractors' yard per-say; because, the way the codes read they have us as an industrial zoning; we are the furthest thing from an industrial zone. When it comes to waste or disposal they are pretty much not even a consideration; although, I realize they have to be addressed. Commissioner Houpt – So you're just parking a truck? Duane stated for the most part that is what it boils down to. The only thing is as far as minor mechanical, I've always been a do-it-yourself person. It wouldn't be any different than working on my own pick-up. Linda – Everyone assumed the building, they pointed out, belongs to another resident. Duane pointed out the fence is already there; they had put up this up originally just because they wanted to shield their neighbors from any tire storage etc. Linda – We don't run a business out of our house. Duane stated it's hard to state any operating hours. Linda explained they have three trucks that run 365 days a year out of the Glenwood, the West Glenwood Post Office area. We have to have back-up vehicles and we are allowed to park four (4) in their parking lot and the one of course at our house. There is no parking in West Glenwood for trucks. We are working with the Avon Post Office to see if we can park one up-valley. At this time they will make no commitments to us as to whether we can park up there permanently. Duane stated they would still need the ability to bring one (1) home for minor repairs. Linda stated they clean out the interior, change wiper blades, rotate the tires; just minimal things. Our major repairs are done by Hanson Equipment or Wagner Equipment in Grand Junction. We don't have the ability to do major repairs on computerized equipment. What we do would be no different than what you do to your cars on the

weekends. It is just the common day to day clean out the interior etc. Which brings us to the hazmat stuff; the oil taken out of those trucks are taken down to Rifle to the recycle unit. What oil we keep on that property is in original containers, which is required by Federal regulations for them to even sell the oil. It's not like we are putting it into a wash bucket or a cedar bucket or whatever. Everything is in its original containers. As far as the noise issue; we did take the decibel readings twenty-five (25') feet from the property line. We are well within the Colorado State Statutes. The only thing that was the loudest was the pressure washer and I have the decibel readings sitting right on top of the machine. If you were to have it in the enclosed travel trailer that we have, you really can't hear it at all. Major washing of vehicles takes place at the West Glenwood carwash. The applicant passed out some exhibits which Commissioner Martin marked as Exhibit I. Dusty explained that one of the things they were talking about with this particular use is because there is no definition in the zoning code for heavy equipment. I needed to do a little bit of investigation because heavy equipment requires a more stringent standard for permitting this kind of use. I know that the contractor yard permitting was put into place to try to handle these kinds of circumstances around our County. I found that heavy equipment was generally described in dictionaries and on-line as earth moving equipment; like graders, dump trucks and things that are generally not highway vehicles. I believe that the highway department when they classify vehicles to operate on the roadways has a different kind of standard for chasse and configuration. I don't really feel this is heavy equipment per-se; but it does have a business use. We are seeking to satisfy the requirements for this operation to maintain the general residential character of this neighborhood. Linda pointed out the owner's manual for GMC's; they are classified as medium duty trucks. You will notice that our registrations, for the State of Colorado, are licensed regular vehicles. What we are trying to prove with this is that these are not classified "earth moving heavy duty vehicles". Duane stated the main interest here is that they are not doing business per-se as freight out of the house. Fred Jarman stated this is an interesting use because it really walks that fine line hybrid place, between the so called contractors' yard, which really we saw as the Board operating and approving to be a catch-all use. Fred thought Dusty did a nice job trying to describe and fit this in to a place between contractors' yard and home occupation. You have seen this same kind of thing as home occupations. As an example; a few years ago there was a gentleman who was a window installation contractor, and he had his house and shop where he had his truck parked at the house. He would load up windows in the morning; do the install, and come back for the night. He had two (2) delivers during the week for large windows and put in his shop. Everything was enclosed entirely within the building; it would be whether he was storing hay in his building, or working on his car. We are sort of stuck in a weird place as reality hits the ground or as the rubber hits the road; no pun intended for this. We went down this line of thinking in quite a debate as "gosh are we really trying to regulate the person who wants to just drive their work truck home, park it on the street, get up in the morning and go to work". Whether it's the Coke guy who lives in my neighborhood or the guy who paints the lines on the highway, and he happens to live in my neighborhood too; but I'm pretty sure he's not a contractors' yard. We honestly thought this was the best way, and what Dusty is saying here are the things that could happen, and that's what you regulate. Duane stated under the condition of the special use permit; the particular building that is being contemplated to be put up, or we would like to put up within the next twelve (12) months, is right at the back of the lot line. This is where originally I was told there was a fifteen foot (15') set-back. Now my understanding is that it is a twenty-five foot (25') set-back. I understand the set-backs and the reasons for them, the only issue we have here is if that building could not be put in that particular location with about a seven and one half (7 ½) to say ten foot (10') set-back; then it would take away the entire residential sighting of the neighborhood. Commissioner Houpt stated the set backs were established for the neighboring piece of property and so you have to keep that in mind when you are putting a building in place. Commissioner McCown asked why they couldn't move it closer their house. Duane stated they could; but they would still be at the same set-back. Commissioner McCown showed where the set-back was.
Duane went on to explain; on the right hand side of the property they were fine on that because there is actually a driveway easement, which can be part of the set-back. Dusty explained on the right hand side it could be readily met; it's only ten feet. What they are concerned about is that there is a leech field in the center of the driveway circle. She went on to describe how there is adequate spacing. Commissioner Martin stated that in his opinion you have an oversize garage to build. Everyone went on to discuss logistics of the fence, where water comes in etc.
Carolyn stated that she just wanted to make sure that the applicant heard what you said; you can't grant a variance. Commissioner Martin stated that is correct and they will have to go to the Board of Adjustment to alter the set-back. Commissioner Houpt stated that their intent is to build a building. Duane stated they would like to; but if they can't then they will have to address that issue. We still need a contractors' use yard. They continued to discuss where to put a building and what they would have to do to get it there. Carolyn stated she was confused and wanted to know if they were asking for a site plan that includes a building or just screening by fence. Duane stated he could always go to the Building Department after-the-fact; but right now we need to address the issue of a contractors' yard to satisfy complaining neighbors. Commissioner Houpt stated this was with a building as she understood it. Linda – I was told to include where I would like to put a potential garage. Fred wanted to add that they wanted to be careful if there is an approval. You can't approve a site plan that shows a nonconforming situation, then you are defeating the purpose of going to the BOA; then the BOA would say "wait the BOCC already approved this; I have to give you this". Commissioner McCown asked if he was looking at a 40 X 30 building. Linda – Yes sir and it has to be 16' tall at the top. Commissioner Houpt stated this calls for screening if you can't do the building and I'm seeing a screening condition in here; but not the building. Duane stated the screening was in the absence of the building.
Commissioner Martin stated if you are able to get an easement, a reduction, a set-back from BOA then they would give you a building permit. Linda stated they wanted to do natural landscaping. She feels it would look pathetic to put an eight foot (8') fence in the middle of her yard and driveway, and having to get out every time and open two (2) gates in order to go through the driveway and get to her garage. We are proposing that we use trees and bushes; but we all know trees and bushes don't come in ten foot (10') height. We need time for the trees and bushes to grow and build natural scenery. Dusty stated in order to satisfy some of the requirements of the contractors' yard, namely the heavy equipment storage clauses now, if you believe this is heavy equipment, we have to adhere with this. If you are comfortable with the idea that this is not identified as heavy equipment then you have flexibility to mitigate the circumstances that challenge the residential character of the neighborhood. If the goal is to allow the parking of this truck in such a way that you are not compromising the residential qualities, characteristics of the neighborhood, and impinging on the

adjacent properties with it's location; then you have some flexibility with what you would feel comfortable granting. One of the ways to satisfy all those problems was to enclose it in a building. Now the building is really truly what they want; however, we have to avoid an existing leech field and I told them in all fairness that variances are related to the physical attributes of the property and not necessarily a design concern that people would choose rather than a physical impediment. Like a bog or a cliff and I'm not sure, and I didn't want to lead anyone to think this was an easy ticket to this remedy. All along in this application I sought to find ways within the code for this to satisfy that code. Commissioner McCown – I think you have done an excellent job Dusty of trying to drive a square peg into a round hole. This should be a home use occupation; we shouldn't even worry about a contractors' yard, we shouldn't worry about the building, we shouldn't worry about a fence if they are going to have a truck parked there. We all have trucks parked at our homes. They are not going to advertise their business; there will be no signage. I don't know why we are at this point on this other than the fact we have no where to put it. So, it becomes something it really isn't because it was the only thing that fits. That's the wrong reason to do land use permitting, trying to make it fit into something it's not because we don't have anything that fits. I don't see the need for this; the fence won't screen anything so we make someone build a fence eight foot (8') tall and get a building permit that is not going to screen anything. Why are we doing that? To me this is a home occupation; I can't imagine the neighbors being that offended by a truck being parked there. Dusty stated regrettably there was enough agitation from an adjacent property owner about the truck to stimulate a code enforcement complaint that brought these people before you to try to permit this use to satisfy the code and be in compliance. Duane asked to address the issues. He stated basically this ended up being unfortunate and this stems from a situation with dogs we took on from my daughter because they were in between a house. It got out of control; we went out and bought barking collars, radio fence etc. Daily Duane was out there walking up and down that two (2) acres making sure the dogs could not get out. We tried to mitigate every bit of this. This particular individual became very irritated and flew into our property and left some nasty notes; I could have filed a felony trespass against him etc. What it boils down to; I generally in the last four or five years any noise disturbances as far as working on a truck, maybe four (4) or five (5) I had to go out late one night to put on tires. In response as far as the noise issue; we have gone out and taken decibel readings and they are within the confines or within the allowable of a residential setting. He goes on to talk about the readings he has taken and where they were taken. In AARD it states that under residential use you are allowed a decibel reading of sixty-five (65) during the day time; between 7:00 a.m. and 7:00 p.m., from 7:00 p.m. to 7:00 a.m. you are allowed fifty-five (55) decibels. You can only increase during day time use ten (10) decibels above for fifteen (15) minutes. We don't exceed any of those. Commissioner Houpt stated she could understand the need for going in this direction for this application. What I'm hearing is the intent is to move toward a building; but, I see two trucks in this picture and asked if there was another truck. Commissioner Houpt stated there are quite a few vehicles parked on this two (2) acre piece of property. I can understand the concern about having some screening whether it is a building, or vegetation, or a fence. Linda asked if even personal vehicles aren't allowed to be parked there. She explained one truck was moved to Grand Junction and the Sable we have to keep, it is evidence in an insurance claim. She explained she could move vehicles to her five (5) acres in Grand Junction if they would like. Dusty stated; one thing I might respond to with the Board, if you (the Board) don't think that this, you have a couple of policy process options here, if you (the Board) don't feel that I have processed this application under the right heading; I would be happy to take another run at it as a home occupation if that is pleasing to the Board. Commissioner Houpt – I'm not sure the requirements would be that different. Dusty stated when you are responding to zoning questions; what is the character of the zone, and how do we preserve that character of the zone and still allow flexibility of use within that zone. This is how I approached it to try and make it satisfy the code to the degree that it allowed for the use if you so choose to accept that. Commissioner McCown stated; if we would look at a next door neighbor and this were an Ag operation and he had his stock truck parked there, and he built an Ag building -- everything would work. It would look exactly the same as this one does. It is just the nature of what they are applying for and we are trying to fit it into a use that we don't have. Dusty stated she is dutiful about trying to satisfy and be as through as possible and satisfy all the requirements. Duane stated in support of Dusty; her intent was to satisfy also any complaints from the neighbors. I agreed with that; although I didn't think a special use permit fit my particular circumstances because I felt I was more or less like a dump truck hauler. Come home, park, and do my thing. Commissioner Houpt asked Duane if he had any concerns about the recommendation; the conditions of approval. Duane stated he still did not think a special use fits. I don't really know why we are here to be honest with you. If the special use will make all the problems go away, I have no problem. Commissioner Martin asked; can you live with the recommendation. Linda stated we have no choice, yes. Commissioner Martin asked if we could have a motion to close the public hearing. Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt I make a motion we approve the special use permit allowing a contractors' yard with the conditions provided by staff and on condition number five (5) there is a screening sentence that talks about a solid board eight foot (8') fence; I would like to also allow for an approved vegetation screening approved by staff. Commissioner Martin stated; so either the fence or vegetation. Commissioner Houpt stated right; either or. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

VALLEY VIEW HOSPITAL APPLICATION – CITY OF GLENWOOD SPRINGS – DEMOLISH EXISTING LOADING DOCK - MITIGATE TRAFFIC ON BLAKE AVENUE

Carolyn explained it was actually a new item and she was thinking of the plat that John was authorized to sign almost a year ago, and it's been so long she thought it would be better to put on the consent agenda. Then, at the same time, Valley View came with a City approval. Commissioner Martin stated it is a phase plan; we approved a phase plan in reference to the use of the County property for the hospital. We had a meeting here; if they should go forward with their plans to demolish the existing loading dock that is facing Blake Avenue, which causes a traffic problem. I thought we had approved that; but the application has come in and we have to sign that as the property owners, before it can go to the City of Glenwood Springs. Carolyn asked if she could put on the regular agenda next week. There are actually three (3) documents, a lease amendment, a plat and then the tear down of that building. I was told it was related to the child care facility. Commissioner Martin stated no it is a loading dock. Carolyn stated to Commissioner Martin; there are two other airport documents that you were already authorized to sign; if you would see Mary Lynn about those.

ADJOURNMENT

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JUNE 16, 2008
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 16, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Republican candidate for County Commissioners Mike Samson was present for the meeting.

COUNTY MANAGER UPDATE: ED GREEN

BOCC MONTHLY BUDGET TO ACTUAL PERFORMANCE REPORT

Cathleen Van Roekel, Assistant Finance Director, submitted the analysis of the 5-31-08 financial reports in the Board's packet.

APPROVAL AND SIGNATURE - AIR QUALITY MONITORING CONTRACT – MATT ANDERSON AND PAUL REASER

Matt Anderson and Paul Reaser submitted the Air Quality Monitoring contract and the recommended extension to the State Task Order in order to provide Garfield County Public Health with funding in the amount of $57,211.00 through the State Fiscal Year 1-July-08 through 30-June-09. Last year we entered into a contract that expired on June 30, 2008. This is a renewal that will end on December 31, 2008 and then resume on January 1, 2009.

Don stated that funds have not been appropriated for the funds that will begin in January 2009 and recommended the Board going forward

A motion was made by Commissioner McCown to approve the extension of the State Task Order for the Air Quality Monitoring and the Chair be authorized to sign.

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

COUNTY SHERIFF UPDATE:

NORTHWEST ALL HAZARDS EMERGENCY MANAGEMENT REGION – JIM SEARS

Jim Sears presented and talked about the All Hazards Emergency Management Region to prepare the Homeland Security and to implement. Due to reductions in federal funds, management funds have gone up and he feels they can no longer afford this; their contract expires June 30, 2008. A letter from Patty Clapper was sent to the BOCC and this is an update; we need some type of a response. Are we going to continue to participate in this all hazard region? There are other options: 1) continue as a region but not ask for money; and or 2) talk about what's happening in the region. This has been a big improvement prior to this being set up. We have equipment; we have vastly improved since 2003 and feel this is working well. We are doing training and operations. There is an obligation to show that we are using the equipment and have annual audits. Now they have shifted this to the regional agent, the Northwest COG. Grants have continually dropped. Initially we got some heavy grants. The 2007 grant has been issued and it will continue until 2009. The 2008 grant which we are to submit is due June 30th but they are not willing to take this on as the fiscal agent unless there's some change. Most of that grant is centered under Grand County and they are willing to take on the fiscal responsibilities of that but the question is what happens after that. Do we continue in the regional process or not?

Commissioner McCown – This is another strange critter where a new area was created. This doesn't follow the RETAC boundaries that are already established; it's a new hybrid that overlaps different governmental entities and boundaries and it's been hard to administer. The Northwest COG was in perfect shape and they were along for the ride as long as the grants were high and they were getting three percent (3%) off the top and basically didn't have to do anything. Now they're having by virtue of the state, mandating them as the fiscal agent to do inspections they have to perform something for this and the amount of grants is going down. So the timing is upside down.

Jim agreed this was regional and was set up in a way that didn't follow other boundaries. Northwest COG did provide a service because they had to administer the grant, cut the check and keep the fiscal things in order. But now it's not the same. This region was set up and there's no statutory provision for a region in Colorado.

Commissioner McCown asked if it would be more manageable if it were down scaled to the smaller number of counties, say the same size as the RETAC - - the five (5) counties. Jim wasn't sure if this would have advantage and the State may not recognize that; we can stay together as a region, we just don't have to ask for money. There's not a lot of money in these grants. Grand County was the only entity that would get any money out of this coming grant, so we can stay as a region and if somebody in that ten (10) county region wants to have money and we all back that entity, then they become the fiscal agent and are responsible. Commissioner McCown – Other than the state establishing the region, he could see no advantage for the region. Jim agreed it did give us as Emergency Managers to meet on a monthly basis with a backing behind it. Actually it's a false region. Jim wants to continue as a region and the question is the way this is set up. The Emergency Managers have no authority; each Board has authority for their county. How do we make these decisions? They are looking into it. Chairman Martin asked to have Jim provide feedback and a recommendation on which way to go. Jim said the letter Patty sent out had several questions on it and would like to have an answer. The Board did not receive a letter. Jim gave a copy of the letter to the Board.

COUNTY ATTORNEY UPDATE: DON DEFORD

ITEM 1A ON THE AGENDA

The proposal that Matt brought to the Board had two contracts and Don wanted to make a record. Matt said we have two contracts, one with the State to provide us with the funding and the other is Air Resource Solutions for the actual services and we need extensions to both of those, Today Matt presented the State contract he prepared and on the other

contract we are working on the final details with ARS Incorporated for the final price. We know it's not going to be over the $45 to $46,000. They provided us with funding for $57,000. I'm asking for contingent upon the final signatures of this State Task Order and the budgetary purposes of us getting this all squared away, for approval and signature of the extension to ARS from us. Commissioner McCown – What will be the terms of that contract? Matt – That will be the length of one year but it will go from the 1st of July through the 31st of December with a renewal from the 1st of January through the end of June, 2009.
A motion was made by Commissioner McCown that we approve that contract after review by Matt and legal and the Chair be authorized to sign. Commissioner Houpt seconded.
In favor: Houpt – aye; Martin- aye; McCown – aye.
DISCUSSION/DIRECTION IMPLEMENTATION OF HB 1141
Debbie Quinn and Don DeFord were present. Debbie prepared a memo concerning HB 1141. We wanted to start discussion of this right a way because this Bill actually significantly affects both legal and the Planning Department. Don submitted the HB1141 summary and requested direction from the Board. From Debbie's memo, we need to consider a couple of things and how the Board wanted to approach it. House Bill 1141, an Act concerning Sufficient Water Supplies for Land Use Approval, was signed by the Governor on May 29, 2008 and applies to development permit applications submitted after that date. By its terms, unless the local government determines otherwise, the adequate water supply provisions apply to a "Development Permit" which results from an application regarding a specific project that includes new water use in an amount more than that used by fifty (50) single-family equivalents. The law prohibits local government from approving development to which the Act applies unless the local government first determines that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. Don invited discussion before we answer specific questions brought up by the Bill and Debbie's memorandum. Debbie listed the various places within the Bill where the Board has discretion to make decisions and one of the questions that we've tossed around with the Planning office and within our office as to whether or not we should we retain a water engineer to help advise the Board on how best to approach this Bill and that's one of the areas for feedback and direction today. The one thing that is probably critical to decide quickly is when and at what time in the development process you want to make the determination about the adequacy of the water supply because we will be getting some development applications in that will meet the criteria of this act in the near future; therefore, we need an answer fairly quickly. The ACT itself is fairly self-explanatory as it exists now it applies to any development application that has the equivalent of fifty (50) single family residences in terms of the water supply and that is by default unless you decide that is applies different. Commissioner Houpt – Well, after reading your memo, it occurred to me that it might be really beneficial to have some guidance on how we approach this and perhaps your recommendation of a water attorney would be helpful. Chairman Martin – It's gone beyond our water engineer and now it has jumped into a legal arena. Don – That was our initial thought when we discussed this between our departments; we probably need to have a water engineer and a water attorney take a look at this and come back with specific recommendations for the Board. As you can see from the Bill it's very broad and the Board is called upon to make policy decisions right out of the gate in terms of application of this Bill. So we'd like authority to move forward and retain that expertise right now. My guess is that we could be looking in excess of $10,000. Commissioner McCown – Where are we going to find a water attorney and a water engineer that is not in conflict with something that we have heard or will hear. Don – The short answer is there aren't any. Because this basin has some unique characteristics that is the whole Roaring Fork Colorado Basin and most of the attorneys and engineers who are knowledgeable in that area also are going to appear in front of you. Fred's initial thought on engineering would be someone like Michael Erion who may have some conflicts but has also been able to work as a consultant for the County. An attorney is a more difficult issue but Debbie and I have thoughts on that and Debbie has worked with at least one water attorney when she was with Pitkin County and he is actually located out of this area. Debbie – There's an attorney in Boulder who may be able to do it and also an attorney who we've looked at signing in connection with an application that will be coming in shortly who represents other governmental entitles as well, so there are several on the Front Range area that do not have conflicts and probably are well versed in advising governmental entities and probably are available. Commissioner McCown – You just have to reach a level of trust for Front Range water attorney's wisely on our Western Slope water. Debbie said she will share that with them. Commissioner McCown – This whole piece of legislation just wreaks – I can't envision what type of liability may be attached to this that will have to be processed through the courts in the years to come. I don't think you're going to find a water engineer or an attorney that has a crystal ball that can see three hundred years (300) of adequate water supply and I wouldn't sign up for that duty. Don – The area where this has been adopted is geologically and hydrological different than this area and that's why it's important to have someone who understands the characteristics of these drainages. Commissioner McCown – But the legislation doesn't discern that one specific area. Don – No. Chairman Martin – It puts everyone in the same pot. Don – What we'd like to do is go ahead and retain that expertise and bring it back to you and we are on a pretty short timeframe. It is effective right now so we need to get on with decisions both for our current code and for the new draft land use code for these issues. We'd like authority to enter into professional contracts for engineering and legal services to provide policy direction or advice concerning HB1141.
Commissioner Houpt so moved. Commissioner McCown seconded. Chairman Martin – And that is if we can find a non-conflicting source. Commissioner McCown – I'm concerned about the information we're going to get back. Is it going to be so global that it is still not going to be adequate direction for this Board, because every issue is going to have to be referred back to a water engineer; one that we hire or the developer hires. And then we get into dueling engineers – we've seen it before. What magic stamp do you give the most credibility to? Chairman Martin – Except now they are backed up by their own attorney's in reference to those approaches. Commissioner McCown – I really don't know where this is going and paying $10,000 to get an attorney and an engineer's opinion on how we proceed is going to be high for a water engineer and a water attorney to review every application. Don – That may be the answer. Commissioner McCown – I think I solved our problem and saved $10,000. Don – Some of the initial questions that Debbie has pointed out that we might need some help on are what size of development should we apply this to; what stage of the application process is it important to take the hard look that we have to look at; what's the level of review we want to give to water service agencies such as municipalities when they are the water supply agency. Those are broader questions and you'll have the opportunity to ask anyone we bring in to advise you and satisfy yourselves

whether or not their answers are what should be applied. Once we get the policy established that doesn't end the need for expertise, then you're probably going to needing advice on significant projects. Chairman Martin – We have taken steps already to protect that with our water engineers and our reviews and our contracts making some leaps of faith that now are going to be really difficult. Commissioner McCown – This is another unfunded mandate.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF RESOLUTION OPPOSING INITIATIVE #113

Don DeFord submitted the draft Resolution opposing Initiative #113 stating that Colorado's current severance tax on oil and gas for production is collected at two levels; one, a state severance tax of 5.7% on the value of production; and two, a local severance tax, or ad valorem property tax, assessed at 87% of actual value, which is separate and distinct. In addition, energy companies also pay local property and personal property taxes, which is assessed at 29% of actual valuation. In energy producing counties, this local severance tax or ad valorem tax, has become a critical part of the funding base for local governments and meets specific locally prioritized energy impact needs such as fire and protection districts, public safety improvements, park and outdoor recreation facilities, libraries, school districts and water-treatment facilities. Colorado's existing system was created to allow local government to intercept the state severance tax at the local level in order to encourage public capital investment by energy companies in the communities where they do business. The proposed Initiative #113 sponsored by Governor Ritter and the Nature Conservancy seeks to increase state severance taxes by approximately $321.4 million by eliminating the local severance tax credit.
Over 90 percent of the new state severance tax dollars, (college scholarships, Great Outdoors Colorado Wildlife and Open Space purposes, and the Clean Energy Fund) are controlled by the state and do not return to the local communities experiencing the impacts of energy development. The minimal new dollars received by local energy producing counties are mandated to be spent for narrow purposes and don't allow local government to respond in a flexible and efficient manner to energy impacts, largely ignoring Colorado's long tradition of local control of these monies. Therefore, the Board of County Commissioner do hereby oppose Initiative #113 and urges the defeat of Initiative #113 at the November 4, 2008 general election. Additionally, Governor Ritter must include Colorado's energy impacted communities in all future discussions on proposed changes to Colorado's Severance Tax system be it statutory or through the initiative process. Don DeFord submitted the draft Resolution saying that Commissioner McCown had asked him to do this and he took the information given to him and put it in the form of the above Resolution. This is a policy discussion for the Board. Commissioner McCown – This was actually initiated through Club 20 and it's regarding a possible Initiative that will be forthcoming on out Ballot. Jim Evans, Chief Senior Economist for Club 20 did a review of this. Jim was formerly the Director of Associated Governments. The impact to Western Colorado as a whole is staggering should this initiative pass and I felt it was important that Garfield County, who keeps appearing at the epic center of this development is also one of the leading producers of this revenue source; and, we're going to be extremely adversely impacted if this piece of legislation or this Initiative should pass. So, I think it's important that we take a position to oppose this or any others that we get during the legislative session or any other raids on our local share of severance and federal mineral lease. That's why I asked Don to bring this Resolution forward and I'll make a motion that we support it and the Chair be authorized to sign. Commissioner Houpt – Second for discussion. I've talked to a number of different people and I think we need to wait on this until these numbers have been more meticulously combed because my understanding from the way other people are equating the numbers is that in addition to what we have we will also have access to monies for road repairs and wildlife and open space for land protection. So, depending upon who you talk to we either benefit greatly from this or we don't and I think it would be premature for us to take a strong position on this Initiative without spending more time looking at the numbers from other camps as well. Chairman Martin – Speaking to twenty six (26) different counties, Action 22, Club 20, and some of the deans and presidents of the universities that would also receive certain scholarships, they are so narrow that they really don't help; also the task force was assigned to go ahead and interview the folks that were at higher education. This Initiative is totally different than what most of those presidents brought forward and how it could help. I don't believe that they are going to support it either. But, it's going to be a polarizing issue. There's no doubt about it. I don't think it is really thorough; I don't people really understand the actual numbers and where they are coming from and how it's going to affect everyone. And, we being the most affected in reference to raising that money and the forced counties in the Western part of Colorado have never had this discussed or brought forward to it or put anything into it; and so, I feel we were also left out of that particular issue. And if that is so – why? And those folks that put this together don't answer that. So, I have to agree that it is adverse to us and to the region and that we should have been consulted as well as have input. Commissioner Houpt – Well, it also offers some tax exemptions for royalty owners who are making under a certain amount of money which could benefit our constituents. I just think that there is such different information going on out there and we haven't given it enough time or discussion to make a good decision on it.
In favor: McCown – aye Martin – aye Houpt – opposed.

EXECUTIVE SESSION:

RESULTS OF 6/9/08 BOA HEARING (SETBACK VARIANCE)

Don requested to discuss this in Executive Session and provide legal advice on that matter before the Board undertakes public consideration. In a similar manner, later in the agenda, there is consideration of contracting for senior programs and we'd like to provide you with some legal advice on the status of various contracting issues before you move forward on that; I would like to discuss the COGCC rulemaking process that is coming to active public hearing and it's started already but there are rules themselves on an individual basis that will be considered starting on the 23rd of June and I need to discuss that with John and Larry; Tresi has recused herself from that; I need to discuss and provide an update on litigation involving from Martin and a quick update on CR 204.
A lawsuit in reference to Grand Valley HD – Larry and Don are the recipients of that particular lawsuit; it's in and it's a notice of claim and the statement from their attorney's is groundless but we will discuss that also.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into executive session to discuss the aforementioned items. Motion carried.
A motion was made by Commissioner McCown and seconded by Chairman Martin to come out of executive session. Commissioner Houpt left the meeting as she was ill. Motion carried.
No public action was taken.

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

COMMISSIONER REPORTS

Chairman Martin will be attending the GOCGG oil and gas hearings on the 23rd June, 2008 to testify on behalf of Garfield County as a party.

Commissioner Houpt – Absent.

Chairman Martin – Monday, Tuesday and Wednesday, CCI Summer Conference and exchanged a lot of information – this was held in Vail. Then I taught a class as CMC in reference to government on Wednesday to the freshman and sophomore classes at the high school. Met with Grand Valley Citizens Alliance on Thursday; Sierra Club on Thursday also had a great celebration and hats off to Linda Morcom on the presentation of 125th Anniversary of Garfield County held at Hotel Colorado. Wed., June 18 from 2 p.m. to 4 p.m. we have the Senior Program and finalization of the different drafts and will have a special meeting on June 24; Strawberry Days and on Saturday is the Parade and yes, I am cooking free pancakes, hash browns and eggs on the Courthouse lawn.

Commissioner McCown – Last Friday in Rifle at the CMC Campus there was a regional planning sponsored by El Pomar, Club 20 and Associated Governments Northwest Colorado an all day session addressing growth, housing, transportation and the workforce – it was beneficial. Senator Hank Brown was the mediator of that conference and it went well. Again, kudos to Linda and all of her committee whoever they were that put the occasion together Friday evening, it was well attended and everyone seemed to enjoy themselves, food was good, great community spirit, approximately 200 people plus is what they ended up with. This Wednesday I am doing a chair auction at the golf course for Cancer; they have a dozen individually painted and decorated chairs that various artists around the area have painted and they will be auctioned off to benefit the Cancer Society. Land use hearings in Rifle on Thursday morning that's our final one unless something new comes up and this one is 1041 powers.

CONSENT AGENDA

a. Approve Bills
b. Changes to Prior Warrant List
c. Authorize the Chairman to sign the Acknowledgement of Partial Satisfaction for a Subdivision Improvements Agreement for Big R Commercial Park located east of the City of Rifle in the amount of $331,042.56. Applicant is Big R Enterprises, LLC – David Pesnichak
d. Authorize the Chairman to sign a Conditional Use Permit allowing a Boarding House (Lodge on the Roaring Fork). Applicants are Linda, Richard, Rebecca and Jason Segal – Craig Richardson
e. Authorize the Chair to sign Second Amendment to SUA and Quitclaim Easement Deed (Dever A Well Pad) – Antero
f. Authorize the Chair to sign Lease Amendment, Oil and Gas Lease (Hunt and Wilson Properties) – Antero
g. Liquor license renewals for Red Rock Diner in Carbondale and Sassy Sisters LLC d/b/a Trappers Lake Lodge Resort – Jean Alberico
h. Authorize the Chairman to sign a special use permit for a gravel extraction operation. Applicants are Northbank Holdings, LLC, Gypsum Ranch Co., LLC, and Jim and Jean Snyder-Kathy Eastley.

A motion was made by Commissioner McCown to approve the consent agenda.

Commissioner Chairman Martin seconded. In favor: Houpt – aye McCown – aye Martin - aye

Assessor's report – Lisa stated they had 125 protests.

ASSESSOR - ABATEMENTS:

Lisa Warder was present and stated that notification to the taxpayer was the only requirement and that has been completed. Chairman Martin swore in the speakers.

COMFORT DENTAL – ABATEMENT NO. 08-051, SCHEDULE NO. P006614.

Lisa Warder and Dr. Tom Sorensen were present.

Lisa stated the petitioner states that the taxes assessed against the above property for property tax years 2005 and 2006 are incorrect because all assets for this business are leased from Leaf Financial and have been since operating in 2004. The Abatement for Comfort Dental Abatement No. 08-051, Schedule No. P006614 for 2005 is $1122.84 and for 2006 is $1051.16. Testimony – Dr. Tom Sorensen – one four partners with Glenwood Dental Associates, LLC. We have paid taxes each year and they have been applied to Jefferson County. We have $9,300. in taxes sitting in their account that we can't access; they would like proof that we are going to be paying it to Garfield County. Our question is how we accomplish that. Chairman Martin - By working with the Assessor. This is an abatement on Comfort Dental.

Lisa clarified that this is on the personnel property and our information is that it is being handled by Leaf Financial.

Tom – The problem is that our corporate office where it's located in Denver is being misapplied and has been paid each year to Jefferson County. Lisa asked Tom to speak to her after this meeting and we'll figure it out. However, we are still asking to abate this amount from Garfield County. Tom – The money is sitting in an account and Jefferson County will not release the funds.

Commissioner McCown – Noted that the taxes are also being payed here as these accounts are not delinquent.

DANA AND JEANNETTE CHIAPPINELLI – ABATEMENT NO. 08-262, SCHEDULE NO. R312529.

Lisa Warder stated this as an appraisal error. The appraiser put it on as a commercial property and it creates an inequity within the neighborhood and the town within the County. This should be on the tax role as residential. We are looking for tax year 2007 the amount of the abatement is $1191.41.

ROARING FORK SCHOOL DISTRICT RE-1 – ABATEMENT NO. 08-089 *AMENDED, SCHEDULE NO. R311786

Lisa Warder stated the petitioner states that the taxes assessed against the above property for property tax year 2006 are incorrect because this property was demolished per Garfield County Case Number 05CV335 to build a new high school. The Abatement for Roaring Fork School District RE-1 – Abatement No. 08-089 *Amended, Schedule No. R311786; should be $12,976.00.

DEMCO CONSTRUCTION CO., INC. – ABATEMENT NO. 08-255, SCHEDULE NO. R008289

Lisa Warder stated that the petitioner states that the taxes assessed against the above property for the property tax year 2007 are incorrect because the property was purchased from a tax exempt entity 9-12-2007. Taxes should have been pro-rated between 9-12-2007 and 12-31-2007 and they were not. Petitioner paid the tax bill for the entire year. The Abatement for Demco Construction Co., Inc. – Abatement No. 08-255, Schedule No. R008289 is $1013.98.

CROWN WEST DEVELOPMENT, LLC – ABATEMENT NO. 08-252, SCHEDULE NO. R0044157
Lisa Warder stated the petitioner states that the taxes assessed against the above property for the property tax year 2007 are incorrect because the parcel was part of the re-subdivision of Lot 2A of Spring Lake Estates spill in November 2007. A clerical error occurred when the value was incorrectly entered into tax items resulting in an over inflated value. The abatement for Crown West Development, LLC. – Abatement No. 08-252, Schedule No. R0044157 is $5,389.11.

WEINGARTEN MILLER GLENWOOD LLC - ABATEMENT NO. 08-254, SCHEDULE NO. R041493
Lisa Warder stated the petitioner states that the taxes assessed against the above property for property tax year 2006 are incorrect because the property was constructed in 2005 with occupancy available on January 1, 2006. The valuation date for the property is June 2004. The Assessor is recommending denial in part and adjustment in part. They asked for the value to be lowered to $6,200,000. The Assessor has lowered the value to $7,278.80 which results in abatement for Weingarten Miller Glenwood LLC - Abatement No. 08-254, Schedule No. R041493 is $20,969.06.

CHARLES & SUMMER COLE – ABATEMENT NO. 08-246, SCHEDULE NO. R041932
Lisa Warder stated the petitioner states that the taxes assessed against the above property for property tax year 2007 are incorrect because Mr. Cole petitioned that his property had improvements as of 1-1-2007 and was denied. The Assessor's office confused the Cole parcel with a neighboring parcel that at the time of 1-1-2007 was vacant. Further investigation showed that the Cole property did have improvements as of 1-1-2007 and should have been on our records as Residential not Vacant for 2007. The abatement amount for Charles & Summer Cole Abatement No. 08-246, Schedule No. R041932 is $1,553.31.

MESA NATIONAL BANK – ABATEMENT NO. 08-251, SCHEDULE NO'S R009851 AND R009850
Lisa Warder stated this is for two schedule numbers, R009850 and R009851. This is American National Bank again by tax agent by Barry Goldstein of Stirling Property Tax Specialists. Exhibit B it gives you the 2005 and 2006 breakouts of value and tax. One of these properties we had on as an above ground fully finished condo unit; it is not. It's actually a basement unit that has not been finished and it is storage. The other unit was overvalued. So for R009850 in 2005 the abatement is $6,767.66; and for 2006 its $6,751.25; and for R009851 the abatement is in the amount of $11,666.57 for 2005 and for 2006 it is $11,638.24. A motion was made by Commissioner McCown to close the public hearing.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent
Comfort Dental – Abatement No. 08-051, Schedule No. P006614;
A motion was made by Commissioner McCown to approve the Abatement for Comfort Dental abatement No. 08-051, Schedule No. P006614.the year 2005 in the amount of $1,122.84 and for 2006 in the amount of $1,051.16.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent
Dana and Jeannette Chiappinelli – Abatement No. 08-262, Schedule No. R3125**29.**
A motion was made by Commissioner McCown to approve the Abatement for Roaring Fork School District RE-1 Abatement No. 08-262, Schedule No.R312529 for the year 2007 in the amount of $1,191.41.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye – Houpt - absent
Roaring Fork School District RE-1 – Abatement No. 08-089 *Amended, Schedule No. R311786
A motion was made by Commissioner McCown that we approve the abatement for Roaring Fork School District RE-1 – Abatement No. 08-089 *Amended, Schedule No. R311786; in the full amount of $12,976.00.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye - Houpt – absent
Demco Construction Co., Inc. – Abatement No. 08-255, Schedule No. R008289
A motion was made by Commissioner McCown to approve the Abatement for Demco Construction Co., Inc. – Abatement No. 08-255, Schedule No. R008289 in the amount of $1,013.98. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt – absent
Crown West Development, LLC – Abatement No. 08-252, Schedule No. R0044157
A motion was made by Commissioner McCown that we approve the Abatement for Crown West Development, LLC. – Abatement No. 08-252, Schedule No. R0044157 for tax year 2007 in the amount of $5,389.11.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent
Weingarten Miller Glenwood LLC - Abatement No. 08-254, Schedule No. R041493
A motion was made by Commissioner McCown that we approve an adjustment to the amount and approve the abatement on Schedule 8-254 the abatement amount if $20,969.06 for tax year 2006.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye – Houpt - absent
Charles & Summer Cole – Abatement No. 08-246, Schedule No. R041932
Commissioner McCown made a motion that we approve the abatement for the 2006 tax year in an amount not to exceed $1,553.31. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent
A motion was made by Commissioner McCown to approve the abatement No. 8-251 Schedule R009851 and R009850 regarding 8500 in the tax year of 05 I would recommend the abatement of $6,767.66; and in the year 2006 in the amount of $6,751.25. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye – Houpt - absent
Commissioner McCown – On Schedule 08-251; I would make a motion that we approve the abatement in tax year 2005 in an amount of $11,666.57; and in the tax year 2006 $11,638.24. Commissioner Chairman Martin – Second.
In favor: McCown – aye Martin – aye Houpt – absent.

HUMAN SERVICES COMMISSION:
Health/Substance Abuse: Jackie Skramstad and Dr. Mark Simpson from Colorado West presented a power point of Behavioral Health Sciences addressing the national and local issues in mental health. They referenced the Medicaid and Medicare efficiencies; managed pharmacy benefits; expansion of Children's Insurance Programs (CHP+); evidence based practices; services for specialty groups such as Veterans, older adults, MR/MI, Alzheimer's; and risk-based management of child welfare services. Colorado West Regional Mental Health, Inc. serves ten (10) counties in Northwest Colorado with outpatient mental health treatment; psychiatric services; outpatient substance abuse services; inpatient psychiatric hospitalization; detoxification services; and residential substance abuse treatment.
Colorado West has an annual expense of $26,978,165 for 13,215 clients served in 2007 at a cost per client of $2,041.
The behavioral health services by payer source in Garfield County in 2007 was:

Payer	# Clients	% Clients	# Services	% Services

Medicaid	287	11.06	5285	18.44
Medicare	52	2.01	845	5.47
MCD/MCR	118	4.55	3120	10.89
Insurance	1,115	42.97	11,848	41.35
Self	1,023	39.42	7,557	26.37
Totals	2,595		28,655	

The ten (10) counties they serve are from Grand Junction to Frisco and Rangley. There are four different Detox programs. For in-patient psychiatric care the facility location is in Grand Junction. Collaborative partners include St. Mary's Hospital, Mesa County, Hilltop Community Resources, Midwestern Mental Health Center in Montrose, and Montrose Memorial Hospital. Garfield County had 221 adult clients served from 12/05 – 5/08 and child clients served during the same period was 46. The facility in Grand Junction has 24 beds: 16 for adults and 8 for children. This is a tremendous asset for Garfield County. One of the biggest impacts since opening the facility from data back to 2004 is the emergency contacts provided. As for involuntary hospitalizations over the past 5 years we have had 50 involuntary commitments in 2007 but a dramatic reduction that have had to go the Front Range which helps families to stay in contact with their loved ones. 2004 – 2005 – 80% went to the Front Range; in 2007 – 2008 none have gone to the Front Range; a win/win situation. In the Grand Junction papers it stated that they are struggling with their hospital and have done various things to reduce the cost. In closing they talked about the latest trends and where this field is headed. A new Medicaid contract will be in place this summer and they are pushing toward integrated care; 70% of all medications are being provided by physicians. Web based health care is a great way to provide information to individuals.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR MAY 2008

Lynn Renick presented the EBT disbursements for the month of May 2008 and requested approval for an amount of $404,780.16. Commissioner McCown so moved. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt – absent

CONSIDERATION AND APPROVAL OF OUT-OF-HOME CONTRACTS AND PURCHASE OF SERVICE AGREEMENTS FOR SFY09

Lynn Renick submitted the request and approval for out-of-home placement contracting exceeding $10,000 and purchase agreements for the State Fiscal Year 08-09. A separate general agreement is required to be signed, one is an annual basis with any placement provider that is utilized; an additional 'Child Specific Addendum' has been completed on each child/youth in placement stating a not-to-exceed amount. A list was supplied to the Board and Lynn requested approval of all contracts/agreements identified on the list.
Commissioner McCown so moved and authorized the Chair to sign. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

CONSIDERATION AND APPROVAL OF THE SFY09 MEMORANDUM OF UNDERSTANDING WITH THE COLORADO DEPARTMENT OF HUMAN SERVICES FOR THE COLORADO WORKS AND CHILD CARE ASSISTANCE PROGRAMS

Lynn Renick submitted the request and approval of the Colorado Department of Human Services' Memorandum of Understanding for provision of services in the Colorado Works and Child Care Assistance Programs. The CO Works Program is funded by federal Temporary Assistance for Needy Families (TANF) funds. The term of the agreement in this MOU is July 1, 2008 through June 30, 2009. There are no changes to the document from last year. Lynn requested approval of the Board. Commissioner McCown so moved and authorized the Chair to sign. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

CONSIDERATION AND APPROVAL OF THE CONTRACT WITH THE GARFIELD COUNTY HOUSING AUTHORITY

Lynn Renick presented the request for approval for a renewed contract with the Garfield County Housing Authority (July 1, 2008 through June 30, 2009) in the not-to-exceed amount of $150,000. The contract is for housing services to TANF-eligible participants. The contract was requested to be approved.
A motion was made by Commissioner McCown to approve the IGA with the Housing Authority and the Chair be authorized to sign. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt – absent

CONSIDERATION AND APPROVAL OF THE CONTRACT WITH COLORADO MOUNTAIN COLLEGE FOR THE LINK PROGRAM AND INTENSIVE CASE MANAGEMENT SERVICES

A copy of the contract was submitted. This is for the LINK program, job development activities, intensive case management and transportation services to participants eligible for the Colorado Works Program. The Department has increased the anticipated level of services raising the not-to-exceed amount to $93,506 for the term of the contract July 1, 2008 through June 30, 2009. This is just the contract itself for the Colorado Works Program and not an IGA with other counties.
A motion was made by Commissioner McCown to approve the IGA with Colorado Mountain College and the Chair be authorized to sign. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

CONSIDERATION AND DIRECTION REGARDING THE SENIOR PROGRAMS INTERGOVERNMENTAL AGREEMENT

CONSIDERATION AND APPROVAL FOR THE OPERATIONS OF THE SENIOR NUTRITION AND THE TRAVELER PROGRAMS EFFECTIVE JULY 1, 2008

Lynn Renick, Cheryl Cain, Judy Martin, Mildred Alsdorf and other members of the senior program were present. Lynn presented that the department is requesting the Board's consideration on the Senior Programs IGA. The current Cost Methodology breakdown for participating entities is also included for review. This IGA is effective beginning July 1, 2008. The cost contributions and revenue sources defined on the Cost Methodology document covers the six-month time period between July 1, 2008 and December 31, 2008. Staff is currently attending various City/Town Council meetings along with other work group members to answer questions regarding the structure of the senior services (effective July 1, 2008) and provide cost breakdowns. At the meeting, the Board will be updated on the status of the Council meetings and Senior Programs' transition. A draft was in the Board's packet. John Heir, City Manager of Rifle

has been going to the other municipalities and it has gone well. Silt, Rifle, Carbondale, Town of Parachute and all municipalities have approved the programs and the draft IGA. Right now we are spending dollars for the start up July 1. There are three contracts that require finalization and that is the contract between the County and RFTA for transportation services on the Traveler and it also requires two additional one is Valley View Hospital and the other is the City of Rifle who are providing the meal preparation for the senior contracts. At this time we are looking at putting together a special meeting on June 24 with the Commissioners in order to finalize and receive signature authorization on those three contracts as well as the IGA so we can have more discussion regarding vehicle ownership and go forward.
Don – That's correct and there are a couple of things as well that Carolyn has comments on these issues. The IGA is submitted in draft form, there are some more questions on this just so that the Board and my office understands how this is to work. I'm referring to paragraph 6 in the IGA on municipal funding. There has been extensive discussion of a cost methodology and most of which has been directed to completion of this year for 2008. Paragraph 6 appears to be directed to funding for 2009 and I'm curious about municipal understanding of contributions for 2008. Lynn said at each of the city council meetings we have discussed the fact that the cost methodology which is in the Board packet would be covering the last six (6) months of 2008 and so the cost contribution presented to each of the city councils has been specified as the six (6) month amount but with the understanding that the IGA is a longer term on-going document and then that corresponding annual MOU's would also be presented that will specify what the annual contribution request would be to each municipality. And, as it was presented to the City or Town Councils the likelihood for 2009 would be that they could just take the 2008 contribution and time it times two (2).
Carolyn – So, Lynn we could just ask for some additional language to that paragraph six (6) from Jim; I assume Jim Neu is going to continue to be the final author on this IGA and reference the 2008 MOU.
Don – My concern was that the paragraph refers to approval of an MOU by November 15 and I gather that was not for 2008 funding. Lynn stated she believes that is correct. Don said then before the 24th we will need some changes to that paragraph. Ed – The last two sentences of that paragraph really describe the process that's going to occur in the future where you're going to have the advisory board get together and plot the strategy for funding for future use, for subsequent years. Carolyn asked if the towns and cities committed to when they will write their 2008 check.
Lynn – No, not at this point and time. We were really looking at conceptual because the understanding with the IGA is that this is still in draft form and that each council as well as Board of County Commissioners may have some changes to be made on the IGA after legal staff has reviewed. We are looking at sending out a final IGA prior to approval and I am hoping that it will be July 1 before we will receive signatures by all municipalities and/or other participating organizations on the IGA. Don – As for the IGA, this will not come to final form before the first meeting in July. Lynn agreed because the City of Glenwood Springs will be looking at the IGA this Thursday evening and then New Castle still needs to look at the IGA and I believe we are the agenda for July 1. Don – And the final IGA and cost methodology that will be approved for 2008 are dependent on RFTA, VVH and City of Rifle. Lynn – On the advisory board, I'm not sure we've discussed in public forum but it was originally going to be a seven (7) number advisory board and now it is ten (10) and the work group will again be meeting on Wednesday and we need to look at the fact whether we want to keep that at ten (10) or if we want to increase that to eleven (11) just from an advisory board voting standpoint. We will probably submit several changes to the Board on June 24 but again not the final. We're asking for your approval that we are okay to begin operations of the two programs beginning July 1 or we can do that on June 24 as well. Basically what we need to know and make you aware that we are expending monies as we speak on this and that in July we will go forward with the Finance Department and present a supplemental budget for you on all costs related to the program through 2008. Commissioner McCown said he was clear on that; the discussion was to have the MOU's in place hopefully the 24th so that it would be a smooth transition July 1 when one entity transfers the operational procedures to another one and there wouldn't be a lapse in coverage. Those are critical; I understand that. Don stated that on the 24th we will be looking at contracts with RFTA, Rifle and Valley View Hospital and I'm anticipating under those contracts the County will actually be directly responsible by contract to each of those entities even though we don't have the final IGA and MOU in place but the understanding is that we have some sequence and that will be how we go. Commissioner McCown – We are accepting that responsibility. Don – Agreed. Lynn – The final piece of the senior programs is a brief discussion on the sales tax. In the Board packet was Resolution No. 96-54 that it establishes distribution guidelines for net sales tax revenues and one of the parts that affects senior programs is the money to local non-profits for and similar governmental entities for such programming. Right now CMC has been receiving over many years Human Services Commission funding through a grant for both the congregate meal as well as nutrition and RSVP program, but again they are maintaining that, so that's aside. But one of the issues we wanted to seek direction from the Board is in regard to the County has never sought funding through that source and so the question is can we do that. We have looked at different possible structures in order to do that and right now we are working with the three service providers, RFTA, City of Rifle and Valley View Hospital to possibly look at requesting and going through the grant application process directly in order to be potentially eligible and considered for additional funding. We need to get additional direction if this is an okay structure to go for because again this has to do with revenue sources as we prepare the final budget supplement.
Commissioner McCown stated as only one Commissioner but can honestly tell you I think that the Human Services Commission and Garfield County would be doing a tremendous disservice to the seniors simply because the name of the applicant may be changing but the program is continuing to service those in the same capacity as it has historically and Garfield County being blocked from receiving those funds. I think as you said, come up with a methodology for the individuals that are providing that service directly to apply for that but if the management is under the umbrella of Garfield County and it has been so deemed and felt by the Human Services Commission that we are not eligible for those fund, I think that a tremendous injustice. Chairman Martin – And I didn't want the identity of these groups to be lost and we want them to be able to do that with their agent to go ahead and apply for the funds as they have in the past, to keep all programs going. It is only fair that they should be allowed to do such. I think it should be allowed to do so. Lynn – We have tried to talk to the Human Services Commission about this so hopefully the grant allocation committee and through the lead of Jane McCollar has been very helpful in working that out. Other seniors were in the audience as well. Lynn – We will go forward with presenting the budget with that direction. Don – My anticipation and I asked Lynn if the contracts with the service providers including RFTA and the nutrition providers would ask that they pursue

grant applicants with Human Services Commission first before direct funding from through County. Lynn said that's what she is hearing and we will go forward with that direction. We'll also go forward with the understanding that our senior program manager may provide administrative support to those potential contracting entities.

BRIEF PRESENTATION OF THE FAMILY-TO-FAMILY INITIATIVE

Brenda Wagner, Social Services shared about this initiative which is part of our new child welfare programming and we would like to go forward with this. The primary purpose of the Foundation is to foster public policies, human services reforms and community supports that more effectively meet the needs of today's vulnerable children and families. The Family to Family Initiative has been an opportunity for states and communities to re-conceptualize redesign and reconstruct their foster care system to achieve new system wide goals such as develop a network of family foster care that is more neighborhood-based, culturally sensitive and located primarily in the communities where the children live. Also, to assure that foster home resources are provided to all those children who in fact must be removed from their homes; and to reunify children with their families as soon as that can be safely accomplished based on the family's and children's needs – not simply the system's time frame. Federal mandates safety is first and foremost.

There are eleven (11) certified homes in Garfield County and the department has done a lot of recruitment and allocated resources to keep the foster homes we have. The 2007 data: 192 open cases, 335 children, 96 in out-of-home and 4 re-entered; 490 referrals in child abuse and 427 were investigated. A total for children amount to 918 days out of the home. We hope to improve 2008 outcomes.

PROGRAM REPORTS

Lynn submitted the various program reports for the Board's review and update.

BOARD OF HEALTH:

ISDS RESOLUTION PROPOSAL – JIM RADA AND ANDY SCHWALLER

Carolyn Dahlgren, Andy Schwaller and Jim Rada were present. The notification in two different papers was submitted and put in to the record. Exhibit A – The updated State Regulations, 2004 instead of 1994. Chairman Martin swore in the speakers. Carolyn presented Resolution for the Local Permit Surcharge for Statewide ISDS Program Support Factsheet stating over 600,000 individual sewage disposal systems (ISDS) in the state with roughly 7,000 to 8,000 new permits issued each year. Approximately one-fourth of the state population is served by such systems rather than by centralized wastewater treatment. Some examples of the impacts include elevated nitrate and/or bacteria levels in ground water used for drinking water and nutrient loadings adversely affecting surface waters. There has been concern expressed throughout the EIA community for lack of support for local ISDS programs at the state level.

The issue is that leadership at the State level is needed to support local government oversight of ISDS and to address the challenging issues related to ISDS as identified in the ISDS Steering Committee Report. The remedy is the Water Quality Control Division, (WQCD) at the direction of the Joint Budget Committee. They are proposing in HB07-1329 that all new positions be supported with fee funding and it would provide for a state surcharge to be added to new ISDS permits. Local Board of Health Departments are the only entities that are authorized to collect fees for ISDS-related activities. This surcharge would support 1.2 FTE at the Colorado Department of Public Health and Environment consisting of a professional engineer and an environmental projection specialist to lead the statewide ISDS Program and it would be guided by the recommendations of the ISDS Steering Committee. Benefits would include a fee-based funding as a stable source that would prevent the opportunity for shifting them to other priorities as has been the case with state general funds. Local control would not be impacted, as the ISDS Statute would continue to clearly authorize local control of the ISDS program. A County Commissioner from northeastern Colorado at a recent CCI Land Use Committee meeting stated, "It's about time the state brought the science back into policy." A draft Resolution concerned with the adoption of updated individual sewage disposal systems (ISDS) regulations was presented for comment, consideration and approval. Carolyn drafted the fee paragraph on page three (3) of the Resolution and it is one of the decision being asked of the Commissioners today. First of all to approve the fees and Andy and Jim have specific recommendations for the two that are blank; Carolyn drafted it so that staff can make administrative changes to these fees as long as they stay within the statutory requirement but the fees can't be greater than a thousand dollars ($1,000). You may want your staff to come back to you with an approved fee list. Commissioner McCown asked Carolyn a question on the State Regulations. In looking at the index and one of the issues that has been an on-going hot button for us has been vault and haul. If you look at the index you find that on page forty (40) and if you turn to page forty (40) you don't find any mention of vaults. Just the lack of addressing any of these in their regulations to me is quite a void. Carolyn – Vaults and the reuse systems are the major reasons we had to look at this. Andy and Jim will address vault and haul. Andy – The vault and haul has been something that the Commissioners have had to change your hats and gone to the Board of Health to review those. When you read the regulations it appears that maybe you can approve it, maybe staff cannot so we're trying to clear that up to allow staff to approve it based on what the state requirements are so you're not flipping and flopping all the time in and out of the Board of Health.

Commissioner McCown – Just in changing hats, we don't flip and flop on decisions. We stay consistent on decisions. Chairman Martin noted this will work for Andy and give him clear direction on what we want. Commissioner McCown – Still unclear if we're getting to where we want to be on this, recently we approved a land use issue that included what we were hoping would be a blanket or County-wide permit for vault and haul and that authority could be granted at the time of application – are we getting there or am I hearing that each one of those has to come back to us? Andy – Carolyn read through this and commented that this needs to be clear and we need to have the direction that we can do what we need to do rather than flip/flopping back and forth in and out of the Board of Health. Commissioner McCown – In the past we've had the ability in numerous occasions but to transfer our authority, if you will, for approval of these issues; is that different under these circumstances, Don? Don – the authority under this resolution is more general than in the past rather than site specific. Commissioner McCown invited discussion on the fees. Fees: Page 3 – Andy said on the tank and haul we've essentially gone to $73 fee because it's a new system and the state wants their money out of it. An engineer typically designs the vault, the pumping system and reviews it so it can stay at $73.00 and that would not be a hardship to the County. Commissioner McCown – Maybe this needs to brought to the public's attention that out of these fees that we are looking at here, the state is mandated a percentage of those fees be reverted back to them; they don't stay local even though we are the permitting entity and the inspecting entity and those funds go back to the state and its for a perpetual fund of some type, who knows what it'll ever be used for. Jim Rada said the law was written to

provide that money to the state for maintaining a full time outside waste water program of the water quality division so it's the County's contribution to keeping that technical support at the state. Commissioner McCown – If this is statewide that person will be paid very well. Jim – It's all based on the number of new permits and currently the number of new permits in Colorado is way down so they're not actually collecting nearly as much as anticipated.
Commissioner McCown – Seven to eight ((7,000 to 8,000) permit each year – is that just a rough statement? Jim – That was a general statement used in the Bill but this year we're down about fifty to sixty percent (50% – 60%) in the state in the number of new permits mainly because of new housing starts, etc. being down. Commissioner McCown – And of that $73 how much does go back to the state? Jim - Just $20 goes to the state. The County gets $3.00 for administrative fees. Commissioner McCown asked if that holds true for the $100 on the perk test. Andy – Only on a new; if someone replaces a system and they need a perk test they would not get charged the $23.00 fee, it's only for new installations of new systems. Andy said that Vault and Haul will stays at $73.00 on a new ISDS. Commissioner McCown – Does it stay the same $73 on units that we recently permitted as a use by right. Andy - Every time it's moved, another fee of $73.00 or it could be tied into a building permit. Jim – The second blank is targeted to the reuse systems. These are relatively new systems coming to the County and there's a lot of interest in the oil and gas to use these systems on well sites; being they discharge to the atmosphere or to the surface of the ground they really do command more attention in terms of making sure they are continually functioning at the required levels by regulations so what we're recommending to you today is $523 permit fee for the system and each time they move it would be a new system because they have to relocate the entire…… Commissioner McCown asked if these require a state discharge permit. Jim – What we are looking at would the type of system under two thousand (2,000) gallons per day. They probably have minor camp facilities. Commissioner McCown – Are you dealing with production water here or what about the units that are similar to this that are used for production water that we have throughout the County that we're starting to take a look at? Jim – That would not apply to these because they are not ISDS; the ISDS Act and the regulations only address domestic wastewater. So we're recommending the five hundred twenty three ($523); the five hundred ($500) dollars is for the County Health Department conducting quality assurance and collecting regular reports from each of the operators of these systems, looking at data and making sure they are meeting their affluent quality limits, making sure that they are meeting their sampling requirements, etc. So, on the average it takes an hour a month or so to review these records. We're looking at cost recovery basically. Chairman Martin – How many would there be out there right now. Jim – Right now, none but there is a lot of interest and the incentive is to keep the water on site and not have to haul it and the industry is interested in doing this and not having to haul it down off the Plateau. I anticipate that we would see probably thirty to fifty (30-50) of these systems in the County in total, mainly up in the highlands areas. Commissioner McCown – And, that is the very same system I've heard talked about used for affluent that they are using for production water. It will treat both. But with it being discharged to the ground it has to have a state discharge permit.
Jim – Not in the ISDS Act. What we're talking about is hooking these systems up to living quarters and so that's domestic wastewater and that falls under the jurisdiction of the County in terms of the ISDS Act.
Commissioner McCown – What if they hooked them to both? Jim – They would have to come in with a plan to do that if they were over two thousand (2,000) gallons per day then obviously we're looking at a state discharge permit.
Commissioner McCown – A lot of these that are treating production water aren't over two thousand (2,000) a day but the state would still require a discharge permit. It's non-production water, not affluent but … Andy – It's an industrial not a domestic kind of thing so it's probably different standards but it's out of our authority in the County. They would likely fall under the state's program because the need for a wastewater discharge permit and do away with the County.
Don – Had nothing to add. Commissioner McCown – I still have significant concerns with the state's lack of even addressing vault and haul type systems and I don't know if that's going to be an area of future concern but they give it a courtesy mention at best and that's all they do; and it's a significant way of life out here including some of their rest areas on the highway as well as natural parks. Commissioner McCown made a motion to close the public hearing; Chairman Martin seconded. Motion carried. Commissioner McCown – From a staffing standpoint this is not going to increase our personnel the way I read it; it says it will include one personal service including salary and benefits for a professional engineer but I'm assuming that's at the state level.
A motion was made by Commissioner McCown to approve the Resolution concerned with the adoption of dated individual sewage disposal regulations including the figure of $73 for the vault systems and $523 for the permit on the re-use systems. I would want staff to monitor that if that $523 becomes onerous and people are opting for other methods because of the permitting fee, I would want to know so we could adjust that. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt - absent

CONSIDERATION/AUTHORIZE CHAIR TO SIGN VALLEY VIEW HOSPITAL ASSOCIATION – CITY PLANNING APPLICATION – CAROLYN DAHLGREN AND
CONSIDERATION/AUTHORIZE CHAIR TO SIGN SECOND AMENDMENT TO LEASE AGREEMENT WITH VALLEY VIEW HOSPITAL ASSOCIATION – CAROLYN DAHLGREN
CONSIDERATION/AUTHORIZE CHAIR TO SIGN LOT BOUNDARY ADJUSTMENT PLAT – VALLEY VIEW HOSPITAL ASSOCIATION COMPLEX – CAROLYN DAHLGREN

Don DeFord, Gary Brewer CEO with Valley View; Mike Miles Valley View Hospital and Chris Adelman of the law office of Barwick, Kozelka & Chris Adelman and I represent the hospital. Don – There are three (3) items of request to participate and approve the application with the City of Glenwood Springs for a boundary line adjustment approval and a second amendment of the lease agreement with Valley View Hospital. In reviewing the minutes included in your packet, it appears to me that on two (2) of those items at least, the Chair's been authorized to sign the lease and the boundary line; it's not so clear on the application with the City although the Chair has been authorized to participate and what is being sought here is actual approval and direction of the Chair to sign the documents making application to the City. Chris Adelman addressed these issues saying there are three (3) different documents: 1) a lot boundary adjustment map and 2) a second (2nd) amendment of lease. We became before you on December 17, 2007 and presented the concept of adjusting the lot line on the east side of the hospital and at the same time amending the lease to incorporate that parcel into the hospital property. Chairman Martin was authorized to sign both the lease and the plat once it was completed. I've been working with the city planner to get the plat in the condition that's acceptable to them and it's ready to be signed as is the second amendment to the lease. Chairman Martin – The only one we do have outstanding is

the planning application, actually putting this thing into motion. We went ahead and changed the lease as well as the plat and I brought this to the Board to make sure that the application was processed properly and that there was no question that you had the authority to go forth. The city is going to ask if we're partners on that. Mike Miles– One of the things when we initially started this whole master plan we had to go before the city and do a development agreement. In that development agreement they approved certain phases that did not require us to come back before the city and then certain phases that did us to come back before planning and zoning. Phases 1, 3, 5, 6 require us to come back before planning and zoning; of course each time that we do that we have to submit an application to them to go before planning and zoning and that is what this is – it's an application for Phase 5 which is the phase that we are ready to move into now. This plat adjustment and the lease amendment is all about. So we are simply getting the documentation together to submit to the city and go before planning and zoning.

A motion was made by Commissioner McCown to authorize the chair to sign the necessary documents so that will allow this development to move forward. Commissioner Chairman Martin seconded.

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

DISCUSSION OF THE 4TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 4TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Don reviewed the actual public notification published in the Citizens Telegram. The notification was accepted and put in the record. Cathleen Van Roekel submitted the Resolution approving the 4th amendment to the budget.

She submitted Exhibit A – illustrating the new hires and transfers based on par forms; it listing the changes.

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

A motion was made by Commissioner McCown to approve the 4th Supplement to the 2008 approved budget and the 4th Amended Appropriation of funds as presented. Commissioner Chairman Martin seconded.

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

AUTHORIZE THE CHAIRMAN TO SIGN A LETTER OF SUPPORT FOR A DIVISION OF WILDLIFE GRANT TO PROTECT AN ADDITIONAL 219 ACRES OF THE BILL ROWE RANCH LOCATED ON DIVIDE CREEK WITHIN A CONSERVATION EASEMENT TO BE HELD BY THE ASPEN VALLEY LAND TRUST – DAVID PESNICHAK

David Pesnichak presented the following letter for signature of the Chairman of the Board. ethany Collins from Aspen Valley Land Trust was present along with Debbie Quinn and David Pesnichak. avid stated these 219 acres will bring the total of acres in the Rowe Ranch to 666 acres. Please accept this letter as support from the Garfield County Board of County Commissioners (the Board) for the efforts of the William and Bobbi Rowe Revocable Trusts to preserve an additional 219 acres of the Rowe Ranch in Divide Creek in perpetuity. The Board recognizes the preservation of the Rowe Ranch in a conservation easement as a leading example of how private landowners can exude responsible stewardship of the land in Garfield County which has broad community / County benefits. The 1,145-acre ranch is located in upper Divide Creek near the southern County boundary and in close proximity to the White River National Forest and BLM lands. This easement is in addition to the 447 acres placed under easement in 2006 and 2007 and will bring the total conserved land on the Ranch up to 666 acres. The easement on this ranch will go a long way to reinforce the County's vision of protecting its agricultural heritage while preserving pristine wildlife habitat characterized by pinyon-juniper woodlands and mountain shrub-land which is home to many species of wildlife. Moreover, the Rowe Family should be commended for their past and current efforts to work closely with the Colorado Division of Wildlife to create valuable elk habitat as well as enhancing riparian areas for migratory and resident waterfowl. Lastly, while conservation easements can have unintended adverse affects on development patterns within a county, the Board recognizes the inherent value in preserving areas that, by remaining in their natural and agricultural state, will continue to preserve the County's historical heritage without adverse affects on intended and logical growth patterns. The Board views this easement would be well placed in that effort.

Bethany stated the first easement was donated and it was over 107 acres of mostly agriculatural hay and cattle grazing property. The Rowe Ranch is about 1,245 acres total. The second easement was about 340 acres and it was a purchase easement with grant funding from Great Outdoors as well as U.S. Department of Agricultural and RCS Farm and Range Protection funds and AVLT covered that easement with NRCS. This year the reason we are applying for a Division of Wildlife, it would actually be a 2009 easement but the grants are due now but funding will be for 2008. The reason we are applying is because this year's property is very pristine natural habitat hillside, elk and deer migration corridors. There's been a lot of sighting of bears, moose from the reintroduction program that's been taking place in Grand Mesa. We do have support from the District Wildlife Manager from DOW. We toured the property last week and he gave glowing recommendation to go with the easement. Commissioner McCown asked if she knew if the minerals were severed. ethany – The minerals are also entirely severed. He owns a portion of about fifteen (15) acres. There is an active lease but no permitted wells or permitted pads. ommissioner McCown – Is the lessee for the minerals a party to this agreement? ethany – They are; EnCana does currently have a pad on another portion of the ranch with two wells. They are not in production right now – they hit too much water and therefore they currently have no intention of pursuing drilling up there until it's more economical to do so. They do know that we are progressively putting conservation easements onto the property; if you're asking have they signed off, or that we would have surface rights, no they have not, but again the easement would prohibit certain things within the surface use agreement because the easement comes first. I know you've had some discussion were the easement comes first.

Commissioner McCown –I think the courts will still settle that one, but I don't want to create another one by moving a head on this one. On the last one we had a very clear issue where AVLT was to be a co-applicant and wasn't and I'm wondering why the mineral owner is not allowed the same practice and standing as a joint surface owner.

Bethany – Well, they would still be allowed to drill on an easement subject to surface use agreement and were and the lease was prior to the easements and surface use agreements. The surface use was negotiated with the conservation easement in mind. The IRS and Treasury regulations still allow oil and gas drilling because it is considered a reclaimable surface damage, but those are discussions for the well pads.

Charlotte White – I own half the mineral rights on that place and no one has every contracted us; were we supposed to be contacted? Bethany – No because you are not a surface interest holder. Charlotte – So, it won't affect our mineral

rights. Bethany – No, it will not affect your mineral rights. Chairman Martin – Again, this is a letter of support and it is a portion of the ranch being placed under a conservation easement requested by the owners.

A motion was made by Commissioner McCown that the Chair be authorized to sign the letter of support for this particular grant. Commissioner Chairman Martin seconded. ommissioner McCown – I have concerns on how we're going with some of these conservation easements. They're clearly coming in the back door on land use issues and they are not coming before us as a land use but yet anything that stays on the land for perpetuity is land use issue and it does not get heard in a public venue like this is today. I'm having a problem with that; I think we're going to see more and more issues that the courts are going to have to deal with and I don't want to be a party to creating those issues that we have to litigate in court or the users have to litigate in court. Bethany – And I will say the topic that has come up in the last week is at the forefront – it did cause questions, not just within our organization but state and nationwide it is already becoming an issue. Commissioner McCown – I think it will be a while before the dust settles on that one but it is an issue and through our land use planning processing we may take a look at just that very thing because no matter how you dress it up or how much perfume you put on it, it's still a land use and it's a land use that the public doesn't get to weigh in on; adjacent landowners don't get to weigh in on it; there's no hearing process for it, it just happens and its there forever. Basically, we have very few land uses that are in perpetuity that can't be amended or changed. These are pretty onerous when you try to change them. Chairman Martin – It goes back to which side of the fence you're on; the creation of thirty five (35) acre parcels and no public review or again land use review, so you can't have one and not the other. It is an issue and you're either going to support both or not support. In favor: McCown – aye Martin – aye Houpt – absent Chairman Martin – We will go ahead and support that as we have in the past but we do know it's a rising issue and we're going to have to sit down and discuss it more and more.

SPECIAL USE PERMIT FOR "EXTRACTION, PROCESSING, STORAGE AND MATERIAL HANDLING OF NATURAL RESOURCES" IN THE ARRD ZONE DISTRICT TO ALLOW FOR A SHALE BORROW PIT ON A 4,332-ACRE PARCEL LOCATED NINE MILES SOUTH OF THE CITY OF RIFLE ON A PARCEL OF LAND KNOWN AS TEEPEE PARK RANCH. APPLICANT IS BLACK DIAMOND MINERALS, LLC – KATHY EASTLEY

Kathy Eastley, Debbie Quinn, Robert Vincent, Schuler Black Diamond Minerals, LLC were present. Debbie reviewed the noticing requirements. Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Kathy entered 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 – Application; Exhibit G – Staff Memorandum; Exhibit H – Email dated May 19, 2008 from Jake Mall of the Garfield County Road and Bridge Department; Exhibit I – Memo dated May 23, 2008 from Matt Sturgeon, City of Rifle; Exhibit J – Letter dated May 23, 2008 from Steve Anthony, Garfield County Vegetation; Exhibit K – Rifle Watershed permit; Exhibit L – DRMS 110 Application; Exhibit M – USFS Application for Transportation and Utility Systems and Facilities on Federal Lands; Exhibit N – Warranty Deed; Exhibit O – posted notice showing the signs are visible.

Chairman Martin entered Exhibits A – O into the record. The Applicant requests approval of a Special Use Permit for "Extraction, Storage, Processing, and Material Handling of Natural Resources" for a Shale Borrow Pit. On May 12, 2008 the Board of County Commissioners decided to not refer the request to the Planning Commission.

GENERAL LOCATION / SITE DESCRIPTION

The 4,332-acre property which comprises Teepee Park Ranch is located south of the terminus of County Road 317 (Beaver Creek Road) via Forest Service Road 824. The Board of County Commissioners approved a Special Use Permit for logging on the property, memorialized in Resolution 2003-39. The logging activity terminated several years ago on the site and the current property owner has no desire to utilize that permit. Oil and Gas Industry activities are currently in exploratory phases in the area. The subject borrow pit is located between Beaver Creek and Porcupine Creek and will serve to provide shale for purposes that include road construction and maintenance, both within the ranch property and to upgrade the Forest Service Road to allow for O&G exploration.

ZONING & ADJACENT USES

The property is located within the A/R/RD zone district which contemplates Processing, Storage and Material Handling of Natural Resources as a Special Use requiring approval by the Board of County Commissioners. The adjacent map shows the general location of the borrow pit encircled in red. The Teepee Park Ranch property encompasses 4,332 acres; however the scope of the permit is limited to an area that is less than one acre. Immediately adjacent land uses include Federal and State land, with the nearest private property, owned by George Bauer, approximately ¼ mile north of the northern property boundary of Black Diamond Minerals.

GENERAL PROJECT DESCRIPTION

The project generally proposes to mine shale from an existing borrow pit on the property. The existence of the pit was used historically to support ranching activities and road improvements within the property. The amount of material to be extracted is 3,600 cubic yards of shale, a volume that will be utilized for well pad construction and initial road improvements. Approximately 150 cubic yards annually will be required for maintenance of the roads. The extraction process entails utilization of heavy equipment (loader, rock haulers, and backhoe) to remove the shale which will then be transported to locations within the property and along the Forest Service road as needed for construction and maintenance. A crusher will be utilized for processing of the shale, and no storage area is requested as the shale will be trucked to other locations within the property or on USFS 824. Hauling of shale will not take place on, nor impact the County Road system. The applicant has stated that no electricity or other utility improvements are required for this operation.

STAFF FINDINGS

Staff finds that the use, operation, and reclamation of this proposal are generally compatible with the goals and objectives of the Comprehensive Plan. The size of the overall Ranch mitigates visual impact and minimal impacts will result from this project as the extracted material will be utilized on-site and on the road surfaces to the Ranch. Mitigation measures to ensure protection of the environment and to minimize impacts associated with the industrial use are minimal due to the limited nature of the proposal as well as the distance of the

borrow pit from adjacent properties. Reclamation surety will assure that the land will be reclaimed post-mining to the extent possible.

The application states that utilities to provide water and sanitation services are not required at this particular location as the limited nature of the use with nearby facilities will suffice.

There will be little traffic volume associated with this proposal other than mobilization of the equipment to the site which the applicant has stated will remain on the site for the life of the use. Exhibit M is the application for use of FS Road 824 as access for this and other proposed uses on the Ranch. In addition, Garfield County Road and Bridge has responded to the application with the following comments:

- We will need to work with Black Diamond Minerals on a road plan for the use of Cr. 317 as some improvements will be needed to support their total drilling plan. We have no problem with Black Diamond Mineral moving in equipment for this application, but will need to have the road plan in place prior to their drilling operation.
- All vehicles hauling equipment and material for this project shall abide by Garfield County's oversize/overweight system.
- All vehicle requiring oversize/overweight permits shall have a letter on file with Garfield County Road & Bridge Department from Black Diamond Minerals stating these vehicles can obtain oversize/overweight permits under the road bond that Black Diamond Minerals has on file with Garfield County.
- All large vehicles requiring oversize/overweight permits shall have a pilot car in the front and a pilot car in the rear of each vehicle.

There will be no lighting, nor signs associated with the borrow pit. The pit location within the 4,332 acre parcel is sufficient to screen the extraction activities as well as the transportation of the material to other locations within the parcel. The neighborhood character for this area will not be adversely impacted by this proposal.

Dry mining of the shale will not involve the use of water however surface runoff associated with the proposed improvements to the road surfaces necessitated the applicant apply to the City of Rifle for a Watershed Permit for the site to ensure protection of the City water quality. The City of Rifle reviewed and approved the permit at a hearing held on June 4, 2008 (see Exhibit K). That permit also encompasses Oil and Gas Industry activities that may take place on the Ranch.

The application also included a section regarding the necessity of a Stormwater Permit for the site.

Additional information has been provided that application is in progress for a Water Quality Control Division Discharge Permit from CDPHE.

The location of the borrow pit within the 4,332 acre Ranch property will virtually eliminate any impact dust, smoke, noise, glare and vibration to adjacent property.

RECOMMENDATION

Based on the aforementioned, Staff recommends the following findings can be made with adoption of the recommended conditions of APPROVAL.

CONDITIONS

1. That all representations of the Applicant, either in testimony or the submitted application materials, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
2. Prior to activity occurring on the site, the Applicant shall provide a copy of the approved permits from the following agencies and shall remain in effect for the life of this permit:
    a. City of Rifle Watershed Permit;
    b. DRMS 110 Permit;
    c. Stormwater Management Plan and Discharge Permit.
3. The Shale Borrow Pit hours of operation will be 7:00 a.m. to 6:00 p.m., Monday through Saturday.
4. Prior to activity on the site, security shall be provided consistent with recommendations of County Vegetation and in accordance with the County Attorney's requirements.
5. All of the conditions are binding of the County permit and the State Division of Reclamation, Mining and Safety (DRMS). DRMS can withhold the reclamation bond if the final reclamation is not executed according to the plans.
6. If a bond is required by DRMS, County will be invited to any bond release inspection and will have the opportunity to demonstrate that any item of the permit has not been complied with and that bond should not be released.
7. The Operator acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if continued violations of the permit occur over a period of time.
8. The Applicant shall be required to submit a report annually, until such time as the release of the reclamation bond by the County, of the borrow pit operation for staff review. Upon review of any deficiencies pursuant to conditions of approval or other local, state, or federal permits, Staff may forward the report to the County Commissioners for full review of the Special Use Permit. Copies of annual reports required by and submitted to other agencies including, but not limited to, the City of Rifle, will be attached to the annual report submitted to the County.
9. The County commits to notifying the operator of any compliance concern and allows an inspection with site personnel and the designated County inspector prior to contacting any agency.
10. The County can request a site inspection with one <u>calendar</u> day's notice to the Operator. Full access to any part of the site will be granted. On request, all paperwork must be shown. The County cannot request a large number of inspections that would interfere with normal operation without cause.
11. All mining activities shall be required to comply with the following performance standards:

    (1) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.

    (2) Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

    (3) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

(4) Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

(5) Storage area, salvage yard, sanitary landfill and mineral waste disposal areas:

(A) Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations / comments from the appropriate local protection district regarding compliance with the appropriate codes;

(B) At the discretion of the County Commissioners, all outdoor storage facilities may be required to be enclosed by fence, landscaping or wall adequate to conceal such facilities from adjacent property;

(C) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces;

(D) Storage of Heavy Equipment will only be allowed subject to (A) and (C) above and the following standards:

1. The minimum lot size is five (5) acres and is not a platted subdivision.
2. The equipment storage area is not placed any closer than 300 ft. from any existing residential dwelling.
3. All equipment storage will be enclosed in an area with screening at least eight (8) feet in height and obscured from view at the same elevation or lower. Screening may include berming, landscaping, sight obscuring fencing or a combination of any of these methods.
4. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.
5. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

(E) Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.

(F) Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

(6) Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.

Chairman Martin – Noted there was a huge list of no comments from the referral agencies sent out; Bookcliff Soil Conservation District, Rifle Protection District, BLM, the US Forest Service, Colorado Department of Health and Environment, Colorado Department of Reclamation and Mining Safety and they all need permits from them and wondered why there was no comment. Kathy – The referral requests were sent out and did receive comments back from some of the agencies; many of these referral agencies say it depends upon the project as to whether or not they respond.
Commissioner Martin - This is a small project is probably what they are saying. Applicant: Robert Vincent and my position with Black Diamond Minerals is vice president of operations. We are a new company and he told about the principals involved with this company. Even though the company itself is new, we've basically been in business for about a year. The principals involved five of us, which have all been in the oil and gas industry primarily in the Rocky Mountains for all of our careers. We are all former Texaco employees; four of the five have spent the bulk of their careers in the Rocky Mountain Region. I have spent time in the Rocky Mountains all the way from New Mexico to Canada. I spent time with Texaco, Chevron and most recently with Williams in Parachute, Colorado. Western Colorado frankly is my home. I graduated from Glenwood Springs High School. No matter where I've lived, I've always referred to Glenwood Springs and Western Colorado as my home. We're filled with people who have been around a long time and looked at Western Colorado as a place they want to stay in.
The goal of our project, TeePee Park Ranch, from the beginning has been to develop the natural gas resources with as minimal impact as possible. This is a ranch, a private property, an in-holding; it's a beautiful place and has multiple of activities that can be done – hunting and fishing. In order to minimize the impact is to develop the oil shale borrow pit and use the resources on the roads.
Terry Broughton, 8729 CR 320, I live on Taughenbaugh Mesa, there has already been an oil shale borrow pit and wanted to know if there was concern about the fish in the creek. Oil shale cliffs have eliminated the fish. The more oil shale you put on the roads it causes him concern. Have there been any studies on the oil shale?
Arnold Pressler – Has there been a study by the Rifle Watershed? What impact does this have on the properties below?
Robert Vincent – The shale is from the Green River and in it of itself – it has been used by Teepee Park on the roads and we had to obtain a permit from the City of Rifle – it has been approved.
Girl – CDPHE permit required not to get any material into the river or the creek.
Terry Broughton – I'm concerned about the sediment because the previous owner and the water rights have almost been destroyed in Beaver Creek; and, the water system has been almost mud for two months. I've never seen the creek not clear up in two days. The roads were supposed to be revegetated. Since they say the public can't go up there, I guess you fly over to see what's happened to your watershed.
Chairman Martin – That's right and the City of Rifle is very concerned about their watershed and they are supposed to be inspecting that constantly.
Terry Broughton – Yes, and I haven't seen any water samples that they've taken on the previous owner.

Chairman Martin – We will have to talk to the City of Rifle because they are going to be the ones watching that very close and monitoring that; but they have made their recommendation and have issued a watershed permit and said this will not interfere with that operation. So that's what we have to go by.

A motion was made by Commissioner McCown to close the public hearing. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt - absent

A motion was made by Commissioner McCown to approve the special use permit to allow for shale borrow pit with the eleven conditions as recommended by staff. Commissioner Chairman Martin seconded. And Number two (2) is to make sure that their permit stays in place. As for Terry, it is the City of Rifle's water permit as well as the DR and the mining permit and the storm water management plan and discharge permit – they have to meet all those requirements. If they fail to do so then at that point you have other answers. There are protections in place and enforcement is the only issue that we have to worry about. In favor: McCown – aye Martin – aye Houpt – absent

REQUEST FOR AN EXEMPTION FROM SUBDIVISION REGULATIONS TO CREATE 4 PARCELS FOR THE ZIEGLER EXEMPTION. PROPERTY IS LOCATED AT 31145 HIGHWAY 6 & 24, WEST OF SILT. APPLICANT IS PEREGRINE 08 INVESTMENTS, LLC. – KATHY EASTLEY

Kathy Eastley, Debbie Quinn, Don Ziegler, And Tim Thulson were present. Debbie reviewed the noticing requirements. Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Debbie questioned the list of mineral owners submitted in an exhibit by Tim Thulson. Chairman Martin swore in the speakers. Kathi entered the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984, as amended; Exhibit E - Garfield County Comprehensive Plan of 2000; Exhibit F – Application; Exhibit G – Staff Memorandum; Exhibit H - Letter dated May 28, 2008 from Michael Erion, Resource Engineering; Exhibit I - Email dated May 8, 2008 from Dan Roussin, CDOT with attachments; Exhibit J – Letter dated May 14, 2008 from Cynthia Love, Division of Water Resources. Chairman Martin entered Exhibits A – J into the record.

This was before the BOCC last year but the plat was never signed. Therefore it is back here today. The Applicant, Peregrine 08 Investments, LLC is requesting approval for an Exemption from the Definition of Subdivision which, if approved will create four (4) lots from a 41.85 acre parcel. An application for Subdivision Exemption was approved by the BOCC at a Public Hearing on September 10, 2007 which created three (3) lots on the 41.85 acres. The applicant never recorded the plat due to the proposed change to create four (4) lots as submitted in the current application.

The following breakdown describes each of the proposed lots:

Lot 1 17.798 acres
Lot 2 3.362 acres
Lot 3 5.304 acres
Lot 4 14.780 acres

Access is proposed to be a common entry access easement to Highway 6 with interior roads designed to primitive road designation standards (40 feet width).

STAFF RECOMMENDATION

Staff finds the proposed Exemption complies with §8:00 of Garfield County Subdivision Regulations of 1984, as amended and recommends the Board of County Commissioners approve the request for an Exemption from the Definition of Subdivision for parcel number 217905400056, with the following conditions of approval.

1. That all representations made by the Applicant in a public hearing before the Board of County Commissioners shall be considered conditions of approval unless otherwise amended or changed by the Board.

2. The Applicant shall include the following text as plat notes on the final exemption plat:

a. Control of noxious weeds is the responsibility of the property owner.

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

c. No open hearth solid-fuel fireplaces will be allowed anywhere within an exemption. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.

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

e. Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming or other agricultural activities and operations within Garfield County shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

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

g. All new septic systems and residential foundations shall be designed by a professional engineer licensed to practice in Colorado.

h. Addresses are to be posted where the driveway intersects the County road. If a shared driveway is used, the address for each home should be posted to clearly identify each address. Letters are to be a minimum of 4 inches in height, ½ inch in width and contracts with background color.

i. Driveways should be constructed to accommodate the weights and turning radius of emergency apparatus in adverse weather condition.

j. Combustible materials should be thinned from around structures so as to provide a defensible space in the event of a wild land fire; and

k. "The mineral rights associated with this property will not be transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s)."

3. Prior to signing, the exemption plat shall be amended to reflect the following corrections:

ii. Add a Certificate of Ownership;
iii. Remove the Board of County Commissioners Certificate;
iv. Add a vicinity map.

4. Prior to the signing of the plat the Applicant shall provide the following information regarding provision of water:

a. A four (4) hour pump test be performed on Ziegler East and West wells;

b. A well completion report demonstrating the depth of the well, the characteristics of the aquifer and the static water level for both wells;

c. The results of the four (4) hour pump test indicating the pumping rate in gallons per minute and information showing drawdown and recharge for both wells;

d. A written opinion of the person conducting the well test that the well should be adequate to supply water to the number of proposed lots;

e. A legal, well sharing declaration which discusses all easements and cost associated with the operation and maintenance of the system and who will be responsible for paying these cost and how assessments will be made for these costs;

f. The water quality shall be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates for both wells;

5. A copy of well permits issued pursuant to CRS 37-90-137(2) for the Ziegler East and West wells.

6. Prior to the signing of the plat the Applicant shall obtain a CDOT Access Permit and construct the road improvements necessary to access to the lots.

7. The property is located in the RE-2 School District. As such, the Applicant shall be required to pay $200 each for Parcels 2, 3 and 4. This fee shall be paid at the time of final plat.

Discussion:

Applicant: Tim Thulson – This was approved last September for three lots and now before you is the addition of the one lot. All conditions of staff are acceptable.

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

Commissioner seconded. In favor: McCown – aye Martin – aye Houpt - absent

A motion was made by Commissioner McCown to approve the exemption from subdivision with the seven (7) conditions of staff. Commissioner Chairman Martin seconded. In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR SPECIAL USE PERMIT FOR CONTRACTORS YARD – 0683 COUNTY ROAD 337, PARACHUTE. APPLICANTS ARE JASON M. & KELLI L. JABS – DUSTY DUNBAR

Dusty Dunbar, Debbie Quinn, Jason and Kelli Jabs, and Hank Kracht were present. Debbie reviewed the noticing requirements. Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Dusty entered the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D – Staff report, Exhibit E – Application; Exhibit F – Memo via email from Jake Mall of the Garfield County Road and Bridge Department dated June 2, 2008; Exhibit G – Letter via email from Rob Ferguson, Grand Valley Fire Protection District, dated June 11, 2008; Exhibit H – Letter from adjacent property owner J. Bart Turner and Lynne Perry-Turner, Dallas TX, dated 5-16-08; Exhibit I – photographs.

Chairman Martin entered Exhibits A – I into the record. The Applicant requests the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a "Contractor's Yard" on a 9.87 acre parcel zoned Agricultural / Residential / Rural Density (ARRD). Contractor's Yards are contemplated in this Zone district as a Special Use (§3.02.03). The intent is to utilize an existing steel shop structure originally permitted and built to house and service agricultural machinery. It is now being requested that this permission include the indoor storage of plumbing materials, personal vehicles and equipment, and the minor repair of vehicles belonging to family and friends. (Major repairs to over-sized or commercial vehicles are performed off-site at appropriate commercial facilities.) The structure is heated and has a concrete floor, and an EPA- approved Clean Burn waste oil furnace. There are a number of certified waste oil furnaces in the area. There are no employees or the washing of vehicles that would require sanitary facilities or the handling of waste water. The property is accessed County Road 337 by a privately maintained, gravel-surfaced private driveway. Traffic generated by a standard residence is estimate at 10 vehicle trips per day. No formal traffic analysis was requested or provided with this submittal. It was estimated by the applicant that the periodic nature of this use might yield an increase generated of approximately two (2) vehicle trips per day. Most of the vehicles that will utilize the facility are owned by residents of the two parcels (Jabs, Kracht.)

The activity area is represented to be less then one acre, and the storage is to be limited to the enclosed structures, those being a lean-to on the north side of the shop building and the shop building itself. Ongoing storage of vehicles may be required to be screened from view with adequate vegetation or fence.

<u>Contractors Yard Definition:</u>

"The use of land for the purpose of storing machinery, equipment and supplies for an individual business that provides services to clients through the use of the machinery, equipment or supplies. Such use may include office and repair facilities."

Applicant states that there will be a minimum of water usage related to the trucks as the minor maintenance is generally component replacement and storage of the vehicle on-site. No vehicle washing is proposed. The proposed Contractor's Yard operation will utilize an existing residence for any sanitary or office purposes, and has no other employees. The existing well and ISDS are adequate.

General Comments: Garfield County Road & Bridge has no objections to this application with the following

- *Cr. 337 is a narrow gravel road with residents close to the road and their quality of life needs to be taken into consideration with the addition of truck traffic on Cr. 337*
  - *A stop sign shall be placed at the intersection of the driveway and Cr. 337. The stop sign and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices)*
  - *Any vehicle exceeding Garfield County oversize/overweight limit shall have an oversize/overweight permit issued by Garfield County Road & Bridge Department.*

Adjacent uses include residences, residences with accessory agricultural use, residences with personal vehicles for business use (pickup trucks), residences with commercial vehicles and vacant agricultural parcels. The operation of a Contractor's Yard on the subject property is consistent with the existing adjacent uses.

There is a minimum of outdoor lighting and no additional lighting is proposed as part of this permit. The use is to be performed inside the building, with the storage of plumbing supplies inside a lean-to already existing to the north of the building. Screening from the west of the lean-to and outdoor oil tanks with safety vault is recommended. Screening could be in the form of an 8' fence or vegetation. A total enclosure of the shop is not required, as the other equipment on the property is agricultural and personal vehicles, not considered part of this operation.There is little or no run-off or water use associated with the vehicle repair and maintenance activity, as washing the vehicles is not permitted and there are no employees to require additional sanitary facilities. Staff recommends periodic treatment of the gravel driveway to reduce dust emissions. Regardless of the fact that the vast majority of the use is to be performed inside an enclosed structure, a sound analysis shall be performed and the use required to meet the noise standards so as to not compromise the residential character of the neighborhood. The residential / agricultural nature of the neighborhood and adjacent uses would allow for a daytime dbA of 55 (7 am to 7 pm) and 50 dbA at night (7 pm to 7 am). Noise level may exceed the Residential level of 55 daytime by no more than 10 db(A) not to exceed 15 minutes in any one-hour period. Noise generated by the proposed use will need to be demonstrated to be within the parameters for the existing residential neighborhood to comply with State Statute 25-12-103.The used oil from this use will be burned in the EPA-approved oil-burning stove that pre-dates this permit application, and was used for the oil generated by the Jabs household. Wildlife is more apt to utilize the open pasture area on the north end of the property because there is little human activity there, and alfalfa fields are attractive to ungulates. The use is centered in and adjacent to the shop building, so there would be little disturbance to wildlife. Any native vegetation has long since been removed by agricultural operations of the ranch from which this tract was created. Staff recommends that the Applicant control noxious weeds and minimize disturbance, and the applicant seek advice from the Colorado State Extension Office on 'green screening' with vegetation, if it is to be used instead of the required fence.The proposed Contractor's Yard is located off County Road 337 on a 20' wide private lane that was constructed to accommodate residential traffic only. It is the opinion of the Road and Bridge Department that the proposed use will not impact county infrastructure, but expressed concerns that '*CR. 337 is a narrow gravel road with residents close to the road and their quality of life needs to be taken into consideration with the addition of truck traffic on CR. 337.'* No comment about the private lane was made, as it is not the jurisdiction of Garfield County. While this permit is not being sought to attract additional vehicles to service (the permit is requested to accommodate 'family and friend's occasional use' with no anticipated expansion of the present level of use), there is an effect from heavier vehicles traveling on a private drive that perhaps was not designed to carry that weight. Those owners of property that use heavier vehicles should contribute a greater share for its maintenance. Because the lane is private, this issue is a matter of private concern, as well.

While the Contractor's Yard area is not separated from the adjacent parcel boundary by a 300-foot distance, it is separated from all residential structures by that required distance, with the exception of the Applicant's own residence. The operation of a Contractor's Yard is not expected to impact adjacent uses.

Because the use on-site is limited to minor maintenance, limited storage of components and equipment that is adequately screened and enclosed, and the use is proposed to be administrated by conditions set forth by the BOCC in the SUP, Staff feels that no additional security or permits are necessary. In an oversight, Staff failed to require the sound assessment be performed at time of application, but that information will be provided at the earliest opportunity, at or before the BOCC hearing on June 16, 2008. The use is proposed to be contained within an enclosed structure. The operation shall comply with the noise standards cited in Colorado Revised Statutes (CRS) 25-12-103 for the Residential zone. A decibel level is measured at 25 feet from a property line. The residential / agricultural nature of the neighborhood and adjacent uses would allow for a daytime dbA of 55 (7 am to 7 pm) and 50 dbA at night (7 pm to 7 am). Noise level may exceed the Residential level of 55 daytime by no more than 10 db(A) not to exceed 15 minutes in any one-hour period. It shall be demonstrated that the noise generated will not exceed the levels or time parameters of CRS 25-12-103. (2), and Staff recommends that this compliance be a condition for approval.

Because the number of trips generated by this operation is comparable to that of normal residential use, only periodic treatment of the driveway is recommended. Magnesium chloride or other dust abatement measures might limit fugitive dust. All vehicles accessing the site will be licensed and in compliance with County, State and Federal requirements. Comments from Garfield County Road & Bridge include the requirement that 'Any *vehicle exceeding Garfield County oversize/overweight limit shall have an oversize/overweight permit issued by Garfield County Road & Bridge Department*'

Staff has included a recommended condition of approval requiring compliance with all applicable air quality laws and regulations. The Applicant does not represent uses that will generate heat, glare, or radiation. Extended engine idling associated with 'winter warm-up' is, in fact, dissuaded by diesel engine manufacturers, with an in-tank electric heater

preferred to warm the engine fluids. Staff recommends that engine idling be kept at a minimum of 3 minutes to reduce fumes that could be considered a nuisance.

Staff referred this application to Grand Valley Fire Protection District for comment.

After looking over the Special Use Permit for the Jabs property located at 0683 County. Rd 337, I have a couple of issues.

First, it wasn't clear to me what occupancy type Garfield County was going to assign this property with. As we all know that depending on the occupancy determines what is ultimately required. After reviewing the "Staff Findings" from the County, I totally agree with Garfield County as for allowing the "Contractor's Yard" Special Use Permit and would like to see a safety plan developed and put in place along with safety equipment in place and a review bi-annually. The review would be to see if any problems have occurred and to make any necessary changes to the safety plan. If you have any questions regarding this review.

There is storage of flammable or explosive items in this operation; however it is in levels well below the threshold where Federal permitting is required. Staff recommends, however that because the location is somewhat isolated, and response time from the fire protection provider is somewhat lengthy, the applicant should be required to have a fire suppression plan and safety equipment available on-site, and work with the fire protection provider to identify chemicals and flammables to ensure the safety to the fire fighting responders.

All storage of flammable or explosive solids or gases, however, shall comply with all applicable laws at the national, state and local levels. Staff recommends requiring the Applicant to utilize the Best Management Practices regarding the storage of this material identified in a Stormwater Management Plan to be created by the Applicant as part of the conditions of this permit. MSDS (Material Safety Data Sheets) lists that detail each chemical's safe handling, fire suppression methods and recommended disposal should be included in the plan. The records should be stored away from the area where the chemicals are stored. The applicant must adhere to the used oil disposal limitations stated in Colorado Revised Statutes CRS 30-20-1005 (1) '*On or after July 1, 2007, land disposal of residentially generated used oil shall be prohibited.' 'Used oil'* is defined in 30-20-1001. Definition*s*, (14) as '*any residentially generated motor oil, refined from crude oil or a synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities'*. Furthermore, '*Residentially generated'* is defined (7) '*residentially generated means used lead-acid batteries, used oil and waste tires generated by a person.'* No by-products of this permitted use, including vehicle components, fluids or chemicals, or the materials used in general service (towels, rags, etc.) must be allowed to accumulate to create an environmental or fire hazard. All items to be discarded must be properly stored, transported and disposed of in an appropriate facility. Oil and chemicals to be stored on-site is described below. EPA requirements for used oil storage facilities be a tray or vault that has a capacity at least 10% beyond the capacity of the largest tank, '*to accommodate for sufficient freeboard for precipitation or additional water'*. Handouts such as EPA's '*Managing Used Oil: Advice to Small Businesses*' and '*Managing your Hazardous Waste*' state recommended practices and give good guidance. It is estimated by the Applicant that no more than 70 gallons of used oil per month will be generated by the use to be permitted. That 70 gallons is generated from the periodic oil change of a personal water-truck fleet owned by the Applicant's brother-in-law, one of three (3) personal pickup trucks owned by the Applicant, personal vehicles owned by a limited number of neighbors and friends. The periodic oil change for the water-truck is performed on the large truck every 5000 miles, provided the vehicle is on-site. (Most of the trucks are in operation in the north Piceance Basin and serviced there by a mobile provider.) The oil capacity for the trucks is 10-11 gallons, each. The oil is stored in 50-gallon capacity oil drums appropriately labeled as 'motor oil' as that is how the oil arrives on site. Oil is also stored in a 300 gallon tank that feeds a 'Clean Burn' brand EPA-approved oil burning stove, located in the garage. During the 6 months when heat is required in the building, all oil generated by the operation is consumed, with little on-going accumulation. During the summer months, however, a strategy to handle the accumulations of used oil must be developed. Staff recommends that the applicant be required to construct a concrete vault to serve as a containment basin to properly contain the accumulations of used oil to meet all applicable standards, provide for the safety of persons and animals on and adjacent to parcel, and fire protection personnel that may respond to a fire call at this location. Inside the concrete safety vault, the oil would be stored in appropriate labeled containers.The subject property is not visible when traveling on County Road 337, but is visible from the private access lane. Because the operation is to take place within an enclosed structure, and the structure is generally down-grade from the adjacent properties, limited screening may be required. The required solid-board fencing enclosure no less than 8' in height will adequately screen vehicles and materials from view. Staff recommends the applicant also consider how the operation might be screened from the hillside behind the property with a green (vegetative) hedge. Staff recommends requiring the Applicant to utilize the Best Management Practices identified in a Stormwater Management Plan (to be created and submitted by the Applicant) such as storing waste in sealed and labeled containers and promptly cleaning spills. Storage of material that may be transferred off-site shall be conducted indoors. Heavy equipment is generally defined as large and powerful equipment for jobsites, namely earth-moving equipment such as graders, dump trucks, loaders, haulers and trailers. Some of the trucks to be serviced at this location are considered heavy equipment. There is no storing of these oversized vehicles used in a business use proposed, rather the vehicles enter, are serviced, and depart. Any vehicle stored overnight will be the personal passenger vehicle of the Applicant. The Subject parcel meet the required acreage size for 'Heavy Equipment', as it is just less than 10 acres. The property is not located in a platted subdivision established prior to the Subdivision Regulations; it is not considered a platted lot. Staff conducted a site visit to the subject property. There are no residential structures closer than 300 feet to the proposed contractor's yard area with the exception of the applicant's own house. This standard pertains to storage of heavy equipment, which will be contained inside a building. Vegetative screen to block the lean-to is recommended. A solid-board 8' fence to visually screen whatever components of this use the Board finds the need to screen, and that will be constructed within 3 months of permit.

Staff has included this requirement as a condition of approval. The proposed use is in compliance with this standard.

Staff has included this requirement as a condition of approval. All Regulations of the Environmental Protection Agency and all other applicable Federal, State and Local regulations shall be complied with at all times. The Applicant is not asking for water use as part of this operation.

STAFF RECOMMENDATION. Staff recommends approval of the proposed Special Use Permit allowing a "Contractor's Yard" with the following conditions:

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1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. Volume and sound generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute 25-12-103, and 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.
3. The Applicant shall comply with all performance standards identified in §5.03.07 and §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended;
4. The 300-foot requirement distance requirement for the enclosure of a Contractor's Yard shall be satisfied for residences on adjacent parcels.
5. Plumbing materials shall be stored within the lean-to structure that is adequately screened with a solid-board 8' fence to be completed within 90 days of permit, which shall comply with Garfield County requirements including standards as to setbacks, height and sight distance. Vehicle service shall take place inside the enclosed shop structure.
6. No vehicles to be serviced may be stored on site.
7. No materials and wastes shall be deposited upon the property in such way that they may be transferred off the property by any reasonably foreseeable natural causes or force.
8. The Applicant shall prepare and submit a Stormwater Management Plan to utilize Best Management Practices, and shall implement the plan in conduct of this permit.
9. Storage of flammable material shall be conducted so as to meet all applicable regulations utilizing the practices identified in the Stormwater Management Plan, meet all local, County, State and Federal regulations and comply with CRS 30-20-105.
10. No more than 420 gallons of used oil may accumulate in a six-month's time period, and no accumulation shall be greater than that at any time. That accumulation must be stored in a labeled container that meets the requirements set forth in all local, State, County and Federal regulations for the proper storage of used oil and other chemicals. The containers are then to be stored inside a properly sized safety vault that serves as a containment basin and meet any required containment and spill management requirements set forth by Federal, State, and County and local regulation to prevent spills onto the property and beyond.
11. The applicant must have safety equipment in place, develop and implement a plan, developed with the fire protection service provider which is Grand Valley Fire Protection District, to safeguard persons on or near the property. These measures shall include the safety to animals and wildlife. The plan shall be reviewed to the satisfaction of the fire protection service provider.
12. Periodic mitigation measures to address fugitive dust shall be performed to maintain the driveway at an acceptable level, no less than once a year.

Jason Jabs stated it's every guy's dream to have his own shop and my intention is not to run any business of any form; I've got the shop, we use it for personal use whether it's agricultural or friends or family or neighbors coming over and they have use of the shop. It doesn't bother me that people can do that and I have a waste oil furnace in the shop so I use the oil to generate heat in my shop. I don't have anything further other than complying with the County and getting the use permit to have it to rectify this problem or what have you.

Testimony:

Juanita Satterfield 2895 County Road 301, Parachute – First of all two letters to submit from people who were unable to be here, one from Ron and Bonnie Palmer and one Amy and Chris Beasley. I think most of our concerns are going away from the residential/agricultural neighborhood community aspect that we live in. The additional traffic, dust; we all look to the future when the industrial part of our life will subside. If commercial development, shops, etc. are allowed those aspects will remain long into the future.

Deb Meador – I live approximately half a mile (½) away from the property. I live on 340 Road and I'm also concerned that this is a residential area; we don't want to set a precedent for contractor's yards and industrial use. I'm also concerned about the about the water usage. I know they have said that there wasn't going to be any although if you do clean trucks and I know they said the big trucks are going to be cleaned in this presentation down in a different place but my understanding was that some of that was going to go on here. Water usage would be inappropriate at that point and it would probably affect our aquifer. So those are my concerns; I would respectively request that you don't permit a Contractor's Yard on Morrisiana.

Bruce Brynildson, I live on CR 338, 0254 is the address. What we're doing here is basically objecting to the conversion of what we consider to be a rather pristine rural residential area into what may become more or less a light industrial sort of an area. We're not opposed and when I say, we, I should be plain, we have a letter here with 30 signatures on it that we're submitting to this file and in this letter we have some things and concerns that we'd like to express about what's happening in this particular area. It is a pristine area but again, I want to rephrase, we do not oppose development in any shape or form; we think the Parachute area needs to continue to develop. We would like to see industrial development in industrial areas and residential development in residential areas. What we see here is a kind of transformation of a residential area. This area has been adopted by many retired or soon to be retired people and they selected this area based on the fact that it is rather remote and pristine and not industrial. And, what we're saying is, this proposal is going to add to the destruction of what exists today particular with regard to the current exploration of gas in the area. The people on the list know of several existing locations on the mesa where businesses are being conducted and in some cases residents have called the County and asked the County to respond to these concerns and to be real frank with you, we haven't seen a lot of activity along those lines. If in fact we have zoning laws and we are going to enforce them, it would be advantageous if we would just do those things. We also believe that approval of contractor's yard is just the beginning. It's kind of like the old Arab adage that once you let the nose of the camel in the tent pretty soon you'll have the whole camel in the tent with you. We suspect that this will be the beginning of a landslide or perhaps several applications for this sort of activity particular by residents who are already conducting this sort of

activity on the mesa. Again, with regard to commercial areas, we believe this area located around four (4) miles south and west of Parachute along the old Highway 6 & 24 is a more appropriate area to conduct this sort of activity. There is space out there available and can be purchased or rented for these sorts of activities. So, in conclusion we're giving you more or less an overview, not a specific thing. The one thing that I would comment on is that CR 337 is a dead-end road and it dead-ends next to the property in question and the immediate neighbor. None of us heard about this hearing until word of mouth went around Friday that this thing was taking place. The actual public road that people will travel on is 301 Road so only residents on CR 337 would have seen the public notice and only those at the end of it. It would have been great if the public notice had been put out on 301 Road where people drive by; just a comment.
Richard Hanson –700 335 Road. We bought property up here three (3) years ago moving out of Arizona and picked this location out of the whole State of Colorado to buy and build a home which we're just now completing. Like Bruce said, I never saw a sign on CR 301 and I go up and down the road everyday. The posting in the Glenwood paper did nothing for us in Parachute. I've never seen a Glenwood paper in Parachute, we have the Post Independent – why wasn't it put in there?
Chairman Martin – That is the Glenwood paper.
Richard Hanson – I never saw it in there and I never saw the sign on the road either. But, I was in the trucking business in Phoenix for twenty two (22) years and I cannot imagine why they want to have those trucks in their back yard. After awhile it gets like a boil on you. And to let friends and family come and use facility is great but everybody up there has friends and family and there are a huge number of water trucks parked in people's backyards and they drive them everyday, bring them home every night and have no where to work on them; the closest place is Glenwood or Junction so it's not going to be one or two coming in there. If that's the case I'd sure take mine to work on it if it was free. We moved there for peace and quiet and the drilling industry has put a kibosh on that and this is only going to add to it and like Bruce and others said, there's any number of welding shops and water trucks, and dump trucks been on the mesa right now and I think you're just opening a big hole for people to walk through to have a garage or permits submitted to the County if everybody wants to do the same thing.
Eric Scott submitted exhibits to the Board. I'm the next door neighbor. I bought the property down there, it was the old Post place in June of 1996 so that was twelve (12) years ago. I work with Earth Stone Development and Glen Post; Glen Post, that was his mom and dad's property, he and Jenny Trust in the 1940's. It was a ninety-two (92) acre parcel and we split that into nine (9) – ten (10) acre lots and one (1) two (2) acre lots back in 1996. I designed and installed a new water system on that place for all the ninety-two (92) shares as well as put in the current road they are driving down. It took me two (2) years to build my house and asked the Board to take a look at the house he built as it took him two (2) years to build. I built it by myself. The rock you see on that is from the Colorado River, one truck load at a time. It's lot number seven (7) right next door, like I said, I've had that place for twelve (12) years; I actually was half (½) owner on the lot that Jabs bought. We sold it to the Jabs five (5) years ago. So within the last five (5) years, we've had their place show up and then next door, the Krachts built their trucking company and has five (5) trucks running twenty four (24) hours a day, seven (7) days a week down a private road. In 2001, a gentleman by the name of Wayne **Rothberry??** came before the County Commissioner and tried to subdivide his property which was an apple orchard up there that the County Commissioners in their wisdom at that time denied that because of the community outpouring at the time and you denied his request to subdivide. As you've seen today. I believe they set precedence back then, the County Commissioners trying to save what we have up there. The unauthorized contractor's yard is currently supporting his brother-in-law's operation which is his next door neighbor and they are running five (5) trucks like I said seven (7) days a week twenty four (24) hours a day. If you approve this it's directly related to the other one; they are sitting side by side and if you approve this one it's going to open the door to the whole mesa and it's going to approve the next one which you already have slides of the trucks gentlemen. As I was leaving my place today I see that they already have it posted for the trucking outfit and that's to come next. They're trying a contractor's yard now and the planner knows they are trying to do the trucking company next. So I think one is in conjunction with the other. And I take issue with the posting, I don't know what the requirements are but there's one posting on 337 Road and the second is on a private road, it is not on a public right-of-way as we speak and has not been. So I don't know if the County Attorney could take a look at that but it is not posted properly as to what was said earlier. And also in her slide, it said that vehicles are not to be washed on the property; the vehicles are being washed on site. Whether that's the trucking or the dust with the oils, they are being washed on site. They have a field storage area six hundred forty (640) gallon tank, it does have a secondary containment on it, and they don't have any of that. As far as the road goes if you'll take a look at the map I provided you gentlemen that is straight out of AES; when I hired them I working in Monsanto, Utah. Bill Murray owns AES and he's a professional land surveyor of Grand Junction. I actually held the rod when we shot that road in. I designed that road when we put it in. I did not design that road for heavy truck traffic; I put on three (3") minus gentlemen and as we speak that road is getting rutted and you can see by the pictures it's already potholed. Also, if you look at that picture that road is twelve foot (12') wide. It's not near wide enough for that and that not being a public road; it's a private road for about a quarter (1/4) or one-half (1/2) mile. Who gets to fix that now?
Jason Jabs – I want to add that I own eleven feet (11') of that road and we maintain it in the winter and summer.
Eric Scott – So if you look at the survey map, that map was provided to Garfield County and it's on record; you can see my house, the proposed yard and the trucking operation. All that's orange and highlighted is a twenty foot (20') drive of Tract 7 – I'm Tract 7. That's ten feet (10') right-of-way on each side which was recorded and that's an easement, nobody owns that, that was a recorded easement to provide for me which is recorded in Garfield County. That road, I don't know who's going to fix it now that we've got these trucks going up and down several times this winter; there's not enough room for one car to go down much less two with a truck in there. I would like to say you've got one person here; we've got a whole community that's speaking up.
Dusty Dunbar – Commissioners, if I can answer a couple of those questions.
Cameron Kracht – I am the one on the corner of the private drive in which I own eleven feet (11') of it and maintain summer and winter and Mr. Scott is so happy to say that my trucks are running the road but yet I eat his dust from he and his wife and all his renters that speed around my drive and I have animals that go back and forth to Kelli and Jason's as everybody else does on that and I have never complained to him once about the dust cause I do ask my truck driver to water that road as well as from 301 to my private drive and I would also like to add that I own eleven feet (11')

of that private drive in which I take care of. Jason and Kelli take care of it too. I've never had one bit of help from him and he's been gone for years and him and his wife decided to move back and now I've got to deal with some yet another set of renters that speed by my house every single day, three (3) to five (5) to ten (10) times a day.
Jason Jabs – I also was going to say, I plowed his driveway out this winter.
Dusty Dunbar – Point of clarification about the posting requirements, the posting requirements are from a the public right-of-way and this property is addressed at 0683 CR 337 so the posting was not only at that location but also as an additional courtesy off of the private drive adjacent to the parcel. That was not required; that was an additional courtesy to locate the staff and just a point of clarification that these applications are considered against the Code and what it states inside the Code and this particular application. Special Use Permits are compared point by point against what is stated in the Code, not something I personally as a planner would come up with.
Hank Kracht – I'd like to add to Eric's statement there, he rented his house out to a guy that had a dump truck and that's how he made his living and he stayed there for quite a few months and one of the trades was that they guy would take care of the road with his dump truck because he drove in an out of there also and rented the house that Eric's talking about. And we had an excavation company come up and they bladed the road and maintained the road and there is more of that coming in; Jason had done some plumbing with a contractor that has equipment and they traded out some plumbing work for road work there and the road doesn't have a lot of potholes in it; it is in just as good a shape as any of the other roads around there. And 301, it does have heavy traffic on it from the oil fields. There are a lot of trucks on it and they move rigs, there's a lot of drilling going on around right there and it's going to be a short term thing. They'll have about another year up there on that mesa and their permits will be used up for that and it will still continue to have oil field stuff up there which is a shame but it's part of our society there, that's where the oil and gas is. I don't want you guys to get confused with what I'm doing with what Jason's doing because with what Jason's doing, he's not running a business. I've been running a business for three (3) years up there and we've had no complaints until this week. We are moving forward with our business and we're debating whether to buy a lot, rent a lot, or apply for a Special Use Permit. Eric said there was a sign up there this morning, there isn't a sign there now. We were moving forward with that, we're debating that right now, but I don't want you to get my deal confused with Jason's. I have washed my trucks at my property, never has Jason washed his trucks at his property or his personal equipment. And there's no business being run out of Jason's shop, it is family and friends and that's all I've got to say.
Jason Jabs – Just a couple of other things, I've got a letter here from some of the surrounding neighbors that are right directly close to me on 337 Road or the private drive there and they have signatures in regards to this special use that they don't object it from what I'm doing. As Hank said, I'm not running a business, I do not intend to run a business; you won't see anymore traffic than what you see right now or takes places. We do like Hank says, we maintain the private drive there; I've bought a plow for my truck this year and do some of the neighbors drives too just to help people out. This is neighborly thing and with this permit I'll make everything right and correct that's required or asked upon, and it will just go on as now, I'm not running a business and I don't intend to. And there are a lot of businesses as one of the other speakers said up there. There are tree farms and there's a HVAC business or whatever. I don't have a problem with that, I don't see it and I'm not bothered by it and a lot of these people that are behind us, they live on other roads and I could see their reasoning behind what I've got going on or what's happening here, but I feel that they shouldn't be impacted by what I've got going on down there at my property and it's really not anything going on other than running a little small agriculatural farm business and the use of the shop of everybody's dream of having a shop.
Bill White – I live on the corner, 0022 CR 337. My concern is if we go to a construction yard there that they'll be other uses, more construction equipment possibly comes in and more traffic on the road. We live right there on the corner where we get the traffic from 301 Road and 337 Road. I don't need anymore traffic. And the other thing that really worries me is, we approve something today and then five (5) years from today something happens and they sell the place; somebody else comes in that's a big heavy equipment contractor that has this special use permit and all of a sudden we have a lot more stuff going down there. And that's quite a concern to me. So I guess I'm against the approval of the permit up there in the residential area.
Richard Hanson - Asked Hank Kracht, do you have a special permit for your operation?
Hank Kracht– No I don't; I've been running my company for three (3) and I just got the County who came out and I am applying for one.
Richard Hanson – So then we'll have two (2) there. He's been running that a long time and he's been in violation of the Code for how many years then.
Chairman Martin – That may be but that has no bearing really on this particular issue.
Richard Hanson – They are here together.
Chairman Martin – I understand.
Richard Hanson - I went around taking pictures of the community and there is a huge amount of things that are going on since the gas and oil starting drilling up there as it's convenient for them more than anything and rental yards on 6 & 50 are specifically for contractors with big vehicles.
Dusty Dunbar – Just that this application has a number of conditions that are associated with it's approval that are defined and the special use permit cannot be modified against those conditions set forth by the Board of County Commissioners so it's sort of like if you get a chocolate cake, you ordered a chocolate cake, you're not going to get any other flavor – those are the conditions that stay associated with the permit, just a little clarification about special use permits.
Bruce Brynildson – Asked a question of Dusty; I want to rephrase your question, you're saying you have specific requirements in the 5307 or 5308 or whatever and I understand that. I do hope there's an additional comment that you might add to that, that the residents have some input and some influences in the decision process to issue this permit; am I correct or incorrect?
Dusty Dunbar – Well, the decision is not made by me; I only present the application as it's presented, compare it against the Code as stated and it's your elected officials here that make the claim to that sort of thing and that would be a request you would want to phrase with them.
Bruce Brynildson – Very good, but the way that you stated it, it suggested that it was cut in black and white and printed on paper and I just want to make sure I understand the process a little bit better.

Chairman Martin – Bruce, what is done, the recommendations on this particular yard have been put down on black and white paper, it's up to us to accept it, make it less or more stringent and that's what we're doing right now.
Bruce Brynildson – Would like you to consider what we've said.
Chairman Martin acknowledged that he understood and said we are trying to do that working with the Code and the rules and regulations and also the recommendations based by staff; they've given us a recommendation and if it's approved it would have twelve (12) different requirements that they would have to meet before they could go forward.
Juanita Satterfield – One question with regard to meeting the special use permit requirements; what about enforcement after the special review is in place? As the gentlemen just stated, he's been in operation for three (3) years before he was contacted by the County. So the enforcement of special review uses is just as important as the denial or the granting.
Chairman Martin – That is very true.

Other exhibits entered into the record: Exhibit J – Letter dated June 16, 2008 from Ron and Bonnie Palmer; Exhibit K – Letter dated June 16, 2008 from Amy Beasley; Exhibit L – Letter dated June 13, 2008 from Morissana Mesa residents letter of concern to Board of Commissioners – seven (7) pages of signatures (note there are two of the same cover letter included in this count both marked Exhibit L.); Exhibit M – Photo of Eric Scott's home two (2) and the a garage with trucks, a track layout of his house, the proposed yard, and the trucking operation. Tract 7, 6, 5, 10, 11, 12, 25, 24, and 23 and a photo of a dirt road; Exhibit N – Signatures dated June 15, 2008 regarding SUP at 0683 CR 337 in Parachute were submitted.
A motion was made by Commissioner McCown to close the public portion of the public hearing. Commissioner Martin seconded. In favor McCown – aye Martin – aye Houpt – absent
A motion was made by Commissioner McCown that we approve the Special Use Permit for a Contractor's Yard with the recommendations of staff, with a comment that these ten (10) acre parcels that were created up there are a nightmare. Probably this room would have been a lot fuller if somebody came in today and wanted to break that property up like it is right now. It is zoned AARD; special use permits are allowed in AARD zoning whether you as a next door neighbor like it or not. It is a part of our land use process. It could be any number of things. This particular one is another round peg in a square hole. It's not a Contractor's Yard, it's a guy that's got a shop that wants to let his brother-in-law come up and change oil in it which would be no different that any of you that have a garage that lets a neighbor come over and work on their lawnmower in your garage. Everything's just a bigger scale but it is the same thing and he is complying with our land use by coming in and applying for this application. The fact that the other brother-in-law is running a trucking operation that's not permitted has nothing to do with what we're hearing today. And I hope everybody here understands that when you apply for a special use permit, there are conditions that have to be met and there are problems that have to be mitigated and if that is done other than the fact that well I just don't like this, I'm not going to deny it. Because, they have met the criteria of our building code, they have mitigated the problems, there's definite guidelines that there's not going to be a public car wash up there, there are items that cannot take place and yes, if you see things occurring, you call our Zoning Department and there'll be somebody out there. Apparently, somebody has come and talked to him about his trucking operation. So I hope people understand how the process works. We all have problems, we may not like our neighbors; I wish everybody could get along. But, in life anymore it seems like we're becoming more polarized everyday. And, it's these kinds of actions that cause that. These folks are doing exactly what they are allowed to do on their land, following our land use process, going through the channels, applying, bringing forth evidence, how they are going to mitigate the problems, what they're going to do to comply and then we rule on it. That's all anyone can be expected to do. *Chairman Martin* – And at the end they are subject to inspection and/or revocation of any special use permit if approved for any violation. *Commissioner McCown* – And enforcement. *Chairman Martin* – I'll second the motion. Discussion; there are some pretty stringent conditions here and a few corrective measures that you're going to have to do even with your own present use and it's going to tighten it up even more than what you're used to, so be careful what you ask for, it may cost you more money.
In favor: McCown – aye Martin – aye Houpt – absent.

REQUEST FOR AMENDED & CORRECTED PLAT – BATTLEMENT MESA. APPLICANT IS BATTLEMENT MESA OFFICES 1, LLC – DUSTY DUNBAR

Dusty Dunbar, Debbie Quinn, Chris Cole, Debbie Dulley and Dan Cohen were present. Debbie Quinn reviewed the noticing requirements. Carolyn determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Dusty entered the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff report, Exhibit E – Application Chairman Martin entered Exhibits A –E into the record.

DESCRIPTION OF THE PROPOSAL

The owner of Lot 4 requests approval to re-subdivide the lot, as per permissions granted as Plat Note #4 on the Final Plat, Town Center Filing No. 5, A Part of Battlement Mesa PUD, approved by the BOCC September 8th, 1997. The sub-zone designations on the existing lot was set forth in the Preliminary Plan as part of the original defining resolution 82-121 (5/3/1982) that being Business Center (BC). A real estate office occupies the portion of the lot that is to become Lot 1 as part of this re-subdivision. This existing use is in compliance with the zoning, listed by right as '*Offices for business and professional use'* in 8.1 of the original defining resolution 82-121 (5/3/1982). The other portion of the lot that is designated to become Lot 2 is vacant. The zoning on the portion of the lot that is to become Lot 2 as part of this re-subdivision is listed as Medium Density Residential (MDR). This existing use is in compliance with the zoning, listed by right as 'Medium Density Residential' in 3.1 of the original defining resolution 82-121 (5/3/1982). This includes:

> '*Single family detached dwellings, attached single-family dwellings (either townhouses or zero lot line houses), tow (sic)-family and multiple-family dwellings, and customary accessory uses including buildings for shelter and enclosure of animals or property accessory to the use of the lot for residential purposes and fences, hedges, gardens, walks, and similar landscape features; park.'*

STAFF COMMENTS / CONCERNS

The subject lot is located in the Battlement Mesa PUD. This parcel has been part of several actions since its inception. Originally it was subject to the zoning of Town Center, Filing 5 which included both Business Center (BC) and Medium Density Residential (MDR) zones in that filing. In 1997, it was incorporated into the Consolidated Metropolitan

District, and the utility infrastructure and service demand was based on a level that the anticipated commercial development on this parcel would require. Access and utility easements are in place, and the commercial use existing on proposed Lot 1 is appropriately served. In 2008, it was rezoned by Resolution 08-33, to change the zoning to leave the Business Center (BC) zoning on the side of the parcel on which Lot 1 sits, to total 2.08 acres, and to change the zoning from on the remaining 5.8 acres from Business Center (BC) to Medium Density Residential (MDR). The other proposed lot (Lot 2) is presently vacant. With this change from a more intense use, it is anticipated that the demand for water and sewer be less than the previously anticipated commercial development. Future development will required to be reviewed by the Consolidated Metropolitan District and other utility providers, and planned to meet the development requirements of Garfield County.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the Application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the 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. All plat notes from Final Plat, Town Center Filing No. 5, A Part of Battlement Mesa PUD shall be transferred to the plat for this action.
4. The title of this new, amended plat shall be First Amended Plat, A Re-subdivision of Block 4, Town Center Filing No. 5, A Part of Battlement Mesa PUD.

Applicant: Chris Cole said, the Battlement Mesa office will adopt Dusty's statements and a request is in our application that this be granted. This was foreseen by the Garfield County Commissioners at such time that this particular plat was put on file as was indicated by the plat note and in truth the Lot 1 that currently exists is simply recognition of what's been going on there for years with the real estate office that's been in place since the mid '80s. This enables the lot to definitively set forth and be parcelized and sold to a 3rd party should one wish to buy it and we do have some people interested to buy it. That's the reason we come before you today.

Debbie Quinn – Two things: During the process of reviewing this we had some discussions about the two lots and whether or not the sizing of the two lots was appropriate. We found a .05/100th discrepancy between the rezoning that occurred earlier this year and the lots that they've requested today so I want some clarification from the applicant. There's no problem with the legal notice because it was the whole block but I want to be sure we're approving what it is that they want us to approve so they don't have to come back and rezone later.

Chris – What we have done to address that concern was to amend the plat as it's going to be filed slightly by .05/100th of an acre. In truth, what we have is zone districts and rather than enter into some kind of a soft street with building and planning on that point, we decided to acquiesce as soon as it was brought to our attention and so we have knocked off a .05 in the Lot 2 and added it into Lot 1. They submitted the revised plats. Debbie – The second item is in relation to the resubdivision provisions of our code; in discussing this with the attorney's office and the planning office, the language seems to require that the Board determines that the provisions of the subdivision regulations were satisfied by the final plat and I think the applicant and the staff all agree that this was the intention of that plat note for a finding that subdivision requirements had been met previously and need not be satisfied today. So I would like a specific finding to that extent from the Board. Chairman Martin – So that's two (2) motions.

A motion was made by Commissioner McCown to close Public Hearing.

Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

A motion was made by Commissioner McCown that we approve the amended plat request with the four (4) recommendations of staff and that the record reflect the transition on the .05/100th acre from Lot 2 to Lot 1 to correct the basic Scribner's error that might have been in the first publication. Chairman Martin – I think the satisfaction is that we have findings and can go forward. Debbie Quinn - And the subdivision regulations have been met prior to the motion.Commissioner McCown – It has within the motion. It was pretty easy having some knowledge of the 1997 plat note. Commissioner Chairman Martin seconded. In favor: Houpt – absent McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A CONTRACTORS YARD IN THE AGRICULTURAL INDUSTRIAL ZONE DISTRICT. APPLICANT IS GUY MIDDLETON – CRAIG RICHARDSON

Craig Richardson, Jimmy Smith of Wagon Wheel Consulting representing Guy Middleton and Debbie Quinn were present. Debbie reviewed the noticing requirements. Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Craig entered the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff memorandum, Exhibit E – Application and Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated May 7, 2008; Exhibit G - Letter dated May 23, 2008 from Steve Anthony, Garfield County Vegetation; Exhibit H – Email from Town of Silt dated May 22, 2008; Exhibit I – Email from Garfield County Environmental Health Department, dated May 20, 2008; Exhibit J – Email from Wagon Wheel Consulting, Response to GARCO Environmental Health comments, dated June 4, 2008; Exhibit K – Memo from Mountain Cross Engineering Inc., dated May 21, 2008; Exhibit L – Staff Power Point Presentation. Exhibit M – photo copies of the notice. Chairman Martin entered Exhibits A – M into the record. The applicant requests that the Board of County Commissioners approve a SUP allowing a "Contractor's Yard" on a 5.002 acre parcel zoned AI. The applicant is currently in violation of the approved CUP allowing for storage of one (1) Canberra Concrete Pumping truck and associated equipment to be stored within an existing metal structure (Resolution No. 2003-108), The intent of this application is to allow an addition to the existing metal structure to store three (3) concrete pumping trucks and associated equipment. Craig made some corrections and the record of recommendations will reflect those changes.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractors Yard" in the Agricultural Industrial zone district with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:
    a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
    b. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
    c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
    d. Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
    e. Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes.
    f. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.
    g. 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.
    h. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.
    i. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
    j. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
3. Secondary containment basin around the fueling operation shall be constructed as represented in Exhibit J, email from Wagon Wheel Consulting dated June 4th, 2008 in response to Garfield County Environmental Health Department comments;
4. The Applicant shall provide a statement signed and sealed by a Professional Engineer licensed by the State of Colorado demonstrating that the existing ISDS is adequate to accommodate the existing single-family residence and proposed Contractors Yard operation;
5. An approved well permit allowing for the proposed use and single-family residence shall be provided prior to the issuance of the Special Use Permit;
6. No more than four (4) vehicles associated with the proposed use shall be stored on-site;
7. All vehicles and equipment associated with the proposed use excluding the fuel storage tanks shall be stored within the proposed metal structure at all times;
8. The Applicant shall complete all conditions of the Driveway Access Permit issued by Garfield County Road and Bridge Department prior to the submittal of the Special Use Permit;
9. No washing of vehicles associated with the proposed use shall be allowed on-site;
10. The applicant shall obtain a building permit prior to remodeling the existing metal structure as represented;
11. All vehicles associated with this Special Use Permit must be licensed and in compliance with State and Federal requirements;
12. The Applicant shall treat all identified in the weed inventory submitted with the application, treatment records shall be provided to Garfield County Vegetation Management prior to the issuance of the Special Use Permit;
13. The Applicant shall complete all conditions of approval within 180 days from the date of approval.

Commisisoner McCown – The vehicles for the four operators of the pump trucks will for all practical purposes will be parked there during the day while trucks are out on the site and is this taken into accordance with the traffic study. *Craig* – Yes. *Jimmy Smith* – Just a few comments to add to Craig's report; the well permit was submitted on April 4of this year and that was for the purpose of changing the existing well permit from residential to commercial to allow for the restroom facilities in the shop building. Therefore, that's also why the permit was obtained for the water allocation from West Divide Conversancy District. It is the applicant's intent to go ahead and build a concrete tank around the fuel tanks because of the proximity to the river at our recommendation he has agreed to do that. And also in washing of vehicles, these are concrete pumping trucks and typically when you do a job off site on concrete those trucks are washed at the site but if any washing is to occur it will not be done on this site because of the proximity to the river. *Chairman Martin* asked if there was any hardship on the timeline in Number 13 that has to be completed within 180 days. Jimmy – No sir, the water well permit was submitted on April 4 of this year and discussions with the water conservancy board that permit should be issued just any day. It's in a stack they have to get to – but there's no problem and it meets the criteria for the commercial well. *Fred Fri* – The owner of the gravel pit next door and my comment is

that there's an easement across my land that accesses this property and I would really appreciate it they would come to me so we could do the road improvement together. I'm not against them parking their trucks there in any way but if there's going to be activity on my land; I really feel that I should be involved in some kind of whatever improvement needs to be made. Commissioner McCown – I didn't get the impression that was the only access to the land, is it Fred? Fred – I believe it is. Jimmy – Yes sir it is. The access into this property is a legal access approved by the County Road and Bridge Department but knowing the Middleton's as owners and their ability of being able to be good neighbors I would highly recommend that I take this back to them and have them contract Mr. Fri and work this out. Craig – Just clarification that would be Conditions 8 regarding the access permit and the conditions to that permit. Chairman Martin – It may not be a permit, it may be an easement. That's one of the issues we have, and I didn't find that we would honor each easement within that agreement. Debbie said it is a private easement they would have to comply with the terms of that private easement to do any improvements. Commissioner McCown – And I'm assuming that was given by Mr. Fri so whatever those terms of that easement were would have to comply with Mr. Fri. Jimmy – That is correct and would have to part of the criteria for receiving the approved access permit.
A motion was made by Commissioner McCown to close the public comment portion of the hearing.
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye - Houpt – absent
A motion was made by Commissioner McCown that we approve the special use permit to allow for a contractor's yard with 13 conditions recommended by staff and the clarity on the easement that the testimony of the applicant will take that back to their client. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt - absent
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY TO BE OPERATED BY PETROLEUM DEVELOPMENT COMPANY. APPLICANT IS PUCKETT LAND COMPANY – FRED JARMAN
Paul Wiznon, Petroleum Development Company, Kent Limberg, Fred Jarman, and James P. Wason, Attorney for the applicant, Thomas Kreutz, P.E. and Debbie Quinn, Deputy County Attorney were present. Debbie reviewed the noticing requirements. In Exhibit D you included maps that show adjacent property owners land, did you provide notice to all of the property owners listed in Exhibit D. Paul – The owners of the mineral interest are the Puckett Land Company, the applicant. Debbie – In Exhibit D – it has been brought to your attention prior to today's hearing that you included the last of four pages of a parcel that you own but there are certain adjacent properties, parcel ending in 001 and 007 for which ownership information was not provided. Applicant: Agreed it was correct. Debbie request they explain why no ownership was provided on that portion of the parcel. Applicant: It was our understanding that the parcel that the man camp is currently proposed to be located on is a separate parcel from the other property owned by Puckett Land Owners; the man camp is going onto parcel 2410013001 and one of the adjacent parcels to that parcel is another property owned by Puckett Land Company which is a separate parcel. So we ended up notifying all of the adjacent property owners to the parcel that the man camp was proposed for location. Debbie – So the proof of mail receipt does not include the adjacent property owners to the second parcel. Applicant agreed this was correct. Debbie continued with proof of publication and the proof of publication noting that this is for both parcels of land that the applicant talked about today. Paul – Can't say for sure but the man camp located in Section 36 I do not believe straddles both parcels of land. Debbie – Tab C of your application, does that include your ownership information – both parcels or just one parcel. Paul and the others discussed among themselves. Debbie asked if they obtained both parcels at the same time with the same deed. Paul said he believed they did. Debbie – So the deed you included is a legal description of what you've described as both parcels. Two different parcels but all in one deed. Paul – Correct. The issue is that we have a parcel number and that parcel number is not referenced in that deed so you'll have to go back through and look at meets and bounds descriptions just to verify but I believe that the deed that is referenced in Exhibit C does reference all the property including the two parcels that Debbie referenced. Debbie – Did you also post the property for today's hearing? Paul – We did from public right of way at the corner of CR 215, Garden Gulch Road on or before May 15 and this morning the posting we still there. Debbie – Mr. Chair, the issue on notice is that this property owner acquired this property by one deed and the position of the planning office and the attorney in the past that this has that's considered one parcel; our code requires to all adjacent property owners and the applicant has determined that of the one parcel acquired by this deed is two parcels and they chose to notify only adjacent property owners to one of the two parcels. Based on that the attorney's office has determined that notice is not adequate. Applicant's response – Paul – Personally I guess just in responding to that I don't think it was a choice whether or not to public notice the other parts had we realized that public notice needed to be identified for both parcels we certainly would have done that. I guess our understanding of the County codes is that the surrounding properties that the man camp is on were to be notified and that was our intent. The set of Assessor's maps were the same ones when PDC was here back in the end of 2007 applying for a laydown yard that is adjacent to the man camp. We utilized the same set of Assessor's lists and that was approved and we thought we were following the same path. Commissioner McCown – This is not the first time we've heard this argument; it's ongoing and is it a parcel according to the Assessor or is it a parcel according to the deed, or is it a parcel according to our land use regulations - I feel that the intent has been met and that we should go forward. The risk will be on applicant, if you're willing to go forward and assume that risk, should anyone questions this the worst is this would have to be reheard. The applicant noted they were willing to go forward. Chairman Martin swore in the speakers. Fred entered the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended; Exhibit D –Staff memorandum dated today, Exhibit E – Application and Exhibit F – Memo from Jake Mall of the Garfield County Road and Bridge Department dated May 12, 2008; Exhibit G - Letter dated May 23, 2008 from Steve Anthony, Garfield County Vegetation; Exhibit H – Letter from Town of Parachute dated May 13, 2008. Chairman Martin entered Exhibits A – H into the record. The Building and Planning Department received a SUP application fro Temporary Employee Housing facility within a 5.6 acre area on property owned by Puckett Land Company located on an approximately 5,000 acre property approximately 10 miles north of Parachute, CO adjacent to an existing well pad (Puckett 31.36.) Specifically, the applicant requests approval for one Temporary Employee Housing facility to house up to fifty (50) personnel for the purpose of natural gas drilling operations for the next seven (7) to twenty (10) years. The applicant intends to request a renewal yearly. The site plan shows the boundaries of the facility to be included in the SUP including two (2) employee housing units, security guard

hours, heli-stop to land helicopters for emergencies, and infrastructure (SDS), temporary sewage vault, six (6) water tanks, and two (2) generators). The applicant proposes to house up to three (3) drill crews which results in eighteen to twenty four (18 to 24) personnel which they propose to serve by a temporary "vault and haul" system. As the well drilling nears the completion state, the applicant proposes to increase the occupancy to no more than fifty (50) but will install a permanent state approved ISDS before that expansion occurs. Tab H is the application for the sewer system. Their intent is to master plan this and what is submitted today. The site plan proposed was shaded in peach color and the area for the future ISDS system. They are looking at a tank of 4200 gallons.
Staff recommendation:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractor's and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.

18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24) while using a vault and haul system. It may be increase to a maximum of 50 once the State approved ISDS has been installed.
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
21. Each facility shall have a minimum total capacity of 42,800 gallons of potable water storage which shall be refilled a minimum of every three days.
22. Each facility shall have a minimum total capacity of 7,465 gallon septic tank with a 2,500 gallon holding tank which shall be emptied a minimum of every three days.
23. That this facility shall only be allowed to operate with a vault and haul system for sewage for no more than one year which also serves no more than a maximum of 24 employees. If a drinking water system and ISDS are approved by the Colorado Department of Public Health and Environment, the facility may operate up to a capacity of 50 employees for up to 10 years. The Applicant is required to present the project to the Board of County Commissioners for annual approval each year.

Fred – Talked about the vault and haul until they can get the ISDS in place and that will limit them to 24 people. The housing structures themselves show the plans, two separate structures. Andy looked at the plan and discussed them with Fred on how they work within the confines of the 2003 IBC and Andy noted that the units do need to be anchored and they also need to have a blue certification, the Colorado Inspection Seal. Onto water, they are proposing 42,000 gallons of potable water; this is a hauled water scenario and they have a contract with Thirsty Corporation to do that hauling for them. There is a repeat schedule for when repeat hauls are to occur. The only issue that staff had was this is a seven to ten (7 – 10) year operation and in staff's mind it really made sense perhaps to have an on-site well to provide that water rather than enter into almost ten (10) years of hauling. This is a long term scenario and did get an email from the applicant that basically it appears they tried that and it wasn't satisfactorily. As far as the gallonage and as far as the storage, there appears to certainly be adequate water to be able to handle up to fifty (50) people at a length stay of eight (8) days if not nine (9) days so that you have inclement weather then you're able to have plenty of water and not run into an issue before you can refill. With the sewage requirements we've used the states calculations and what the applicant is proposing is a 7400 septic tank and a 2500 gallon holding tank. With this gallonage and the number of bodies, this looks like it is adequate under the state regs. They have proposed emptying these at least every three days and this is a challenge on the plateau and the way the roads work up there. There's enough space built into that system to be able to handle a number of days before you can get a truck back up there to take it out. We hope to see them have the ability to put the affluent through a different kind of treatment so you do not have to rely on haulers to pull that off the hill. Couple of corrections on the mention of Highland Enterprises in the road maintenance and that's from a different application and not from this, but it is a question that we do raise as to how this works with inclement weather, getting up the road. Garden Gulch is a fairly decent road however; we've seen significant weather events this year. Density – this is not on a COGCC well pad so the one mile density radius does apply to this and in saying this, they're aren't any other temporary housing facilities within one mile radius. There are two but they are on well pads and those don't count. They've demonstrated the housing shortage and the ability to house their employees and have demonstrated having these employees at the facility is a responsible way to bring their employees up on site for longer periods of time. Because this is 7 – 10 year operation, they have asked and understand they will have to come back yearly to have it renewed by this body and they've committed to doing that. On the reclamation/revegetation Steve Anthony's letter talks about a revegetation security and we had mentioned that Steve's comments are really only focused on the reseeding of a disturbed area and do not include the removal of the cost of any of the facilities that may be up there, if they are abandoned for example. That security only covers the revegetation. The COGCC facilities won't go there because they are covered under a different reclamation security held by the state; so the Board certainly has the ability to do this as your requirements include that. If you feel that it is appropriate as a matter of policy to increase that, you have done that for example using natural gas plants where you do carry a bond for removal of a variety of structures and not just the reseeding and recountouring, etc. A number of points were brought forward by the Road and Bridge Department; the access is a permitted access that the company would have to participate in the county's overweight heavy haul permitting system and, they do see this as a benefit by taking the employee trips off the County road system; and only looks at the point of making significant improvements to CR 215 that hopefully these folks will participate in that discussion. We do not see this as having any visual challenges; this is up on the plateau and well above the Colorado River bottom where most of the residential impacts might occur. Commissioner McCown – At this time we don't have in our regulations a maximum time that a permit can be renewed. Fred – No, I don't think so; only that it's a yearly review. Paul added that one of the benefits of this special use permit and man camp is not only the reduction in traffic on the road but also a huge increase in safety for our employees related to operations. As mentioned the weather this past winter was pretty hard and being able to keep crews up on top of the mesa, safe environment, have a warm bed to sleep in to avoid a trip down the mesa is an added benefit for everyone. Kent – In one of Fred's issues that he brought up in term so the water distribution, PDC had contracted with another contractor to install a well up there, permitted and tested and found to be inadequate to satisfy the needs of the man camp, both from a water quantity and water quality standpoint. A couple of gpm was all they could get and selenium was the biggest issue in terms of the water quality. Certainly PDC would be open to utilizing a well hope and trucking water is not cheap and everyone would like to do what makes sense economically. Trucking water is the only option that we have been able to find that addresses the needs of the man camp. Commissioner McCown – If I might offer a friendly suggestion and it would take some decrees through water court to change the uses, but I noticed on your deeds, along with that came significant water rights and those rights could be converted to personal consumptive uses and a treatment system might be your answer as opposed to trucking if you're planning a long range activity; it would certainly pay out over a short period of time to convert

some of that water that you do have to a consumptive use other than agriculatural and treat it. Paul stated they are actively pursuing an alternative to the current situation. Kent – As Fred mentioned we are currently working with the CDPHE and have for several months to get an ISDS approved. Similar to the terminology of the County regulations in terms of being able to establish an ISDS system provided that the CDPHE does not permit it for one reason or another. Following the County's language due to it being unfeasible due to environmental topographical or engineering conditions, we would certainly want consideration of such that if the CDPHE sees a similar environmental, topographical, or engineering condition that they can't approve this system, then PDC would still like to have the flexibility to be able to truck and manage that waste up to fifty (50) people for the entire man camp. Commisisoner McCown – What we are approving today is for twenty four (24) people and it is under the temporary scenario of the vault and haul; when you go to fifty (50) people the permanent ISDS system has to be permitted and in place or it won't happen. So you will have to stay at no more than twenty four (24) people until that permit is allowed. Paul – Does CDPHE have to come back to or do we renotice a public hearing rehearing to increase the size on that man camp or could that be a condition of the approval. Commissioner McCown – No, it would at least the way I understood the application, is that CDPHE approves your ISDS and your wastewater treatment system, then you are good to go to fifty (50). Should they not, you are locked in at twenty four (24) on a vault and haul. Now if you want to come back with another vault and haul somewhere outside the mile radius, you can do that, but you cannot enlarge this system in its existing configuration to fifty (50) people with vault and haul. Fred – There's a specific piece that depends on the duration you're there but if you are there for longer than a year then you have to be an ISDS, you can't do vault and haul. Commissioner McCown – By your own verbiage it's saying they can come back in one (1) year and extend this permit and that would be vault and haul. Fred – That was really under the assumption that they were going to ISDS; so they'll be in full swing for up to fifty (50) people with the state's approval of ISDS. So if they can't get past the state's approval for ISDS, then the one year rule catches it. Commissioner McCown – So we can't approve anything other than a permanent ISDS longer than one year. Fred said that was his understanding the way the regs were written right now. We may want to look at that. Andy – Is there not a caveat in the County regs that if for environment, topographic, or engineering reasons that can't be established. David – That was for less than a year. You can do vault and haul if there's proven constraints of environmental or topographical but for one to exceed a year then it does bump it to ISDS. Commissioner McCown – One year of cumulative use; you've got a year to look forward to it but if you're talking a significant commitment and if you're not there at the end of a year you've got to break it down and take is all, which doesn't make any sense at all. That's one year of continual use; not a calendar year. Fred directly Kent to 5.02.02.2.a.2 – "says that at the discretion of the Board of Health year round access is available and maintained for safe and regular access for sewage and hauling vehicles. In addition the following conditions must be met; the applicant must demonstrate and guarantee an arrangement for hauling sewage, the application must maintain all records, trip reports, all sewage disposal records must be maintained and available for review and then temporary housing must not exceed a cumulative of one year at one location." Is your thinking that the state is likely not to approve the ISDS? Kent – Didn't know; they haven't given us any indication yet other than they are working on it. Commissioner McCown – Why do we have in regs this one year re-approval regulation for an ISDS system when we don't have it for any other permitted use on an ISDS system? Fred – It really hadn't been an issue it was hinging in my view on the temporary nature of these things; temporary employee housing and not a permanent scenario and if you get into a more permanent scenario, the ISDS made a lot more sense. Commissioner McCown - But even with an ISDS we have to come back annually and get them reapproved. Fred – It's not just for ISDS, it's for other things: water, fire protection, change in their drilling program, all that kind of stuff. The only other point that Deb made was when you get to 24 or less in these regs but for a drinking water supply system. When you hit 25 or 15 households you're required by the state to get approved for a non-transit community water system; in any event whichever we call that or what the state requires, it is a state permit that's required for that system. If I could put this in a box, you have the ability to approve up to twenty four (24) for a year if it that time you get the state approval for your ISDS and water then that could expand beyond the one year. You still have to come back to this body every year but you're not held up by the vault and haul scenario for one year. Commissioner McCown – And once they go to the twenty fifth (25th) person then they fall under the CDPHE regs on drinking water by default, whether they are hauling it or not.

A motion was made by Commissioner McCown to close the public hearing. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

A motion was made by Commissioner McCown that we approve the special use permit to allow for temporary housing with the twenty two (22) conditions by staff. Debbie, one clarification is in connection with the bonding requirements, none of the conditions address that so if you wanted. Commissioner McCown – I so intended. Commissioner Chairman Martin seconded. In favor: Houpt – absent McCown – aye Martin - aye

CONSIDER AMENDING THE BUILDING CODE OF 2004 TO AMEND THE GRADING PERMIT AND TEMPORARY HOUSING REQUIREMENTS AND TO ADOPT THE 2006 INTERNATIONAL ENERGY CODE – ANDY SCHWALLER

Debbie Quinn, Andy Schwaller and Fred Jarman were present Background: As a result of recent direction by the Board of County Commissioner recent State legislative mandates, and general observation, staff proposes the following areas of 2003 IBC (International Building code) need to be reviewed for possible amendments to the building code:

a. Appendix J relating to the grading permit;
b. Adoption of an Energy Code; and
c. Temporary Employee Housing related amendments.

Proposed Changes include:

a. Grading Permits as administered by the building code under Appendix J of the 1003 IBC were adopted by the BOCC in October of 2004. Over time it has become evident that some aspects of the grading permit requirements need to be amended as follows:

i. Definition: A better definition is needed to distinguish landscaping from grading work. Under the present requirements, a minimum scope of work is not defined as exempt from requiring a grading permit. It would appear a person with a shovel and a wheelbarrow would need a grading permit.

ii. Agricultural Exemption: When Appendix J was adopted, staff attempted to clarify item 1 of Section J103.2 Exemptions of this section with new language. The intent of this amendment was to exempt agricultural based grading being done on a farm or ranch for the sole purpose and use of agricultural needs. This working actually generated a rather large loop hole. Any kind of end use of the grading was exempted from the permitting process if the work was done on property classified as agricultural land by the County Assessor's office.

iii. Permit Fee: Based on experience to date, staff believes the grading permit fee associated with minor grading could be decreased. A majority of the minor grading permits involve excavation for new homes. Time spent on these is minimal.

iv. Review & Issuance: When grading permits were adopted it was anticipated that the County Engineer's office would be reviewing and issuing the permits. As it is, the Building and Planning Department issues the permits using consulting engineering assistance. The wording under the amended Section M103.1 needs to be changed to reflect this.

v. Rehabilitation/Reclamation Security: A security may be an option the Board might want to formally consider. Presently, there are not any provisions to reclaim disturbed areas if a project is not completed. Rather large scars and noxious weed growth have followed several projects. The most severe example of this was the grading at Bair Chase. An established security fund would help this problem.

b. State Legislative Mandate as per State legislative action, the County is required to adopt an Energy Code prior to July 1, 2008. Staff included the 2003 International Energy Conservation Code (IECC) in the discussion of code adoption in 2004. At that time, the 2003 IECC was deemed by the Department of Energy as unreadable and the Board decided not to adopt this code. With the recent legislation and rewriting of the energy code, the 2006 IECC is the most logical choice.

c. Temporary Employee Housing as a result of recent direction taken by the Board regarding Temporary Employee Housing that some exemptions to Section 105.2 work exempt from permits and Section 907.2.7 Group R fire sprinkler system requirements need to be changed.

Fred handed out the power point that they have informally used to deal with this issue. This is what was presented to the Planning Commission to really get our hands around the policy that we have informally used in our office in the last six (6) months or year to deal with this very issue. A number of photographs were submitted to give the Board an ideal of what Bair Chase used to look like is some cases and then obviously the grading that everyone knows occurred on the site. In that case, and using the subdivision world as an example, this permeates to other land use permits that you can apply to it. The preliminary plan was approved so no final plat yet. They weren't vested, there weren't any titlements yet and they then went out and did obtain a grading permit but then you saw the challenges that occurred from that. The County didn't have any security to repair the ground leaving the challenge back to the County essentially to deal with it. Since that we have learned lessons and have asked other groups who want to move ahead with significant grading prior to their final approval by this Board if they would be willing to post a security should something like this happen and in both cases have had no problem doing that and agree with the whole provision of doing it. Pinyon Mesa is one and they completely agreed with our proposal, didn't have their entitlements yet and they recognized that and the other was Spring Valley Ranch when they also only had their preliminary plan approval. None of these groups have their final plat. That's important to include; that's the trigger where this Board would require an SIA where security is given to you. This is them saying we are so certain we're going to get our approvals we want to go out and begin, which in large part we don't have a problem with. We don't have an SIA at preliminary plan; this allows the Board to be covered for those challenges. Commissioner McCown asked how the price was negotiated; did we put a price to it; did our County Engineer price it or how did we come up with a price. Fred said we ask them to come up with a plan that says okay if you abort your scenario, what is it going to take to put it back together. This really involves recountouring and this is not to bring it back to what it was before, this is to bring it back to something that is manageable. In some cases the recountouring might mean removal of stuff that's already there, but generally recountouring the ground, seeding it and then irrigating it. It's one thing to plant seed but if you can't wet it, it doesn't make sense; you're just planting bird seed. Then have that grow out for a period of years. We have Michael Erion or Mountain Cross to review those along with Steve Anthony to give us a sense if this is generally adequate and the two examples we've had have had no problem doing that. We feel it's very important for the Board and the County to go down that road; the Planning Commission recommended it to be a more formal policy and being able to give us a little bit of leverage because they don't have approvals just yet and we certainly understand the challenges with the building season being so short where we are that they need to get in but you see it too with your special use permits where you give an approval, but it's an initial approval. You have ten things on your list of conditions to do and sometimes they go out and begin their grading prior to the actual permit being issued; so there's a big gap on when things happen so that's why Andy and I are bringing this to you. Andy said the state did send another mandate to us regarding the energy code as of July 1, a couple of weeks from now they want all jurisdictions in the state to adopt an energy code and we reviewed the choices they had and it appears the 2006 International Energy Code is the smoothest transition into what we're doing now as to what needs to be done in the future. The other options were the 2003 which was hard to read that the Department of Energy said this is not a good thing and they supplemented that with the 2004 and then ended up with the 2006 which is the latest and greatest. Our discussions over temporary employee housing we have to add some exemptions to the building permit one being that any man camp or temporary employee housing of eight (8) or less is exempt from needing a building permit. Then during all that discussion, automatic suppression sprinkler systems were brought up and the state set up a point of five (5) or less in a single structure, which is like a thousand (1,000) s.f. maybe doesn't need a sprinkler system and I would agree with that. The front door is right there, the window is there and anything happening on one end is going to be known on the other end so it seemed like a reasonable request. We request direction on how to proceed and we recommend as a minimum amount of grading or an exempt amount of grading something that doesn't exceed 50 cubic yards of material of 6,000 sq. ft. of grading area be exempt. Commissioner McCown asked what you consider in the

average basement or crawl space that would be excavated. Andy agreed that 50 cubic yards is actually ten (10) tandem dump trucks. If I see a basement I typically call it a minor anyway without trying to figure out the calculations for the basement. Commissioner McCown – We jump from fifty (50) to three hundred (300) on our yardage in there so fifty one (51) yards up to two hundred ninety nine (299) is minor and then three (300) hundred is major.
Commissioner McCown – What will minor cover for us? Or do we need to exclude things up to the three (300) hundred – then they are all. Chairman Martin – What is it we are trying to capture? Andy – The big pains for the past is when someone is building a road on a steep hillside and it makes a scar you see from all over. Commissioner McCown –If is agricultural, they can build it wherever they want to. In here where are we exempting grading excavation, earthwork construction including fills and embankments that are done for the sole purpose of agricultural. I can build a road if I'm Ag classified anywhere I want to on my land. Andy – If the road is being used for Ag relations. Commissioner McCown – I just want a road to get to the back side of my place; I can build a road as long as it's Ag. Fred – The intent is for an Ag purpose. Commissioner McCown – If I'm zoned Ag and I want to ride my four-wheeler to the back of my property, that's an Ag purpose. Fred – But you've got to separate this from the zoning. That's what we're suggesting to do. Commissioner McCown – We have no way of knowing if it's for Ag unless it's assessed or zoned Ag. Those are the only two things we have. Andy – As building official, I have some ability to look at something and make a clarification or make an assumption; if it's an irrigation ditch that's easy; if he's building a road to put a house back there, I might say well that road is for the house and maybe you do need a grading permit for that. If he's plowing the fields that's a no brainer. Those are things, the use of moving the dirt is for Ag on Ag property is what we are trying to get to in our definition under b. "Grading, excavation, and earth work construction including fills and embankments that are done for the sole purpose of agricultural use on lands that are farms or ranches would be exempt from the grading permit requirements." Commissioner McCown – Agreed. I'm not going to come in and get one if I'm zoned and taxed Ag I'm not going to come in and ask you for a permit to build my road. Andy – But there's a lot of people with ARRD that might get that Ag basis but the road's going back to gosh knows where and its not an Ag purpose nor an Ag use. Commissioner McCown – That's where we are at. Fred – Another example what does the smaller level like a minor cover. Take the Jabs shop today for example. You approved that use but let's say they had to chuck away a fairly sizeable hillside to put that in there. That's the thing that this might cover. It really comes down to a couple of things: the visual challenge that you might see in what happens, but mainly the drainage challenge that you might see as an affect of that cut or that fill for that matter. Commissioner McCown – So are we going to require a stormwater management plan on the minors? Fred – If it's larger than an acre disturbance you have to by way of the state. Commissioner McCown – What are we giving the constituents who get a grading permit; what are they getting from the County as a service for fifty one (51) yard excavation? Are we inspecting? What are we looking at? Are we looking at their drainage plan, we don't require one. Are we looking at the length of their cut slope; are we looking at the amount of fill and approving that and inspecting the compaction, or what are we giving them or are we just charging them $50 for a minor permit and wishing them luck? Andy – Back in 2004 the argument was that it's trying to preserve somebody from making, i.e. Cattle Creek, taking a nice hillside and making a flat spot without having some control of the site aspect of it, the compaction, the drainage; just to review to hold people somewhat accountable that they at least have to come in the door so we can see it before they do it rather than just let it happen. Commissioner McCown – But what is our next step after we issue the permit; what do we follow up on? Andy – That they do have a permit so it has been reviewed. Fred – In theory, the work, part of the in-house engineer would be the oversight, that's why it would be a P.E. to inspect these things as they are going in. But to answer your question on drainage, we do look at drainage for that – we don't require a stormwater management plan similar to what the state does but we do look at the drainage and slopes, etc. so you're not creating this obvious water trespass or drainage trespass onto an adjacent property, beyond historic flows, etc. Another good example is the hill that was up above the fire station on Four Mile; we've got someone up there that's cut a fairly sizeable chunk out of that hillside that invariably would never be built on because it was too steep. But now you've got pressure to have this County approve a permit for a house which never should have been disturbed to begin with. Andy – There's gentlemen up Sweetwater that didn't get the permit to dig the big gully. I don't know how many yards that one was but I don't think it was 300 yards and we're still dealing with that one today. Chairman Martin – And they want us to assume liability. Andy – The first shot was not engineered; it was two guys and a dump truck.
Board Direction Requested
a. Staff recommends any grading work that does not exceed fifty (50) cubic yards of material or 6,000 square feet of graded area be exempt from a grading permit. This would be added as item 8 under Section J103.2 Exemptions 2003 IBC.
b. Item 1 of this same section to exempt agricultural use work from grading permits could be written as follows: "Grading, excavation and earthwork construction, including fills and embankments that are done for the sole purpose of agricultural use on lands that are farms or ranches would be exempt from grading permit requirements."
c. Staff would suggest the fee associated with minor grading permits be reduced to $100.00 from $150.00 to cover the review and administration cost of these permits.
d. To correct the working in Section J103.1 staff suggests replacing the County Engineer with Building and Planning Department as designee.
e. Security deposits determined by the County Vegetation Management Office and County designated engineer shall be established prior to any major grading permits are issued. This wording could be added under Section J103.1.1 of the 2003 IBC.
f. The 2006 IECC be adopted with the effective date of July 1, 2008. This could be achieved by amending Chapter 13 Energy Efficiency Section 1301.1.1 to list the 2006 IECC as required code.
g. Under Section 105.2 of the IBC work exempt from permits item 15, be added to read "Housing with 8 or less occupants sleeping in the unit at any one work shift on a well pad approved by COGCC would be exempt from the building permit.
h. Section 903.2.7 needs to have an exception added to read: Group R-2 with occupancy of 5 or less. This would match the same exception of the State of Colorado Division of Housing has regarding the requirement not to have fire suppressant sprinkler system in units 1000 s.f. or less.

Commissioner McCown - Will all municipalities have to adopt the IECC?
Andy said if a municipality doesn't have a building code then they may not have to adopt the IECC. He thinks the way they have it is that if you have a building code you also have to adopt the energy code. I think its counties too.
Commissioner McCown – So if we want to do away with our building codes, we don't have to do the IECC.
One of the things that came out of that grand planning session last Friday with the five (5) counties and all the players was to develop a regional consistent planning tool that allow a transparent application with the Town of Silt and Mesa County for instance. I think we've probably got six (6) towns and in the County probably not over two of them operating under the same uniform building code. There's a tremendous inconsistency in what we're doing within our County not to mention a five (5) county region and that was one of the goals was to try and get to more consistency from one county to the next. It's like electricity it's going to tend to go the path of least resistance as we know from Pitkin County. What is this going to do with us adding the 2006 level and Silt having the 2003 choices?
Andy – The wants and desires of the different jurisdiction probably would never allow that to happen. Eagle County likes to charge fees and we're not so much the fee charger. Commissioner McCown – Garfield, Mesa, Rio Blanco, Moffat, and Routt are the five counties. Chairman Martin – Throw in Pitkin and Delta counties and you have every aspects of housing and at that point you have no consistency. Fred – Same is true with contractor licensing.
A motion was made by Commissioner McCown to approve the recommendations of staff regarding the grading permits, the verbiage changes as recommended in "a" through "h" in the staff report.
Commissioner Chairman Martin seconded. In favor: Houpt – absent McCown – aye Martin - aye
ADJOURNMENT

Attest: Chairman of the Board

_____ _____

JUNE 24, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO
SPECIAL MEETING

The SPECIAL meeting of the Board of County Commissioners began at 1:00 p.m. on Monday, June 24, 2008 with Chairman John Martin and Commissioner Larry McCown via telephone were present. Commissioner Houpt was absent. Also present were County Manager Ed Green, County Attorney Don DeFord and Jean Alberico Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 1:00 P.M.
Ed gave a review of the items for Executive Session: Airport project – contract discussion; The Griffith Center as relates to day care – Summit Pre-school related to legal direction and contract negotiation and County Road 204.
PURCHASE OF SERVICES AGREEMENT FOR COLORADO WEST PROMOTIONS, GARFIELD COUNTY FAIR, 2008 – DALE HANCOCK
Dale Hancock presented the contract and asked that the Chair be authorized to sign the purchase of services agreement for Colorado West Promotions, for the jumpstarting of the Garfield County Fair 2008 for financing in the program for the concert featuring Chris Cagle and the Night Ranger. This has been reviewed by the legal department. Commissioner McCown – This is the same we do for them every year – the $35,000? Chairman Martin – Confirmed it was.
A motion was made by Commissioner McCown we authorize the Chair to sign and approve the agreement with Colorado West. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent
REVIEW OF CONTRACTS FOR SENIOR PROGRAMS AND CONTINUED DISCUSSION OF IGA, IF NEEDED – CAROLYN DAHLGREN
Don DeFord presented for Carolyn. Lynn Renick carried the ball on this. Judy Martin was also present. Lynn said this is a continuation of a meeting last Sunday; there are three contracts and we need to have the Board consider these today in order to begin senior programs as of July 1, 2008. These contracts are RFTA, CMC and the County regarding the Traveler and the transportation services. There is a RFTA board meeting next week on the 6th and we have received formal approval from CMC this morning. Second and third are the meal preparation contracts one with Valley View Hospital and the second with the City of Rifle and that's for the preparation of the noon meals at all of the sites and the senior nutrition program. Don said in both sets of contracts for nutrition and transportation my office has been involved in the composition and substantive drafting of those documents; Carolyn for the most part has been doing that and they are all right from a legal perspective. I should say that both of these contracts will be needed in order to operate the senior programs regardless of whether or not we reach an ultimate agreement with the other municipalities and jurisdictions in the County. That's why it's necessary to go forward and obtain Board approval for signature on the documents and allow the County to take over the programs on the 1st of July.
Commissioner McCown – I would make a motion that we approve the contracts for senior services and that the Chair be authorized to sign on behalf of Garfield County.
Commissioner Chairman Martin – Second. In favor: Martin – aye McCown – aye Houpt – absent.
COUNTY ROAD 204
Matt Anderson, Jeff Nelson and Don DeFord were present. Matt Anderson said we are seeking advice and direction. Don provided an update as he just received information about an hour ago just on this contract and stated the email communication was from Stacy Saunders with attachments indicating that she was including a final document in final agreement form for County Road 204 as well as the final form of deed and in the email correspondence she indicated that things are moving forward positively with Chevron and that she expected final signatures this week on that contract. Don continued saying my understanding is the Chair has already been authorized to sign that agreement once we obtain it from Chevron, so we don't need to await another Board meeting to complete the JPA as well as form of deeds that go with that. They will be accepted by the Board once we have appropriate legal descriptions attached. That's the status that I have in my office on the agreement. Matt said we're just trying to seek some guidance and direction.

Late Friday, Don DeFord and I had a discussion about there being two separate contracts for this project; one being for the drainage and utilities which is our portion of the contract and the other which is for building and construction of the road. We had already gone out on our drainage portion on that contract and the bids are due today and I know that there is a concern whether or not that was consistent with the JPA. As far as the JPA being drafted, there is just one total contract. Don said Matt summarized the discussion and I didn't talk with Jeff about this after discussing this with Matt, but when Matt brought this to me, my concern is that the JPA is structured so that there is one set of plans which I think include the drainage improvements because the funding that was to be used was incorporated in the JPA, that is the County contribution comprised of both the DOLA grant and County funds could reach a maximum of three ($3) million dollars and will reach that since it is the first expended funds to the extend we are spending those funds for improvements on the road, its part of the JPA. Now the way that the JPA is structured we are supposed to come up with a total project cost estimate on which we will then jointly make the decision whether to go forward with the project or not. So, that was my understanding of the structure and I'm certain that was Chevron's understanding since that's what's in the agreement. So, I question how we are going to go forward with this contract on a piece meal basis because that is not the way the JPA is structured. Commissioner McCown – That's not the way I understood it either.
Ed asked why would Chevron care. Don said no decision has been made yet to build the project. Commissioner McCown said he had a bigger concern. What if ours being the drainage portion of that and the way it's going to be bid, exceeds our level of funding. Don – Our three ($3) million?
Commissioner McCown – Yes. What happens to it? Chairman Martin said then we are stuck with the excess. Ed agreed that we have to decide whether to pay for that. Commissioner McCown – But, it was all wrapped into the overall general construction contract; it may come in under three ($3) million if they're guaranteed they are going to get all of it. You may have one contractor getting the drainage and another contractor getting the twenty five ($25) million.
Don said this was his concern, if we get a bid on the drainage and go forward with that, then we go forward and get a bid for the rest of the project and then the total project costs for both contracts, which was envisioned to be one, but we split into two, exceeds the twenty eight ($28) million dollars and Chevron says forget it, we're not going to build it. Now, I know these are worst case scenarios but that's what I do. But, that is the way the JPA is structured is to go out for one bid for the whole project and do the cost estimate based on that and I am a little nervous all of the sudden right at the offset on the wording from the contract language. Commissioner McCown – And where did that diversion originate? Matt added a recommendation and this is what I do, I protect us against these scenarios that Don is very concerned about. I put together bids in a manner that we can interact to or remove from and cover ourselves from the agreement. The existing bid, we can take our storm drainages out if these bids come in over. We put it in on the overall. The utilities need to be moved before we go build this road. The other big concern and item that I have accounted for is we have a million and a half ($1.5) DOLA grant that has been amended to be used this year through December 1, 2008 that's it. It was supposed to be spent by June 1, 2008. I had this contract amended. Now, my estimates include this original project. The way I went about this was the engineer estimated this entire project then we pulled from that the drainage portion and it will still work either way. We spoke about this in executive session and discussed it over two times that I remember. Now the drainage, if it were to go away after this bid opening it would work and continue on. We're not leaving ourselves out there with engineering construction other than we have two bids. Ed – So the work is work that needs to be done; needs to be done upfront; and it has to be spent in a timely fashion. Commissioner McCown – What I heard was if the bid for the relocation and the utility work comes in at four point five ($4.5) million, then Jeff can take parts out of that bid to get it down to three ($3) million and add that into the overall contract. That might be where it gets real sticky with Chevron. Ed – But in a twenty five ($25) million dollar project you can always adjust scope. Don – Well, you can adjust scope within the limits of the JPA; because that is supposed to be a binding agreement. And my concern is the contract language and what we're doing is outside that language. Now, if you want to do this without getting a change in the contract and take the risk that Chevron will say you spent these funds before the contract was in place; or in the alternative outside of the contract so it's your problem. Or, take the risk that you want to end up paying for it anyway. That's a risk you can take but I have to advise you that this structure that you're following right at the beginning is not what was anticipated by the JPA. Ed – Have you talked to the lawyer for Chevron about this issue? Don – No, and I really don't want to introduce that because then I have to go back through Chevron's bureaucratic system again and now we're looking at the end of July before I have a contract. Matt – We'll know here in about half and hour (1/2) whether or not the bids come in over three ($3) million and if they do go over three ($3) million that leaves us the option of doing what we'll have to do anyway which is cancel and re-solicit. If it comes in over three ($3) million we would just cancel it and issue it with the Mamm Creek construction anyway. Don – And that's all fine; my concern is not whether it's above or below three ($3) million; my concern is the structure of the contract and I'm assuming we will need right of way from Chevron on this. Ed – And whether Chevron would consider our three ($3) million dollar placement of the contract as our legitimate contribution to the JPA, right? Don – You're going to expend the funds before the joint decision was made whether to build the whole project. The way the JPA is structured Chevron and the County are supposed to make a decision on the entire project after a project cost estimate is done. And that was structured to be in August. Matt – Is there a difference between project and contract award? If we're talking about the project as a whole, you should be able to make most of the contract award with that project. Chairman Martin – Agreed. Don – When you do the project cost estimate in August, are you going to include the amount that you've expended on the drainage and utilities? Matt – Yes. Don – Okay; and my point is that you're awarding a contract before Chevron has approved the project under the JPA. Now, they may not have a problem with that but the contract doesn't provide for that. Matt – My recommendation is that we adjust the purpose of the contract to make it work around the reality of the construction project. Ed – And what Don is saying is it'll take forever to do it. Don – I'll ask? Matt – We're losing on the project two (2%) percent a month due to escalation. Don – You know we went through this contract language ad nauseam. Matt – That's why I recommended all along that this bid was out there, we need to get the utilities moved. Bids came in and everything was under budget. Ed – I think it's really about assessing the risk and what level of risk do we perceive we're in and frankly I think the risk is minimal because I think Chevron wants to proceed with this project. Chairman Martin – They have made that quite clear. Commissioner McCown – No input just that there's no doubt in my mind that Chevron has not wanted this process to go forward, they've done everything on their end to get it done, but I certainly have to plead ignorance, I was under the impression after all our executive

sessions and I think I was at all of them, that there was going to be one (1) contract let for construction. We even had lengthy consideration and discussion on well, let's break this contract down for six (6) miles, four (4) miles yady yady yady and we said no, we want one (1) contract then if it doesn't meet the funding level we will par that back. I had and never until today, realized we were coming up with a separate contract to go to bid for utility location. I thought that was a part of the overall road construction project that was going to bid. Now, I may have dozed off in those meetings and missed something, but that's certainly what I thought was going to happen and I for one was very adamant about not having a four (4) mile contract and a six (6) mile contract but to have an entire contract and then if we didn't meet the funding, we were back at ground zero and would go to work on what it takes to par it down; but, Chevron would be involved with that as well. Now what did I miss? Ed – I don't think anything. Commissioner McCown – Now, if we move forward with this new and improved utilities contract and drainage and my first statement was, what if it comes in at four ($4) million dollars instead of three ($3) your comment John was we have to pay for it; Jeff's comment was no, we'll just cut it back to meet to meet our three ($3) million dollar obligation and slide the other over into the general contract. Those are contract modifications that Chevron has not been a party too. Chairman Martin – That's why I said that we'd probably end up paying for the extra. Commissioner McCown – Well, we'll know how warmly that will be received. We've got one (1) Commissioner that doesn't want this project to go forward at all. I don't know; I'm concerned that it's got to this point; I have to plead ignorance because I had no idea that there was an RFP out for drainage and utility location and relocation and that the bids were being opened today. I did not realize that. Chairman Martin – Well, the question still is - do we go ahead and accept that risk going forward. Do we want to postpone this decision for half hour (1/2) or how do we want to go about doing it? Do you want to just call Chevron and say we're starting over on the contract because of the change? Commissioner McCown – Well, if we go forward today and grant the bid award the contract with Chevron will have to include and be modified to get that kind of verbiage. Chairman Martin – Agreed. Commisisoner McCown – And if that takes until fall, I can't imagine it doing that, but if it takes till fall and we miss our bid window this year, we're missing a year's construction to get the utilities and the storm drainage done. Chairman Martin – I don't want to do that; I would like to go ahead and get the storm drainage done, utilities relocated and continue the project. Commissioner McCown – I would like to do that as well, but things have to happen to allow that to continue. Matt – Like I said, if the bids go over our estimated construction, we don't have to award, we can just issue that entire project and we can slide the drainage into that if the bid goes over that three ($3) million dollar as well. Chairman Martin – I think that's the scenario we're going to follow. Commissioner McCown – I guess it will have to be but it's not the one I would have chosen. Matt – The bids for the reconstruction are not due until September 2 anyway. Don – All of this was part of the contract discussion and the timing we talked about because Chevron wanted to get bids for the whole project, then get the project estimate and that was their request to structure it that way. But, we can go back; I think either Matt or Jeff need to talk to their counter parts at Chevron because that's where the Chevron attorney will go and verify with them that we're okay to go forward, I would say up to three ($3) million dollars and modify the contract, the JPA, so we can include whatever we expend on drainage and utility improvements in total project cost even though the parties haven't agreed to build the project yet. Is that's how the Board wants to go? Commissioner McCown – Yes, I think we've painted ourselves into a corner and I don't know that we have a lot of choices at this point. Don – Well, the only other choice is to go back to the original JPA language and do the whole project at one time and then as Jeff pointed out, it does have a delay factor into it, but that was what we discussed. And, the thinking at the time as I understood it was there would still be sufficient time to expend the three ($3) million after total project cost estimates were done. Commissioner McCown – And I guess what troubles me is I hate to envision what might happen and I think there's a strong likelihood that you have one company that gets the utility and drainage contract and another company gets the primary contract and the three ($3) million dollar company is holding up a twenty five ($25) million dollar company on timing issues and at what part and where do we play in that? Matt – We will put in the specification that a condition of October 1 is the date when this contract construction will be finished and the utilities ……Commissioner McCown – We have all our BLM paperwork in place but we're letting this contract today. Chairman Martin – None of the drainage….. Matt – We're just opening the bids today. Chairman Martin – We're not accepting or awarding the contracts anyway. Commisisoner McCown – But yet I'm hearing it has to be done by October 1. So, best case scenario less than ninety (90) days. Ed – That gives us the opportunity to get that contractor in and the main one mobilized after – follow right behind. Commissioner McCown said he thought Quest subbed out all of their underground work. Matt – They are coming in with the conduit, forming the lines, etc. Ed – That's under our contract, whoever we award the contract to. Matt – This bid has trenching included. Ed – From construction sequencing, this makes the most sense. Commissioner McCown – There's no advice to be given, the award this afternoon when the bids are open, if they are under the estimated bid price, I'm hearing that we go forward with that or we're going to hold up the whole contract and we're not sure what Chevron's going to do and how warmly they are going to receive this information, but we're going to take that chance because we can't afford to lose the DOLA money. So, let's get going. Chairman Martin – Agreed. Don – Well, the contract still has to come back to the Board at some point. Chairman Martin – The decision will be made by the bid and then we we'll discuss it and make that decision. Commissioner McCown – We don't have a choice because three ($3) million dollars is all we've authorized. Don – If that's the direction the Board is taking at what point, if at any point, do we tell Chevron that this is what we're doing? Commissioner McCown – As soon as we decide to award the bid. Matt said he's been in discussion with Chevron and they are aware that we're going this route and they've had no problem. Don – Obviously, I've had no discussion with anybody. Matt – The concern I've heard from them all along is to keep it at twenty five ($25) million and keep the project in that budget. Chairman Martin – That's the way I understand that conservation as well. Ed – I think the risk is minimal. Don – So, my understanding is that at this point I am not to discuss this with the Chevron attorney. Chairman Martin – We haven't accepted or awarded the bid yet so there's nothing to discuss at the moment. When we get there we'll have that discussion. Agree Larry? Commissioner McCown – No disagreement unless they subscribe to a paper that had the notice of bid in it and wonders what we're doing. Then it takes the hypothetical part out of it. Ed – It sounds like the operational guy is in agreement. Commissioner McCown – No, that's Michael DeBerry and I haven't heard his name mentioned today. Chairman Martin – No, let's go ahead and open the bids and go that way and bring it back for a full discussion.

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

SPECIAL EVENTS LIQUOR LICENSE FOR THE ENVIRONMENTAL FOUNDATION FOR THE RIBBON CUTTING CEREMONY FOR THE SOLAR ARRAY JOINTLY BUILT BY CRMS AND ASPEN SKIING COMPANY FOR JULY 1, 2008 – JEAN ALBERICO

Jean Alberico presented the special events liquor license for the ribbon cutting ceremony for the solar array jointly built by CRMS and Aspen Skiing Company for July 1, 2008. Those representing the foundation introduced themselves as Ryan Miller and Matt Hamilton from Aspen Skiing Company. Jean stated that this does not require notification in the newspaper, this is just a posted notice and I posted the notice myself on June 14 and Ryan Miller stopped by today on his way in and picked up the sign that was posted near where they are going to have the celebration of the ribbon cutting off of Delores Way in Carbondale. Chairman Martin accepted the notification and swore in the speakers who wished to testify. Jean presented the application for a Special Events Permit; it has been sent to the Department of Liquor Enforcement for concurrent review because we're under such time constraints and Nicole called this morning and is missing one document and what I need is something from CRMS stating they are allowing you to have this celebration on their property. They are now processing these Special Events Licenses via email so once they approved they send the license to print off because often these are under time constraints. I have received all proper payment and sent the original documents to the state.

A motion was made by Commissioner McCown to close the public hearing;
Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt - absent

A motion was made by Commissioner McCown we approve the Special Events Liquor License for the Environmental Foundation and Aspen Ski Corp at CRMS. Commissioner Chairman Martin seconded.
In favor: McCown – aye Martin – aye Houpt – absent Ryan Miller invited all to attend the event.

EXECUTIVE SESSION – Items previous listed and Don said no public action expected. Griffith Center as well as the Information Update and FAA; also an update on the Senior Programs as well.

Brian stated the information regarding the FAA on Friday was to move the project up from 2012 completed in 2010 and there were certain check points that needed to done in order to get there and there was one critical piece and after two lengthy days with the consultants, we've missed that window so there's no need to expend the funds but that's not up to me, that's up to the Board. We'd still like a decision from the Board. Chairman Martin – So no decision is expected out of executive session.

A motion was made by Commissioner McCown to go into executive session and discuss the items alluded to by the County Attorney and the County Manager. Commissioner Chairman Martin seconded. In favor: McCown – aye Martin – aye Houpt – absent

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

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

JULY 7, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, July 7, 2008 with Chairman John Martin, Commissioners Larry McCown and Tresi Houpt present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

CDPHE EMERGENCY PREPAREDNESS AND RESPONSE CONTRACT

This task order contract is being entered into pursuant to the terms and conditions of the master contract. The total term may not exceed five (5) years. The contract price is not to exceed $22,834.00 and is the maximum amount available per fiscal year.

Commissioner Houpt – I make a motion we approve the CDPHE Emergency Preparedness and Response Contract in an amount not to exceed $22,834.00.
Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

SECOND QUARTER REPORT ON OIL AND GAS – JUDY JORDAN

Judy was not present.

AUTHORIZATION TO PROVIDE GRANT FUNDING FOR PARACHUTE INTERCHANGE IMPROVEMENT – ED GREEN AND DALE HANCOCK

A letter was submitted from Robert J. Knight from the Town of Parachute asking Garfield County to commit to $100,000.00 for this project. The original budget for the 1601 study was predicated on the Half Diamond scenario which was rejected. The additional requirements for the Full Diamond study, including the NEPA report, increased the budget total from $398,889.00 to $599,409.00. The Town of Parachute has submitted a Supplemental Application to DOLA for an additional $300,000.00 to complete the study and has received a letter of commitment from them for $200,000.00. Ed Green stated we have already contributed $50,000.00 to this. Dale Hancock stated they are asking for an additional $100,000.00. Commissioner Martin stated this came about from Mr. Knight who had said the scope of their study had enlarged and they were somewhat short and looking for their partners to help out more. Commissioner Houpt replied, their math doesn't quite work for me. They show the budget total went from $398,889.00 to $599,409.00 and they found that to be an increase of $313,600.00 it's more like $200,000.00; so I'm wondering if they actually need the amount they are asking for or if the math is off. Ed suggested the Board approve this contingent upon verification of the correct amount. Commissioner Martin said all they are asking for is $100,000.00; he knew they were

short that much to make the study work. Commissioner Houpt – I want to make sure the numbers that come before us are appropriate. I will make it contingent on us receiving the appropriate numbers for the project. I make a motion we support the Parachute Interchange Project, is this simply for the study? Commissioner Martin stated no, there are two intersections we are talking about; this would be the West Parachute Interchange, it does not exist at the present time which is what the study is for. This has to be an access study; the other exchange or the $200,000.00 we gave them is for an improvement of an existing intersection. This would be for the future intersection and they need another $100,000.00 to complete the study. Commissioner Houpt – I make a motion we support the Parachute Interchange study in the amount of $100,000.00 contingent on our receiving a full accounting of the budget and proof of need. Don asked, Mr. Chairman from the prospective of my office, we are not aware of any IGA's with Parachute for interchange improvements at this point. I don't know if you want any; but normally when we have entered into agreements with municipalities and for street and roadway improvements they have been the subject of an IGA. Commissioner Houpt asked, so there was an initial commitment of $50,000.00 and, there was no IGA that went along with that $50,000.00? Don stated he was not aware of any. Commissioner Houpt – Okay, we probably need to - this is contingent upon a successful IGA as well. This is a study for the potential west interchange correct? Commissioner Martin stated yes, which you have already committed $50,000.00 to and there was an agreement on that almost a year ago. Commissioner Houpt – It was but we need an IGA in place and that is part of my motion. Don asked, so this would be a total agreement of $150,000.00? Commissioner Martin stated that would be the total and $50,000.00 has already been allocated. Don – So this is for the design of the West Parachute Interchange and this is in conjunction with an application for a DOLA grant? Commissioner Martin stated that is correct; both of them are. $200,000.00 we committed to the improvement which is the Parachute Interchange. Second. In favor: Houpt – aye McCown – absent Martin - aye
Ed stated with respect to the other interchange, the one we are using in Parachute, he received a call from Kathleen Curry and she indicated that DOLA had approved the $800,000.00 for the interim improvements. This is the five (5) year fix that puts double lanes on the ramps and signalization at the top. She would prefer that we consider the bigger option of the one (1) that is the permanent fix of $30 plus million dollars. She has called a meeting to be held from 9:00 a.m. to 12:00 p.m. on Wednesday, July 9 to discuss that with Russell George, Susan Kirkpatrick, the Mayor and others to be held at Human Services facility in Rifle. Her preference would be that DOLA come forth with about $10 million and we settle this issue of the severance tax credit as it relates to the oil and gas industry. We have asked Jesse to come and provide us with the background of all that has transpired. Commissioner Houpt – I would like to be there. Ed – If both of you intend to come then you need to continue this meeting. Commissioner Martin – Well actually it will be a workshop; we wouldn't make a decision. If we are just information gathering then it is not a commitment of the Board. Dale wondered if they shouldn't contact Representative Buescher since he sits on the budget committee. Commissioner Houpt – I would suggest we suggest that to Kathleen since it is her meeting. Ed – In talking to Mayor McClung, we agreed we probably should hold the $800,000.00 from DOLA in advance as well as our $200,000.00 until we settle on the bigger picture solution. Don asked, it wasn't clear to me, does the Board intend to continue the meeting until Wednesday? Commissioner Houpt stated she didn't know why they would; they would not be making any decisions. Don stated under the Open Meetings Act when two (2) of you attend; it is a meeting. Commissioner Houpt – Okay, so we can continue it if that is your recommendation.

CONSIDERATION AND APPROVAL OF COMMUNITY PREVENTION PARTNERS GRANT APPLICATION – SHELLEY EVANS AND DIANE WATKINS

Shelly Evans is Director of Community Health Initiatives, who is the subcontractor on the continuation or application that we asking you to consider for approval and signature. It is a renewal grant application to the Colorado Alcohol and Drug Abuse Division of the State of Colorado. Garfield County's Department of Human Services has been the fiscal officer of this grant for two (2) years. We are looking at going into our third (3rd) year of a four (4) year process and we are asking for approval and signature. Commissioner Houpt – So moved. Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

CONSIDERATION/APPROVAL OF AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR PROVISION OF ADMINISTRATIVE SERVICES IN CONNECTION WITH THE GARFIELD COUNTY AFFORDABLE HOUSING PROGRAM WITH GARFIELD COUNTY HOUSING AUTHORITY

Program effective date will be April 7, 2008 and will not exceed $87,500.00.
Ed explained in the original amendment the amount was put in as $60,000.00 when it was really $87,500.00; this is just a correction to provide the full amount.
Commissioner Houpt – I make a motion we approve the amendment to the IGA for Provision of Administrative Services in connection with the Garfield County Affordable Housing Program in an amount not to exceed $87,500.00. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

CONTRACT DISCUSSION FOR SATANK BRIDGE ENGINEERING STUDY – MATT ANDERSON

Matt received three (3) proposals with the lowest price at an estimate of $47,000.00. This information was brought to the Board previously and it was decided to move forward. Since then, ongoing discussions have been held with the three (3) proposers and they submitted revised proposals. Loris and Associates were the top rated bidder. However, the estimated price has increased to eighty nine thousand dollars ($89,000.00)**.** Matt is recommending the award to Loris and Associates. Matt stated if you remember we had a board meeting about Satank Bridge and the lowest price came in at $47,000.00 and we did get approval to continue discussions. Since then we did have discussions and clarifications with all three (3) proposers, and we have came back with significantly higher estimated prices of $89,000.00. Matt believes the last time they had requested $60,000.00 through the supplemental budget for the project and he is ready to move forward with the contract contingent upon additional funds. Commissioner Houpt asked where the others came in and Matt explained the figures. Matt stated they selected Loris and Associates for the project.
Commissioner Martin asked if this was a true engineer's estimate on what it would take to either secure the bridge, restore it, preserve it, or finally admit it is not salvageable. Matt stated correct. Commissioner Martin stated he thought it is worth saving in his opinion. Commissioner Houpt – Let's do the study; we are going to need a budget amendment. I'll make a motion that we award the contract to Loris and Associates for the Satank Bridge Engineering Preservation

Study in an amount not to exceed $89,000.00 and you will bring a budget supplement in front of us to cover that. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

APPROVAL AND SIGNATURE OF COUNTY COURTROOM 4TH FLOOR RESTROOM REMODEL – MATT ANDERSON

Matt had this project solicited formally and publicized for thirty (30) days. Only one (1) offer was received from Groth Construction in the amount of $56,600.00. Matt is recommending approval to Groth. Matt feels Groth has done good work for us before and feels the contract price is fair and reasonable and recommended we award the contract. Ed stated this is $4,000.00 less than what we paid previously. Dale reminded everyone that this completes the project. Commissioner Houpt – I make a motion we award the contract for the fourth floor rest room remodel in the courthouse to Groth Construction in the amount not to exceed $56,600.00.Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

APPROVAL OF COUNTY CONTRACT AGREEMENT FOR FURNITURE – MATT ANDERSON

Matt is recommending approval and authorization of signature for this agreement to Sandy's Office Supply with a maximum amount of $300,000.00 contingent upon contractor signature and legal review. Matt stated this is a little different than what they are used to doing. Centralized purchase agreements are usually competed up front and he feels with furniture, it is not the most efficient way to compete. This contract isn't competed up front and it is very similar to our current centralized purchasing agreements. The only difference would be; any time an order goes over our current competition threshold we would compare it with other contracts. Such as a State contract, compete it and look at the actual and say this is what we need and this is what both contracts have to offer. We would have to waive the competing process in the Procurement Manual upfront. Commissioner Houpt asked Matt about the $300,000.00. Matt stated that is a maximum; there are no funds allotted to this contract. Each contract will obligate the funds on each order. The $300,000.00 is sort of a maximum ordering threshold and anytime it would go over that amount we would have to either modify to increase it, so it is not actual funds that are attached to the $300,000.00.
Commissioner Houpt felt that this is a very large threshold. Matt stated it was based on what was done last year and he realized we are not going to be ordering as much in the future years. Commissioner Houpt stated she was not comfortable with the threshold without some kind of review. Matt informed Commissioner Houpt it would be the total for the year. Don DeFord asked Matt; is that for the rest of this year or for 2009? Matt said it would be split up for the next two (2) years. Don stated since the Board hasn't budgeted an appropriation for 2009, they can't act and Matt stated he could modify it. Ed Green stated it is not an authorization; it is just a procurement authority. Matt stated this contract allows up to $300,000.00 worth of purchases and each action itself would be a budgeted item. Don asked if this would be for office by office furniture in existing buildings, or is this to furnish new buildings. Matt stated both. Don stated, when you have a new building and you know the various office requirements, why can't that be bid. Matt stated it can and it is just another option for us to say we have established contracts. Previously we had Sandy's and we have ordered through various means and this is just another way for us to say hey we have an established contract that is authorized for County officials to use. Don – Are we going to have a contract with Sandy's? Matt – Yes. It's the prices from the GSA contract; there is not a GSA contract, it is just the same prices which I am just using to establish fair and reasonableness and attached to that is a factor of 1.8 per installation, design, labor, and all the additional. This is something that the Federal government does and the State is starting to do the same; you can't effectively compete this stuff up front. Ed explained that this just formalizes the systems contract arrangement that has already existed. Matt – We have been doing this and this is just formalizing the process and giving us another option. The other option would be for us to go out to bid for this, which we don't know what kind of furniture we need. Don stated first of all he is trying to get a handle on whether his office will be doing a contract with Sandy's for an amount not to exceed $300,000.00. Matt – No, you are misunderstanding. The total amount through the year, the $300,000.00, is a total amount purchased through one (1) year for the entire County. If you purchase $5,000.00 and Dale purchases $5,000.00 then you can only go up to $300,000.00 for the year without having to amend the contract. Ed stated again this provides procurement authority between us and the vendor. Don stated that it sounds like what they are talking about is a modification to the Purchasing Manual. Matt stated it is and it is definitely a procedural change. This leads me up to future procedural changes, which I will have to request a workshop with the Commissioners to talk about.
Don asked what action is required today; are you looking for the Board to approve an additional exception to the competitive bidding requirement of the Purchasing Code, along with a number of others that we have for furniture acquisition? Matt – For this acquisition I would request that this contract be awarded without the competition. Commissioner Houpt stated that she thought Matt needs to meet and put together some language; because, it sounds as if we need to do some work on the Purchasing Code. Carolyn stated that we needed to do a lot of work on the Purchasing Code; but, it does sound like Matt is asking you to add something to your Purchasing Code with this particular contract. Matt stated right. Commissioner Martin believes they will need a full Board for that. Dale Hancock stated they have had two (2) meetings with all of the department heads and most of the elected officials and we are going to come before you suggesting material changes. Carolyn informed Dale that in order to deal with this one specific type of procurement; it sounds like Matt and I need to get together to come up with some language to plug into the Purchasing Code. Ed explained they need to put together a major procurement. We just thought it was time to clean up this whole area with furniture procurement. We have been doing it as an assistance contract; we just haven't had formalization. Matt stated in his opinion it is not as effective and in the best interest of the County. If we can show that we are competing each action instead of competing up front, and then a year later we are ordering all this furniture off of a list that wasn't competed; to me that is not what we should be doing. Commissioner Houpt stated to her it makes a great deal of sense but when you are talking about a new facility too; I want to have a sense, as a Commissioner, how much is going to be spent. That is why the $300,000.00 threshold is high for me because that seems to be a totally separate issue from the orders that are made from the different departments throughout the year. Ed stated it is total spending authority for the year not just for one. Matt said that is just saying the County, on this contract, as a total cannot spend more than $300,000.00. Don – Part of the reason I kept asking the questions I did about contracts is that it doesn't sound like we are doing a $300,000.00 contract from Sandy's. Matt stated no, it is really just an agreement, an authorization to spend up to $300,000.00. That is separate from how much we budgeted for furniture. Carolyn stated to Matt they should have a meeting and figure out where they can plug this into the Purchasing Code. Matt said there is a

lot more changes to come that will be like this. Commissioner Houpt asked if this was going to impact the timing of ordering furniture or can we look at it at our next scheduled meeting. Matt felt they could do that and they have worked it out with Sandy's. Sandy's knows the time has come for us to do a clean-up and we are working with them already. Commissioner Martin stated they will take up at the next meeting.

COUNTY SHERIFF UPDATE – LOU VALLARIO

DISCUSSION REGARDING BOOKING FEES

Lou gave the Board a handout. Booking fees are one of the many allowable fees that a sheriff can charge and he attached the statutes. We have never charged booking fees; we have been doing the Cost of Care Program. The problem with this program is it is about a $60,000.00 a year program, and we are bringing in about $36,000.00 a year to run it. They are eliminating the Cost of Care Program. He spoke with all the judges and they feel it is not a very feasible program for us. Instead they would like to have the County Attorney look at a copy of Boulders resolution, which he provided as an example to establish a resolution for booking fees. Booking fees currently are at the $30.00 level; it is broken down in law that 20% has to go to some type of mental health program, either established by the Commissioners or some other avenue. Boulder County specifically uses it to offset their cost of their mental health payment with their contract provider. 20% of those funds have to go to deputy training and the other 60% basically for the operation of the sheriff's office and the jail. What is nice about booking fees is it is very simplistic; there are no collection agencies, no following up with people when we can't collect it. We basically collect on almost everyone who is booked in. There are some exceptions; indigence or people who just book in and out. If we can't collect at that time we can collect during their stay off of their inmate funds before they leave. If they have funds left we dump the $30.00. Boulder has collect about 70% of these fees from their bookings to the tune of about $220,000.00. We are booking about 4,000 people a year now; we are looking at about $90,000.00 in revenue. What Lou is asking, since the Commissioners have to establish a fee schedule, is this something you think we should be doing and if so then the County Attorney at some point in the near future could give us a resolution to present to the Board.
Commissioner Houpt thought it sounded like a great idea. She asked if we give approval or do we wait for a resolution. Don said just by motion to direct the County Attorney's Office to prepare a resolution. Commissioner Houpt – So moved. Commissioner Martin asked if they will just establish this as a sub-category. Lou felt it should be a sub category because the treasurer will have to earmark the 20%, etc. There is a refund capability if they are found not guilty or the charges are dropped. Commissioner Martin – Second. Don informed Lou after it is done they will get back on the agenda. In favor: Houpt – aye McCown – absent Martin - aye

CONSIDERATION/APPROVAL OF IGA FOR WILDFIRE PROTECTION SERVICES – WILDLAND FIRE PROTECTION AUTOMATIC AID AGREEMENT WITH LOWER VALLEY FIRE PROTECTION DISTRICT – LOU VALLIARO AND JIM SEARS

In this agreement Lower Valley FPD is willing to assist the BOCC and Sheriff in maintaining wildfire protection services. Project cost is $18,000.00 annually. Jim stated they provided the Lower Valley FPD with an IGA that Don worked up and they signed it. Jim has brought it back for the Board's signature and it is for one (1) year.
Commissioner Martin stated he didn't mind helping them out; they do a good job. Jim stated they had been doing this for free. Commissioner Houpt – I will make a motion we approve the Intergovernmental Agreement for Wildfire Protection Services Automatic Aid Agreement with Lower Valley Fire Protection District for 2008 in an amount of $18,000.00. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin – aye
Lou stated, lastly we have received a bill from the State for $13,000 and we deducted 23% administrative costs, so the total bill is $10,800.00 and we are requesting $5,400.00. Commissioner Houpt – So moved.
Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin – aye

EXECUTIVE SESSION

Ed Green requested to discuss Senior Programs.

COUNTY ATTORNEY UPDATE – DON DEFORD

AUTHORITY TO FILE CONDEMNATION ACTION – BILLMEYER AVIGATION EASEMENT

Carolyn stated the bottom line is that they have gone through the Federal appraisal and an offer with Billmeyers and they simply want to go to court and have a judge tell them what their aviation easement is worth. We need authority to file a condemnation action for an aviation easement on Billmeyer's property. Commissioner Houpt – So moved. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

DISCUSSION/DIRECTION RE: 06/24/08 LETTER FROM MID-VALLEY METROPOLITAN DISTRICT'S ATTORNEY LEE LEAVENWORTH

A letter was submitted from Loyal E. Leavenworth of Leavenworth & Karp indicating they represented the Mid-Valley Metropolitan District in the mid-Roaring Fork Valley. Mr. Leavenworth wrote regarding the need to amend the district's position on their Service Plan. Don stated this is an issue that has been under discussion for some time between Mr. Leavenworth's office, the planning department and Don's office on a proper course of action. They have now reached the point where they would like the Board to take a position in regard to whether or not you believe they should appear in front of you to present the expansion of their district. In his letter, Lee quoted the appropriate statutory provisions and you can see that the change in the boundary in itself is not considered a material modification of the service plan. When a special district is formed as a metropolitan district, it must file with the County Commissioners in every County where it operates a service plan and that service plan is subject to your review. There are circumstances after the initial approval of the service plan where the County Commissioners then are entitled to review changes to the service plan. By way of example, in the Mid-Valley Metropolitan District, when this district first expanded into Garfield County and then later when Dakota Meadows was approved as a subdivision and expanded in that area; they had to come before Garfield County Commissioners to get approval. But, in this case the position Lee has taken as an attorney for the district he does not believe what they are proposing is a material modification and the statutory language seems to support that if you view this expansion as nothing more than enlarging the size of a district. Lee is asking that the Board either direct him to appear, or after review of the letter, decide that they do not need to appear, one or the other. Commissioner Houpt stated after reading this she was in agreement but that's because of my laypersons interpretation of the statute. Don, if you agree with that notion then I support not having them come before us.

Don said in some ways it is a question not posed to you too often. This will, he believes, involve some capital improvements in the form of an extension of a surface line. Other than that he thinks it is strictly an enlargement of the district and they already are an existing district in Garfield County.Commissioner Houpt – But to expand a service line would you typically come before this Commission for approval? Do you want to go into executive session?
Don said he can simply tell them that he doesn't recall when the Board has required a special district to appear for extension of a service. With that said; I don't know how often that has occurred either. Commissioner Martin believes they had an initial discussion when they did come into Garfield County from Eagle and we had quite a discussion on that. Commissioner Houpt –There is a benefit; but what I want to know is whether we are waiving a permitting process that we typically would hold someone else accountable. I'm not quite sure of the extent of the expansion.
Commissioner Martin – The subdivision that is already there, they take one off of the individual sewage system is what it amounts to. Commissioner Houpt – How does that compare with other districts and what is their requirements going to be into the future. Carolyn stated she wanted them to know that if you end up disagreeing with Lee; he asked that we continue this matter because he wasn't able to be present this morning.
Commissioner Houpt stated she had one question and it is typically an executive session question.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don would like to provide legal advice concerning the expansion of Mid-Valley Metropolitan District, two (2) potential claims involving use of the Una Bridge, update on County Road 204 contract for construction and we need to discuss and receive direction concerning the contracts for the Senior Programs.
A motion was made by Commissioner Houpt and seconded by Commissioner Martin to go into an Executive Session; motion carried. In favor: Houpt – aye McCown – absent Martin - aye
A motion was made by Commissioner Houpt and seconded by Commissioner Martin to come out of Executive Session; motion carried. In favor: Houpt – aye McCown – absent Martin - aye
Action Taken:
Don stated there was an item agended for consideration for a position request from Mid-Valley Metropolitan District; it is my understanding the Board would like to continue that discussion to the attorney's time on July 21 and invite counsel for the district to attend. Commissioner Houpt – So moved. Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

CONSENT AGENDA

a) Approve Bills
b) Wire Transfers
c) Inter-fund Transfers
d) Changes to Prior Warrant Lists
e) Authorize the Chairman to Sign the Resolution of Approval for a Rural Land Development Exemption Option to Create two (2) Lots from Approximately 101 Acres Located twelve (12) miles South of the Town of Silt on County Road 311 – Applicant: West Divide Ranch, LLC – David Pesnichak
f) Authorize the Chairman to Sign the Resolution of Approval for an Accessory Dwelling Unit Located at 36950 River Frontage Road Outside New Castle – Applicant: Joe and Dixie Fiou – David Pesnichak
g) Authorize the Chairman to Sign the Amended Plat for Lots 1 and 3 of the Clark subdivision- Applicant: The Beal, Carlton Jr. Family Trust – David Pesnichak
h) Authorize the Chairman to Sign the Special Use Permit and Certificate of Designation for an Expansion of the Rifle Gap State Park Reverse Osmosis Brine Water Evaporation Facility and Operated by Colorado State Parks – Applicant: The United States Bureau of Reclamation – David Pesnichak
i) Authorize the Chairman to Sign the Resolution for a Special Use Permit – Extraction, Processing, Storage and Material Handling of a Natural Resource for a Shale Borrow Pit on Teepee Park Ranch in the ARRD Zone District – Property is located nine (9) Miles South of the City of Rifle, South of the Terminus of CR 317 on USFS Road 824 – Applicant: Black Diamond Minerals, LLC – Kathy Eastley
j) Authorize the Chairman to Sign the Resolution and Permit for a Temporary Employee Housing Facility for Petroleum Development Company – Applicant: Puckett Land Company – Fred Jarman
k) Authorize the Chairman to Sign a Resolution to Amend the Building Code of 2004, Adopt the 2006 Energy Code and Change the Fees Associated with Grading Permit – Applicant: Garfield County Board of County Commissioners – Andy Schwaller
l) Authorize the Treasurer to Release $9,652.50 to RFTA Pursuant to Resolution 05-95
m) Approval of Minutes for May 5, 12 and 19 and June 2 and 9 – Jean Alberico
n) Renewal of a Liquor License for Valley Liquors Located in Glenwood Springs and Rainbow Hospitality Inc. d/b/a Sunlight Mountain Inn Located in Glenwood Springs – Jean Alberico
o) Authorize the Chairman of the Board to Sign the Special Use Permit and Treasurer Deposit Agreement (Revegetation Security) for an Industrial Support Facility – Applicant: Harry and Rhonda Naugle (Tri-State Trucking) – Craig Richardson
p) Authorize the Chairman of the Board to Sign a Special Use Permit Allowing an Industrial Support Facility (Garden Gulch Compressor Station) Applicant: Chevron USA – Craig Richardson
q) Authorize the Chairman of the Board to Sign the Amended Final Plat for Pinyon Mesa Filing No 1, Lot 1 – Applicant: Pinyon Mesa Development Incorporated – Craig Richardson
r) Authorize the Chairman of the Board to Sign the Amended Final Plat for Pinyon Mesa Filing No. 1, Lot 21 – Applicant: Pinyon Mesa Development Incorporated – Craig Richardson
s) Authorize the Chairman of the Board to Sign the Amended Final Plat for Pinyon Mesa Filing No. 1, Lot 36 – Applicant: Pinyon Mesa Development Incorporated – Craig Richardson
t) Authorize the chairman of the Board to Sign the Amended Final Plat for Pinyon Mesa Filing No. 1, Lot 48 – Applicant: Pinyon Mesa Development Incorporated – Craig Richardson
u) Authorize the Chairman of the Board to Sign a special Use Permit Allowing Temporary Employee Housing Facility – applicant: Marathon Oil Company – Craig Richardson

v) Authorize the Chairman of the Board to Sign a conditional Use Permit Allowing Warehouse Facility/Staging Area – Applicant: Marathon Oil Company – Craig Richardson

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to approve the Consent Agenda Items a – v. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

COMMISSIONER REPORT

Commissioner Houpt – The COGCC hearing on rule makings started on June 23; we were in hearings for seven (7) days and are still receiving testimony. I think people are having an opportunity to present their findings and we have had a lot of questions. This week there is an I-70 planning grant meeting tomorrow at 2:00 p.m.; it is part of the I-70 Collation Grant that is studying connecting communities and counties in relation to future planning for rail. We will be meeting at the RFTA building and then there is the meeting in Rifle on the Parachute Interchange, and I leave for NACO meetings on Thursday and I leave for Kansas City on Monday and then start the next round of COGCC hearings on Tuesday, July 15.

Chairman Martin - June 23, John attended with Mr. DeFord, and gave our verbal and written testimony to the Oil and Gas Conservation Commission. Had a special meeting for the BOCC in reference to a liquor license. The RFTA meeting in Carbondale on the 26th was interesting and we were successful in our contract. Attended a closing on an aviation easement with Ms. Dahlgren on Monday, which was successful. Suggest to the solar folks to get in touch with Ed Green in reference to the adaptation to our new buildings in Rifle. Meeting with Representative Curry on Wednesday, July 9.

STAFFING ISSUES OF THE DISTRICT ATTORNEYS OFFICE – MARTIN BEESON

Martin submitted a letter written to the Board on June 19, 2008 explaining he had informed the Board last year they would have a new judge beginning July 7, 2008. There will also be a third (3rd) criminal docket in Garfield County which will be held the second (2nd) and fourth (4th) Tuesday of each month. Martin is requesting additional funding for a position needed to adequately meet the needs of the district. Martin provided statistics to determine the normal/average caseloads handled by felony deputies around the state. Of the respondents in this survey, the highest annual per deputy caseload is in Garfield County with approximately 400 cases per year. The next highest is Fremont County with 280 cases per year. The office of the District Attorney is requesting the Board of County Commissioners for all three counties in the 9th Judicial District agree to approve and share funding for the following positions and the benefit costs and other costs attendant to the positions:

- Two (2) felony Deputy District Attorney positions at an annual salary of $70,000.00;
- One (1) Investigator position (to be utilized by all three counties) at an annual salary of $70,000.00;
- One (1) Legal Assistant position at an annual salary of $35,000.00; and
- One (1) Victim/Witness position at an annual salary of $35,000.00.

Martin Beeson explained attorneys are leaving the district and are being offered better salaries. He does not feel the salaries he is requesting are unreasonable and they need the positions. He needs to get their case loads down to the statewide average. Commissioner Martin asked Mr. Beeson if they were up to full staff and Martin replied that they have ten (10) attorneys; he has one starting next week and another starting this month. He has a superb candidate he will be interviewing this Saturday for deputy. Commissioner Houpt stated that she thought it is important for Martin to talk about what his request is; what he is really requesting to bring yourselves to a sane position, and to compete or be at the level that other offices are at throughout the state. You're asking for two (2) deputy district attorneys. Martin stated that was correct. He is not complaining about the salary structure that we have; he has come to the Board for two (2) years and asked for them to make compensation packages throughout the office from top to bottom competitively. You have done that; you have seen the need. What Martin is asking for now is two more felony deputies. They have a third (3rd) Judge (Judge Nichols) who will be sworn in today. Martin has met with Chief Judge Boyd regarding Judge Nichols doing a criminal docket in Garfield County and Judge Boyd has said she will be doing a docket. They will need a third (3rd) deputy to cover Judge Nichol's docket. Martin went on to explain how many cases in our State that deputies handle in a year. Their low is 130 to a high of 280 and our two (2) felony deputies are averaging under 400 cases per year, which is twice the average. There is a level at which people experience burn out and we are at that level. Commissioner Houpt asked Martin to talk about the investigating position.Martin stated since he has been here; we concentrate those two (2) investigators here in Garfield County but we have two other counties who need assistance. We do follow-up in a lot of cases and some we can't follow up because we don't have the necessary personnel. What I am asking for is one additional investigator who primarily assists Pitkin and Rio Blanco counties in their investigations. Commissioner Houpt asked if this is the level you pay the other investigators. Martin stated they are at a higher level at this point. He feels it is a level they will need to attract quality applicants. Martin feels they can fill this in a relatively short period of time. He explained they are requesting support staff also. He explained that for each attorney they have one (1) victim/witness assistant and one (1) legal assistant. Martin feels they can get by with one (1) legal assistant and one (1) victim/ witness assistant. Commissioner Houpt asked Martin if he had enough office space for all the new position. Martin stated they will find whatever space they need; we have space in the open that was previously used by legal assistants. Commissioner Martin stated this is a supplemental expense for 2008 and asked if it was contingent on other counties approving. Martin stated it is and he has sent the same letter to both of the other counties in the 9th Judicial District. He is set to appear before the Pitkin County Commissioners tomorrow (July 8) but does not have a date yet with Rio Blanco. Commissioner Martin asked if the total within the 9th Judicial is $224,710.00 and we pay 71 to 72% of that, and that is what your asking for today. Martin stated that is the base line salary figure; he is also asking for health costs, etc. Commissioner Houpt – I make a motion that we …… Dale asked Martin, by the time you grow another 20%, within the next three (3) years or whatever, would you be willing to having offices outside of the courthouse. Martin stated he would consider anything that is reasonable; it is not just the convenience of having a District Attorneys office in the courthouse, I'm not going to say it is an absolute necessity. It lends more accessibility to judge's requests and things of that nature. We are in the courtroom all the time.

Dale also wanted to know if they would be contemplating any additional vehicles. Martin had not considered that until it was just brought up. They will either share vehicles now or have their own means of transportation. With the high cost of gasoline we have increased what we pay for mileage; we pay almost at the federal level of $.50 per mile. That is adding up quickly and having an impact on our budget. Dale informed everyone they had received a memo from finance

and it is going to $.58 per mile. Commissioner Houpt is now wondering if they are going to need transportation. She stated they could come back with that if need be. I make a motion we approve the budget supplement as presented by the District Attorney for five (5) new positions in the amount of $159,769.00 for 2008 contingent on approval from Pitkin and Rio Blanco County. Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

CLEAN ENERGY ECONOMY FOR THE REGION (CLEER) - ALICE LAIRD AND HEATHER MCGREGOR

This is a new joint program with the Department of Local Affairs and the Governor's Energy Office called the New Energy Communities Initiative, which aims to maximize energy efficiency and conservation, enhance community livability, promote economic development in downtowns, and addresses climate change by reducing carbon emissions. The initiative is a competitive grant program requiring regional collaborative proposals. A letter of intent to the DOLA regional manager is due July 18 with a full application due September 19. CLEER and the Community Office for Resource Efficiency (CORE) would like to pursue this grant application in partnership with Garfield County and the county's towns, cities, school districts and other stakeholder groups. Alice explained that the total initiative is $10 million dollars with up to $2 million dollars for each region selected. This region is well positioned to go after this grant for a number of reasons. They are here today for a couple of requests; 1) they would like to ask if Garfield County would be one of the list of partners involved in the grant application. Garfield County would be listed as a partner on the initial letter of intent. They would also like to have a staff person designated to be a point person for Garfield County and participation in a planning workshop in late July to fine tune the proposal. Also, 2) to reserve time on the agenda before September and also ask for some local match money of which we do not know what it is at this point. Commissioner Martin stated he did have a conversation with Heather and gave her some ideas. I have no problem; I think we need to move forward and set the pace. Commissioner Houpt asked what type of person are you looking for, a planner, environmental specialists, because we have Jim Rada and we have a long term planner. Alice felt either one would work well. We need someone who is comfortable with clean energy. Ed asked if we were focused on buildings associated with the County. Commissioner Martin stated yes and move the government itself into green energy as well. Commissioner Houpt felt Jim Rada may want to be involved. Alice wanted to remind everyone that DOLA requires the proposals to come from a government entity. They have said Garfield County would be a great fiscal agent for this type of initiative and ultimately will need someone's letterhead to put it on. Commissioner Martin informed Alice it would come from the Board itself and then go to her. Commissioner Houpt informed Alice that they should determine how they want the letter of intent to go. If we are the fiscal agent or are we just the flow-through agency; it sounds like the Board will be comprised from every different jurisdiction that participates. I'm very excited about this and think it certainly is timely. I make a motion that we become a partner of the New Energy Communities Initiative and are the fiscal agent understanding that is a flow through function to formalize the grant, if we receive it, and that we will designate one (1) or two (2) staff people to participate in this project. Commissioner Martin – Second. He stated, as mentioned before, those other partners are to do an inventory in reference to the rules and regulations to even allow them to go forward. We found in our land use plans some things we are not allowed to do by our building codes and our zoning issues. Commissioner Houpt – I'd like to add to the motion that we recognize, at a later date, the group will come back to use for an amount of money for a match for the grant. Commissioner Martin stated that is understood.
In favor: Houpt – aye McCown – absent Martin - aye

STM HANGAR'S REQUEST FOR BOCC APPROVAL – PLAT & DECLARATIONS – BRIAN CONDIE AND CAROLYN DAHLGREN

Carolyn stated the ground lease for the general aviation airplane hangers was recorded back in February, 2008 and this is finishing the project. This is your approval of the declarations and the condominium plat. As with building and planning land use issues, what your staff does is to go through the documents and make sure the documents match the ground lease. In this case particularly to make sure that the declarations and the plat make it absolutely clear that the BOCC owns the earth, the ground, on behalf of the people of Garfield County and that the people who buy the air space units, the hangars can never sell the land underneath. Carolyn has gone through both the plat and the declarations themselves with John Savage and she spent a lot of time talking about this two (2) years ago, so everything is consistent. Carolyn does recommend that the Board sign the plat and the declaration.
Commissioner Houpt – I make a motion we approve the declaration of covenants conditions and restrictions for 100 WA hangars by STM Hangars LLC. and that we authorize the Chair to sign the declaration and the plat.
Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

ATLANTIC AVIATION HOLD HARMLESS AGREEMENT (AIR FAIR) – BRIAN CONDIE

Brian stated that in the past the FBO's have been owned by local entities and they have supported the Air Fair with use of their hangar and also discount fuel prices on the contingency they were listed as additional insured on the insurance. This is a special event insurance so it is not through the regular County insurance. Atlantic Aviation does not want to be associated with the Air Fair; but, they would be more than happy to let us use their facility if we sign this hold harmless agreement. Janet Sampson faxed insurance naming Atlantic Aviation as additional insured.
Carolyn suggested we get a copy of the certificate of insurance and attach it. Carolyn also asked the clerk to make two changes to the document; one (1) put a signature line for Justin Carver, the local manager and two (2) to mark the last two (2) paragraphs as Exhibit A. With those changes once John signs it, and we get the certificate of insurance, we will send it off to the FBO.
Commissioner Houpt – I make a motion we approve the hold harmless agreement with Atlantic Aviation for the Air Fair with the changes recommend by our Attorney, and attaching the certificate of insurance indicating that this document has been compliant with. Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

APPROVAL OF AIR FAIR – ZONING CODE – BRIAN CONDIE

Brian stated now we would like to have permission to have the Air Fair. Carolyn reminded everyone that there is no "special event, special use permit" because the public airport zone is different from all the other zone districts. It says the Commissioners have to approve any uses that are not listed. This was first approved back in July, 2005. Brian gave the specific date of the Air Fair - August 8 and 9 and they anticipate between 8-10,000 people. He is requesting

approval for the Air Show, Air Fair and a Pyrotechnic Show that is professionally produced. Commissioner Martin asked if we needed a permit with the fire district. Brian stated the fire district needs the Commissioners to authorize. The pyrotechnics are controlled by the NFPA; they have their clear zones and we are listed as additional insured by the Mad Bomber. Carolyn asked what the name of the company was. Brian stated, The Mad Bomber. Dale Hancock asked if this interplayed in any way within the existing fire bans that the Board may have signed off on. Commissioner Martin stated, we left that up to the fire district and the sheriff. You can get a permit but they have to be issued by the appropriate agency. He believes that would be the Rifle Fire District and that's why he asked that question. Brian stated that Kevin Waylon said all he needed was authorization from the Commissioners to post it and he can take it from there. Commissioner Houpt – I'll make a motion we approve the Air Fair and Air Show with the Pyrotechnic Show, making certain that all permits are in place and that will be scheduled for August 8 and 9. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin – aye Commissioner Houpt – After seeing the pictures of the Pyrotechnic Show she wants more information from Brian on safety issues.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

KATHLEEN CURRY – LEGISLATIVE UPDATE

Kathleen stated that in the past she had scheduled town meetings here and generally only gets one (1) or two (2) people to show up. She thought maybe this would be a good way to communicate to folks in Glenwood. She has been traveling and talking to other Commissioners and city councils and doing a legislative update regarding what stood out to her during their sessions. She is getting a lot of questions and is trying to lay the ground work for what might be on the schedule next year and this summer. She felt overall for the general assembly, what really stood out was the work they did for children's programs. They put in an all day kindergarten program, rural school construction, funded pre-school and added names or eligibility to the children's health care. Those were the positives that came out of the session this year. They had over 700 Bills; they didn't all pass thankfully. They can each run five (5) Bills and then the executive comes forward with a lot of legislation, some of it is clean up and some is more policy oriented. A lot of them we have been keeping on eye on over here because we did a whole lot of oil and gas severance tax legislation. A considerable amount of time was spent on higher education to try to come up with a steady revenue source for funding; higher ed, operations and capital. Every year she finds that to be taking more time than it should as the schools are all competing with each other for limited funds. Each one hires a liaison; so it is just a free-for-all in the lobby with all the institutions competing with each other. Each of the members are trying to protect the schools and their district. She did not think it was a great way to do business; but it is what we are doing right now. Higher education did come out ahead this year. They had three (3) mining Bills and two (2) of them passed; one (1) didn't and she thinks that will be a big topic next year. It did consume a lot of time and there was a lot of interest there. There was a significant Mining Reform Bill that would have shifted the responsibility of permitting mines to the local governments and kind of moved it away from the State and put it more in the lap of the counties. That proved to be a Bill that was so comprehensive that it needed to undergo more discussion she thought. One (1) element of the Bill they did pull out and run with Senator Schwartz and her at the end of the session was to make notices of intent to prospect a public notice process. It doesn't mean the County will be notified if there is an intent to prospect; but if you keep an eye on the website for the Division of Reclamation Mining and Safety, then you will know when there is a notice of intent filled. That is a big deal in this part of the state for us. On the water side; we ran a couple of important pieces of legislation but, she thought the Projects Bill, which comes out of the Water Conservation Board each year, was huge. It was a $140 million dollar Bill; what we had was a compact compliance issue on the Republican River with the State of Kansas that we were trying to address. That was a $60 million dollar loan. If we aren't in compliance at the state line on these compacts, there are huge expenses for the State and huge legal issues. The Species Trust Fund Bill, the Zebra Mussels Legislation, lots of multi-million dollar pieces of legislation to address, natural resource issues, mining issues and then House Bill 1141, a Bill that Kathleen ran with Senator Bob Bacon. This is to make sure that local governments had the information they needed regarding the adequacy of water supply prior to the approval of new developments. That was something counties already had to comply with and this now affects special districts and municipalities. We ended up with a good piece of legislation at the end with some compromised language. As far as what they are doing right now, Kathleen's time is being divided up with the Interim Water Committee. It is a standing committee that meets every summer to try to take up water issues in a way that gives a little more time. It is not the craziness of the session to talk about water policy. She didn't know they were going to have that much to do this summer but, they actually do. We have a lot going on in this district, but she had to say that the Republican River and then the South Platte, the water issues there are perennial are actually very heart breaking. It amounts to farmers being shut down every year. She is working on a lot of water issues this summer. The oil and gas rule making is happening and they are keeping on eye it but, it needs to work its way through the executive committee. Referendum O, which hasn't been getting a whole lot of press, but that is the one to reform the Constitution to change the process for amending the Constitution and amending statutes starting at the initiative level. It sets a higher bar for amending the Constitution, but the good thing is now there is a geographical requirement which we don't have in place right now. She thinks it is really critical for this part of the state to have the geographical requirement. If that were to pass; you would have that requirement, a slightly higher signature requirement but then on the statutory side if people take the time to petition to change statute, in the form of an initiated measure; they have to get fewer signatures and then the general assembly would have to wait five (5) years before we fiddle with what the voters brought forward. That is political suicide anyway but some people are not that mindful of that. What we have now, if Referendum O passed, there would be a 2/3 vote requirement before the general assembly could act on a measure that the voters had. She had a number of requests for legislation next year; one (1) came from the sheriffs having to do with the medical marijuana statutes, ATV registration (huge fight there) how to enforce ATV use. Kathleen would like to know what she can do for us next year, what they would like her to work on. Commissioner Martin – Water, water, water….. Need to look at this and it is another political suicide; School Finance Act really needs to be looked at as well. He does not think it is living up to its reputation for what it was supposed to bring forward. He feels they need a review of the whole system so they can maximize the dollars coming in. It doesn't help a lot of folks; it does help some. Kathleen – Not so much per people, but the overall finance act structure? Commissioner Martin – The Finance Act itself. Commissioner Houpt – Are you referring to State equalization? Commissioner Martin – Absolutely. Commissioner Houpt - Many of us would support State equalization because we

have seen what happens when you don't have that in place. Commissioner Martin stated there is also a penalty with areas that could do more for their schools. If you can't live up to that, then you have to take what the State equalization says that you can do. You can actually do better with your schools; I would think. Kathleen stated there are some limitations there; huge debate. Commissioner Houpt – There are great benefits to it though and we have seen what happens in states that don't have that. There are just too many rural areas in this state that would be hurt severely if we didn't have some kind of State equalization. Commissioner Martin said he is not saying to do away with it. Kathleen feels they did some good work on House Bill 1083 with distribution of funds out of DOLA; she feels it was a step forward and that there is more emphasis on energy impacted areas now that wasn't there before. We will have to be vigilant and make sure as they develop that process we don't lose sight of the goal to make sure the dollars go where they are suppose to. Commissioner Houpt thanked Kathleen for doing that and appreciates her pulling counties into the discussion. Commissioner Martin stated they had another issue; the state fiscal year and the contracts that are signed with the counties. The counties run on a calendar year; the State is half year and the contracts run out half way through. We have to come back with another contract; yet we have to budget at the beginning of the year, so we can only do half of the budget and it causes us grief. We need to see if we can't get the Attorney General to allow those contracts to run by calendar years instead of the State fiscal year. Not sure how it can be worked out but it is a real issue to those that are receiving revenues and trying to stay within their spending limits. It is a task order to a general contract. The other is; some of the State requirements for the counties on certification of subcontracts and documented workers, yet the State does not have to do that. These are big obstacles in the way in reference to the Attorney General. Commissioner Houpt thanked Kathleen; you have done a great job. Commissioner Martin thanked her for coming in. Kathleen stated that she had a request from the Mayor of Parachute to look into this interchange situation and she actually didn't have an agenda other than I hate when we talk and talk and don't get everything done. She thought it would be helpful to get all the various entities' around one table. She stated what she was hearing was; people pointing and the industry is not ready, the County is not ready, the State is not ready, CDOT is not ready, the Feds are not ready, and she is tired of it. We need to pour some concrete. If we can get everyone in one room maybe we can find out where the obstacles are. Commissioner Martin felt some of the confusion is that we are talking about two (2) separate projects, but they continue to get crossed and are thought of as one (1); we need to keep them separated. Kathleen said she thought the mayor was actually pulling his hair out saying, "could you get anyone moving on this". Kathleen scheduled the meeting for July 9, but will not be able to make it; however, the meeting is still on. She feels the citizens deserve more from their state government than the finger pointing she thinks they are doing at the State level. Commissioner Martin stated that is some of the 20/30 plan in reference to transportation; Mr. George will be there as well and will probably answer those. These projects, both of them, are not even on the 35 year plan. Kathleen didn't know that. Commissioner Houpt stated that much of that has to do with the fact that the activity that is creating the need is so new; it simply wasn't on anyones radar at the time that plan was put together. When the priorities were negotiated it simply wasn't a need at the time and now there is no money for it. Kathleen felt there might be some money; there is some money at the State level and it's a matter of setting priorities for the energy impacted areas. Kathleen would like to have a follow-up meeting with the industry present; they are a player in this discussion.

REQUEST FOR PRELIMINARY PLAN FOR OAK MEADOWS RANCH, FILING 4, PHASE III PUD TO ALLOW FOR SUBDIVISION OF 44.67 ACRES INTO 25 LOTS AND OPEN SPACE – PROPERTY IS LOCATED SOUTH OF GLENWOOD SPRINGS ADJACENT TO FOURMILE ROAD (CR117) JUST WEST OF DRY PARK – APPLICANT: OAK MEADOWS III, LLC – KATHY EASTLEY

Karl Hanlon with Leavenworth and Karp, Ron Liston with Land Design Partnership and Tiffany Berry were present. Karl stated they are here to request a continuance. Commissioner Houpt stated she is recusing herself from this application because she owns a home in Oak Meadows, and there has always been a question of water availability. She didn't realize Commissioner McCown was not going to be here today. She apologized for not letting them know ahead of time. She would like to participate in the noticing portion so they can open the hearing and they will not have to re-notice and wanted to know if it was okay with the applicant. Karl stated it was acceptable. Carolyn stated to make it clear under State Statutes; we are not talking about a direct financial conflict, but rather a personal issue that Ms. Houpt lives in the division.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 Martin asked if they had a date for the continuance. Commissioner Houpt – I make a motion we continue this hearing until July 21 at 1:15. Commissioner Martin – Second.

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

CONSIDER A REQUEST FOR A ONE (1) YEAR EXTENSION FOR TYBAR RANCH RURAL LAND DEVELOPMENT OPTION EXEMPTION TO FILE THEIR FINAL PLAT – APPLICANT: DAVIES MESA RANCH ESTATES, LLC AND THE DAVID K. DANCIGER SPECIAL POWER OF APPOINTMENT TRUST – CRAIG RICHARDSON

A letter to Fred Jarman from Douglas J. Pratte, The Land Studio, Inc. was presented with a requested date of February 19, 2009 based on the one (1) year extension**.** Craig stated as the Board remembers, a rural land development option was approved on February 19, 2008 and the condition of approval requires that an exemption plat is presented within 120 days of the date of approval to be signed by the Board. This date came and passed on June 19, 2008 and on June 23 we received a letter to request a one (1) year extension to file this plat, if approved by the Board, it would be one (1) year from the date of approval. Carolyn stated that she was sure the Board remembered the ins and outs of this agreement; one (1) of the things about this project, it has pointed out some holes in our regulations. You have already agreed to allow for a development agreement that is wider than what we were thinking of when we adopted these regulations and you have allowed the applicant to use a plat note for security. Since the applicant is the only person to complain she does not see any legal reason not to go forward with this. She does want to make sure that the Board thinks about the policy you will be making. The regulations do not allow for this; the regulations say that a plat will be presented in 120 days. You are making a policy statement here. More than likely we will go back and amend these regulations to include the issues that have come up.

Commissioner Houpt - I make a motion we approve a one year extension for the rural land development option exemption as presented on the Davies Mesa Ranch Estates.

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

REVIEW AND APPROVE AN APPLICATION FOR A BED AND BREAKFAST LIQUOR PERMIT – APPLICANT THE LODGE ON THE ROARING FORK, LLC – JEAN ALBERICO

Linda Segal the applicant was present. Jean stated this requires no notice; it is just for the Boards approval and it is a State issue permit only. The applicant has applied for and filled out the application properly. Jean made the required site visit; it is a beautiful place. This was recently granted a special use permit for the lodge, and they have met all of the requirements and the special use permit has been issued. The State just needs your approval so they can issue the Bed and Breakfast Permit. They have no more than 20 sleeping rooms, they provide meals; they don't sell alcohol however, alcohol is served between 4:00 p.m. and 7:00 p.m. each day. Commissioner Martin asked if anyone in audience had any testimony. Ms. Segal stated that she just wanted to thank everyone and they are anxious to go forward.

Commissioner Houpt – I make a motion we approve the application for a Bed and Breakfast liquor permit for the Lodge on the Roaring Fork. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

CONSIDER A REFERRAL TO THE PLANNING COMMITTEE FOR A CONDITIONAL USE PERMIT FOR THE RELOCATION/STABILIZATION OF A HISTORIC STRUCTURE (THE GLOVER CABIN) TO A 4 ACRE SITE ADDRESSED AS 7201 COUNTY ROAD 300, PARACHUTE, FOR USE AS A COMMUNITY BUILDING – APPLICANT: GRAND VALLEY HISTORICAL SOCIETY – DUSTY DUNBAR

The Glover Cabin is vulnerable to the eroding banks of Parachute Creek. To preserve the structure and adapt it to another use, it is to be moved intact to a site owned by the Grand Valley Historical Society.

Staff Recommendation:

The proposal is limited in its scope and complexity and staff feels it is appropriate to recommend that the Board schedule a public hearing for the Board and not refer this to the Planning Commission.

Dusty stated the application is somewhat simple in its scope and does not need to go forward to the planning commission.

Commissioner Houpt – I make a motion we schedule this for the Board of County Commission as presented by staff. Commissioner Martin asked Dusty if they had a date certain. Dusty replied August 11, 2008. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

REVIEW AND APPROVE A SPECIAL EVENT LIQUOR PERMIT FOR THE REALM FESTIVAL SET FOR AUGUST 8, 9 AND 10 AT THE KLEIN RANCH OFF COUNTY ROAD 241 IN NEW CASTLE – SPONSORED BY THE REALM OF CARING INC. – D. CHRIS DAVIS

Jean provided the application, map for the layout of the festival, lease agreement, IRS employer identification number, sales tax license and a certificate from the Secretary of State stating this applicant is a nonprofit corporation.

Chris Davis was present. Jean informed the Board she was responsible for noticing and posted the property on June 28, 2008 which she placed off of County Road 241. She informed the Board there was no publication required; just posting. Chairman Martin swore in the speakers. Jean stated she believes this is the third (3rd) year of this festival. They are asking for a special events liquor permit for three (3) days; August 8 from 5:00 p.m. to 12:00 a.m., August 9, from 11:00 a.m. to 1:00 a.m. and August 10, from 11:00 a.m. to 6:00 p.m. The location is Klein Ranch, 1777 County Road 241, New Castle. All the paperwork is here and filled out completely. Jean contracted the sheriff's office to see if there were any issues with last year's festival and there were no complaints filed, no calls out there, and no calls to the dispatch unit. Chris explained it is the third (3rd) year and their cause is to raise money for the musical education of children. He explained there are huge budget cuts in the schools.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing. In favor: Houpt – aye McCown – absent Martin - aye

Commissioner Houpt – I make a motion we approve the special event liquor permit for the Realm Festival set for August 8, 9 and 10, at the Klein Ranch off County Road 241 in New Castle sponsored by the Realm of Caring Inc. Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

CONTINUE PUBLIC HEARING TO CONSIDER THE VACATION OF A PORTION OF COUNTY ROAD 118 – APPLICANT: IRON ROSE LAND & CATTLE II, LLC REPRESENTED BY JOHN NEILEY – CRAIG RICHARDSON

John Neiley, appearing for the applicant was present. Craig stated this item was heard and approved on May 5, 2008 with a date set for July 7, 2008 for the applicant to bring in a resolution to be signed by the Board. In order to complete all the conditions and to return a final resolution, the applicant has requested we continue the item until July 21.

John Neiley wanted to bring the Commissioners up to date. There are two (2) issues they wanted to address; the Road and Bridge Department request for a turn-a-round on the other end of the bridge and the Town of Carbondale's request for an access easement to allow continued access to the ditch that crosses the property that conveys some of the town's water. Don DeFord and I have worked out a draft resolution that has everything in it that needs to be in it; but in the interest of avoiding those two (2) conditions appearing as part of the resolution we decided we would try to get this done and have those accomplished and buttoned up so there are no lingering items with regard to the vacation resolutions. The turn-a-round is completed and Road and Bridge has reviewed it; they have okayed what we have constructed on the ground. We will get our surveyor to prepare an exhibit that will be attached as a collateral item that will be done at the same time as the vacation resolution is adopted; it will dedicate the turn-a-round to the County as a public right-of-way. Today he received the comments from the Town of Carbondale's attorney on the draft easement agreement that he had sent to him. Commissioner Houpt – I will make a motion we continue this public hearing to vacate a portion of County Road 118 until July 21, 2008 at 1:15 p.m.

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

REQUEST AN AMENDED PLAT TO CONSOLIDATE FOUR (4) COOPERTON TOWNSITE LOTS INTO ONE (1) LOT, ADDRESSED AS 70 CEDAR STREET, CARBONDALE – APPLICANT: JEAN AND ROBERT PERRY III – DUSTY DUNBAR

Jean Perry was present. Carolyn reviewed the noticing requirements for the public hearing and determined there may be an imperfection due to mineral rights. There was no notification of a mineral owner and we have testimony that the applicant believes that the government owns the minerals. Carolyn asked the planner if there was a title commitment or a title certificate in the packet. Dusty replied there was a warranty deed. Commissioner Martin asked if Ms. Perry was

willing to take the risk that it may be challenged by a mineral right owner and Ms. Perry stated she was willing.
Chairman Martin swore in the speakers.
Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Application; Exhibit D – Garfield County Zoning Regulations of 1978, as amended (the Zoning Code); Exhibit E – Subdivision Regulations of 1984 and Exhibit F – Staff report. Chairman Martin entered Exhibits A – F into the record. Planner Dusty Dunbar explained:
STAFF RECOMMENDATION
Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve this amended plat request with the following conditions.

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. As part of the purchase agreement with Charles Moore, the applicants have a culinary tap with the Sutank Water District, and 4 shares of irrigation water with the Rockford Ditch Water Association. The tap and shares must be transferred to the applicant's ownership prior to the recording of the plat.
3. Any ISDS system installed must be adequately separated from water systems.
4. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Jean Perry stated the only thing is the water which we are in the process of acquiring a tap.
Commissioner Houpt asked if Ms. Perry was fine with the conditions and she stated she was.
A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing.
In favor: Houpt – aye McCown – absent Martin - aye
Commissioner Houpt - I make a motion we approve the amendment to the plat to consolidate four (4) lots in the original townsite of Cooperton into one (1) lot, including lots 6, 7, 8 & 9 of Block 9, as recommended by staff with the recommended conditions contained in staffs report.
Commissioner Martin – Second. In favor: Houpt – aye McCown – absent Martin - aye

REQUEST A ZONE TEXT AMENDMENT FOR SECTION 9.07.04 (11) DEVELOPMENT PLAN REVIEW LAND, GRANT/PERMITS/AUTHORIZATIONS AND STIPULATIONS – THIS TEXT AMENDMENT IS TO ALLOW FOR CONCURRENT REVIEW OF PIPELINE APPLICATIONS WITH FEDERAL, STATE AND LOCAL PERMIT AUTHORITIES – APPLICANT: ENCANA OIL AND GAS (USA) – KATHY EASTLEY

Doug Dennison was present. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner Kathy Eastley submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Staff Report; Exhibit D – Application; Exhibit E – Proof of Publication and Exhibit F – Redline version of 9.07.04.
Chairman Martin entered Exhibits A – F into the record. Planner Kathy Eastley explained:
EnCana has applied for an amendment to the text of the County Zoning Resolution for the administrative review process related to pipeline right-of-ways. The current regulations: Section 9.07.04 Development Plan Review for Pipeline Right-of-way, Development Plan Submission (11) Land Grant/Permits/Authorizations and Stipulations: attach a copy of any land grant, permits, and authorizations including stipulations. This regulation requires Agency approval prior to submittal of a County application. The proposed change would allow for concurrent agency review thus streamlining the application process. The Applicant proposes to change the language of (11) of the Development Plan Review for Pipeline Right-of-way to allow for concurrent review. The proposed language for 9.07.04 (11):
Land Grant/Permits/Authorizations and Stipulations: attach a copy of any land grant, permits, authorizations including stipulations. The process of obtaining land grants, permits, and authorizations from any Federal agency may occur concurrently with the review of this application. If concurrent review occurs, a condition of approval may be applied to this application requiring the submittal of the approved Federal land grants, permits and authorizations.
The above proposed language has been revised and a copy of that revision is in the packet. The change to this submittal requirement would in no way change the review process of the pipeline right-of-ways and the intent is not to negate the Federal Agency review process. Issuance of the Permit would not occur until such time as the land grant/permit/authorization including stipulations is submitted to the County therefore the intent of the review process is intact. The Planning Commission recommends the Board of County Commissioners approve the text amendment with the following findings.

SUGGESTED FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

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. Such use is appropriate to the physiographic and general environmental character of the District to which it is added;
3. Such use does not create any more hazards to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted in the District to which it is added;
4. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is added;
5. Such use is compatible to the uses existing and permitted in the district to which it is added.
6. That the proposed text amendment can be determined to be in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
7. That the application has met the requirements of the Garfield County Zoning Resolution of 1978, as amended.

Commissioner Houpt stated; so a determination is made before we have received everything.

Carolyn - You get the private right-of-way and you get the intention to protect surface owners - this is met, because the operator can't even come to Kathy and get a technically complete decision unless they show up with the right-of-way agreements. The planner reviewing the documents and an administrative permit can be issued as soon as the applicant shows up with their BLM permit or their City of Rifle watershed permit etc. Commissioner Houpt – What if the determination is not a positive one? Carolyn stated they don't get the administrative permit. Commissioner Houpt thinks the language then needs to change; where it says "prior to the issuance of a Garfield County administrative permit". Could we say prior to administrative determination? Carolyn stated no, there is a conditional approval and then you don't get the permit. Commissioner Houpt had several questions on the wording; Carolyn stated she did not think the Commissioners had all the wording in front of them. Kathy Easley felt theis was confusing because they were looking at Subsection 11 and there are 10 subsections before it. All of the language of 9.07 is not in here right in front of you. Commissioner Houpt – I just want to make sure my concern is covered and if you are saying, on record, it is than I am fine with that. Carolyn stated there is no sentence that says if you don't show up with the conditions you don't get your permit; it is just implied. Commissioner Houpt stated, all I want to know is that in other subsections in our conditions are covered because they are not in this one. As long as you both are comfortable and confident that language is contained in the policy and we don't have to do any wordsmiting. Carolyn read the article and Commissioner Houpt was comfortable. Doug stated on behalf of EnCana we are okay with the changes suggested by the staff.

A motion was made by Commissioner Houpt and seconded by Commissioner Martin to close the Public Hearing.
In favor: Houpt – aye McCown – absent Martin - aye

Commissioner Houpt – I make a motion we approve the text amendment of the County Zoning Resolution of 1978 for Section 9.07.04 as presented today with the red lined changes brought forward by legal staff.

Carolyn stated it is actually two (2) Sections. Commissioner Houpt added 9.07.2. Commissioner Martin – Second.
In favor: Houpt – aye McCown – absent Martin - aye

JULY 9, 2008 SPECIAL MEETING - CLARIFICATION

Commissioner Martin wanted to make a clarification in reference to what Ms. Curry talked about. He wanted to let everyone know it will be held in Rifle at the Human Services Center at 10:00 a.m. and Ms. Curry will not be with us; but the other State Representatives and Senators will be present.

RECOGNIZED OF JEAN ALBERICO

Commissioner Martin recognized Jean Alberico for 26 years of service to the County.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

JULY 9, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO
SPECIAL MEETING

The continued meeting of the Board of County Commissioners began at 10:00 A.M. on Wednesday, July 9, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Dale Hancock and Jean Alberico, Garfield County Clerk

CALL TO ORDER

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

AUTHORIZATION TO PROVIDE GRANT FUNDING FOR PARACHUTE INTERCHANGE IMPROVEMENT –CONTINUED

Present: State Senate Jack Taylor, Commissioner Tresi Houpt, Battlement Mesa Trustee Judith Hayward, House Representative Bernie Buescher, House Representative Al White, State Senate Josh Penry; Weldon Allen CDOT; Joe Elsen CDOT engineer; Zane Znamenacek CDOT traffic and lead on the Parachute project; Mayor of Parachute Roy McClung, Town of Parachute Administrator Robert Knight; Garfield County Manager Ed Green; Garfield County Operations Dale Hancock; Michelle Halstad local government ad litem CDOT, and Garfield County Consultant on the Project Jesse Smith. Al White presented a summary of the issues to be discussed saying this was a meeting called by Kathleen Curry to get everyone in the same room and find out where the obstacles are. He stated that Cathleen Curry would not be present due to a family funeral. This project is a four-way partnership developed with these groups: CDOT, Parachute, DOLA and the Energy Industry. Representatives from DOLA were not present. Bernie Buescher stated there are that comments from Kathleen Curry were that she tried to carry a Bill for offsets for the impacts but with some odd issues with Tabor that we are still trying to work though. The only way possible to accomplish the task at hand was to form a four-way partnership developed with these groups: CDOT, Parachute, DOLA and the Energy. However, Cathleen is hopefully that the discussion that happened last year and the offset can be promoted. There have been a lot of difficulties with that process and Josh is familiar and the expert in many ways on this process. He and I tried to get a Bill passed to encourage the industry; Kathleen told me we can encourage workers in the industry, County, CDOT and Legislation. She has in her mind that the cost of the energy project is $30 and she would like to see a 4-way partnership. There are some things getting a major offset. We hope to encourage DOLA to participate in the Severance Tax distribution. As of June 20 there is two hundred ($200) million additional of which one half (½) would go to DOLA and one half (1/2) to the grant process. It's an easy equation. Approximately seventy ($70) million more in the grant fund from DOLA has been receive in severance tax than DOLA expected just three (3) months ago. They are willing and we have the legislators to influence others in the decision making process. This is a very important project and it is truly energy impact related. There are two thousand (2,000) folks daily coming from Mesa County and trying to get off the highway and back upped on the current interchange ramp at Parachute as much as 30 – 40 minutes just to get off of

the highway. John Martin stated this is a safety issue and something must be done. A chain reaction accident is a concern and that's why we need to do something now.
Other reports were that energy companies were reluctant due to the pending COGCC rule, the proposed ballot initiatives and the 2008 election. Jesse presented a power point giving the background of the project starting with conversations with CDOT. Jesse has been working on this project for one and a half (1 ½) years. He showed slides of the congested traffic exiting from the west of the Parachute intersection as well as traffic backed up headed toward Battlement Mesa. Jesse explained the provision of [CRS 39-29-107]: To provide risk sharing in the "front-end finance" of local government facilities required to support significant impacts from the expansion of mineral productions; and to build a partnership between the mineral producers and local government for the development of adequate public facilities to accommodate the socio-economic effects of the mineral industries. The cost for the interim solution would be twenty five to thirty ($25 – $30) million. In meetings that Jesse has held with local governments, energy companies and CDOT, he has explained the severance tax credits and the way of paying on a ten (10) year bond and it would lessen the impacts on the severance tax. John Martin said the $2.1 million interim fix is expected to start soon and all but a portion of pavement will be used in the long term permanent fix. We recently received from DOLA an $800,000 grant for improvements to the interchange. The interim solution was discussed which includes: enlarge the ramp intersections, install traffic signals, install signal on Cardinal Way, and repave overpass/CR 300. The cost of the interim project equates to: $800,000 from a DOLA grant, $200,000 for each of the local governments – Garfield County, Battlement Partners and CDOT, and $700,000 from the local developer in the Battlement Mesa area.
CDOT has the intersection rated as a D at the present time but stated that it is close of an F. However, CDOT's long range plan does not include a fix of the interchange in their 20-30 year plan. Jesse has been meeting with the CDOT folks, the Town of Parachute and the County to see what some of the possible short term fixes would be to address the traffic congestion that occurs two times a day and delays getting over the overpass is a twenty to thirty (20-30) minutes. All emergency response would nearly be impossible should it be needed from Parachute to the Battlement Mesa area. All the emergency responders are on the south side (Parachute side) of the Interstate Hwy 70 and the population is on the nouth side. If an emergency response is needed during those two times a day therefore the response time has reached a serious level of concern. Jesse further stated that he has met with Parachute and the Battlement Mesa Partners group to see if we can address some way to solve this; the question posed was, can you help. There was a positive response from both groups. The two of them had talked to CDOT to put in another ramp known as the west interchange for an estimated cost of twelve to fifteen ($12 to $15) million. Further discussions included incorporating the west interchange with the east interchange and go for the fifty ($50) million to do the entire project. Battlement Mesa Partners are prepared to do an interim fix. From that, Jesse went to the Energy Company and stated here are the provisions do to the tax severance tax credit and he received a positive response from the energy companies. He went to CDOT and said if we put the money on the table would you be willing to do it. They came up with some designs to what possible fixes might be and this was the preferred. Large roundabouts both on the south and north that would accommodate 18 wheelers. Right now the existing ramps are very hard to exit onto. CDOT put a cost of $25 – $30 million at that point and time. He then presented this to energy companies in Rifle and to the local people. $30 million and pay with severance tax credits and in going ahead what I showed them was a way of paying for this with a 20 year bond; this eliminates the stress on severance tax and spreads it out over 10 years. The impact was about $700 per company per year. 24% of the monies paid into severance tax while only a 5.7% to the municipalities and counties comes back. There is a large discrepancy in that calculation. The impact we would have on the fund would be 3% per year. The local people liked it and would recommend it. Then Jesse held a meeting in Denver of all the companies, presented same and they all said yes, go forward. Jesse then met with DOLA and presented this idea and Susan Kirkpatrick said she was looking for a pilot project to use the tax credits and this was the perfect pilot project. The energy companies looked at it and then the proposed rules for COGCC were released in January and the fact that Governor Ritter wants to remove the credits on severance tax and when that happened, the energy companies pulled back. In Statute, the industry has to predict severance taxes for 10 years and they have become hesitant saying we can't and won't until those two things are resolved. They are interested but until they see what impact the rule changes and ballot initiatives have on the industry, then they are off the table and possibly till November. With that happening the problem came up. What can we do in the interim? The interim project does not have the roundabouts it will address the widening of the turn radius at the tops of both ramps, north and south. 18 wheelers can barely make turns and get onto the overpass. CDOT came up with the drawing and proposing traffic signals at both tops of the ramps on the south and north sides so that traffic can move. The problem on the overpass trucks with more axels can't get enough turn radiuses to get onto the overpass. Also in the interim fix would be to put a stop light at Cardinal Way and to do that repaving on CR 300 from the bridge to the intersection. CDOT says these fixes will hold us for 5 years until we can get a permanent fix. The temporary interim fix has a price tag of $2.1 million; $200,000 Garfield County, Battlement Mesa Partners another $200,000 plus they've already put in $100,000 in engineering; a developer who wants to develop off Cardinal Way is willing to put in $700,000; then we asked DOLA to help us with $100,000 and they said yes. Bob Knight submitted the request and it was approved by DOLA and we are expecting the grant to be signed tomorrow and this will enable CDOT and us to move forward. CDOT is contributing $200,000 in in-kind services with the traffic signals.
Josh Penry asked for a group perspective and said as he understands it if this is where we want to go then it is merely a band aid and will require a few million for a couple of years' fix. Jesse –Traffic signals will be set back far enough and they will be used from now on. He talked to the energy companies and they have a willingness to participate but this temporary fix doesn't involve them – it is a local fix. In fact Jesse said he got a loud and clear signal that they are willing to do what is necessary and be a partner in the $30 million fix. They realize they have the pressure to bear. DOLA staff cast some doubt, but not Susan Kirkpatrick on the severance tax. Therefore, do we go with the interim fix? Josh said his feeling was if we can't address this impact, then we're not doing what needs to be done for the counties most affected – that's what the severance tax is about. Tresi added that you and your collegues might need to put pressure on the energy companies. Bernie – Knows exactly where Josh is coming from. His feelings are that before November or even before August 16, I think we ought to have serious discussions and put pressure of DOLA and he would much rather do the project in full and no band aid fix. Go for the $50 million. John Martin replied that we must do something now. At a minimal a roundabout will take 3 years to 5 years to accomplish counting the time for

engineering and NEFA. We don't 3 years to wait and something needs to be done immediately. Designing it can compliment what we do in the interim and yes, we continue to push to do the entire project. However, no money is wasted and no energy companies are involved in the interim fix. Weldon Allen – What we're doing, the design is under HDR and agrees - no money wasted. Lights will be going up as soon as possible. Widening of the radius of the turns so they are going to accommodate the large trucks. We will also include in the ultimate build-out more of a phased approach to get to the end result. Al White– $2.1 million for the interim fix and given your summary Weldon, will it be necessary minus some pavement to accomplish the long term fix say maybe $200 to $500 thousand?
Weldon – The radius will have to be reconfigured, lights will not have to be moved. One thing however, I'm somewhat hesitant because we've put up stop signs to allow traffic to move and it didn't work. He hopes we will not see much of the same thing – resistance until people get used to them. Lights at Cardinal way will stay and that loops that traffic.
Zane – Jesse's rundown was great and we did sketch another possibility – 2 roundabouts and the signal light at Cardinal Way. We figured we could do the east Parachute interchange for $32 million and that wouldn't include the interim fix. The west parachute interchange is progressing rapidly and expect a decision of signal impact by late fall; December at the latest then we can move forward with a final design. John Martin - This will be a new interchange approximately two point five (2.5) miles west of the overpass of US 6 & 24. Dale Hancock said we need to start taking care of relieving what's there now and that's the interim fixes. There is rapid growth at the west end as well.
John Martin –Highway 6, that's the old oil shale by-pass that's downtown going west. This will take the pressure off the current interchange. Then, there's the possibility of a bridge over the west and extension of Cardinal Way to make the network more efficiency. It is evident that we need to do something right away. Statute allows for a credit against severance tax liability for contributions to public facilities made by severance taxpayers with new or expanded production. [CRS 39-29-107.5] The Hospital in Meeker worked out an arrangement with DOLA to fix their problems, so it has been used before. DOLA is willing to sit down and talk as well as, according to Josh Penry who personally held conversations with several energy companies prior to this meeting today and they were very agreeable.
Weldon – We can include the west interchange and we need to do both however, that's up to the town and County to help with the $10 to $11 million. He wants to get the interchange safe; that's the first priority. He said he also has a concern that the roundabouts that they may not accommodate 28 wheelers carrying 110 foot of pipes hanging off. Currently you have water trucks, trains, drilling rigs, 5 axles and it goes up to as many as 30 axles so it's hard to see the roundabouts working. If we can get the west interchange at the same time then the longer trucks could exit that way; therefore he suggested the need to look at the two projects.On CR 215 we have 40 foot right of way to get thought there. Bernie asked about the structure on the main bridge at Battlement Mesa. Weldon said this was a viable structure; built in 1983 and the functionally may be low due to the narrowness of the bridge; however it is sufficiently rating high.
Tresi – In the interim for Phase I at the interchange, could we restrict oil and gas to the west interchange? This would restrict the heavy equipment and avoid the regular traffic. Weldon – His observations is that most of the oil and gas traffic goes to Rulison and avoids the interchange and he knows it is a problem. This is a tremendous problem going to Rulison to that interchange and then turn right. Joe Elsen stated that a lot of trucks are using the DeBeque exit. Weldon added there are restricted weight loads on bridges in DeBeque; no oversize loads. The west interchange would feed that west end of Parachute. Ed asked what is the priority, the west or main interchange. Roy McClung - Roundabouts are the priority. Zane – These will be two lane roundabouts and it may take trucks both lanes or we could have a truck apron. Jesse – CDOT went to leading experts on roundabouts and designed these to accommodate 18 wheelers. Al – Where will we get the funding for the west interchange? Weldon – Stated there are no 1601 CDOT funds; he doesn't mind building it but there are no new interchanges because there is no money. Al – You say it will take $50 million to do both. Robert Knight– We will work with the energy companies on the west interchange to by-pass CR 215; that will allow breathing room. Josh suggested we work off a $50 million plan and do it all. Roy McClung – It will take $2.5 on the study on the west interchange. Jesse said he has received 2 figures; $30 and $50 million – %50 to EnCana's gate going south; use the severance tax credits and consider bonding 10 years. Tresi – Do think one of these projects will be compromised if we don't do both. Weldon – There are Federal funds for regional programs and Parachute is not a high priority in the TPR; other needs include Hwy 82, I-70 and Hwy 13 as well as other roads and they share in FY 09. We have seven ($7) million to cover fourteen (14) counties. Jack – Reiterated this is a safety issue and it seems to the federal delegation this would deserve some recognization. John Martin – We need to think outside the box and have partnerships for the larger project however we need to deal with an interim fix today.
Jack – Try to get the federal government involved. John Martin – Part of the federal government such as the BLM and Forest Service in the national public lands component and see if we can put something together.
Jack – What bothers me is that it seems like Governor Ritter is trying to get rid of the severance tax for the western slope but that it not the case. Bernie – Agreed this was not the case; Bernie and Josh have knowledge that there is a Tabor problem but Susan Kirkpatrick still believes this is an important project and would like to enhance it.
Bernie – What can we do? He knows that in doing a major severance tax credit will get some opposition from some other counties. Much of northwest Colorado is happy but here's where it gets dicey. How to approach CCI and CML? Tresi –Suggested we look at the bonding issue? Bernie said he has heard from other counties. Al - Weld County may have a problem. Bernie –We need to have a response to the issues. Al – What's the formula – what percentage of taxes – make accommodations – look at the production in the counties - 50% here and 50% in Weld – look at that – maybe someway to get. Bernie – CCI is against us. Jesse – Russ George could talk to the other counties. Jesse called the energy companies and with two exceptions they were positives and the others are taking a guarded position. Two small players are opposed to it. Bernie said that would be LaPlata and Weld; also Archuletta is against us. Jesse – LaPlata and Archuleta are guarded. Tresi – What kind of impact; can you put an equation together and look at bonding; everyone will have needs and it may be a problem if we use it all up on Parachute. Bernie – We need to be prepared for the arguments. How can we be helpful? Ed – By establishing the linkage with the energy companies and other counties your represent. John Martin - We need to get the cooperation of other counties and money; this will only use 3 – 5 % of the money and the fund will continue to grow. Bernie said projections will help. Dale - The legislative body will be a major player with all the competing projects; this is not a free flowing of resources. John Martin – This severance tax was put in place by DOLA for energy impacts; we meet the impacts; we are one of those who are hammered by energy. This is a major issue – we are a major impacted County and this problem will not go away. Ed – Kathleen Curry said

she considers $10 million from DOLA. Jesse – Behind the bonding, the energy companies would be doing the bonding and raise the money to get these projects done. His figures are 6 months old. The proposal of 3.2% on the fund for 10 years with the companies holding the bonds and paying 1/10 per year – the energy companies reacted positively. Bernie – Let us know how to help. Ed – Kathleen Curry wants a follow-up meeting with the energy companies. Josh – Need a master plan and how to parcel out the grant funds. Show the energy companies how they are benefiting and the county pitch in as well as DOLA. Al – What are the priorities? Tresi – In this County we have a schedule for maintaining county roads and if the energy companies are using the roads then they should see this as a cost of doing business. Part of that in my mind should be covered with taxes by the counties and realize this is a cost of maintaining a quality of life in our budgetary process and, for Parachute and understand the cost of doing business and not just the severance tax. Al – You can anticipate some foot dragging. Josh – County and town on a $50 million dollar project. John Martin – Next meeting. Jesse – Eight (8) companies that use this interchange. We are contracting with Chevron on a twenty seven ($27) million dollar project on County Road 204 with Chevron. Tresi – They realize this is a cost of doing business. Jesse –Showed the slide of the benefits of fixing it now:

- Severance taxes will be paid regardless;
- 50% direct benefit rather that 5.7%;
- You control where severance taxes are used;
- Direct benefit to you in safety;
- Direct benefit to you in community time.

John Martin – meet with the energy companies and see. Al – At the follow up meeting, we need CDOT, legislatures and the energy companies. Dale –There's a lot of companies that are bidding low because they need the work. Therefore this may be a good time for doing this project. Tresi – On what Bernie raised with other counties; if the industry is also putting money into this as a cost of doing business, then everyone may be able to get behind it – the reality is that it wouldn't be necessary without the level of traffic and impacts created by the energy industry. Jesse – How to split up the $30 million; we do need a formula. Also, how to finance the project and the 10 year project of severance taxes. The environment changed in January when the new oil and gas rules were proposed. The energy companies are not saying we're not interested but we can't give you what you want now. Bob Knight – Garfield County and Parachute are working jointly to design build for the west interchange, part and parcel for the Parachute on access to Parachute Blvd and gain access to CR 215. John Martin agreed we need a master plan and we need it in place. Josh – When will we need the number? John Martin – Let's sit down and prioritize and develop a master plan and get the phases in place. Josh – Determine the number; we need to ask the energy companies for their help and then go get it. John Martin – Thirty to fifty ($30 and $50) million. Ed – Do we have the estimate on the overpass? Weldon – Joe's crew can come up with a ballpark figure and phase that as well; each phase will cost X number of dollars. Tresi – We can look at our budget to contribute and Parachute as well. John Martin – Town council and County need to meet and work together. Al – We all need to be on the same page. John Martin – The interim fix; the main project; the boulevard and the other interchange to the west by 2010. We need to get the environmental assessments. Weldon –Right of way acquisitions; 90 degrees to the interstate; put ramps in. Jesse – Suggested we bid this as one project. Weldon – It depends on the company as to whether or not they could do both projects. Joe – We should build the west interchange first otherwise it will create a mess on the east Parachute work. Tresi – Let's come up with sense of what we need the dollar figure to be; then have a package to take to the energy companies. Josh – He has talked with the energy companies and has received a desire of cooperation from them. Weldon – This would be a phased project and we could move forward or put on stall; we can move as we work through with Parachute, CDOT, and the County but get the signals in and do some of those interim fixes. We are stalled to August anyway. Tresi – If the money is in place….. Ed – Go ahead….
Roy McClung doesn't want to stall anything. Weldon – His concern is that if we don't do the west interchange before we do the main interchange then it will stagnate the town. Jesse – Regarding the traffic - 30% of it is heavy trucks and 60% on Hwy 6 are heavy trucks. Josh – The money to do the west interchange is one (1) year away. Joe Elsen - A clearance by fall of 2009 and we could be out there in 2010. The right of way may take up to eleven (11) months to process. Uniform act will give us time to do the appraisal. Weldon – There are certainly challenges to this project.
Al - April 2010 to start on it. This gives us time to talk to the energy companies – clear the landscaping and gas companies will know where they stand with the regulations and severance tax issue. At the next follow up meeting, let's get the phases together as well as the timeline and overall figures. Then we can do a road map. Who will do what? Legislators will talk to other legislators and discussions will go forward with the energy companies. Jesse will take the lead and make contacts and help coordinate but legislators will help with the discussions with the industry. Tresi – Will chat with DOLA on grants; Susan Kirkpatrick at DOLA. Weldon will continue working with the CDOT regions and he is committed and wishes the money was there to do work. This is a band aid to the western slope problem. All highways are in trouble but this is a minor bandaid. There's no funding stream to build Hwy 13 or Hwy 64 and the narrowness of these roads have seen an increase in fatalities by the increase in traffic. He will plead and ask to find a way to help western GARCO; we need dollars.
Public comment:
Mable Sanders from Battlement Mesa said the inefficiency of traffic control from Parachute to Battlement Mesa is horrible. The other day a traffic control girl whom she barely saw her was directing traffic and Mable was rear-ended. She believes there is a contract with CC Enterprises. There's no stop sign and no stalling stop signs but if you would give them some colorful banners that would say warning ahead of time would help. This is ridiculous; these young women directing traffic have their lives in danger. She asked CDOT to look into this. Zane said he will look into that situation. Scott Brynildson – Lived here since 1949 and there was no traffic problem there. The farmers who live on Battlement Mesa are not the problem, it's the oil companies and he is asking the counties and states to do something different; he believes we should ask the oil companies for money. The oil companies are causing this situation but we have to fix it now. There should be legislation to get the money back into this County not just a small percentage. This needs to change and get the money for the oil companies from the severance tax. It's not the growth of Battlement Mesa; we need to get the money and get the project going. Stop the permitting; get them to pay; go to the heart of the problem and get the money. Mable – Even with all this planning there is still a two lane bridge that is narrow going up to Battlement Mesa and that will still be a problem. Joe – The west will remain two lanes but the main fix at Parachute

will be four lanes. John Martin – We will meet with the energy companies. Al – The fix will include everyone here and industry. Another meeting will be arranged with the energy industry and all present today and everyone will be notified.

Attest: Chairman of the Board

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JULY 21, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, July 21, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord and Jean Alberico, Garfield County Clerk and Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

ADRIENNE CROUCH – 162 – 162A

Louis Beutner stated he was a land surveyor for the first part of the conversation and he wanted to advise the Board that after extensive research, he went out in the field and found an 1888 quarter section corner. There was a recent cap sat for that quarter corner that is some 45 feet away. He has advised the Board individually as to where the corner is and at that point we will just let it fly. Don asked who he notified. Louis stated each of the Board members and Commissioner Houpt stated she was not a part of that. Mr. Beuttner stated as a representative of Ms. Crouch, a property owner on Missouri Heights, he is asking the Board what they have resolved on the road encroachment on the southeast corner of her property. Don stated on the road encroachment; we have not resolved anything at this point. Don did talk to Ms. Crouch about a month ago; she called to inquire with similar questions. Don has informed the Board members and Ms. Crouch that he has received no response from the title company we have contracted with. This has been an extensive period of time that has gone by since the request was made. Ms. Crouch and Don have discussed alternatives; they couldn't come up with any local title company that is not involved with Ms. Crouch, her family or adjoining subdivisions over the last several years that might have a conflict of interest. Don re-contacted the current title company and asked that they expedite the matter and still no response. Unfortunately, that is where they are at this point but Don is open to any suggestions as to a non-local title company. Louis feels there is definitely an encroachment. From documents he believes the County is the owner of the road right-of-way. He wants to invite the Board up to the site to visually picture it since it is a little hard to picture from the mapping the Board has already seen. He believes they will be fencing in the property and if the property is fenced in, it may cause conflicts with the County maintaining the road. Don just wants the record to be kept clear; we are discussing encroachment on 162A. Louis stated, no, 162A is encroaching upon the southeast corner and Ms. Crouch's property. Don agreed that was correct; however, that is their view of it as we have plats that show otherwise. Louis stated there are some acquisitions to that effect; because there were certain conditions required of the Henderson Stirling Subdivision, namely the dedication of the road, the building of the road, and as the Board has accepted that subdivision exemption, and they have accepted the fee for that. I think the Board stopped short of claiming the developer to do the corrections. Louis feels the County is now stuck for doing that. Chairman Martin stated that he though they needed to take it under advisement and have a discussion on this item for executive session for legal advice. Don stated he would like to comment on the statement Chairman Martin just made regarding executive session. Don had intended to talk to the Board today about information he received on 162 from the previous surveyor engaged by Ms. Crouch, Frank Harrington. It can be discussed publically since Mr. Beutner is here, or I can reserve for executive session. Chairman Martin asked if this needed to be put on the agenda. Don stated at this point it is really in the way of information to the Board. Don did feel, at this point, he should discuss briefly in executive session and re-agenda this item. Don asked Louis if he could come in August 4. Louis stated he believed so. Don stated he would like to have Louis present and to please make Adrienne aware.

COUNTY MANAGER UPDATE: ED GREEN

BOCC QUARTERLY UPDATE ON OIL & GAS ACTIVITIES – JUDY JORDAN

Judy Jordan provided the update on oil and gas activities stating the northwest study was completed in April. Looks as though the predictions from BBC are basically correct; natural resources development level is expected to continue until about 2015. They are already migrating into Rio Blanco County but we are looking at the same level of development for another seven (7) to eight (8) years. Garfield County will triple in population. Municipalities are preparing for their population to grow but, one of the biggest recommendations was to use it to stimulate more discussions between the various government entities. Judy gave a personal thought; it would be good if industry would be brought in as well. Chairman Martin replied it means revamping the watershed planning folks again. Judy stated Chairman Martin raised a good point; infrastructure was the biggest need pointed to. She thought they were looking at $1.3 billion dollars in investment; the group expected this to be made in order to accommodate the population we see coming. She went on to describe some problems - time for tax base versus when the people arrive. Commissioner Houpt asked her to touch on the hydrogeologic study. Judy - Phase II of the Mamm Creek study; Phase I was completed in 2006 and then we started on the second (2nd) phase last year. There was sampling done of domestic wells as well as some gas wells considered to be close to some places where we got some hits from domestic well water. There was actually thermogenic methane detected. She is still reviewing that report and not prepared to state the final outcome. Commissioner Houpt stated there was a concern about some bubbling and some film in the water on Divide Creek and that is still being tested; but is believed to be organic. What she is wondering is how useful these studies will be in helping follow that footprint of gas that leaked in Phase I; will they be beneficial in helping us understand what kind of occurrences may reoccur as a result of activity. Judy stated that one of things you run into when you start taking samples on a snapshot basis; all you get is the chemistry or the biology that you see at that moment. The truth is things are changing over time. From a scientific

standpoint it is better to look at trends. What we are doing is establishing a base line so we can compare future sampling events. There are some problems with the way we are doing it per Judy. Domestic wells are not the best bases for establishing baseline of water quality for a variety of reasons. They will have to address that in the future. It is a starting point; but as far as bubbling goes, it is easier to look at in the context of trends. There are still distinctions they can make obviously between the biogenic and thermogenic sources and COGCC is working on that; they have the expertise. There is a question whether there is a continuing issue in that particular area. The other items are water for energy needs assessment that the river district is conducting and the USGS water base. Rulison: We have talked about recently, that is really on hold. The resident's reports bear mentioning; we had a good experience in terms of our own staff management of the residents report process. Unfortunately, they were submitted late; date due was April 1 and we started getting residents reports in June. By the time they actually met with DOLA a couple of weeks ago, Garfield County had our whole package together. Everything was submitted on time to them. They did make a number of recommendations to DOLA about how they collect the information. Chairman Martin asked if the Department of Energy stepped forward on their educational process. He has not seen them come forward yet with the "so called plan". Judy stated they have a plan that was drafted; she thinks it is appropriate for them and they were interested in seeing what we came up with. What Judy proposed to them was something that would facilitate the communications and to have a third party come in and actually help the dialogue along; they are interested in that. The other thing; DOE wanted to have everyone at the table, COGCC as well. Ed asked if employee levels were rising at all. Judy stated EnCana's numbers went up this year significantly. Ed said the reason he asked was because the housing in Rifle still seems flat; you wonder where they are moving. Commissioner Houpt replied; well they are not. We have received a lot of applications for temporary housing camps. Judy stated it is true we have seen a number of man camps show up. She feels it is an interesting question for the residents report and doesn't know how they will deal with those quite yet. Chairman Martin said he saw an increase of van and bus service coming in from the Grand Junction area. That might be one of the issues; they are busing them. Commissioner Houpt asked if our records were accurate for population. Judy stated at the northwest report, it was a debate around the table because we did have representation from all the different counties. Grand Junction and Mesa thought their numbers were going to be higher than what the BBC projected. Commissioner McCown stated that given the past history, Mesa and Garfield Counties will end up carrying the brunt of Rio Blanco County's growth. Judy said they acknowledge that and they feel they can't absorb much growth. The only other thing was to clarify the work she did to try to understand the Series 1200 proposal from the COGCC Regulations. Judy said she did get it wrong in her first report to you. Originally she had not taken into account the fact that the proposed regulations talk about well sites as opposed to wells. So when she recalculated the density it looks as though, if you look on a gross density basis and you look at mule deer, winter range however, she did not look at all the species, but mule deer winter range overlapped to a large extent with the elk habitat; it is considered sensitive and subject to timing restrictions. It looked like the zone for mule deer was 250,000 acres and there is about 1.6 million acres outside of that zone. On a gross density basis you would get about one (1) well pad per 3,400 acres right now. That is the number of well pads based on her averaging of about twelve (12) wells per pad.
Commissioner Houpt asked if she could stop her for a moment and asked Don if he was going to supply this to the COGCC. She felt if she was hearing this information she thinks their maybe conflict. Don said he is not planning on it and the Board had not directed him to do so. Commissioner McCown stated it is being presented right now.
Don felt anything that Commissioner Houpt is hearing would be incorporated information from this County to COGGC; unless the Board wishes to change their direction. Commissioner Houpt asked what this information will be used for and Judy stated it is just the monthly report. Commissioner McCown asked if the acreage included federal land and Judy stated it was everything in the County. Don and the Commissioners informed Commissioner Houpt she would not need to recuse herself because there is no direction from the Board to submit this on behalf of Garfield County. Chairman Martin stated they need to make sure on the 250,000 acres how much is actually federal land.
Judy stated she would look at that.

RELEASE OF BOND FOR WINDSOR ENERGY GROUP LLC – MIKE VANDER POL

Mike Vander Pol submitted the letter of request to have the bond released for Windsor Energy Group and its affiliate Windsor Castle Springs, LLC as they have sold their interests in the releases for which the bond was obtained.
Commissioner McCown – I make a motion we approve the release of the Windsor Castle Springs, LLC and Windsor Energy Group bond. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

WASTE DIVERSION PLAN THAT SUPPORTS DEVELOPMENT OF A RECYCLING AND COMPOSTING PROGRAM AT THE WEST GARFIELD COUNTY LANDFILL – MARVIN STEPHENS, TIM ARNETT AND KRAIG KUBERRY

On May 21 a meeting was held at the Road and Bridge shop to discuss various means of recycling and compositing. The newest cell completed in 2007 and usage that started in February of this year is already 30% filled and the landfill will have to build a new pit in 2009. LBA Associates proposal was included in the Board packet. The proposal and plan is to evaluate the current and future potential for diverting wastes in the unincorporated County; a range of potential new facilities and supporting policies to cost-effectively manage diverted wastes; conceptual facility design criteria; conceptual capital and operations costs; and an implementation strategy that allows the County to phase in program components over the next few months and years. The recommendation is to award Professional Services Contract to LBA Associates to provide a Waste Diversion Plan at a cost of $27,000. Marvin stated they want to further their recycling at the landfill and have had meetings trying to learn how to do that. Commissioner Houpt said something that is important that was not in Marvin's report, the increase in tonnage you are receiving at the landfill. If you look at the projections of the life of that landfill, as projected ten (10) years ago or five (5) years ago, it is probably significantly different than it is today. Her question to Marvin is whether this is driving part of that; as well as being responsible government with consumable items. Marvin stated it is driving part of it and there is an increase coming into the landfill every month. Chairman Martin stated that he though they were also keeping track of how much is generated outside of Garfield County; orders coming in has also driven that demand and landfill tonnage. Commissioner Houpt stated as she looked at the proposal it occurred to her; under task one (1), all the municipalities should be interviewed; not just a couple. Regionally Pitkin and Eagle have always impacted activity in Garfield County as well. Pitkin and Eagle have received a lot of construction waste, or other types of recyclables, or compostable from Garfield County in

the past. So it might be good for the consultant to also look at the relationship; not just between South Canyon and our landfill, but those other landfills as well. I make a motion we award a professional service contract to LBA Associates to provide a waste diversion plan for our Garfield County landfill at a cost of $27,000.00. Commissioner McCown – Second. Asked if the cost of implementing this plan will be a part of this bid and are they going to tell us how much it will cost to do what they tell us. Tim stated there will be a breakdown and you can go as far as you want to go.
In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR ADDITIONAL EMPLOYEES WEST GARFIELD COUNTY LANDFILL– KRAIG KUBERRY

Kraig presented the request for additional employees stating that the landfill was unfortunate to loose the Rifle Correctional Crew; which provided the landfill with up to six (6) laborers a day. Due to this lack of help, and the facts that landfill traffic and tonnage has increased dramatically, due to the natural gas activity and population growth in the area, it has been necessary for an increase in staff. Kraig stated their people are overwhelmed with trash at the landfill and they can't keep up. We figured out from June last year to June of this year; we increased 53%. Kraig said he would like to ask for three (3) additional employees. Commissioner Houpt asked what their function would be.
Kraig stated they would start out as laborers and eventually break them into equipment. Marvin stated a lot of the loads that come in, are from oil and gas and construction businesses, and they put everything into one (1) big pile and then we have to sort it all out. Very time consuming. Commissioner Houpt – I certainly support this; do we need to, Ed, have something more finalized with the salary breakdown and benefits. Ed stated they could; but the bottom line is we have the money. We can definitely absorb that as a part of the landfill. As you also have been discussing; we have a dramatic increase of revenue at the landfill. Don asked if this will be funded out of the landfill fund and Marvin stated yes. Don then asked if it would require a budget amendment. Ed and Marvin stated it probably would. So it will be coming back.
Commissioner Houpt – I make a motion we approve the request for three (3) laborers at the landfill effective immediately with a budget request coming to us. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Marvin wanted to give updates on some projects. About two (2) weeks ago there was an oil shortage and Marvin wasn't sure if they would be able to complete all of their paving projects. They will be able to complete them with some increase in costs; oil and gas is fixing the roads for them, which they tore up. They have one project to complete.

MEMBERSHIP APPLICATION FOR THE HUMAN SERVICES COMMISSION

Alice Sundeen submitted her application to request her appointment to the Human Services Commission representing Valley View Hospital. Alice is currently the public relations officer for the hospital.
Commissioner Houpt – I make a motion we approve the appointment of Alice Sundeen as a general member position on the commission. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

DISCUSSION/APPROVAL OF AMENDMENTS TO JESSE SMITH'S CONTRACT

Ed would like to extend Jesse's contract to assist in future endeavors relating to the Parachute Interchange Project. Ed is asking for permission to extend to probably the end of September and Chairman Martin stated yes, that was the time line. Ed said Jeff Nelson will take over in September and doesn't think there will be a need for increasing the dollars. If there is he will bring it back. Commissioner McCown – I make a motion we extend Jesse Smith's service contract until September 30, 2008. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Carolyn stated this is a second amendment to Jesse's contract. She will work with Ed, making sure the scope of services is correct for what he is doing now. She asked if they wanted her to put this on the consent agenda for the first week of August. Chairman Martin stated yes.

2003 RESOLUTION

Ed referred to the Commissioners packet and stated this topic is regarding a resolution prepared in 2003; there are also excerpts from the Financial Management Guide and the Procurement Manual attached. The issue that has arisen is when Jesse was here he acted when I was gone in signing contractual documents and financial documents. Ed has been out of the office recently and made Dale Hancock the acting signor for that purpose. Georgia Chamberlain brought up a good point; these documents are written in a way that allows the assistant County Manager to sign for Ed, but not Dale in his capacity as Director of General Services. Ed would like to have the Commissioners designate Dale Hancock so he can act as Assistant County Manager strictly for the purposes of signing these procurements and financial documents while Ed is away. Commissioner McCown – So moved. Commissioner Houpt – Second.
Don stated one point, he and Ed have talked about this; in the past we normally have designated positions rather than individuals. He suggests they do the Operations Director; which is Dale's official title, which now it is General Services Director. Commission McCown stated he may not wish to authorize that position to sign if there is a new person in that position. I am giving my vote to a specific person. Commissioner McCown doesn't know who might fill that position if Dale leaves and he may not feel comfortable with a new person having that responsibility. He is perfectly comfortable making that an as an individual who is authorized to sign. Commissioner Houpt said then we don't have anyone authorized if Dale leaves. Commissioner McCown stated we will have to take action at that time to authorize someone. In favor: McCown – aye Martin – aye Opposed: Houpt – aye
Georgia Chamberlain said she agreed with Larry right now to specifically appoint Dale rather than the position because she thinks there are so many documents that need to be changed, as far as procurement, the financial and she thinks it needs to be done in a thoughtful and orderly manner. Right now there are two (2) issues; signing vouchers, which tells the finance department to issue a warrant and then it will come before the Board. Then the other is to okay those warrants and tell the Treasurers Office to release the funds immediately with a wire. In the last couple of months it has been ambiguous who is supposed to be signing what; but there is one, Ed assigns the authority to Dale to sign the voucher, and the other is the Board who has assigned the authority already to Ed to sign on your behalf. If Dale's title description changes every year then Georgia just wants to make sure they are taking direction from the right people.

COUNTY FAIR

Ed received word from the Rifle Chamber of Commerce that they have selected all of the County employees as Grand Marshals for the parade. Ed met with a group of folks to develop their approach to that. The Rifle Chamber will supply us with a vehicle, a convertible, and he needs to know how many Commissioners want to participate as the folks who

are riding in that vehicle. They also want to have Bert Garlitz honored as a person riding in that vehicle because he is the longest standing employee for the County of about 45 years of continuous employment. Commissioner Houpt will be there and Chairman Martin will be there walking, and Commissioner McCown will check on his commitments.
Ed stated all employees are welcome to participate; show up at 8:00 a.m., the parade starts at 10:00 a.m. and lasts until 11:00 a.m. Any non-exempts will be paid for three (3) hours. All participants will receive a coupon for a free meal at the Air Fair. Lou's folks will be the flag bearers for the American, State and County flag and they will be at the front.

AIR FAIR PYROTECHNIC SHOW

Commissioner Houpt brought up the pyrotechnic show; at the last meeting she had made the motion to approve this show. After she saw the poster she stated she wanted to make a motion to reconsider approval of the pyrotechnics display at the Air Fair. Chairman Martin – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt stated she thinks as a County we are faced with high fire danger and it is insensitive to have this type of display in the middle of August when people are holding their breath on a daily basis; is there going to be a wild fire in their backyard. She just can't support that type of display in Garfield County during fire season.
Commissioner McCown asks to have Brian explain in more detail; preparation and safety precautions. He did check with the Town of Rifle and they did have their fireworks on the 4th of July. Before he votes on this he would like Brian let him know, procedure, precautions, and where it is located at the airport. Commissioner Houpt stated for clarification, I'm not suggesting Brian did not look at this and make sure it would be safe. She thinks for her it is a perception issue.
Brian Condie explained all the details as he had done at the last meeting, July 7. Commissioner Houpt stated that she appreciated all of the homework Brian has done; but still doesn't think it is appropriate show for us to bring in, in the middle of fire season. I'm going to make a motion that we deny approval of having this show come to the Air Fair.
Commissioner McCown – Second, for discussion. I guess I don't share the perception concerns; it is what it is. It's an air show; we are not making a statement by lighting a fire. The town did have a fireworks display under a specific environment, so I don't think we are making a rash statement to our citizens by allowing this to continue. It is professionally done and I would be supporting it. Commissioner Houpt sees a huge difference between fireworks and a wall of fire. In favor: Houpt – aye Opposed- McCown – aye Opposed- Martin – aye
Commissioner McCown – I make a motion we move forward with the described wall of fire air show. Chairman Martin – Second. In favor: McCown – aye Martin – aye Opposed: Houpt – aye

COUNTY SHERIFF UPDATE: LOU VALLARIO
FURTHER DISCUSSION REGARDING A "CONTINGENT EMERGENCY FIRE FUND"

Lou Vallario was present to discuss the 2008 Sheriff's Office Fire Suppression Contingency Budget.
As a follow-up Lou said at the BOCC meeting dated July 10, 2007 regarding the Garfield County Wildfire Annual Operation Plan 2007, the recommendation was for a $500,000.00 contingency budget to be set up in the contingency department in the general fund. A separate budget line item will be set up in the contingency emergency funds to track this contingency separately. This information was taken from the July 10, 2007 BOCC Minutes.
With respect to the minutes, Lou submitted a supplemental budget request for FY 2008 for $500,000.00.
Another document for a budget line transfer to reallocate funds from the Sheriff's budget for $5,400.00 was also submitted. Lou just wanted to clarify that the Board wants a contingency fund for fires. Commissioner McCown stated given the size of most of the bills; they are going to require BOCC approval, do we want this under our budget or under Lou's? Chairman Martin stated Lou would come forward with the bill and state what we need out of the contingency fund. Commissioner McCown stated they still need an IGA with the all of the fire departments that is going to confirm they are going to pay 50% of this; otherwise it will be like the senior programs. Lou said at the last meeting with the fire chiefs, again the philosophical disagreement with having to pay, I think the fire boards will still moving forward and say let's do this as a stop gap until we can further that discussion. Commissioner McCown asked; just as an issue where do we establish the fund? Don feels there are a couple of ways to approach this. If we establish a statutory fund, the way we have with others, we would in a resolution set out the conditions under which money could be expended and identify the source of funds. Don assumes it would be the general fund and then identify the method by which monies can be expended out of that fund. One of his concerns and his perception is many times if not most, bills have already been incurred by the time they come to the Board. It puts Lou and perhaps even the Board, in a difficult position if you are saying you want authority over anything exceeding $10,000.00. In this case the bills would be after the fact and my suggestion would be to set up fairly tight conditions in the resolution, but authorize Lou to expend the funds so long as it is within the conditions. The annual audit will demonstrate if Lou is or isn't complying with the terms of the resolution. Don suggests that Lou be authorized to spend the funds; the notification he thinks is a great idea.
Lou stated he has a fire suppression budget but we never fund that because it could be money in and money out.
Commissioner McCown – I make a motion we establish a $500,000.00 contingency fund under the sheriff's budget for fire suppression. Commissioner Houpt – Second. Don said the only other question; you do not, he is assuming from the motion and discussion, want to establish a different type of statutory fire fighting fund that would have its own mill levy. Commissioner McCown stated that is true. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF THE RESOLUTION REGARDING BOOKING FEES

Lou Vallario submitted the Resolution for implementation of a booking fee at the Garfield County Jail not to exceed $30.00, which shall be collected from the prisoner at the time of commitment, but shall be refunded to any prisoner who is not convicted. Therefore; these funds would be collected to directly offset the increasing administrative and personnel resources. The booking fee would be charged for committing and discharging convicted prisoners to and from the County jail. This resolution will also increase the booking fee on all new intakes at the jail.
Commissioner Houpt – I make a motion we approve the resolution on implementing a booking fee at the Garfield County Jail. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION REGARDING REPLACING VEHICLES

Lou Vallario submitted a request to Lou would like to maintain one (1) of their older F150's that was scheduled for roll-out basically for an administrative vehicle. Basically, I want to replace the current F150 we have and a new one; maintain that one and trade out the older one from search and rescue. Commissioner McCown restated; you are going to dump the search and rescue vehicle, take one of the ones that was to be rolled out and keep another one, so you are taking two (2) out of the motor pool?

Lou stated no, the old one we have is an old motor pool vehicle that had been replaced in the last couple of years with newer vehicles. We want to roll that one out, sell it, or trade it; whatever, and then take one of the F150's that would be scheduled to be replaced because of the three year mark and use one of our better older ones.
Commissioner McCown asked if the other one would be sold at salvage and Marvin stated yes, at the auction. Commissioner McCown stated he didn't believe it would take a motion. Chairman Martin agreed it could be done administratively.

DISCUSSION REGARDING WAGE ADJUSTMENTS FOR INCREASING COST OF LIVING IN GARFIELD COUNTY

Lou Vallario submitted a request to adjust wages for the cost of living expenses in Garfield County. Lou stated as everyone knows, Garfield County is approaching cost of living limitations. Bottom line is; Lou is having a hard time not only hiring people; but retaining people. He has lost two or three good deputies because they can't afford to live here. Lou has some employees who live in Grand Junction; probably a wise decision at one time, but with $5.00 a gallon for gas, it's making an impact and they are looking at applying at Mesa County. Lou did a quick salary comparison; Garfield County starts their deputies at $18.77 per hour. Eagle County is starting at $24.71, Mesa County - $21.81 and $23.55 respectively and Glenwood Springs Police Department is at $21.62 per hour. Garfield County is anywhere from $3.00 to $5.00 and hour below the people that we are directly competing with. Bottom line is we are still down in our jail staff almost 30%. Lou feels this is part of the problem and he has never been one to say it's all about money; but we can't attract people in, he can't keep deputies that are trained. That is an expense to the County that he wants to try and avoid. It is expensive to train, outfit and then they leave in a year or two. Lou is just throwing this out for discussion, looking at creative ideas, something within the budget; Katherine plans on doing another salary survey in 2009, just don't know if we can wait that long to try and resolve the problem. Lou stated we need to be competitive in this market as they are losing good employees and it really is now down to dollars and cents. Commissioner Houpt asked if Lou would work with Katherine but Lou mentioned the cost of training and outfitting people, most departments have the issue of training. She would like to see what the cost of doing that is in comparison to increasing wages to the level you think you need to have them to be competitive. Lou stated he could throw out a rough number on a sworn deputy and if you include the first year of costs, which is all the equipment, vehicles; it is running about $136,000.00 and then it drops down to $110,000.00 maybe $90,000.00 something over the course of the year. If you look at the cost of the detention deputy - $100,000.00. Commissioner Houpt asked if Lou could put something on paper to help us get a clear understanding for wage proposals coming forward. She thinks they do have to look at the cost of re-hiring and training and we have talked about this in the past. Commissioner McCown stated that on a replacement you still have the capital, your vehicle is there, and your gun is there. Lou stated that training is a sixteen (16) week program; that's sixteen (16) weeks for a training officers wages, new trainees wages, however in the jail it is a little less and they have streamlined some of that. But he thinks it is about twelve (12) weeks and there is a lot of cost associated to that. Lou is hearing for the first time that it really is a competitive wage market.

RETIREMENT – JIM SEARS

Jim Sears, emergency operation commander, is retiring. They are having a potluck tomorrow; 11:30 a.m. and everyone is welcome to attend.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don would like to make inquiry of the Board; he does not have a particular need to have executive session or to provide legal advice on this issue. Everything is already in your public discussion packet. If the Board or any members of the Board wish to have legal advice on the issue concerning the expansion of Mid-Valley Metropolitan District; then we will do that first.

DISCUSSION/DIRECTION RE: 6/24/08 LETTER FROM MID-VALLEY METROPOLITAN DISTRICT'S - ATTORNEY LEE LEAVENWORTH AND BILL REYNOLDS

Don DeFord reported that in preparation for your meeting with Lee Leavenworth, counsel for the Mid-Valley Metropolitan District today, he had reviewed the files of the Clerk & Recorder, the County Attorney's Office and selected documents from the Building and Planning Department concerning previous requests to expand Mid-Valley Metropolitan District into Garfield County. I have attached documents to this transmittal letter that appear to bear directly on the question of "material modification of the service plan". I have not included all the documents obtained from each department. These documents are submitted to assist the Board in its consideration of Mid-Valley Metropolitan District's request to allow expansion to service TCI Lane Ranch without the need for a full public hearing and formal approval by the BOCC for such expansion. The substance of the Mid-Valley Metropolitan District request is set forth in the June 24, 2008 correspondence of Mr. Leavenworth to Mr. Jarman, a copy of which is also attached to this letter for your reference. The initial document in this packet relates to a 1994 request to expand service to "Arnold Meadows". In that correspondence, Mr. Leavenworth specifically represents that the decision on "material modification" will not be binding on the BOCC regarding future additional expansions and further, at the time of that request, the District Board of Directors had no intent to extend boundaries in Garfield County beyond "Arnold Meadows". Subsequent correspondence was received in 1997 relating to a more substantial expansion. In his May 1, 1997 letter, Mr. Leavenworth specifically references the "Dakota property" in which a finding of no material modification was rendered by both Eagle and Garfield County. However, Mr. Leavenworth also notes that both counties indicated any further expansion would be considered a material modification. Attached to Mr. Leavenworth's correspondence is a very useful map showing the then current boundaries of the Mid-Valley Metropolitan District, as well as Dakota and Cerise Ranches which were subsequently served by the District. The map and correspondence indicates that the Metropolitan District was seeking a position from Garfield County concerning expansion into the entire area between El Jebel and Carbondale. Ultimately, this larger expansion issue came before the Board at a noticed public hearing on July 7, 1999. From the Clerk's office, I am providing a copy of the minutes of that meeting, together with the exhibits still maintained in that office and provided to the County Attorney. You will note from the minutes and the Resolution that the requested expansion was unanimously denied by the Garfield County Board of County Commissioners. The basis for that position is set forth in the minutes. Finally, in 2003, Mr. Leavenworth submitted another request for a smaller incremental expansion of Mid-Valley Metropolitan District into Garfield County. That

request related to Cerise Ranch. The basis for avoiding a public hearing and a finding of no material modification of the service plan appears to be based on the need for a quick decision to provide central sewer as opposed to individual sewage treatment systems to that subdivision. The subdivision had already been approved with ISDS systems. Mr. Leavenworth's office represented that there was insufficient time for the Board to conduct a public hearing to fully consider the issue of material modification (see page 3 correspondence of Nicole Garrimone). In summary, through numerous requests, three times the Board of County Commissioners has approved incremental expansion of the Mid-Valley Metropolitan District based on representations that no further expansion would take place and that such approval set no precedent for subsequent expansion requests. On the one occasion in which an overall plan was considered for the general area between Carbondale and El Jebel, expansion was rejected. The current request would be the fourth (4th) incremental request to expand the District along the Highway 82 corridor. Lee – Spoke about when the district was formed in 1982 by the approval of a service plan by the Board of County Commissioners in Eagle County. The plan contemplated that the district would provide centralized water and sewer service in the Mid Valley area. They have recently received approval to expand the plant to one million gallons a day and, as the Board is aware, at one point they came to the Board and said; we have the Dakota Subdivision partly in Eagle County, partly in Garfield County; is it okay if we serve them and the Board agreed. They also agreed at that time that a service plan amendment was not required. Similarly, Cerise ranch was approved following an effort by the district to build a regional plant down valley and serve the entire valley floor, which turned into a disaster. As a result Cerise Ranch was approved on ISDS; they came to us and said we really would rather have service from you and the Board agreed we could provide the service. We agreed each time; any further service in Garfield County would require your approval. We have received a request from TCI Lane to provide service to them. We are here to ask whether you agree with me that this is not a material modification of our service plan, requiring a service plan amendment. He feels there are three options: 1), let us provide that service with the expressed understanding that no further service would be provided in Garfield County without us coming back to you again; 2) you could require us to do a service plan amendment, which would involve us preparing a service plan amendment and holding a public hearing on that amendment; or 3) you could tell us no and they could do a package plant like Blue Creek Ranch did. We are willing to provide service down there; we have the capacity and it would involve a lift station and pump back to our current plant. Don stated from the prespective of his office regarding most of Lee's comments that Don agrees with those statements. There is a slight difference on the last point, he doesn't know if this Board today could not say "you can't expand". Your options today are to say this does not require a public hearing and is not a material modification, and accept the representation that any future expansions would be given the opportunity as Lee explained; or to require they file a service plan amendment and conduct a full public hearing. You have the history in your packets and I do not know if there is a hard and fast answer as to whether or not this is a material modification. This has come in front of the Board several times, not just with Mid Valley; but with others and the statute is not real clear on what happens when the boundaries are expanded. It is clear in that the boundary expansion itself is not a material modification; but if that expansion entails the construction of capital facilities and expenditure of district funds, then he thinks it is an open question and the Board could require a hearing. Commissioner Houpt stated she would like to hear from Fred. Fred Jarman asked them to look at a map in the packet, showing where the district boundaries appear showing, at least in this exhibit, it encompasses Dakota. The lightening rod issue is one of the reasons that we have contemplated in the planning office, on the extension of a service well into the lower Roaring Fork Valley floor down to Catherine's Store ultimately. Lee is correct; you do have a private package plant with Blue Creek; there is a Catch 22 going on here because, the County in one sense has approved by way of the comprehensive plan changes, higher densities that could accommodate or be better served by central services. TCI Ranch being one of those; the planning commission has now approved the high designation on them. The question is; if you build it will they come by extending central services down that whole corridor. The question he has as he is looking at this; the boundaries themselves, by extending the boundaries, are you providing service to Cerise outside of your boundary or has the boundary been amended to include Cerise. Would you do the same thing if you went to TCI, how would you draw that map? Lee stated they would be required to file a petition for inclusion just like Cerise Ranch did. He wanted to make one thing very clear; if you allow us to serve TCI; we would size the lift the station solely for that project. It would obviously be expandable to serve other areas; but it makes no economic sense to serve with central sewer. My board has no interest in becoming a land use lightening rod again, and frankly we probably would not file a service plan if we are required to do so. Bill stated they do see a lot of value in providing centralized water and sewer and protecting the water. Commissioner Houpt stated this is a very difficult discussion because, the point Fred raised about making sure we are not having a district drive the development instead of the comprehensive plan she things is very important. We have hit a point in this County where we really need to update the comprehensive plan and make sure that we know where we want to go with the rest of the valley floor. If you look through this stack of documents and the history of how the district has grown, it's been in a piecemeal way and that is not consistent with the comprehensive plan; but that's where you are because of what you are referring to as a lightening rod discussion.
Lee stated we are in a Catch 22. We are in the business of providing water and sewage and we are prepared to do that for this subdivision. Commissioner Houpt - This is a subdivision that has come in front of the planning commission and we don't even know today whether that is going to be a reality or not. That is not even part of the discussion today; the discussion is how do you as a district move forward. Not with a specific application, but if you want to move through this valley are we going to do that in a manner that has more planning attached to it, so that we know that you fit into the grand scheme of things. Lee stated, what you are asking for today is a determination of whether it is us providing service to TCI constitutes a material modification in our service plan. That is all we are asking. If you want us to do a service plan; we probably won't and we will probably never provide service farther into Garfield County.
Commissioner Houpt - This is a very definite answer; you're not saying they would never do that. What if we went through another comprehensive plan and you fit well into that because you were at the table. Lee said they would consider coming back at that point; but we are not going to do a service plan in advance of your revising the comprehensive plan. We can't do a service plan that makes any sense given your current comp plan densities.
Commissioner Houpt said she was uncomfortable making a determination of whether one (1) application is required or not for a land use application that hasn't even been in front of this Board. She doesn't know the density, doesn't know if she would agree with the density, she doesn't know if she would find that it would be material to the discussion, and

require a formal application. How can she answer those questions when she doesn't have that in front of her? Commissioner McCown stated; the one thing you have to answer is, without adequate water or sewer, they could not come before this Board. By that single fact, you are disapproving that. Commissioner Houpt stated on the flip side what am I approving by saying, sure you can just keep rolling on down. Commissioner McCown stated they would have access to this service. There is no guarantee to approval, if approved they would have access to the service. Chairman Martin stated it has to go through the public hearing process. These folks are just saying we can serve, we will serve, but it will have a capital cost to us. Commissioner Houpt stated we don't have details on what infrastructure this would have to be placed in. Chairman Martin stated that is Larry's point; this is a letter they can and will serve if necessary, if it is approved. Commissioner Houpt said she thinks the question is; how much infrastructure do you allow to be placed before it actually becomes, by default, a plan for the entire valley floor. You have so many infrastructures in place, you really could provide for high density throughout the valley. If they are putting a new lift station in, does that drive the comprehensive plan? Lee stated there was another development that came in for an amendment that was denied. We were willing to serve them, if you had approved it - you did not. The capital infrastructure that would be constructed is part of this project; it will come before you as part of their submittal. You will be able to see exactly what we will be building and it will be dedicated to the district. Bill stated the capital improvements we are talking about are not astronomical. We are not talking about expanding our waste water treatment plant to service this particular project. Don stated that Lee is looking for a determination that the proposal in front of you is not material modification of the service plan. As the Board you need to take action one way or the other on that request.
Commissioner McCown – I make a motion we accept the offer of service from Mid-Valley Metro District and not be deemed as a material modification of the service plan given the testimony today; it is solely for this one land use activity and any further service that would be granted would require further hearing and/or an amendment to the service plan.
Commissioner Houpt – Second. I am having a problem with this because I do not agree with how they have rolled through this without really having a great plan for the valley floor. I don't believe it was the districts fault. Yet, they are in a difficult position because we don't have an updated comprehensive plan; I hope when the process is started they will be at the table. Lee stated they will not come further down valley until the comprehensive plan is done.
In favor: Houpt – aye McCown – aye Martin – aye

EXECUTIVE SESSION

Don DeFord stated he has two (2) items listed on the agenda that he would like to have an executive session discussion and provide legal advice to the Board; items 3B and C before you proceed with public action.
Commissioner McCown – I make a motion we go into executive session.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Chairman Martin asked to have a motion to come out of executive session.
Commissioner McCown – So moved. Commissioner Houpt – Second. Motion carried. Don stated he would like to discuss items 3B and 3C and he would like Matt Anderson and Jeff Nelson to come forward.

DISCUSSION/APPROVAL – COUNTY ROAD 204 – AWARD CONTRACT FOR STORM DRAINAGE AND UTILITY RELOCATION

Matt Anderson and Jeff Nelson presented the recommendation to award, if decided by the Board, contracts separately for County Road 204, then the contract to American Civil Constructors is in a not to exceed amount of $1,894,091.00. If recent events concerning right-of-ways, easements, and other legal issues prevent an award at this time, it is recommended that the Board reject all proposals and that this project be included with the County Road 204 Reconstruction Project. Don stated at this point it is his recommendation that the Board reject all bids on this. After speaking with Matt and Jeff you will understand why my recommendation is not to go forward. Matt stated he was not sure how much information he wanted to divulge on the bids; however, as they discussed on various legal issues, right-of-way issues, and project completion with agreements that is what they are asking whether or not they will go forward. Don asked Matt if we received bids that were within the engineers projected estimates. Matt answered yes we did. They were considerably lower than what the estimates were. They were very good bids; it was very competitive. He stated they had eliminated three of the bidders from the competitive range and we held discussions with two of them, and at this point we were ready to make an award. Commissioner Houpt stated you also need to know this document is public. Matt stated based on that our award was going to go to America Civil Constructors. They had a great price, they had a very well established team, they had a great schedule and it would have worked out well. Don stated the reason he is recommending you reject all this, in spite of what Matt has said about the quality of the bids received is because we have been unable to achieve acquisition of right-of-way and amendment to the JPA in a manner that would allow us to assure the potential contractor that they have the right to go forward. What occurred on this; the joint participation agreement (JPA) with Chevron anticipated that we would move forward with one single construction project. That project was split into two components shortly after the JPA was signed in order to try and expedite the construction of storm drains and utilities and move forward under the DOLA Grant. As a result of that, that required we try to get the anticipated storm drainage and utility easements that had to be acquired from Chevron in place. It also required amending the JPA to account for a different method of achieving a project estimate for the total project. We have been working on that but, unable to accomplish that in a time frame that would allow Matt and Jeff to go forward. It needs to start as soon as possible; hoping to start tomorrow and if not very shortly thereafter. It had to get started quickly in order to avoid conflicts later in the fall with the primary contractor. It is my recommendation that we fall back to the original concept of the JPA even though we have bids that would have allowed us to go forward with this. It will require some re-structuring of the JPA; he anticipates no more than a month delay. Commissioner McCown – I make a motion we deny the award of the utility and storm drainage re-location due to timing restraints on receiving adequate right-of-way and the amendment to the JPA and, this be rolled into the primary project and all bid at one time.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION – COUNTY ROAD 204 – STATUS OF JPA

Matt Anderson and Jeff Nelson provided the status of the JPA with Chevron to re-construct County Road 204.
Matt included in his memorandum the following: the drainage and utility contract proposals have been sent out and are ready for award. However, right-of-way issues have surfaced and may prevent construction from starting on the dates needed to provide the value initially intended from soliciting the drainage and utilities before the re-construction.

The County Road 204 Reconstruction Project has been solicited and the pre-bid meeting has taken place. The bids are due on July 31, 2008. At the pre-bid the notion of a borrow site, excess materials, and water sites were brought up. These issues could have a major impact on the overall value of the project as well as additional right-of-way issues. In light of the construction dates being pushed back on the drainage portion, it would be best to amend the current solicitation to include the drainage and utilities. Suggested target dates include:
Target amend date: 31-July-2008; Target bid due date: 21-August-2008; Target project estimate date: 2-September-2008; Target notice to proceed date: 25-September-2008
Don stated we have just updated you on part of this and the other part of it is the current time schedule should be confirmed, hopefully, by your first meeting in August through amendment to the JPA; it moves the project estimate date back from September 2 to October 2. Jeff has indicated if we could do that we would like to proceed; hopefully with a notice to proceed by October 22, to start construction of this project; but we should know by October 2.
Commissioner McCown asked if any action was needed and Don stated no.

COUNTY ROAD 335 – NEW CASTLE

Don said he has been contacted by the town attorney for New Castle indicating there is a very short portion of County Road 335 that lies roughly from the area of where the overpass at New Castle lands on the south side of the river extending west for a few hundred feet that remain in un-incorporated Garfield County; it then reconnects to the city streets on the west. They would like the County to move forward, accomplish the necessary survey of that right-of-way and petition for annexation. At this juncture, the town attorney has represented to me they are seeking no other concessions; they simply want us to carry the annexation over.
Commissioner Houpt asked Don if he needed a motion and he stated yes. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Sales Tax Recovery Grant
f. Authorize the Chairman to sign the Final Plat and Subdivision Improvements Agreement for the Pioneer Glen Subdivision located south of the Town of Parachute. Applicant is Specialty Restaurants Corporation. – David Pesnichak
g. Authorize the Chairman to sign a Resolution approving the Exemption from Subdivision for a 41.85 acre property located at 31145 State Highway 6 & 24 known as the Ziegler Exemption. Applicant is Peregrine 08 Investments, LLC. – Kathy Eastley
h. Authorize the Chairman to sign a Conditional Use Permit allowing for a home occupation at 1215 CR 115. Applicants are Charles Knuth and Heidi McGuire – Kathy Eastley
i. Authorize the Chairman to sign a resolution approving a text amendment to the Garfield County Zoning Resolution, as amended for Sections 9.07.04(11) and 9.07.07(2). Applicant is EnCana Oil & Gas (USA), Inc. – Kathy Eastley
j. Authorize the Chairman to sign the Grand Hogback Exemption Plat. Applicant is Grand Hogback, LLC – Craig Richardson
k. Authorize the Chairman to sign the Nieslanik Exemption Plat. Applicants are Paul and Celia Nieslanik – Craig Richardson
l. Authorize the Chairman to sign the Resolution of Approval and Special Use Permit allowing a Contractors Yard in the Agricultural Industrial zone district. Applicant is Guy Middleton – Craig Richardson

Carolyn would like to discuss an item individually; under d.
Commissioner McCown – I make a motion we approve the consent agenda absent item d. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
Carolyn stated this letter of credit is slightly different from their standard. It allows for drafts to be drawn at the site in California, or at the Bank of the West in Denver. The language is saying, presentation of documents can be by hand delivery, messenger service, courier service, register or certified mail and overnight mail and; most importantly from a legal prospective allows a letter to be construed under Colorado Law, not California Law. Mr. DeFord and I will eventually come to you to talk about updating our standard letter of credit form; but this is slightly different and she recommends you approve. Commissioner McCown – I make a motion we approve item d. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

RSVP – PRESENTATION

Cheryl Cain presented an enlarged check to the Commission from the RSVP volunteers representing 53,806 volunteer hours. When you total for the value of volunteer work; it comes out to be worth $1,049,752.23.

HUMAN SERVICES COMMISSION:

CHALLENGE AND CHANGE – GIRL SCOUTS – HEIDI PANKOW

Heidi Pankow presented the program, local projects and future program opportunities.
The "Challenge Yourself – Change Your World" is a new Girl Scott program that teaches girls ages 14 – 17 how to design and lead social entrepreneurial projects that help create positive change in their community. A social entrepreneur is someone who solves social problems by applying business strategies. The program gives girls the tools to make lasting change and teaches them how to use them. Heidi with Girl Scouts of Colorado is the membership manager for about eight counties in northwestern Colorado; Garfield County being one of them. Heidi stated more than 50 million American women enjoyed girl scouting in their childhood and that number continues to grown. Women leaders credit girl scouting for helping them build a set of skills that pave their road to success. Heidi gave statistics of women in the workforce who were girl scouts. Girl Scouts of Colorado was selected to participate in this program through a grant through the US Department of Agriculture. The goal is to strengthen world communities through youth; it is based on the concepts of social entrepreneurship, using business strategies to solve social problems. They recruited girls actively from western Garfield County and she had eight girls who stepped up to the challenge and participated in

our leadership retreat. Heidi introduced her representatives. Lindsey Chartier from Parachute representing a project name by the name of Sports Necessities. Their goal is to collect sports equipment and then donate it, or loan it, to families who can't afford equipment. They feel it will benefit the community in many ways; such as children in the community will be able to play in sports, instead of being inside they will be outside getting fresh air and exercise. They plan to get started with the program by doing an equipment drive. They will team up with schools and many local businesses to be our drop off points. After the drive they will separate and clean the donated equipment; they will give to parks and recreation so they can loan or rent it out to families who can't afford equipment. They asked Trish Brady, the middle school librarian to help as their community champion to set-up a checkout system for parks and recreation. Parks and recreation will use the money to buy new equipment.

Commissioner Houpt asked if the equipment will be collected just in Parachute or will you have other drop off sites, and how do people find your drop off sites. Lindsey stated it will be just inside Parachute; they will make signs to put up so people can see what is going on. They plan on having drop off points at City Market, their rec center and ask the schools; possibly the library. They are also trying to accomplish their tasks before school starts this year.

Karen Meraza from Rifle has three other girls in her group, but they couldn't make it today. Their project is called PB and J. This is a day care center; they named it that because they thought it refers back to everyone's childhood memories. We thought of the problem because many teachers are leaving as there are no child care facilities. They did a survey to see if people thought it would be a good idea and all the responses were positive for child care. They have already thought of a location; next to City Market, it used to be the Ben RX. They have people in mind to run the facility who have had child care businesses prior. Commissioner Houpt asked if they have been in touch with our child care department and the Department of Human Services. They are a great resource if you would like to meet with them.

Heidi stated the third project they will start will be in Parachute and our project leader Amanda was not able to be with us today. Amanda is very concerned with nature deficit order; which has actually been identified as children not getting enough opportunities to be around natural products or outdoor things. There is a new playground being planned for the early childhood center, it is all concrete, plastic, and metal. Amanda was very concerned about this and she is planning on calling it, "Exploration Park"; she wants to create natural things for the kids to be able to touch and feel. So grass, dirt, sand, and maybe a community garden where people can come and participate. She has some amazing ideas about how to improve the community. The projects the girls came up with were absolutely inspiring. Heidi stated what they really wanted to do today was share with the Commissioners what the girls are able to do if we give them the tools. They are not here to ask for money; their projects will be self sustaining. Of course, if anyone wants to volunteer, we would be happy to have you.

BOOKCLIFF, MOUNT SOPRIS, SOUTH SIDE CONSERVATION DISTRICT'S ANNUAL REPORT – CHARLES RYDEN, BRETT JOLLEY AND JEFF NEISLANIK

The report was submitted to the Commissioners. Brett Jolley, President of South Side Conservation District, Charles Ryden and Jeff Neislanik were present. Brett stated that they couldn't begin to say how thankful they were for the support from Garfield County. In 2007 they treated 2,266 acres; $32,000.00 in cost share for a total of $85,000.00 in treatment. They work with the County Weed Board and some of us sit on the board. A few years ago they partnered with EnCana. Jeff stated another board member was there today; Sandy Jackson. There were a few new things done from our district; $1,000 scholarship given; recipient was from Basalt High School. As a group they were concerned about a lot of new landowners coming in with a lot of old ditches and ditch maintenance problems. They have put together a few meetings people can go to and learn about ditch maintenance. They have put some handbooks together and wanted to emphasize the Cost Share Program; it is vital for our County and puts dollars directly on the land.

Charles Ryden, president of the Bookcliff Conservation District. He had one board member with him; Larry Sweeney. They have partnered with the Bookcliff, Red Glen Ranch and the Farm Bureau for the farm day. The objective of farm day is that children are so far removed from agriculture they need to be introduced to agriculture and conservation. The farm day activities include; the corn maze, the riparian trailer education games, farm safety and of course livestock. We are shooting for 600 students this year from Parachute to Rifle, Silt and New Castle. They may turn it into a "farm week" as they are getting so big. Charles wanted to let the Commissioners know that many groups are very concerned about the new Colorado Oil and Gas Commission Rules; being proposed as they relate to the Division of Wildlife authority to dictate what happens on private land. They feel Garfield County should take a position against these proposed regulations. Chairman Martin stated there was another partnership that needs to be discussed; the fuel reduction for fire along the conservation ditches. Some of the new people that don't get to use the water but they are neighbors to the ditch. These new developers and new owners need to also be invited.

BOARD OF HUMAN SERVICES

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

Diane Watkins, Business Services Manager and Judy Martin were present with Lynn.

Lynn Renick requested the Board approve the June 2008 disbursements totaling $438,052.97. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME CONTRACTS

Lynn Renick requested approval of the out of home contracts as follows:

1) - Out of Home Placement Contract Ariel Clinical Services for State ID G342091 in the not to exceed amount of $26,188.33;

2) - Out of Home Placement Contract Ariel Clinical Services for State ID Y497460 in the not to exceed amount of $47,125.20;

3) - Out of Home Placement Contract Ariel Clinical Services for State ID R364687 in the not to exceed amount of $69,179.19;

4) - Out of Home Placement Contract Ariel Clinical Services for State ID G547648 in the not to exceed amount of $29,016.00;

5) - Out of Home Placement Contract Ariel Clinical Services for State ID U199468 in the not to exceed amount of $62,510.04;

6) - Out of Home Placement Contract Ariel Clinical Services for State ID U592902 in the not to exceed amount of $36,975.90;

7) Out of Home Placement Contract Ariel Clinical Services for State ID U376736 in the not to exceed amount of $36,975.00.
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE 2008-2009 CORE SERVICES PLAN

Lynn Renick explained the Core Services Plan stating it reflects a 1.5% cost of living increase. This is a four-county (Garfield, Eagle, Pitkin and Summit) Mental Health and Substance Abuse program and Garfield County will continue to be the fiscal agent for the regional funds. The Department plans to utilize the Colorado Works/TANF dollars in order to serve the TANF-eligible population in the areas of life skills and sexual abuse therapeutic services. The plan is due to the state on August 15, 2008. Allocations are basically set and we have turned in a plan that says how we expend that money. The 80/20 and 100% categories, total $287,587.00; the four (4) County Mental Health Substance Abuse allocations are the same at $169,998.00. The year started on June 1 for this and the plan is due August 15. Commissioner McCown – I make a motion we approve the Core Services Plan as presented and the Chair will be authorized to sign. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE SFY09 CONTRACT WITH KIDS FIRST

Lynn presented the request for a Kids First renewal contract for the state fiscal year to include resource and referral services, as well as consumer/provider information and training in the not to exceed amount of $28,554.00. Commissioner Houpt – So moved Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE NOTICE OF GRANT AWARD FROM THE AREA AGENCY ON AGING FOR CAREGIVER SUPPORT AND SENIOR EQUIPMENT AND SERVICES PROGRAMS

The Department is requesting consideration and approval on the renewal agreement with the Northwest Area Agency on Aging to provide Caregiver and Senior Equipment/Services for a four (4)-county area, including Garfield, Eagle, Moffat and Routt in the not to exceed amount of $104,220.00. Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE NOTICE OF GRANT AWARD FROM THE AREA AGENCY ON AGING FOR CONGREGATE NUTRITION PROGRAMS – LYNN RENICK

The Department is requesting approval on the Notice of Grant Award in the amount of $127,013.00 for the provision of congregate nutrition services in Garfield County. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF SIGNATURE AUTHORIZATION ON THE CORE SERVICES 4-COUNTY MENTAL HEALTH CONTRACT WITH COLORADO WEST REGIONAL MENTAL HEALTH CENTER

The Department is requesting the Board's approval for signature authorization on the regional Core Services Contract with Colorado West Regional Mental Health Center for mental health services within Garfield, Summit, Eagle and Pitkin Counties in the not to exceed amount of $92,150.00. Garfield County will remain the fiscal agent for the contract. Commissioner McCown – I move we approve the Core Services Contract agreement with West Regional Mental Health Center. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF SIGNATURE AUTHORIZATION ON THE CORE SERVICES ADOLESCENT DAY TREATMENT CONTRACT WITH MOUNTAIN BOCES

The Department is requesting the Board's approval for signature authorization on the Core Services Contract with Mountain BOCES for adolescent day treatment in the not to exceed amount of $65,000. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM REPORTS

Lynn attached the program reports for the Board's review. She also stated that the Department did not receive a renewal grant for its Fatherhood program. There was approximately $1.2 million in grant requests with under $400,000.00 available for programming. She enclosed a letter in the Board's packet.
For the State Fiscal Year 2009, the Colorado Department of Health Care Policy and Financing has re-certified Garfield Single Entry Point Program serving a nine county area. A new contract will be executed in a couple of months. Commissioner Houpt asked if Lynn knew the reason as to why they didn't receive the Fatherhood grant. Lynn stated she has heard many of the grants went to non-county government programs. The ones that did go to County department programs seemed to be all on the Front Range.

SENIOR PROGRAMS UPDATE

Judy Martin stated they have served thirty meals at six sites and over 800 people were served. They have collected over $1,500.00 in donations at the meal sites. They now have eight Traveler vans; four for the western and four for the eastern part of Garfield County. There have been a few problems with phone numbers but they are working now. Glenwood up to Carbondale calls should go to 945-9117. Anyone from New Castle down to Battlement Parachute use 625-1366. They are working on contracts and will hopefully put them together quickly. The working relationship with RFTA has been great.

BOARD OF HEALTH:

PUBLIC HEALTH RE-AUTHORIZATION ACT EXECUTIVE SUMMARY – MARY MEISNER

Mary Meisner wanted to update the Commissioners on the Colorado Reauthorization Act. On June 4, 2008 Governor Ritter signed the Act. The primary purpose of the Act was to assure core public health services are available to everyone in Colorado. Over the next eighteen months the State of Colorado will be in a planning process with a statewide plan that is to be in place on December 31. How will this affect Garfield County? She stated their hard work over the last few years has paid off. We are in a good position in Garfield County Public Health to meet all of the requirements. Garfield County Public Health has been designated as the official Public Health Agency in Garfield County by CDPHE. The infrastructure is in place in both Public Health and Environmental Health. They have an ongoing annual plan that Lynn presents to the Board at the end of every year. They have had an ongoing dialogue with the County Attorney's office and will continue to review the Act and will monitor it throughout the year. Next year by July 1, 2009 the County Attorney's office will have put together a resolution and it will be presented to you for review and hopefully signature.

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
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CCOERA RETIREMENT PLAN – TOM KRUSHENSKY

Tom Krushensky, Jacob P. Kuijper and Katherine Ross were present. Tom and Jacob gave a power point presentation and a handout of the same. Jacob wanted to announce this was their 40th anniversary in the business and Garfield County's 40th year with the plan. Highlights include: able to offer a fee holiday in 2007 and this was a result in coming under budget for several years. One of their goals is to offer this again. They offer retirement readiness workshops; it is expected in the year 2014 that the number of 65 and older workers will increase by 74%. Reminded everyone they can utilize the website to see how their account is doing and you can make changes. Tom explained the CORE Advantage. He also explained their costs are low as they are non-profit. They have been putting more focus on doing individual counseling as they have a greater impact; especially with those retiring within ten (10) years. Planning to continue to do group meetings with Garfield County employees and they can design special events. Discussed loan program; the participant has to have at least $5,000.00 balance. They can borrow up to 50% of their account balance; on either the 401a or the 457. Loans can be paid off over five (5) years; it does have to be done through payroll deduction. The cost of the loan is prime interest rate; currently 6%. The employee is paying themselves back; all loans are 100% due and payable upon separation of service. There are penalties if an employee does not pay the loan back before they quit, or terminated. Tom and Jacob are both against the loan process. Commissioner Houpt asked if there were legal issues connected to this as to why it has to be paid back when they leave service if they are borrowing their own money. Tom indicated it is the IRS rules; they either pay it back to avoid taxes or they get hit with the taxes if they don't pay it back. Commissioner Houpt felt they could make those decisions if they wanted to. Initial set-up they try to keep as easy as possible; however there are fees, $50.00 to set-up (each time they take a loan) and $25.00 per year. Employer gets notified of the new loan and then it will have to be set-up on payroll. Commissioner Houpt asked who gets paid the interest that is charged on the loan and Tom stated the employees pay themselves back with interest. It does not go to any administrative charge; it does reduce the employees account balance, there are no earnings or growth on that money. Tom feels they could get more favorable rates if they used a bank or a credit union. Tom encourages employers to allow a one refinance per year. Employees can get into trouble refinancing when they have too many loans out there. The purpose of the loan is broad; we can't monitor and the employers can't monitor that the employee can only use a loan for a specific purpose. Jacob went on to explain what they thought of as the pros and cons. Commissioner Houpt asked if we wanted to make the loan program available for the employees and is it something we would need to sign up for. Jacob stated you would amend the County's participation agreement and again we stress that employers can customize any program. Carolyn asked Katherine and Ed if they were organized today to talk about the operational impact on the County if we do decide to do the loan program, or are we going to re-schedule. Ed stated they would re-agenda. Katherine stated it is her understanding that it puts a lot of setup strain on internal administrative operations. It may require additional staff to process the program. She felt there was two (2) other things to consider in looking at this type of thing: 1) giving something of value to the employee and in this particular case, as the Director of Human Resources, she recommends that the County encourages them to go to credit unions; 2) she thinks that the County has to look at it, not only from an employee relationship issue; but from a "what is the responsibility of the County both ways" to provide benefits for employees, but also not to encourage employees to move towards something that may not be fiscally advisable. And 3) what would be the cost to the County to implement such a program. Don asked if the Board wanted to move forward at all with this. Commissioner Houpt stated yes, she would like to see what it all means. She would like a follow-up.

RIL LLC HANGAR PROPOSAL – TOM HEUER AND BRIAN CONDIE

Carolyn Dahlgren, Brian Condie and Tom Heuer of RIL,LLC were present A concept plan for the Non-Commercial Hanger at the Airport for Space 200WA was submitted. They will come back for the bonds, the lease, etc. This hanger would be one building for private hangers, non-commercial and it will contain nine hanger bays. Construction of the building would be immediate upon approval of all required documents, anticipated September 1, 2009. The anticipated construction costs would be $990,500.00. Brian stated there is a hold on building new hangers due to the water issue; in the west development area there is no water to each individual hangar. Chairman Martin stated it is still a concept and if it is a reality it would have to be addressed. Commissioner McCown asked about sprinklers inside the building and Brian informed Commissioner McCown the building does not require sprinklers. Tom Heuer stated he is requesting construction on parcel 200 WA. He presented a map showing the location. John Savage has just completed a hangar out in the west area; they are in the next space to the west. He explained it is a one hangar building containing approximately ten individual hangars. Tom stated they are established as a single entity as an LLC to manage and own the hanger and take care of the lease. The only thing they have not concluded at this time is if the LLC will sell shares to cover the square footage of hangar that the individuals own. Carolyn stated she would like to discuss that with him further; right now rules and regulations contemplate a condo arrangement. That is not necessarily the way to go but they would need to have further discussions with the Board on this. Brian stated it will be brought back and discussed with the Board and they will have one point of contact. Commissioner Houpt asked, with this concept presentation we are not guaranteeing this will be approved, so she is wondering why we are…… Carolyn stated to work through a lease agreement. Chairman Martin stated to get within the master plan; is it in the right location, does it meet our basic rules and regulations and can he go forward with his actual request. Commissioner Houpt asked if the hangar that was built next door has restroom facilities and Brian stated no. Carolyn reminded the Board that was why they had the public restroom that the Board approved on the west end. As a follow-up, Carolyn asked if she understood that the one fire hydrant is enough for both of these buildings. Brian stated it had to be within 500 feet and yes it is close enough. Tom went on to explain how the building would be built, the height and width of the building etc. If we received approval for the concept, they will start the development plans and hope to complete them within sixty (60) to ninety (90) days or sooner. When that is approved by the Commissioners, they would start construction immediately. The new taxiway would have to be created by RIL, which is a cost the County is responsible for; but they would be willing to pay for that upfront. Brian stated for the Savage hanger they were able to get into the budget; this is not in the budget. One (1) of the options available is to have them put it in and credit it back through rent for the next several years. Commissioner McCown – I make a motion we approve the concept as presented. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
2008

UPDATES ON GLENWOOD SPRINGS SOUTH BRIDGE EA PROJECT AND THE PARACHUTE INTERCHANGE EA PROJECT – CRAIG GASKILL

SOUTH BRIDGE:

Craig Gaskill – Jacobs Engineering, Mike McGill, and Tom Newland were present. Craig gave the updates.
The Glenwood Springs South Bridge EA project is based on a Federal Earmark for a new off-system bridge in South Glenwood Springs. The earmark was championed by Scott McIinnis after the Coal Seam fire of 2001 as a means to provide improved emergency access and evacuation for the properties west of the Roaring Fork River in South Glenwood. Through the agency and public scoping process for the South Bridge Environmental Assessment (EA), the purpose and need for the project was defined to provide a critical second route between SH 82 and the western side of the Roaring Fork River in the southern Glenwood Springs area for purposes of emergency evacuation, emergency service access, and local land use access. Several project goals were also developed to guide the selection of a Preferred Alternative. As a result of the project's purpose and need, a wide range of alternatives were developed for the project. These alternatives have been evaluated and screened based on the purpose and need along with the project goals. This evaluation and screening was conducted by a Project Working Group including Garfield County staff and a Community Advisory Group (CAG). There are currently seven (7) alternatives remaining. Six (6) of these alternatives have portions within Garfield County. Once a Preferred Alternative has been selected, an EA and decision document will take about one year to complete. Accompanying the EA will be preliminary design and right-of-way plans. The earmark of $5.2 million is less than the estimated construction costs which range from $14 to $53 million. Additional funding has not been identified. Commissioner Houpt stated it was her understanding; she thinks she needs to ask our attorney, however, this process at some point we as a commission get to weigh in on alternatives. She wants to make sure that before this comes back to us there is more than one (1) alternative. She didn't hear anything today that indicates that. Craig said what they could do and they have a map of all the alternatives, and there is one piece in the white paper we haven't completed and that is an evaluation of historic properties. Because they are potentially historic properties; they fall under a special code of US Law, all the alternatives have some potential 4F implications. This is why it has become such an important element of our evaluation. This week they are sending our historians out in the field to evaluate these different sites. They will have their white paper complete and a full evaluation of the remaining alternatives, and then that white paper can be provided to the Board. Commissioner Houpt asked how does this work into the process. She knows there is language in the IGA about us being involved in identifying the alternative because we are partners in investing in this. Craig said there is a couple of different groups that are associated with the decision making project. Craig went on to describe how that process works. Commissioner Houpt stated it was her understanding that the City Council and the Board of County Commissioners were going to evaluate the work and make the determination on realistically what we could move forward with together. Commissioner Houpt stated they worked a long time on the IGA. She really wants us to be engaged. Chairman Martin stated he has been involved.
Mike stated that obviously on the funding part you are still totally in control. He explained how, as he saw it, the process progressed. Before the preferred goes to FHWA, they won't even consider going through their process with an alternative that doesn't have the approval of local agencies, City Council, C-DOT and the County Commissioners. Commissioner Houpt stated they will take another look at the IGA; she is very concerned that she as a County Commissioner has no information on this. Mike stated that you can go to the website for South Bridge and review all the processes that have happened so far. Commissioner Houpt replied how important it is to her, as a Commissioner, to understand where the various stakeholders stand on each of the alternatives that are still on the table.
Craig stated the white paper is identifying and meets the goals and needs. In terms of where the stakeholders are, there a number of them including C-DOT, property holders etc., and a lot of that information we will get through the process we are on-going right now. Commissioner Houpt would like it before the end of the process; before you have the preferred alternative with the study being conducted. Her expectation is they we will get the information before the preferred alternative has been selected. Chairman Martin stated this Board will help select the final alternative.
Mike replied that this is a federal process and is designed to keep everyone in the loop.

PARACHUTE INTERCHANGE

Craig then talked about the Parachute West Interchange Project that is located two miles west of the existing interchange. He stated this has a similar process to the South Bridge in that there is a project working group, process management group and it includes the same key players except for Glenwood Springs. In this case there is the Town of Parachute and Battlement Mesa. The agencies have made recommendations for a preferred alternative, which is a full interchange at the new west interchange. He explained what that interchange would look like. Commissioner McCown asked if they were talking about three projects. He explained that all had to interface in order for this to work; otherwise you would just clog up the downtown area. Craig understood they were looking at how they could provide funding for all of the projects within the Town of Parachute.

DISCUSSION OF THE 5TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 5TH AMENDED APPROPRIATION OF FUNDS – BOB PRENDERGAST

Bob Pendergast submitted the Resolution concerned with the 5th amendment to the 2008 Budget and the 5th amended appropriation of funds. Don stated it was a noticed hearing and all documents are correct and the Board may continue. Chairman Martin wore in the speakers. Commissioner McCown – I make a motion we close the public hearing and Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the resolution concerned with 5th amendment to the budget and the 5th amended appropriation of funds. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR A SPECIAL EVENTS LIQUOR PERMIT FROM BPOE #2195 IN RIFLE TO SERVE MALT, VINOUS, AND SPIRITUOUS LIQUOR AT THE AIR FAIR ON AUGUST 8 FROM 4 TO 9 P.M. AND AUGUST 9 FROM 12 P.M. UNTIL 6 P.M. AT THE GARFIELD COUNTY REGIONAL AIRPORT 0375 COUNTY ROAD 352, BUILDING 2060, RIFLE, CO – JEAN ALBERICO AND BRIAN CONDIE

Jean stated this required notice by posting and it was posted on July 9. Ed Green and Dale Hancock posted the sign on the County Road access. Jean stated all the paperwork is in order; she has payment, drawings and they are proposing to serve beer and wine on Friday evening and Saturday afternoon.

Chairman Martin asked if there were any issues with the sheriff's department last year and Jean stated there were none. Jean also stated it was her understanding the beer and wine was kept in a serving area and Brian stated correct.
Commissioner McCown – I make a motion we close public hearing and Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special events license for the Benevolent Protective Order of the Elks #2195 in Rifle to serve beverages at the airport.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
EXECUTIVE SESSION
Don stated he needed to provide the Board with legal advice concerning upcoming items on this afternoons agenda; one is the discussion on House Bill 1141, Spring Valley Ranch Holdings request for a preliminary plan extension, continued public hearing on County Road 118 vacation and Carolyn wanted to speak to you about Ironbridge building permit issues. Commissioner McCown – I move to go into executive session to hear the aforementioned items.
Commissioner Houpt – Second In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion to come out of executive session. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
COMMENTS FROM CITIZENS NOT ON THE AGENDA
ROAD AND BRIDGE ISSUE – RULISON – MARION WELLS
Marion Wells stated she lives in Rulison and this is in regards to what she considers to be a trespass by the County on her private land outside their prescriptive easement. Marion submitted photos to the Board. On June 5 of this year through June 10, Frontier Paving under MB Construction at Williams Company's request, and Garfield County Road and Bridges approval, paved and shouldered County Road 309. They paved approximately 1,450 linear feet through her property ignoring her protests; their work extended outside the County's prescriptive easement three to ten feet. No survey or engineering controls were in place. The shoulder gravel was placed without compaction at a very steep grade; creating safety issues to the traveling public who expect a solid recovery area. Her pull off areas, for safety; like newspaper and mail deliver are gone. This has made access to the County Road difficult for a lot of us and come winter it will be a major problem. Two of her driveways are so steep currently that her sight distance is adversely impacted. Gates no longer close because of the higher grade and at pipe crossings there is no shouldering creating a maintenance problem as well as a safety issue. As with any smooth surface, driver speed has increased and they use the full paved width of the road without an adequate shoulder. All of these problems are best seen on site. This was no mistake; she had discussions with Jake Mall of the County Road and Bridge last August. He argued that replacement of her fire damaged fence was within the County right-of-way; which he found was false since there is only a prescriptive easement through her property, and her fence was properly placed. Since this section was hers for years and there was a misconception; at that time she measured the width of the County's prescriptive easement through her property. On April 1, a road and bridge employee halted her contract fencers citing right-of-way issues as a code violation. When she contacted Chris, from code enforcement, he investigated and agreed it was a prescriptive easement and she was not violating code. No offer was made to reimburse her for her lost contract labor wages, or even an apology was offered. Williams and MB Construction both have known of this prescriptive easement for over a year and they have honored it through that year. They were the ones who were grading the potholes out and the wash boards during the time the road was damaged; they did honor the prescriptive easement. They also honored it during their watering program for dust abatement. Frontier Paving supervisors were made aware of the situation from the first day; one week before paving and each subsequent day they were on her property, including the day of paving. She spoke to Chairman Martin on June 5th, he assured her the County would return and restore her property, and stay within the prescriptive easement and taking into account the added paving thickness. The paving was scheduled two to six weeks later and then changed the day before it began. Others have also been impacted by poor roads and have been impacted much longer than she has - why? The deputy sheriff she called didn't come by. By phone he refused to do anything and then accused her of throwing rocks, supposedly reported by a county employee, which was false. He then refused to provide a copy of his report – why? The contractors in Williams ignored her stating they were followed orders from County Road and Bridge Department who didn't met with her as promised - why? Now road and bridge claim they are within the prescriptive easement – why? This is absolutely false and they have known it for a long time. She has photos and physical evidence in front of you proving their trespass. It has been extremely upsetting to have been so obviously ignored in this manner by county personnel; literally running over her. She had to consult with her attorney to get actions; she has spent hours trying to resolve this issue. It places her in the very unpopular position of asking the County to remove the asphalt and gravel, which she knows is costly. However, in light of the intentional nature of the county's improper actions and the fact that her property has been compromised and taken, there is little else that can be done. Since the County has taken the position; they did not exceed the historic right-of-way, and she knows they did, she asked the Commissioners to do a site inspection with her to clear up the issues and then we could discuss remedy. She asked if they would like to copy the photos. Marian described each exhibit of photos that she brought with her. Marian stated she was more than happy to meet with the Commissioners individually or together just to make sure they are all on the same page.
Chairman Martin said it would be easier individually; he is willing to come out. If all three (3) Commissioners were there; it becomes a public meeting. Marian felt she could show more examples on site and talk about the safety issues she sees. Commissioner Houpt stated she would like to come out; she is leaving town for a week and a half.
Marian stated she would rather have the issues clarified and you can physically see what is going on.
LB ROSE RANCH – TIM THULSON
Tim Thulson, Balcomb and Green, stated he was here today on behalf of LB Rose Ranch. Tim stated roughly ten days ago, an issue came up with regards to an apparent conflict with the zoning setbacks in the Club Villa Area for Ironbridge Homes. The conflict - those setbacks conflict with the Plat for the Ironbridge Phase II. Obviously, a mutual mistake was made because the plat was signed by the Board and reviewed by staff and by us. The question that has come up is this, they have ten of these lots under sale, whether we can pull building permits is pending the processing of the required zone district text amendment; that we will do. It just puts us in a bind if we can't get building permits. We would ask for direction from the Board. Commissioner McCown stated he thought it would be appropriate under the

circumstances; it is going to take some corrective action and if they are willing to start that process, he thinks Garfield County will continue to issue building permits under that scenario. I would make a motion to that affect.
Commissioner Houpt - Second. In favor: Houpt – aye McCown – aye Martin – aye

REGULAR AGENDA: BUILDING & PLANNING ISSUES - PUBLIC MEETINGS:

CONSIDER AN AMENDED PLAT TO COMBINE LOTS 5 AND 6 WITHIN THE COOPERTON TOWNSITE. APPLICANT IS GREGORY FORBES – DAVID PESNICHAK

David stated this was previously approved August 6, 2007 but had expired with the requirement of 90 days from the date of approval and it conforms to zoning. David submitted the following exhibits: Exhibit A – Staff memorandum; Exhibit B – Garfield County Zoning Resolution of 1978 as amended; Exhibit C – Letter from David Pesnichak Senior Planner to Gregory Forbes dated June 18, 2008; Exhibit D – Memo from Jake Mall of the Garfield County Road and Bridge Department dated July 11, 2007 and Exhibit E – Email from Jake Mall of the Garfield County Road and Bridge Department dated July 8, 2008

BACKGROUND AND DESCRIPTION OF THE PROPOSAL

This is an amended plat application to vacate the lot line between Lots 5 and 6 of the Cooperton Town site. This application was previously approved by the BOCC on August 6, 2007. However, a mylar was not submitted within the required 90 day window (per Section 6:20). As a result, the application has been resubmitted for approval by the BOCC in the same configuration which was presented to the BOCC on August 6, 2007. The applicant wishes to construct a new home on Lots 5 and 6 which is currently under construction and has an active building permit, but in order to create a workable lot, the applicant is proposing to combine the existing lots. Lots 5, 6, and 7 are all owned by Gregory Forbes and all measure 25' by 156.5' (3912.5 square feet). The combined lots 5 and 6 would create one (1) new lot measuring 50' by 156.5' (7825 square feet). The minimum lot size in the RLUD zone district is 7500 square feet.

STAFF RECOMMENDATION

The Applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, Staff recommends the Board of County Commissioners **APPROVE** this amended plat request with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

Commissioner McCown – I make a motion we approve the amended plat through the recommendations of staff.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A RENEWAL FOR A SPECIAL USE PERMIT FOR UP TO 31 TEMPORARY EMPLOYEE HOUSING FACILITIES LOCATED APPROXIMATELY 10 MILES NORTH OF THE TOWN OF PARACHUTE. APPLICANT IS ENCANA USA, INC. – DAVID PESNICHAK

David explained that on August 6, 2007, EnCana received a Special Use Permit (SUP) for up to thirty-one "Temporary Employee Housing" facilities on property owned by EnCana USA, Inc., and located on approximately 45,000 acre property approximately ten miles North of the Town of Parachute (Resolution 2007-61). Condition of Approval Number 11 within Resolution 2006-61 states:

> The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. For good cause shown, *the permit may be renewed annually in a public meeting with notice by agenda only*. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.

The purpose of this request is to renew the SUP for one additional year from the upcoming August 6, 2008 expiration date. This would allow the SUP to be in effect for one additional year. If this extension is granted, the next expiration date would be August 6, 2009. Following referral and discussions with the Garfield County Building Department and the Garfield County Public Health Department, it appears that the approved housing facilities have been serving the intended purposes without notable unintended consequences. Further, EnCana has demonstrated a willingness to comply with all relevant regulations and no violations have been observed. In addition, the Garfield County Planning Department has been kept within the loop of communications regarding the installation of every camp along with the Grand Valley Fire Protection District and the Garfield County Sheriff's Office. Provided the success of the SUP, as approved under Resolution 2007-61, in combination with the willingness and desire of the Applicant to work with the County, staff recommends that the BOCC approve the requested annual renewal.

Commissioner Houpt asked if these sites were physically inspected for this renewal and when was it that David Mead was there? David stated he did not personally inspect them; all of the inspectors had been up on site for the building permits. David Mead was up there a few weeks ago. Commissioner McCown stated that was part of the confusion that the press picked up on the first time. It is not thirty-one different sites, these are units.

Commissioner McCown – I make a motion we approve the extension of the Special Use Permit for another year with the same conditions that were in place initially. Commissioner Houpt – Second
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PLAT AMENDMENT FOR PEAKS OF ASPEN GLEN, LOT L. APPLICANT IS ASPEN GLEN LOT L, LLC – CRAIG RICHARDSON

Larry Green, Attorney for Aspen Glen, Craig Richardson and Carolyn Dahlgren were present. The Peaks of Aspen Glen, Phase III Final Plat was recorded on July 17, 2000. Phase III included four (4) lots (K-N), each approved for the construction of three (3) townhome units twelve (12) total. The developer is required to submit an amended plat in compliance with the Preliminary Plan approval depicting the town homes as-built.

STAFF RECOMMENDATION:

Staff finds the applicant's request is consistent with the approval as detailed in Plat note number fourteen (14) of the final plat recorded on July 17, 2000. Therefore; it is the recommendation of staff that the Board of County Commissioners approve the request to amend the final plat of Peaks of Aspen Glen, Phase III, Lot L with the following conditions:

1. That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the amended final plat shall be reviewed (paper copy) then signed and dated (mylar copy) by the County surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in 5:22 of the Garfield County Subdivision Regulations.

Craig advised the Board there was a plat note on the final plat; plat number fourteen (14) and our subdivision regulations section 7.3 allow for this if the lots were considered in the original approval; they were and staff recommends they approve to re-subdivide Lot L. Mr. Green stated he has been talking to Mr. Richardson about this and apparently we have to now come back for a hearing, or another public meeting to have the Chair authorized to sign the plat. Because of that and your meeting schedule, we will have to delay some closings. He was wondering if there was any way he could have a motion to authorize the Chair to sign the plat; if he is available and once we get the County Surveyor's signature, have it signed and recorded without having to come back to another meeting. Carolyn stated it is normally placed on the consent agenda. Commissioner McCown felt he would be lucky to get the signature before the next meeting.

Commissioner McCown – I make a motion we approve the plat amendment with the two (2) recommendations of staff including the authority for the Chair or the Chair Pro-tem to sign the plat prior to meeting once it is made available. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A PLAT AMENDMENT FOR IRONBRIDGE PHASE II, FILING NO. 1, 2 AND 3. APPLICANT IS LB ROSE RANCH, LLC – TIM THULSON AND CRAIG RICHARDSON

Craig Richardson explained: The applicant is requesting the Board of County Commissioners amend the building envelopes as recorded in reception number 702420 for Ironbridge Phase II, Lots 77 and 78. The owner of the subject lot, LB Rose Ranch, LLC, would like to reconfigure the identified building envelopes, in order to accommodate the need for a drainage swale. The request reduces the size of the building envelope for each lot. This request is consistent with the identified minimum setbacks within Ironbridge PUD.

STAFF RECOMMENDATION:

Staff is in support of this amendment. Planning staff therefore recommends the Board of County Commissioners approve the requested plat amendment with the following conditions:

1. All representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Within 90 days of approval, the amended final plat shall be reviewed (paper copy) then signed and dated (mylar copy) by the County Surveyor then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado State Law, and approved by the County surveyor and shall include, at a minimum, the information outlined in 5:22 of the Garfield County Subdivision Regulations.

Tim Thulson had nothing to add.

Commissioner McCown – I make a motion we approve the amended plat with the two (2) conditions recommended by staff. Commissioner Houpt – Second In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PRELIMINARY PLAN EXTENSION FOR SPRING VALLEY RANCH. APPLICANT IS SPRING VALLEY HOLDINGS, LLC – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Jim Lochhead and Danny Goldberg (owner's representative) were present.

Fred Jarman explained saying the Applicant requests the Board grant a one (1) year extension to file the Final Plat for Phase 1 as well as a waiver from Section 4.09.01 requiring the commencement of the PUD citing the national housing volatility as the reason for the request.

BACKGROUND

The Board of County Commissioners approved a Preliminary Plan and PUD Amendment for Spring Valley Holdings, LLC for the Spring Valley Ranch PUD on December 7, 2007 with a variety of conditions which has been memorialized in Resolutions 2008-55 and 2008-56.

REGULATIONS

Section 4:34 of the Subdivision Regulations of 1984, as amended, requires that "a Preliminary Plan shall be valid for a period not to exceed one (1) year from the date of the Board approval; unless an extension of not more than one year is granted by the Board prior to the expiration of the period of approval."

Section 4.09.01 of the Zoning Resolution of 1978, as amended, requires "The applicant must begin development of the PUD within one (1) year from the time of its final zone change approval; provided, however, that the PUD may be developed in stages and the Board may approve the commencement of development activity beyond one (1) year.

As the Board will recall, this project has had a long history of approvals with zoning, amended zoning, and many Preliminary Plans that have been "revised" overtime since the 1980s. This project has had a long history of approvals and extensions granted by the Board with no development activity. Three of these have occurred only within the last five (5) years, since 2003. In each case, the expectation is that the development would occur. These reviews require substantial staff time to complete. This was also echoed by Commissioner McCown at the end of the last approval in December, 2007 stating the following:

... I think it is only fair to acknowledge that in my career I've looked at this project several times myself and I sincerely hope this will be the last time on this project."

The reason behind requiring projects to begin relatively shortly after approval is to ensure they develop in the context in which they were proposed so the information used to support the approval remains germane. As time continues on, the context changes and the project may have additional adverse impacts on the community that were never contemplated

or accounted for such as traffic impacts to intersections and water usage, not to mention the public expectation of what the Board of County Commissioners approved and required of a development. That is why the PUD regulations require that development begins within one year of approval. In this case, the PUD is now approaching eight (8) years in age with no development. It has been slightly modified over those years but has remained relatively the same while the rest of the lower Roaring Fork Valley and Spring Valley have continued to grow and change. The County will soon be beginning an update to the Comprehensive Plan which may change the plan for this area as that plan is eleven (11) years old. On a similar note, the Board will recall the authority it recently exercised when the phasing provisions of the Sanders Ranch PUD were not followed. In that case, the Board specifically revoked the PUD and rezoned the property to another zoning. The Board has not applied that same authority to this project even though it has the authority to do so if no development has commenced within one (1) year of the PUD approval.
STAFF RECOMMENDATION
Clearly, Section 4:34 of the Subdivision Regulations provides a mechanism for an extension to a Preliminary Plan as can only be granted by the Board. However, Staff finds that this language conflicts with Section 4.09.01 of the Zoning Resolution which requires that development must begin within one (1) year from the time of its PUD approval. There is no language in the PUD regulations that provides relief for an extension. Staff finds that to deviate from this PUD requirement, the Applicant would need to either 1) pursue a text amendment to the Zoning Resolution or 2) submit a PUD Amendment to their phasing plan. (The extension in the Subdivision Regulations is simply for a Preliminary Plan and not to amend or change zoning requirements.) So, while the Board has the authority to grant a 1-year extension for the Preliminary Plan, it appears the Board does not have the authority to grant a waiver of the PUD requirement as that was not contemplated in the PUD. As the Board is aware, there are no specific criteria or standards in Section 4:34 of the Subdivision Regulations for the Board to use in granting, or not, an extension for a Preliminary Plan. Staff recommends the Board deny the request for a one (1) year extension finding that 1) the Applicant has not provided enough information that determines that an extension of one (1) year will not adversely affect the surrounding community and 2) the Board does not have the authority to waive Section 4.09.01 of the Zoning Resolution without the approval of a text amendment or 3) the applicant could submit a PUD Amendment to approve their phasing plan.
Applicant: Jim Lochhead wanted to address three (3) things; 1) address the statement that this is a stale development 2) address the PUD and 3) the preliminary plan extension. This was originally approved in the 1970's for 2,500 units; it was acquired by Atlantic Golf in the late 1990's, and you approved a plan for a PUD in the year 2000 by Atlantic Gulf. Atlantic Golf subsequently went bankrupt and the property was acquired by Leman Brothers; Leman not being a developer perse; but having the loan on the property and faced with a situation of trying to market a piece of property that was owned jointly with another individual. This essentially made it impossible to develop and they did go through a number of different amendments and extensions during that time period. That issue was resolved and the property was successfully marketed and the new owner acquired the property in late 2005. The owner then subsequently went through a complete re-design of the project and he really disputes that this is a continuation, or a minor amendment of the existing approvals. He went on to explain all the different things they did: moved the village center, eliminated the golf course, provided for re-irrigation of the Meadow and although the number of units are essentially the same; the project did go through a complete redesign. The second issue is the PUD zoning; the County Zoning Regulations, Section 4.09.01 do provide that the applicant must begin development of a PUD within one year from the time of approval provided that the PUD may be developed in phases and the Board may approve the commencement of development activity beyond one year. That is in fact what you did when you approved the phasing plan for the project. The phasing plan as we had discussions when you approved the new PUD zoning for the project concerning the size and complexity of this project; the fact that this project is to be marketed nationally, not locally and the fact that this project is very directly related to volatility in the national housing market. Although the phasing plan provides for the possibility of the commencement of construction in April, 2008; there is also a note to the phasing plan that provides the initial phasing can be extended out beyond April, 2008 depending on market conditions. Each phase can be modified in terms of its timing based on marketing conditions; subject to an overall limitation of fifteen years as required in your regulations. When you stack up the phases, the actual commencement of construction of the first phase; we would take the position it really doesn't need to occur until April, 2010. In our view we are in compliance with the phasing plan for the project. You have approved that and there is no reason to deal with an extension of the PUD approval beyond one year. With regard to the preliminary plan, obviously the County Subdivision Regulations are quite clear in terms of saying the development must commence under the preliminary plan within one year; except that the applicant can obtain a one time extension only for an additional year. The regulation doesn't provide any standard upon which you might approve or disapprove that extension. We not aware that you have denied any extension in the past; but certainly it is our position and we can speak to this that the market for this type of product, a residential golf course development, has fallen through a trap door. It would really not be prudent to start construction on a project and spend substantial amounts of money until there is a better understanding about where the national market is going. They believe it is fully appropriate for the Board to grant a one year extension to November or December, 2009. Commissioner Houpt asked staff to respond to the PUD position. Fred stated you will recall when they went through the PUD component there was a lot of discussion on the phasing plan. There are twenty-two (22) or twenty-four (24) phases, eleven (11) in the middle bench and another eleven (11) up in the mountain lots. We had that long discussion on compression issues; the concern was with a product like this they want to have maximum flexibility built in there, which is the caveat that Jim is talking about. With that a footnote saying – "we really don't have to begin this project according to the phasing plan. It could never be built and still remain within the bounds of the PUD". Staff challenged that position and here are a few examples: 1) you could have another development next door, this may be approved and on the books and that development could start. 2) The trips could be realized, even though the trips from this development have never hit the ground yet. Jim is correct he doesn't have to start this year or next year. 3) Interestingly enough tied to all those phasing segments are road improvements. So there is a public expectation of when this project is going to happen and so you perhaps have the County deferring maintenance on those roads understanding this development maybe will come through and cure this. Commissioner Houpt asked if the preliminary plan is extended, what is your plan for figuring out what to do at this point? She feels the national market is pretty unpredictable at this point and although this is the newly amended PUD, it is pretty old. We are to the point now that we are overdue doing our comprehensive plan and this has

been around for a long period of time. Jim stated the reason we are here in July, as opposed to being in front of you in November, shortly after the one year period expired was because the ownership group did realize what the national housing market is doing. They wanted to have early communication with the Board about the situation ahead of time. Danny Goldberg said he hoped the Board could appreciate this with some of the other instances you have had with large developments in the County. We are thankful to be sitting here today asking for an extension versus having broken ground X a number of days ago. We committed to an enormous amount of infrastructure costs that possibly could have made us the next victim of this long story project. He said he can't promise twelve (12) months from now they are not in a similar situation. He feels the cost of development is too high for the cost of single family home in the valley right now. Danny stated they have the neighbors support and viewed this upon as the least of all evils up there as far as a developer for a neighbor. They would hate to be forced to go back to the drawing board.
Commissioner Houpt stated she believed in their letter they mentioned some preliminary work that was going to be done and it came before us not long ago; there were still some concerns about the water situation with a neighbor. Are those things worked out? Danny said the work they are doing is putting up a farm tech structure over the Hopkins Homestead so that it doesn't absorb any more snowy winters. They hope to preserve that a little bit this summer. As far as the issue to my understanding it is a neighbor, not plural; we could not reach an agreement. We were paying to put in a brand new well and he did not want to encumber this property with providing water from the well that we were paying for in legal perpetuity. They offered to do this as a neighborly gesture at our expense. Don asked Jim if the board were to grant an extension, what is your concept of the one (1) year period, from today or November. Jim felt November. Commissioner McCown asked, can you cover again in your initial presentation Fred, you said we could amend and continue or extend the preliminary plan for one (1) year, which I fully understand. We could not and had no authority to continue or extend the PUD portion of it; however, later on in the conservation you said there was nothing that said the PUD had to start or any phasing had to being until some date that is beyond there, so why would we need to extend the PUD portion of it? Fred stated, with the phasing plan that Jim has described with the caveat that is correct. The phasing plan you approved on December 7, 2007 allows for a very loose phasing time; it is sort of built in. The key thing on the table for the Board is the preliminary plan. Commissioner McCown – I make a motion we extend the preliminary plan until December 7, 2009. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

DISCUSSION AND DIRECTION REGARDING THE IMPLEMENTATION OF HOUSE BILL 1141 – FRED JARMAN

Tim Beaten and Michael Erion were present. Fred submitted a memorandum from Michael Erion regarding the technical items related to House Bill 1141. It is a follow-up to their July 3, 2008 conference call regarding GARCO regulations and House Bill 1141. The technical follow-up items include the definition of a single family equivalent (SFE) unit (also known as an equivalent residential unit or EQR). What type of expert or expertise should be required for the water supply report? What level of SFE water use should be the threshold for application of House Bill 1141 criteria to Special/Conditional Use applicant? And, what additional items should be included in the submittal list? In Michael's memorandum he listed the answers to these questions. Fred stated they have been looking at this legislation and how to incorporate and understand it and also, how to incorporate this into the way that Garfield County looks at legal and physical water as it relates to development. In this case, development as contemplated in the Bill is almost all things considered. It is a bit broader than just the subdivision or PUD world, and it also includes your land use development, or land use permitting. Don DeFord stated on behalf of my office, Debbie Quinn has been primarily involved in this issue and has had extensive discussions. He felt Fred summarized their concerns. They were looking for recommendations from an experience water counsel on implementation on this House Bill and what changes, if any, would meet our regulations. Tim Beaton stated the Commissioners have a summary of recommendations in front of them. We would like to propose the County consider these and implement into your land use code. First, is the applicability of House Bill 1141 in that context we believe the Commissioners should continue to require that the land use provisions demonstrate an adequate water supply, essentially implement House Bill 1141. You will continue to require an adequate water supply in that context for all subdivisions; except for those subdivisions in which an exemption would come into play. The existing exemption process really does provide relief from the more extensive requirements of House Bill 1141. So, rather than picking fifty (50) units or forty (40) units, if you continue the exemption process you will be able to continue to provide the smaller developments that do not have the more extensive requirements of House Bill 1141. What that will require is Fred spending a considerable amount of time. If we thought the regulations were quite intricate, you will find that Fred and Don and others will be spending a substantial amount of time taking these mandates of 1141 and implementing them into the proposed unified code. The second provision is quite straight forward, the House Bill 1141 itself has a very specific definition of what is considered an adequate water supply. It essentially requires an applicant in a land use setting really demonstrating the physical and legal availability of that water supply. So, part of the implementation of the House Bill by every local government in the state will be essentially modifying your regulations to incorporate word for word the definition of what is considered an adequate water supply. What the legislature in essence has done is really beefed up this notion that in land use settings it is quite important that you have a demonstration of an adequate water supply to exist, really in perpetuity, to provide for the land use that is proposed in the land use application. That is something the County Attorney and the planning department will have to incorporate into the proposed land use code. The third item we would recommend the Commissioners consider incorporating into the land use regulations, the additional requirements the House Bill requires. The County's existing regulations really go quite far already. You have a demonstration of an adequate water supply but, it is not as extensive as the House Bill itself. The land use regulations will need to have all of the requirements that the House Bill contain and obviously there has to be a report that is prepared by either a registered professional engineer, or a hydro geologist, who is experienced in these matters; and provide the County with a demonstration of the expected water demands associated with the land use provision. The expected physical supply, the ownership of water rights in order to be able to provide for the water demands, and the County also has the ability to add to that list of requirements. We think it would be prudent for the County to add to that list beyond what the State law provides. There should be a demonstration of the legal supply. In other words, a description of the well permit, the water court decree, and perhaps the contract from an existing water supplier. The fourth item we believe the County Commissioners should

require, in addition to what the State Statute provides, is referral to the state engineer's office special use permits. Currently, the state engineer's office is limited to commenting on those land use applications that relate to subdivisions. One of the benefits to the County by the current legislation is the ability of the County to go to the state engineer's office and seek their comment on land use applications, such as special use permits, or other conditional permits. The County will have the additional evidence and comment from the state engineer's office who is supposed to administer these water rights. Commissioner McCown asked if the state office has been given their marching orders to respond to these. Tim said the state office has not and he imagines they will be a bit reluctant to get into another arena that they haven't currently had to provide their comments. But, it is clear under the State law that the state engineer's office is required to provide these referrals. He is sure there will be a bit of a tug-of-war between the state engineer's office and Fred and others. Michael stated they were looking at trying to define to what level of development under those permits you might want to implement the provisions for water supply defined in the House Bill. Fred and he had a discussion regarding maybe the level just above what would be the equivalent of an exemption subdivision. If you look at an exemption of four (4) lots that could each have two buildings, a main house and an ADU, we looked at that as the threshold as a proposal for non-subdivision, special use, and conditional use. So if you have a special use or conditional use that is the equivalent of more than eight (8) units then the Board could implement the requirements of them proving or being more substantial on their water supply. Then what is in the current regulations under the special use and conditional use, which is very general in saying adequate water utility for the proposed project. It is not going to apply to someone who is doing construction, storage yards, etc. It would apply to someone looking at a 200 unit camper RV park or something like that. Chairman Martin stated they would have to prove water anyway. He looked at some of the regulations and they are already requiring just about every one of these you have mentioned in our application. Michael said he was correct. The overall consensus is that already the County generally requires everything that is here. What is new in this is the conditional use and special uses are defined as in the House Bill 1141. Commissioner McCown asked if House Bill 1141 in the description, say "may" utilize not "shall". Michael said that was correct it is not an out and out requirement, if it is less than fifty (50) units. Commissioner McCown clarified, if the consumption is less than fifty (50) units. Michael said what they are proposing or throwing out is that it might be more appropriate if it is along the lines of something more than exemption. Chairman Martin stated, as you know in some areas of Garfield County and other rural areas, you have to haul your water and there is a view on that there this is not an adequate supply of water. They have been doing that for 100 years and it existed that way. Chairman Martin has a place where he has to haul water. If we implement this all the way down to that it may do away with that particular ability to do that because, they have to haul water, they have to demonstrate on site they have water, engineer agrees they have water, and it still doesn't mention the usability. It doesn't say anything about the quality of water, other than it is an adequate water supply. Going back to our old argument, which we have gone beyond, you have to have it potable and you have to have it safe for human consumption. 1141 doesn't do that; it just says you have to have water running to make sure you can take a shower, flush the toilets, and water the Kentucky Blue Grass. Adequate water supply doesn't mean usable; at that point when we get into usable water supply we still have the problem. It is not handled under 1141 and how do you handle that particular issue? It creates problems where we didn't have them before. Tim stated to comment briefly; House Bill 1141 really does just give additional tools to the County Commissioners to deal with these water issues. It doesn't elevate the issue beyond your current regulations, so the State Statute was really designed for those local governments who didn't have the extensive regulations that Garfield County currently does. Commissioner Houpt stated we had a few holes in ours too, didn't we? She thinks their recommendations fill in some of those holes; we may not end up going to an eight (8) unit special use permit and require the same thing we would require for a fifty (50) unit. She appreciated where they went with their recommendations and we are in the middle of working on a new code; but it seems pretty clear to this Commission that these need to be adopted with our current code. She only mentions this because Mr. Beaton, you mentioned our new code and she would like to ask him about the timing issue. Don't we have to have these in place right now? Tim recommends that the Commission adopt these provisions in the interim to be applicable to your current regulations; he believes that the Commission is required to implement the Bill forthwith. Yet he understand the proposed land use code is still in the works; he thinks the Commissioners need to take the first step of implementing the legislation and going further incorporating that to the proposed code when you get to that point. He does think there is one last arena you need to look at; item five (5) the timing of the water supply approval. Currently, the water supply is considered at the time of the preliminary application process; we would continue to recommend that the water supply adequately be considered at that time. He thinks there are some provisions from the water court cases that could be incorporated into that process, such as the summary of consultation that comes from the division engineer's office; and the response from the water court application applicant. Those would give the Commissioners a better feel for the issues that have arisen in the water court process. Therefore, we could confer on you sort of an honorary water court degree in that arena. Chairman Martin stated the other is the timing issue on the water court and how they get things in or out. They sometimes drag their feet on timing issues on subdivisions. PUD's and land use approvals are not always the same. In fact, sometimes the land use application timing happens to be sooner than the water courts action. Tim stated the water court matters sometimes move at glacial speed, not intentionally, but seeing today's session I think you act more speedily than the water court. If we incorporate some of these water court matters into the process, at least we will do a better job of knowing what the issues are in that arena.
Chairman Martin stated he is still trying to see how 1141 is really going to help us; other than we get to hire more folks and there will be more challenges. Tim stated in large part that is true; current regulations probably go 90% of the way in dealing with adequate water supply definitions. But, the State statute is pretty clear in three areas where they need to have the requirements, the applicability spelled out and it will be a matter of just incorporating that into the existing regulations. Chairman Martin stated they will need to see how it is written, side by side, red line version and the whole works before we make official changes. Commissioner Houpt stated but move forward with their recommendations and bring that back to us. Warren Moon (Burning Mountain Fire Protection District Fire Marshall, in terms of adequate water supply, are we talking about fire protection water supply also or just domestic water supply?
Commission Martin stated just domestic. Warren stated they are interested in being involved in this and the ongoing of it so they can continue to look at fire protection. Commissioner Houpt asked, you do know that with all of our applications we always look at adequate supplies of water for fire protection and so your participation is very valuable

to us. Warren stated yes and this House Bill is a little unknown to us also. We just wanted to make sure we got our foot in the door. Chairman Martin said to Warren, you will still give us your recommendations to say this is the minimum supply we need and if they can't meet those recommendations, it will not go forward. Don DeFord wanted to comment, 1141 is directed to the water used by a development and it defines fifty (50) single family equivalents as a measure of the water used by the development. Is not this Bill driven strictly toward housing developments? If the project, including fire or aesthetic uses, uses an equivalent of fifty (50) single family units then it falls under 1141. To that extent it does incorporate all of the water usage. Commissioner McCown asked Don if he was saying this crosses over to irrigation water as well. Don said it doesn't say that, but if the irrigation is critical to the development, yes it would. Tim stated he thought Mr. DeFord was correct; the statute refers to adequate meaning a water supply that will be sufficient for build-out of the proposed development. So, whatever the term build-out means, if indeed it was irrigation, or fire supply he thought it could be hooked into the provisions of House Bill 1141. Chairman Martin - There may be a request for definition legislatively to ask; what did you really mean as to adequate water supply. Is it human consumption, is it irrigation, is it all of the other items for the definition of adequate water supply. Tim stated they haven't seen any other local governments implement or get challenged in this arena. He is sure there will be quite a bit of discussion over the extent to which the statute really applies to these various issues; but fire suppression obviously is an issue for the County and the cities in this area. Commissioner Houpt said she could not imagine that the intent of the State, and we are all speculating, it was just for domestic use. If it says build-out of a development that means how much water does it take to make this development a successful development? Tim feels they will have to wrestle with these issues that Mr. DeFord mentioned. Mr. Jarman's offices will have to grapple with the applicability to the current code and we will assist as much as we can. Obviously, there are some open issues and the language will have to be crafted quite carefully. Fred stated your existing regulations cover virtually everything already. Bill stated he thought he knew what Kathleen was trying to protect us from and that is, if you get out of Garfield, Pitkin, Routt and a few other counties, the world is very different. He just finished on a 106 Section in Montrose County, where the Board of County Commissioners refused to consider whether the development had a water supply of any kind for 400,000 units. That is what Kathleen was going after. He thinks Garfield County needs to look at rigs to see if they are conforming to HB 1141; but the attitude is you are already doing 99% of what can be done. The residents of Garfield County and larger developments are not suffering from want of a water supply right now.

A CONTINUED PUBLIC HEARING TO CONSIDER A REQUEST TO VACATE A PORTION OF COUNTY ROAD 118 – APPLICANT: IRON ROSE LAND & CATTLE II, LLC – FRED JARMAN

Don asked for this to be continued on August 4. The information he has received from Mr. Neiley did not achieve a final easement agreement with the Town of Carbondale. Don stated if it can't be accomplished by August 4 we will move forward. Chairman Martin asked Mr. Neiley if that was okay with him and he stated it was fine with him. He did want to let the Commissioners know he is leery of continuances. He stated they have completed the turn-a-round issues with road and bridge and he is still waiting on the town to contact him.

Commissioner McCown – I make a motion we continue this to August 4 at 1:15 p.m. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

REQUEST FOR PRELIMINARY PLAN FOR OAK MEADOWS RANCH PUD, FILING 4, PHASE III TO ALLOW FOR SUBDIVISION OF 44.67 ACRES INTO 25 LOTS AND OPEN SPACE. PROPERTY IS LOCATED SOUTH OF GLENWOOD SPRINGS ADJACENT TO FOURMILE ROAD (CR117), JUST WEST OF DRY PARK. APPLICANT IS OAK MEADOWS II, LLC. – THIS IS A CONTINUED HEARING - FRED JARMAN

Karl Hanlon, Ron Liston and Mike Gamba were present. Commissioner Houpt recused herself from this hearing.
At the last meeting held on July 7, 2008, Carolyn stated to make it clear under State statutes; we are not talking about a direct financial conflict, but rather a personal issue that Ms. Houpt lives in the division. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A –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 F2 – Addendum to Staff Memorandum; Exhibit G – Letter dated March 17, 2008 to Ron Liston; Exhibit H – Letter dated March 21, 2008 from Graig Lis, P.E. Colorado Division of Water Resources; Exhibit H2 – Letter dated October 16, 2007 from Oak Meadows Service Company; Exhibit H3 – Letter dated February 27, 2007 from OMSCO re: fire flow with attachments; Exhibit I – Letter dated March 19, 2008 from Perry Will, Colorado Division of Wildlife; Exhibit J – Letter dated March 20, 2008 from TC Wait, Colorado Geologic survey; Exhibit K – Letter dated March 7, 2008 from Jake Mall, Garfield County Road and Bridge; Exhibit L – Letter dated March 31, 2008 from Ron Biggers, Glenwood Springs Fire District; Exhibit M – Letter dated March 31, 2008 from Steve Anthony, Garfield County Vegetation; Exhibit N – Letter dated March 31, 2008 from Michael Erion, P.E., Resource Engineering; Exhibit O – Letter dated March 24, 2008 from James Austin; Exhibit P – Letter dated April 3, 2008 from Michael Erion, P.E., Resource engineering; Exhibit Q – HP Geotech – Slope Stability Evaluation and Geotechnical Review with attachment; Exhibit R – E-mail dated April 8, 2008 from Martja Fredendall; Exhibit S – E-mail dated April 24, 2008 from Michael Erion, P.E., Resource Engineering; Exhibit T – Revised letter, with attachments, dated April 8, 2008 from HP Geotech; Exhibit U – E-mail dated April 24, 2008 from Michael Erion, P.E., Resource Engineering; Exhibit V – Letter dated April 25, 2008 from TC Wait, Colorado Geologic Survey; Exhibit W – Development Chronology and map identifying filings and Exhibit X – Letter dated July 14, 2008 from Oak Meadows Water Association (OMWA) Trish Hittinger, Ad Hoc Board Member. Chairman Martin entered Exhibits A – X into the record. Fred Jarman explained and gave a power point presentation. The property is located on the west side of Dry Creek west of the intersection of CR 117 (Fourmile Road) and CR 168A (Oak Way North). The Oak Meadows Ranch Filing 4, Phase III preliminary plan application is for the final phase of a development that was initially conceived as a multi-phase development encompassing four primary filings between the early 1970's and the present. Various filings were developed in the ensuing years, with development of Filings 1 and 2 completed first. A series of Final Plats were then approved for Filing 3 and Filing 4 between 1976 and 1978. The original concept for Filing 4 was for a Planned Unit Development encompassing 210 acres with 179 units, and a portion of the area was developed over time. In 2000 the developers received a preliminary plan

approval for the remaining portion of Filing 4 (Resolution No. 2000-25), approving development of 85 single family lots. A final plat for Filing 4B resulted in the creation of 60 of the 85 approved lots, leaving a balance of 25 single family lots to be platted. Resolution No. 2000-25 had conditioned the approval of the Preliminary Plan on completion of all phases of development within a 5-year timeframe. This resulted in an expiration of the Preliminary Plan on April 5, 2005. Extensions for the Preliminary Plan were granted by the Board of County Commissioner however the final extension expired on October 5, 2006. The developers are now seeking approval of a Preliminary Plan for the undeveloped portion of Filing 4.The current application has modified the layout of lots and roads from the original approval in order to reduce the amount of site disturbance and alterations to the natural environment necessitated by grading and access issues surrounding the previous lot and road layout. The current proposal will preserve over 32 acres of native open space by locating the lots at the toe of the slope in an open meadow, rather than dispersing the lots throughout the parcel. Physically, the parcel as it abuts Oak Way North is a meadow rising to steep slopes on the western edge of this development.

PLANNING COMMISSION RECOMENDATION

The Planning Commission held a public hearing on this application at their meeting on May 14, 2008 and recommends APPROVAL to the Board of County Commissioners incorporating staff findings and 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 Preliminary Plan for Oak Meadows, Filing 4, and Phase III shall be valid for a period not to exceed one year from approval.
3. The applicant shall submit a PUD document delineating zoning restrictions, consistent with the developed phases of Oak Meadows, with the application for final plat of the Filing IV, Phase III area. In lieu of a PUD document, the applicant may provide this information in the final plat notes.
4. The Applicant shall delineate and legally describe all easements on the final plat, including but not limited to any easements of record and utility, drainage, water system, storm-water and open space easements, if any, required as a part of this development. These easements shall be conveyed to the HOA if they are not to be conveyed or dedicated to private, public or quasi governmental entities. Conveyance deeds shall be in a form acceptable to the County Attorney's Office, and such deeds shall be recorded at the time of recording of the final plat. Internal road rights of way shall be dedicated by the owner and accepted by the BOCC for public use on the face of the plat. The BOCC's acceptance is without construction or maintenance responsibility. The HOA shall remain responsible for maintenance of public roads
5. Plat notes regarding geologic constraints shall be placed on the plat in conformance with those recommended by Colorado Geologic Survey as follow:
   e. Lot-specific subsurface foundation investigations and geotechnical testing should be conducted and submitted with all building permit applications. This investigation shall include proper foundation and utility drainage around the structure.
   f. Lot-specific geotechnical investigations, including slope stability analysis should be conducted for the development of individual lots.
   g. Establish and erosion control plan using Best Management Practices prior to any site development.
   h. The detention pond shall be lined.
6. Per the comments from Garfield County Vegetation:
   i. The applicant shall submit a noxious weed inventory, map and weed management plan for all Garfield County listed noxious weeds. This information shall include a commitment to timely treatment and shall be submitted with the Final Plat application
   j. The applicant shall submit a revegetation plan that quantifies the area in acres, to be disturbed, and subsequently reseeded on road cut and utility disturbances, and includes a plant materials list. This information shall be reviewed and found acceptable by the Vegetation Department. This plan and the associated costs shall be included in the Subdivision Improvements Agreement.
   k. A soil management plan shall be submitted at Final Plat that includes a provision for salvaging on-site topsoil, a timetable for topsoil and aggregate removal, and provision for soil and disturbance cover if exposed for greater than 90 days.
7. The covenants for this phase of the development shall include wildlife mitigation as recommended by the Colorado Division of Wildlife as follows:
   l. Pets shall not be allowed to roam unattended on the property.
   m. Owners shall be subject to legal action if their pets chase wildlife.
   n. Construction workers shall not be permitted to have dogs on-site.
   o. Pets shall be fed indoors and no pet food or pet containers shall be left outdoors.
   p. No interior fencing of lots shall be permitted except for agricultural purposes. Agricultural fencing shall comply with CDOW standards. Fencing to allow for on-property pet control shall be limited to an area not to exceed…
   q. Bird feeders shall be permitted but must be hung a minimum of ten feet (10') from the ground and shall have a seed catchment.
   r. Each lot owner shall be required to have, and use, a bear-resistant or bear-proof trash can for storing garbage outside.
   s. BBQ's shall be securely housed inside of a garage when not in use. The BBQ shall be cleaned of leftover food and grease to avoid attracting bear to the area.
   t. During construction of a residence all food-related trash must be placed in a bear-resistant or bear-proof trash can.
   u. No plant material bearing berries, fruit or nuts may be permitted.
   v. Owners are responsible for removal of dead wildlife from their property.

8. At final plat the applicant shall submit information compliant with the recommendations of the Glenwood Springs Fire Protection District. This information includes:
   w. Provisions in the covenants regarding on-street parking being limited to one side of the road or prohibited. If on-street parking is allowed, provision must be made regarding enforcement.
   x. Locations and addition of fire hydrants on Silver King Court; the hydrant on Spring Meadows Drive be relocated to the middle of Spring King Drive and the intersection(s) of Silver King Court and Oak Way North
   y. A plat note shall be included stating "All structures greater than 5,000 square feet shall contain a wet fire sprinkler system designed and installed to the most current National Fire Protection Association 13R standard. A permit shall be obtained from the Glenwood Springs Sire Department for the system and submitted with the building permit application to Garfield County."
9. The final plat application shall include information compliant with Garfield County Road and Bridge recommendations which include:
   z. Access from CR 168A shall be permitted by Garfield County Road and Bridge Department.
   aa. Stop signs shall be installed at the entrance to CR 168A.
   bb. All vehicles must comply with the oversize/overweight system on County Roads.
10. The property is located in Traffic Study Area 8e and a Traffic Impact Fee shall be calculated and paid to the County at Final Plat. The Applicant shall pay ½ of the total impact fee at final plat and included as a component of the Subdivision Improvement Agreement (SIA), and the remaining half shall be divided among the lots to be paid at the time building permits are submitted to the County for individual lot development.
11. The applicant shall include the following plat notes on the Final Plat:
    a. Colorado is a "Right-to-Farm" State pursuant to C.R.S. 35-3-101, et seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds and smells of Garfield County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy ranching sector. All must be prepared to encounter noises, odor, lights, mud, dust, smoke chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.
    b. *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 there under, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
    c. All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County. 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
    d. 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. The mineral rights associated with this property have been partially or wholly 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).

Fred explained this application has been seen before and the preliminary plan expired and they want to seek approval for the last filing. This is one of the earliest PUD's in this County and Fred showed all the filings/. This is the last piece to develop. This was reviewed by the planning commission on May 14, 2008 and they recommended approval to you; incorporating all of staffs findings and conditions and there are three (3) additional conditions he wanted to point out. Fred asked the Board to review Exhibit F2; part of these deal with possibly creating a sub-association, because it is so different particularly with road maintenance and ownership and how that is going to occur. As he understands this will not be privately owned, privately maintained; these have to be public roads dedicated to the public, owned and maintained by the HOA, but managed and how the architecture of the sub-association is going to work to provide that. Lastly the applicant shall provide a plat note stating the property is served for fire flow, domestic water irrigation, sanitation from the Oak Meadows Service Company. He understands water has been a topic for discussion for this subdivision. Mike Gamba gave a power point presentation which was the same as Fred's and he went through it quickly. Carolyn wanted to clarify as Fred said this is a strange animal figuring out what the zoning was even though it is called PUD. She wanted to make sure that what the applicant is still just asking to vary the lot size; we are going back to ARRD on set-backs, so there are two lot sizes and set-backs, not building height or any other dimensions. Karl stated the way they were approaching this in reviewing the final plat and what that would look like based on the comments, and a lot of those dimensional requirements are shown on the plat. It will be real obvious to the homeowner or the building department what the dimensional requirements are.

Carolyn stated, this is not a separate zoning resolution; it is opposite of Ironbridge. Also in the report, the roads are owned by the HOA, it is our standard dedication of rights-of-way to the public and then the HOA has maintenance. It will be our standard final plat dedication language. Jim Austin stated this subdivision is in my backyard. He is not against the houses or the subdivision. The two things he has a problem with are first of all he started looking at this over a year ago and he went to Gamba and Associates and asked for a copy of the map. He was told to go to the developer and get his information. He went to the developer but they said we won't share that. He then went to the

County and the County planning office said that he should go see Gamba and Associates. The problem he has is twofold: 1) I don't know what the term expired means. It seems to me expired means expired, it is sub dividable of course and it is developable. He has always had problems with this piece of land because you have that chunk of the school in there and he thinks the boundary could be a lot less defined. We could use a little imagination in our subdivision; we have had a great deal of imagination. In one part of the subdivision we had a lot that were divided horizontally; now it is divided into a kind of pizza looking lot and that house has lovingly become the wedge house. It is a silly use of land except if you want to borrow baking soda from your neighbor they can hand it to you out of the window and have a close relationship. He thinks the land deserves a lot more attention than it has had. He believes the original subdivision ran out. 2) The second thing is the obligation of water and sewer came from OMSCO and for years they have had a debate with the OMSCO Board. But, that resolution was proposed by a developer and it was seconded by the developer's representative on the OMSCO Board and it was passed. As you know it is very hard for one board to obligate another except by contract. He does not believe that letter carries any other characteristics of the contract. Wednesday night, I'm on the school board and I will rescind that because he doesn't know that anyone has told him if there is adequate water or sewer. The sewer plan has never operated against this design standards. There is a young man who is the president of OMSCO and is an excellent engineer; he assures him that it will work. The problem is he's the one who drove to Kansas to look at the design and originally argued with the State that he though it was an adequate design. As it is installed; it is not operating adequately and he is not going to sign a letter that says sewer is available. In addition to that on the water question; there is a lawsuit in filing #2; all the residents who live there are currently spending $400.00 month each to sue the rest of the subdivision claiming they have wet water that they have not been given. The developer says it is a warranty issue. On the other hand the issue is not resolved. If you could move the water judge at something other than glacier speed because the point is he doesn't think anyone can say there is adequate water and he doesn't want to have a dry house. He stated that some things have changed since 1977; one of the most notable is the way that you chose to test at the landfill in Rifle. He feels the system in Rifle is the most advance waste water treatment system that we know of in the United States today. If he owned the subdivision he would put that system in rather than hook into an operating sewer system. He feels we should use more judgment, more creativity and he, frankly, would build the houses much higher up the hill; but it's not his land. Martha Fregdenall has lived in Oak Meadows for the last 19 1/2 years; she is currently the HOA Board president. She has three questions and one request and after listening I have a few more. First is where is the property line on that map? (Commissioners and Planner explained on the map) How are we assured we have adequate water – this is question of the day? In her 20 years there they have run out of water on several occasions on the upper wells and in which case we drilled in conjunction with filing 2, which has supplied us quite well with water. However, because of fire protection issues and a lot of other reasons, she is not exactly familiar with what they ended up with in the lawsuit. She wanted the Commissioners to know she has only been president since April and is not privy to a lot of information. So the water is contested and she feels it is a legitimate concern and they have hauled water up there. She doesn't know if their sewer system is adequate and as Jim said that letter signed by OMSCO was. I have a copy of the Minutes; the motion was made by Ralph Delaney who stood to gain $2.2 million dollars in the sale of that piece. Theoretically, she doesn't have trouble with twenty-five more homes here; but she does have some organizational questions, how this is all going to work. How high are these houses; will they block the view of the rest of the subdivision? The set-back; ten (10) feet, it is causing a lot of issues in the rest of filling 4. She would like the set-backs to be a little bigger. Not just bears but that is a mountain lion corridor and they should be aware and be addressed. She would like to see under the wildlife corridor if they could address fences or lack of fences. She would like wildlife to still be able to go through. One of the reasons she lives out there is to see the wildlife. Looking at your map; the way you come in, that corner is nasty. She wanted to know if anyone had walked it; she stated she is an avid walker. What about access on what is called a private driveway? Are we able to walk on this? Are they joining the current HOA or will they have their own HOA? The way this is platted right now and we have been talking in our HOA about a bigger vision that involves the County, the trail system that runs up Four Mile, a nice bike path could connect in all the way to Sunlight which would be a big bonus. Charlie Miller, retired forest service thought it would be nice to have a walking trail through Oak Meadows. He hopes this new development will tie into this. He would like to try to get bikers off Four Mile. Joan Pelusi is on the Hope Meadows Water Association Board. We are in fact the group who has filed suit for the former developer. She is only speaking in an effort to support the concerns over proven availability of water. They have done significant research to understand that there is definitely adequate legal supply. They do understand and this is hearsay that the upper tank which is the one that houses the fire protection water (150,000 gallon) has been out of water on two occasions last year. They have not been able to find out why and she is just here to support the other residents in her community who happen to be in a lawsuit but have a concern over the availability of water. On all the other things they did have an engineering review of the system and there are some things that could be done to make the system more efficient and provide adequate water. Those things are not in place and so they didn't have any grounds really to contest this because we have no proven documentation of any shortage. The question is all of the documents she has read supporting to move forward with this plan are referring to previous records that were done in terms of water. We are now in 2008 and she doesn't think that any current documents are showing that adequate water has been forthcoming from the well that is being used in the upper tank. She would like to have current data. Karl wanted to clarify for everyone's benefit saying, this is not the Delaney's doing this development. This is a separate entity, a different set of partners who purchased the property from Oak Meadows Development Corporation and when we use the word developer interchangeably. There has been a lot of comment about that. He thinks they need to be careful as to which developer we are talking about. From their standpoint, they purchased twenty-five (25) taps for water and sewer and they were provided a letter that they can and will provide service. Also, the State issued a letter of no material injury. He stated he would be remiss in his job if he didn't do a review of the water rights associated with this project, which he did. As the last speaker commented on there is clearly a legal water supply that is more than adequate to serve the subdivision and these additional twenty-five (25) lots, which have been contemplated for a long period of time. Mike Gamba can speak to the actual availability because again we would be remiss in our jobs if we didn't look at that as well as relying on information from third parties. He wanted to explain what expired means; it means expired, it is no longer in affect. The 2000 plat, the preliminary plan is why we here today. He does have a bit of trepidation regarding a couple of

comments regarding "I'm going to vote or move or I was unclear on rescind the Wilson letter". He feels we need to be careful given what is in the record right now as to what may happen in the future and what we have a reasonable ability to rely on, as far as our investigation and the States letter, etc. In response to the concerns regarding the HOA; he spent about an hour and a half with Chris Adleton who is a local attorney and sits on the Board for Oak Meadows and they talked about the very issues raised today. His current understanding with regard to roads is they have separate divisions within the HOA that have different assessments to address, issues related to whether or not and whatever the assessment are for that particular road. In this case we are a little bit different because we are putting down actual asphalt; the rest of the subdivision has chip seal, so clearly there will be differences in maintenance costs between this portion of the subdivision and the rest of it. As far as architectural review goes, we are subject to the general guidelines and they fully expect to comply and they believe they will if they are the ones doing the vertical development. If they are not the ones doing the vertical development, they have to deal with those same HOA regulations that occurred in prior filings. Setbacks are actually somewhat larger than in the prior filings or phases in filing #4. Trails are an important component to this owner as well and would welcome the ability to work on a comprehensive trail plan. The access drive going through is just that a private driveway; but that does not limit the development of trails and the balance of that open space. Mike Gamba stated as Karl had indicated, he reviewed the legal water supply for this development and Mike evaluated the physical water supply. His firm has a little bit of history going back in Oak Meadows; not back to 1968. In the early 1990's there was a water shortage up there and someone said they were hauling water; that was our first involvement. His company reviewed the well and determined that the wells are basically; they were mining the water out of those wells. Their advice was to drill another well; they recommended the Four Mile well location, they supervised the drilling of that and they pump tested it to determine the physical capacity of it. He went on to explain the gallons being used and gallons pumped per minute. The twenty-five (25) lots were considered in the design of the waste water treatment plant and the plant has more than enough remaining capacity to serve these lots. The plant has never been in noncompliance. Karl talked about there being some operational issues and of course expenses are going up; he thinks gas costs a little bit more so everything is increasing in expense. They may want some operational modifications to the plant, but that is an operation issue not a capacity issue. He believes as it is being designed and being operated it is functionally serving the current capacity and is able to serve the future demands from this development. About a month ago he was aware of a draw down on the 150,000 gallon water storage tank that is located in filing #3. In discussions he had with the operator of the system, they discovered that one of the pumps in a water treatment plant had gone out hence, the draw down. Once the pump was replaced the water levels in the tank returned to normal. Chairman Martin stated for clarification, the storage facility is 150,000 or 200,000 according to the State water engineers. Mike stated there is a 150,000 gallon tank and then there are two 25,000 gallon tanks for a total of 200,000 gallons. Carolyn stated she believed Mike was going to talk about setbacks because of the zoning issues. Karl you had said something about design. Karl commented on the design of the road and how that had changed. Mike said actually he had an exhibit relating to that. He showed the Commissioner on the exhibit; you can see the access onto Oak Way North was moved substantially and he explained the process. The revision to the design accomplished many things; it improved the site distance to meet standards, it reduced grades on Oak Way and one gentleman mention there is some swampy areas. There is in fact a wetland area and the new alignment of Spring Meadow Drive completely avoids any impacts to the wetlands. Karl stated the only other follow-up is that we are complying with whatever the Division of Wildlife is suggesting on fences and wildlife mitigation. As he looks at the parcel for the school, he stated unfortunately we are not in a position to redesign the school districts. Chairman Martin asked if they intended to have written covenants. Karl stated they do. His understanding is they are seeking new legal counsel for the HOA; so at this point, he is unsure who his counterpart will be to deal with. Chairman Martin stated that the Division of Wildlife has nine (9) recommendations; he went through the conditions and asked if they were still willing to live with those and they stated yes. Chairman Martin asked if they were still going through with the educational process with new owners and they stated yes. Commissioner McCown asked Karl what the governing body was like; is it made up of homeowners, is it independent – non-for profit? Karl said to be honest he is not familiar. My understanding was there was a change in board membership; he believes that Commissioner Houpt's husband now serves on the board. Fred wanted to make two quick clarifications; (1) on the zoning issue, particularly the setbacks. Beyond the setbacks; someone walks into our office and they want to pull a building permit, we would generally apply the ARD zone district dimensional standards to the remainder of what is in that PUD outside of the only change the County made to the land up there, which was setbacks. Karl stated they need to double check but he believes that is correct.
Fred believes it is a very important question; if someone where to pull up the plat up and say if this is the only thing I have to deal with, could I build a sixty (60') foot tall house. Karl stated his anticipation is that the plat note would say unless otherwise depicted on this plat; all of the zone requirements of ARD or the applicable zone district would be applicable. Fred stated he could tell them that is how this County has operated unless specifically altered otherwise; you default to the underlying zoning, which in this case would be the ARD zone district. I say that with a purpose, because you see these lots are ten, twelve, and thirteen thousand square feet. It is an important note to figure out, because I can tell you when someone comes in for a building permit and they have a certain expectation, it may not meet what our expectation is and this is the venue to have that discussion. They continued to discuss all the possibilities of plat notes, PUD, etc. Martha Fregdenall asked what is the actual vertical height; if you say that is determined already. Karl answered 25'. Martha said, so that is consistent with 4B and 4A; what she noticed in 4B versus 4A was the setbacks are greater. We have a lot less issues between neighbors and 4B is really tight in some areas. She happens to own lots in 4A and 4B, so she has a unique position there and it is really tight in 4B. She is asking for more than 4B, how about 4A? Mike stated that the side yard setbacks on phase I and phase II, filing 4B are typically five (5') feet; on this one we have doubled that to ten (10') feet. Fred stated, Mr. Chairman if this were to default back to the ARRD zone district, those are the set-backs, 10 foot on the sides. Fred explained to Martha that she could build her house legitimately on her lot as close as 10 feet to the side of her lot. On the issue of expiration, yes the preliminary plan expired, but it doesn't then negate wash off of the ground the zoning that was put in place.
Commissioner McCown – I make a motion to close public hearing and Chairman Martin seconded.
In favor: Houpt – recused McCown – aye Martin – aye Houpt – recused

Commissioner McCown stated to Fred, I am looking for some verbiage for number eleven (11), additional J, and it would be something to the effect that lot coverage shall stay consistent with previous filings. He is also looking for 4A, 4B; what was the statement made by the applicant that they would stay consistent with? Fred said it could be something that a plat note shall reflect the lot coverage's that are consistent with the previous filing in addition to height being in the 25' area. It is primarily for lot coverage.

Commissioner McCown – I make a motion we approve the preliminary plan for Oak Meadows Ranch PUD filing four (4) phase III with the eleven (11) conditions recommended by the planning commission. To number eleven (11) adding a J, which addresses lot coverage which should stay consistent with the previous filings 4B phase II. On lot coverage also adding the three (3) conditions as recommended by staff in Exhibit H, the applicant shall include a plat note referencing the inclusion of Oak Meadows filing four #4, phase III in the Homeowners Association. Second one it is necessary that the applicant shall form a sub-association and the third one, the applicant shall provide a plat note which states that the property is served for fire flow, domestic water, irrigation and sanitation from Oak Meadows Service Company. That would take it to fourteen (14) conditions total.

Chairman Martin – Second. In favor: McCown – aye Martin – aye Houpt – recused

CONSIDER A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD WITHIN THE ARRD ZONE DISTRICT AND LOCATED APPROXIMATELY ONE MILE EAST OF THE CITY OF RIFLE. APPLICANT IS BRUCE SNODE – DAVID PESNICHAK

Commissioner Houpt recused herself saying the counsel for the applicant works for the same law firm as her husband. Julie Hanson and Bruce Snode were present. Julie answered all questions however Bruce answered regarding the posting of the property. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner David Pesnichak submitted the following exhibits: Exhibit A –- Mail Receipts; Exhibit B – Proof of Publication; Exhibit C - County Zoning Regulations of 1978 as amended; Exhibit D - Garfield County Comprehensive Plan of 2000, as amended Exhibit E –Application; Exhibit F – Staff Report; Exhibit G – Memo from Jake Mall of the Garfield County Road and Bridge Department dated June 26, 2008; and Exhibit H – Email from Steve Anthony of the Garfield County Vegetation Management Department dated July 14, 2008. The Applicant has submitted a Special Use Permit to allow a "Contractors Yard" on a property situated within the Agricultural Residential Rural Density (ARRD) Zone District, east of the City of Rifle near the Garfield County Airport. A Contractors Yard is contemplated as a Special Use within the ARRD Zone District. The subject property is approximately seven (7) acres in size.

The Applicant requests that the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a "Contractor's Yard" on a 6.69 acre parcel zoned Agricultural / Residential / Rural Density (ARRD). The intent is to utilize the parcel for the parking of five (5) trucks used to deliver water to oil and gas companies and drilling sites and a related repair and maintenance facility. The parking and storage area is represented to be approximately 125 feet by 60 feet (7500 square feet) while the maintenance facility is approximately 3200 square feet. No water or wastewater facilities are proposed to be used or installed in conjunction with either the parking or maintenance facility and no representation of water rights or wastewater disposal have been demonstrated. Traffic generated by the proposed use will be up to twenty (20) vehicle trips per day. In addition, the Applicant has made the following representations:

The Applicant's request is consistent with the definition of a Contractors Yard approved by the Board of County Commissioners.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractors Yard" with the following conditions of approval:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall comply with all standards as set forth in §5.03.08 "Industrial Performance Standards" of the Garfield County Zoning Resolution of 1978 as amended and included here as follows:

   a. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.

   b. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

   c. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

   d. Every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.

   e. Storage of flammable or explosive solids or gases shall be in accordance with accepted standards and laws and shall comply with the national, state and local fire codes and written recommendations/comments from the appropriate local protection district regarding compliance with the appropriate codes.

   f. No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by any reasonably foreseeable natural causes or forces.

   g. All 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.

   h. Any repair and maintenance activity requiring the use of equipment that will generate noise, odors or glare beyond the property boundaries will be conducted within a building or outdoors during the hours of 8 a.m. to 6 p.m., Mon.-Fri.

   i. Loading and unloading of vehicles shall be conducted on private property and may not be conducted on any public right-of-way.

j. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
k. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

3. At no time shall the total number of vehicle storage associated with this Contractor's Yard exceed three (3) tractor trailer semi trucks and two (2) "Bobtail" trucks. All vehicle storage shall occur within the screened and identified 7500 square foot storage area at all times.
4. The total area to be used for vehicle storage shall not exceed 7500 square feet and shall occur within the area identified by the Applicant in the Special Use Permit.
5. The Applicant shall obtain and abide by all access or driveway permits from the Garfield County Road and Bridge Department.
6. In order to control dust, the Applicant shall periodically treat the driveway and storage area with an approved dust suppressant.
7. The Applicant shall construct an eight (8) foot tall, completely obscuring, privacy fence in the area identified within the Special Use Permit for vehicle storage and shall not exceed a total of 7500 square feet.
8. All vehicles associated with this Special Use Permit must be licensed and in compliance with State and Federal requirements.
9. As neither a plan for handling water runoff from vehicle washing nor a demonstration of adequate water rights have been submitted, no vehicle washing shall occur as a permitted use associated with this Special Use Permit.
10. As the maintenance and repair facility will require that employees be onsite for extended periods of time, sanitation facilities shall be installed. Such sanitation facilities (restrooms) shall be demonstrated to have a legal and adequate water supply as well as a waste disposal system which is in conformance with accepted engineering and regulatory standards. Prior to issuance of the Special Use Permit, the Applicant shall identify the location of such a facility as well as demonstrate that adequate legal and physical water is available to serve the facility. In addition, prior to issuance of the Special Use Permit, the Applicant shall demonstrate that a waste disposal system can be installed to serve the facility which is in compliance with all accepted engineering and regulatory standards.

Julie stated they started this process over a year ago because Bruce's property is in a weird zoning area. It is surrounded by mini storages, other truck storage facilities, a rig, the airport, County shops, etc. We started with the zone amendment, the text amendment allowing for contractor yards within the AARD. Then we started the special use permit process; we are fine with most of the staff recommendations. Bruce is happy to comply with the majority of those. She started with the sanitation facilities; Bruce lives on the property and he has one other employee who is there after hours. The guys who are coming and going do not stay to work on trucks; they literally do drop off and pick up the trucks. Bruce has restrooms in his residence, if the port-a-potty isn't sufficient for those coming and going employees, Mike would be using his restroom as well. They do not feel there is a need for a full blown sanitation system. Number 9, is fine by us; they don't wash trucks there. The fencing and screening is only an issue because there are no other properties around there that are fenced or screened. They understand those properties are zoned light industrial, so they did not have to go through this process. Bruce's use and what he is doing with the property fits in with the surrounding area and doesn't interfere with views from other people. When the application was started, Bruce did have the tractor trailers; he of course would like to expand his business as times change. The property does not allow for hundreds of trucks out there, it is only six (6) acres; but they would like the permit not to be limited to five (5) trucks. She understands that as he adds trucks it may require a traffic study or a sound study again to make sure we are fitting into that. She would like to suggest; if we don't limit the amount of trucks and he wants to increase, we do a review and submit those studies. Bruce wanted to expand a little; the traffic impact study for the five (5) trucks came out as a negligible amount of traffic for that road. Even if we were to double the number of trucks it still would have a negligible impact on what the current use of the road is. The purpose for doing a special use permit is to run a business out of there and hopefully even make some money. Bruce explained where the trucks would be kept and it would not stretch out across his property. His neighbor is a very nice person and he has talked to her and she has no problems with this. The screening, the area surrounding this isn't the prettiest spot in Garfield County. Bruce described all the surroundings and he sees no reason for screening. Bruce stated in the staff recommendations they are asking for a bond for reclamation; what is to reclaim? He doesn't understand the reason for that. David stated he caught that in the staff report, there is supposed to be a "not" in there. Julia stated our request would be that the special use permit be approved with possibly some amendment to the number of trucks, the fencing and the requirement for the sanitation facilities.

Commissioner McCown said to Julia that she has been before the Commissioners enough; it is almost impossible for us to generate a special use permit with what-ifs. If you want eight (8) trucks; tell us eight (8) trucks. If you want 9,000 foot of truck storage; tell us 9,000 foot. But, don't say I want a permit for five, but I may double it; we can't do that. The minute you add another truck it requires an amendment to the special use permit and you know we don't have that process yet, so it is a new application. If you have any idea today; if you want eight (8) trucks and 9,000 foot of storage, tell us that and that will be considered in the application. Bruce stated at this point; if I put twelve (12) trucks in there that would be the extent without starting to push them into corners where they shouldn't be. These are parked along the south property line on the west edge of the property and the east edge of the gully. Commissioner McCown asked if they would be tractor trailers or bobtails, what would be the breakdown. Bruce stated five (5) tractor trailers and seven (7) bobtails. Commissioner McCown asked if the storage was going to triple. Bruce asked to have the map put back up. He explained where everything would be done and the area that will always be where they park the trucks. Carolyn suggested, if they decided to go forward, they make a condition of approval that a site plan be provided. Commissioner McCown – I make a motion to close public hearing and Chairman Martin seconded.

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

Commissioner McCown – I make a motion we approve the special use permit for a contractors yard amending number three (3) to read at no time shall the contractor yards exceed five (5) tractor trailer semi-trucks and seven (7) bobtails, and number seven (7) 21,000 square feet storage area and strike number (10). Chairman Martin asked if they are leaving

in the privacy fence. Commissioner McCown stated that could be a berm, it just has to be obscured. Bruce asked, as long as it is eight (8') foot and that it would only need to be on County Road 352 side. Commissioner McCown stated completely enclosed and he stated he is having second thoughts on that. Chairman Martin stated really they are not going to hide anything. Commissioner McCown stated on number seven (7) he will scratch everything through within and starting at the special use permit for vehicle storage shall not exceed a total of 21,000 square feet. Chairman Martin stated adding the condition that there is a site plan that is attached to that I will second. Commissioner McCown stated yes, there will be a site plan before the special use permit is issued. Carolyn asked, as you all know the special use permit runs with the land, they are not personal to this owner. Considering that you have expanded the number of vehicles and the storage area; which could mean the number employees, is there any usefulness to going back to the discuss of the port-a-potties or even considering. Nope, that is all I need to know. Commissioner McCown stated; and I can add a last condition which would be number (10) that this particular special uses permit would only be enforced as long as it is operated the owner that applied for it today.
Chairman Martin – Second. In favor: Houpt – recused McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT FOR AN EXPANSION OF THE ALPINE ANIMAL HOSPITAL WITHIN THE ARRD ZONE DISTRICT, LOCATED AT 17776 HIGHWAY 82 ACCESS ROAD, EAST OF CARBONDALE. APPLICANT IS GARRETT BRANDT, ESQ. FOR ALPINE ANIMAL HOSPITAL, P.C. – DUSTY DUNBAR

Garret Brandt, attorney at Brandt Feigenbaum, P.C., Chuck Maker, Chad Roeber and Jeff Sabo were present.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar submitted the following exhibits: Exhibit A – Proof of Mail Receipts; Exhibit B – Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978, as amended (the Zoning Code); Exhibit D – Staff Report; Exhibit E – Application and Exhibit F – Staff Power point Presentation. Chairman Martin entered Exhibits A – F into the record.
Planner Dusty Dunbar explained: The applicant has operated a veterinary clinic on this site since the 1960s, under this ownership since 1970, and under Special Use Permit 99-103. This proposal seeks to remove a portion of an existing structure and eliminate another existing structure to construct a new 11,092 square foot structure with central receiving area and two wings to serve as treatment area for large and small animals, respectively.

Originally part of the request, a residential unit to temporarily house interns of the veterinary operation has been withdrawn from the submittal.
There is no residential use on the parcel at this time. Residential quarters could be built at a later date, but would need to be incorporated within the structures as the lot coverage maximum will be met with the structures proposed here.

STAFF RECOMMENDATIONS
Staff recommends approval of the proposed Special Use Permit allowing the expansion of the Alpine Animal Hospital veterinary facility, with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall comply with all standards identified in §5.03, 5.03.065, 5.03.035 and 5.03.015 of the Garfield County Zoning Resolution of 1978, as amended;
3. The new ISDS system shall be sized to accommodate the animal hospital operation and shall meet all Federal, State and local requirements as to size, installation, operation and separation from culinary water systems.
4. Driveway access shall meet the standards of Garfield County.
5. All parking (staff, customers and maintenance vehicles) must be accommodated on-site. No parking is allowed along Highway 82 Access Road.
6. A landscaping plan shall be developed that for the area surrounding the veterinary hospital to enhance the appearance and also provide a buffer from the highway to the north. The plan will incorporate components to mitigate lighting issues, and will not be installed in such a way as to block sight distance onto the roadway from this or adjacent parcels;
7. A landscaping plan shall be submitted prior to the issuance of the Special Use Permit, and landscaping installed within 60 days of the building's completion, unless it is necessary to delay planting to coincide with regular planting season;
8. Any fences or signs installed as part of the landscape plan shall meet Garfield County requirements, maintain neighborhood character, have valid permits, and be installed in such a way as to not block the sight distance near the driveway access onto Highway 82 Access Road from this or adjacent parcels;
9. Noise generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute 25-12-103, and any maintenance activity requiring the use of equipment that will generate noise, odors or dust beyond the property boundaries will be conducted within a building, or outdoors during the hours of 8 a.m. to 6 p.m., Monday-Friday;
10. Waste and animal carcasses that might be an attractant to wild animals shall be stored in a suitable container (odor-resistant and not able to be accessed by animals) until such time as arrangements can be made for the waste to be transported away to a suitable facility, such as the Garfield County Landfill. No manure or animal waste of any kind shall remain stored for more than seven (7) days;
11. Management of waste and manure will be performed in such a way as to minimize dust, noise, odor and sources of filth beyond the parcel border;
12. The new crematorium shall be required to operate in compliance with Federal, State and local standards for air quality, emissions, and odor;
13. Kenneling operation shall comply with all standards stated in 5.03.065, with the exception of the CDA Kennel License called for in (9), as that license does not apply to veterinary facilities that do not actively seek boarding business. The requirement shall be met by
providing a copy of a valid State inspection of the veterinary facility;

14. No more than fifteen (15) adult dogs may be kept at the facility at one time;
15. Operation related to those of 'Riding Stable' shall comply with all standards stated in 5.03.035, with the exception of the requirements in (4) '*Riding Arena'*. The Alpine Animal Hospital does not now have, nor does it propose to have a riding arena. The standard, therefore, does not apply;
16. Future residential use shall be considered as an accessory use to the facility, provided it is directly related to the veterinary clinic operations (such as the lodging of interns or employees), it does not exceed the zone requirements for lot coverage, etc., and is built under a valid building permit to meet all code specifications and requirements.

Garret stated there has been a veterinary clinic on this site for forty (40) years. These two doctors are the sole owners of the practice; Dr. Roeber has actually owned it for 16 – 17 years. They have all new modern equipment and are constantly updating their practice. He stated they do not object to any of the conditions; he wants to offer a requirement on the licensing issue, kenneling manner. They are not required to have site inspections of their facilities; it is not part of their licensing, they would like the one sentence – a requirement shall be met by providing a valid state inspection. They are not required to have that and he asked that to be removed so we can comply with the intent of the conditions.
Commissioner McCown – I make a motion to close public hearing and Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the special use permit to allow for the expansion of the Alpine Animal Hospital Veterinary Facility with sixteen (16) conditions noting the correction on number thirteen (13) striking the last sentence. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

NEW PROJECT ENGINEER – JOHN NIEWOEHNER

Fred Jarman wanted to introduce John Niewoehner our project engineer who started last week.
John stated he has worked as a private engineer consultant doing site development, and has also worked for the City of Aspen in community development. He is also an environmental engineer; has done environmental consulting and also international development work.

ENERGY IMPACT GRANT APPLICATION PROGRAM

Chairman Martin stated they have a time element for an energy impact grant application program; this comes to us to purchase a traffic control message board, speed monitoring etc. for emergencies for the road and bridge folks. They would like to submit that but we need a signature. The request is for $127,500.00.
Commissioner McCown – I make a motion we authorize the Chair's signature pending legal review.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

AUGUST 4, 2008
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 4, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 a.m.

COUNTY MANAGER UPDATE: ED GREEN

FOLLOW UP ON QUARTERLY REPORT – JUDY JORDAN

Judy Jordan presented the report saying she had refined her analysis of COGCC's proposed restricted occupancy and seasonal all timing limitations on drilling and completion. Judy worked with our GIS specialist Sami Dinar to determine the affected acreages in relation to the COGCC proposed oil and gas rules. She submitted the following summary of the findings.

The total acreage of Garfield County is 1,891,667 of which federal lands occupy 1,180,431. The remaining 711,236 acres are under state or private ownership. The proposed rules suggest elimination of certain territories near the nesting or Lek sites of sensitive species such as golden eagles and sage grouse. She added that we were able to account for the Toad Breeding Sites, Proposed Greater and Gunnison Sage-Grouse, Lesser Prairie Osprey Active nest sites, Peregrine Falcon active nest sites, Columbian Sharp-tailed and Plains Sharp-tailed Grouse Leks, and Townsend's Big Eared Bat Roost sites as mapped by DOW.

Commissioner McCown asked why are we paying for something that is not following the standards. Did we get what we asked for? Judy – Yes. This is a public report that the public will be able to read and understand but we were not specific enough to get a layman's language report. Commissioner Houpt suggested we take them to task and if not, then have them hire someone to complete that task. Judy said the first report was four to five months late and we had provided the lab results. She doesn't want to release lab reports without this detailed report. It will take a while to go back and refine this report. If there is more delay, she would rather have someone else do it that can turn this around quicker. We have paid them and the bill was segregated but we have not paid them for the last part. Don – We are close to a breach issue; they are responsible for a draft report and then a final report be in behind. They are still entitled to get a final report in place. They have assembled the data and if we breach the contract, then all we have is the data. Judy is trying to get a final report. The RFP didn't call for a presentation on this report. Don alluded to another report; this scope of work did not include presentation. If the Board wants a presentation then he suggested that we would need someone on board to assemble the data into a layman's report. We want to complete this report as soon as possible. Judy responded to Commissioner Houpt's question as to whether Dr. Thyne could do a final report that the public would understand. She said yes, he could.

Commissioner Houpt would support Judy's request. They are scientists but they are supposed to be writing a report that is digestible by the public. Don – COGGC is reviewing this study and Dr. Thyne has relocated to Wyoming. Commissioner McCown expressed a concern saying at this point if we give it to Dr. Thyne and it doesn't agree with the consultant's report, then what do we do? Which report becomes the perfect report if they are not aligned? Judy doesn't expect them to say different things. The report will include technical aspects of the ground water and mixing of the different zones. All of their language has to do with the geological language. They are not coming to conclusion on much of anything. Dr. Thyne might have different insights. Based on analyses that URS had done first, Dr. Thyne wanted to do a more in-depth study of the ground water and we might assist him to understand the scientific data. Dr. Thyne looked at hundreds of samples that URS had pulled out. No action is being requested today, Judy said she simply wanted to bring this issue to the Board and inform them of the progress.

UTHORIZATION AND APPROVAL OF CONTRACT FOR UPGRADED COMMUNICATION SYSTEM AT THE SHERIFF'S BUILDING – MATT ANDERSON

Lou Vallario and Matt Anderson submitted the recommended award for the Two Way Communication Inc. for the services to upgrade the communication system at the Sheriffs' Office with a new Bi-Directional Amplifier. This is to cover the existing dead spots in the areas. The following describes the costs:

Two Way Communication Inc – total price $59,966.75

- Costs for the Bi-Directional Amplifier plus other materials - $43,056.75
- Cost for Labor and Testing - $16,910.00

Matt compared the two bids received and stated the cost for labor and testing was the major factor in requesting to go with the lower bid.

A motion was made by Commissioner McCown to approve thee award to Two Way Communication Inc. for the services to upgrade the communication system at the Sheriffs' Office with a new Bi-Directional Amplifier. for a total price $59,966.75.

Commissioner McCown moved to award the contract to Two Way Communication Inc. for a not to exceed amount of $59,966.75. Commissioner Houpt seconded.

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

AUTHORIZATION AND APPROVAL FOR CONTRACT AWARD FOR SECURITY SERVICES AT THE RIFLE COURTHOUSE – MATT ANDERSON

Lou Vallario and Matt Anderson submitted the bid award he is recommending to Citadel Security and Investigation LLC for the services to provide armed guards at the Rifle Courthouse location. He added that Citadel Security was rated the highest amongst the three potential providers by the technical experts at the Sheriff's office. The cost of $25.00 per hour per guard is higher than other offers, Citadels' labor rate is all inclusive to include overtime. Their past performance with Garfield County was also superior to Wackenhut. The recommendation to the Board is to award this contract to Citadel Security and Investigation LLC for the amount of a not to exceed $120,000.

A motion was made by Commissioner McCown to approve the contract for Citadel Security in an amount not to exceed $40,000 through December 31, 2008. Commissioner Houpt seconded.

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

SENIOR PROGRAMS TO BE DISCUSSED IN EXECUTIVE SESSION PER ED

COUNTY SHERIFF UPDATE: LOU VALLARIO

SECURITY AT THE RIFLE AND GLENWOOD SPRINGS COURTHOUSE

Lou stated the court security contract will come out of his budget but next year it will be a separate professional line item.

UPDATE ON THE TRUCK IN THE RIVER: Lou said the truck has been removed from the river. The truck owner was very grateful for the support and safety issues. If there is a next time, the owner will call Lou directly. They waited for the water to recede. Everyone did the right thing.

WAGE INCREASES

Continued conversation on wages and Lou is still trying to come up with additional costs in the budget. They did a wage survey and it shows the Sheriff deputies are starting the lowest in the County as compared to the other counties that were surveyed: Eagle, Mesa and Summit. He wants to find some resolution to this issue as the cost of living is affecting the employees. Two additional folks have been hired and four more are being tested. It's frustrating because we hire a couple and then a couple more leave.

National Night Out – Lou reminded everyone that tomorrow night, Tuesday, August 5 they will be serving root beer floats and doing a parallel event in Battlement Mesa. This will be held in front of the Sheriff's office in the courtyard.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Items - Senior contracts; need to provide the Board with advice and direction on I-70 IGA; CR 204 status; afternoon items – adoption of new land use and Resolution of CR 118; airport negotiations; an item at 10:15 regarding the Fair Contract and direction before public action; Storey litigation; Resolution – for publication for the Treasurer; political use of county facilities;162 update; update regarding condemnation at the Airport; matter in front of the Supreme Court regarding DeBrucing and at 10:15 the Una bridge agenda item. Commissioner McCown added an item - CR 211.

A motion was made by Commissioner McCown to go into an Executive Session. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to come out of Executive Session. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

DHS SENIOR PROGRAMS, CONTRACT NEGOTIATIONS

Don submitted a letter received from the Mayor of the City of Glenwood Springs expressing the City Councils decision not to participate in the proposed IGA stating that the Council feels further details are needed about the roles and responsibilities of the parties to the agreement, future obligations and the development of a long term stable funding source to create a sustainable program for seniors in Garfield County. However, the Council withheld funding for health and human service provider grants to make funding available to help the County absorb senior services. Therefore, to help Garfield County, the City Council suggested that the County apply for the funds needed to continue services in 2008 and continue work on a plan. They enclosed two applications; one for senior nutrition and one for senior transit.

Lynn was present.

Direction from the Board.

Commissioner Houpt said from the letter, it appears it would make more sense to move forward with the other communities on the IGA and eliminate Glenwood Springs at this time. It is time to move forward and not try to have Glenwood Springs included in the budget for 2008; we can revisit this next year.

Commissioner McCown said not this year but we should set aside funding and apply for grants as Judy as suggested were available as well as information from the letter. Judy Martin and RFTA can hold discussion if they chose to apply for those funds.

Chairman Martin said forming of the Board for Senior Programs and we should do a resolution to form that board and it will be back before the Commissioners. Commissioner McCown so moved. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT:

Commissioner McCown said he will be at the Fair all week and actually was there last Friday and Saturday.

Commissioner Houpt said she was on vacation and didn't have a report.

Chairman Martin – Monday evening I met with the CEO from EnCana; also met with folks at Battlement Mesa who want to form a government; met with the Soil Conservation Leadership Forum; met with the Redcliff Coal Company formerly the McCain mine who will be submitting a SUP for Mesa and Garfield County; Parade at Silt on Saturday and gave away a lot of corn. Will be meeting with the DeBeque Fire District at 7 pm on Thursday; Senior meeting at 9 a.m. on Thursday in Rifle and the County Fair is this week and we have about 80 people who will be in the Parade as Garfield County employees are the Grand Marshal and then the Air Fair on Friday and Saturday.

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 for a Special Use Permit for a Contractor's Yard in the ARRD Zone District and located approximately one mile east of the City of Rifle. Applicant is Bruce Snode – David Pesnichak
f. Authorize the Chairman to sign the Amended Treasurer's Deposit Agreement and Amended SIA for Panorama Reserve Subdivision. Applicant is Cort Lewis. – Fred Jarman

A motion was made by Commissioner McCown to approve the consent agenda items a – f.

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

CONGRATULATION TO ED GREEN FOR 10 YEARS OF EMPLOYMENT WITH THE COUNTY. AUGUST 4, 2008

CITIZENS NOT ON THE AGENDA
ADRIENNE CROUCH – COUNTY ROAD 162 AND 162A – REPORT ON SECOND SURVEY.
Chairman Martin stated that we did get a report from a second surveyor and have that information back in reference to your 162 and 162A and properties misaligned, etc.
Don DeFord gave an update saying that we received information from an attorney named Barb Kozelka who is representing Frank Harrington who used to be many years ago a surveyor working on behalf of behalf of Ms. Crouch. The documents provided to my office were draft documents reporting to correct errors and legal descriptions. Those were forwarded to the County Surveyor for review and confirmation; I discussed the proposed correction deed and correction resolution and correction plat with Ms. Kozelka briefly and she indicated to me that once she had information back as to the accuracy of those documents from the County Surveyor that she would be contacting Ms. Crouch. I don't believe she has it all at this point. I also received some information from a surveyor by the name of Jeff Tuddle who undertook the location of the 1913 road on property off of the Crouch property but in the vicinity of CR 162 and one of two intersections and I have that in the file. That's what I have in my office at this point. Commissioner McCown – So, we're waiting for information from the County Surveyor? Don – At this point, we are.
Adrienne Crouch said she could provide the County with a couple of new documents and to once again put into the record a total of four documents. On September 10, 1992 the Board of County Commissioners made an agreement with John Stirling, it's about a 25 pages document, but one of the first things in the agreement that was signed was that Stirling and you guys were to file on a given date, the plat. I'd like to see that plat and also many of the exhibits in that subdivision improvement agreement were not recorded that deal with the construction, etc. so I have just the front page of that I wanted to put in the record and then September 7, 1994 after Don brought the a lawsuit against the Razzore's or others to condemn the road, there was a release and settlement between John Stirling, the Razzore's and Garfield County and I've just given you the first page; I put that into the public record in November of 2003 which still hadn't been resolved. But, on number three it's says "Stirling will be solely responsible for obtaining title insurance and or evidence of title to the property described herein and shall pay any and all costs". You've asked me multiple times of which I've complied to give you title policies right here in this release its says that "he is supposed to give you title insurance over and over again." I would like to see the title insurance that Stirling has over his properties. On March 23, 2007, a year and a half ago now, I requested from the County the legal descriptions in survey plats of Reception Number 22185 also County Roads 100, 102, 162 and 162A and still have not received those although my legal descriptions for my family's property talks of those when we deed out. Last week I met with Kinder Morgan now Source Gas. In 2002 I spent $18,000 with a law firm not knowing that 6 months before I worked with that law firm, that the County gave easements on 102 Road, 162 Road to Kinder Morgan. They had given me those construction permits of which they have not put their gas lines and knew it at the time in my water ditch, I put storage tanks down in the water now, no one around me has complied with anything; so, I'm going to put these into the record because Kinder Morgan new management Source Gas assures me that if the gas line is not in the road easement of which you guys gave permission that they will have you move the roads and their gas lines at your expense. So, I'd say that's pretty serious. And the last thing I'd like to say, it seems like you have all kinds of rules and regulations for everyone in the County that it doesn't ever seem to apply to me – no notices of the Stirling Subdivision; no notices of when you all have meetings that are applicable to the Crouch property so I would like to be treated once again like anyone else in the County and I would like an immediate response. And the last question I have is Mr. Martin and Mr. McCown's retiring, but what happens if I bring a lawsuit or when I bring a lawsuit, what happens if you guys are not here.
Chairman Martin – It's still the Board of County Commissioners and still the County itself – you're doing the Board not as an individual unless of course you cite as individuals that would be up to how you approach that. Adrienne – And also I'm familiar with Mr. Towan and we have worked together as well so I'd like to see the easement descriptions and who owns the property around me. Chairman Martin – If you'll give us those documents, I'd appreciate it; give those to Jean and we'll go from there. You probably got those documents out of Jean's office anyway. Adrienne – Just two of them, mostly the permits are the new thing that Kinder Morgan gave me that I'd never seen before.
BOARD OF EQUALIZATION:
INFORMATION REGARDING PROTEST PERIOD – REAL AND PERSONAL PROPERTY VALUATION – JOHN GORMAN
Thanked the Board for graciously for reinstating yourself as the County Board of Equalization to receive this. Last week I gave the Board a verbal communication and explanation of what you now have before you in writing and this is what I'm required to present to you and so our office has produced copies and if there are questions, this is just to let you know about the real and personal property protest hearings, the valuation of real property that a I mentioned to you last week and the valuation of the personal property and to let you have a master protest log and a list of those required to give personal property declarations that either filed them late or did not file them at all. Chairman Martin requested John to give the overall property valuation and how it breaks out. John - As of July 11, 2008 what we have recorded for real property, assessed value - $922,171,030, and this does not include state assessed properties. Again, as of July 11, for personal property and oil and gas properties, the assessed valuation is $2,277,520,490 and this does include drill rigs which are apportioned to our County in the amount of $58,676,350.
Chairman Martin – So, you would say overall personal property and real property for the total assessed valuations over three billion. John – Yes, over three billion dollars.
Chairman Martin – That's what we base our mill levies and everything else on tax collection, etc.
John – We may still see some changes in some of these figures before we do the abstract and certification late this month and we don't know how much that will be but I can't imagine it changing very much.
Commissioner McCown – One question, looking through this list of not filed or filed later, what happens to the ones that have gone out of business – do they just basically drop off the rolls if you've got a company that's dissolved and no longer in business but shown here as delinquent in filing.

John – I've seen some of that I imagine that are no longer here. Commissioner McCown – I know some that aren't and that's why I was asking. John – Once we confirm that they are not longer existing I think we have a method to remove them from the role. Commissioner McCown – The 15% of the taxes or $50.00 fine whichever is less you can't expend a lot of time and effort and collect a $50 fine and hope that's a break even for the taxpayers of the County, so I was hoping there was a time when these are declared null and void businesses that they drop off our rolls. Lisa – Those are simply the people that did not file declarations; at the end of the year if the business whet out of business before January 1, 2008 they just drop away and they're not going to get assigned a fine. If they were still in business as of January 1, 2008 by statute, they are still required to pay taxes for the entire year when it's personal property. Commissioner McCown asked then who do you go after? Lisa – Georgia goes after them. Commissioner McCown – But we're looking at a $50 fine. Lisa - $50 fine and whatever taxes are due. Commissioner McCown – It says 15% of the taxes due or a $50 fine whichever is less. Lisa – That is simply for not filing a declaration; they're still required by law to file a declaration but they are still responsible for the taxes for that year, so it's the taxes plus. Commissioner McCown – Again, back to my question, if a company has left the area and disbanded the corporation, who would Georgia go after? Lisa – Georgia does her best to track them down and if she doesn't, then they end up over here as abatements.

ASSESSOR - ABATEMENTS

ABATEMENT #08-263, SCHEDULE #R580125 FOR GJ ENTERPRISES LLC – LISA WARDER

Lisa Warder stated that the petitioner states that the taxes assessed against the above property for the property tax year2007 are incorrect because the values entered in property value form for 2007 were reversed. The residential and commercial values should be opposite as stated. That allows for normal increase in values. Not the decrease in residential value and increase in commercial value. The total income in 2007 for the 1200 sq. ft. of commercial space was $10,400. The abatement is $3,574.95. John Sidel – Manager of the property. Did not catch this during the protest period. He is satisfied with the adjustment.

A motion was made by Commissioner McCown to close the public hearing; Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the Abatement #08-263, Schedule #R580125 for GJ Enterprises LLC of $3,574.95. Commissioner Houpt seconded.

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

PROPOSED DESIGNATION OF MT. CALLAHAN AS A STATE NATURAL AREA – BRIAN KURZEL

Daniel I. Padilla, Regulatory Coordinator for MCAT – Rocky Mountains and Brian Kurzel coordinator of the Colorado Natural Areas Programs were present. Brian presented the information regarding the proposal. The Natural Areas' Legislative Mandate Act passed in 1977 and was re-authorized in 1988; and unanimously re-authorized in 1999. There are 77 sites designated; 25 sites are registered. There are 140,000 acres designated; 51,266 acres are registered; and the designated sites include 33% on BLM lands; 29% state; 14% private; 10% USFS; 6% on municipal/county; and 3% NPS. The question before the Board is do they want to have a public hearing or just send a letter from the Chairman stating no public hearing is necessary and then give consent to take the designation proposal to the Colorado State Parks Board for approval. Brian outlined the steps that would follow if this is the route the Commissioners chose to do.

The proposed area to be designated as a State Natural Area consists of a 680 acre tract of land owned by Occidental Oil and Gas (OXY USA WTP PP) in Garfield County known as Mount Callahan, located about three (3) miles west of Parachute. The property is home to two of the largest and best populations of a rare plant called the Parachute Penstemon, which is known from only five (5) sites in Garfield County.

The State has been working with Occidental for over twenty (20) years on this property and it has been a designated Natural Area since 1987. The private landowner is a full partner in support of this action. The area will continue to be owned and managed by Occidental, with the Colorado Natural Areas Program as a cooperative partner that will assist them with advice and protection or the rare plants which are of statewide and worldwide significance. Brian Kurzel said that over the past 20 years OXY has worked with the State Natural Area and recognize that rare plants are in this area. The reason they are before the Board today is because we have an interest in revising and amending these articles of designation which is the land management agreement with Occidental and it is required in the Natural Areas Act that we allow the County Commissioners to call a public meeting about such as action. And Mr. Martin asked that we come today and present this to the public. The revision we seek on the current agreement with Occidental is to incorporate Best Management Practices that would allow for limited oil and gas development in the area while still assuring the protection of the rare plant habitat and the unique features that occur on the Mount Callahan natural area. We have developed these Best Management Practices with the assistance of US Fish and Wildlife Service, the Bureau of Land Management, Denver Botanical Gardens, several plant conservation groups and all feel relatively confident that the use of Best Management Practices when implemented by Occidental will protect this plant into the future while allowing for some development. We would like to accomplish today the revision of the existing agreement and also like to amend the existing agreement with an additional property. The two best populations of the plant are on Occidental property and we already have a designation on Mount Callahan which is the best population in the world but Occidental also has what we call a saddle population which is the second best population in the world; so, Occidental is interested in expanding our agreement to incorporate that acreage that has the second best population. So, we have an interest in amending our agreement to include that property which will also include the Best Management Practices which will be incorporated into that agreement. Daniel – Over the past 20 years Occidental has worked in concert with Colorado Natural Area's program to design a portion of OXY's property in the Mount Callahan area as a biological preserve and state natural area. OXY realizes that rare plants are growing in this area and we desire to see the species continue to prosper in this area. The agreement is a re-designation of much of the same area with the addition of the expansion of our property specifically the north half of Section 19. As Brian stated, the agreement identifies Best Management Practices that CNAP and OXY believe will protect the plant as well as let OXY proceed with developing its oil and gas activities. OXY supports the re-designation and is prepared to sign the agreement with the Department of Natural Resources and the Colorado Natural Areas committee. Chairman Martin –

The question is coming from this Board, do you feel that a public hearing would be beneficial or with the agreement you have and willing to enter into this you do you feel that it is not beneficial. What would you like to do? Daniel – We are satisfied with the agreement in place as described and the public hearing is up to you guys. Chairman Martin – I don't see a change of designation in zoning or any other issue that we have or any control other than we know it's been going on for 20 years and it's real interesting that Mount Callahan is named after the gentlemen that built his fireplace in Garfield County out of oil shale and burned his cabin down and that was in 1882 but again we've had oil shale since 1883 under Mount Callahan and it's interesting that they would be in an open area like that. Commissioner Houpt thanked them for their presentation and it's wonderful that you are working together on this and I don't see any a need for an additional hearing. Commissioner McCown – Agreed, it's all occurring on private property and it doesn't seem like there would be any enforcement action comes in on this; it's strictly advisory and cooperative, so both parties are at the table and willing participants. I don't see a need for a further hearing on this. Chairman Martin – You've got our blessing and good luck. No public action was needed.

UNA BRIDGE PERMIT – MIKE HERDEN WITH ENCANA

Mike Herden with EnCana Oil and Gas (USA) Inc, Paul Stopple representing ODDO and Jake Mall of the Garfield County Road and Bridge Department were present. Mike Mohror sent a letter to the Commissioners stating that EnCana is presently performing a due diligence review regarding the offer to purchase the old Una Bridge from Garfield County. While under this review, EnCana is seeking a longitudinal permit across the old Una Bridge for the placement of a 24" steel natural gas pipeline to be constructed adjacent to EnCana's existing pipelines. This is to run our Colburn pipeline in conjunction with the other three lines that are currently lying on the bridge now. Chairman Martin – It's a 24' steel natural gas pipeline. Commissioner McCown – Why didn't you submit this permit to the County Road and Bridge? Mike said we did but it my understanding that this was a Commissioner's decision for the easement across the bridge. Commissioner Houpt – It did come to us with your original easement when you put the other pipes on the bridge. Don – These are permits for the Road and Bridge Department and usually they bring those to the County Commissioners with whatever recommendation they have. Commissioner McCown – The first one there was a little concern and never having had a request before that before it did make its way to us, but I think the other two have been administratively handled by the Road and Bridge Department. Carolyn Dahlgren – As a matter of internal policy the Road and Bridge Department usually brings things to you when they are over a certain length or maybe because it was the use of a structure as well as a right of way, they needed to come to you. Commissioner McCown – And maybe it got to us in the wording in this particular letter dated July 17, 2008 regarding the offer to purchase the old Una Bridge. Don explained the policy on selling County property saying the County does not convey its rights of way or sell its rights of way if that's what EnCana has in mind. We don't need another County Road vacated. Mike – In consultation with Jake Mall and others it came down to basically the only use for the bridge now as it is, is for the pipelines and it's a good hinge point across the river for future lines, so that's why a representative from ODDO who we've hired and we've done some improvements to the bridge under the operation of maintenance for existing lines for future and we're complete with those and EnCana's going to approach the County to purchase this bridge because basically the liability factor of it is, it's our liability, not the County's. As it stands now, the County doesn't maintain it and doesn't need to have a use for it. Commissioner McCown – Yes, but we can incorporate all of those things in our lease to you. We are not going to sell the bridge, we can't so you can save a lot of your time and effort and money in researching that because we can't. Now, the permit back from Road and Bridge can cover all of those maintenance issues that you're talking about and liability. Mike said the offer came from Road and Bridge into discussion and legality and so we're clear on this and it looked like a viable option for EnCana naturally if it was good for everyone in general but if it's not, then we'll take whatever course necessary to order to continue. Chairman Martin – Permit and lease. Mike – One thing to add, when we do this crossing on the bridge we're going to widen the turn down on 300 Road when we build the pipeline so it's better turning for the trucks. Commissioner McCown – That again has to be part of the permit that Road and Bridge would issue ensuring that you're staying within our right of way. Don – To be clear on the right of way issues, when we issue a permit, we do not insure there is right of way, so if there's going to be any widening of the road or require additional properties, EnCana will have to verify there is right of way. Mike said they have done that and Mr. Colohan is the property owner adjacent to the bridge.

DISCUSSION AND APPROVAL TO CLOSE THE COUNTY CLERK'S OFFICES IN GLENWOOD SPRINGS AND RIFLE ON NOVEMBER 4, 2008 SO THAT ALL STAFF CAN WORK AS ELECTION OFFICIALS – JEAN ALBERICO

Jean Alberico requested approval from the Board to close the Clerk and Recorder's office on Tuesday, November 4, 2008 because it will take my entire staff, motor vehicle, recording, everybody, vital records to answer telephones and to assist judges at the polling places and walk-in voters in the office. This is something that we normally ask for on a general election day. We don't need to shut down for the primary election but we do need it for the general election. We need to notify everybody ahead of time, post it, get letters out to title companies, banks, etc., dealerships of our closure. Commissioner McCown – I think it's perfectly within your purview to close your own office if you chose to but I would support that and I would make a motion that we authorize the closure of the Clerk's office on election day in Rifle and in Glenwood Springs for normal business and all the attention be converted to the election. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A CONTRACT WITH VENTURONI SURVEYS AND RESEARCH TO CONDUCT A LAND USE PUBLIC OPINION SURVEY. – DAVID PESNICHAK AND FRED JARMAN

David Pesnichak, Long Range Planner presented the contract and explained. As you will recall, Staff presented the scoping to the BOCC for a statistically valid County-wide Public Opinion Survey on March 14, 2007. Due to high work load and staffing shortages, this Public Opinion Survey was put on hold until the summer of 2008. Staff is preparing to conduct a county-wide public opinion survey as the first step in the Comprehensive Plan update process for which resources have been allocated in FY 2008.

A county-wide public opinion survey has never been conducted in Garfield County. With rapid changes occurring throughout the County, scientific knowledge of public opinion is an invaluable planning and

decision-making tool. The intent of the survey is to gather public opinion of Garfield County residents regarding:

- Currently established County land use
  - Land Use Patterns, Housing, Transportation, Resource Extraction Operations.
- Growth
  - Oil and Gas Development, Second Home Construction, Down Valley Effect, Construction.
- Vision for the future
  - Use Pulse of Community and Vision to Formulate Policy.
- Policy
  - Input and Direction for Staff and the BOCC.

PROJECT DESCRIPTION

The survey is intended to bring the public into the decision making process and inform the Planning Department and County officials about the community's perceptions and preferences. To this end, the survey is intended to determine the community's opinion on the following:

- The reasons for living in Garfield County.
- Top problems facing Garfield County today.
- Open space.
- Growth.
- Transportation.
- Housing.
- Oil and Gas Development.

The results of the survey are anticipated to be utilized not only in the Comprehensive Planning process but also within day-to-day decision-making regarding current development applications. In addition, the results of a county-wide public opinion survey can be utilized within the following documents:

- Zoning Resolution.
- Subdivision Resolution.
- Comprehensive Plans for Study Areas 1-5.
- Transportation Plans and Regulations.
- Affordable Housing Plans and Regulations.
- Current Planning Applications.
- Taxation (finances and budget formulation).
- Public Policy Prioritization.
- Strategic Planning.

The questionnaire has been initially created by staff. With the execution of the contract, the consultant will provide input, revisions and additions to the questionnaire and provide procedural and technical guidance to both the Planning Commission and staff. The intent of the Planning Commission's involvement is to ensure that the questions are fair, well balanced and covering all necessary topics. The chosen consultant, Venturoni Surveys and Research (VSR), specializes in creating and guiding surveys through the process to achieve a statistically valid product. The primary purpose of the consultant is to help eliminate bias not only in the questions and wording but also in the development and implementation process itself. VSR will to come into the process early to evaluate our intended process and offer guidance from the early stages. VSR shall also craft the survey to allow for analysis using SPSS or other statistical analysis tool. In addition, the survey will be created to allow for cross-analysis with recent surveys conducted in the Town of Carbondale, Eagle County, the Town of Basalt and Pitkin County. Products shall include data entry, mailing prep and execution, insurance of a statistically valid survey response rate, initial written comments on the proposed process and questionnaire as well as a final analysis of the process and questionnaire used and presentation of the final results. In the end, the primary role of the consultant in this project is to increase statistical validity, provide a streamlined and efficient process, and decrease both real and perceived bias in the final results.

Estimated Project Timeframe

June 23rd, 2008 – RFQ Release
July 18th, 2008 – Quotes Due
July 25th, 2008 – Award Date
August 13th, 2008 – First Procedural Report Due
August 27th, 2008 – Planning Commission Meeting w/Consultant
September 17th, 2008 - Begin Survey
November 1st, 2008 – End Survey – Initial Deadline Review
December 1st, 2008 – Final Procedural Report and Statistical Analysis Due
December 15th, 2008 – Final Report Due

Selection

Planning Staff, with the help of the Contract Administrator, drafted a Request for Quote (RFQ) which was released on June 23, 2008. The RFQ was initially sent to the following contacts:

Northwest Colorado Council of Governments (NWCOG)
Otak, Inc.
Left Brain Concepts, Inc
Western Slope Consulting
RRC Associates
Clarion and Associates
Alan Richman
Rees Consulting, Inc.
Venturoni Surveys and Research (VSR)

From the above list, Staff received responses from the following consultants prior to the July 18, 2008 deadline (Please see attached analysis chart):
Left Brain Concepts, Inc.
Western Slope Consulting/RRC Associates (joint proposal)
Northwest Colorado Council of Governments (NWCOG)
Venturoni Surveys and Research (VSR)
Of the responses received, Staff believes that VSR will provide the highest quality product along with the most efficient process. This finding is based on the attached evaluation chart and of the four responses received, VRS provides:
- The clearest vision for the project
- The most extensive recent experience within the Roaring Fork Valley
- Ability to easily cross-analyze the results of the Garfield County survey with recent surveys conducted in Pitkin County, Basalt and Carbondale.
- Excellent referral from the Town of Carbondale
A signed contract was submitted to the County Clerk and if the Board approves it today, the award can go forward. Commissioner Houpt asked if there would be a presentation to the Board. David – Yes, there will be a presentation with the Planning Commission on August 27 to discuss the questionnaire with them. Chairman Martin stated the Board would like to see a presentation as well at the conclusion. Carolyn asked Fred and David – The full proposal was not attached and this 2-page does not cover it all. David stated he ran this by Matt Anderson he said this was adequate. Carolyn will talk with Matt. Commissioner Houpt said she is impressed with this and made a motion to approve the contract with Venturoni Surveys and Research four our Garfield County, County-wide land use opinion survey in an amount not to exceed $25,350. Commissioner McCown – seconded. This was budgeted for $10,000 and asked Fred if he has the additional funds? Fred – Yes, this was actually a component to the $50,000 that we had budgeted, so the Comp Plan wasn't used in 07 or 06. This can be covered out of the $50,000 and it's likely we won't use the balance of what's remaining and look to schedule that at the Planning Commission as they can't take this endeavor on until next year anyway with their work load so the Board will see in the 09 budget the proposal for the Comp Plan. Commissioner McCown – The Planning Commission will approve the questions. Fred hopes they will be an integral part of how this is all going to work. Commissioner McCown – It's critical to keep the level of fairness at the upmost, what type of matrix does she use to select mailing? Voter's registration – what methodology is there? Fred said they have talked to her about this. David added this is to be discussed on Wednesday; she's typically done Assessor mailing list and she's said it would be hampering in voter registration and we need to discuss the advantages and disadvantages of going with voter registration and fully expect it to go with the Assessor's list. Fred is hoping to get a very good representative sample to increase our scientific validity which is a key piece to this.
Commissioner Houpt – And to add onto that question, number nine of her scope of services, "second mailing if response rates from first mailing does not meet projected numbers", I would think that she would look at more than just numbers, we want to make sure we have a representative group of people participating in this and there are still many people who won't respond to an on-line survey but would respond to a paper survey, more clarification could be brought to that as well. Fred responded that this is our meeting on Wednesday if the Board moves in that direction today. Ed – When we did the focus groups we did both the Assessor inventory and the voters and merged the two lists together and then we grid sampled on top of that so that we made sure we had representative sample for every segment of the County. We may have software that merges those two together. Fred – A key piece of this is that by going with a firm like Venturoni it's very important on how you ask and collect the data so that you can use it.
In favor: Houpt – aye McCown – aye Martin - aye

COLORADO WEST PROMOTIONS – RECONSIDER COUNTY FAIR CONCERT CONTRACT – GABE CHENOWETH

Gabe Chenoweth, Dale Hancock and Don DeFord were present. This is to reconsider the contract, rental agreement for $35,000 and paid back by November in rent. Chairman Martin stated this came about when Gabe and I had met at his office and that is to reconsider the contract itself. In the contract as we've done in the past, there is a rental agreement with Colorado West for the facilities for $35,000 this year and then it's paid back over a period of time at the end of the year – November in rent and my consideration in talking with Gabe is that we should be a sponsor and I would hope that we could sponsor that particular concert and I throw that out for discussion instead of a rental. This does benefit our citizens. And since I was part of the vote on the contract that Dale did and you signed, I figure that a reconsideration should come forward; so that's a motion that I am making. Carolyn didn't know if the contract came to the BOCC. Commissioner McCown – Yes it did. Commissioner Houpt – But we don't have it in front of us. Commissioner McCown said in hearing John ask that rather than this becomes a rental agreement, it become a grant and should that happen I would be in support of that. However, the fact that we've become a sponsor and I don't want this to in any way cloud your operations because you deal with any number of sponsors for this event and I don't want Garfield County interacting as a sponsor as a grantor to affect how you would go forward and do your business as the promoter of this event. Gabe – Things changed over time from the time this non-profit was formed to coordinate and put on this concert. The original plan was for it to be the County's concert managed by the non-profit which also manages the Fair/Scholarship Fund and whatever reason is irrelevant but I think we have gotten away from that and its become more of the non-profit's concert and to that end, the non-profit has accepted all of the responsibilities and other individuals, Gabe has personally ended up making up for any short comings with that non-profit company/corporation. I think that a better way to move forward would be to consider this a County event and then if the County chooses to hire the non-profit or to contract with a non-profit to put it on then we can move forward from that standpoint. Chairman Martin – In doing so, the proceeds would go to the scholarship funds that are actually being generated out of any revenue. Commissioner McCown – No not if it was a County event. It would be run, managed by the Fairboard and they could contract with whomever and then the benefits would come back to that entity and if there were grants awarded out of that, then that would have to go to the same process – we would allocate x amount of dollars to the scholarship grant. That was my concern. Commissioner Houpt

said it's very convoluted and I'm just wondering; the whole idea of us lending money – we can't do that and so we had to create something that allowed the event to move forward and allowed you to raise money for the scholarship program. But what I think I'm hearing from you today is that is not happening anymore. You're not breaking even. Gabe confirmed that was correct. Commissioner Houpt – So we need to find a practical way of dealing with that. Ed – Can we sponsor a scholarship program? Commisisoner McCown – We would add funds to the entity that gave out the scholarship. Commissioner Houpt – Believes we need to think about this and need more information in front of us because this then goes the whole, it's almost been connected with the Human Services Granting Program because it's a scholarship granting non-profit. Ed – And in that instance it's to entities, not individuals; that's the difference and I'm not concerned about it. Gabe –My interpretation, if the Board chooses to grant the 501C3 whatever amount of money each year, that would be considered a grant intended to stimulate arts and humanities, but the concert being a public event for the citizens of the County and the scholarships if any (and we have given scholarships every year even thought there hasn't been a breakeven just as a clarification) I think whatever scholarships come out of that from the non-profit I think would be a separate issue dealing more with the non-profit. In my opinion and from my viewpoint the Board of Commissioners would be supporting the even at the County Fair or at the County Fairgrounds and that would be separate from the scholarship issue. Commissioner Houpt – Why would we grant money to do this instead of just of just hiring them to do it? Chairman Martin – Its based upon the rental agreement we have in place with everyone else and it's in and out and it's not supposed to be dollars exchanged. Gabe – I think that's a matter more of semantics. Commissioner Houpt – I'd like our legal staff to look at this. I'm not sure what we're allowed to do to help resolve this. For this year if anything and not sure how we move forward with this in the future, whether we should just hire them or rent it. Commissioner McCown – It depends upon how we write the contract. Commissioner Houpt – What matters is we also; we have to see how that fits in the grand scheme of things with the other grants throughout the County. This is actually very different because they are running a County-wide event and so that's why I asked the question, why aren't we just hiring them to do that. Chairman Martin – Again, that's for next year. This year the issue is a repayment clause and I think that's why I bring it forward and we have an option, either to honor to contract and have them repay us as they have every year or not and remove that and forgive the indebtedness or repayment. Carolyn asked John if he was suggesting a straight-forward contract that says you run it and for that we'll pay you $50,000 or whatever Gabe is asking and there'll be no requirement; that money goes to running the scholarship fund. Chairman Martin – No, not at all. What is amounts to is the particular contract for this particular year the repayment clause, etc. how it's set up; make it a grant and give a forgiveness of the repayment clause. Carolyn – So that would mean there would be in this it's $35,000 would go to the not for profit. Dale – There are two separate conversations going on here, you've got 2008 and how to resolve the dilemma that Colorado West Promotions is facing right now versus what you want to do in the future. Really the action step in front of you is dealing with what John put up is to put up to deal with the 2008. Carolyn – So, forgiving the rent payment? Chairman Martin – Exactly. I'd like us to consider that which requires an amendment to the contract. Don –. If the Board wants to go ahead and amend the contract then remove them to require to pay rent then we need an opportunity to look at the contract and sees what's left. Commissioner Houpt –Would like staff to look at it and come to us with a concrete recommendation of how we move forward with that. Carolyn – So do you want an amendment to the contract? Commissioner McCown said and money's been paid from the County's part and already disbursed. Chairman Martin – All that is before this Board is to waive the rent payment. Carolyn – The entire contract this year is based on Colorado West giving 65% of the net proceeds to the scholarship program; 25% to the Fair fund and then Colorado West keeps the remaining 10%. Gabe – Actually we removed that entire paragraph. On next week agenda would depend upon legal review of the contract and a new version that would meet the desire. To waive the rent payment. I hearing you may have to rewrite the contract and will one week give you time? Carolyn – Sure. Commissioner McCown seconded John's motion. Work the details and bring it back for public discussion.
In favor: Houpt – aye McCown – aye Martin – aye
If staff can have this by next week the approved contract could be on the consent agenda.
CONFIRMATION FROM PARACHUTE, NEW CASTLE AND RIFLE FOR THE THURSDAY MEETING AT KATHRYN SENIOR CENTER ON THURSDAY. MEETING IS FROM 9- 12.

COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Ryan Pritchard – Armstrong Consulting regarding airport work introduced himself to Brian Condie.

AMENDED FINAL PLAT FOR ASPEN GLEN, FILING 1, LOT D-37. THE REQUEST IS TO APPROVE A DUPLEX SUBDIVISION LOCATED AT 0210 E. DIAMOND A RANCH ROAD IN ASPEN GLEN. THE APPLICANT IS 0210 E. DIAMOND A RANCH ROAD PARTNERSHIP, LLC – KATHY EASTLEY
Kathy Eastley, Dan Dixon and Carolyn Dahlgren were present. Kathy submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application and Exhibit D – Staff Memorandum. Chairman Martin entered Exhibits A – D into the record. The final plat for Aspen Glen Filing 1 designated certain lots as allowed for duplex structures. The lots allowed for duplexes are known as the "D" lots, and the subject lot, D-37 complies with that restriction. The Design Review Committee of Aspen Glen has reviewed and stamped the Improvements Location Survey as approving the structure and the owner is currently seeking to subdivide the structure along the common wall in order to create legal descriptions necessary to convey the two sides separately.
STAFF RECOMMENDATION
The Applicant has received comments from staff regarding the provision of a Clerk and Recorder signature block on the proposed plat as well as providing a notary block for the mortgagee. Other than these changes the plat 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. A Clerk and Recorder Certificate be placed on the plat.
3. A notary block be added to the plat for the signature of the mortgagee.
4. 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.

Dan has taken actions to comply with Kathy's recommendations.
A motion was made by Commissioner McCown to approve the amended plat with the 4 conditions of staff. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

AUTHORIZE THE CHAIRMAN TO SIGN THE PARTIAL RELEASE OF SECURITY FOR SPRINGRIDGE RESERVE PUD. PHASES 3 AND 4 AND TO CONSIDER A REQUEST TO EXTEND THE SIA AND LETTER OF CREDIT FOR PHASE 3. APPLICANT IS SPRINGRIDGE AT GLENWOOD SPRINGS DEVELOPMENT CORP. – FRED JARMAN

Pat Fitzgerald, David McConnahey, Fred Jarman and Carolyn Dahlgren were present. The Board approved the Final Plat and Subdivision Improvements Agreement (SIA) for Phase 3 of Springridge Reserve Planned Unit Development (PUD) in April, 2008. The present phasing plan approved as part of the amended PUD is the following:

Phase	Lots in Phase	Commencement	Completion
I	7-29 and 44–48 (Total of 28)	12 Months after Final Plat	Within 12 Months of Commencement
II	1-6 (Total of 6)	12 Months after Completion of Phase I	Within 12 Months of Commencement
III	30-43 and 49-61 (Total of 27)	No Later than 36 Months after Completion of Phase II	Within 12 Months of Commencement
IV	62-81 (Total of 20)	No Later than 36 Months after Completion of Phase III	Within 12 Months of Commencement

SUMMARY DESCRIPTION OF THE PROPOSAL
The Phase 3 SIA has a deadline for completion of improvements on August 6, 2008. While much of the work for this phase has been completed, the Applicant requests the BOCC grant a 10-month extension to June 30, 2009 to complete the remaining improvements. Should the BOCC grant an extension, the Applicant intends to also submit a revised Letter of Credit to last 6 months beyond the new SIA completion date to December 31, 2009?
STAFF RECOMMENDATION
Staff finds the development has occurred for the most part as per the approved phasing to this point. The Building and Planning project Review Engineer has reviewed the partial release materials and has found them to be adequate. (See memo attached) Staff cannot find that an extension is not warranted and recommends the BOCC take the following action:

1) Grant the extension for the Phase 3 SIA and authorize the Chairman to sign the Amended SIA and revised Letter of Credit which Staff will provide to the Chairman after the meeting; and
2) Authorize the Chairman to sign the Partial Satisfaction of Subdivision Improvements Agreement for Phases 3 and 4.

David McConnahey moved to clarify that the proposed first amendment would deadline to June 30, 2009 and David said he does have an original signed by the owner.
A motion was made by Commissioner McCown that we approve the extension of the phase 3 of the SIA and authorize the Chair to sign the amended Subdivision Improvements Agreement extending it to June 30, 2009 and authorize the Chair to sign the partial satisfaction of the subdivision Improvements Agreement for phases 3 and 4. Commissioner Houpt seconded. David said an existing letter of credit is good until February 3 so the idea is we would replace that before it expires and if we fail to do that you can call the old one. Carolyn – That's not the normal process. Fred – This is an internal administrative issue; the process is that any letter of credits that are secured in the last 6-months beyond the SIA dated no matter when that is, so what you'll have to do is revise that letter of credit to give it another 6-month beyond June 30 and that last paragraph talk about that moving it to December 31, 2009. Carolyn said it can go on the consent agenda when the letter of credit is available. David again as written the idea we would have until a few weeks before the current one expires to do that. As the agreement is written today and the reason is if we went and got another letter of credit today it would be a lot more expensive than waiting and then essentially we would have two loans that were overlapping one another and there's always a chance we hope we might get all of this done soon in which case we'd just ask you to accept everything this fall and we wouldn't have to do that. But, however the Board wants to proceed – the Agreement as written said that we would simply replace it well in advance of the expiration of the current one, if we don't you could call that into default. Fred –Like I say, it's been the practice of this Board to not extend an SIA without a letter of credit that is 6- months beyond so that is customary this way this operates.
Commisisoner McCown – I would amend motion to include a 3rd condition, that as of February of this year, this SIA would not be enforced unless there is a new financial agreement in place. Now it's official.
David said as it is written, I think we would be in default anyway but I have no problem with that.
Commissioner Houpt seconded the amended motion. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A CONTRACTORS YARD IN THE ARRD ZONE DISTRICT. APPLICANTS ARE DANIEL AND MARK GARDNER OF D & M GARDNER EXCAVATION. – DUSTY DUNBAR

Dusty Dunbar and Don DeFord were present. The applicants live on a 20-acre parcel on a County road east of the community of Battlement Mesa. A continuing farmstead, the primary family enterprise however is an excavation business operated by Daniel and Mark Gardner, brothers that live next to one another on Gardner Lane. The Applicants seek a Contractor's Yard on which to park the equipment at their residence. No employees work on-site. The equipment is driven to job sites during the day. If the vehicles / equipment is not stored at the job site, or if it requires minor repairs, it returns to the residence
The Applicants propose a Contractor's Yard to bring the property into compliance with the A/R/RD zone requirements. Permission to store heavy equipment on a residential property in the A/R/RD Zone district is by Special Use Permit. The Applicants seek permission to utilize a small portion of their property for parking heavy trucks, trailers and implements, and continue to utilize an existing enclosed garage for storage and minor repair. A metal stockpile provides reserve for welding edges onto graders, minor repair, etc.
STAFF RECOMMENDATION
Because the proposal is limited in its scope and complexity, staff feels it is appropriate to recommend that the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
A motion was made by Commissioner McCown to schedule this before the Board of County Commissioners. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A REQUEST TO VACATE A PORTION ON COUNTY ROAD . (THIS IS A CONTINUED PUBLIC HEARING) APPLICANT IS IRONBRIDGE ROSE LAND & CATTLE, LLP – FRED JARMAN
John Neiley on behalf of the applicant, Fred Jarman, Don DeFord and Carolyn Dahlgren were present. Exhibit A - Resoltuion 08-_, whatever the County Clerk is going to give it which is the Official Resolution that the County Attorney has worked out with the applicant on memorializing the action this Board may take today. This has come to this Board a number of times and the last time there were some details that needed to be worked out with the Town of Carbondale. Fred Jarman submitted the Resolution concerned with vacating portions of a public road right-of-way otherwise known as portions of County Road 118 that enter into the applicant's property and not the entire portion that crosses the Crystal River and acceptance of new public road right-of-way. This was continued from the July 21 meeting. Don said the record should reflect that he has examined the Resolution and under your procedures for vacating County roads it has met with the approval of my office and the applicant has met the condition of your Resolution on vacating County right-of-ways. So you know immediately before we started the meeting today, Mr. Neiley presented to me a signed deed which is attached as Exhibit B to the form of Resolution. Chairman Martin – And this staff has not received anything from Carbondale either for or against this particular vacation? Fred – No, not in the sense other than the County Attorney has stated. John Neiley – At the last hearing it was postponed to have Carbondale have access to their ditch. Last Friday some changes were suggested and all those were acceptable that I forwarded to him, so I made the changes and have emailed that document back to him letting him know that it has been modified as they requested. My client actually signed that grant of access easement at the same time and we executed a quit claim deed for the turnaround and I have advised the Town Attorney of that so we're just waiting on them to sign it and as soon as they sign it you'll have it. We've done as much as we could and as far as I understand it, the Town is okay with what we're proposing. I assume they have to put it on an agenda and have to get it in front of the Town Council and get is executed.
A motion was made by Commissioner McCown to close public hearing. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown that we approve the Resolution with vacating portions of a public road right-of-way otherwise known as portions of County Road 118 and acceptance of a new public right-of-way which would be the turnaround area I believe that was alluded to earlier and that the chair be authorized to sign the Resolution. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A SPECIAL USE PERMIT FOR AN EXTENSION TO AN EXISTING COMMUNICATIONS TOWER WITHIN THE R/L ZONE DISTRICT, LOCATED 1.4 MILES NORTH OF THE END OF COUNTY ROAD 211, NORTHEAST OF DEBEQUE. SALLY E. CUFFIN, P.E. OF URS IS THE REPRESENTATIVE FOR THE APPLICANT, CHEVRON USA, INC. – DUSTY DUNBAR
Dusty Dunbar, Sally Cuffin with URS, Julie Justice with Chevron USA Inc.and Carolyn Dahlgren were present. Carolyn determined that the noticing requirements done by Sally Cuffin were accurate and timely and advised the Board they were entitled to proceed. Mailing on the notice was for both hearing but the publications are separate.Chairman Martin swore in the speakers. Dusty entered the following exhibits:
Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Report; Exhibit E – Application; Exhibit F – Staff Power Point. Chairman Martin entered Exhibits A – F into the record. The Building & Planning Department received a Special Use Permit (SUP) application to modify an existing communications facility (originally permitted in 2007) that enables communications to operations in Grand Junction from an unmanned location. The proposal is to increase the height of a previously permitted communications tower and to construct an additional shed for communications-related equipment.
"Processing and Material Handling of Natural Resource" is the category under which the application for a revised communication system to support natural gas production operations is processed. The existing tower proposed to be modified is located on a 2.2 acre portion of a 54,000-acre property owned by Chevron USA, Inc. The site is located at the end of County Road 211, north of Debeque. The Applicant requests approval from the Board for expansion of a Revised Communications system that includes increasing the height of an existing communications tower from 30' to 50' and the construction of a small accessory shed 10' by 12' for related communications equipment the proposed facility will make use of an existing site.
BACKGROUND

The current facility is permitted under Resolutions 2007-84 (site) and 2007-47 (tower). It is felt that the 50' tower will give better transmission quality to the management location in Grand Junction, and require fewer trips by personnel to the site.

Referral to Planning Commission

Staff brought the application to the attention of the BOCC to determine if a referral to the Planning Commission was necessary. The BOCC did not refer the application to the Planning Commission due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / gas processing activities, and 4) the site has previously been permitted for use as a communications facility.

SITE DESCRIPTION

The proposed site where the Hiner Gate Tower is located is situated on flat stream basin land at the confluence of the Tom Creek and Clear Creek. The Tower is located on approximately 2.2 acres of a 54,000-acre parcel owned by Chevron USA. The area where the tower is located is surrounded by the steep slopes of a canyon.

The area to the west of the road has been permitted previously with a permit for a temporary office facility and has been modified by a location which contains staging areas for heavy machinery, large water hauling trucks, drilling rigs, and pipes associated with natural gas exploration.

STAFF RECOMMENDATION

Due to the following conditions:

- 1) the limited nature of potential impacts to surrounding properties,
- 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic,
- 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from processing activities,
- 4) the proposed expansion is to an existing facility,

Staff recommends the Board approve the request for a Special Use Permit for Processing and Material Handling of Natural Resources for the extension of the Hiner Gate Communications Tower from 30' to 50' and the placement of a communications-related shed measuring 10' x 12' 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, including those of the FCC and FAA.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: the Tower shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emission of heat, glare, radiation and fumes: the Tower shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
7. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
8. 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. That all proper building permits are obtained for the structures associated with the operation of the Tower prior to the issuance of a Special Use Permit.

Sally said this is very straight forward and all they want to do is extend the tower.

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

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

Commissioner McCown made a motion that we approve a Special Use Permit for Processing and Material Handling of Natural Resources for the extension in height of the Hiner Gate Communications Tower from 30' to 50' and the placement of a communications-related shed measuring 10' x 12' with the 9 conditions recommended by staff. Commissioner Houpt seconded the motion.

Carolyn said this is complicated property; there have been a lot of different uses added. It was my understanding from reading your report Dusty and from understanding the history of this property however that this SUP is just for the tower and not for an industrial facility o

Dusty said for the tower and the modification, everything else stays in place unless they satisfy all the requirements that were set forth for its permission to locate in the first place. Carolyn – Wasn't the 07 SUP for a communications facility? Sally – That was part of the temporary office. Carolyn – So is this an SUP for an industrial support facility, for a communications tower, what is it for? Dusty – It's solely to extend the existing tower and a shed that is related to that particular use. Carolyn – So the Special Use Permit will say for a communication's facility. Commissioner McCown – The Special Use Permit will say for the

increasing the height of the tower from 30 to 50 feet and a communications shed 10 x 12 foot to allow the operation of said tower. Carolyn – Which by definition under our code is a communications facility. Chairman Martin – Correct. Dusty – Yes. It falls under that category but what we are not doing is re-permitting the existing site, we're permitting a modification in height on the tower itself.
Carolyn – So we're having a new SUP for a communications facility that sits on top of the other SUP's. Now to the real question, are we getting rid of the old SUP so we won't end up in a situation where we maybe with TeePee Park and other SUP's where we have SUP's sitting on top of each other that have inconsistent conditions. Are we getting rid of the 07 SUP? Dusty – No, I don't believe so. I believe it was just this specific modification that was added and everything else must be satisfied as part of the original SUP. Carolyn – So the new SUP for a communications facility will only vary the height and add a building and the old one stays in place. Chairman Martin – Correct. Carolyn – We need to be clear when the SUP issues that it says that. Commissioner McCown – That was very specific in my motion.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR A SERVICE PAD/BOOSTER COMPRESSOR STATION TO SUPPORT NATURAL GAS PRODUCTION OPERATIONS WITHIN THE R/L ZONE DISTRICT, LOCATED 1.9 MILES NORTH OF THE END OF COUNTY ROAD 211, AND NORTHEAST OF DEBEQUE. SALLY E. CUFFIN, P.E. OF URS IS THE REPRESENTATIVE FOR THE APPLICANT, CHEVRON USA, INC. – DUSTY DUNBAR

Dusty Dunbar, Sally Cuffin of URS. Julie Justice with Chevron and Carolyn Dahlgren were present.
Carolyn reviewed the noticing requirements. Carolyn determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Mailing on the notice was for both hearing but the publications are separate. Chairman Martin swore in the speakers. Dusty entered the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff Report; Exhibit E – Application; Exhibit F – Staff Power Point. Chairman Martin entered Exhibits A – D into the record

REQUEST

The Building & Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for the installation of two booster compressors and related communication system on an existing well pad located atop a 54,000-acre property owned by Chevron USA, Inc. The site is located beyond the end of County Road 211, north of Debeque. The location of the approximate 4-acre facility is 1.4 miles beyond the private gate at the end of CR 211. The Applicant requests approval from the Board for installation of a Service Pad / Booster Compressor Station and an associated communications system. The proposed facility will make use of an existing well pad (Skinner Ridge 598-25-4) and an additional 1.4 acres of previously undisturbed ground for the project. Available space on the existing pad will also be used for 'frac' equipment and supplies. By adding two Caterpillar G3516 LE combination compressor / generators, two adjacent well pads under construction can transfer natural gas to the Central Production Facility. Construction Air Permits for the two compressors were approved by the CDPHE on January 29, 2008. Approval of a renewed storm water permit took place in August, 2007.

BACKGROUND

Referral to Planning Commission

Staff brought the application to the attention of the BOCC to determine if a referral to the Planning Commission was necessary. The BOCC did not refer the application to the Planning Commission.

SITE DESCRIPTION

The proposed site where the Compressor is located is situated on flat stream basin land bordering Tom Creek, northeast of the confluence of Tom Creek and Clear Creek. The Compressor is located on approximately 4 acres of a 54,000-acre parcel owned by Chevron USA. The area where the Compressors are to be located is surrounded by steep slopes and canyon terrain. Dense, mature riparian vegetation exists along the creeks as they pass through the area.

STAFF RECOMMENDATION

Due to the following conditions:

- 1) the limited nature of potential impacts to surrounding properties,
- 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic,
- 3) and the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from processing activities,
- 4) the proposed expansion is to an existing facility,

Staff recommends the Board approve the request for a Special Use Permit for a Service Pad/ Booster Compressor Station with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable Federal, State, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: the Compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.

7. Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. .
8. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
9. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
10. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
11. That all proper building permits are obtained for the structures associated with the operation of the Compressor prior to the issuance of a Special Use Permit.
12. Additional permit bonding shall be put into place for the previously undisturbed 1.4 acres of the compressor site, and an updated reclamation plan for this acreage shall be submitted prior to the issuance of the permit.

Dusty called attention to the building permits in Conditions 11 and 12 and additional permit bonding shall be put into place for the previously undisturbed 1.4 acres of the compressor site and an updated reclamation plan for this acreage shall be submitted prior to the issuance of this permit. The well pad site on which they propose site this compressor booster station has not been disturbed and so it doesn't fall under the bond that exists for that well pad site so this is outside of that and I'm requesting that a bond be put forth for the reclamation and weed management recommendations for that to be newly disturbed part of that well site. The entire composing acreage is 4.1 and the rest of it is held under a bond for the existing well pad but that's for the disturbed area for that. Commissioner Houpt – You stated this has a reference to confluence of the Tom and Clear Creeks. Dusty – That's an error, its Potts Creek. It is a confluence but Tom Creek is a small intermittent stream and Potts even more so there are mitigation measures that are required of the well pad sites to meet this. Commissioner Houpt – So those conditions were put in with that in mind and my question was is there any additional concern because of the location of continuing to expand the industrial activity. Dusty - Because this is a compressor station and doesn't involve water or tanks, it's mainly a piece of equipment and the pipeline is contained and would be just gathering from those two sites. The present permitting is probably adequate but you could certainly pose that of the engineer that is representing URS to speak to some of the safeguards in place. Carolyn – There is storing of fracing equipment here as well. Dusty – There is some, not to my knowledge, not of containers of liquids, or water, it is mostly materials, pipes and those sorts of things. Carolyn – So in another context it might be called a laydown yard. Dusty – That's an adequate statement. Carolyn – No issues with screening or anything like that. Dusty – Screening usually applies to the affect on adjacent parcels and because this is a very sizable privately held parcel and because this site is also nested down in a very narrow canyon that you also do not see until you're within 2/10th of a mile. Carolyn – Because we permit uses in Garfield County, now really sites, just wanted to make sure that the word storage includes as a use as well as everything else is being asked for in the SUP. Dusty – Some of that activity is already held within permits that are for the well sites and it's unclear to me exactly where one stops and one begins because it's all this concentrated disturbed area that is under those particular permits. Carolyn – My understanding was that the storage would be on the 1.4 acres that is off the well pad. Commissioner Houpt – If that is additional storage on top of the separate SUPs. Sally – Basically on the existing well pads there is fracing operations for the two adjacent well pads at that location so there will be frac tanks with little pads but it will only be there until they done fracing those two wells. This is not on the newly disturbed area, not the compressor pad that is to be the newly disturbed area. Commissioner Houpt asked Sally to respond to the question that I had posed about what kind of cumulative impact could potentially be there since there is a confluence although they are small creeks or intermittent, they exist and if that's been considered in your application process and part of your plans. Sally – Basically the fracing operation is short term and the contractor is under requirements to adequately safeguard that operation. I don't, as Dusty mentioned the compressor itself is handling the natural gas through there and will not be a long term issue. There is adequate protection at this site for those creeks. Commisisoner Houpt – Well, I see this area expanding and when I heard there was a conflux it was a red flag for me and I need to somehow know that this was part of the planning process that's been taken into consideration and treated differently than it would be if you were far away from creeks or confluence of creeks. Sally –There are some layers of control plans in place and again this is a small drainage but basically and if you were to have a spill it could be contained rapidly under the spill control plans, again short term operation and if we had long term tanks it may be major issue. She believes it is adequate. Again, very straight forward, this is to compliment the other site and trying to minimize the well pad size.
Dusty – Storage is on the existing pad. Commissioner McCown – The existing well pad is where the fracing operation will take care under the auspices of the COGCC on an approved well pad. Carolyn – What about the storage of pipes. Commissioner McCown – On that pad. Dusty – I understood it to be on the previously disturbed area where it says existing pad in this rather than the compressor pad itself, which is to house only the compressor. Chairman Martin – On the 1.4 acres will be on the compressor, all the other is contained with on the Oil and Gas Conservation pad.
A motion was made by Commissioner McCown to close the public hearing; Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown made a motion that we approve the Special Use Permit for the Natural Gas Booster Compressor Station for Chevron USA Inc with the twelve (12) conditions recommended by staff."
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER THE ADOPTION OF FINAL AMENDMENTS TO THE TEXT OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED, THE TEXT OF THE GARFIELD COUNTY SUBDIVISION REGULATIONS, OF 1984 AS AMENDED AND EXISTING "1041 REGULATIONS" (AREAS AND ACTIVITIES OF STATE INTEREST), AND ADOPT A NEW

LAND USE CODE UNDER THE PROVISIONS OF 30-28-112 C.R.S., AS AMENDED. APPLICANT IS THE BOARD OF COUNTY COMMISSIONERS. – FRED JARMAN

Fred Jarman, Don DeFord and Debbie Quinn were present. Fred Jarman presented the redlined version of the Revised Land Use Code for discussion. Don reviewed the noticing and deemed it to be adequate and advised the Board they were entitled to proceed. Because of the comprehensive nature of the 2:17 – it resembles an amended code. The notification both in text and timing is adequate to serve all manners. Posting was in the Citizen Telegram. Chairman Martin swore in the speakers. Exhibits – Exhibit A - Proof of publication; Exhibit B – Existing Resolution ; Exhibit C – Subdivision Regulations; Exhibit D = 3 ring binder of 2008; Exhibit D - Land use map in the binder. Chairman Martin submitted Exhibit A – D into the record. In May, 2003, the Board of County Commissioners entered into a contract with Sullivan Green Seavy and Norris Dullea (the Consultants) to assist Garfield County in amending / updating the County's zoning and subdivision regulations. This effort was funded by a $75,000 grant from the Colorado Department of Local Affairs (DOLA) and a County contribution of $65,900. The process which governed this project over the last five years involved many steps which began with an initial analysis by the Consultants resulting in an initial draft, public meetings to gain input from the citizens in each of the County's jurisdictions, over 45 public workshops held by the County Planning Commission, additional meetings with our communities, and finally a series of public work sessions held by the County Commissioners. The result combines and amends the County's zoning and subdivision regulations into a draft Unified Land Use Resolution. The Planning Commission met 45 times to present to the Board the new land use code. The Board has gone through this document word for word. The purpose of these revisions is to update and refine the regulations, eliminate antiquated or meaningless language and solve inconsistencies, making the regulations more practical, meaningful and user friendly. General changes include combining all existing land use regulations into one document with the following more specific changes to substance and process:

a. Allowing the Sketch Plan process to be optional;
b. Requiring Pre-Application Conferences for all land use actions;
c. Creating a New Minor Subdivision Exemption;
d. Providing an Amendment process for approved Preliminary Plans and Land Use Permits;
e. Modifying certain zoning processes to become administrative;
f. Providing a more user-friendly administration with graphics and flow charts;
g. Amend the land use permit framework from Conditional and Special Use Permits to Limited Impact Review (Permit) and "Major Impact Review (Permit) respectively;
h. Modify / combine certain similarly defined zoning districts and add certain overlay districts as well as adopting a new Zone District Map to reflect those changes;
i. Modify the Affordable Housing regulations as they apply to Study Areas 1 - 5 of the Comprehensive Plan;
j. Revise and refine the definitions of land uses;
k. Include incentive Conservation Subdivision regulations for the provision of open space and encouraged cluster site designs;
l. Revise and refine standards and criteria for land use proposals; and
m. Include Public Airports as an Area / Activity of State Interest requiring 1041 review.

The purpose of this memo is to serve as a cover memorandum to introduce the Draft Unified Land Use Resolution, which is contains in a 3-ring binder. This memo is also intended to illustrate several final edits that need to be further addressed by the BOCC before a decision is made. These final areas include:

1) Final revisions / clarifications to Article VIII (Affordable Housing);
2) Final Revisions to Oil & Gas related uses; and
3) Incorporation of HB 1141.

The remainder of this memo (Section IV) will discuss these three areas to focus the BOCC discussion on Monday, August 4, 2008. The formal process now required by the BOCC regarding action to be taken on this Draft Unified Land Use Resolution requires several processes driven by both state statutes and our own regulations. These processes require a publication of the proposed action in a paper of general circulation no less than 30 days and no more than 60 days. Staff has complied with this notice requirement and will present the BOCC with testimony and proof at the hearing.

- §30-28-112 C.R.S. (New Regulations)
- 30-28-116 C.R.S. (Amending the County zoning regulations)
- 30-28-133 C.R.S. (Amending the County subdivision regulations)
- §24-65.1-404 C.R.S. (Adopting and /or Amending 1041 Regulations)
- Article 10:00 of the County's Subdivision Regulations of 1984: (Amending the County's subdivision regulations)
- Article 10.00 of the County Zoning Resolution of 1978: (Amending the County's Zoning Resolution)

FINAL EDITS TO CONSIDER

As mentioned above, this section is intended to focus the BOCC consideration to the final edits to the Draft Unified Land Use Resolution which include the following, taken in sequence below.

1) Final revisions / clarifications to Article VIII (Affordable Housing);
2) Final Revisions to Oil & Gas related uses; and
3) Incorporation of HB 1141.

A. Final revisions / clarifications to Article VIII (Affordable Housing)

Section 8-303 A.4. Appreciation Cap

Included in the deed restriction will be limit on appreciation of a unit of either the West Region, Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100), not seasonally adjusted, or a 3% non-compounded interest, whichever is greater, plus the cost of permitted capital improvements (see Section 8-304). The maximum resale price shall be no more than 5% non-compounded interests, plus

the cost of permitted capital improvements. The maximum resale price will be determined by the GCHA in accordance with this Article.
(PP) Purchase Price
(PPCPI) CPI at the date of purchase
(NMO) Number of months owned
(CCPI) Current CPI
3% Formula = .03 x PP/ 12 x NMO + PP = BASE RESALE PRICE
CPI Formula = PP/PPCPI x CCPI = BASE RESALE PRICE
5% Formula = .05 x PP/ 12 x NMO + PP = BASE RESALE PRICE

B. Revisions to Article III (Matrix) / Oil & Gas Related Concerns

Please see the attached memo from Cordilleran Compliance Services received in the County on July 30, 2008. (Note, the revised use matrix in the binder has been amended by Staff to be an accurate reflection of the BOCC's previous comments during the work sessions.) Due to the late submittal of the Cordilleran Compliance Services memo, Staff cannot provide any comment on its contents in this memo.

C. Incorporation of HB 1141

On Monday, July 21, 2008, County Staff provided the Board of County Commissioners (the Board) with a set of recommendations regarding how to incorporate the provisions of House Bill 1141 (the Bill) into the County's existing land use regulations as well as into the draft land use regulations. The following will provide the framework and proposed language to accomplish this task.

[Note, because this bill applies to "other similar application for new development", Staff believes this applies to building permits that require a water demand of 8 SFE or greater. As such, the building code will need to be amended to include a process for bringing those applications to the BOCC for review and approval.]

INCORPORATION INTO EXISTING ZONING REGULATIONS

The Bill specifically includes the definition of "Development Permit" to include rezoning, planned unit developments, and conditional and special use permits which are all dealt with in the County's zoning regulations. As such, these regulations need to be amended in order to accommodate the specific requirements of the Bill for water use for at least 8 (eight) single-family equivalents. This section shall not apply to uses with a lesser water demand. So, based on this, Staff suggests the current zoning regulations be amended in the following way:

A. Add a new section to Section 5.00 Supplementary Regulations entitled "Water Supply for Development Permits" in the following manner:

5.23 Adequate Water Supply for Development Permits

5.23.01 Applicability

This section shall apply to all development permits which require a water demand in an amount of at least 8 (eight) single-family equivalents where 1 (one) single-family equivalent equals 350 gallons of water per day.

5.23.02 Definitions

(1) Development Permit: Any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, development or site plan, or similar application for new construction.

(2) Adequate Water Supply: A water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater.

(3) Water Supply Entity: A municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply company that supplies, distributes, or otherwise provides water at retail.

(4) Development Process: For the purposes of applying Section 5.23, a development permit shall constitute an approval from the Board of County Commissioners for a rezoning, planned unit development, or conditional or special use permit. Further, demonstration of an adequate water supply shall be required to occur in each of these processes in the event multiple land use requests are made.

5.23.03 Water Supply Requirements

All applications for development permits shall include the estimated water supply requirements for the proposed development in a report prepared by a registered professional engineer licensed in the State of Colorado qualified to perform such work. The report shall include the following:

(1) An estimate of the water supply requirements for the proposed development through build-out conditions;

A description of the physical source of water supply that will be used to serve the proposed development;

(2) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(3) Water conservation measures, if any, that may be implemented within the development;

(4) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability;

(5) Proof of a legal water supply shall include but may not be limited to an approved substitute water supply plan contract, approved augmentation plan, approved well permit, a summary of consultation from water court, or a legally adjudicated domestic water source; and

(6) Such other information as may be required by the Board of County Commissioners.

5.23.04 Water Supplied by Water Supply Entity Requirements

If the development is to be served by a water supply entity, the Board of County Commissioners may allow the applicant to submit, in lieu of the report required by Section 5.23.03, a letter prepared by a registered professional engineer licensed in the State of Colorado qualified to perform such work from the water supply entity stating whether the water supply entity is willing to commit and its ability to provide an adequate water supply for the proposed development. The water supply entity's engineer shall prepare the letter if so requested by the applicant. At a minimum, the letter shall include:

(1) An estimate of the water supply requirements for the proposed development through build-out conditions;

(2) A description of the physical source of water supply that will be used to serve the proposed development;

(3) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(4) Water conservation measures, if any, that may be implemented within the proposed development;

(5) Water demand management measures, if any, that may be implemented to address hydrologic variations; and

(6) Such other information as may be required by the Board of County Commissioners.

(7) In the alternative, an applicant shall not be required to provide a letter or report identified pursuant to Section 5.23.03 and 5.23.04(1) – (6) above if the water for the proposed development is to be provided by a water supply entity that has a water supply plan that:

a. Has been reviewed and updated, if appropriate, within the previous ten years by the governing board of the water supply entity;

b. Has a minimum twenty-year planning horizon;

c. Lists the water conservation measures, if any, that may be implemented within the service area;

d. Lists the water demand management measures, if any, that may be implemented within the development;

e. Includes a general description of the water supply entity's water obligations;

f. Includes a general description of the water supply entity's water supplies; and

g. Is on file with the local government.

5.23.05 Determination of Adequate Water Supply

The Board of County Commissioners shall determine as to whether an applicant has a water supply that is adequate to meet the water supply requirements of a proposed development and that determination shall be based on consideration of the following information:

(1) The documentation required by sections 5.23.03 and 5.23.04;

(2) A letter from the state engineer commenting on the documentation required pursuant to sections 5.23.03 and 5.23.04;

(3) Whether the applicant has paid to a water supply entity a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed development; and

(4) Any other information deemed relevant by the Board of County Commissioners to determine, in its sole discretion, whether the water supply for the proposed development is adequate, including, without limitation, any information required to be submitted by the applicant pursuant to applicable local government land use regulations or state statutes.

B. Amend Section 5.03(1) under Conditional and Special Uses to read as follows:

5.03(1)

Utilities adequate to provide water and sanitation service based on accepted engineering standards and approved by the Board of County Commissioners. These utilities shall either be in place or shall be constructed in conjunction if the proposed use. For all uses requiring a water demand in excess of 8 (eight) single-family equivalents, all applications shall be required to address the water requirements in Section 5.23 of this resolution.

C. The Bill considers planned unit developments in their definition of development permit. In some cases, PUDs do not include a subdivision component and are simply a rezoning. Therefore, in the case where no preliminary plan is included with a PUD rezoning, Section 4.08.05(7)(e) and (i) in the Planned Unit Development Section should be amended to read as follows:

4.08.05(7)(e)

A statement from a licensed engineer licensed in the State of Colorado qualified to perform such work, with supporting calculations and documentation, which shall provide evidence of the following:

(i) The proposed water source legally & physically adequate to service the PUD. This evidence shall be governed by the requirements set forth in Section 5.23 of this resolution;

D. Where planned unit developments do include a subdivision component, it is recommended that Section 5.23 be applied in the Subdivision regulations as already contemplated in Section 4.08.05 of the zoning resolution stating the following:

Where a Preliminary Plan application is included with a PUD application, the subdivision regulations requirements will supersede the PUD requirements where the same information or more detailed in formation is required as part of a subdivision application.

E. The Bill specifically includes rezoning in the definition of development permit. As such, Section 10.03 should be amended to include a reference to the water requirements that need to be demonstrated. Staff suggests the following:

10.03.01

An application for change in Zone District, or for a Planned Unit Development, shall be accompanied by the Zone District Map of the subject property showing the property proposed for change, the uses and owners of record of adjacent property, and a demonstration of an adequate water supply as defined in Section 5.23 of this resolution, and any other information which may be noted thereon to explain the proposed amendments. Such an application to rezone a property from one district to another district shall be required to demonstrate the maximum water demand required to serve the most intensive use in the resulting zone district pursuant to Section 5.23 of this Resolution.

INCORPORATION INTO EXISTING SUBDIVISION REGULATIONS

The Bill very clearly applies to subdivisions as it is specifically called out in the definition of development permit. Recall that Staff has suggested that a determination of adequate water supply occur at Preliminary Plan. Additionally, Staff has recommended the Bill not be applied to Exemptions from the Definition of Subdivision which was determined to equate to water demand for 8 (eight) single-family equivalents. Staff recommends the Board amend the Subdivision Regulations to incorporate the provisions of the Bill in the following manner:

F. Amend Section 2:00 to include the following definitions:

2:20.151 *Development Permit: Any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, development or site plan, or similar application for new construction.*

2:20.00 *Adequate Water Supply: A water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater.*

2:20.531 *Water Supply Entity: A municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply company that supplies, distributes, or otherwise provides water at retail.*

G. Amend Section 4:91 SUPPLEMENTAL INFORMATION: UTILITY PLAN to read as follows:

4:91 *Unless already determined to be approved by way of a previous development permit, all preliminary plans shall be required to submit a water supply plan, at the same scale as the Preliminary Plan, which shall provide the following information in graphic and/or written form:*

All preliminary plan applications shall include the estimated water supply requirements for the proposed subdivision in a report prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work. The report shall include the following:

(1) Historic use and estimated yield of claimed water rights;

(2) Amenability of existing right to change in use;

(3) Evidence that public or private water owners can and will supply water to the proposed subdivision, including the amount of water available for use within the subdivision by such providers, the feasibility of extending service to the area, proof of the legal dependability of the proposed water supply and the representation that all necessary water rights have been obtained or will be obtained or adjudicated, prior to submission of the final plat; and

(4) Evidence concerning the potability of the proposed water supply for the subdivision. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater;

(5) An estimate of the water supply requirements for the proposed development through build-out conditions;

A description of the physical source of water supply that will be used to serve the proposed development;

(6) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(7) Water conservation measures, if any, that may be implemented within the development;

(8) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability;

(9) Evidence of ownership, right of acquisition, or use of existing and proposed water rights which shall be demonstrated by proof of a legal water supply shall include but may not be limited to an approved substitute water supply plan contract, approved augmentation plan, approved well permit, a

summary of consultation from water court, or another legally adjudicated domestic water source; and

(10) *Such other information as may be required by the Board of County Commissioners.*

A. *If the subdivision is to be served by a water supply entity, the Board of County Commissioners may allow the applicant to submit, in lieu of the report required by Section 4:91(A), a letter prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work from the water supply entity stating whether the water supply entity is willing to commit and its ability to provide an adequate water supply for the proposed subdivision. The water supply entity's engineer shall prepare the letter if so requested by the applicant. At a minimum, the letter shall include:*

(1) *An estimate of the water supply requirements for the proposed development through build-out conditions;*

(2) *A description of the physical source of water supply that will be used to serve the proposed development;*

(3) *An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;*

(4) *Water conservation measures, if any, that may be implemented within the proposed development;*

(5) *Water demand management measures, if any, that may be implemented to address hydrologic variations; and*

(6) *Such other information as may be required by the Board of County Commissioners.*

(7) *In the alternative, an applicant shall not be required to provide a letter or report identified pursuant to Section 4:91(A) and 4:91(B) above if the water for the proposed subdivision is to be provided by a water supply entity that has a water supply plan that:*

a. *Has been reviewed and updated, if appropriate, within the previous ten years by the governing board of the water supply entity;*

b. *Has a minimum twenty-year planning horizon;*

c. *Lists the water conservation measures, if any, that may be implemented within the service area;*

d. *Lists the water demand management measures, if any, that may be implemented within the development;*

e. *Includes a general description of the water supply entity's water obligations;*

f. *Includes a general description of the water supply entity's water supplies; and*

g. *Is on file with the local government.*

B. *Determination of Adequate Water Supply. The Board of County Commissioners' sole determination as to whether an applicant has a water supply that is adequate to meet the water supply requirements of a proposed development shall be based on consideration of the following information:*

(1) *The documentation required by sections 4:91(A) and 4:91(B);*

(2) *A letter from the state engineer commenting on the documentation required pursuant to sections 4:91(A) and 4:91(B);*

(3) *Whether the applicant has paid to a water supply entity a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed subdivision; and*

(4) *Any other information deemed relevant by the Board of County Commissioners to determine, in its sole discretion, whether the water supply for the proposed subdivision is adequate, including, without limitation, any information required to be submitted by the applicant pursuant to applicable local government land use regulations or state statutes.*

C. *If a central supply and distribution system is to be provided, a general description of the system, as designed by a Colorado registered engineer. In addition:*

1. *Nature of the legal entity which will own and operate the water system; and*
2. *Proposed method of financing the water system.*

D. *If individual water systems shall be provided by lot owners, a report indicating the availability of ample potable ground water at reasonable depths throughout the subdivision and the expected quality and long-term yield of such wells, with the written report by a registered professional engineer licensed by the State of Colorado, qualified to perform such work. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater; and*

E. If applicable, a Plan of Augmentation and a plan for subdivision water supplies, as required by law, with the supporting engineering work signed by a Colorado registered engineer licensed to practice in the State of Colorado qualified to perform such work, shall be submitted by the applicant, even if the applicant is not the actual supplier of water.

Amend Sections 9:51 and 9:52 to read as follows:

9:51 An adequate water supply (including an irrigation and fire protection water supply), as defined in 2:20.00 of these regulations shall be available to all lots within a subdivision. All preliminary plan applications shall demonstrate an adequate water supply pursuant to Section 4:91 of these regulations prior to the approval by the Board of County Commissioners.

9:52 Individual wells may be used as the water supply, provided the applicant has satisfied the requirements in Section 9:41.

Amend Section 8:42(D) Exemption from the Definition of Subdivision to read as follows:

8:42(D) Proof of sufficient legal and physical source of domestic water for each lot created. Proof of a legal supply shall be an approved substitute water supply plan contract or augmentation plan, an approved well permit or legally adjudicated domestic water source. Proof of physical supply for the public meeting may be documentation from the Division of Water Resources that demonstrates that there are wells within 1/4 mile of the site producing at least five (5) gallons/minute.

This section shall not be construed to be required to meet the terms of an adequate water supply as defined in Section 2:20.00 of these regulations.

Prior to the signing of a plat, all physical water supplies shall demonstrate the following:

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 number of proposed lots;
5. An assumption of an average of no less than 3.5 people per dwelling unit, using 100 gallons of water per person, per day;
6. 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;
7. The water quality be tested by an independent testing laboratory and meet State guidelines concerning bacteria and nitrates; and
8. For water supplies based on the use of cistern, the tank shall be a minimum of 1000 gallons.

INCORPORATION INTO DRAFT UNIFIED LAND USE REGULATIONS

It appears there are several amendments that need to occur:

Article IV: Application and Review Procedures

- Amend Section 4-201(C) (Rezoning Criteria) to include a reference to require the demonstration of an Adequate Water Supply as found in Section 7-401 (Standards). However, add a specific criteria in 4-201(C) to include the following language:

  Such an application to rezone a property from one district to another district shall be required to demonstrate the maximum water demand required to serve the most intensive use in the resulting zone district pursuant to Section 5.23 of this Resolution.
- Add "Water Supply Expert" to Section 4-502 under professional qualifications and in Article 16 in Definitions to be defined as a professional engineer licensed to practice in the State of Colorado qualified to perform such work.
- Amend the Land Suitability Analysis in Section 4-502(D)(7) to revise the water section to point to "Adequate Water Supply Plan" as found in Section 7-104 (Standards).
- Amend the Impact Analysis in Section 4-502(E)(6) to revise the water section to point to "Adequate Water Supply Plan" as found in Section 7-104 (Standards).

Article V: Division of Land

- Amend Section 5-406(C) (General County Exemption Criteria) to send the reviewer to "Sufficient Legal and Physical Source of Water" in a new Section 7-105 which reflects the "old" 7-104 contained here:

Section 7-104 Sufficient Legal and Physical Source of Water**.** *Exemptions, as described in Section 5-401, 5-402, 5-403, and 5-404 shall have an adequate, reliable, physical, long term and legal*

domestic water supply to serve the use. (Note, this section shall not be construed to be required to meet the terms of an adequate water supply as defined in Section 7-104 of these regulations.)

A. Determination of Reliability of Water Supply. *In determining adequacy of the proposed water supply the following considerations shall apply.*

1. Peak Usage. *Peak demands projected to service the total development population.*
2. Adequacy of Water Source**.** *In addition to the requirements of the State Engineer and County Health Department, the following provisions shall be used to evaluate the adequacy of the water source intended to serve the proposed development.*
   a. The average daily demand of the entire service area and the proposed development shall be based upon 350 gpd per residential unit, or [75] gpd per capita, whichever is greater.
   b. The average daily demand for commercial and industrial uses shall be reviewed based on the anticipated demand of the proposed development, based on standard engineer's criteria.
3. Quality of Water Source**.** *Water supplies shall be treated by a method acceptable to conform to minimum State standards. The County may require test wells.*
4. Irrigation Water**.** *The demand for irrigation water shall be based upon the type of vegetation to* be maintained, soil characteristics, the historic yield of the property and available water rights.
5. Fire Protection Requirements**.** *The water supply demand for fire protection shall be based upon recognized and customary engineering standards and requirements of the applicable fire protection district. Subdivision developments shall comply with the provisions of Section 7-403, Fire Protection, of this Article.*

B. Individual Wells

1. *Individual on-site wells shall not be permitted for developments with densities greater than one dwelling unit per two acres.*

2. *The well shall have adequate water quality, quantity and dependability for the proposed density.*

a. *A minimum 24 hour pump test shall be performed on the well(s) to be used. The results of the pump test shall be analyzed and summarized in a report including basic well data (size, depth, static water level, aquifer, etc.) pumping rate, draw down, recharge and estimated long term yield. The report shall be prepared by a qualified engineer of ground water hydrologist and include an opinion that the well will be adequate to supply water for the proposed uses. The report shall also address the impacts to ground water resources in the area.*

b. *Water use assumptions shall include an average of no less than 3.5 people per dwelling, using 100 gallons of water per person per day, plus and irrigation and livestock watering uses.*

c. *If the well is shared, a legal well-sharing declaration addressing all easements and costs associated with operation and maintenance of the system and identifying the person responsible for paying costs and how assessment will be made for those costs.*

d. *At a minimum, the water quality of the well shall be tested by an independent testing laboratory for the basic Colorado Primary Drinking Water Standards for inorganic chemicals (heavy metals, nitrate, sulfate and asbestos), bacteria and radioactivity. The results should show that the applicable standards are met or otherwise identify a treatment system to meet the standards. Testing for the Secondary Drinking Standards (taste, odor, color, staining, scaling, corrosion, etc.) is recommended.*

- Amend Section 5-502(C)(13) to read Adequate Water Supply Plan as the following:

A. Adequate Water Supply Plan. *This section shall apply to all development permits which require a water demand in an amount of at least 8 (eight) single-family equivalents where 1 (one) single-family equivalent equals 350 gallons of water per day.*

1. Water Supply Requirements. *All applications for development permits shall include the estimated water supply requirements for the proposed development in a report prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work. The report shall include the following:*

a. An estimate of the water supply requirements for the proposed development through build-out conditions;

b. A description of the physical source of water supply that will be used to serve the proposed development;

c. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater.

d. An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

e. Water conservation measures, if any, that may be implemented within the development;

f. Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability;

g. Proof of a legal water supply shall include but may not be limited to an approved substitute water supply plan contract, approved augmentation plan, approved well permit, a summary of consultation from water court, or another legally adjudicated domestic water source; and

h. Such other information as may be required by the Board of County Commissioners.

2. Water Supplied by Water Supply Entity Requirements. *If the development is to be served by a water supply entity, the Board of County Commissioners may allow the applicant to submit, in lieu of the report required by Section 7-104(B), a letter prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work from the water supply entity stating whether the water supply entity is willing to commit and its ability to provide an adequate water supply for the proposed development. The water supply entity's engineer shall prepare the letter if so requested by the applicant. At a minimum, the letter shall include:*

a. An estimate of the water supply requirements for the proposed development through build-out conditions;

b. A description of the physical source of water supply that will be used to serve the proposed development;

c. An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

d. Water conservation measures, if any, that may be implemented within the proposed development;

e. Water demand management measures, if any, that may be implemented to address hydrologic variations; and

f. Such other information as may be required by the Board of County Commissioners.

g. In the alternative, an applicant shall not be required to provide a letter or report identified pursuant to Sections 7-104(B) and 7-104(C)(1) – (6) above if the water for the proposed development is to be provided by a water supply entity that has a water supply plan that:

i. Has been reviewed and updated, if appropriate, within the previous ten years by the governing board of the water supply entity;
ii. Has a minimum twenty-year planning horizon;
iii. Lists the water conservation measures, if any, that may be implemented within the service area;
iv. Lists the water demand management measures, if any, that may be implemented within the development;
v. Includes a general description of the water supply entity's water obligations;
vi. Includes a general description of the water supply entity's water supplies; and
vii. Is on file with the local government.

3. Determination of Adequate Water Supply**.** *The Board of County Commissioners' sole determination as to whether an applicant has a water supply that is adequate to meet the water supply requirements of a proposed development shall be based on consideration of the following information:*

a. The documentation required by Sections 7-104(B) and 7-104(C);
b. A letter from the state engineer commenting on the documentation required pursuant to Sections 7-104(B) and 7-104(C);
c. Whether the applicant has paid to a water supply entity a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed development; and
d. Any other information deemed relevant by the Board of County Commissioners to determine, in its sole discretion, whether the water supply for the proposed development is adequate, including, without limitation, any information required to be submitted by the applicant pursuant to applicable local government land use regulations or state statutes.

- Where planned unit developments include a subdivision component, it is recommended that Section 7-104 for an Adequate Water Supply be applied as required in Section 5-502(C)(13)

"Where a Preliminary Plan application is included with a PUD application, the subdivision regulations requirements will supersede the PUD requirements where the same information or more detailed in formation is required as part of a subdivision application."

- Where a PUD is proposed without the further subdivision component, we will need to amend Section 6-203 (PUD Approval Standards) to include an Adequate Water Supply Plan as detailed in 5-502(C)(13) or Section 7-104 (Standards)

Article VII: Standards

We will need to amend Section 7-104 Adequate, Reliable Water Supply to incorporate the standards and requirements of the Bill. Consider the following replacement of Section 7-104:

Section 7 – 104 Ade*quate Water Supply. An adequate water supply plan shall be required for any preliminary or final approval of an application for rezoning, planned unit development, limited impact or major impact review, development or site plan, or similar application for new construction. This section shall apply to all development permits which require a water demand in an amount of at least 8 (eight) single-family equivalents where 1 (one) single-family equivalent equals 350 gallons of water per day.*

B. Authority**.** *The Board of County Commissioners, pursuant to §29-20-103, et. al. C.R.S., shall not approve an application for a development permit unless it determines in its sole discretion, after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. Nothing in this section shall be construed to require that the applicant own or have acquired the proposed water supply or constructed the related infrastructure at the time of the application.*

C. Water Supply Requirements. *All applications for development permits shall include the estimated water supply requirements for the proposed development in a report prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work. The report shall include the following:*

(1) An estimate of the water supply requirements for the proposed development through build-out conditions;

(2) A description of the physical source of water supply that will be used to serve the proposed development;

(3) Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater.

(4) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(5) Water conservation measures, if any, that may be implemented within the development;

(6) Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability;

(7) Proof of a legal water supply shall include but may not be limited to an approved substitute water supply plan contract, approved augmentation plan, approved well permit, a summary of consultation from water court, or a legally adjudicated domestic water source; and

(8) Such other information as may be required by the Board of County Commissioners.

D. Water Supplied by Water Supply Entity Requirements**.** *If the development is to be served by a water supply entity, the Board of County Commissioners may allow the applicant to submit, in lieu of the report required by Section 7-104(B), a letter prepared by a registered professional engineer licensed to practice in the State of Colorado qualified to perform such work from the water supply entity stating whether the water supply entity is willing to commit and its ability to provide an adequate water supply for the proposed development. The water supply entity's engineer shall prepare the letter if so requested by the applicant. At a minimum, the letter shall include:*

(1) An estimate of the water supply requirements for the proposed development through build-out conditions;

(2) A description of the physical source of water supply that will be used to serve the proposed development;

(3) An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;

(4) Water conservation measures, if any, that may be implemented within the proposed development;

(5) Water demand management measures, if any, that may be implemented to address hydrologic variations; and

(6) Such other information as may be required by the Board of County Commissioners.

(7) In the alternative, an applicant shall not be required to provide a letter or report identified pursuant to Sections 7-104(B) and 7-104(C)(1) – (6) above if the water for the proposed development is to be provided by a water supply entity that has a water supply plan that:

a. Has been reviewed and updated, if appropriate, within the previous ten years by the governing board of the water supply entity;

b. Has a minimum twenty-year planning horizon;

c. Lists the water conservation measures, if any, that may be implemented within the service area;
d. Lists the water demand management measures, if any, that may be implemented within the development;
e. Includes a general description of the water supply entity's water obligations;
f. Includes a general description of the water supply entity's water supplies; and
g. Is on file with the local government.

E. Determination of Adequate Water Supply**.** *The Board of County Commissioners' sole determination as to whether an applicant has a water supply that is adequate to meet the water supply requirements of a proposed development shall be based on consideration of the following information:*

(1) The documentation required by Sections 7-104(B) and 7-104(C);
(2) A letter from the state engineer commenting on the documentation required pursuant to Sections 7-104(B) and 7-104(C);
(3) Whether the applicant has paid to a water supply entity a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed development; and
(4) Any other information deemed relevant by the Board of County Commissioners to determine, in its sole discretion, whether the water supply for the proposed development is adequate, including, without limitation, any information required to be submitted by the applicant pursuant to applicable local government land use regulations or state statutes.

7-601 Exemptions

Article XVI Definitions: We will need to add or incorporate the key language of the following definitions.

A. *Development Permit: Any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, development or site plan, or similar application for new construction.*

The current draft defines "development permit" as "*any Garfield County land use permits or approvals of any kind including building permits, plat approvals, grading permits or land use permits.*"
Moreover, the draft also defines "Change in Land Use" as "*any development, grading, construction, activity or operation that changes the basic character, configuration or use of land or structures after the enactment of this Land Use Code constitutes a change in land use.*"
The Bill contemplates the term Development Permit as it more narrowly relates to water supply. I suggest we not include the definition in the Bill and simply apply the water requirements specifically to each of the land uses contemplated rather than try to lump them into a definition.

B. *Adequate Water Supply: A water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability. Water quality shall be demonstrated by complying with the Colorado Department of Public Health and Environment's drinking water standards for all development permits requiring a water demand of 8 SFE or greater. (See Article VII, Section 7-104)*

C. *Water Supply Entity: A municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply company that supplies, distributes, or otherwise provides water at retail. (See Article VII, Section 7-104)*

D. *Development Process: For the purposes of applying Section 5.23, a development permit shall constitute an approval from the Board of County Commissioners for a rezoning, preliminary plan, planned unit development, or limited or major impact review. Further, demonstration of an adequate water supply shall be required to occur in each of these processes in the event multiple land use requests are made. (See Article VII, Section 7-104)*

Fred stated that Doug Dennison submitted a memo regarding the matrix and those corrections were made and are included in this 3-ring binder. The memo submitted is to put on the table three (3); last fine-tunings, the first of which is provisions which is to Article I which is a clarification of language for the deed restrictions. Representatives are here from the Housing Authority to answer questions if the Board has questions on the language; the second thing is the provisions of HB 1141, which is the adequate water supply mandate from the state. There are five (5) recommendations on how to incorporate those provisions into the existing Land Use Code and then also into the proposed draft – so we've done that and this memo clarifies that. This is a cross-reference exercise and if I'm an eight single family or greater we have to meet the provision of HB 1141; it not, I'm less that than and then we fall back into what we require in a subdivision exemption for example. The third piece is we received a memo from Doug Dennison of Cordilleran Compliance Services hours before this went out so Doug's memo was attached and Doug has identified a lot of very interesting points and is here to bring to you one of the key components which is the matrix a formatting challenge.We have fixed that and it is included in the handout today and the version is accurate. Mark Bean and Fred spent a great deal of time and our notes were the same. We are confident the matrix is correct. As to process and Don eluded to this earlier, the way the staff reads how this ought to go is that you have a couple of options before you today. You can simple make a recommendation of what is here to your Planning Commission today at which time they have 30-days to make comments and get back to the Board; or you can continue this if you felt there were more things you wanted to spent more time on

before you send the document to the Planning Commission. The key component is whatever you send to the Planning Commission has to be the last and be all referrals to them, so you want to incorporate your comments before you do that. Don – So the record is clear on this, in terms of the Land Use Code introduced as an Exhibit, that version as it's currently before the Board shows two color schemes: The **BLACK ink** version is the actual recommendation of the Planning Commission to the Board of County Commissioners as required under Section 1.12. The **RED ink** version reflects the current suggestions of this Board of County Commissioners as their potential recommendations for alterations to the text. Does the Exhibit put before the Board includes any alterations that reflect the recommendations that are in the memo that you just described? Fred – No, the 3-ring binder does not include the language that is suggested in this memo. So, if you were to appropriate this as it is in **RED ink** it would be sent to the Planning Commission. The question was asked, does the binder reflect any language suggested in this memo you just described? Fred responded, no the 3-ring binder does not include the language suggested in this memo. So if you were to appropriate then this would land as **RED** in here as you would send it to the Planning Commission.
Water: Debbie Quinn, HB 1141, Chairman Martin said we're doing about 99% of everything already; there are one or two little things that we might recommend.
Debbie Quinn said my understanding with the session from Tim Beaton and Michael Erion is that recommendations were made to the Board; the Board directed staff to incorporate those into language and that's been done. Fred raised a concern on page 15; there is reference and Fred will change that, but it's under Article 4, the first bullet underneath the italicized text; it says "see the last line C, of Section 5.23" and that's a simple cross reference change. Commissioner Houpt complimented the staff for a job well done. Chairman Martin would like to get the input of the public before we go any further.Don asked the Board if they wanted to incorporate the memo from Fred regarding HB 1141 in alterations to the text to the Planning Commission. The Board concurred. Doug Dennison, Cordilleran Compliance in reference to the memo that he sent Fred said the majority are some formatting stuff in the tables in Sections 3-50; once I figured that out and let Fred know and he and Mark fixed it, it resolved most of the comments I had on that section. One note to bring up and I don't feel strongly either way but for discussion, on the use of Major Temporary Employee Housing Facilities, your current document in front of you shows it as a major review and my understanding is that the major reviews in this new code will have to go to both the Planning Commission and to this Board for review and that would change with that new designation. I just wanted to ask if major was where you wanted to go of was a limited review where you hear those directly is more appropriate. Chairman Martin – In reference to the 8 or less and the 8 – 24. Doug said this is the 25 plus. Chairman Martin – Those would be referred because there are other state regulations and processes which would be permanent. Fred suggested that in your current scenario these come in as Special Use Permits 24 or greater and the Board has the option to refer it to the Planning Commission. If someone comes in with housing for 100 people, you may feel that this is appropriate to send it down and makes it into a major review. So, if you kept it as a limited impact, then it's just going to come to you and not go in all cases. Commissioner McCown – What Doug is saying if it comes in at 25 they have to go to the Planning Commission. It doesn't give us the option to hear the noxious ones that are located out in the middle of nowhere and they are 25 people. It takes all that flexibility out and you're right with a 100 we may want to send it out, but at 25 it's a no-brainer. Fred stated this is the way the Board has been operating. You could put a number out there and say under a certain number of people we won't refer it. Commissioner McCown – What's driving it is that number? Commissioner Houpt suggested for temporary housing you say that the Commission could determine whether it goes to the Planning Commission. Chairman Martin – All categories or just the major. Fred – Just the major. That's the way you do it now. They may have 55 people and zero impact; it's not a number game. Chairman Martin liked the idea. Mark Bean understands but suggested in the supplementary regulations we identified major, small and minor categories on how to process, would that placement be changed – identify in that section that the Board has the option to refer a major to the Planning Commission at their discretion as opposed to putting it in the procedure section. Section 7 – Standards. Fred agreed this made sense. Commissioner McCown – Change shall to may. Fred – It would require us to bring it to you. Chairman Martin – Let's go ahead and change that language just for that particular one. Commissioner McCown – On 3.39 Matrix, another glitch there, we have an empty line that says major temporary housing facilities with nothing in it and then we drop down to major temporary housing facilities and the one red dot on the public lands. Doug Dennison – That was one of my comments; it was just a scrivener's error. Don asked how the Board was going to refer to that in the Matrix, that particular use. Mark – As a major. Fred – You can if you want; include an asterisk in the Matrix that sends you down to the bottom of 8 that see someplace in the Standards so they know, okay yes, it's a M but go see whatever section and you know immediately okay for that particular use. Don – That might be the way to go. Commissioner McCown – On 3.41 are we going to delete Temporary Housing that's all black and all L, page 3.41 under the zone district. Mark – That would be appropriate. That one was marked to be changed as well. Fred – I heard striking temporary housing on 3.39 – this is duplication. Chairman Martin addressed the audience saying this is what we do when we do a line by line review in fifty (50) plus meetings; a very long process. Doug – Section 3.502 – a lot of those are editorial things in terminology. On page 5 of the memo, there were some uses that might have inadvertently been left out in 3.502 and this was before I got the revised version from Mark and Fred put together so a couple of those were taken care of but the access route is penciled in by hand. Question on the various categories of oil under Resource lands; there seem to be family dwellings are the only ones that are allowed, they are the only ones listed.
Mark – Actually it should be dwelling single unit opposed to single dwelling. Doug – 3.501 for all the other zone districts other than Resource Lands allows single units, double units. Mark – You mean in the various zone districts. Doug – Right and I just didn't know if this was something missed in the Resource Lands or if it was intentional. Mark – It was intentional. Doug – A use of fabrication of goods processed from natural resources that seem to be a natural fit for Resource Lands that didn't make it through. Commissioner McCown – Probably see extraction. See fabrication. Doug – This is shown as a separate use on 3.501. Fred – It is in 501. Commissioner Houpt – But not in 502; is there a reason for that? Fred – Not that I can think of. Mark – In 501 we were thinking about that we are talking about an industrial type of facility that

is intended to be fabricating products and that was more appropriate in most of the industrial/commercial zones. Commissioner Houpt – But it also has it in Rural Lands. Commissioner McCown – The only place it's eliminated is in the Resource Lands where a lot of this need is taking place. Commissioner Houpt – It's only allowed in Rural and Industrial but it's allowed in those two and it's allowed in Rural so if it's allowed in Rural, I don't know why it wouldn't be allowed in Resource Lands. Fred – At least the Valley Floor. There is some argument to having it allowed on the Plateau. Commissioner McCown – Some of the approved laydown yards with fabrication that are taking place would meet that criteria.
Chairman Martin – I think it needs to be in there as well; otherwise it becomes a non-conforming use which isn't allowed. Fred – These are two separate things, you could have a company that needs to produce certain things for itself that needs to function and operate versus a plant for the fabrication of goods processed from natural resources which is for mass production. Commissioner McCown – That would preclude a saw mill though on the Resource Lands/Plateau and that's seems crazy to me because that's where you would want it. You'd be hauling logs down and having to worry about your slabs and all that. Commissioner Houpt – So, it would make sense to put it up there just to make sure that those applications come to us and treat it like we do in Rural and Industrial and make it a major on both the Plateau and the Valley. Commissioner McCown – And they automatically go to the Planning Commission for a saw mill. Fred – Or a giant pipe yard. Commissioner McCown – We're going to have our Planning Commission dragging up on us. Chairman Martin – They may put the asterisk, they may say take if off. Fred – That's the way to go; you could have the same asterisk scenario and it gives you the authority if you think this is an issue and then send it down to them. Commissioner Houpt – Well, as you know, I'm the one who has thought that we use that ability too often and I have debated the notion of not sending certain applications to the Planning Commission; but we're going to be starting our Comprehensive Plan process over again. There's a lot going on in this County and it's very difficult for us today to predict which of these uses that we're putting under that category of major review will in all cases need a major review. So, I am wondering if we shouldn't leave that decision and not burden you with bringing it to us with that question. Mark – You mean put all these under major review. Commissioner Houpt – Undecided. Chairman Martin – I think it would be able to assist both the Planning Commission as well as the Board and still satisfy the code if those issues come to us giving us that flexibility. At least we know what level of work we're giving the Planning Commission and also what we're doing; we'll refine everything and this is still subject to change and to make those necessary changes. Mark suggested going back to the Procedures Section, Section 4 where we identify the Planning Commission review and insert a section similar to what we have in our regulations allowing the Board to have it brought to you on every major permit and you determine whether or not to send it to the Planning Commission. Commissioner Houpt – What is the downside to that? Fred – Procedurally it's a workload issue. Depending on how whatever particular Board sits here feels that certain uses need to go to the Planning Commission; they carry their own agenda, so everytime you refer something that sits on top of their existing agenda. You start stacking agendas that way, so part of the feeling from the staff perspective is and maybe the reason we don't recommend you send a lot down, is they have limited time and don't meet as often as you do and so it's got to be something that's really impacting to warrant a double review because you're not getting any new information per se.. You are venting a public process. The downside is it can have an affect on the planning agendas where you may not need to do that. We didn't bring this to you with that option mainly to streamline the process and looked at whether it was an M or an L; it automatically went or didn't go. The discussion we're having now is very good because you can't envision the flavor of all of these. This is an amendable document, but if you stay with your process as I hear you going, it makes a lot of sense. Chairman Martin – And it also opens up the avenue that we've brought up the other day, we have more than one Planning Commission within the region; maybe two, three in the future. But we're able to go ahead and divide that into our planning regions or our master comprehensive plan. We then have that recommendation again having a break to some of the commission's case load or review process and splitting it in half, depending upon where it is. Don – This is not in your current code but one of the pitfalls when you do this on every major or limited review process, you should have some guidelines on which you are going to base your decision so it's not just an arbitrary decision as to whether someone has to go through the Planning Commission or not. At the present time it is based on a recommendation by staff and every application is not brought to this Board. Fred said in a very few applications, such as home occupations, are not made for referral. Some of the low impacted uses we don't; outside of that staff is bringing these to the Board. Our view of it tends to look at a few standards; i.e. the comp plan, similar cases, etc. You often hear well it's in a very remote area, or there aren't any residents near by. Don suggested having something so the public has some idea of why you'll make a decision. What are some of the things that this Board would look for that would drive you to have it go to the Planning Commission? Fred – Generally the net impact on the surrounding community or some outstanding potential impact to a natural feature or something out of the ordinary beyond a lot of the things that come that happen to be in the remote areas of Roan Creek. It tends to present something easily if you've got something like the conflux of two creeks that some kind of biological. Don – Look at the impact on natural resources; look at the impact on I-70 corridor; existing residential; traffic; significant population center; so based on that, Mark could come up with a set of criteria. Mark – Impact to the County roads; environmental impacts; and impact to the surrounding communities. Commissioner Houpt wasn't sure the words significant should be put in front of each on of those items. Mark asked if the Board wanted the same language added to the Limited impact permits. No, was the consensus of the Board: In case of a major, bring it to us and we'll make that determination Chairman Martin – There are no more conditional use permits. We're calling them limited or major. Doug – A few more uses to consider in Resource Lands. Forestry was not an allowed use. It is listed separately in the other zone districts. Commissioner Houpt – Forestry is in Rural. Chairman Martin – So, it needs to be in the others as well. That needs to be corrected as well. Commissioner McCown – I would agree that needs to be added to Resource Lands. Doug – Next one was the minimal waste disposal areas that was added and a question about whether professional or conduct of business or profession in the Gentle Slopes/Lower Valley Floor should be an allowed use. We call them Industrial Support Facilities right now for EnCana's office and similar. Commissioner McCown – Yes, I think it needs to be included in Limited use. Doug – A solid waste disposal site facility wasn't an

allowed use in Resource Lands. Your current County Landfill would have to go because it's in Resource Land. Commissioner McCown - Take that option away because a lot of the areas that we might have to apply for in the future could be in Resource Land. The current Landfill came from public lands so it would be allowed by a use by right. It was BLM property when we got it. I don't think we need to take all the Resource Lands in the valley floor out of that possibility either. Add this as an M. Doug – In the last update the small temporary housing facilities Section 3.508. Fred – We fixed that. Doug – The last one is whether temporary processing less than eight (8) months should be included in Resource Lands. Commissioner Houpt – Asked to have this explained. Mark – Typically you might get a highway project for which they need an asphalt batch plant for a short period of time and location. Chairman Martin – Recycle the concrete to put it onto land and also the shale rock, grinding it up, temporary sites or road base. Commissioner Houpt – Okay. Commissioner McCown – For whatever it's worth, on our permitting of gravel pits, the paving that's taking place in the Town of Rifle is taking place at night right now so that would not be an allowed use under our existing regulations. The batch plant is outside the city that's supplying the asphalt, so it would not be an allowed use so they would have to pave during daylight hours much like Glenwood Springs got their concrete from outside the County at night when they were doing the Grand Avenue project which would not be an allowed use. So we need to look at that. Fred – We don't define temporary processing unless it's under processing. Mark – Just if you want temporary processing less than a month, so any type of processing would be there for less than a month under limited use. Any type of process is administrative. Going back to the asphalt batch plant, typically when they come it's for a short period of time and there's a short turnaround and that was the rationale of why it went to administrative. Commissioner McCown – Yes, because it's usually covered in the initial Special Use Permit when it's allowed. Commissioner Houpt – Would there be a situation where it would come on it's own without another application for a big project. Commissioner McCown – Well, the batch plants are not always in the gravel pits. Mark - A lot of the older gravel pits do not have batch plant provisions in there because they were not identified in their original processing and they weren't permitted to do so. Chairman Martin – That's why they set up the temporary site. Fred – Is your question, should we have a rash of temporary eight months or less in various places that continue on, is that your concern? Commissioner Houpt – What I'm getting at, wouldn't they be covered under a larger application that we'd be approving anyway. Fred – Not always, a lot of those are temporary or portable. Commissioner McCown – What I'm thinking about; what will these folks need when they talk about a small shale pit. I know we do those under a Special Use Permit now and they're extraction. But they are going to have to bring a crusher in and it will be there for a very short period of time because they're not talking about that much material. They will be in and out of there in two months; ie. TeePee Park; Chevron. Chairman Martin – They are making their own material. Commissioner McCown – The fact that that pit is open under the DRMS and we're allowing a crusher to go in there for two months and crush 100,000 yards of aggregate and that permit will stay open after that crusher leaves because they may need to come back in another five years and crush another 200,000 yards of material. Chairman Martin – Unless they've declared how much material is going to be there or the length of time their project is going, then that's part of their permit and then they close it up and have to do the reclamation and it's done. Commissioner McCown – And if that is not what this is for, then I can't imagine what it's for. Fred – More along the lines where you have a CDOT project that comes along and they have to set up a process for a limited time, generally during the summer and they are looking for a spot to set up where they are working versus the scenario you're talking about where you're opening up a spot. Commissioner Martin – CDOT had over a dozen pits. Commissioner McCown – CDOT is going to work where they have aggregate because they can't haul aggregate to the batch plant and then haul the asphalt from the batch plant to the road. Commissioner Houpt – Explain how those are different. One is a private company and one is CDOT but you're creating a product for that one project and then it goes away. Fred – The difference is that one is a portable place where you set up and they are bringing things because the processing had to happen near to where the application occurred, which is the case in many instances with asphalt. So while you don't need to crush at the site where you're crushing the rock to make the asphalt, you're actually doing that at the site because you've got to apply it straight away because time is ticking. Commissioner Houpt – Would both of those scenario's fall under this temporary processing? Fred – It is but again I see once temporary processing goes away then you don't have real site disturbance of where you're processing. You're not extracting, but in Larry's example you're actually extracting on site as well. Commissioner Houpt – But that's not part of the application. Commissioner McCown – It would have to be or you would not have any material. Commissioner Houpt – So maybe in that situation you would refer it up because you would see a greater impact. With every administrative application, you as the director have that opportunity to refer that up if you need to. Commissioner McCown – Under Fred's scenario, I can see a tremendous increase in the truck traffic if you're having to haul the aggregate to a site, process it into asphalt but then haul the asphalt back out to another area; whereas, if you're doing it at a gravel pit, the gravel is there and you're only hauling it one time. Commissioner Houpt – And we have a couple of activities right now that want to use the resource on the ground and process that so they don't have to add truck trips. Commissioner McCown – This could be a saw mill and beetle kill lumber; you've only got a little area. You wheel your saw mill in and you're there for six months and out again. That would be temporary processing. There was nothing to add but we need to change the words to fit the formula in the Housing Section. Doug had one more comment – comments on 3.503, the table under Article, is the 25" housing restriction should be changed to 25'; simply a typo. Commissioner Houpt voiced a major concern on the affordable housing; we consistently adopt what has been recommended for affordable housing throughout the County and not just in certain areas. If we follow through and just update the housing policies for Study Area 1A and Study 1B then we're writing this for today and we're not planning for the future so I have a real issue. Also, I'm looking at the prices of homes from Parachute to New Castle and I wouldn't call them that affordable. Commissioner McCown - There is a $200,000 difference between Parachute and New Castle in the cost of housing. Commissioner Houpt – Well, there may be $200,000 difference but you start at a pretty high number and there are a lot of people who won't be able to find housing in the Parachute area because of where the prices are going and in Rifle as well.
Board Decision:

Commissioner McCown stated he was not going to support crowding all the affordable housing in Parachute/Battlement Mesa area. We've got $900,000 averages in Carbondale of homes and we have $247,000 in Parachute. We cannot crowd all of the affordable housing down valley – it has provided it for years and I won't support that because that will impact Battlement Mesa solely and it won't the Town of Parachute because it's in the city and it won't impact the City of Rifle, or the Town of Silt. Battlement Mesa is where we will feel all the impact because that's the only large development in unincorporated Garfield County and they have provided the affordable housing for Garfield County since their inception. And I'm not going to mandate more affordable housing in that area. Commissioner Houpt – Well, today on the books maybe that's all the large development you're seeing. Commissioner McCown – Well, this is an amendable item and if it gets to the point where it needs to be changed, it can but right now I don't agree with that. Commissioner Houpt – I don't' agree that we should treat it differently. Mark – For the record this is for Study Area 1A and 1B and it has not been officially been adopted so that language has been Study Area 1.

Specific issues by the Board:

Commissioner McCown stated there were things in here that I was unhappy with and then things I am happy with so I'm ready to send the document to the Planning Commission and have them comment and send it back to us. We made some significant changes, we left a lot of things as they were; I think it's a very workable document and there were some specifics that Doug addressed and the Matrix. I hope their intent is to streamline things and if it's not on the Matrix you can't do it – it's a pretty broad statement. I hope it does streamline things for people coming in with new projects. Chairman Martin – The other issue on procedure, when it comes back from the P & Z and we still find that we need to discuss a certain issue. I do believe under the procedure that we can still make some changes. Even the recommendations coming back from P & Z, if they are not what we truly believe need to be done. Don – No, that's really not correct. If this were clearly an amendment to your existing regulations then yes, but if this were to be considered the adoption of the new code then the answer is no. I would prefer that you not do that; I would prefer that you send all the changes you want to the Planning Commission now and then have only their recommendations to consider when it comes back to you. Commissioner Houpt stated she wanted to address her concerns for the record. Then we'll take a vote. Chairman Martin – I would like to treat this as an amended land use code; I really felt like that's what we're trying to do, not to try and reinvent the wheel because we implanted a lot of things from the old one and I've always thought that we're taking the best of that one and adding to it. So I was always under the impression again that's it an amended code. I think it will be referred to as an amended code in 2008. So that's why I was hoping under the procedure that if we didn't like specifics we could have these discussions before we officially adopted it and have that specific item debated one way or another. If we need to do that now to satisfy legal staff then we're going to have to continue this and this is going to be a long process for getting it to P & Z as I think we're going to have numerous meetings. Commissioner Houpt – Either that or I can just read down my list; I need to get on record before this goes to P & Z what my concerns are, because what is reflected in this proposed amended code doesn't reflect what my concerns are and so as part of that process I need to have the opportunity before this goes to Planning and Zoning to publically state my concerns. Commissioner McCown – Question, who decides if this is an amendment or if this is a new code. Courts? Don – Eventually a court will decide if it's contested. Larry, we have dealt with this as a new code from its inception. When we went out for a contract with the state it was to develop a new land use code for the County and that was the way it was presented to the Planning Commission and that's the way the process was described to the Planning Commission. It can't be considered an amendment to your existing code because you have one you are changing is what you are doing; but you have changed the entire structure in adopting this code. We do not have a unified land use code right now – we have Subdivision Regulations, 1041 Regulations and a Zoning Code and it's not just a matter of taking those three areas and putting them into one document. There are substantive changes in the process and you are also adopting a new land use map, however; it will be one that changes terms more than it changes uses. That's why it's a bit confusing and admitting I'm taking the most conservative approach by saying you have to treat it as it were a new code although it may be considered an amendment; but we publically noticed it to cover all the bases because it simply isn't clear. What I'm concerned with is, though under the process that John just described if it's considered a new code, it is mandatory that every alteration to the code certified by the Planning Commission has to be given back to them; so at the end of the day if it goes to the Planning Commission, they come back with recommendations, then you make changes not to the one you sent to them but come up with new ideas and new provision, those arguable have to go back to the Planning Commission as well. I'm trying to come up with a process that brings this to foreclosure. Chairman Martin – That's why I don't think we'll ever get there if we keep changing it and sending it back, review that, and back and forth. Don – That's why I'm trying to come up with a process so you come up with all the changes you want, and then send it to the Planning Commission. Fred – Only as a follow-up, this document is an amendable document. Commissioner McCown – After it's approved. Chairman Martin – And that's what I'm getting at. Fred – So you will have a shot at it later and you as a Board can change the text. Chairman Martin – As zone text amendments to the changes that we submit and debate those particular issues that we disagree or agree or that they need to be changed because we found they didn't work, through that process as well. Don – One topic you haven't discussed today and would like you to think about it and that is the question of an effective date. You'll find at page 1.2 you left that open for further discussion. That is one of the first things we talked about. You left it open for the motion that proposes the adoption of this code and will specify the effective date. People have to leave with this code and share this with the County and they need to know on what date it would be effective and that should be stated in the Code. Chairman Martin – Again it's going to be adopted and shall take effective upon the adoption by the Board of County Commissioners unless otherwise set forth in the Board's motion. Don – If you don't intend to specify another date, then it should be effective on the date of adoption. Commisisoner McCown – Depending upon how much discussion has to take place depending upon how long it will take Tresi to make her points – if that's going to be two more meetings, I'm reluctant to put a date on their today until this is set up for the Planning Commission. Commissioner Houpt – If there's not going to be discussion, I can do this today. Commissioner McCown –

I'm just saying if she concludes today and it's sent up to the Planning Commission, we know they have to have it back in 30 days; we get to look at it, if we approve it at that point, we plug in a date that it is effective. Mark – You do that in your resolution. Chairman Martin – If there's something that Larry, Tresi or I disagree with then we take that up and again we're able to amend this through the process because we've adopted it and we do that zone text amendment so we can put it up for a public hearing on the subject that we feel that needs to be done. It's been five (5) years – we need to have something in place – some finished product. It's not perfect; we know that, neither is the one that we have currently. It's still amendable and we still have many hours of discussion on many subjects. Commissioner Houpt – So, I'm assuming that I am just doing monolog. If you'll start on the Table of Contents – Article 3 – I stated this earlier, I truly believe that Industrial should be split up with heavy and light because they're going to be areas that will be appropriate for light industrial that would not be appropriate for heavy and I'm very concerned that we've grouped that together. My next concern on page 3-1 under A - Rural Agricultural – We took out the reference to agricultural character and kept existing in and the problem I have with that is that a lot of the oil and gas activity that's going on today won't be going on as soon as they complete a site and so we want to maintain that that agricultural character and I think this may have been a discussion I wasn't there for and not sure why this was removed. Was I there? Mark – Yes, we had a lengthy discussion. Commissioner Houpt - So anyway that's a concern. Next: Low in Density was taken out also in relation to what kind of activity would be conducted in Rural and I was happy with the language that the Planning Commission had brought to us and not the revisions. Next: 3-7 - Through the entire section of Setbacks. We have the same setback requirements for everything and it doesn't make sense to me to have a setback for a 7500 foot lot be the same as a 2-acre lot. It's a different type of development; the side lot setbacks are very small and you know we ran into a concern a few meetings ago about the setbacks and how small they are and I have to agree; I don't think we have adjusted those setbacks for maintaining rural values in developing our residential areas. And if you think about it, it follows to commercial and industrial which can abut with rural as well and so you have these uses so close together. You know we have this 100 foot setback that is all over the place too and I'm wondering where that came from because that statewide is being debated as whether or not for any type of large difference in land use whether that's an adequate setback. So I think I said this at the beginning of the process, I have a real problem that it is included in this except for the more urban districts; these really look like urban setbacks to me. And that goes all the way through this section and I know I got more specific with our public meetings and I don't want to go through that because of time. But, if you read through this it's the 100-foot setback, it's the 10-foot side yard setback; it's the 25-foot setback, it just makes no sense. Chairman Martin – It goes to the other side of that discussion was it's an individual's land and what he does with his land it should be allowed in one way or another without harming the next door neighbor in one way and again a difference in philosophy and the ability to use the property that you own versus being told what you can do with your own land and that's just a philosophical difference can do. Commissioner Houpt – 3.23 under Shooting Range Facility – Correct me if I'm wrong but aren't they perceived as permitted facilities when they are set up? Chairman Martin – No, they can be destroyed at any time. They can be taken apart, etc. Mark – They are theoretically potential permanently permitted. We don't put a term on it. Commissioner McCown – Most of them I know of are leased and the shooting range does not own the property they are on. Mark – But the permit allows them to go on indefinitely I think is your question. Commisisoner Houpt – Well, my question is why they would be treated differently – the language for sanitary facilities was changed from what the Planning Commission had recommended. They had recommended permanent sanitary facilities which are what we would require for most any business that's establishing itself and it was changed to adequate and permanent was taken out. Again, I would disagree that permanent should be taken out because I think the way its established it's a long term business that is going to receive a lot of use. Next: Matrix – Accessory Building or Structure – The Planning Commission had recommended that there be some kind of size allocation given to use by right versus administrative process; it's not uncommon to see an accessory building built without any land use consideration and have it impact neighbors because we have a lot of people living in the County now and so I would have probably even requested a larger floor for the square footage that the Planning Commission recommended but I certainly would have recommended supporting their language instead of taking that out. And, what's happened is its that all accessory building structures now, regardless of how large, they are a Use by Right. I thought administrative was appropriate for that. Next: Were Greenhouses taken out of this Matrix? Mark – No, they were replaced by the term Commercial Nursery/Greenhouse. Commissioner Houpt – I couldn't find them. Lodging Facilities, major lodging facilities; I'm not quite sure why we would never want to have those have some kind of land use review and you know, the recommendation is Use by Right in commercial business limited, in general, and even an administrative review would give us a better sense of what that major lodging facility would be like. I can see it with a minor but with a major I have a problem with that. Mark – Arguably there will be an administrative review as part of the building permit and they will still have to comply with the zoning, parking, building height, dimensional standards and traffic impacts. Fred – House Bill 1141 will now apply if it's large enough and consumes enough water and that's got to come to you. Commissioner Houpt – But why wouldn't you want to look at traffic impacts? Fred – Well, the theory is that you have made **red** those zones on your map that you feel already are adequate to handle the traffic and so you want to have a space for heavy car generating kinds of uses and that's why you have zoning. That's why you don't put a hotel in the rural more urban type zone districts, you put them in the commercial zone districts because you feel this is appropriate and you're not having to micro-manage every single use that comes through. You say I've got a place for you when you come in with a hotel and its right here because you're nearer to State Highway 82 or near to …… Commissioner Houpt – And I totally agree with that but I do want to make sure that they're reviewed and it sounds as if the process will be extensive with parking and perhaps with water use as well, but a major lodging facility can be major and we're not requiring land use. Chairman Martin – You can also use the zoning map and the revision of that map to see exactly where those particular zones are so that you will know what the impacts are and your traffic, etc. and that's what is implied with using the map itself. The Matrix and the definitions to go along with it so it's not just ….. Commissioner Houpt – It's cumulative impact though and again if you look at those cumulative impacts

how quickly we're growing, what level of development and the size of facilities we're seeing I would still say there's an argument for including land use. Same with and I will just go down these because I have a lot of them, so we don't have to debate it because I don't thing anyone's going to change their mind today but….Chairman Martin – I'm just trying to clarify too it's the zones that we have defined that these are allowed that you have to look on the map; it's not the whole County it's within certain areas and its very limited physically where it can be, it's not the entire County. Commissioner Houpt – Well, and I think that's understood but…. Commissioner McCown – But, do you feel there should be any Use by Right in any zone district? Or does every land use have to be heard? Commissioner Houpt – Well, I think the major impacting land uses, for the minor lodging facilities no, I think Use by Right is fine; but when you're talking about a major facility I think it's logical….Commissioner McCown – You're completely defeating the purpose of your zoning that allows those major facilities. A minor one in an area that it's not allowed in requires a zone text amendment which may carry a lot heavier impact that a major one in an area that allows it. Commissioner Houpt – But it is allowed, it's allowed throughout the County. Commissioner McCown – In the commercially zoned districts. Commissioner Houpt – I'm saying there's a difference, in my mind there's a difference between a major and a minor facility. Next: The Major PUC regulated electric or natural gas distribution facilities – I absolutely think there should be an administrative review and that's Use by Right throughout the entire County. The major temporary housing facilities – no, I don't have that anymore. I worked off two different Matrixes. Next: Material Handling – What does that refer to, what are the differences? Mark – Example would be a coal load up facility where oil shale facility or something like that so they are taking raw materials and transferring it to a train or to trucks. Commissioner Houpt - Mineral Waste Disposal Areas? Mark – Literal example is a lot of the old oil shale facilities had waste minerals that were as a result of processing and they are were disposed of in identified areas. A specific area those mineral waste were put into. Commissioner Houpt – Did they have to be treated specifically depending on what the mineral was? Mark – It depended upon the location, drainage, type of soils, sure. Commissioner Houpt – Could some of them be classified as a hazardous waste? Mark – In some cases sure, you bet. Commissioner Houpt – So my feeling is that throughout this Matrix, anything that deals with waste disposal, whether it's a landfill, recycling processing center, a hazardous waste site, waste disposal area should require a major review; and this one is limited and not major. And the reason is because of the potential implications if something happened environmentally the implications could be large. Mark – We still have to review these. Commissioner Houpt – I know, I'm just saying what I don't agree with on this Matrix. Next: Mini Storage a Use by Right again – the problem with having some of these things and Larry go back to your question to me, should there be a Use by Right – I don't know if there should be. Where there's an example of a mini storage facility that is in a commercial zone in one of our communities that buts within 25-feet of a residential community and so where is the land use planning there and who's rights are being protected at that point if there's not some kind of administrative review with that. Next: The oil and gas drilling and production of sites approved by the state; we're about the only County in the state that's not at least administratively reviewing this activity and weighing in so I know its not going to happen today, I think its really important that we really start looking at the land use implications of natural gas drilling in this County that's growing and get on board with the rest of the state and make sure that we weigh in on how we can make it compliable with the rest of land use planning in this County. Chairman Martin – That's a philosophical difference as well because we do address just about everything under the sun in our regulations but we don't put them aside and call them oil and gas regulations but they are within the land use code that apply to the industrial standards, the extraction standards, etc. It is just not identified as oil and gas development. Commissioner Houpt – But I'm referring to something else John because this line – oil and gas drilling and production on sites approved by the COGCC as a Use by Right all the way across and if it's a Use by Right all the way across we're not going to look at it even administratively. Chairman Martin – That's why we have Judy, our Oil and Gas Liaison, to review those and if there's an issue she brings those forward and we can make a recommendation in the intervention using the rules and regulations as a Use by Right that we have. Commissioner Houpt – Personal Storage Facility – how is that defined? Chairman Martin – Go to definitions. Commissioner Houpt – So, it's a mini-storage. So it's duplication because we have mini-storage in here too. It's redundant. Commissioner McCown – One is allowed in commercial business and one isn't and one's allowed in industrial the other isn't. Let's add commercial business and industrial to both of them and we're good to go. Commissioner Houpt – 3-40 Professional Office for Conduct of Business and Profession, I'm just wondering why this isn't allowed in the rural area. Commissioner McCown – I would say, it wouldn't be compatible within the rural atmosphere if you're going to put Exxon headquarters our there and the traffic impacts would not be at all be compatible in a rural area. Commissioner Houpt – No, and that's very true but if you look at the map; well maybe all those have all been rezoned commercial if there's any commercial, but we're allowing a lot of industrial facilities in rural area, the rural zone and there was an application this last year where there had to be a zone change. Commissioner McCown – That was a violation. Chairman Martin – There's a decision made by this Board. Fred – This body decides what's appropriate. Mark – You added professional office and conduct of business in the Lower Valley Floor as a minimum. Commissioner Houpt – Yeah, but we don't have it in rural so it's not allowed in rural. Okay. Next: Public Building Use – what is a public building use? Is that our County buildings? So we can have buildings anywhere. Chairman Martin – Yes. Commissioner Houpt – But no one else can. Mark – That's basically your authority to condemnation plus you do have public review processes. Commissioner Houpt – Again, for the record, small temporary housing facilities should go under a land use review as far as I'm concerned, they should not be a Use by Right. And Solid Waste – any kind of solid waste facility and I'm looking now at Transfer Facilities should be a major review and we have it limited in commercial and I really think with the impacts of any kind of solid waste facility, be it a landfill, a transfer station, anything, it deserves a major review. Chairman Martin – That takes in your water treatment facilities as well as your wastewater facilities. Commissioner Houpt – No, waste treatment is different, it's under…..Chairman Martin – It's in there as solid waste because its treatment plants, water supplies, treatment facilities, air pollution stations, discarded material, on and on. Commissioner Houpt – Okay. I was looking at sewage treatment. No, I would agree and I believe that and believe it should be a major review. The citing of any

waste facility. Chairman Martin – It also includes the solids and materials from irrigation return flows; you're going to have a lot of ditches to review if you want solid waste under major reviews. All the silt and salinity, etc, etc. In the definitions under solid waste which happens to be on page 16-43 – solid waste, any garbage, refuse, slug from treatment facilities, water supply treatment facilities, air pollution control facilities, any other discarded material including solid liquid, semi solid, gas, etc. and it goes on from there. It's a major review on every item under the sun; I don't think we won't to do that. Commissioner Houpt – Okay. Well, my sense is we're not debating this today unless you want to open it up for debate and I'd be happy to do that, but I thought what I was doing was going through this and stating for the record what I didn't agree with. Chairman Martin – You are but I'm just saying there are some things that maybe you missed on definitions on the map and we're just trying to help you understand. Commissioner Houpt – Maybe the definition is too broad. Chairman Martin – That's a possibility. Commissioner Houpt – Maybe we grouped too many types of waste products together. Some are hazardous, some are harmful to the environment and others are clean. And you know maybe those are two different definitions that should be looked at. Next: Roads and Trailheads are grouped together; and I really think that roads carry a different type of impact than a trail and I know that's very philosophical and not everybody agrees with that but I also think that roads regardless should have an administrative review for the types of environmental impacts that roads carry with them. Next: I just question some of the – to Vehicle Repair shops, Body shop, Paint shop, Upholstery which is administrative in rural and yet a museum is limited and I guess I don't understand that rationale because a vehicle repair shop in my mind to its neighbors could be more impacting that a museum depending on whether it's an indoor or outdoor museum I suppose but I don't understand why that was administrative and some other uses were limited. Chairman Martin – Requirements from other folks, making sure permits are in place for other agencies or other governments. Commissioner Houpt – Why under 3-43 was natural gas distribution crossed out. It was a major review and it was crossed out; was that put somewhere else? Mark – Just under Distribution Systems. Chairman Martin – And then under the definitions you'll see that distribution systems are natural gas, water, etc. Commissioner Houpt – Again, the hazardous material storage areas I think should be major; this is in resource lands and the roads and everyting that I said in the other portion of the Matrix I would tack on the same comment to resource lands and the table for setbacks. I think at some point we really need to analysis that and figure out whether it makes sense to have the same setbacks for a 2-acre lot as it does for a 7500 sq. ft. lot. Chairman Martin – That's one thing we agree upon is that the setbacks are improperly defined within this; I think they're too great; you think they're too small. But at least it's consistent and we agree it needs to be adjusted but there are standards that are defensible. Commissioner Houpt – And then I'm all the way to Section 4-6; when we talk about notice to adjacent property owners, I would still include the vicinity maps; I think that's very helpful to a layperson. I also in looking through Section 4, I would go through and take out adjacent because property within 200-feet of a subject lot is the way we refer to those who should be noticed under our pipeline regulation which is our newest one and we had this long discussion about whether adjacent then impacts those people who are across a County road where it crossed some other roadway; or, if there's an odd lot configuration and somebody who's not adjacent could be even more impacted than somebody who is adjacent. So, I would not support having the word adjacent in notice but those who live within 200-feet. Chairman Martin – That goes along with notification, it is to the adjacent people in certified mail but notification goes out to the entire public so if they had anything to say they would probably come to the public hearing. Commisisoner Houpt – That's just another; that's the other part of notice. Review Procedures for Major PUC 4-34 - Regulated Electric or Natural Gas Distribution Facilities – was this relocated? It's like several pages, or 3 pages taken out. Chairman Martin – And I do believe that we don't have jurisdiction under the PUC codes and statutes. authority. Mark – We have a memo to that effect. Chairman Martin – Yes, simply because the PUC has regulations over us. Commisisoner Houpt – We have no authority. Don – I didn't bring it down with me, I'm reluctant to say we don't have any authority over PUC regulations but what we don't have is final authority. Chairman Martin – We can make recommendations. Commissioner Houpt – We can weigh in. Chairman Martin – We have the right to comment on the particular project and send it into the PUC hearing and/or even hold a special hearing with recommendations to go to PUC, but it holds no validity if they say we overrule you. Commissioner McCown – Marian sends me on a regular basis, applications that are filed in the Clerk's office on the PUC activity. Fred - Us too, your staff gets those. Commissioner Houpt – Oh, I know but unless there's some kind of stated action that we're going to take.Commissioner McCown – We can call it up and comment at any time.Fred – Tresi, what we'll do is we will bring those to you even now; there's nothing in our current code that presents a process for these so we will still bring those to you regardless of that section. Commissioner Houpt – Onto Affordable Housing – you already heard my opinion on that. Typo on 8-10; I believe that, I know we had a big discussion about whether existing residential units should be able to be used or not and it's my understanding that the housing authority doesn't like that practice because it doesn't add new stock and the language was changed in here to say that existing units can be used and so we're not going to be adding to affordable stock if we change that language. Mark – This was a compromise between the Housing Authority recommendations and the… Commissioner McCown – See I disagree with that, I think you can add to the stock, if you've got a house setting on the market in a foreclosure situation that is not selling and a developer can buy it down at the bank's price much under that and it becomes deed-restricted affordable housing, you've added to the stock. Chairman Martin – You're also able to pick up the units as a motel, hotel, apartment unit and turn those into affordable housing. Commissioner McCown – You do not have to subsidize somebody to get them a mortgage. Commissioner Houpt – But what more commonly happens and it's happened in this County is they'll buy units that would otherwise be able to be purchased by somebody who wouldn't be able to afford anything but affordable housing and it takes those units off the market. Commissioner McCown – It prohibits the other from happening and I don't think that's fair because once they buy it, no matter what price they paid for it, as long as it meets the conditions and specifications of an affordable housing unit, it becomes affordable housing and it's no longer fair market housing. So you're providing an affordable housing unit that before they bought it may not have been. Commissioner Houpt – But you're taking a free market unit away. Commissioner McCown – That's vacant. Commissioner Houpt – That's for sale but could have been

purchased by someone. Commissioner McCown – So you're saying that affordable housing does not qualify for free market participation. Commissioner Houpt – What I'm saying is that I don't want us to start our free market housing or our deed restricted housing with free market housing that could otherwise be purchased on the free market by somebody in that income bracket because it takes a potential investment away from the people who want to buy free market. Commissioner McCown – But they'll have that opportunity if it is for sale. Commissioner Houpt – Not if it's bought up by a developer who has … Commisisoner McCown – Why don't they have the same opportunity to buy it as somebody buying it up and converting it to affordable housing. Commisisoner Houpt – All I'm saying is that once that developer buys it and converts it, it's no longer on the free market so it takes a free market house away from the community. Chairman Martin – Yes, it does, but the other issue is that you're driving development to build brand new places to continue to use the land and to increase the density where you're overlooking the already built homes in established neighborhood, etc. that can become affordable and again it's an option – do you wish to just have affordable housing as brand new units being built or do you wish to have those that are empty that could be converted to affordable housing. What this does is allows the options to do both. Commisisoner Houpt – I just think it could have some unintended consequences that would deplete our free market supply. Chairman Martin – I'm just tyring to maximize all existing housing before we build new ones, that's what I was looking at. Commissioner Houpt – Then on 9-1 the Pipeline Regulation and the Section 9-102 that defines what size of pipe falls into this regulation. I've always felt that this is not sufficient that we're missing a lot of pipelines that should fall under this regulation by having this restrictive language. But, this is a philosophical discussion we've had before with these pipeline regulations. 9-2 – there was some language added to sensitive areas survey that says this rule does not apply in previously disturbed corridors or rights of way in areas permitted by the COGCC. I really think the sensitive area survey is an important exercise for all lands whether they've been disturbed or not. Maybe they're overused and maybe have gotten to a point where they're creating a real problem and so without that survey you don't have that information. Commissioner McCown – But that says if that has just been previously disturbed or permitted by the Oil and Gas Conservation Commission, that has already occurred and you're coming in right behind it why would you need another full series. Commissioner Houpt – It doesn't say, there's no language that says if a survey was conducted previously – what it says is this rule does not apply in previously disturbed corridors. It could have been disturbed 40-years ago and it would not, if it had been disturbed 40-years ago there wouldn't be a required survey. Looking at sensitive plant population, cultural archeology, paleontological resources and wetlands. I just think these are issues to be looked at regardless of what type of disturbance they've had in the past. Section 10-1 – Historical Preservation isn't really addressed in this code and I would like to see, maybe it might be a non-conforming but it doesn't really fit there and we have nothing in place that helps us. Chairman Martin – We have to do a resolution and you have to identify what type of structures you're looking at and there's a whole process that also has to be approved usually by the citizens and it's voluntary and not mandatory – you can't force anyone to do historic preservation in the United States. Commissioner Houpt – Well, I'd like to know if that's the case; we had asked staff to look to work with a group several years ago and they've been swamped but I would like to know what's happening in other areas with historic restoration because some areas are doing a tremendous job and I think that's something I think was really missing from this. Chairman Martin – And that is what we've done with numerous historic preservation and projects in Garfield County. Commissioner Houpt – We've missed a lot of opportunities and we've seen a lot…. Chairman Martin – You cannot make it mandatory, you can't force a person to save it, that's just the way it goes, it's voluntary. Commissioner Houpt – Well, John, what I'm saying, I'm not quite sure that is true everywhere and so I want to see what other areas are doing at some point and time. Commissioner McCown – We may have to address the conflicts that may occur with your existing building code and declare a designation so that it's excused from the compliance. Chairman Martin – You have to go all through those and again the City of Glenwood Springs has an ordinance in place right now, it's voluntary, they can't force anyone to do it and you have to apply for special use and review under that but it still does not guarantee historic preservation. Commissioner Houpt – Well, we've all traveled around the country and we've seen some beautiful examples across the country so I'd like to see what those areas are doing to make that work, because it's not working here right now. Fred – You'd asked about a place saver, perhaps an area in the code you could look to see where that may be inserted at some point if the County decides to go down that road is in Section 7 so in your standards you have this one section that it's "areas with archeological feeling to historical importance" so there is a spot when this County is ready to go down that road, this is where it would go. These speak to previously identified historical resources and that's the key thing is you being the body designating those where you feel it is important. Commissioner Houpt – Is that where open space comes into or is that something else? Fred – That's in a different location. Chairman Martin – I know I have at least a half-dozen historical structures and keep them historic as much as I can and again its an individual choice and you pay dearly for it let me tell you. Commissioner Houpt – What I'm suggesting is we could have a more organized process for that so we don't read about something that we've lost after the fact. Chairman Martin – I'd love to work on that one and that again is going to be an option open to those who wish to save it, it is not a mandatory issue. Commissioner Houpt – Well, again, lets just see what other people are doing out there. That's it and what I wanted to put on record. Chairman Martin – Do we wish to continue this or have the Planning Commission forward it back to us? Commissioner McCown – Yes, I would make a motion that we forward the Draft Copy of the Unified Land Use Resolution of 2008 to the Planning Commission and that would start their clock rolling and that will give them 30-days. Fred – Your next available time to review it would be the 2nd or the 8th. Commissioner McCown – Let's say the 8th and give them the full 30-days. Fred – Question to Don – is it 30-days that it has to be back on their doorstep or is it that the Planning Commission only gets 30-days? Don – The Planning Commission only gets 30-days and it doesn't matter when it gets back to the Board. It starts today, tomorrow is day one, August 5. Chairman Martin – And I do have a question in regard to the procedure, because Tresi has listed so many and I've also had some and Larry had some, if we were to send individual issues identified as Tresi did for their consideration, they could debate those issues and make changes if they so chose. Don – No, they cannot. Under the State Statute they consider the recommendation

of the Board of County Commissioners as a whole. Mark – Clarification – Does that recommendation include those discussions we had today and changes? Commissioner McCown – Yes, with those changes. Mark – 1141 issues and the like. Commissioner Houpt – Second, but I do want to make the statement that because I have numerous concerns about what's being sent back to the Planning Commisioner I will not be able to support this amended draft. Don – A quick process question before you act on the motion and I realize there's not a second yet. Correction, Tresi did second it. Don – It relates to what Mark just said about incorporating changes from today, how long will that take you to do that? Mark – Hopefully not more than a few hours. My goal would be to get it to Fred by Thursday at the latest Friday. Don – The reason I asked that, until Mark completes those changes, the actual document will not be available to the Planning Commission, I don't know if a few days is that important or not. Commissioner McCown – If it went to the 8th that would still give them 30-days if we were looking at it September 8th. Fred – Not only that, we have forwarded onto them so they can start looking at in the same binder you have and what we will do is forward the revisions that you just stated but as a practical matter they will get it all within that 30-days. Commissioner Houpt – Will they receive the Minutes from this meeting? Don – No, they will receive the documents with the revisions. Statute requires and we're following that as closely as possible. Commissioner Houpt – So, it's just gets shelved. Okay. Well, they'll see what the vote is. Chairman Martin – That's what I was looking at and if there truly is an issue after we adopt it, then we can address each item and then you can bring that out for full debate on it's own text amendment and giving reasons to have that public hearing and then make a determination if we should change or not. And that option is still open to any member of the Board and staff if it's not working and we just can't live with it.
Fred - A procedural question on the writing, so when we take this document to the Planning Commission; they will have the black ink as sent to you and the red ink that are your changes. Commissioner McCown - And the changes from the Planning Commission will come back to us in blue. Changes will come back in a blue ink.Don – The changes in the red ink is all the Planning Commission is looking at; that is the alterations of the County Commissioners and their recommendation, this is not a chance for the Planning Commission to go back and change any black. In favor: Martin – aye McCown – aye Opposed: Houpt – aye Meeting of the BOCC is Thursday and continue to 9 a.m. to the Senior Center in Rifle and recess to the next BOCC meeting.
ADJOURNMENT

Attest: Chairman of the Board

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AUGUST 7, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
And
PARTNERS IN THE SENIOR PROGRAMS
GARFIELD COUNTY, COLORADO

The continued meeting of the Board of County Commissioners began at 9:00 a.m. on Thursday, August 7, 2008 with Chairman John Martin and Commissioners Tresi Houpt present. Commissioner Larry McCown was busy with the County Fair and was not present. Also present were County Manager Ed Green, Deputy County Attorney Carolyn Dahlgren and Deputy Clerk to the Board Marian Clayton.
Others present were: John Heir, City Manager of Rifle; Jay Miller, Rifle City Councilman; Robert Knight, Administrator for the Town of Parachute; Betsy Suerth, Administrator for the Town of Silt; Lynn Renick, Director of Human Services; Judy Martin, Director of Senior Programs; Alan Lambert, City Councilman for Rifle; Sharon Rather, Administrative Assistant for New Castle; Andy Barton, Town Administrator for New Castle; Mildred Alsdorf, Transportation Director for Senior Programs; and Tom Baker, Town Council for Carbondale.
John Heir called the meeting to order at 9:10 a.m.
This is a Continued Meeting of the Board of County Commissioners with the Senior Citizen participants and partners. The meeting was held with the Senior Citizens Center in Rifle. John Heir called the meeting to order at 9:10 a.m. Introductions were first on the agenda.
The following documents were submitted for discussion:

1. Letter from the City of Glenwood Springs informing Chairman Martin and BOCC of the decision not to execute the IGA for Senior Programs but offering the possibility of grants after applications;
2. IGA
3. Exhibit A – 8-Party MOU; and
4. Garfield County Senior Programs IGA/MOU with the City of Glenwood Springs removed also showing changes.

John Heir gave an update regarding the IGA and he made several presentations to the various communities and put some final touches on the IGA which followed with the MOU for the partners and contributions. Most of the Cities have reviewed the IGA and he noted that changes need to be made and the IGA would be re-circulated for their re-review. The main reason is because of a letter from City of Glenwood Springs addressed to the Board of County Commissioners stating they do not want to enter into the IGA and have concerns about it. We need to move forward whether they are going to be a signer or not and thus find a way to move forward irregardless. The MOU's with each with details of contributions, contracts in Rifle and Glenwood for the meals programs and contract for the RFTA; all these moving forward. John referenced that a lot of details are involved in this and it takes a long time. However, we need to get it done. He thanked Ed and his staff for their diligence in getting the changes made. We have been operating in the past with agreements with the nutrition sites and suggested to look at every agreement as it has been transferred from CMC to Garfield County. His understanding is that CMC has agreed to pick up the shortfall in 2008 due to Glenwood not participating. They are not being asked to do this but have stepped up to do so. That offer is not on the table for 2009 however. Carolyn did make a correction saying that

CMC is on the IGA for 2008. The group received a revised IGA that specifies the partners to the agreement and those who have agreed to this arrangement. The members on the Advisory Committee will consist of whomever that municipality appoints. This new IGA also tells what will happen if Glenwood Springs decides to come in later and provides for them the dollar future to reimbursement for the 2008 - $23,000. Discussion was held in case Glenwood Springs does agree to come on board. The money was decided to be held in a fund balance and operation expense account and not to go to individual participating municipalities. Therefore, there would be no number changes to the participating partners. Those funds could also be credit for the 09 budget. The final decision was that the Advisory Board would make that decision. Carolyn interjected that CMC wants the money to go to the program; they do not want it back if Glenwood participates. The contracts for the nutrition sites are forthcoming. Carolyn said the contracts with Valley View Hospital and City of Rifle would be completed very soon. It was stressed that seniors must know that things are going to stay the same. Rifle will go on doing what has been going on. Everyting stays the same. The contract with RFTA is done and signed. Ed addressed the 800 pound gorilla by asking what if in 2009 Glenwood decides to participate. What about the program in Glenwood. Chairman Martin – We will not be cutting the program in Glenwood if the municipality doesn't participate in 2009. He said we will find a way to cover it. Commissioner Houpt said the County did this for the seniors; there is a political issue to deal with and she didn't want to make an issue out of Glenwood's non-participation. They have stated they will consider grant requests. However, she doesn't want to allow the seniors to suffer as a result of whatever the City of Glenwood does or does not do. John Heir feels strongly about the non-participating City of Glenwood and stated he was very disappointed in Glenwood's decision. He was very surprised about comments made while he was at their meeting and presenting the program. This made him more appreciative of the County's participation. Not right that Garfield County would have to pick up the slack and he still wants to find a way to bring partners into this arrangement. Not right to pick up for others; each needs to pay their fair share. They need to come to the table. Jay – We're not giving up sponsorship to their program in Glenwood even though they chose to stay out. We will continue to serve and they are they are expecting us to serve their seniors. The City hasn't served their seniors ever.
John Martin asked are you able to double your contribution for 2008 for 2009 and then take back the extra cost for 2009. Commissioner Houpt was not in favor of asking the communities to pay any more. Chairman Martin – For themselves, are they able to meet times 2 times the amount for 2009? Pay for 12 months? It's a moot point if we pick up the cost for Glenwood springs. Question for each council – can you budget this for 2009 – otherwise how? John Heir – We would charge Glenwood for 2008 the full amount and give them credit. Chairman Martin – Why not build up a fund balance if Glenwood pays through grants. John Heir – The full amount for 08 is for 6 months but we would need the full amount for 2009. Rifle can do 100% in 08 and 100% in 09. Chairman Martin – We need the numbers of the governing body and who wishes to participate on the Advisory Board. Ed –The issue is we apply for grants from Glenwood and if they contribute then it defrays the cost. Judy is working on the grant applications for Glenwood. Commissioner Houpt – Glenwood is concerned about how to fund this in the long term and they want the whole County to figure out a tax base. They want to put money toward this and the tool is the grant program. They want everyone to figure out a revenue stream and they want to put money into this. Ed – If they have the funds in a grant, why would we have to request it? Commissioner Houpt – For Glenwood Springs, it is a process issue and they are tied to it. It's the way they do business. Bob Knight – It's a political move. Commissioner Houpt – Only for this year but they want to give you money through the grant program. She hasn't heard they don't want to participate; we need to find a resolve to their questions. Chairman Martin – The MOU for 09… Bob Knight – Review and sign the MOU. Bob Knight - Parachute is on board. Chairman Martin – We do not need a tax question; we have the sales tax revenue and it's a matter of budgeting and how you go through your budget process; we as a County collect sales tax and give some back to the municipalities; the sales tax should pay for this so there's no need for another tax. At budget time it's a matter of what do you want to fund and then it's left up to each municipality.
Ed – The City Council of Glenwood did not vote unanimously; some council members were embarrassed about the lack of support and the want to support the seniors. John Heir presented to this to Glenwood City Council and came away beaten up; he certainly didn't get a warm and fuzzy feeling. Ed – The Council was stressed but the vote was not unanimous. Alan Lambert stated Rifle is paying more than their share.
John Heir – Asked if there was any feeling of a formula. It can be worked every year and get around the table and figure it out. Ed – All participating is important. Chairman Martin – The MOU would be for any municipality. John Heir – Rifle didn't have any qualms about participating in 08. Bob Knight – We are used to funding the senior programs at a higher level as they have a great deal of seniors living in Battlement Mesa and can do more contribution. Lynn said it was 90/10 in terms of who was using the programs. Bob Knight said they could double what we have. Chairman Martin - The fund balance should be used as a cushion to depend on. Are there any extra funds that you might have in your budget?
John Heir – Thanked everyone for coming and for the huge contribution made by Garfield County. He appreciates everyone coming together. Chairman Martin said we need a timeline to have the representatives named who will sit on the Advisory Board and we need to take official action to appoint them and put in place the governing body to assist Mildred Alsdorf, Lynn Renick and Judy Martin. He would like this by the 3rd week in August. We need to have it from the municipalities and have a list and present and do an official action. Lynn said that only gives them a week and they will all have to go back to their individual City Councils. Betsy said the Town of New Castle will have to budget but they will figure this out. Chairman Martin – It's important to have the Advisory Council where questions can be raised. Tom Baker from Carbondale came late to the meeting. Judy handed out the changes to the IGA and said they can provide this in an electronic format and will send them to all the individuals who are participating. Chairman Martin wanted to make sure communications lines are in place for Judy and suggested individuals give Judy their correct email; Judy is the right person to keep the communication going.
Ed said the Traveler vans are using the gas from the Road and Bridge and saving $.70 cents on the gallon. Carolyn referenced a 3-party agreement and need to amend it. Chairman Martin – The focus should be on how to reduce the expenses and work with the programs in purchasing items to save as much as we can.

It was noted that changes in the MOU reflected an 11 member Advisory Board. Lynn said this needed to occur for an odd number for voting and added two (2) are from the Council of Aging. Those already appointed are Alan Lambert the representative and Jay Miller as the alternate for Rifle; and Pam Bunn from City Council for New Castle. The trend has been set for elected officials to be the representatives. Chairman Martin – suggested that we write City Council of Glenwood and ask them to send a representative as an ex-officio member. Ed – referenced the bottom of the 1st page – if Glenwood pays $23,000 and if we go for the grant and they pay, does the same apply? A consensus was that if we have the $23,000 from Glenwood, we will keep the $23,000 from CMC and the extra will create a reserve. Change the MOU to have any extra funds go to the fund balance. Carolyn – CMC's money is there and they want to contribute the $23,000. Lynn Renick said any carry over dollars would come to the program from CMC; $23,000 is part of those carry over dollars. More will probably come back to the program in mid-August. She anticipated about $75,000 but is hesitant to throw out because there are some outstanding bills that will be paid but at least it will cover the $23,000. Chairman Martin suggested rewording the agreement to say those funds will go to the fund balance. Hypothetical question: If Glenwood decides to join in 2010 would there be a penalty; would we have to amend the agreement? A decision was that it would have to be a recommendation of the Advisory Board. Lynn – the $23,000 is in the 2008 budget from CMC because Glenwood was not participating. CMC wanted to make sure that was reflected. Carolyn – Clarified that we will put extra fund into the fund balance whether Glenwood pays or not and it will be for the program; for the operations of the program. CMC helped. Commissioner Houpt – On 7c it references grant monies; is this safeguarded. Judy said contributions or grants are referenced in 7c. Bob Knight said it was difficult and not logical for a municipality to be a non-participant. How does another agency join this program? We're not slapping Glenwood for not joining. Commissioner Houpt – The goal is to have them on board. Bob – If you get a grant it helps to defray the cost. It's dangerous to put in the fact that Glenwood did not participate so he suggested to watch the language. Commissioner Houpt stated the letter from Glenwood was presented to the Board on Monday and when Glenwood Springs is ready to come on board, we do not want to show them as a bad child syndrome. Jay suggested including a generic agreement in case they joint at a later date. Bob Knight - This is our agreement and it is something we discuss with the Advisory Board and how to handle grant money. Glenwood receives a lot of services and we need to be careful of adding negative language to push them further away. 7c has negative language. Those words do not need to be in this agreement. We are applying for grant money. Commissioner Houpt said Glenwood has set money aside but it's through their grant process. Take out the last paragraph in the IGA on page 3 "The 8 parties…….for the fiscal year 2009" totally. Okay to mention what we're going to do with the dollars from Glenwood as we are trying to get them involved. Carolyn stated that CMC specifically wanted the IGA to reflect that CMC was covering Glenwood because they were not contributing. Judy – If we submit the grant and they approve it then it goes to the fund balance. Commissioner Houpt wants to recognize CMC but this is a one time shot. Carolyn – There is nothing in the IGA that commits them other than a one time commitment. Betsy – There's a lot of seniors being serviced in Glenwood Springs; how to separate it is a problem and it's not appropriate that they are not participating. Bob K – Parachute is the largest provider of services. Chairman Martin – CMC is providing funding for Glenwood Springs. For the citizens however, we do not want to reference the municipality that is not supporting the programs. Judy – There are two applications for the grant process through Glenwood Springs; one for Transportation and one for nutrition. Judy is in the process of filling out those applications. Commissioner Houpt said she thinks it's important to reference Glenwood in the IGA as to where they would come in and whether it's by the grant program or direct funding in the paragraph. My suggestion would be to mention that Glenwood seniors are getting service but not have an edge on it. Carolyn – There is a reason for mentioning Glenwood Springs as a non-participant but make sure the language is not condemning. Carolyn – Judy and Carolyn will work on it as the possibility of the Glenwood Springs grant program and then change the paragraph above to reference the share program cost for seniors within the City instead of referencing the entity as Commissioner Houpt suggested. But then to listen there is a sentence in here someplace in the IGA or the MOU that says in the future funding and services may be tied to together. Judy stated in 7B – in the 2009 each municipality based on participation commitments. The last sentence of b and page 5 of the IGA was referenced.
John Heir – The senior programs are on a sound foundation and the programs have operated on a shoe string in the past and Rifle is totally committed. If Garfield County didn't contribute, then Rifle would have to operate on their own. Chairman Martin – If a municipality has a program we will share within the senior program concepts. John Heir – We would like to expansion services to seniors. His idea is to get neighbors to serve meals. New Castle is not serving meals. Judy – The New Castle program may be solved. John Heir – The concern is to get more seniors served. Commissioner Houpt – She just wants to make sure to embrace and help Glenwood understand the role they can play in the senior programs. Additional discussion on page 3 of the IGA and the consensus was to delete this paragraph…. "The 8 parties to this Agreement specifically recognize that Glenwood Springs is not a member of the 2008 Board. By not signing the 2008 MOU, defined in paragraph 7B below, Glenwood Springs is choosing not to participate in the 2008 strategic planning process and other activities of the Board. CMC is covering Glenwood Springs' share of costs for 2008 in order to ensure that services continue. Funding by CMC allows time for the Board and the County to determine service levels if one or more municipalities do not financially contribute per the cost methodology for fiscal year 2009." Carolyn once again stated that CMC wanted this language in there. Glenwood Springs and CMC are not happy with each other. Commissioner Houpt – Hesitated to add any language to feed into that situation. Bob Knight suggested adding a special addendum with CMC mentioned. Chairman Martin said we will work it out and understands there are some high emotions involved. Betsy suggested having Glenwood sit in as ex-officio and invite them but not beyond the Advisory Board; she didn't feel they should be involved in the strategic planning. We can invite them and they cannot vote but express that we want them to sit at the table. Chairman Martin asked if Garfield County being the financial obligator for the programs gave anyone heart burn that we have the final budget statutory responsibility. Does that give anyone any problem of an ego power; Glenwood felt that it was wrong. John Heir –Nobody wanted to take on the senior programs and CMC said we are not going to continue. Then Garfield County stepped up and he has no problem with Garfield County being the lead.

Chairman Martin – Just hope no one assumes that Garfield County is it this for a power struggle; there's no power play; Garfield County simply believes in serving seniors. Parachute, Rifle and Silt expressed no issues for them. 2009 and Future Years in the IGA - Page 4. Tom Baker stated they will know in their budget process by November 14th. Ed stated the County has to approve the budget by the 3rd Monday in December. Chairman Martin reiterated that's when the County will certify all mill levies and December 15th gives us that deadline. Bob Knight – Since Glenwood is not on the Board then he wanted to make sure there is a representative from the seniors and make sure to invite them to participate at the table.
Seniors have a place at Chat and Chew in Glenwood and Mildred Alsdorf is the officer on the 501C3 and she is from Glenwood Springs. Lynn mentioned that Mildred is also on the Council of Aging – she is one of the representatives. Mildred will make sure the seniors are covered. Alan Lambert suggested doing a formal press release in late August when appointments are made by the municipalities and to recognize the Advisory Board and state when they will meet, etc. Commissioner Houpt said the Commissioner need to schedule an agenda to approve the recommendations and she would like to have all members come to the meeting because the TV records the meetings; and newspaper will do interviews. This would give the senior programs good coverage. Mildred agreed to assist with a task force to get the people there when the Advisory Board is approved. She will assist with getting seniors to come. Lynn suggested the deadline of the 3rd Monday in September to establish the Advisory Board officially. That will give the municipalities time to get the representatives appointed. Lynn said her report to the Board will occur on September 15th and requested information to her no later than September 9th so she will have time to comply the report for the 9-15 BOCC meeting. Mildred wants to keep everything positive for the seniors assuring them that things will remain the same and/or better, both for the Traveler and the Nutrition Meal Sites.
Discussion regarding who to pay occurred. Garfield County Treasurer and then Georgia will distribute to the proper line item and work with the Finance Department. Lynn corrected that the checks should come through her program, Garfield County Human Services as this senior program is under her and her department has their own accounting system. An invoice will be sent out to each participating partner. Lynn would like the money by October 1, 2008 and realizes this won't occur until we have the IGA's signed. Carolyn said the goal is to have the MOU as soon as possible.
Lynn asked if is it possible for each council to meet and agree on the MOU by Sept 8, 2008. She will make the changes to the MOU as discussed today and mail them electronically to the email you provide by Monday, August 11, 2008 and then get them back to Lynn by 9-8-08. Later Lynn added that she will also send an invoice electronically by noon on Monday. The time on the Commissioners Agenda will be set for 10:15 a.m. on Monday, September 15, 2008 10:15 a.m. – September 15. 2009.

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

AUGUST 11, 2008
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 11, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown were present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton Deputy Clerk & Recorder.

CALL TO ORDER

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

SPRING VALLEY DEVELOPMENT – FOLLOW-UP – WATER ISSUE

Donnalyne Lagiglia stated her subject is regarding Spring Valley Development she presented on June 2, 2008 and presented a packet at that time. Basically she is talking about an outstanding water issue between her residence and Spring Valley Development. She was told at that time she would hear back from Don DeFord within two (2) weeks however, she has not. She made a couple of phone calls and visited here on Friday and she did get Don's call on Friday but missed it. She is here to find out what it is we are going to do to precede in rectifying the situation. Don asked, what did Donnalyne anticipate his office would be addressing? Donnalyne stated the fact that all their issues with neighbors and so forth were supposed to be settled before they were able to move forward with their plans. As you saw in her documentation at the time; they did proceed and things were successful in building up to resolving the issues. She was told there was a change, they put the project on hold, and eliminated some employees. One of those employees was the gentleman who was working with us to put together a plan. Don asked again, what do you anticipate that the County Attorney is going to be doing for youz? Donnalyne stated keeping them accountable. Don stated that is a problem he has, because the County Attorney's Office is not in the business of holding someone accountable. Does the Board anticipate that his office is supposed to engage in some type of enforcement activity against Spring Valley? Chairman Martin stated what we are looking for is it part of the approval process. We did do an extension of one (1) year for Spring Valley. That was one of the conditions of approval; he thinks the issue may be that it needs to go to planning and zoning as well as back to negotiations with Spring Valley. Don said they have appeared in front of the Board; Spring Valley has appeared in front of the Board since the time period Ms. Lagiglia is speaking about, again Don is inquiring of what his office is supposed to do. Chairman Martin said to re-enforce that this is part of the approval process for Spring Valley to work out the issue. Again if they haven't done so, then it becomes an issue for the Board. Don said his problem is that he doesn't represent either Ms. Lagiglia or Spring Valley, so he guesses the inquiry he has is what role do you want the County Attorney to play? Commissioner Houpt asked if this typically would go to building and planning to review the conditions of the application and make sure they are complying. Don said typically that is the case and if the Board thinks there is a violation, you instruct either Don's office or building and planning to undertake enforcement activities; but he has not received that direction from the Board. Chairman Martin said this is the information that is

coming forward and we need to make sure those conditions are met; we will meet with Fred and can then give direction to Mr. DeFord if there is a violation. Commissioner McCown stated there is a one year extension to this. To the best of his knowledge nothing has taken place on the ground.
Commissioner Houpt said they have started on infrastructure. They actually started working on the water infrastructure didn't they? Donnalyne stated it is not infrastructure for the project; this is a well that was dug specifically for the ranch house because the ranch house well went dry. They were approaching us to share the well; they are supposed to provide us water. This is not the infrastructure for the whole project. This is an isolated well for one particular existing dwelling. Commissioner McCown stated if it is one of the conditions of approval it is clearly part of the project. Again they have not gotten to a point where they come back to the County for any further activity or permits for a different phase. They are in the process and are doing exactly what we told them to do and they have a year to do that before they are in violation of anything. Commissioner McCown stated this is how he looks at it and maybe he's wrong. But, part of their conditions was to get this well working, to share water, to give you water and they still have a year to do that. Donnalyne stated she thought they had to get that accomplished before they could get any approval here. Commissioner McCown stated if it is a part of the approval process, it runs continuous with that extension we gave them; that was a year. Maybe that is the review Commissioner McCown would ask the attorney to look at to see as a part of the approval process. That was conditioned and if it was conditioned what was the time frame. Chairman Martin stated we need the report back to us Don, so they can know the status. We can then relay that information to Ms. Lagiglia. Donnalyne asked if she should come back here to hear about the information. She also asked if there was a time frame she should expect.
Don stated the first of September.

ADRIENNE CROUCH – MISSOURI HEIGHTS – LOUIS BUETNER

Louis Buetner was present on behalf of Adrienne Crouch. Louis understood last week the Board had an executive session pertaining to roads 162, 162A and possibly 1913 dedicated road. He wishes to inquire, since we had been requesting the Board to get the road off of Ms. Crouch's property, if the Board has come to any resolution. It has been a good year for me working on this and it has been five or six years in the making on the encroachment on Ms. Crouch's property; has the Board come to any resolution to that? Chairman Martin stated they have not held a public hearing to go ahead and vacate that. We did have an update in reference to the information, and we are waiting for the County Surveyor to verify everything that came forward. Is that correct? Don stated he thought that Mr. Aibner would respond in two weeks, one week of that has passed. He did tell Don he would get a response to us by August 18. We just have to see what we have by the 18th. Since Mr. Buetner wasn't here that relates to information we received from the attorney for a surveyor, Frank Harrington and correction of deeds, and platting that he did for Ms. Crouch several years ago. Louis said,so we are taking about the claim of title the County is referring to on 162 road? Don stated yes that was a fair description. Louis stated what he would request is information pertaining to the 162 encroachment on the Crouch property. That has been shown to the Board to exist, not by one County surveyor; but by two plus myself. Additionally, Louis found a map just recently from Mr. Harrington that showed the encroachment. That has been requested to be removed and do we have any resolution? Chairman Martin stated not as yet; there has not been a public hearing on that issue yet. It will have to be put on the agenda. He stated they are waiting on more information so the whole package can be discussed. It seems to be again that many segments coming together. Louis asked in regards to the road, he refers to as the 1913 dedication road, he believes there are three surveyors, myself being included in that, and they are having problems with that dedication because the County has not maintained, or resolved the problem with the section corners 19, 20, 29 and 30. In 1963 a surveyor set a witness corner for that corner; on that he established a County surveyor's cap. There has been no documentation as to where that witness corner is for 45 years. That section corner not only involves the Crouch property; but many properties up there. It involves four different sections; that is that corner and his research on the Crouch property he has found many errors in the location. As he stated two weeks ago he went up and found an 1888 south section corner of section 20; there was a monument set 45 feet away for that corner. It was established by the shear fact of those 19, 20, 29, 30 section corners and another section corner which he has doubts about. Because the County has been sitting on their hands, I will say in regards to maintaining these public land survey monuments or correcting the errors made there are a lot of problems. Chairman Martin stated he agreed and again they are waiting for more information from the Surveyor. Louis said they have also requested information about other roads; which the County does not seem to have any individual in the County that maintains records as to what the County has title to, what they are claiming for, and the such. The other day Louis received in the mail a flyer pertaining to a class: Roads and Access Law Successfully Handling Disputes. He passed it onto the Board in hopes the Board will have an appropriate individual attend this conference. They need to find out about these roads; there are many roads that Louis has not been able to find dedication on, and yet the County is maintaining these roads. In regards to a property near Ms. Crouch's property, the County went and started an eminent domain proceeding, which is very costly, which they were reimbursed for. The County had a road there; there had been a road there, it had been deeded as far as the right-of-way was located and yet the County knew nothing about it and they went through those eminent domain proceedings. As a result of that Louis believes they received a road right-of-way that was substandard. Chairman Martin said no doubt the roads throughout this County need to be reviewed and recorded and again someone in charge of that, we are aware of that.

ANNOUNCEMENT FOR NEW FINANCE DIRECTOR – ED GREEN

Ed introduced Lisa Dowson, the County's new Finance Director. Lisa stated she has lived in the valley for twenty years, eighteen in Carbondale. She worked for The City of Aspen as the Assistant Finance Director for five years.

COUNTY MANAGER UPDATE – ED GREEN

PROVIDE AND INSTALL TYPE 10 BRIDGE RAIL – MARVIN STEPHENS

The Road and Bridge Department issued a request for bids for replacing bridge rail on bridges throughout the County. A legal advertisement was placed in the Post Independent. One response was received from Ideal Fencing Corp. Marvin is recommending the Board award the bid to Ideal Fencing Corporation to remove existing bridge railing and to install new type 10 railings and anchorage on twelve bridges for a

cost of $492,563.95. Marvin Stephens and Tim Arnett were present. Marvin stated he receives a report from CDOT on bridges and it tells him what needs to be done, maintenance and how all our bridges are. Commissioner McCown asked if it also included structural inspections and Marvin stated yes. I make a motion we approve the bid to Ideal Fencing Corporation for the twelve (12) bridges in an amount not to exceed $492,563.05. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

EXECUTIVE SESSION

Ed Green stated he had one item for executive session which is the agreement with Silt related to the road and bridge facility. Carolyn stated she had one as well, the legal advice regarding the contract which you are considering amending today with Colorado West Promotions.

CITIZEN TELEGRAM – OFFICIAL NEWSPAPER

Don stated the only item publically is item 2 B; it was intended to be placed on the consent agenda, he needs the Board to approve a resolution designating the Citizens Telegram as the official newspaper of County for publication. Commissioner Houpt – So moved. Commissioner McCown - Second.
In favor: Houpt – aye McCown – aye Martin – aye

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 Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action taken: None.

OPTIONS FOR SCOPE OF SERVICES, CO WEST PROMOTIONS CONTRACT (FAIR CONCERT) – GABE CHENOWETH

Commissioner McCown asked Gabe if he had looked this over already and he stated he had and did not see anything that caused him alarm. Commissioner Houpt asked if this was really turning into a purchase of service agreement and her question is; above what we have contracted with you, where there any other monies brought in from promotions for the concert and what did that cover?
Gabe Chenoweth stated yes other sponsorship money was brought in, both in-kind and in terms of cash to the tune of about, including the $35,000.00 from the County, about $129,000.00 to this point today. Commissioner Houpt asked what it costs to put on the concerts; is this pretty typical?
Gabe stated it is a little bit higher than in the past. It varies because talent expenses vary from year to year; this particular year the talent expense was $55,000.00, sound stage and lights was about $42,000.00 and it continues from there. This is not the Pepsi Center we are talking about; we are not talking about 16,000 people and $200.00 a ticket. It would be difficult to make it a money making venture, which was not the intent in the first place. Commissioner McCown stated he understood the most you could seat comfortably is approximately 1,500 people in the grand stand. Gabe stated that sounds reasonable. Commissioner McCown asked how many chairs in the reserve did he have.Gabe stated about 1,100. The question is, would the popularity of the particular act command that kind of ticked price. Chairman Martin asked if there were any other issues with this contract as it is now. Both Commissioners McCown and Houpt stated they had none. Carolyn stated she has the three originals here and asked if Gabe could sign them. Commissioner McCown stated he had one question; are you looking at this for next year, do you want to change how we are doing business. Is this something you would be interested in if the County, through its Fair should the County continue with a concert as a part of the Fair? Would you want to be a part of it again next year? Gabe stated he thought they would have to have a discussion. As John pointed out to me, clearly it is not working in the present state and the question is; what could we do to make it work in the future. It is something that should be looked at and the question as to whether this is an appropriate event during the County Fair is one thing that should be discussed. Chairman Martin asked, but the approach of a purchase of services is a better approach than what we have had in the past, and Gabe stated he believed so. Commissioner McCown – I make a motion we approve amendment number one to the purchase of service contract with Colorado West Promotion Concert. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

<u>COMMISSIONER REPORT</u>

Commissioner McCown – At the Fair all week, this Thursday is our County appreciation day for our employees and he will be helping with cooking. Commissioner McCown stated he saw the press release and the public appearance on the big high speed rail and I-25 corridor from New Mexico to Wyoming; this was given the first priority over Denver to Grand Junction.
Commissioner Houpt had an I-70 board meeting on Wednesday, as she looks back on this project; the I-70 Collation has really become a force. The State, CDOT calls us when there are issues with I-70 and she is hoping they will be able to maintain that so when the improvements need to start being budgeted, not only in Colorado, but DC there will be acknowledgement. It is an important corridor for all of us. She had a Seniors Program meeting on Thursday; was productive and impressed with the commitment the municipalities, who are participating have given to this process. Thanked Ed, Lynn and Carolyn for bringing all this together. The message is that programs will not be cut anywhere they are going to keep moving forward.
Chairman Martin stated he met with Mesa County and the Town of DeBeque, as well as the Fire District that has been recently formed in DeBeque; also spoke to the sheriff that he may be able to help with the fire district in reference to their mill levy. They will be bringing in close to $130,000.00, they also need to have an upgraded certified ambulance and some equipment and some training. There was also a discussion on the lower valley fire district to assist the sheriff on wildfires. Another discussion; The Red Cliff mine, we were asking Mesa County to sit down with us at Mack with the citizens there, as well as the mine company and see if we could do a joint review process. Many things happening in Western Garfield County, by the way it stretches all the way to Utah. Meeting with the Utah County Commissioners in reference to their project; the Red Leaf Project, which is oil shale. The process they have going; no outside burning, no consumption of water, no pollution etc. He is trying to set up a meeting with the Salazars so they can give

them a demonstration; a group of prize winning scientists are there and want to show them the process. Chairman Martin has seven meetings this week and will report back next week.
Ed stated he had a question; we had a meeting on the interchange, Parachute and Battlement and the action item that came out of that was that the legislators were going to go back and see if they could get some money and he hasn't hear anything.
Commissioner Houpt stated the first thing that was going to happen was that CDOT was going to put numbers together so they had something to take with them. We as a County are going to look at those numbers and figure out what our commitment could be, and she doesn't know if they have received anything from CDOT yet.
Chairman Martin stated we extended Jesse's contract to answer those questions and make contact.
Commissioner McCown stated he thought it was a pretty clear fact that the legislators don't have anywhere to go back to this time of year.
Commissioner Houpt stated they were going to go to the industry folks about tax credits and just spending money to do the cost of business down there.
Chairman Martin stated that we need to make sure Jesse follows up and relays the information. Thanked Matt for reminding him on the Battlement Mesa folks, the homeowners associations have come together with the metro district as well as the largest landowner. We are trying to work out details on how they can be a municipality. Chairman Martin will be meeting with them again and he will report back on that.
Commissioner McCown stated that the Anvil Points agreement was certified and had the legislation not been tied up at the federal level, Garfield County would have stood to receive 40% of the funds coming back to the State of Colorado; around $18 million dollars in a lump sum. We could have applied that to the Parachute Interchange.

CONSENT AGENDA

a. Approve Bills
b. Inter-fund Transfers
c. Changes to Prior Warrant Lists
d. Authorize the Chairman TO Sign a special Use Permit for Extraction, Processing and Material Handling of a Natural Resource in the ARRD Zone District – Applicant; Black Diamond Minerals, LLC – Kathy Eastley
e. Authorize the Chairman to Sign a Resolution Approving a Preliminary Plan for Oak Meadows Ranch PUD, Filing four (4), Phase III – Applicant; Oak Meadows III, LLC. – Kathy Eastley

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

EXECUTIVE SESSION

Commissioner McCown asked to have a motion to go back into executive session regarding a land use item.
Chairman Martin asked if we had a motion to go into executive session. Commissioner McCown – So moved. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – Move to come out of executive session.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Action: None.
Chairman Martin stated he was asked by the Western Governors Association to sit on a board to work out the western grid system; the renewable energy grid project and he was informed by Mr. Yates, from NACO, that he was selected along with a representative from Utah as well as Montana. They will be working to work out all the issues from wildlife, to the corridors, renewable energy in the Western United States.

ABATEMENT FOR DAVID F. & PAULINE RODDAN

Abatement No. 08-265, Schedule No. R111632, in the amount of $1,235.09. Paul Schoeppner and Jack Refior were present with Lisa Warder. Jack stated he went out to look at the property and came to the conclusion that it was overvalued because of access and the usable building area. He did reduce the total value of the property. Commissioner McCown asked if this was an increase this year or had it been valued at this for a while? Jack stated it was increased in 2007. Commissioner McCown stated; regarding abatement number 08-265, Schedule R111632, I'd make a motion we approve the abatement in the amount of $1,235.09. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

ABATEMENTS FOR LITTLE STAR RANCH LLP

Paul Schoeppner and Lisa Warder were present.
Abatement No. 08-258, Schedule No. R016017 in the amount of $10,046.17
Abatement No. 08-256, Schedule No. R210672 in the amount of $10,401.48
Abatement No. 08-261, Schedule No. R361765 in the amount of $13,688.05
Abatement No. 08-260, Schedule No. R363282 in the amount of $ 7,161.91
Abatement No. 08-259, Schedule No. R210849 in the amount of $ 5,282.46
Paul Schoeppner stated that part of the problem is that the property has been classified vacant for about twenty years. It was classified vacant residential; although it may have been used agriculturally, the previous owners never came in and asked for agricultural on the property. When they sold the property it went into Little Star Ranch; they came in and asked for agricultural. The process for doing agricultural is they have to go through a two year period of showing agricultural use of the property before they go into agriculture. They went back and predated some leases back to 2005, which made it mandatory, by the State, to put it in agricultural for 2007 and 2008. Paul had no choice but to change them to agricultural and he wished they would have gone through the process so he could have caught it in 2007 and put them into agricultural. Chairman Martin asked what the overall size of the combined properties were; acreage wise? Jack stated 350 acres. David Brown here representing Little Star Ranch LLC. When they bought the land, it was agricultural and it is still agricultural. There has been sheep on it every year since we owned it and before we owned it. They bought it with arrangement for sheep ranchers and they are still using the land; it

is just that simple. Commissioner McCown I move to close public hearing. Commissioner Houpt – Second. Motion carried.
Commissioner McCown stated; regarding abatement 08-258, schedule number R016017, I make a motion we approve the abatement in the amount of $10,046.17. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown stated; regarding abatement number 08-256, schedule number R210672, I make a motion we approve the abatement in the amount of $10,401.48.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown stated; regarding abatement number 08-261, schedule number R361765, I make a motion we approve the abatement in the amount of $13,688.05.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown stated; regarding abatement number 08-260, schedule R363282, I make a motion we approve the abatement in the amount of $7,161.91.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown stated; regarding abatement 08-259, schedule number R210849, I make a motion we approve the abatement in the amount of $5,282.46.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

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

Georgia Chamberlain and Jean Richardson were present. Georgia reviewed and submitted the reports to the Board and stated she needs a motion to publish in the Citizens Telegram. Georgia continued to review the reports she submitted to the Board. Georgia stated they are 98% collected on tax collections. They are now trying to collect delinquent taxes, which more often than not is a difference of opinion on whether the taxes are old or not, do we have the right address, did people get their notices. Anyone can pull up the website and read all the reports on line. Chairman Martin asked do we have a motion to accept the report and allow publication. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin – aye Georgia passed out documents to the Board from 1980 forward, projecting on releases and foreclosure activity to be similar to 2005, which was a high year; but nothing to what it was back in the '80's. Our increases do not reflect the same increase they are seeing on the eastern slope. Chairman Martin commented that their overall projection is 119 foreclosures; but the actual to date is 72. Georgia answered yes. In 2003 Georgia's office did 114, in 2004 – 106, and in 2005 – In 2006 they went down to 96, 2007 – 81. We are going back up but nothing overly dramatic. This information is also available on the website.

TRAVELERS HIGHLAND PID AMENDED PETITION – KARL HANLON

In a letter from Leavenworth & Karp, they submitted in January 2008, the Board directed the owners of Travelers Highland Subdivision to find a solution for improvements to access Highway 6 from the platted public roads within the subdivision. In response to this direction, the owners have decided to petition for the formation of a Public Improvement District pursuant C.R.S. 30-20-501, et seq. The original executed Amended Petition will be delivered at this meeting today. The next step in the formation of this Public Improvement District is for the Board of County Commissioners to set a hearing on the matter between twenty and forty from the submission of the petition. The petitioners are asking the petition to be set for September 2, 2008 so that an election can be held subsequent to the hearing forming the Public Improvement District and work can commence as soon as possible on the necessary improvements. An ownership list for the Travelers Highland Subdivision was previously submitted; there are 234 lots within the subdivision and the petitioning owners represent 172 of those lots. Karl stated they are asking today to set this matter on the Board of County Commissioner's September 2 calendar for a hearing on the formation of the district; need to set on the ballot for November and Karl has been working with the Clerk's Office to make sure things go as smoothly as possible. Karl stated they have been trying to negotiate with 5C who has a pending access permit with CDOT. They think they have that resolved with CDOT; but in order for us to move forward we would like any alternative that you authorize such as Parachute Commercial to Dave Hicks and Terry Kirk to apply for an access permit for their lots; we have to work with you so we can continue to move forward if the 5C negotiations do not resolve themselves favorably. The last issue is; on some buildings that are already permitted, in construction there were septic permits that needed to be issued; there were two left out that needed to be issued. Karl said they hit a glitch on those septic permits issued, and they would like to get them issued. Karl stated he knows that Carolyn is looking into this; how we deal with the Frac Tech parcel, which is adjoining and as you know you accepted these roads as public roads, so we can't exclude them from using our roads. Carolyn stated that is under investigation by our code violation person because it appears that Frac Tech is not operating within the conditions of their approval. Chairman Martin asked if there was any issue on setting a hearing for September 2, in reference to the public improvement district. Both Commissioner Houpt and McCown stated it was fine. Commissioner McCown – I make a motion we set the hearing date for the public improvement district or Travelers Highlands Subdivision for September 2nd during the morning period. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Chairman Martin stated next is the 5C issue in reference for the ability to work with CDOT on the access permit. Commissioner McCown asked if there had been any discussion with CDOT that there is another application coming for the same access. David Hicks said he met with the civil engineer with CDOT about ten days ago, and the problem is we can't get any information out of 5C. They disappeared and once in a while they will respond to Karl's phone calls. CDOT told us on site they would assign the access permit to us; he is just afraid something will come up and they will say "oh no you don't own this". We can't do it without your signature and then we will be back where were for the last three months. Commissioner McCown stated he didn't want to add to the confusion if there are negotiations going on, on one access permit and then CDOT sees another application coming in, are we gong to confuse CDOT. Karl felt CDOT knows what is going on and he thinks they understand they are just trying to be careful. Chairman Martin asked if they were willing to take the risk. And Karl stated yes they are; he stated it will just save them from having to come back for authorization in the event that this assignment that CDOT believes they can

do doesn't work for some reason. Chairman Martin asked if the applicant would then be Travelers Highlands or David. Karl stated he thought it would be in the Parachute Commercials name. Commissioner McCown asked what happens to that application once it's approved; let's say in Parachute or whatever the name is, and then the improvement district is passed. Does he set the price to buy him out as the applicant? Karl said he can but he owns the majority of the lot so he is fine. Commissioner McCown stated it would be a paper transfer for him but a monetary transfer for all the other folks. Karl thinks the anticipation is the cost of actually doing improvements; the special improvement district will be reimbursed for that obviously, to get that done we are getting ahead of the curve trying to get this fixed. Karl thinks they have the same problem with 5C; whoever's name the access permit is in, and he is assuming the Board doesn't want to put it in theirs. Commissioner McCown stated you could see my concern; someone could say if you want access, this is what it will cost. Karl stated all they are looking for is if they construct improvements ahead of the special improvement district; and it is approved, we have the ability to recover those costs. Chairman Martin asked, which name were they were going to do the access request through? Karl stated Parachute Commercial. Chairman Martin stated then we would allow that to go forward under our authority for them to act as the applicant. Carolyn stated, this often comes up in the building and planning process and she knows in the past the building and planning director has sent an email to CDOT, saying whoever has the authority of the BOCC to apply under the CDOT access code. There is no building and planning application alive right now, so will this be a letter from the Chair, assuming you authorize this, or will they accept an email from my office saying here are the minutes from the meeting. Chairman Martin felt that through Carolyn's e-mail process, and we could do it formally, if requested. Chairman Martin asked if he had a motion to do such. Commissioner McCown – So moved and that the Chair be authorized to sign and the application will be in the name of Parachute Commercial LLC. Carolyn asked if this is only if the 5C permit goes away or whether or not 5C goes away. Commissioner McCown stated that is the part he was concerned about, if we are going to have two running concurrently; which one are they going to act on first. Karl said the way he would phrase it; if within the next seven days the assignment to Parachute Commercial of the 5C access permit is found to be ineffective, then we have the authority to apply. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Chairman Martin stated the next item is the building permits reference the ISDS, the outstanding ones for Terry; are we going to allow that to go forward for improvement. Terry stated lot 2 and lot 4 on block 8; building permits had already been issued at our last hearing and at that time you said you would go ahead and authorized to finish those out, and the septic permits are required for those too. They weren't applied for at the time because we had applied for cold storage and it turned into shops. The applications have been upstairs for quite a while and paid for, we are just waiting; Andy didn't know to issue those. Commissioner Houpt asked if the use changed. Terry stated; no they didn't change, they are all the same. Carolyn stated that she and Andy reviewed the minutes from the last discussion and you said nothing about ISDS permits. You only told Andy any new building permits would have to stay upstairs in a hold file. The ISDS for the buildings already under construction simply wasn't discussed. Commissioner Houpt asked if the use changed after our hearing does that in your mind…… Carolyn stated you really need Andy, she wants to make sure that they understand what Terry is talking about they are not new building permits that are being held in a suspense file. Commissioner Houpt said that was her question, did they turn into new permits when the use changed. Commissioner McCown stated he was under the assumption the day we had our discussion this was a part of the building permit, appropriate septic permits and everything; for a house you do that all at the same time. I thought those permits were applied for. Commissioner Houpt stated she would agree, and the only thing that would change is if you viewed that as a new and different permit. Commissioner McCown stated he didn't. He sees that running continuous with those lots we gave the approval to continue. Commissioner Houpt said she thinks the intent was to complete those permits. Commissioner McCown – I make a motion that septic permits be issued for Lot 2 and Lot 4 Block 8. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye David wanted to ask a general question; at some point their SUP will be finished and complete, they will still have the right to use this intersection. Chairman Martin stated that is under investigation. Commissioner McCown stated under their SUP they have a separate access. Carolyn said as she understood it; they were renting some spaces from you within Travelers Highlands and if that is the case they can use Travelers Highlands. Carolyn asked if they did give the original, with original signatures, of the petition. Carolyn gave the Clerk the amended copy.

RIFLE FACILITIES – REQUEST FOR RELEASE OF LETTER OF CREDIT – MARK STORMBERG AND BRIAN CONDIE

The Board received a litter from Mark Stormberg to formally notify the Board of the work completed for the Rifle Facilities LLC, under terms of the Private Hangar Land Lease and Operating Agreement between the BOCC and Rifle Facilities LLC (Hangar Agreement). Mr. Stormberg, as owner of the improvements and lessee under the Hangar Agreement, is requesting the Board review the attached Contractor's Certificate of Final completion and approve a reduction in the face amount of the Letter of Credit to $0.00. Carolyn stated as long as they have their CO, they have a certification from someone authorized to sign for them and everything is in and to specification then just like in the building and planning arena, we would authorize release of the letter of credit.
Commissioner McCown – I make a motion we approve the release of the LLC for Rifle Facilities LLC corporate lease parcel. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CITIZENS NOT ON THE AGENDA

CANDIDATE KEN BRENNER FOR COLROADO STATE SENATE – DISTRICT 8

Ken Brenner wanted to introduce himself formally; he is a candidate for the Colorado State Senate in District 8. He is from a third generation ranch family in Steamboat Springs and Oak Creek. He has three sons and a professional background in coaching and sports medicine. He is running to make sure we protect our water supply on the western slope; water quantity as well as quality. He wants to pick a time to promote renewable energy and energy efficiency. We are responsible when we develop energy. We need energy sources, natural gas, oil, uranium and coal; but we also have to look out for the long term public

health and environment. Those are the types of issues he talks about; but he came here more than anything else to introduce himself and would very much enjoy hearing from the Commissioners and the items you feel are appropriate that the State Legislature to address that would make you more effective at your job.

CONSIDER A SPECIAL USE PERMIT FOR A ONE TEMPORARY EMPLOYEE HOUSING UNIT FOR A MIXIMUM OF FOUR (4) BEDS ON A COGCC-APPROVED WELL PAD, HILTON #23-1 – THE SITE IS LOCATED IN THE GARFIELD CREEK STATE WILDLIFE AREA SOUTH OF NEW CASTLE AND DIRECTLY ACCESSED BY COUNTY ROAD 312 – APPLICANT; ORION ENERGY, LLC – KATHY EASTLEY

Loren Prescott, project specialist and Jerry Holder, Orion Energy were present. According to Assessors office it is 13,000 acres which is owned by DOW. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Kathy Eastley submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F Staff memorandum -; Exhibit G – Memo Dated July 8, 2009 from Jake Mall, Garfield County Road and Bridge; Exhibit H – Letter dated July 25, 2008 from Cordilleran responding to Road and Bridge Comments; Exhibit I – Email dated July 14, 2008 from Jim Rada, Environmental Health Manager; Exhibit J – Letter dated July 25, 2008 from Cordilleran responding to Environmental issues; Exhibit K – Memo dated July 23, 2008 from Steve Anthony, Garfield County Vegetation; Exhibit L – Letter dated July 25, 2008 from Cordilleran responding to Vegetation issues – Exhibit M – Letter dated July 23, 2008 from Chris Hale, Mountain Cross Engineering; Exhibit N – Letter dated July 25, 2008 from Cordilleran responding to engineering issues; Exhibit O – Letter dated August 1, 2008 regarding neighbor questions/concerns and Exhibit P – Hilton #23-1 Drilling Procedure dated July 23, 2008. Chairman Martin entered Exhibits A – P into the record. Planner Kathy Eastley explained as to the reason why this application is pending before us. They have regulations that will go into effect on September 1, 2008 which make this application a use by right in the Garfield County Resolution. However, Orion, on behalf of the Division of Wildlife wanted to have a ransparent public process for this temporary employee housing on Garfield Creek State Wildlife land.

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on an approved well pad with active gas operations, and 4) that the Temporary Employee Housing facilities meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on Garfield Creek State Wildife Area in the Agricultural / Residential / Rural Density (A/R/RD) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. The operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractors and/or

subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.

12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is eight.
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic feet) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
21. Each facility shall have a minimum total capacity of 3,000 gallons of potable water storage and be refilled a minimum of every five days.

Each facility shall have a minimum total capacity of 2,000 gallons of sewage/wastewater storage capacity and shall be emptied a minimum of every three days.

Carolyn asked one question; the condition of approvals has a maximum of eight (8), could you clarify if we are talking about four (4) or eight (8).

Loren stated when they submitted the application initially they were looking at a maximum of eight (8) people on site, and as the events unfolded with Orion we had a discussion back and forth, and on his advice we embedded eight (8) in the submittal; but as time went on, Orion was prepared to commit to only having four (4) individuals on site. Commissioner Houpt asked so we can take four (4) out. Lorne answered yes. Commissioner Houpt asked what would be the function of those four (4) employees; why do they need to live on site? Lorne said during the drilling operation there is a requirement to have individuals there to adhere to safety issues that might emerge and general operation procedures that occur during drilling. Commissioner Houpt asked so what would their function be? Lorne stated oversight of drilling and reaction to safety issues. Commissioner Houpt said I'm asking because you're asking for four (4) and if you have a defined number you know what the function of those four (4) positions would be. Jerry said we have a person called a company man, he is the consultant working for Orion and in charge of the overall operation; he needs to be there. Then there is a tool pusher in charge of the crews, and probably two (2) directional drillers to make sure they hit the target they are looking for. They work twelve hours on and twelve hours off; that would be the four (4) people. Commissioner Houpt asked, the company man and the tool pusher, are these people who will be there during their off hours but would be awakened if there is an emergency? Is that why they need to be on site? Jerry answered that is correct. Commissioner Houpt said they also indicated in a letter to concerned citizens that you are really only looking to have employees on site for two to three weeks, is that accurate? Jerry said they hoped it was less than two weeks and they are right on target for that. Commissioner Houpt asked; if this is approved today, that will happen now and Jerry stated yes. There is a condition on page 8, condition number 10 that talks about this special use permit for employee housing being in existence for one year; would you like to have that buffer or is that necessary? Lorne said given the current schedule and the way that operations are preceding; his guess is that it would not be required but, this is standard terminology. Commissioner Houpt understands it is standard but she thinks it's important that we are not in conflict with what you have agreed on with the DOW. If it is your testimony and it is because I just heard it from Mr. Holder that you are really only going to need the site for a couple of weeks for employee housing; then number 10 really doesn't become a problem for any of us as

long as your understanding with DOW is what you are saying. She doesn't want the County permit to be in conflict with what you have agreed on with the DOW. Chairman Martin stated under the rules and regulations, defined up to one year, I don't think we are saying it has two weeks and it goes away. Commissioner McCown stated there are a couple of things that are going to take effect and he doesn't know what their drilling plan is, if this is a one well pad, that's one thing. If you plan to come back onto this pad after the 1st of September, you will not have to go through this process anyway. He thinks the two weeks or the three weeks; the statement you are making is a true statement regardless of whether this permit runs for one year or not because after the 1st of September the new regulation takes effect; this becomes a use by right and you do not have to go through this process. Should you plan on coming back within a year onto this well pad for a second well for any reason; that is why we have the permit running for one year. Chairman Martin stated that was for multiple wells on one pad; but not to exceed one year. Chairman Martin asked if there was anything the applicant would like to add. Thelma Ragle stated she had a few questions. They say this will only be there two weeks, but if they go somewhere else and drill other wells, then they can do the same thing on the other pads up to a year. Chairman Martin stated yes. Commissioner Houpt stated this particular special use permit is this location. Chairman Martin said one location, but as Larry said after September 1 if they have another site they agree upon, the surface use agreement is signed, sealed and delivered. They have a use by right to do the same thing right now. Thelma asked then they don't have to have permission again. Chairman Martin said they have to have permission from everyone but they don't have to have a public hearing. Thelma stated that is what she meant. They can go ahead and put dwellings down every pad they put down. Chairman Martin stated yes, they have a lot of requirements and they can do that if there is an agreement and they meet the regulations of our performance standards. Thelma stated this could go on for years; they could come back in a year and keep having houses on there. Commissioner McCown stated; they are doing it now, all over the County. Every well pad has this type of occupation and trailers on the pad that allows the company man, the tool pusher and sometimes there is more than the directional drillers. There is up to eight (8) allowed as a use by right. Cheryl Monger asked, after September 1 what is going to change. Chairman Martin explained the process of the new Land Use Code. Cheryl said and up to that point they have had to come and do what these people are doing to get that permission. And every well site can have this without going through the meeting? Commissioner Houpt explained this is a new regulation; it is taking away the planning portion of the permitting process, so yes, we won't have any more hearings. It will be a use by right on every pad to have up to eight (8) essential personnel, depending on the number of wells being drill. That will be the determination on how long those people will be living on the pad. Cheryl stated that was her next question; this is just for this well site, this pad. So most of the time they will get a use by right, if they follow the conditions, but up to four (4) people. Chairman Martin stated eight (8) people and Commissioner McCown stated this one is four (4). Cheryl stated they have been drilling for two (2) weeks now without people living on their pad site. So how have you done it thus far without housing? Jerry stated they have just moved in about eight (8) days ago. Cheryl asked you have people are living there now and have you had them on site all this time? Jerry stated yes. Perry Will from the Division of Wildlife wanted to clarify that Orion just has a surface use agreement with this particular pad, so they have one pad and they have to come back to the Division of Wildlife before we have any other discussions. Chairman Martin stated that would be the surface use agreement that would be in place to allow them to go forward; you as the surface owner or a representative of that owner would have to agree or bring reason why it shouldn't come forward. Carolyn stated, for the information of the public they could look at the surface use agreement in the application, along with the letter of authority from Dean Riggs, area wildlife manager, allowing Orion to have temporary housing. Commissioner Houpt thanked them for coming in for the application permit; she is a true believer this is a good process so the public does have an opportunity to respond. Lorne thanked staff for being very helpful and guiding them through the process.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the Special Use Permit amending to allow for the temporary employee housing, amending number eighteen (18) to read four (4).

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

CONSIDER A CONDITIONAL USE PERMIT FOR THE RELOCATION/STABILIZATION OF A HISTORIC STRUCTURE (THE GLOVER CABIN TO A FOUR (4) ACRE SITE ADDRESSED AS 7201 COUNTY ROAD 300, PARACHUTE, FOR USE AS A COMMUNITY BUILDING – APPLICANT; GRAND VALLEY HISTORICAL SOCIETY – DUSTY DUNABR

Judith Hayward, president Grand Valley Historical Society, Susan Aviliar from Williams Production, and Phil Vaughan, the contractor were present. Phil answered all the questions on notice. Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Report; Exhibit E – Application; Exhibit F –Staff Power Point Presentation and Exhibit G – Letter of Support from Ms. Cynthia Nieb, coordinator of the covenant Program of the Colorado State Historical Fund, dated June 2, 2008. Chairman Martin entered Exhibits A – G into the record. Planner Dusty Dunbar explained: The Applicant, the Grand Valley Historical Society (hereby referred to as 'The Society'), seeks permission to relocate an older log residential structure, the Glover Cabin, from its present location property controlled by Williams Energy, to the NE corner of a parcel owned by the Society. [On that same parcel, the Battlement Mesa School is operating as a Community Building under a Conditional Use Permit (2006-57)].

The second portion of the request is to repeal the condition that limits the use of the Battlement Mesa School as a 'community building' to 20 persons. The Society would like to replace that condition with language that allows for a maximum of 65 persons.

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. When the 2008 resolution is written and the Conditional Use Permit is issued, each will state that Resolution 2006-57 and the 2006 Conditional Use Permit are being repealed and replaced.
3. The use of the Battlement Mesa Schoolhouse and Glover Cabin shall be permitted between 8:00 AM and 10:00 PM and the Battlement Mesa Schoolhouse shall provide meeting space to accommodate no more than 65 persons at one time.
4. The Applicant shall submit a site plan or updated Improvements Survey that correctly indicates the parking area for visitors to the property. The total number of parking spaces depicted on the plan shall be based on the cumulative total of floor space for use as auditorium seating. ADA requirements for parking, access and the path to the Glover Cabin shall be incorporated in the site plan, and the ADA portions of the plan shall be constructed prior to the issuance of the Conditional Use Permit. The site plan shall also reflect utility easements and County road right-of-way locations on the property. This updated site plan shall be submitted prior to the issuance of a Conditional Use Permit.
5. Weeds on the site shall be brought into compliance with Garfield County Weed Management Plan of 2000.
6. Any signs installed on the site shall have a sign permit and meet the requirements of the Garfield County Sign Code.
7. Any expansion of this use shall require an amendment of the Conditional Use Permit.

Discussion:
Commissioner McCown stated he knows there is a relatively new and a current septic system in place; he didn't' find anywhere that it addressed the increase from twenty (20) to sixty-five (65) people. The fact that the school house is not going to have an affect on it; but the affect from the increase from twenty (20) to sixty-five (65) occupants possibly per day; how would that affect the system?
Dusty stated it is sized to accommodate it. Phil thanked everyone and feels this is an exciting project. Where this cabin is located now is prone to erosion and Phil raved about the cabin wanting everyone to see it. He thinks the relocation will be a neat exhibit for people to look at and see what life was like in Garfield County. In order to relocate, they have come up with a foundation drawing for the building and they obviously want something that will with stand the test of time. They are going to shore up the structure to meet the current wind load requirements of 90 MPH, 3 second gust and 40 pound snow load and weather proof the cabin. Williams Production is putting up all the money forward to do this work. The Grand Valley Historical Society has gone to the State Historical Society to verify that this is going to meet with their parameters. In addition they will also be consulted when they complete out the site plan and other improvements for their approval. Staff will see a new report from the Colorado Historical Society stating they are in agreement with this. Phil thanked Dusty, David and Fred for all their help. They do agree with all the recommendations set forward by staff and need to meet those. To Commissioner McCown he stated; in the application, the waste water system, they have gone through a full calculation with gallons per day to verify that the system will meet sixty-five (65) persons. They did clarify that from an engineer's standpoint on waste water and water. Judy stated there is one bathroom in this building; if they have more than twenty-five (25) or thirty (30) people then they would bring in port-a-pots outside.
Commissioner McCown stated he wasn't really concerned about the school creating a demand as he was the overall increase from twenty (20) to sixty-five (65) people that you are asking for in the conditional use permit. Judy stated it was a mistake in the original application because of the square footage.
Chairman Martin stated it was verified by the fire marshal on how many people can occupy that building and sixty-five (65) is well within the maximum number of people allowed in the facility.
Dusty stated she did also go to the building to confirm the number of people and the handicapped requirements for that existing bathroom and what they needed were met. Actually that bathroom would satisfy up to 120 people. Judy wanted to say that the society has been working on the handicapped parking spaces; they wanted to piggy back with another construction company.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve a conditional use permit to allow for the Grand Valley Historical Society to relocate and stabilize the Glover Cabin on their parcel 300 Road, and repel the conditions of 2006-57, and apply the conditions as recommended by staff today to this new conditional use permit. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

AUGUST 18, 2008
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 18, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager representative Dale Hancock, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 a.m.

COUNTY MANAGER UPDATE

PRESENTATION OF 2007 AUDITED FINANCIALS – PAUL BACKES
Paul Backes, CPA from McMahan and Associates, LLC presented the independent auditor's report and submitted a complete financial statement, December 31, 2007. Paul basically stated that the financial statements referred to above present fairly, in all material aspects, the respective financial position of the

governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the County. Along with the financial report, a control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. We noted the following control deficiencies which may assist the Board in your role of providing a governing oversight of Garfield County, Colorado. The recommendations included: Desktop Deposits at Road and Bridge; Financial Reporting Changes i.e. Community Corrections established as an agency fund; drug seizure funds; Employee 125 Plan/Cafeteria Account; County Data – Laptop computers add security against theft; Sheriff's Department; Payroll Process; and Purchasing Policies. Payroll looks fine but could possibly define how the process works to avoid last minute changes. The volume of purchasing included over $9,000 under $10,000. This was a recommendation that the Board review these purchases. He suggested some places where the system could be tightened. They also look at the Treasurer's investments, fixed assets listed and depreciated appropriately, review minutes to see that the Board approved contracts, salaries, etc. The report goes to a number of entities provided in electronic format for the website for the public. Garfield has always had a good fund balance and no concerns. Dale, on Community Corrections, would that be like holding dollars for somewhere else? We would like to review the tax identification to see where this is being used. It should be reported on the books.

DISCUSSION OF FINANCIAL ISSUES RELATED TO TRAILS PROJECTS

Larry Dragon submitted a list of seven (7) projects to discuss:

1. South Canyon Trail, Phase I
2. Remainder of Current South Canyon Trail Funds
3. South Canyon Trail, Phase 2
4. Future South Canyon Trail Plans
5. The Conservation Trust Fund for 2009
6. Coal Ridge HS Trail
7. 2009 Operational Funds for LoVA

The first phase of the South Canyon is complete and Glenwood is currently erecting the bridge over Mitchell Creek. He projected it will be into October before this will be open. Last week there was a meeting regarding trails and the excitement is growing for the opening. John said the 18 foot high, 234 foot long retaining wall is very impressive from the river. With project money from the City, County, State Trails grant, and grants from the Enhancement Funds through CDOT, as well as a grant from Bikes Belong and some other monies the trail group had raised, the trail was built. He reassured the Commissioners that the County's money would be spent last. Larry wasn't sure how much is left in that account but there is a significant amount remaining. The final bills are not in yet. He asked that the remainder of those funds be reallocated to the next section of trail. Does this have to be given to LoVA or can it be rolled over to the account? He estimated $150,000 to $200,000 would be left over. South Canyon Trail, Phase 2 – LoVA plans to apply for another state trails grant this fall. The maximum we can get from the State Trails is $200,000. If awarded, it will be included with another enhancement grant from CDOT as well as contributions from the County and the City to provide the funding for another section of trail which could go out to bid in the fall of 2009 and constructed in 2010. Future South Canyon Trail Phase – It is expected that GoCo will have their next large-scale grant cycle beginning in 2011. We are hopeful that we will be well situated with GoCo after having completed two sections of trail in South Canyon without their help and hope to receive a large enough sum of money to complete the trail, at least to South Canyon and possibly to Canyon Creek. The Conservation Trust Fund for 2009: Dale Will and Larry Dragon met with David Pesnichak to discuss how to divide the County's Conservation Trust funds. RFTA has been a part of these discussions for the last several years. Phase II timeline would be to put it out to bid in the fall of 2009 and it gives another year plus to deal with some of the other issues with CDOT such as a license agreement, an IGA, etc. The grant money is for 2010, 2011, 2012 and 2013. There will be some issues. Commissioner McCown said the simplest thing would be for CDOT to accept the trail in the state right of way and not need the licensing agreement. Larry asked them about that and CDOT's understanding had two different meanings. One is they would provide the construction management, rather than having someone like SGM manage it but again it's not their money, it's still the money the trails group has to raise in order to build the trail. Commissioner McCown voiced his long term concern which is the maintenance of the trail and has always been; in a federal highway system where the County maintains a trail is very scary given the conditions of a lot things that could happen in that river. It is their highway and should be their trail as it is in Glenwood Canyon. Commissioner Houpt was wondering with the change in leadership that CDOT is seeing now if that isn't more of a possibility than it has been in the past. There seems to be a huge commitment toward trails. She believes they should take another look at this. Larry Dragon said he didn't feel that was a possibility at this point but he will bring this up; we're taking it one step at a time. Chairman Martin said the trail is temporary and if CDOT decides to expand the roadway, then the trail goes away. We are at the mercy of the state highway. It's included in the 25-year plan to widen that highway.

Action:

Larry Dragon asked if the Board agrees to roll over the remaining money in the South Glenwood Trail account to the next phase of the South Canyon Trail.

Commissioner Houpt moved to roll over the existing funds for this project into the next Phase II of the South Glenwood Trail. Commissioner McCown seconded. Chairman Martin - Make sure the public knows the final amount of money so the public will know. Larry Dragon – Final bills are owed to American Civil Constructors and Schmueser Gordon Meyer so at this point we don't know.

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

COAL RIDGE TRAIL

Larry Dragon updated the things they are doing and has another request. The stumbling point is Davis Point and their plans are to write another planning grant this fall to State Trails and that can run through LoVA; it's a maximum of $25,000. We will hire a design firm to design various options as to how to get by, through, or around Davis Point. They hope to get that done over the next year. They are working collaboratively with Silt and New Castle to get the alignment from the east and they are also working with

Rifle improving their Rifle Creek Trail which will be a spur to the LoVA trail and working collaboratively to purchase some private parcels in the Rifle area to do the trail around the Rifle rest area. Then in Parachute/Battement Mesa, a group is working on a trail connecting Battlement Mesa to Parachute and thinking about alignments there. The other requests for this Board are for the 2009 operational funds and they are requesting $45,000 plus the rent at the Henry Building which has been $3710. In addition and per the Board's request in the past several years, we've met with the other trails groups in the County and here's the update: Crystal Group, RFTA and the Rio Grande Trail is done so we've agreed to split whatever the contribution will be from the Conservation Trust fund for 2009. Commissioner McCown asked if the entire length of the trail on the Crystal River will be in Garfield County. Larry said no, there is only a one mile section in Garfield County and once they have done that, they won't have any further requests of the County. Chairman Martin noted the biggest stumbling block is this one mile section because it has a bridge that they need to address. It also goes back to the license with CDOT. It's the same blueprint on how to approach trails on CDOT right of way. Don clarified the issue saying that once the Board's decided what if anything can be allocated to trails, then you would ask for official action determining how those funds would be allocated. Chairman Martin said they will invite Larry back once they get into the budgetary discussions.

CCOERA LOAN PROGRAM – KATHERINE ROSS

In regard to the July 21 meeting when CCOERA representative was present, Katherine Ross prepared a 401(1)/457 Loan Program Design consisting of required conditions and presented these to the Board for discussion. Katherine Ross summarized the document and gave a complete description of the types of loans that would be considered. This included four basic designs and she reiterated how this would be handled by CCOERA and how it would require extra staff in the finance and human resource departments. Commissioner Houpt – To trigger something that would require two and one half personnel, what number are you anticipating to participant? Katherine – If it is wide open and there are no restrictions, it would take 3-5 employees would be my best estimate with clerical most in finance versus the human resources. Katherine discussed the pros and cons of offering this loan program to staff. Commissioner Houpt suggested there might be other ways to approach this and it may be worthwhile to look at other approaches. Commissioner McCown commented that once the average employee is aware of the complicated nature of the loans, they will not be in favor to access their funds. He noted the minute you borrow you are going to pay back this money with interest and it would be making double payments. At first it sounded appealing but given the guidelines set up by CCOERA now it doesn't. He thought we may be creating problems for employees. Katherine used the example of a loan for a down payment of a home and in studying this she discovered many of the users make emotional decisions. Therefore, she is against it and would want to put tight perimeters on a loan program. Commissioner Houpt stated we are not parents to our staff. For them to sit down and look at their paycheck now and what it will look like from now on may be an eye opener. Kathleen raised some issues and agrees that the parameters need to be tight. Commissioner Houpt said she would never support protecting people from themselves. If we give them all the information and they understand where they are going with their funds, it is their money. Commissioner McCown suggested taking this to the EPIC committee and then come back with a presentation.

AUTHORIZATION FOR SIGNATURE FOR CONTRACT AWARD FOR THE GARFIELD AIRPORT IMPROVEMENTS PROJECT. (HELIPAD AND TAXIWAY WIDENING) – MATT ANDERSON

Matt Anderson presented the contract for widening the taxiway and adding the helipad at the Airport. The estimate for this project was $305,502.19 and the lowest bidder was Gould Construction at $330,490.60. Matt recommended the award go to Gould.

A motion was made by Commissioner McCown that we award the bid for the airport improvement projects, helipad and taxiway widening to Gould Construction in an amount not to exceed $330,490.60. Commissioner McCown asked if this asphalt alternative was discussed with the FAA as they have some very stringent and often times unreasonable requirements on asphalt and he knows for a fact that the oil that they require for their mix is not available statewide and/or area wide. Therefore, has there been some type of an allowance made by the FAA for a variance on specifications because we are setting up a contractor to fail as there is no contractor on this list that can provide that product.

Brian – Correct and we're using the CDOT standard on this one. We went from the 20-year asphalt to the 12-year because we can't get the oil. Matt said they did put out an amendment for a different alternative and this contractor is the one they chose. Commissioner McCown made a motion that we award the contract to Gould Construction for the airport improvement, the helipad and the taxiway widening in an amount of $330,490.60 and that you present an amended budget with an amended funding source and expenditures. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Dale noted that the additional grant cycle came about as a result of $22 million dollars worth of short change to the aviation fund that was discovered through an internal audit by the Department of Transportation and there may be an additional grant cycle in the next go-round.

AUTHORIZATION FOR SIGNATURE FOR CONTRACT AWARD FOR NEW LAND MANAGEMENT EVALUATION SOFTWARE – MATT ANDERSON

Matt Anderson presented the five proposals and a summary of bids received. This is for land/permit evaluation software and an estimated budget amount was for $300,000. EnerGov Solutions was the lowest cost and Matt made a recommendation to award them the contract for $288,000.00. Matt will need to work out the license terms with the legal staff. The price is significantly higher than the rest of the offers on this project but when you're dealing with software and hardware it's truly unique. The bottom line is that no one else came in technically capable. Fred said we've been taking a look at the module based software/hardware system to basically computerize what we do in Building and Planning. It's the first major and most expensive software that this office has to start up this kind of program and to have modules that allow building inspectors in the field to record their data, have it upload in real time from the field whether it's a building permit approval, COs, etc., and also have a web interface for the public and contractors to access from their home or office and get approvals and adjust their construction schedules without having to come in. The background that has been done with Matt on these programs is not in front

of you but running all these groups through the review process, one of the key pieces was to make sure that we had the ability to interface with the Assessor's data and also where we are headed with geographic systems (GIS). At some point, someone in their house could click on a parcel and pull up what has taken place, whether it's from a building code permit perspective, from a land use perspective, code enforcement perspective and have real documents, in real time and save them from having to come here. It makes the department much more efficient and able to track what we do, how we do it and then it's a huge timesaver for the public. Part of the components is the hardware costs and we had the IT department do a review of all these groups so they were included in the decision. We had $350,000 approved in the budget and the cost is coming in much less; it also covers licenses fees and maintenance fees for 2009 within the funds budgeted for 2009. This is a very good group and contract. They have a local office and it's been a long process to get to this point. The company is located in Duluth, Georgia.
A motion was made by Commissioner McCown to award the contract after legal review of the licensing and software terms to EnerGov Solutions for a not to exceed amount of $288,000.00 through the end of the fiscal year and $192,000 for the renewal for FY2009 and the Chair be authorized to sign.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Provide advice on the Vezzoso litigation; Ed Green has a contract for Public Health and Jim Rada is needed in the session. Fred is also needed for the Vezzoso discussion.
Commissioner McCown would like to discuss an item listed for 10:15 am, item 4 B - Lisa Bracken's request for intervention.
A motion was made by Commissioner McCown to discuss the items suggested by Don and Ed.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown to come out of Executive Session.
Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
No action needed.

COMMISSIONER REPORT:

Commissioner Houpt – Oil and Gas hearing and Rule making deliberation all week.
Commissioner McCown – Northwest RAC on Wednesday and Thursday in Kremmling.
Chairman Martin – Employee picnic was held and we had a very good turnout. Linda Morcom did an incredible job.

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 for the Tybar Ranch Rural Land Development Option Exemption. Applicant is Davies Mesa Ranch Estates, LLC and David K. Danciger Special Power of Appointment Trust. – Fred Jarman
f. Authorize the Chairman to sign the Sullivan Subdivision Exemption Mylar Applicant is Don Sullivan – Craig Richardson
g. Authorize the Chairman to sign a resolution for a Special use Permit for Temporary Employee Housing on Garfield Creek State Wildlife Area owned by the State of Colorado, Division of Wildlife and operated by Orion Energy Partners, LP

Pull Item e - Tybar Ranch as it contains an older version on Condition 11. We will bring it back with updated language.
A motion was made by Commissioner to approve the consent agenda as presented items a – g minus item e which will be discussed later today. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSION

GRANT COMMITTEE – PRESENTATION OF 2009 GRANTS

Kay Vasilakis, Chair of the Grants Recommendation Program submitted the Human Service Grants stating we had $754,000 to disburse; we had 31 total grants and $810,500 worth of requests; we granted $704,500. We tried to make as much bang for the buck as we could and not duplicate services and go for people with real basic needs in Garfield County. Grants committee included, Larry McCown, Ed Green, Kay Vasilakis, Tish Phyllis, Dana Damm, Jane McCollar and Laurel Little.
A breakdown of each request was submitted along with the award of grant funds.

ADVOCATE SAFEHOUSE	$	45,000
ALPINE LEGAL SERVICES INC.		35,000
BOY SCOUNTS OF AMERICA		6.000
CATHOLIC CHARIIES		16,000
CMC EVEN START		9,000
CMC LITERACY OUTREACH		30,000
CMC RSVP		20,000
COLORADO WEST COUNSELING		50,000
COLORADO WEST RECOVERY		40,000
COLUMBINE HOME HEALTH		30,000
FAMILY RESOURCE CENTER		10,000
FAMILY VISITOR PROGRAM		50,000
FEED MY SHEEP		25,000
GARCO SENIOR NUTRITION		15,000
HABITAT FOR HUMANITY		5,000
KIDS FIRST		20,000

LIFT-UP		28,000
MPOWER		5,000
MOUNTAIN REG HOUSING		--------
MOUTAIN VALLEY DEVELOPMENTAL		65,000
NEW HOPEFUL HEART		-------
PLANNED PARENTHOOD		5,000
RFTA		55,000
RANCH GOOD DAYS		--------
RF VALLEY EARLY LEARNING		10,000
ROCKY MOUNTAIN HEAD START		20,000
SALVATION ARMY		18,000
SOPRIS THERAPY SERVICES		25,000
YAMPAH TEEN PARENT PROGRAM		7,500
YOUTHZONE		55,000
TOTAL GRANTS	$	704,500.00

A motion was made by Commissioner Houpt to approve the grants as presented. Commissioner Martin seconded. In favor: Houpt – aye McCown – aye Martin - aye

Chairman Martin also noted we have $49,050 in reserve so we can have those unexpected things covered.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR JULY 2008

Lynn Renick and Judy Martin were present. Lynn Renick requested the Board approve the July 2008 disbursements totaling $367,020.67. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME CONTRACTS

Lynn Renick requested approval of the out of home contracts as follows:

1) Out of Home Placement Contract Ariel Clinical Services for State ID G474266 in the not to exceed amount of $26,188.33. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

2) Out of Home Placement Contract Ariel Clinical Services for State ID G474268 in the not to exceed amount of $18,826.80. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

3) Out of Home Placement Contract Ariel Clinical Services for State ID G4586667 in the not to exceed amount of $18,826.80. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

4) Out of Home Placement Contract Ariel Clinical Services for State ID G474273 in the not to exceed amount of $25,428.36. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

5) Out of Home Placement Contract Ariel Clinical Services for State ID G474275 in the not to exceed amount of $18,826.80. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE 2008-2009 CORE SERVICES SUBSTANCE ABUSE CONTRACT WITH WHITE RIVER COUNSELING

Lynn Renick stated the Department is requesting consideration and approval of the Core Services contract renewal with White River Counseling for substance abuse services in the not-to-exceed amount of $14,550.00 Commissioner Houpt so moved. Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE 2008-2009 CORE SERVICES SUBSTANCE ABUSE CONRACT WITH COLORADO WEST REGIONAL MENTAL HEALTH

The Department is requesting consideration and approval of the Core Services contract renewal with Colorado West Regional Mental Health for substance abuse services in the not-to-exceed amount of $26,675.00. Commissioner Houpt so moved. Commissioner McCown seconded.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE SENIOR CONGREGATE MEAL PREPARATION CONTRACT WITH MORRISON LLC.

Lynn Renick and Judy Martin were present. The Department is requesting consideration and approval of the contract with Morrison LLC for the preparation of the congregate meals to seniors at the Lacy Huntley Senior Center (Colorado Mountain College), Sunnyside and Carbondale Senior Housing sites. The meals are prepared at the Valley View Hospital facilities and the Traveler transports the means to CMC and Carbondale. Morrison staff transports the Sunnyside meals to that location. The contract reflects a per meal cost of $4.00 for CMC and Carbondale and $4.25 for Sunnyside. The contract is effective July 1, 2008 through December 31, 2008 in the not-to-exceed amount of $42,000. The County Attorney's office needs to review this document. This is a year long program using AAA money running from July 1, 2008 through June 31, 2009. Commissioner Houpt so moved and authorized the Chair to sign. Commissioner McCown seconded .In favor: Houpt – aye McCown – aye Martin – aye

CONSIDERATION AND APPROVAL OF THE SENIOR CONGREGATE MEAL PREPARATION INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF RIFLE

The Department is requesting consideration and approval of the IGA with the City of Rifle for the preparation of meals to seniors at the following sites: Rifle Senior Center, Parachute Senior Center, Silt Fire Department and New Castle Housing (beginning 9-8-08). The meals are prepared at the Rifle Senior Center facility and the Traveler transports the means to Parachute, Silt and New Castle locations. Morrison staff transport the Sunnyside meals to that location. The contract reflects a per meal cost of $4.00. The contract is effective July 1, 2008 through December 31, 2008 in the not-to-exceed amount of $65,000. The County Attorney's office needs to review this document. This is a 12-month contract.

Commissioner McCown made a motion that we approve the IGA with the City of Rifle for the preparation of meals to seniors in the not to exceed amount of $65,000. Commissioner Houpt seconded.

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

CONSIDERATION AND APPROVAL OF THE REVISED FOUR-PARTY WESTERN COLORADO 211 INTERGOVERNMENTAL AGREEMENT

The Department is requesting consideration and approval on the updated Western Colorado 2-1-1- IGA with Mesa County Department of Human Services, Hilltop Community Resources (a non-profit agency in Grand Junction) and United Way of Mesa County (as fiscal agent.) At the meeting the County Attorney's office will inform the Board of the substantive changes to the original document, including the venue for disputes being Mesa, rather than Garfield County; and, the request to change Garfield's illegal alien form language. The not-to-exceed amount of $50,000 is to be paid in one lump sum. The contract expires 12/31/08. Carolyn reviewed with the Board some legal issues and stated the signature of the Chair would need to be authorized. This is not a problem in terms. Commissioner McCown – So moved. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL ON THE THREE-PARTY AMENDMENT TO THE AGREEMENT WITH ROARING FORK TRANSIT AUTHORITY AND COLORADO MOUNTAIN COLLEGE REGARDING SENIOR TRANSPORTATION SERVICES

The Department is requesting consideration and approval for an amendment to the 3rd party Agreement for Senior Transportation Services. The amendment is included in the Board's packet for review. Primary changes include: 1) for RFTA – remove FCC license transfer, allow utilization of County gas facility and remove para-transit services for the City of Glenwood Springs; 2) for CMC - add transfer of program funds, request remaining 2008 Human Services grant monies for Senior Programs and transfer funds to the Department, and maintain Retail Food License until the Department's license is effective. A copy of the contract is being added to the Board packet by the County Attorney's Office for review. Lynn reviewed the changes as noted in this report. In response to a question asked by Commissioner Houpt regarding why was para-transit transportation was taken out, Judy stated that Glenwood Springs will be contracting directly with RFTA and the city has to apply for those funds. Regarding the Retail Food License, Judy Martin will handle this through the Council on Aging. The facilities have to be licensed and Judy is waiting for the Council to react to this agreement. Carolyn added that this should be marked as a draft and today they are looking for signature authority.

A motion was made by Commissioner Houpt to approve the IGA for Garfield County senior programs as presented and authorize the Chair to sign. Commissioner McCown seconded.

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

Commissioner Houpt reported that Keith Lambert and Tresi Houpt met with the Mayor of Glenwood Springs Bruce Christensen and the issue of participating in the senior programs will be taken back to the City Council; she strongly believes the City will enter into a contract for the senior programs.

PROGRAM REPORTS

- Colorado Department of Health Care Policy and Financing is continuing to pursue the centralization of Medicaid eligibility. County directors are trying to work with the State Department through this planning process, however, there are many County concerns regarding customer service and fiscal impacts. Information in the form of a power point was submitted in the packet.
- Meal site Memorandums of Understanding (as reviewed by the County Attorney's Office) have been prepared for the following locations: Parachute Senior Center, Silt Fire Department, Colorado Mountain College, Sunnyside Assisted Living, Carbondale Senior Housing and Castle Valley Senior Housing. An example of the MOU agreement is included in the Board packet. The separate MOU's are being reviewed by the other parties and the documents will be signed by the County Manager for finalization and approval.

Lynn also mentioned one regional director at the state level and it used to have 23 counties and now they decided to carve out the northwest region as a separate pack. Lynn is designated as that new person. The counties included are: Garfield, Routt, Summit, Eagle, Lake, Pitkin, Jackson, and Rio Blanco.

Friday, Lynn received all of the close out financial information for the year and a verbal message of where it seems to be right now. Child Welfare is at 101% extended; Child Care Assistance Program was 102% extended and because of surplus distribution it was taken care of. We are over in the Single Entry Point (SEP) contract and a lot of that is because of the home office piece but we've been expending funds over for a couple of years now with that program and we still need to look at Core Services allocation and County Administration line item which is always over; we 165% expended but we did get surplus out in quite a bit of it including the pass through of 39.44% of that; so we are well within out budget.

Dale Hancock asked if Lynn was concerned about adverse financial affect on the centralization of the Medicaid. Lynn said she was and the fiscal impacts to the counties if they do indeed do this; however we don't have any idea what that scenario is going to look like. It's possible if they pull it out that our County administration line, the state puts in x amount for the eligibility administrative portion of determining the eligibility, and they will likely pull that out. The question will be from the legislative portion will be what happens to the 20%. Will the state be pulling down the 20% from the County because they are now doing that portion; but again just be watchful. Commissioner McCown - Will you have an answer to that by budget time? Lynn stated she does not see this affected in 2009, more so in 2010. We are very concerned about the customer service portion of that piece. Medicaid never worked in the current state system and it is one of the issues that is driving this and that basically is the need for a computer system that actually works. Chairman Martin said we told them it wouldn't work and it's been proved to be right.

BOARD OF HEALTH:

CDPHE WIC CONTRACT

Jim Rada and Paul Reaser presented for Mary Meisner the HCP contract task order dated August 20, 2007 and stated the State promises to pay the contractor the sum of two hundred thirteen thousand one hundred seventy two dollars ($213,172.00) for the renewal term of one year ending September 30, 2009.

A motion was made by Commissioner McCown to approve the renewal of the WIC contract in the amount of $213,172.00. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CDPHE HCP Contract

Jim Rada and Paul Reaser presented for Mary Meisner the HCP contract task order dated August 10, 2007 and stated the State promises to pay the contractor the sum of nineteen thousand nine hundred fifty nine dollars ($19,959.00) for the renewal term of one year ending September 30, 2009.
A motion was made by Commissioner McCown to approve the contract renewal in the amount of $19,959.00. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

AIR QUALITY MONITORING UPDATE – PAUL REASER

Jim Rada and Paul Reaser were present. The power point presentation was given by Paul Reaser to evaluate the air quality characteristics within Garfield County with particular attention to particulate matter of ten microns or less and volatile organic compounds. Also, to attempt to address concerns from local citizens about air pollution in the area and potential health effects, primarily due to the dramatic increase in oil and gas development activities. It is also to obtain baseline date for future air monitoring efforts.
Paul said we received $380,000/yr from the State Legislative footnote for this West Slope Monitoring. Prior to this money, Garfield County supported the program from 2005 to 2007 and for FY 2008 Garfield County put in $146,338 in funds. The 2008 PM2.5 monitoring will define fine particles that result from fuel combustion from automobiles, power plants, wood burning, industrial processes and diesel powered vehicles such as buses and trucks. The 2008 Visibility Monitoring purpose is to establish current visibility conditions; to document long-term trends for assessing progress towards the local visibility goal; track changes in visibility; and determine causal mechanism for the visibility impairment in Garfield County. The 2008 Meteorological Monitoring is a state funded program measuring wind speed, wind direction, ambient temperature, relative humidity and barometric pressure. The 2008 Ozone Monitoring is also a state funded program and the purpose is to measure the ozone since it is a growing concern not only in this region but locally as well. Chemical oxidant and major components of photochemical smog that can seriously impair the respiratory system is one of the most wide-spread of all the critical pollutants for which the Clean Air Act is required by the EPA to set standards. The mobile VOC monitoring is responding to citizen road concerns. The general importance of air monitoring is important in determining compliance with the National Ambient Air Quality Standards; characterizing air quality and trends; estimating health risks and ecosystem impacts; developing and evaluating emission control strategies; evaluating source-receptor relationships providing data for input to run and evaluate models; and measuring overall progress of air pollution control programs. The report is on the web at www.garfield-county.com; County Department - Public Health –Environmental Health website for future reference.
Some of the discussion that occurred included the size of an area this monitors. It is within a mile perimeter or a larger area. The response was that the state actually monitors where these are placed and the locations in Rifle and Parachute measure readings of the larger populations that would be affected by the oil and gas development. Jim Rada feels certain they selected good location and they were selected after a careful study. Chairman Martin said the Forest Service data is available for previous years and they've been before this Board twice to give the update. This data could be used for comparison. He cautioned we shouldn't reinvent the wheel. Commissioner Houpt complimented the program and appreciates all the work done. Paul Reaser also stated he appreciates the funding by the County.

US 6 & STATE HIGHWAY 13 ACCESS CONTROL PLAN IN RIFLE – MICHELLE HANSON W/STOLFUS & ASSOCIATES

Michele Hanson from the City of Rifle is a transportation engineer and Elizabeth Stolfus with Stolfus and Associates were here on behalf of Rifle and CDOT. Portions of the highway pass through the County and they wanted to keep the Commissioners updated. The power point was presented to the Board in a comprehensive report. The I-70 Interchange to the JQS Road would be the beginning point and access along State Highway 6 turning onto State Highway 13 ending at the JQS road. The goal is to provide a plan that can be implemented in phases. The firm wants input from the Commissioners on the plan. Both the Garfield County and Rifle Comp Plan were used in formulating the plan. The project goals include: support the economic viability of the project area; maintain compatibility with previous local planning efforts; provide a plan that accommodates traffic unique to the area including hazardous arterials traffic and a design vehicle specific to the area; provide a plan that is adoptable by all entities. This will require an IGA by all governing entities. Commisisoner McCown voiced a concern regarding the plan as it involves the city and County in the circulation network even though CDOT would maintain control of the highway. The CDOT plan is only responsible for the state highway and we must maintain the system.
Michelle responded they would make the developer pay for new development and CDOT scopes in on the responsibility of the road. Chairman Martin – The developer would be put in a position where that would raise the cost of each house in a new development. Elizabeth Stolfus said in spite of the growing demands on the highway system, CDOT does not have money to make improvement and therefore they put a lot of responsibility on the municipalities and County. Furthermore, this is not likely to change. She did stress that local government needs to plan for what the think their accesses and land use will look like and expand local responsibilities, then make choices. Her feelings are that if cities adopt a plan then everybody would be on notice before they submit plans for land use that will require access permits from CDOT.
Commissioner McCown – What the traffic count will find is that 90% of the traffic on Hwy 6 and Hwy 13 are not stopping in the area so we are not accommodating the businesses and they are not receiving the benefits. Therefore, how does that apply to an access permit because nothing is happening in the municipalities? Elizabeth - By doing a plan you have more flexibility versus following the CDOT access control plan. This process will take about 9 months. It would include traffic counts regarding daily, peak hour and vehicle classification and pulling GIS data for the project area and right of way. State Highway 13 defines where access points are supposed to be; it also includes pulling permits and accident history and what's happening; starting to do a traffic analysis and determining the level of service and the delay or travel time. It also includes a 20-year travel plan considering the known development areas, zoning allowances, and they commissioned a BBC study to add population and economic projections. They will also look at land use and physical constraints; CODT does the analysis and identifies the major intersections then they measure if they are meeting the goals of the plan. Next, the public involvement is a key piece and they are requiring one public meeting. There will be public hearings with the BOCC and City Council. All adjacent property owners will be invited. They will also have one on ones with property

owners interested in their access and how it would work for them in the future. They will supply a report and provide a draft of the plan that will be easy to understand and an access control plan table and be very specific. After the plan is drafted, it will require adoption of the City Council/BOCC and it will also require IGA's with City, County, and CDOT and then final approval of the Transportation Commission. Chairman Martin – Transportation plan and priorities have been put in place and an overlay of zoning will make an interesting conservation. Commissioner McCown commented that this hinges on adoption by the entities and one thing that will be a major player is the estimated costs. Will the plan incorporate cost? Michele – No. This is a conceptual plan and if something happens such as land use changes and the like, then identifying costs is not appropriate for this type of document we are developing. Elizabeth stated the benefits of the plan are to address critical needs for the future and by taking this step in the planning process and proceeding through the TPR a final acceptance would be realized. Commissioner Houpt said the TPR priorities are not in this area. Commissioner McCown said the final product and conclusions of the city and County will end up with an IGA to adopt but no commitments because it will be totally implemented and enforced by CDOT. Michele once again stated by participating it will take that plan forward. Commissioner McCown said to amend the plan it would take all three entities: the city, County and CDOT. Michele - The next step is to schedule a meeting with the city council on how to go about consulting with the City of Rifle. Commissioner Houpt told Michele that David Pesnichak is the staff person at this point, to have this discussion with. Elizabeth said it is not a plan for you to react to at this point; they are taking time to have a meeting with the city and County and will keep CDOT on the spot to keep everyone in the loop.

REQUEST FOR GROUND WATER TESTING AND COUNTY INTERVENTION IN WEST DIVIDE CREEK SEEP INVESTIGATION – LISA BRACKEN

Commissioner Houpt stated she will sit in the audience as she's been in discussion with the COGCC on this issue. Debbie Baldwin was included in a conference call; she's with the Colorado Oil and Gas Commission and was directly involved with the testing. Don stated that COGCC staff has been involved in this discussion and as Commissioner McCown suggested, we should we get her involved today as well.

A phone conference call was engaged with Colorado Oil and Gas Commission (COGCC) speaking directly with Debbie Baldwin, Kevin King and Bob Jasper who were present with Debbie to answer any specific questions. Don informed Debbie Baldwin that Commissioner Houpt has recused herself. A power point presentation was given by Lisa Bracken. Lisa Bracken submitted a letter to the County Commissioners including a copy of a letter delivered to the COGCC relative to the Divide Creek Seep and concerns for her domestic water supply. The letter was dated 7-29-08.The request before the Board today is to have the County immediately institute whatever measure may be at their disposal to help determine the extent of contaminants that may be present in the ground water. She has been asking what if anything can be done, as well as if and when. She stated she has waited 18 days and no acknowledgement from COGCC or the Board. Chairman Martin acknowledged that he had spoken to Lisa on the phone regarding her concerns. According to the discussion, Lisa listed all the concerns and demonstrated with photos in her power point. COGCC acknowledged they has completed ground water sampling and organic compounds, C10, C24 and C 28 and included cell material and other things that would have hydrocarbons. Debbie stated that there is no diesel range showing in the analytical report and related to Lisa that she would have to trust our other governments in this situation. COGCC responded to Lisa and did a complete investigation with Lisa present. They collected samples in December 2007 and in June 2008 from the orange colored soil samples from the black seep that Lisa pointed out in her presentation. They completed the analysis including samples from black seep. One of the problems in understanding this issue is the compounds in the range as the lab calls it in their analysis for organic compounds is not just crude oil but anything that would have organic compounds. Chairman Martin asked Debbie if the sand and material have been tested.

Debbie replied the sand was not there when samples were collected; Lisa was concerned about the orange and black seep and now she is talking about sandstone. Chairman Martin suggested an additional sampling of the silica sands be completed and also the brown ooze in the mud. Could that be that related to the facing process? Debbie said they responded to the complaint of the black slime and water samples formed on of the seep and it was analyzed for benzene and it was non detectible. This is the first time Debbie said she had heard about sand and mud and this was not investigated back in June 2008. However, Lisa's water well has been sampled more than 60 times since the 2004 Swartz well issue and nothing has been detecting in her well and not in the monitoring well either. A lot of data has been collected and nothing is associated with the oil drilling. EnCana sampled in June or July however, this was in a private quarterly testing. Samples were collected and no defects were found in the beaver ponds as well. It there was gas it can be detected if it was associated with the West Divide Seep. Chairman Martin said he was trying to request COGCC to intervene since they haven't tested the mud and sand and asked Debbie to collect those samples and determine if they are coming from drilling mud.

Action taken:

Commissioner McCown alluded to the fact that Commissioner Houpt had recused herself; she was present in room however. Lisa stated that DOW did a fish study and it was in her area of concern and she is curious to have those test results. Debbie said she followed up with DOW on those results but no one called her back. Debbie also suggested that the Board could ask EnCana to make a presentation and all the monitoring they have done in the West Divide Creek.

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR BOTH A CONDITIONAL USE PERMIT (CUP) AND A SPECIAL USE PERMIT (SUP) FOR THE GARMESA NATURAL GAS UTILITY TRANSFER FACILITY PROJECT BY PUBLIC SERVICE COMPANY – DUSTY DUNBAR

Cheryl Campbell and Larry Claxton from Public Service along with Dusty Dunbar presented the background stating that to meet the increasing demands for natural gas for the Grand Junction area, the applicant (Public Service Company) seeks to install a 16' utility service delivery line to transfer natural gas from the production areas to the north to deliver points in the Grand Junction area. The new line will be placed in an existing corridor that has been in use on BLM and private lands for the past 50 years.

The project includes a CUP application for the portion of the pipe facility on federal land (BLM) and an SUP application for that portion that is on private land. The 4-mile long pipe facility has about half lying on each public and private land. The applications will be processed concurrently.
STAFF RECOMMENDATION
Because this proposal is focused on installation of facilities inside an already existing corridor, and because there is a limited opportunity to schedule this before the BOCC within the120-day limits, Staff feels it appropriate to recommend that the Board direct staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
A motion was made by Commissioner McCown to schedule this before the Board of County Commissioners and not refer this to the Planning Commission. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

RATIFICATION OF THE SIGNATURE OF THE CHAIRMAN ON THE MYLAR FOR ASPEN GLEN, FILING 1, LOT D-37. APPLICANT IS E. DIAMOND A RANCH PARTNERSHIP – KATHY EASTLEY

Kathy clarified that a ratification of the signature of Chairman Martin was necessary on the mylar signed at the last meeting when an amended plat was brought forward. It was not an item that had been placed on the agenda.
A motion was made by Commissioner McCown to ratify the signature of the Chair. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION OF THE 6TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 6TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Cathleen Van Roekel presented. This is a noticed public hearing and Don was provided the original of the publication. Contents are adequate and advised the Board they could proceed.
Chairman Martin swore in the speakers. Exhibit A – Notebook that consists of two supplemental increases and decreases and contingency requests including terminations and new hires.
A motion was made by Commissioner McCown to close the public hearing; Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown approve 6th supplement to the 2008 approved budget and the 6th amended appropriation of funds. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY. APPLICANT IS GLENWOOD COMMERCIAL LLC – CRAIG RICHARDSON

Debbie Quinn, Craig Richardson and Karl Hanlon representing the application. Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Craig entered the following exhibits: Exhibit A – Mail Receipts ; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Staff Report; Exhibit E – application; Exhibit F – Staff report by Fred Jarman for 1-07-2008 BOCC meeting; and Exhibit G – SUP and Resolution of approval 2008 – 11. Chairman Martin entered Exhibits A – G into the record. The Board of County Commissioners approved a request to allow a "Communication Facility" on a property located south of Glenwood Springs, CO on January 7th, 2008. The approval was memorialized in Resolution 2008-11. A condition of approval required that the proposed antennas located on the east end of the proposed commercial structure be reduced from four (4) to two (2) and enclosed within a roof top cupola. Glenwood Commercial, LLC has reapplied to the Board of County Commission to amend the approval to allow the enclosure of the antennas approved on the west end of the structure within a cupola as required in the previous approval (Resolution 2008-11) on the east end. The addition of one (1) cupola is the only change represented. Staff recommends that the Board approve this request incorporating the original conditions of approval. Karl Hanlon stated since there is not an amendment to the SUP process, a new application was submitted to enclose the antenna. Chris Lynch, adjacent property owner said she wasn't here for the last hearing and she was disappointed to learn that this SUP had been approved. Her main concerns related to health issues as she is allergic to the electromactic waves. Six people in the neighborhood are upset. The antennas should not be enclosed. You can cover the antennas but some should be left uncovered so people can see them. Jamie Campa – Lives next door and thanked the Commissioners for consideration of all our concerns. These electromactic waves go right over and into her house. Andrea Hawkins - Her concern is the height of the copula as it is above the houses and views. Is this legally within the height restrictions? She also claimed the property was not noticed.
Karl Hanlon responded saying the property was noticed and the SUP is recorded. As to height, based on the grade of the slope, the application is lower than the natural grade but it is within the 35 feet limit.
He asked for the approval by the BOCC. Craig – Copulas are not required in the building heights; however it is within the 35 feet from the existing grade. Commissioner McCown – In the old presentation it shows 25.6 foot and the existing ground was higher than now as it was cut down; therefore, it is 10 feet beneath our height restrictions. Commissioner Houpt - If there was a sign on the building that there are communication facilities on the roof, would be adequate for the concerns? Ms. Lynch – A sign would be better than nothing. Her concern is for the businesses that have leased space and if there are apartments rented out then she claims that people need to know about the antennas. The posting of the public notice wasn't evident. If people with pacemakers don't know about these antennas and/or microwave ovens then they should put themselves in a place of risk. She feels that Verizon has put her at risk. Karl said he felt this had a much broader policy implication and if this is taken into consideration then he suggested that Verizon could possibly identify those sites on the County map. It will not address this policy concern that was raised here on a much broader basis regarding co-locations of these.
A motion was made by Commissioner McCown to close the public hearing. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown to allow the modification in this case of an existing Special Use Permit to allow the building of a copula to cover the antennas on the west end of the structure.

Commissioner Houpt asked for conditions. Commissioner McCown responded the ones that are on the existing Special Use Permit. Commissioner Houpt asked if he would add a condition that requires signage leading up to the complex and on the building indicating the existence of the communications facility. Commissioner McCown – No, I think we would be setting a precedence that we couldn't convey to all our other transmission sites around the County and that creates some problems. Commissioner Houpt – I'm not sure we've ever had any on top of a building before. Commissioner McCown would not change his opinion. Commissioner Houpt didn't agree with the motion and would not second the motion. It's a very simple request to have that posted so people could make a decision on their own. Commissioner Martin stepped down as Chair to second the motion.
In favor: McCown – aye Opposed: Martin – aye Houpt – aye
Commissioner Houpt made a new motion that we approve this Special Use Permit with the conditions approved the first time around adding an additional condition that requires signage indicating the existence of the communications facility both leading up to the complex and posted on each end of the bilding where the two facilities are installed and replace the current Resolution that's in existence. Commissioner McCown would not second as he did not agree. Commissioner Martin stepped down as Chair to second the motion for discussion. Commissioner Houpt – I would agree with the witnesses; I think it is important that have the opportunity to know. If we've made mistakes in the past and haven't posted locations, I don't think that's a great excuse for us as we move forward. Chairman Martin – We have seen fencing, etc. and we've also seen the notice on the transformer box, etc. electrical, etc. and I think that's a pretty standard sign and not very costly or very obscene even though I hate signs. Craig clarified one at the entrance of the property and on the building itself indicating where the communications facilities are located.
Commissioner McCown – Would this be a hazardous sign or what would you anticipate this sign saying.
Chairman Martin – I think it would be a hazardous sign that communication facilities are on site.
Commissioner McCown – I think you might find some resistance and possible litigation from Verizon if you deem this as hazardous because they have said they are not hazardous. If you go to a transformer that Xcel Energy or Holy Cross owns, there' high voltage there – that is dangerous and you can flag that as such. If you show a communication facility as hazardous you better be able to back it up.
Commissioner Houpt – I'd be fine with just a red and white informational sign just saying there's a communications facility on site. In favor: Houpt – aye Martin - aye Opposed: McCown

CONSIDER A PRELIMINARY PLAN FOR HUNT RANCH SUBDIVISION. APPLICANT IS HUNT RANCH, LLC – CRAIG RICHARDSON

Craig Richardson, Debbie Quinn, JAM Development LLC. OTAK and DDA Inc. represented by Planner Doug Dotson, with DDA, JAM Development – Hunt Ranch – Mr. Amsden; Jennifer Mishem, JAM.
Debbie determined that the noticing requirements with Jennifer were accurate and timely and advised the Board they were entitled to proceed. Glenwood Springs Post Independent is no longer a newspaper of legal notice. Jennifer was not aware. A defect in notice was ruled by the Board. The public wanting to testify in this hearing requested the presentation by staff and the applicant be shortened in order to allow for the public to have time to speak. They referenced the long presentation by both staff and the developer during the Planning Commission hearings. Craig stated his presentation was just under 45 minutes. The applicant agreed to see what they could do to shorten theirs.

ELECTION 2008

Jean Alberico stated she was recently notified that Room 101C would be revamped taking 3 feet off in order to move the security to allow citizens to come in for elections without having to go through security. Room 101C has been advertised in 29,000 pieces of mail as the room where Early Voting will be held and with the proposed remodel it would virtually make that room unusable for her needs.
Chairman Martin assured Jean the plan had not been approved and he would speak directly to her before demolition starts. We approved a particular plan and he was not aware of the dimensions of that room being diminished. Commissioner McCown said they could not move security off the main room.
The agreement was to meet with the Sheriff, Jean, Courts, Richard and the BOCC to come up with a better plan. Jean emphasized that Room 101C was the only available space in the Courthouse for Early Voting.

ADJOURNMENT

Attest: Chairman Martin

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SEPTEMBER 2, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 2, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Deputy County Attorney Carolyn Dahlgren and Jean Alberico, Garfield County Clerk

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COUNTY ROAD 137 - COMPLAINT

Joyce Clark homeowner at 0570 County Road 137; she is also representing the Jensen's at 0568 County Road 137 who couldn't be here. Our hope is that you can prevail upon Road and Bridge to blade the bar ditch on the west side of 137 Road from about 1/8 of a mile above the problem culvert to the next culvert below. Along with digging out the containment area around the problem culvert in spring; this overflows when heavy rain occurs causing flooding on our properties. They feel that the ditch should be cleaned as regular maintenance. Joyce produced photos showing the culvert and what they have dealt with (picture was taken Sunday night, August 31). Joyce explained how it fills and floods their driveways.

Chairman Martin stated Joyce called him and he did send Marvin Stephens up once and he will have them revisit the site.

COUNTY MANAGER UPDATE: ED GREEN

PRESENTATION OF ABSTRACT OF ASSESSMENT – JOHN GORMAN

Colorado Department of Local Affairs – Division of Property Taxation:

- Vacant Land - $155,879,320;
- Residential - $487,117,060;
- Commercial - $258,935,510;
    - Personal Property - $301,576,180;
- Industrial – $8,621,150;
    - Personal Property - $10,088,710;
- Agricultural - $9,039,920;
    - Personal Property - $9,039,920
- Natural Resources - $4,330,320;
    - Personal Property - $4,330,320;
- Producing Mines - $80,330;
    - Personal Property - $80,330;
- Oil and Gas – $1,825,951,430;
    - Personal Property - $2,230,653,410;
- State Assessed - $4,757,450;
    - Personal Property - $62,297,700;
- Exempt - $192,859,170;
- New Construction - $33,962,940.

The Assessor will publish a report that is available on the website, and also in brochure style for the public once this is accepted by the Commissioners.

John Gorman explained what the abstract was and his main function was to deliver this abstract quickly to the Board. Chairman Martin stated there was no action at this time.

CONSIDERATION AND APPROVAL OF CHAFEE PLAN FOR DHS INDEPENDENT LIVING PROGRAM – LYNN RENICK

Lynn Renick submitted the annual program report for funding year 2008-2009 and requested the Commissioners approve the plan as presented. Lynn stated this is due September 5, 2008 to the State. The not to exceed amount on the plan (this is not an agreement or a contract) this is simply the plan which requires the Boards signature; the not to exceed amount is $19,145.00 and we are requesting consideration and approval. Commissioner Houpt – So moved. Commissioner McCown – Second.

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

CONSIDERATION AND APPROVAL OF CHILD CARE QUALITY AND CAPACITY ENHANCEMENT CONTRACT WITH COLORADO KIDS – LYNN RENICK

Rebecca Lynn Hale, Colorado Kids and Lynn Renick presented the Child Care Services Quality and Capacity Enhancement for Colorado Kids Child Care Center contract. They are requesting the Commissioners approve the contract as submitted. The contract is effective September 1, 2008 through June 30, 2009. Colorado Kids applied for a State license as a non-profit provider of child care services providing services at 232 West 3rd Street in Rifle. They will work toward full licensure to provide education based child care and federal 501C-3 tax status. The contract amount is for $49,000.00 and the funds will be paid in full not to exceed this amount following the execution of the contract by all parties.

Lynn stated that Rebecca is planning to open a child care service in October for fifteen (15) children and increasing very quickly to thirty (30) children. The scope of work is very similar to the one in Parachute, Kids Promise. The 501C-3 is not finalized yet, but they are in the process. The Articles of Incorporation are approved; from a federal standpoint they are okay. Carolyn clarified that it is approved from a State standpoint; but they do not have their Federal tax exemption. Commissioner McCown stated he did not see that number of children mentioned; is that a standard contract, would this contract be valid if they only had 2 children? Lynn said they could certainly put that in there based on what they are looking at for license capacity and not actual children. They are starting with fifteen (15) as they need a certified director in place, and then they can go up to thirty (30) with the licensing capacity. Commissioner McCown stated without the mention of the number of children in the contract; it's pretty open ended isn't it as far as the minimum number. Lynn said they could amend the scope of services. Commissioner Houpt asked Lynn with respect to the money going into the project; we helped Kids Promise with startup costs and now this organization, do you see this working into our department as a normal function, helping daycare programs across the County with start-up costs. We clearly are taking on a pretty new and significant role.

Lynn stated that subject to appropriations we are looking at assisting with capacity growth in the County. She also stated that with TANF and child care reserves, they have the ability to assist. She thinks within the next 12 to 18 months it won't be an issue because of the legislative mandate and Senate Bill 177. They are capping counties for those reserves; they are spending while they have the money available.

Commissioner McCown – I make a motion we approve the services contract with Colorado Kids and the Chair be authorized to sign. Commissioner Houpt – Second.

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

CONSIDERATION AND APPROVAL OF CONTRACT WITH COLORADO DEPARTMENT OF HEALTHCARE POLICY & FINANCING FOR SINGLE ENTRY POINT – LYNN RENICK

Lynn Renick submitted the Contract Amendment No. 3 for the Single Entry Point Program stating the amendment contract is a not to exceed amount of $555,884.00 (slight decrease of $35,000.00) for a total amount of $2,166,214.85. The effective date of the amendment is July 1, 2008. Single Entry Point is the same as Northwest Colorado Options for Long Term Care (NWCOLTC) which is a regional program that is administered by Garfield County Department of Human Services. NWCOLTC serves the following 9 counties: Garfield, Eagle, Pitkin, Rio Blanco, Moffat, Routt, Summit, Grand and Jackson. The vision is to improve access to publicly funded long term care services and facilitate utilization of appropriate services by long term care clients, and to participate in community collaborative activities that support and develop

long term care resources in each community. The mission is to provide a single access or entry point where a current or potential long term care client can obtain long term care information, screening, assessment of need, and referral to appropriate long term care programs and case management. Lynn stated they are requesting consideration and approval on this contract. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONTRACT DISCUSSIONS FOR LAND MANAGEMENT SOFTWARE LICENSING TERMS AND CONDITIONS – MATT ANDERSON AND CAROLYN DAHLGREN

Matt Anderson submitted the Land/Permit Evaluation for software licensing and submitted a recommendation of Board action consisting of discussion of portions of the contract in yellow. This EnerGov Solution LLC is for the Building and Planning Department for land management software. Carolyn stated there are 2 contracts; a master service agreement and service agreement. Carolyn explained they will not make a commitment to the dollar amount; from a legal prospective they limit damages and they claim the cost of their services is partially related to the limited damages. The contract is under Georgia law, and should there be a contract dispute you would have to hire a Georgia lawyer and fight it out in State Court, County Court; wherever they have their principal place of business, or in the Federal District Court of northern Georgia. She was surprised that their insurance provisions were fairly close to ours; they don't have a professional liability policy. Carolyn has not spoken with their lawyer and Matt has had conversations with the contractor. Carolyn stated that staff, and building and planning really would like this; best they have been able to find. It does bring up policy questions for you as far as our general contracting. Carolyn has asked Matt to forward them to our appropriation language; 4 months of the contract is under Georgia law, you are a Colorado entity. What you can and can't do on behalf of the citizens of Garfield County is covered by Colorado law not Georgia law. Any conflict of law situation in a Federal Court; the Federal Court would have to look to Colorado law as to what your powers are as a BOCC. Matt stated the contractor is pretty strict with these terms and conditions; they are agreeable to taking the appropriation terms. Eagle County is using the same software with the same terms. Matt feels it is pretty low risk as far as any of these terms actually coming into play; however, we do need some type of approval. Carolyn stated that we need to make sure this contract is clear that we are buying some hardware as well as software. Commissioner McCown stated; do you want the services and disregard the Georgia conflict with Colorado law; bite the bullet and assume the liability for all of it, and go ahead. Commissioner McCown asked if the contract was actually with the subcontractor, and who are we dealing with as a subcontractor. Carolyn stated there is none.

Commissioner Houpt– I make a motion we approve the contract for the land permit evaluation software licensing terms and conditions and hardware with EnerGov Solutions.

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

EXECUTIVE SESSION – ED GREEN

Ed Green stated he needed legal guidance regarding Housing Authority By-laws, contract negotiations/discussions regarding the new facility for the Sheriff, guidance regarding political activities, negotiations/discussion with NEC regarding potential contributions to the program, negotiations regarding a three party contract with Rifle and Continental Rifle, contract negotiations with Rifle regarding the building of Taughenbaugh Blvd., contract negotiations with RFTA regarding possible options there, and legal guidance for restructuring Human Services Tax.

COUNTY SHERIFF UPDATE: LOU VALLARIO

Lou Vallario provided the Board with a monthly update and highlighted the following: Vacancies; when we did our budget kick off, we had thirty (30) vacancies, if everything goes well they will reduce to twenty (20) by the end of this week. They are testing every other week which makes a difference with people putting in applications; the bonus pay has attracted people. Lou took one of his road deputies and turned them into a full-time recruiter. Lou feels it may take a good year to get back up to speed.

The Model Traffic Code: Lou has a packet he will put together as far as legal requirements, copies of other resolutions, ordinances etc., and then all he needs to do is call the players involved and have meeting to start the process. Commissioner Houpt asked if this is something Lou would like to move forward with. Lou stated absolutely; he feels the model traffic code has always been a great tool for local governments. It allows revenue, if it comes back to us rather than the State, and it gives us more control over speed limits, parking, and flexibility. Don will have a big hand in drafting the resolution; exactly how to formulate it and how the money will be broken up. Commissioner McCown stated as a footnote, this has been looked at in the past. There had been reluctance on behalf of the prosecutor and the courts to take this on. Commissioner McCown applauds them for going along with this. Lou stated the biggest concern was who would manage this and who is going to pay for it. Lou feels this is a small issue they could work out. Last thing; change over with Jim Sears leaving, Lou and Ed have had discussions on how to improve on the Emergency Management Plan. They are really going to look at better communication with other staff members. He was surprised at one of the safety meetings; there were some concerns with folks that didn't know we had an emergency operations plan. Lou is going to have more staff training, more table talk exercises, which seems to be the part that has been missing. Chairman Martin stated he had another issue; the discussion with the Town of DeBeque, in reference to your mutual aid fire district. They are providing service and don't have any revenue and some kind of agreement is needed to get them through the year. Lou stated they have just worked a deal with Lower Valley Fire, who has been helping in the far west end of Garfield County, and it has worked out.

CONSIDERATION/APPROVAL OF RESOLUTION AMENDING RESOLUTION 08-24 TO INCORPORATE AN AMENDED PAY POLICY AS PART OF THE COMPENSATION AND CLASSIFICATION PLAN, AS SUCH RELATES TO THE OFFICE OF THE GARFIELD COUNTY CORONER

Don DeFord submitted the Resolution saying that the Coroner adopted the compensation plan in accordance to the provisions in Resolution 08-24. The Board does not have to amend the Resolution to adopt an amended plan and added that sufficient funds have been budgeted to meet the provisions of the Grade 5 pay scale. Don stated the first two items for public discussion; proposed resolution initiated by Lou and the finance director in regards to 3A and 3B, Don wanted to comment on the need for these resolutions.

There are statutory requirements that provide for elected officials; they are entitled to adopt a classification system for their office, but only with the approval of the Board of County Commissioners. It requires both entities to act. The form of resolution references Resolution 08-24, which is the pay and classification you and the elected officials adopted at the start of this year. These are amending that resolution; again both the new and the affected elected officials have to participate. Don stated some time ago in regard to item 3A, the coroner, finance office and Don's office were involved in discussions about bringing the deputy coroner under our pay and classification systems making them hourly employees. The statute provides for the appointment of deputies and specifically included them in the paying classification system. You approved an hourly rate, a method of pay, and they have been included in the system as a practical matter. Katherine confirmed that she has these positions classified and finance is paying them based on an hourly submittal. What the resolution mentioned in item 3A on the agenda really does is confirm what has been occurring for the course of this year and Don is asking that the Board moves forward and approves that resolution. Don did advise Trey that it was going to be discussed and Don feels Trey is satisfied with the form of the resolution.

CONSIDERATION/APPROVAL OF RESOLUTION AMENDING RESOLUTION 08-24 TO INCORPORATE A BONUS PAY POLICY AS PART OF THE COMPENSATION AND CLASSIFICATION PLAN, AS SUCH RELATES TO THE OFFICE OF THE GARFIELD COUNTY SHERIFF.

In April the Board approved a signing bonus for the Sheriff's office and this is a Resolution to cover that action taken by the Board. It specifies that the Sheriff is authorized to pay a signing bonus of $2,000 on the date of hiring, and those recruiting deputies shall be paid a $500.00 bonus for finding new individuals. The SCAPP grant funds are the sole funding source in the initial amount of $174,645.00, and any funds not expended in 2008 will be carried over into 2009. In a similar manner but subsequently different, the Sheriff has discussed with the Board a bonus pay plan for new recruits, which the Board has approved. But, that has never been included in the pay and classification system and there have been some discussions between Lou and the finance department about exactly how it will be paid, taxes withheld, or not withheld. The legal requirement for this resolution is the same as for the Coroner; but Don would leave it for Lou and Lisa to present to the Board the actual substance of the resolution.

Lou stated that toward the end of last week; the discussions about deferring, withholding etc., Lisa discovered it is not allowable under the IRS, and he feels they will have to continue the conversation before we finalize.Lisa stated she would like to put this on the agenda for next weeks meeting. Lou stated the intent was to give the money up front - $2,000.00. We hired someone, and then said we needed the $2,000.00 bonus and they ended up with $1200.00. The intent got muddled by the IRS and Lou is looking at trying to look at different options to get them $2,000.00. Commissioner Houpt stated she would think most people know you have to withhold tax. Lou stated the simplest solution is they get the $2,000 upfront and at the end of the year they have to deal with it; but that is not allowable. Lou stated maybe they may have to put an asterisk in the ad stating after taxes. Ed asked the Commissioners if they would have a problem with grossing up. Commissioner McCown stated it is a catch 22; the person you are hiring is going to pay it. Ed stated no, when you gross up you give them $3,400.00 and you pay the tax. It does show up as taxable income. Final thoughts; they are going to continue to look at this before making a decision and will let the Board know next week.

Don stated he would like to move forward and authorize the Chair to sign the resolution referenced in item 3A and continue item 3B until 8:00 a.m. on the County Attorney time next Monday (September 8, 2008). Commissioner McCown - So moved. Commissioner Houpt – Second.

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

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/APPROVAL OF PURCHASE OF SERVICES AGREEMENT – ENGINEERING SERVICE – SCIENCE BASED SOLUTIONS

Don submitted the engineering services contract for hydro geologic consulting services to assist in the interpretation and presentation of data collected by S.S. Papadopoulos Associates to assess and monitor the condition of the County's water resources. The contract is to Science Based Solutions (SBS) in an amount not to exceed $10,000.00. The purpose of this contract relates to the area south of Silt, Colorado and is to be analyzed in view of the data from past studies undertaken by the County as conducted in 2006 by URS. SBS will describe the nature of the geochemical conditions of the study area including their conclusions regarding the chemistry of the groundwater in the Wasatch Formation, influences of lithology on the water chemistry, the hydraulic relationship between the Wasatch and underlying Mesa Verde Group, the orientation and extent of fractures and structural features, any potential influences on water chemistry from natural gas wells or gas development activities such as fracing and well construction, and potential influences from other anthropomorphic activities such as land cultivation. These findings will be reported in a comment paper and also provide a public presentation(s) of findings. This agreement will begin on September 8, 2008 and shall be completed by December 31, 2008.

Don said there is a clause that gives an extended period for a maximum of 12 months and if that should need to occur, it would have to be before the Board for approval prior to the term of December 31, 2008. Don stated this was a proposed contract with Dr. Thyne, which the Board discussed at the last meeting with Judy Jordon. The only reason this is in front of the Board again; the form of the contract that Dr. Thyne would like to sign does not meet the requirement for liability insurance and this is what you have done in the past with Dr. Thyne. The dollar amount is actually in the scope of Ed Green's authority. Don would like the Board to authorize Ed to execute the contract, deleting the insurance requirements, consistent with the action that the Board took at the last meeting. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

D. CONSIDERATION/APPROVAL OF CONTRACT AMENDMENT #3 – DOLA GRANT – COUNTY ROAD 204

Don DeFord submitted the contract amendment #3 for the DOLA grant regarding County Road 204 and stated that the contract EIAF #5730 – Garfield County Roan Creek Improvements dated August 20, 2007 for completing approximately 10 miles of Garfield County Road 204 (Roan Creek Road) had been

successfully modified by deleting December 31, 2008 and inserting September 30, 2010. The effective date of this amendment is upon approval of the State Controller or August 27, 2008, whichever is later. Don stated Jeff was not present but asked that it be put on the agenda. This is an amendment to the existing DOLA grant agreement as it relates to County Road 204. Note that it extends the time period for completion of this contract for 3 years; that is within the scope of JPA time period they have with Chevron. Don is asking that the Board authorize the Chair to sign the proposed grant agreement amendment with DOLA. Commissioner McCown – So moved. Commissioner Houpt – Second
In favor: Houpt – aye McCown – aye Martin – aye

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don stated the items he needs to discuss in executive session include communications concerning the County Commissioners policy on use of our facilities for political purposes; provide legal advice concerning a 10:15 a.m. item on County Road 317 in a proposed pipe line relocation; receive direction from the Board concerning a memorandum he provided to the Board; Debbie and John need to discuss the status of the oil and gas audit potential litigation; provide an update on communication litigation concerning roads in the vicinity of Prince Creek Road; Ed has noted the Housing Authority issue on the size of their Board; update on the JQS Trail; update on County Roads 162 and 162A (Adrienne Crouch); and Patti and Carolyn need to talk to you about an item on the agenda at 10:15 a.m. concerning the formation of a public improvement district.
Commissioner McCown I move we go into executive session. Commissioner Houpt – Second.
In favor: Houpt – aye Martin – aye McCown – aye
Commissioner McCown– I make a motion that we come out of Executive Session. Commissioner Houpt– Second. In favor: Houpt – aye McCown – aye Martin – aye
Action Taken:
Chairman Martin stated they had 2 items; the EAB and their request to allow forums by the EAB in a public building. Commissioner Houpt stated political forums and Chairman Martin stated yes.
Commissioner McCown – I would make a motion we do not allow the EAB to conduct political campaign forums as a course of their operation. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – abstained
Chairman Martin stated he is a candidate, it doesn't affect him but he thinks the policy is wise; it is improper. Commissioner Houpt stated there are specific issues that the EAB deals with and you bring a political discussion into it, and it may make it difficult for them to accomplish their goals.
Chairman Martin stated he did not want them compromised, he thinks they have a hard enough job.
Commissioner McCown stated the sole purpose, or the formation of the Energy Advisory Board was to advise the Board of County Commissioners, and I can see no result coming out of a political forum and the Energy Advisory Board advising the County Commissioners on who they should support. Chairman Martin stated the second item was a memo in reference to the temporary housing amendment that was issued by Mr. DeFord and Ms. Dahlgren. There has been a request by the press for the document.
Commissioner McCown – I make a motion we authorize the release of the document.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

CONSENT AGENDA

a. Approve Bills
b. Wire Transfers
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Authorize the Chairman to sign a Resolution correcting a scriveners' error found in Resolution 2008-60 for the Approval of a Text Amendment to 2.02 and 3.02.02 including a definition for Museum/Library and including the use as a Conditional Use within ARRD zone district – Craig Richardson
f. Authorize the Chairman to sign the Amended Plat to combine Lots 5 and 6 within the Cooperton Townsite. Applicant is Gregory Forbes – David Pesnichak
g. Authorize the Chairman to sign the Resolution of Approval for the Jochum ADU. Applicants are Gary and Leslie Jochum – Dusty Dunbar

Commissioner McCown – I make a motion that we approve the consent agenda as presented.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC MEETINGS:

UPDATE ON DOLA/GEO NEW ENERGY COMMUNITIES INITIATIVE PROPOSAL, REQUEST FOR LOCAL MATCH – ALICE LAIRD AND HEATHER MCGREGOR

Alice Laird and Heather McGregor were present. A memo was submitted outlining the proposal before the Board today. Garfield County has been in support and serves as the fiscal agent for this proposal and also has designated specific staff to assist in this effort. Out of 36 letters submitted, we were one of 16 approved to move to a final application. They presented a summary of the overall proposed components on the New Energy Communities Initiative and a draft budget. This allows us to apply for up to $2 million from this particular initiative and also tap into the Governor's Energy Office funds that connect to specific programs. Today, the purpose of coming before the Commissioners is to briefly review some of the main components of the proposal and discuss the level of local match that Garfield County might consider for this effort. Alice stated she wanted to present an update on this topic. They wanted to share what they have been putting together for this proposal, how it is coming together, and then begin a discussion about the amount of local match Garfield County might be willing to put forth in this effort. They are not looking for a final answer on that issue today; just want general feed-back from the Board. They will be going out to all the partner organizations and communities asking for their local match amount. They would like to get back to the Board before September 19 to finalize the proposal and local match amount. Since they last came before the Board in July 2009, when Garfield County agreed to be the fiscal agent for this effort, a working group has developed which consists of representatives from all the different communities and partner organizations. They have met 4 times and have submitted an initial proposal to DOLA and the Governors Energy Office. Out of thirty-six (36) proposals, sixteen (16) were approved to go forward and

theirs was one of the sixteen (16) that is going forward for final proposal. Heather said they had sent a memo to Board with a short list of the many different projects they think they can pursue if they get full funding under this grant. She ran through the projects they are planning on generating; solar projects, off grid solar, LED lighting, small commercial audits and retrofits etc. The Governors Energy Office has 2 great programs already; Insulate Colorado and Energy Star New Homes. Several communities in Garfield County are already participating in those programs. The State has encouraged us to roll those programs into this grant application. They would be renewed for 2009 and they would get all of the 6 communities in Garfield County to participate in each of those programs. Insulate Colorado provides a $300.00 rebate for energy efficiency measures taken in homes. Energy Star New Homes is aimed at largely training and education for developers, architects, builders, building inspectors etc. They are not going after the Wind Project; possibly in the future. They are looking into Greening Government; this would give them a base line to measure their progress. They would also like to provide governments with assistance with green fleets, climate emission policies etc. Model codes is another one they feel is important because it is the foundation of growth and smart growth in terms of making sure communities have the right rules in place for new construction, to be as efficient as possible. Energy prices going up; they will continue to escalate and it makes sense to set people up for more stable energy costs in the future. In the grant they anticipate using some of the funding to fund a sustainability team who would carry out all of the projects. Another category is called "Other"; the State opens the door for creativity. They would like to partner with Solar Energy International in Carbondale to do some creative education programs, also provide scholarships so Garfield County residents can attend classes. They would also like to have some fun with this. They have come up with "Solar Olympics"; it would be an inventors competition for teens and young adults to apply solar energy to cars, lawnmowers etc. They would like to pursue the concept of a clean energy financing district. This is being tested in Boulder County this year; it ties into some legislation that was passed, HB 1350. It opens the door for some very affordable long term financing for private property owners to make energy efficiency and renewable energy improvements on their property. Commissioner Houpt said she applauded them for their list; very inspiring. Chairman Martin stated; as a qualifier, the feasibility studies have always been the biggest hardship for folks, like wind power. The feasibility study actually costs more than an installation of a facility. Is that going to be one of the requirements on other folks putting their projects forward, to prove they can do it? That hasn't been addressed yet has it? Who will be reviewing that technical aspect and making sure it is not a waste of money, it will actually benefit people? Alice stated that was a good question and every one of these categories, except for other, are Governor Energy Office categories. They are recommending proposals responding to this initiative pursuit. With each of these categories there is Geo staff involved. Chairman Martin asked if that is part of the grant process, will it be covered in the cost of evaluating that and Alice stated yes. Chairman Martin asked if it would be governed by the Board, approve projects? Chairman Martin also mentioned the land use plans. He also referenced House Bill 1350; there are some conflicts in the way it is read literally and the State Statute on what you can and can't do as a government with monies to pay things forward. That is under legal review right now and is in conflict with the County Powers Act, you can't loan money out. Commissioner Houpt stated she thought Boulder has looked at that because of the bonding approach they are taking. She talked to one of their Commissioners the other day; we'll see how it shakes out. Chairman Martin stated; who takes the bond, who is responsible for the bond, who then distributes the money to pay for the project and then who does the assessment of the improvement. Heather said Boulder will be a good test case. Commissioner McCown asked if they can speak to Boulders system, how is it set up; was it a countywide vote and is it a mill levy tax? Heather stated yes, it is a countywide vote, it is an option in a taxing district. You only opt in if you choose to take out a loan to pay for energy efficiency improvements on your property. Commissioner McCown asked; they are the only one who is taxed and Heather stated; only those who opt in. Commissioner McCown asked; everybody votes on it? Heather said everyone has to vote to authorize the County to issue the bonds. Chairman Martin stated that is where the rub comes; then you have to identify those that are off end and the assessor has to look at overall recovery of funds to pay for the bonds. Commissioner Houpt stated; hopefully they will be successful. Commissioner McCown asked if there has been clear legislative action on this; are in fact all of these products, that an individual buys, are they considered personal property and then would have to turn around and pay personal property tax? Alice stated they shouldn't say HB 1350 in this piece, but keep focused on the goal of it which is overcoming the upfront cost barrier. Commissioner McCown stated if someone wants to convert his house to solar; does he have to pay personnel property tax on those solar panels and the equipment that goes with that. Heather stated her understanding is no; there was legislation passed that exempts it. Commissioner McCown stated good; that would be a significant deterrent to someone wanting to diversify their utility cost to whatever the system may be. Chairman Martin asked what are you assessing on, increased value? Is it the property, the add ons; that question is really not answered yet. The assessor would need to know how he is going to approach. Commissioner McCown asked; are you are going to be a 501C-3? Alice stated they are already a 501C-3. Commissioner McCown said it sounds like there is going to have to be an intergovernmental agreement between all of the local governments in the County and then a contract with you, and then Garfield County as the fiscal agent assigns the money to you folks upon your request; in a method of a grant with the scope of services. Heather stated that was one very logical approach to it. Chairman Martin stated they have to have an accounting of where all the money goes. The other one is; the commitment. The matching funds, which is 25% of the possible $2 Million and how much each entity is going to contribute. Alice stated the way DOLA and Governors Energy Office put this together, it is intended to be a very comprehensive approach. They are asking for regions to step up to the plate; if you want to steer your region in this direction, what would it look like. That is why it has all the pieces and we are shooting for the full $2 million they say a region could conceivable secure. They have to get at least 25% local match; they are aiming for higher. They can count the rebates and incentives that utility companies offer; they are weaving them into the commercial and residential programs. They can count in-kind support; they are asking for cash from different local government partners and different organizations. They don't know exactly what that amount from all the other partners will add up to yet. She stated Garfield County is the first Board they have come to; now that the working group has gotten them to a

certain level of completion. Over the next 2 weeks they will be going to other boards. They are hoping Garfield County can put in a sizable amount to jump start these programs and services. Carolyn asked if the initial grant document, where the BOCC promises to be the fiscal agent, between the BOCC and the Governors office only, DOLA is not a part…… Alice stated that no, the application actually goes to DOLA and it is a new program. Commissioner Houpt asked if today they knew a specific dollar amount they are requesting. Alice said they have a number they would like to put on the table; about $200,000.00. Chairman Martin stated he thought they needed to commit to that. Commissioner Houpt said after your meetings with the other entities she wanted to make sure they didn't fall short. She certainly would support this but if you need additional funds she thinks they should be able to come back. Chairman Martin stated with the working group and all the discussions; he thinks $200,000.00 is a good start and we can go from there. Ed said to remember you are actually providing more than $200,000.00; in your involvement with the building across the street, you will be throwing in match money for those energy improvements as well. Heather stated they would like to come back on September 15 to report on the other communities input. Commissioner Houpt stated they would probably do a motion at that meeting.

AMENDMENT TO SURFACE USE AGREEMENT BETWEEN GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS AND ANTERO RESOURCES PICEANCE CORPORATION TO ALLOW FOR WATER PIPELINES – CODY SMITH

Cody Smith of Wagon Wheel Consulting and Mark Kaveso were present. Cody submitted a survey of the Wasatch Pipeline and pipeline alignment plan located at the Garfield County Regional Airport property. The amendment being proposed was explained. Cody produced a large map for the BOCC to review. Carolyn stated although this is calendared as an amendment to the surface use agreement; she wanted everyone to understand there are actually 3 different documents that control this length of pipeline. They will probably have 2 amendments to 2 of 3, and possibly a whole new agreement to cover the pipelines as they go under the toe of the new slope. Cody wanted to clarify that they are not going under the toe of the new slope; they are going around it. Antero is proposing to install dual 12" pipelines; for water produced in frac water II. Cody explained this is to reduce the truck traffic. What little they have done so far, they have been able to reduce their trucks by 75%. Cody explained on the maps how it would all tie in.

Carolyn stated that the documents they have so far, except for an amendment to the surface use agreement and a quit claim for access and water pipeline; contemplate only gas pipelines. There has to be amendments to the documents to allow these 2 water pipelines and commit Antero to appropriate safety measures for separating these pipelines. The biggest issue, from a legal prospective in terms of what is being drafted, the new right-of-way which goes around the toe of the slope and gives a 60' buffer. Mark can you explain the engineering on that and if there was any problem with the stability of the slope.

Mark Kaveso with PRT Consulting stated they had discussions with the slope stability geotechnical engineer and they did not feel comfortable placing the water line under the toe of the slope. They requested they move the water line a minimum of 50' from the toe and slope. Carolyn stated the other issue; the most conservative approach is to give Antero a license to use County property for this purpose, around the toe and the slope. Not only do we have airport issues; but there is also the possibility of changes to the County Road. Her recommendation is not to give a real estate interest in County property as an easement, but to keep as in the first agreement going under the toe of the slope for the gas line. If airport purposes or road purposes require we could make Antero move the water pipeline if we need to. Carolyn doesn't have too much concern about the BOCC granting real estate interests easements out at the airport for these pipelines, and the other areas because these are terminable easements. They will eventually go away when all the oil and gas activity goes away; but she has some concern about all the activity going on out there with the airport and roads. Carolyn and Cody are here today to ask you to make a decision on whether or not you want them to put these water pipelines here. She is specifically asking what is the quantity of land right you want to give them, assuming you want to do it. Do you want it to be a use by right, a license, a permit, or a real property interest and easement? Cody wanted to clarify that when he met last week with Antero, Fred Klein; they discussed the area down at the toe of the slope and that could be possibly where the new County Road could be realigned to. They tried to go down our existing pipeline; but it has been covered all in and they would be digging 40' to 50' deep. Commissioner McCown asked about the existing pipeline right-of-way; it is a license and it goes down from the surface to whatever depth needed, if that surface is filled is that still a valid license? Carolyn stated it is a license to keep it there; but that agreement had very specific language. Commissioner McCown stated he knew; but that maintenance of that line has become unrealistic. Carolyn stated that was correct and the agreement with Antero said if anything goes wrong you have to plug. If you relocate it, the County is not going to pay for it, so it puts the risk on Antero. Commissioner McCown, given the concerns as to where this road may be; why didn't we allow them to go down the existing licensed area, which is much shorter, it eliminates two borings, and come down the toe of the slope like they do off of every other mountain, and tie back in at the bottom, staying right on the existing pipeline. Cody stated the reason for not doing that is because of the routing for the County's runway. Basically for any unforeseen accident occurring with the water lines, they have a blow out and you would have a big hole at the end of your runway. Carolyn said from listening to the engineers and planners talk, water is much more of a concern than gas. Commissioner McCown said you have Mamm Creek much closer to the toe of the slope in two different areas. Mark stated true; but they are going to protect the toe of the slope for high flows in Mamm Creek. They are going to put in an erosion protection. Commissioner Houpt asked Carolyn if she just needed direction from the Board on what kind of document to bring back to them. Carolyn said she needed 2 things: 1) Are you going to let Antero put these pipelines in, is that an okay use of County property, and 2) for the new area that goes around the toe and the slope and across Mamm Creek, is that going to be a permit or an easement. Cody has determined, working with his surveyor and the building and planning department that this does not come within our administrative permit for pipelines. Cody stated that was correct and he spoke with the Garfield County Surveyor, Scott Aibner and he gave Cody the footages of the total pipeline; which is 3.6 miles. As Garfield County regulations read; it is greater than 2" and over 2 miles. Cody spoke to Fred Jarman and Carolyn last Friday and they were both in agreement with her that no administrative permit is required. Once they get off the County property and the airport there is a small section of land owed by the airport land partners; but the

majority of the pipeline is within C-DOT right-of-way following existing pipeline route. Commissioner Houpt asked how long the pipeline was and Cody stated 3.6 miles. It is a ridiculous regulation. Carolyn asked if there was a second private owner over Snyder's property. Cody stated they are going over part of Snyder's property, which is following the existing gas pipeline easement. The majority is on C-DOT. Commissioner McCown – I make a motion we allow the placement of these water lines and it be granted in the form of a permit. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

REQUEST FOR SUPPORT OF DEBEQUE FIRE PROTECTION DISTRICT – SHANELLE HANSEN

Shanelle, secretary for the DeBeque Fire Protection District was present. Shanelle Hansen presented the request for assistance and support of the County Commissioners in their effort to form the DeBeque Fire Protection District. She reminded the Board that in the election of November 2007 the formation of the district passed as well as the funding however it did not go into effect until the next year. Therefore, a financial status sheet, as of August 8, 2008, was submitted showing they only have one-half of the funds needed to run the department for the remaining portion of 2008. That amount is $75,000.00 in order to continue operations through April 2009 when the tax revenues will start to come in. Shanelle said that any donation from the County would be greatly appreciated and she included a list of needs in order of priority. Chairman Martin stated it was an interesting meeting and they had Mesa County there as well as the industry, the trustees, and the sheriff. The request is for about $50,000.00; the Fire Protection District has been formed, it was voted upon, and their budget is running a year behind in collecting funds. The sheriff feels the IGA or the mutual aid pack is very valuable, and he also supports your request. It is up to this Board to find the dollars to allow this to happen. Carolyn stated that when the sheriff was before the Board earlier, he mentioned the Lower Valley Fire Protection District. Chairman Martin stated the sheriff has an agreement with Lower Valley to provide services within Garfield County; even though they are housed in Mesa County, Douglas Pass. Carolyn asked if we (Garfield County) created an IGA with them or is it part of the mutual aid. Is there money flowing out of the sheriff's budget to that entity and Chairman Martin stated yes it is. Carolyn asked, if you vote for this would Garfield County have a services agreement with this fire protection district. Chairman Martin stated we are already within their fire district; 3 square miles or better. Carolyn asked if we would have to have a separate contract saying for this $50,000.00 here is what you are going to do, or is that already covered. Chairman Martin thought it was already covered in the mutual aid package. He also thought that the sheriff was able to use his contingency funds with the Fire Protection District and cost allocations to his office to assist the DeBeque Fire Protection District. That is what Chairman Martin is proposing and that is what the sheriff supported. Commissioner Houpt stated; once the funds are available from the mill levy, will they support the budget that has been created or is this going to be a long term….. Shanelle said the estimated projection was when the mill levy comes in it should be plenty to support our annual budget. In the meantime, until the mill levy comes in, we need operating funds to get there. Chairman Martin said he thought the projected revenue is $124,000.00. Commissioner Houpt stated you have attached to your memo a needs list which is very extensive. Have you received support from Mesa County as well? Shanella stated they will be going to Mesa County as well for support. Commissioner Houpt said she didn't think what was being proposed would cover anything but operation. Shanella said and they didn't think it was fair to ask one County to do the whole thing. They have a lot of oil companies saying they will support us; but they don't want to support us in cash. They want to buy one of our pieces of equipment on our needs list. Chairman Martin said the Town of DeBeque did extend themselves beyond their capabilities and did help you somewhat. Commissioner McCown - I make a motion we authorize $50,000.00 to the DeBeque Fire Department to support them through their start-up period. I see the potential for them to become self sustaining once the activity up Roan Creek starts coming on line. I think your assessed evaluation will change significantly and you will be self sustaining. Ed Green said he thought they had $47,000.00 in the account. Do you want to authorize me to find the other $3,000.00? Chairman Martin stated yes. Commissioner Houpt – Second
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PLAT AMENDMENT FOR ASPEN GLEN GOLF CLUBHOUSE AND CLUBLODGE, CLUBLODGE LOTS 1 AND 2. APPLICANT IS PCA, LLC – CRAIG RICHARDSON

Craig Richardson, Carolyn Dahlgren, and Stan Mathes, architect and planner were present.
Planner Craig Richardson submitted the following exhibits: Exhibit A –Application; Exhibit B – Staff Report dated September 2, 2008; Exhibit C – Staff report dated June 18, 2007 by David Pesnichak; and Exhibit D – Follow up letter to the applicant, dated June 19, 2007. Chairman Martin entered Exhibits A – D into the record. Craig stated that the Board approved a request to amend the Clublodge, Aspen Glen Final Plat amending the lot line between Lots 1 and 2 on June 18, 2007; however a mylar that was to be submitted within ninety (90) days were never provided to the Planning Department. This new application is identical to the one the Board approved in June, 2007. Staff recommendation is that the Board of County Commissioners approve the amended plat and request the following conditions:

1. That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of Aspen Glen PUD shall be shown or referenced on this amended plat.
3. The plat shall be titled "Amended Final Plat of Aspen Glen Clublodge, Lots 1 and 2"; and
4. 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.

Stan stated this was previously approved in 2007 and between himself and his clients they neglected to file the plat. This is the exact same application and he will handle it all the way through to get it taken care of.

Craig reviewed all the exhibits and he had one comment; which was not in the original staff report and that is the title, and Craig included it as condition number three.
Commissioner McCown – I make a motion that we approve the amended plat with the 4 conditions recommended by staff. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A PROPOSAL TO POTENTIALLY LOCATE A 16-INCH NATURAL GAS PIPELINE IN A RELOCATED COUNTY ROAD RIGHT-OF-WAY FOR COUNTY ROAD 317 (BEAVER CREEK ROAD) APPLICANT IS ETC CANYON PIPELINE, LLC REPRESENTED BY WAGON WHEEL CONSULTING. – FRED JARMAN

Jimmy Smith of Wagon Wheel Counseling, Fred Jarman, and Mr. Chris Leverage, a landowner in the Beaver Creek area were present. Fred provided a letter, alignment sheets and profiles of the proposed road and pipelines. In a letter to the Board dated August 25, 2008 from ETC Canyon Pipeline, LLC, the project is regarding the Beaver Creek Pipeline and County Road Relocation project. The proposal is to construct and operate a 16" steel, natural gas pipeline and a 4" produced water pipeline in order to gather produced gas and water from operators within the Beaver Creek area. The pipelines will cross a small section of BLM lands as well as private lands owned by Dr. David Youberg, Robert Mandich and Laramie II. It will be approximately 2.5 miles in length and will be constructed within a 30' temporary right-of-way. This project will require an Administrative Permit from Garfield County and a Watershed Permit from the City of Rifle. However, as a result of negotiations with the private landowners and Garfield County Road and Bridge, regarding the routing of said pipeline, it has been decided that major upgrades to the existing County Road 317 or a partial relocation of the existing road would be required. All parties have now concluded that relocating the road serves the parties better. All private parties have agreed in principal to granting a 60' easement for the pipeline ROW. The non-exclusive pipeline ROW would revert to a 30' utility corridor following the construction of the pipeline. The landowners would convey a 60' ROW to Garfield County for the new road. It is to be installed in the westerly cut section of the ROW and buried at depth to insure safe construction and maintenance of the County road. The ROW would be left in a condition and grade for construction of the new 24' road with appropriate borrow ditches. Laramie has committed to paying for the cost of the relocated road section to meet Garfield County specifications.
Fred stated that Wagon Wheel Consulting met with a variety of departments a week ago to bring this concept before County Road and Bridge, the City of Rifle, various land owners, himself as well as Commissioner McCown. The concept is the possibility of relocating a County road, which is Beaver Creek Road. The road now runs along Beaver Creek and the idea is that there may be an ability to put both a natural gas pipeline and relocate the County road so you have minimal disturbance to the creek. The question is; it is a timing issue, it is a road vacation issue and how does the County wish to proceed as far as permitting a natural gas line. Jimmy wanted to give the Board a brief history. ETC has a need to install a pipeline; it is engineered for a 16" to gather natural gas, which will be developed in the southern portion of Beaver Creek area. They have had several meetings with private landowner entities. It became evident there were several potential issues installing the pipeline along the adjacent road; which typically we prefer to do to limit damages. They have the Rifle watershed which is immediately adjacent to the existing County Road 317; this is a concern. One, with County Road and Bridge that is a prescriptive easement, which is only as wide as the bar ditch to bar ditch of existing roads which varies anywhere from 12' to 20', it is a very narrow existing road. The maintenance on the current road is marginal at best just because of the size of the road and the amount of usage. A big portion of that road becomes snowmobile access in the winter because it is not maintained. The pipeline is a separate entity from the road; however, they have put themselves in a position to try to mitigate all the concerns, both road and pipeline. Dealing with landowners and County Road and Bridge it has become obvious to them that the best feasible approach, in order to put in the pipeline, is to relocate the road itself. The road is going to need upgrading for the purpose of the future development. Currently it is not safe for potential rig and truck traffic as it exists now. Should money be spent to upgrade the current County Road 317 as it is now with potential impacts to the Beaver Creek watershed or do you move the road to a different area of slope? They are here today to ask for the Boards agreement in allowing the pipeline to be permitted through the administrative process, installed and then the road is built with the landowners granting you the 60' easement. Chairman Martin stated he thought that the dedication from the landowner to the County for the road needs to be done first; then the licensing of the pipeline, and then the completion of the roadway after the pipeline is put in and then the vacation of the old roadway upon the completion of the new roadway to allow that to happen. It is close to what you wanted but this is what we are allowed to do; the dedication of the right-of-way to the County needs to be done first and then we can give you a license to put the pipeline in. Commissioner McCown stated that is how we would have to accept the roadway with the pipeline already in it. We would have to first be the receptor of a 60' right-of-way or easement. We in turn would give you a permit from road and bridge to put your pipeline in that area; that is being donated for the purpose of a road, the sole purpose of the transfer to us. Then your license would come from road and bridge in that same right-of-way; when you put your pipeline in, you would do the road grade and everything down, and leave it in that final condition you just alluded to. Chairman Martin explained they would then proceed on the vacation of the existing roadway, the old right-of-way which would then revert back to the adjoining property owners. Jimmy stated they definitely don't want to eliminate the existing road until the old….. Commissioner McCown stated it would have to go through the vacation process just like any other County road and that would entail a public hearing etc. Jimmy stated in going through the right-of-way acquisition process now, we have started to get signed right-of-ways, should we stop that? Chairman Martin said it depends on which way we go here. Carolyn stated there could be a right-of-way granted to the oil company and then the oil company conveys that to the County; but what you are suggesting Chairman Martin, is the first step be the private property owners give it to the county by way of deed, and then the vacation of the old road so there would be no money passing hands. We don't know if private property owners are here expecting money for that right-of-way. If they dedicate it to the County, there will be no money. Carolyn stated that would certainly be our desire to keep it that way, it keeps it real clean about this being for public road purposes. Commissioner Houpt stated to Jimmy; you mentioned a handful of companies that are going to

be drilling, or already are, will they all be involved in using this pipeline or do you anticipate additional pipeline applications. Jimmy said there are contracts in place with some of those companies. There are potential contracts being negotiated with all those companies. Once the pipeline is in place it is easier to negotiate them because you have the only infrastructure. Whether they elect to share in this is up to future negotiations. There are commitments from at least one of those companies to put gas into this pipeline. ETC is not an operating company; they are a pipeline company. As far as pavement for constructing this road, there is a commitment from Laramie to pay for the construction cost. That payment could potentially be shared by others; but there is nothing in writing. Laramie II has in fact offered a letter of memorandum to the existing landowners to pay that cost. Carolyn asked about the design and survey, has it been done and is there a survey of the old road. Jimmy stated there is a survey of the old road; the proposed pipeline was going to go beside that. That portion of the survey has been done. The survey for the proposed route has been done on the ground contours of existing land and prescribed cuts in those lands to make County road specs. for the construction of the road. There is more survey and engineering work that needs to be done to meet with the County engineering requirements. Carolyn asked if there was money committed to pay for the design work and Jimmy stated yes; by ETC and Laramie. Commissioner McCown asked if that suggestion would jerk the rug out from under your negotiations and your agreements you have already started with the landowners. There could have been some monetary exchange there for pipeline right-of-way; if we change the name of that to a road right-of-way would it change the standing of that. Do you feel there will still be a willingness to go forward that way, or do you see this ending up being transferred from the landowners to the pipeline company and then the pipeline company transferring that right-of-way to us? Jimmy stated yes, and speaking for himself he would say yes there should be a commitment; there has been a commitment all along to purchase the right-of-way and install the pipeline, and in conjunction with that build a road. There have been monetary commitments offered, nothing signed; but monetary commitments towards that goal. One of those companies could back out and wait until it's given to the County and then they will go in for a permit at permit cost only. He feels that would be highly unlikely to happen even though potentially it could; but his thinking is, why would the private landowners convey a right-of-way to the County if they weren't going to get a monitory gain or a pipeline and road. Chairman Martin stated the other thing; they create a pipeline and a private road across their property with an agreement leaving the County totally out of it. Then you would have to have a driveway permit or an access permit on each end of that particular private road. Jimmy said that is correct; it is not feasible. Commissioner McCown stated he just didn't want their suggestion to get in the middle of any negotiations you already had going with landowners. Jimmy said their negotiations with the landowners have been totally up front, and he feels totally fair. He thinks the commitment monetarily for obtaining the pipeline; a place to put the pipeline and a new road would service everyone, including the City of Rifle and is in everyone's best interest not to drop where we are now. Commissioner McCown asked Jimmy what he needed from them today. Fred stated the main reason they came back today was to make sure that the Board is okay with the concept of having a gas line within the County's right-of-way. So the applicant can move in good faith obtaining the administrative permit from the building and planning department, and figure out what kind of instrument will come back to you as far as the conveyance of that 60' right-of-way. Only other comment Fred has; by moving this off it doesn't preclude another company from coming through and using that vacated portion of the road along Beaver Creek. Commissioner McCown stated if it is vacated that would be another negotiation with the landowners and Fred stated that was correct and said by doing this doesn't mean that the area is prohibited from future pipeline activity. Commissioner Houpt stated, we are not actually guaranteeing that protection of the watershed, which is unfortunate. Chairman Martin said they would have to have approval of the watershed off of the vacated roadway. Commissioner McCown asked if they needed something in the form of a motion; I would certainly support this in concept, but the only way I would support it is what I alluded to earlier. Rather than a 30' pipeline right-of-way, and a 30' road right-of-way, I would like a 60' road right-of-way; knowing full well there maybe a pipeline in it. But, that would be a permitted use by road and bridge as opposed to a 30' designated pipeline easement. Commissioner McCown doesn't want that; he wants a 60' road easement with a license for a pipeline. Carolyn said she is thinking of all the legal documents they are going to need. It sounds like for some period of time there is going to be a private easement across private land, held by a private company. At some point there will be a dedication of that to the public. Commissioner McCown said it depends on the order that things happen. If they can get the 60' easement or right-of-way put together, they could dedicate that to Garfield County for the purpose of a road. We would accept that and then we would in turn grant a permit for a pipeline in that easement, given a specific location. That pipeline would be installed and thus the construction of the road would be built in the completion of that pipeline. Carolyn stated she is just trying to figure this out; at one level it is none of the County's business, but if there are private negotiations going on where folks are expecting money for having a pipeline across their property that will have to be a private negotiation. Commissioner McCown stated that is absolutely none of our business as long as that private landowner gives us the right-of-way; unencumbered. Carolyn said that was exactly her point; the easement across private property will have to go away at some point when this becomes a public right-of-way. Commissioner McCown stated the minute it is given to us it will go away and Carolyn stated the documents would have to reflect that. Jimmy stated; we have one or two options, either we continue the negotiations obtaining an easement for the pipeline, and then dedicating, not only that easement but the additional 30' easement (making it 60') to the County. It can be done through ETC, or the cleanest way is for the landowner to dedicate the 60' easement to the County, and then approach the County for a license or permit to install the pipeline with the corridor of that easement. Commissioner McCown stated as a condition of that permit the right-of-way will be left in a road ready… Jimmy stated with the permitting process it would need to include the conveyance of a pipeline initiative from road and bridge as part of the administrative packet. Commissioner McCown - The first thing they would have to have would be a right-of-way that they could grant in. Chris Leverage, a neighbor. Chris stated everyone has been great to work with and he thinks the landowners are happy with this because it will get the watershed out of there. His concern is giving the right-of-way and not having it simultaneous with the vacation; it sounded to him that the vacation is subsequent. Chairman Martin said yes; there is a public process on the vacation. They can't

vacate it unless we have a road to go to; otherwise we are cutting off public access. A road has to be constructed so they can make sure it goes through the survey, make sure it is up to standards, and then they have the public hearing process and vacate the existing roadway or the old roadway, to make it go away. Chris stated he thought everyone would be happy to give the easement; the right-of-way. His only concern is in vacating the road it wouldn't preclude us from continuing to use it. Chairman Martin stated they could do what they needed to do with it because it reverts to the adjoining landowners or the affected landowners, and that becomes your issue. Chris asked if it could go into the document with you that the landowners along there, in other words so they couldn't cut us off. Commissioner McCown stated they can though, because once it goes onto their property it becomes their land. Chris said that could or is liable to become an issue. Commissioner McCown stated it has always been an issue; part of this was the revocation of that road. We are not going to leave both of them open as a County road. Chairman Martin said the other is; it is like a driveway or a private easement, everybody that is affected signs the agreement and agrees to do the maintenance, agrees to keep it open and whatever is there. That becomes a private agreement between the landowners and not the County. Commissioner McCown stated he wouldn't have a bit of trouble if you and the other landowners, in your donation agreement or transfer agreement; whatever we are going to call it, transfer us the right-of-way as a condition of that transfer ensures that the vacation of that is imminent. That is our intent once the new section of road is in place, to vacate the portion that runs along the creek to get away from the liability. You can do what you want on your property; but when that road goes from your property to the next landowners property, that is something you have to negotiate with them completely separate from us.

FORMATION OF THE TRAVELERS HIGHLAND SUBDIVISION PUBLIC IMPROVEMENTS DISTRICT - KARL HANLON

Karl Hanlon attorney with Leavenworth & Karp representing Parachute Commercial LLC., David Hicks, Terry Kirk and Carolyn Dahlgren were present. Exhibit A - The Resolution establishing jurisdiction; ordering questions of the organization, mill levy, and debt authorization submitted for voter approval; designating the County Clerk of Garfield County as the Coordinated Election official, and approving the proposed ballot titles for the election for the organization, mill levy, and debt authorization of the Traveler's Highland Public Improvement District within the County of Garfield was presented to the Board. Today, the question before the Board is to authorize the Clerk and Recorder as the designated election official; and to set forth and approve the ballot titles for the Amendment 1 notice for the Election November 4, 2008. Karl went into statute regulations on timing. They ran into a problem trying to accomplish that; between setting the hearing and the fact that now the Citizens Telegram is the only paper they can publish in. It only publishes once a week and about a week lead time to get your legal notices in. They ended up getting it published once; which was as good as they could do under the statute at the time. They also mailed to all the landowners in the subdivision; of those they only received back two undeliverable out of twenty-three (23) separate entities. The two they received back they did resend. Karl feels they have made every attempt under the statute. He reminded the Board, if they remembered they couldn't find the original petition which required the amended petition. He stated the hearing date was also implicated by the election schedule; because in order for them to get this accomplished, and get the improvements made, ultimately they were trying to get everything in a tight time line. Karl stated; their belief is that they did everything they could to comply with the statute, and that the flexibility in the noticing provision of the statute allows us to essentially do what ever we can as long as you determine it is okay. Carolyn stated the information that she has been given shows that notice of this hearing was published in the Citizens Telegram August 14, 2008; which was the week after you set the hearing date of September 2 at your BOCC meeting. So there were two other weeks in there where Karl could have perhaps gotten the Citizen Telegram to publish it if he had gone back to them on a weekly basis. The notice was properly mailed out to the ownership list. One of the questions she has is; how did you develop your ownership list. Karl stated the same way we do for a public hearing, use the application, went to the assessors records to confirm that we had the currently listed owners and we mailed notices to those addresses. If we got anything back as undeliverable; we then tried to find out if the address had been updated in the assessor's records. If it had we mailed notice there; we back tracked to find out who the person was to get them noticed. Carolyn asked about the 2 that they received back. Karl stated 2 were undeliverable, one of those is back out at a different address, and there are a couple of green cards we have not received back yet. Carolyn asked what efforts they made to find updated addresses for the non-deliverables. Karl stated his paralegal typically goes back to the assessor's database; because often times it is late being updated if there is a late transfer. If not; often times just our knowledge of the community on who people are and where they might be. Sometimes we even take a look at the phone book and see if there address or name is in the phone book; whatever we can do to try and locate them. Carolyn stated going back to the publication matter, the statute is not as simple as once every week for 3 consecutive weeks. Karl said right, there has to be at least fourteen (14) days between the first publication and the last publication. Conceivably we could have gotten it in on the August, 28 as a fourteen (14) day spread between first and last. In all honesty we were relying on, given the short time constraints and trying to get it into the Citizens Telegram and the fact that it was a public hearing; we relied on the back-up position that it is very much like a land use hearing. We did receive two requests for information on this which we sent out as well. So we do know that along with getting green cards there was some public interest as well. Karl stated they feel the public definitely knows what was gong on. Carolyn asked; you could not have had three weeks in, and if you got the second, the twenty-eighth I think you said, would you have been able to meet the fourteen (14) day requirement still. Karl stated they would have barely been able to maybe meet the fourteen (14) day requirement. Carolyn said, so the imperfection is that you could have done 2; instead you did one publication. Otherwise we have the mailing and we have proof of publication one time in a legal newspaper of general circulation in the County. Carolyn stated to the Board that what was needed was a decision as to whether or not this is acceptable notice or not. Chairman Martin said with the Board hearing all the in's and out's of this particular one; do we find it adequate or imperfect. Commissioner McCown stated it was adequate for the circumstances. Commissioner Houpt stated she would have rather they had done 2; but she stated she would also support it. Chairman Martin stated they

will accept and put into the record the notification. Carolyn stated they have a secondary question that is also a threshold question. Carolyn asked Patty Frederick to join her, she has prepared some exhibits for the Board to use and Karl has seen them. She has prepared an outline of a resolution on the different findings that would have to be made if you were to approve and send this on for election. She has also prepared a general outline of the statute. One of the finding you would have to make at the end of this hearing; if you are going to send it over to Jean's office for election, we have a certain percentage of the electors in the district. She would ask Patty, who has done this research, and she can tell you what she found; any case law or not and the actual words of the statute. Patty reported basically the petition would be required to be signed by a minimum of 30% of the electors in the district or the proposed district. In this particular case the petition has been signed by 3 people. Note worthy about that; those 3 people own 73% of the property in the proposed district. The question really becomes; what is an elector for the purposes of the formation of this district. Patti thinks there are two possibilities for interpretation and there is a statute, case law, and rules by the Secretary of States Office that really give you an answer to this. Is an elector one person, or is an elector the number of pieces of property that you own within the district. If you own fifty (50) pieces of property, do you get one vote or do you get fifty (50) votes. That of course is tied, also, it relates to the amount of taxes you are going to need obviously. In this particular situation it is all commercial land, the use there is purely commercial. She thinks Karl would suggest that an elector is based on the number of the pieces of property that you own within the district that you will be taxed. So a person might get fifty (50) votes; the alternative, which she thinks everyone is more familiar with, is the one person one vote. Patty stated it is really up to the Board to make a decision about that threshold question of whether it is one person one vote, or your votes are based on the number of lots you own. Karl wanted to add that the statute isn't exactly as simple as talking about individual human beings. The statute speaks to a qualified elector being either an entity or a person who owns property, or someone who has property under contract who is obligated to pay property taxes as part of the contract for purchase or sale of that property. The reason that gets a little more complicated is; you're not talking about individuals at that point, you're talking about the statute as referencing it will be implicitly an ownership interest in real property. Because you can have different properties under contract to different people, the same entity, for example Corporation X owns fifty lots, if they were only allowed one vote, even though they have fifty (50) conveyable lots, they certainly would be bearing a larger brunt of the taxes being imposed. Also, more importantly, Corporation X could in fact, for purposes of each one of those individual lots, designate a different natural person to vote for them under the statute as it is written, and Corporation X could enter into fifty (50) separate written contracts for purchase and sale of that property. When you combine all of that, and also from his standpoint he looks to the other special district statutes when you are talking about real property taxation and some are clearer about each individual lot if separately conveyable is entitled to a vote. When you get into these different types of qualifications of electors, he thinks it implies that each lot is entitled to a vote. Chairman Martin stated as well as having the obligation to pay the proportionate share per lot instead of just individual property owners. So if you have fifty (50) lots versus two lots, the fifty (50) lots gets to pay fifty (50) portions, the other pays two. Commissioner McCown felt it was a shame the statutes don't give a clear direction. He has always had the opinion one lot one vote in this type of an arrangement. He thinks it is the only fair representation and he would support the one lot one vote. Commissioner Houpt felt if we looked at the history of this whole discussion; it has been very apparent in the Commission hearings that it has been a discussion of one lot one vote. She also would agree that is the direction that this has taken, and it is because there are a couple of landowners who will be bearing the major cost of this project. Chairman Martin stated the landowners will have a potential to recover if they sell their lots. We will accept that; one lot one vote, we will also say that the notification was adequate and we will accept that with those two caveats. Chairman Martin swore in any speakers at this time. Karl gave a brief background as to the current status of the Travelers Highlands Subdivision. He believes it was January of this year that the Board determined they would no longer issue building permits within Travelers Highlands because of insufficiencies related to where it accesses Highway 6. There have been extensive negotiations with CDOT as to what is required to bring it up to CDOT's standards. At this point, effectively Travelers Highland is not a buildable subdivision until something is done about the intersection. In response to that, Parachute Commercial represented by Dave Hicks and Terry Kirk and an entity called 5C, who had a special use permit pending at the time, starting talking about how do we resolve this issue. Mr. Kirk and Mr. Hicks, with some direction from the Board, forwarded the idea of creating a public improvement district, which is a real property taxing district for purposes of constructing these improvements. A public improvement district under Title 30 requires the BOCC to sit as the Board of that entity. It is a separate entity for purposes of vote of taxation, whether or not it counts against your debt and for administrative purposes. It is a separate and distinct entity with its own revenue string, if in fact a mill levy were imposed. At the current time it appears there is about $110 to $150,000.00 worth of improvements may be needed immediately to bring the intersection up to CDOT standards for now. Future additional improvements are needed based on CDOT's analysis of future growth within the subdivision. The trick in all of this is finding an equitable way in sharing the costs of bringing that up to standards; because all of those lots will benefit from those improvements being made. That is where we arrived at a public improvement district and a mill levy. The public improvement statute does not require a service plan as it would of a metro district under Title 31. They did supply a service plan essentially that outlines what this district can do and what funding revenues are going to be available at least initially. That analysis determined it will produce $41,000.00 in real property taxes in the first fiscal year in 2009, based on the full statutory limit of fifty (50) mills in taxes on assessed valuation. Fifty (50) mills is $50.00 per $1,000.00 of assessed valuation. If you back into that at a relatively high interest rate; say 8% which is higher than you normally have to go with on a governmental bond. That gets you about $400,000.00 worth of debt to work with that you can repay based on 2009 numbers. Right now they are looking at about $100,000 to $150,000 to complete those initial improvements. He anticipates in the first fiscal year that is all that would happen. Commissioner McCown asked David Hicks if he would sell them back at cost to the district, which he committed to. So those improvements, much like you just saw with the fire district, it takes a while for this stuff to ramp up. Really it will be 2010 before you see that revenue coming in and you have the ability to

pay debt, or do any of those improvements. The other upside to this district is it will have perpetual existence so it can address other internal issues. There are some drainage and internal road issues which also need to be addressed at the time, based on 2009 estimates. That would give you about $250,000.00 to work with over time. Karl added the other thing about the fifty (50) mills; you sitting as the Board of the public improvement district have the ability to set that on an annual basis based on the needs of the subdivision. Obviously if you commit to debt, you're going to have to commit to a certain number of mills; whatever that needs to be to the repayment of that debt. What's left in that difference between what the debt requires and what the fifty (50) mills is set at, gives you some flexibility on an annual basis; look at the need of the subdivision as presented by the owners and say, this is what you the owners have requested for the mill levy to be set at for this year. It may well be that in some years it will be twenty (20) mills or it may be regularly twenty (20) mills that you do a temporary reduction for that amount. You have that ability. The other point he wanted to make, you are not sitting as the Board of County Commissioners, you're sitting as the Board of the PID; but you are still sitting as a Board that is responsive to the ownership interest within that district. From that standpoint you all have some ability to control what happens in the subdivision without obligating the County as that other entity; to any of those improvements, but also it is a neutral forum for owners to come in and say this is going on etc., and manage that financial piece. He thinks that is a good back stop and one of the reasons why a public improvement district was selected over say a metro district, which would have separately elected a Board that would not be responsive to you in a particular capacity, because they are completely a separate political entity. Kenny Gardner, property owner, stated he is not sure what is taking place down there except what the state required to fix the entrance. Chairman Martin stated that the improvement district is required before any more building permits are issued; they have to improve the entrance to meet CDOT standards. This has to happen before they can go forward on any building or any permits; it is at a stand still right now. Kenny asked who; all the property owners? Chairman Martin stated every property owner within the district. How many lots do you own now five (5)? Kenny stated five (5). Chairman Martin informed Kenny he would be assessed on whatever it would be; mill levy for five lots and you would have to pay that annually. If you vote for this improvement or a proportionate share of all the lots then it depends on how much money is borrowed and divided up by how many lots there are. Commissioner Houpt stated if at the end of the day this passes, you would be assessed regardless of how you voted in particular. It would be good to get with the rest of the folks and find out what is slated for improvements so you have a good understanding of what you would be assessed. Chairman Martin stated if the question goes on the ballot, you would have to vote. Carolyn stated she wanted to make sure that Kenny and everyone else understands that we are not talking about issuing bonds, or going to Alpine Bank and getting a loan. Right now what we are talking about is the revenue collected; that would pay for the improvements. Betty Hollenbaugh stated she has 2 lots; okay what ever is voted on for valuation today, or how is it valuation for the assessed value determined. Chairman Martin stated through the assessor; he determines that every 2 years on reassessment. Betty asked what this is about; what is going to change, anything? Chairman Martin stated no; the sale of lots and how it affects everything else within our community, if there is a whole bunch of sales and they sell it for more than what your lot is right now, your lot would go up just like the neighborhood is developed and houses go in, your house based upon the size of the house, location etc. through the assessors formula your valuation would probably go up. Betty stated the bottom line is just the assessed value of these lots, is that correct and Commissioner Martin stated correct. Betty continued, and anything else as far as the improvements; my question is when a subdivision is formed, is it up to the property owners to take care of the improvements necessary for the development, like roads. Chairman Martin stated it can go either way; it depends if they are dedicated roads and maintained by the County, however we are not accepting anymore roads. Chuck Castel, who created this particular subdivision, gave the property owners the responsibility to make improvements.
Betty stated she has one of the original lots and it was on the corner at that time and now her lots are not together. Who can I consult to explain the map to me? Chairman Martin said Terry Kirk, who is in the back of the room. Carolyn asked if they would like Patty to lead you through the statutory requirements that are binding. Chairman Martin said not at this time, we still have a public hearing and he still wants to go back to the applicant on closing. Karl said he had nothing to add; but he would say that the map that was attached to the service plan was the one supplied from the County Attorney's office, which he thought was the original. He appreciates the County's cooperation in this process. There will be a resolution and he supplied the Board with a minor update. The County Attorney's office requests a little tweak in the TABOR language to clarify what the maximum mill was on an annual basis. Carolyn stated from the County Attorney's prospective there are two resolutions we need today. Chairman Martin asked if there was any other testimony to consider; if not he will entertain a motion to close public hearing process. Commissioner McCown - So moved. Commissioner Houpt second, as long as that still allows our attorney to go through her materials. Chairman Martin stated absolutely, it is just the public comment portion we would be closing. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Chairman Martin stated they have legal advice, directions and certain findings that need to be made; either in a positive or a negative way. Patty stated she gave the Board a copy of the proposed resolution that would adopt the findings that are statutorily required. Essentially, you do have jurisdiction as the Board of County Commissioners under 30.25.04 of the Colorado Statutes to establish a PID. Secondly, an amended petition was submitted to you by the proposed PID on August 6, 2008. A review of the tax roles is indicated that there are 234 electors within the boundaries of the proposed district. It would also indicate to you that in checking with the County Clerk there are no residential properties in the district and thus no registered voters. The petition has the correct number of signatures. The Board has already found the 3 signers on 73% of the property in the proposed district. The signatures on the amended petition are genuine, the amended petition sets forth the elements necessary according to statute and the elements listed on the petition appear to be true and accurate. The petitioners will very shortly be depositing with the County Treasurer's office $2,000, which is an estimate of what the election cost will be, it will probably be less than that. Nevertheless the statute does require a deposit of some cash or bonds. The proposed district, if formed, will confer general benefit to the district and the cost of the improvements will not be excessive as compared to the value of the property as a result of the benefits bestowed on the property. You have

already made a finding that notice has been adequate. We simple request the Board assumes jurisdiction of this matter and refer this matter to the voters of the proposed district for a mail ballot election on Tuesday, November 4, 2008 to be held in coordination with the general election.
Commissioner McCown asked if this was the first resolution that needed to be approved.
Carolyn stated yes. Commissioner McCown – I make a motion we approve the resolution as presented. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Carolyn stated they will bring it back on a consent agenda. Karl passed out a resolution that is actually acknowledging the resolution they just did and actually adopting the ballot questions that are necessary. Carolyn informed the Board there was a draft in their packet. Karl stated he would go over what the minor change was. Article 10, of the Constitution Section 20, lovingly referred to as TABOR; there are certain hoops and certain ways you have to ask questions related to tax increases. Getting into the heart of the matter; paragraph with the subsets with questions, there are 4 questions that need to be asked. The initial one is whether or not it is going to be organized as a threshold matter. Whether or not the mill levy will be imposed; and that language is statutorily required. Third question is what is referred to as a DeBrucing question, which means you can retain and spend, and you will see in that third question we include a wide variety of revenue sources. As you are aware, having had to deal with this, TABOR is very exclusive; if you don't include it and you add it later then you have to go back for another question. They have no idea given if this has perpetual existence; it may be at some point that you decide that the imposition of a fee for say snow removal is more efficient than taxes. This would give you the flexibility that it wouldn't count against your retained amount. Final question; debt authorization and the reason we are asking that question is, regardless of, it doesn't mean you are obligated to incur debt, it means you have the flexibility for the next 4 years with this question to do that. Our thoughts are it may be something as simple as essentially a reimbursement agreement that would be treated as debt if Mr. Hicks or someone else completes the improvement and is reimbursed over time because that is a multi year fiscal obligation. Even though it is not classically going out to bond; it is debt under TABOR so you would need that authorization to enter into that kind of an agreement; hence the fourth question on debt authorization. The minor change was simply in the second line of question 1B; rearranged where it had 50 mills and the $42,849.00 as the first year projected revenue, you need to have both of those. They were just trying to find the best way to say that to make the question the least confusing as possible. Carolyn said with our other hat on as representing the Clerk and Recorder, she asked the clerk to address the Board in terms of how the ballot questions and issues are phrased. Jean Alberico stated the only thing she sees right now is that when it involves money it is an issue and not a question. Karl stated they will be numbered for the ballots. Chairman Martin- There is minor adjustments in reference to the election procedure and format. Carolyn wanted to make sure that the petitioners were okay with the $2,000.00 deposit to cover all expenses of formation and all expenses of the election and if it is not used, the money will go back. Karl stated yes. Commissioner McCown – I make a motion we approve the resolution that was just presented that includes the ballot questions, knowing full well that the Clerk may number those ballot questions differently at the time they do go on the ballot. Commissioner Houpt – Second. Carolyn brought up some corrections and typos in the first line; wasn't the actual meeting August, 6 not August, 7? Karl stated yes. Question under paragraph four, A, B and C. Chairman Martin stated with those clarifications all those in favor. In favor: Houpt – aye McCown – aye Martin – aye Carolyn stated to Chairman Martin she had one follow-up item; there is an IGA that has been signed by the petitioners and it has to do with the election itself. We need authority from Chairman Martin to sign that IGA. It is in the same form as all the other IGA's you have approved for the coordinated election. Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

City of Rifle – Trapper Hollow Investment LLC

Commissioner McCown stated he had a question. He received a letter and he is assuming everyone else did also from the City of Rifle that pertains to the annexation of some property called Trapper Hollow Investment LLC. It gives a legal description but it doesn't give a physical description and he is concerned if there are any roads that might be involved with this then do we take our standard position that they would also annex those roads if they go through the property or adjacent to this property.
Carolyn stated she knew nothing about this. She said she doesn't know if it was delivered to building and planning. That is usually where they start. Commissioner McCown said it was dated August, 22 and it has no stamp on it that it was received by any governmental entities. Carolyn asked if each Commissioner received one and Chairman Martin stated he delivered it to the legal department. Commissioner McCown gave his to Carolyn. Commissioner McCown stated he does have concerns if it involves County roads because that should be referred to road and bridge.
Carolyn asked if he wanted feedback at the next meeting and Commissioner McCown stated yes.

ADJOURNMENT

Attest: Chairman Martin

_____ _____

SEPTEMBER 8, 2008,
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 8, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 a.m.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

ENERGY ADVISORY BOARD ISSUE - Betsy Sewer, Chairperson of the Energy Advisory Board, asked to have an agenda item at the September 15, 2008 meeting to discuss the Boards recent decision regarding the EAB, and the EAB's plans to further examine and define their role and purpose. An agenda time was set for 10:15 a.m. next Monday, September 15, 2008.

SPRING VALLEY DEVELOPMENT - LAGILGIA

Donnalynne LaGilgia (appeared before the Board on June 2 and August 11, 2008) stated she was here for an update on the Spring Valley Development regarding their water situation. She is reporting that these issues are still unresolved; they have not heard from the new representatives since May 22, 2008, in which they were notified of the existing negotiations between the previous manager and the Lagilgia's were nullified. She hadn't heard from the Board and wondered what the status was in regard to this issue. Don DeFord stated this was not an issue that involves himself or his office; this involves the Planning Department extensively if not primarily. During the last few weeks; Ms. LaGilgia is correct in the sense there has not been a response from either the planning department or Don's department as they have been conducting research on the minutes. Don stated he and Fred Jarman's intent is to bring this before the Board next week with notice to the developer, so they can be present as well. This will be noticed to the developers and will be set for an extensive discussion on the September 15, 2008 agenda at 10:15 a.m.

AFFORDABLE HOUSING PROJECT – ED GREEN

Ed Green informed the Board he has provided a copy of the study relating to the affordable housing project. The Aspen Foundation and their consultant would like to finalize the study this week. If you have any comments or concerns; please give those to Ed.

COUNTY MANAGER UPDATE: ED GREEN

REQUEST FOR A NEW POSITION IN THE FINANCE DEPARTMENT – LISA DAWSON

Lisa Dawson presented her case for a new position within the Finance Department.
This individual would work closely with the Human Resource Department to provide service to the payroll department. She explained that because of the segregation of duties in accounting, they need to have a separate person setting up employee data from the person who processes payroll. She stated this is a pretty involved process. There were errors noted by our auditors that this will rectify. This individual will report directly to the finance department. This position will satisfy the auditors that we would have a proper segregation of duties between the person who processes payroll and the new person who would input the employee data. Lisa stated this will give employees one point person to deal with for changes to their payroll. Additionally this will allow our Human Resource Department to focus on their specific duties such as recruitment and job descriptions. Katherine Ross strongly supports this move. Last year when she was hired she noticed the function and recommended it become part of the finance department. Her department had some turnover and when she replaced personnel she also restructured her department to allow for this faceted payroll related items. Commissioner McCown stated that he wanted to make sure this is a cross-trained position. It sounded to him like there is going to be a lot of responsibility. He reminded everyone there will be vacations, sick day, and he wants the service to be available to our employees. I make a motion we approve the request for a new position in finance to handle employee payroll specific duties. Ed stated they had an estimate of cost; but they won't spend that this year. Commissioner Houpt stated this is for an Account III and you want to be able to hire as soon as you find them; there is money allocated up to the amount of $21,000.00. Both Commissioner McCown and Chairman Martin stated there is not money allocated; it will be a supplement. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONTRACT APPROVAL AND SIGNATURE FOR EXTERIOR PAINTING AT THE SHERIFF'S BUILDING – MATT ANDERSON

Matt Anderson and Lou Vallario were present to give the Commissioners a recommendation for a contract to paint the exterior of the Sheriff's building. Two bids were received and the recommendation is to award a contract to Groth Construction in an amount not to exceed $45,000.00. This job was supposed to be done with the current contract with Randy Ball; Randy stated he couldn't do this job. Randy did submit an offer but they would not be able to do the job until fall. Matt explained this painting was for the exterior painting on some metal surfaces. Lou also indicated they had put $100,000 in the budget for 2008 for painting. Don DeFord asked if the contract with Randy Ball was for 2008 and Matt stated it is a centralized purchase agreement. Don asked if it was a not to exceed figure that might incorporate this already.
Matt stated yes and had Randy Ball said that he could have done this during the time they wanted; they would have gone with him. Commissioner McCown – I make a motion to approve the contract with Groth Construction for an amount not to exceed $45,000.00 for the exterior painting on the jail building and the Sheriff's office. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

CANYON CREEK DRAINAGE ISSUE – MARVIN STEPHENS

Ed Green and Marvin Stephens submitted photographs of the drainage issue in Canyon Creek.
Marvin said Chairman Martin was up there and took photos that were submitted in the packet.
This is a big drainage and it flows into the inlet; the fire didn't help. It's real sandy in this area and the culvert's a drop inlet. The Williams Ditch has been shut off (about two weeks) but the ditch has a large rock in it. Marvin said the ditch is fairly deep, about 4 feet and it really needs a screen to make it work effectively. This is the historical drainage and a house has been built below the drainage and this effects them. Marvin said he put a crew out there to dig the ditch and also the barricades are in place to protect the pump house. We need to get with the landowners as a right-of-way may be needed to do what's necessary with the drainage. Commissioner McCown addressed concerns similar to the Storey property in Sweetwater. If we do anything to change the historical flow, it may cause more problems; therefore, he favored not to change the historical flow. Chairman Martin noted this is on federal ground and the agency should also be contacted; Jeff Nelson will be involved. The direction given to Marvin was to get in contact with the federal people and the residents to see what could be done.

ED'S TOPICS FOR EXECUTIVE SESSION DISCUSSION – Legal advice concerning land acquisition strategies, RFTA negotiations; silt negotiations regarding a DOLA grant for participation and Lynn Renick would like legal guidance regarding a human services issue**.**

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/APPROVAL OF RESOLUTION AMENDING RESOLUTION 08-24 TO INCORPORATE A BONUS PAY POLICY AS PART OF THE COMPENSATION AND CLASSIFICATION PLAN, AS SUCH RELATES TO THE OFFICE OF THE GARFIELD COUNTY SHERIFF.
Lou Vallario and Lisa Dawson presented. Don DeFord said that the Sheriff's bonus pay plan concept was approved by this Board. However; the State mandates that the Board of County Commissioners and Sheriff approve a policy and some changes had to be made in the method of payment.
Lou said the simply way to accomplish this is to gross up and pay the bonus of $3,100 in order to give them the $2,000 bonus. The employee will have to pay taxes on the bonus. We are using the bonus offer from the grant programs funds and the Board approved them to take a look at it to see if it worked. Lou stated that now a lot of private businesses are doing the same to attract employees.
Commissioner McCown – I make a motion to approve the Resolution and the Chair be authorized to sign. Commissioner Houpt - Second. In favor: Houpt – aye McCown – aye Martin - aye
DON'S EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE; DEBBIE QUIINN TO PROVIDE LEGAL ADVICE CONCERNING THE 1:15 ITEM, TEEPEE PARK; PENDING POTENTIAL CODE VIOLATION ISSUES INCLUDING THE SAVAGE AND CORNIC TEMPORARY HOUSING ISSUE; FRAC TECH SUP NON-COMPLIANCE IN THE MAMM CREEK 319 WATER COMPANY CHARTER BUS TERMINAL A POTENTIAL CODE VIOLATION; NEED TO DISCUSS SOME OF ED'S ITEMS; DISCUSS TWO CONTRACT ITEMS RELATING TO COUNTY ROAD 204.
Commissioner McCown – I move we go into Executive Session. Commissioner Houpt - Second.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – So Moved to come out of Executive Session. Commissioner Houpt - Second. Motion carried.
Action Taken:
CODE VIOLATIONS: SAVAGE; GORNICK; FRAC TECH
Don stated there were 4 individual items all relating to Code Violations. He stated they are looking for authority on each of these items from the Commissioners to my office to proceed with necessary legal action. First they are seeking code enforcement against the Savage property concerning placement of temporary housing facilities without appropriate approval from the County Commissioners under the zoning classification. Commissioner McCown– So moved. Commissioner Houpt – Second
Commissioner McCown suggested Don read the other two and they make motions then. Don stated it is similar for Gornick property, same issue. Commissioner McCown – So moved. Commissioner Houpt – Second. Don stated Frac Tech the use of the property is not in compliance with your zoning and we are looking for code enforcement. Commissioner McCown – So moved. Commissioner Houpt – Second..
In favor: Houpt – aye McCown – aye Martin - aye
CHARTER BUS TERMINAL, MAMM CREEK/319 WATER COMPANY
Don stated for the last item, which was listed publically concerning the Charter Bus Terminal, Mamm Creek/319 Water Company, it is his understanding staff is moving forward to present a proposal concerning amendments to the zoning code to deal with the use. Pending receipt of the recommendation from staff, does the Board wish that we move forward with the enforcement of our regulations?
Chairman Martin state no. Commissioner Houpt said they didn't really have anything in place and her understanding is that staff will be moving forward on this immediately. Don said they will be in front of the Board by your first meeting in October. Commissioner McCown stated and we are looking at 1041 possibility. Don stated 1041 possibly and also amending, potentially the allowed uses, either special, conditional or uses right by right in the ARRD zone district. Chairman Martin stated they would have another issue; in the new land use code, not just in the existing land use code. Commissioner Houpt said recognizing that there is not a good fit for it right now and potentially there will be a requirement for compliance.
CONSENT AGENDA:
a. Approve Bills
b. Changes to Prior Warrant List
c. Grants - Sales Tax Recovery distribution for August $64,380.27 – Georgia Chamberlain
A motion was made by Commissioner McCown to approve the consent agenda as presented items a – c. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye
COMMISSIONER REPORT
Commissioner McCown – Thursday is AGNC in Rifle, last Thursday was the Northwest Oil and Gas Forum at the Fairgrounds (100 attendees).
Commissioner Houpt – Leaves for Denver today for Oil and Gas Commission hearings; the media jumped the gun and they will be deliberating proposed rules being brought to the commission, Tuesday through Thursday and CCI Committee meetings and a Board meeting on Friday in Denver; had I-70 Coliation and COGCC executive session last week.
Chairman Martin – Tuesday he was hoping to take part in the Western Governors Association on renewal energy projects. He had Larry sit in for him on the technical committee setting up the different land use codes and established corridors in the western United States; met in Sweetwater in reference to the fire station at the community center; they have the soil analysis that is holding everything else up; but the design is complete, the civil engineering is done, the concrete is ordered, templates are ready to go, building is standing by and they should have that up by the end of the year; EAB met and he explained the Board's vote regarding not allowing the Commissioner candidates; had the Intermountain TPR, in Eagle, Dan Blankenship took charge on this to speak on the transit element and on the distribution of funds for the transit (also deals with the Traveler Program); attended a birthday party for Pete Mattivi (103 years old) on Sunday and Chairman Martin will meet with the Wilderness Workshop on Friday, September 12, 2008 to get the latest information and movements forward; contacted by Utah, Lieutenant Governor and Senators Salazar and Udall and a few others regarding oil shale to sit and talk with them on the September 17, 2008; and CML is meeting next Monday evening at 4:00 p.m. and going into the evening, it is at the Community Center in Glenwood Springs.

ASSESSOR PUBLIC HEARING
ABATEMENT/REFUND OF TAXES FOR CHEP USA, C/O INTERNATIONAL APPRAISAL COMPANY - ABATEMENT NO. 08-270, SCHEDULE NO. P007450 AND ROARING FORK
Notification was to the taxpayer only and that was done through the mail. Chairman Martin swore in the speakers. Lisa Warder submitted the abatement explaining that the property listed for this account falls under the consumable personal property exemption of the original installed cost of $250.00 or less, which means it has an economic life exceeding one year, but the original installed cost including acquisition cost, installation cost, sales/use tax, and freight expense to the point of use is $250.00 or less. Therefore, the abatement request is for $6,991.16. These are actually pallets for WalMart.
SCHOOL DISTRICT RE-1, ABATEMENT NO. 08-274, SCHEDULE NO. R311786
Lisa Warder submitted the abatement stating that this property was demolished per Garfield County Case Number 05CV335 to build a new high school. Because of clerical error the schedule was not deleted in 2007 resulting in taxation. Therefore, the abatement requested is to $15,379.84.
Chairman Martin asked for a motion to close the public hearing.
Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – On abatement number 8-270, Schedule P007450 I make a motion we approve the abatement in the amount of $6,991.16.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – On abatement number 8-274, schedule number R311786 I make a motion we approve the abatement in the amount of $15,379.84.Commissioner Houpt - Second.
In favor: Houpt – aye McCown – aye Martin - aye
PRESENTATION OF GARFIELD COUNTY LIBRARY BUDGET – WILMA PADDOCK
Wilma Paddock, business manager for the library district, Nella Barker, president of the board and Amelia Shelly, executive director were present. Wilma Paddock submitted their 2009 budget for their operating and capital improvements. The operating budget is funded by sales tax and that number is given to us by Georgia Chamberlain. Capital improvements are funded by property tax and that comes from the Assessor. A budget worksheet showing the fund balance at the end of the 2007 fiscal year as $1,597,704.60; at the end of 2008 $1,972.795.04 and a requested budget for operating expenses in 2009 as $4,144,435.02 with an anticipated fund balance at the end of 2009 as $1,218,726.55. A capital improvements budget worksheet was submitted with a fund balance of $3,070,000.00 for 2008 and for 2009 it would be $5,344,480.81. Commissioner McCown – I make a motion we accept the Garfield County Public Library Districts budget as presented. Commissioner Houpt – Second. Don wanted to point out that until the Board actually budgets and appropriates the sales tax revenue as part of their budget don't finalize this process. You will just accept today. Commissioner McCown stated that is his motion.
In favor: Houpt – aye McCown – aye Martin - aye
REQUEST BOARD CONSIDERATION FOR A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT APPLICATION FOR EXTRACTION OF NATURAL RESOURCES IN THE ARRD ZONE DISTRICT EAST OF THE TOWN OF NEW CASTLE ON THE NORTH SIDE OF CR240. APPLICANTS ARE ROBERT AND KATHLEEN KUERSTEN. – KATHY EASTLEY
Kathy Eastley presented. The Building and Planning Department received a Special Use Permit (SUP) application for "Extraction, Storage and Material Handling of Natural Resources" for a 22.455 acre parcel just east of the Town of New Castle, located on the north side of CR 240 (Bruce Road). A period of one year is anticipated to be necessary to complete the removal and reclamation of this site. The subject site is adjacent to the Town of New Castle with residential uses to the north and west, as well as commercial uses to the southwest along the interchange.
STAFF RECOMMENDATION
Staff finds that due to 1) the nature of potential impacts to surrounding properties and 2) the traffic generated by this proposal and 3) the potential impacts to the Town, Staff recommends the Board refer the application for Planning Commission hearing. Mark Gould, 0200 Oak Lane, as you may know we fit under the extraction of resources; but, generally what we are doing is removing the material for the purpose of a future development. This is not a pit; a gravel pit, there will not be any processing onsite, and that is in the application. Unfortunately, under the present set of rules, which we fit for you, it is an extraction of resources. Even though we are removing them instead of having a cut and fill that balances on the job site. This is not another gravel pit on the valley floor; it is for the purpose of improving property for future development. Commissioner Houpt asked Mark how long are you expecting this to be. Mark replied one year. In this SUP they originally started at 6 months; the long and the short of it is they don't know when they are going to get approval. After the SUP they have to go through an approval process with MRB; they fit within the 10-acre process. They have reduced their impacts down to 7 plus acres so they could have an easy time getting through the process. He feels they will move it off extremely fast; they are not selling a product so, they don't have to wait for customers. They put as a 12 month period and under 600 trips a day; it would only take 6 months to get it off.
Commissioner McCown – I make a motion we refer to the planning commission. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A PLAT AMENDMENT AND AUTHORIZATION FOR THE CHAIRMAN TO SIGN THE AMENDED PLAT. THIS REQUEST IS FOR RANCH AT ROARING FORK COMMON RECREATIONAL RESERVE AREA AND THE COFFMAN RANCH NORTH PARCEL WHERE THE APPLICANT SEEKS TO CORRECT A BOUNDARY LINE BETWEEN THE TWO PARCELS. APPLICANTS ARE THE RANCH AT ROARING FORK HOMEOWNER'S ASSOCIATION AND REX AND JOANN COFFMAN. – KATHY EASTLEY
Kathy Eastley, Rex and Joann Coffman, and Mr. Green were present. Exhibits were submitted: Exhibit A – Garfield County Zoning Regulations of 1978, as amended; Exhibit B – Garfield County Comprehensive Plan of 2000; Exhibit C – Application; Exhibit D – Staff Memorandum dated September 8, 2008; and Exhibit E – Staff Memorandum dated September 4, 2007. Chairman Martin entered Exhibits A – E into the

recordKathy explained that about one year ago, September 4, 2007, the Board was presented this exact application for the boundary line adjustment, amended plat for the recreational area; the application was approved. However, the mylar for the plat was never submitted; so they had to receive a new application, and Kathy explained they do have the plat and there are no changes to the application.
Request: To amend the property line between the Ranch at the Roaring Fork PUD and the Coffman Ranch North Parcel.
Staff Recommendation:
The applicant has provided all required documentation and has satisfied the applicable standards for this plat amendment. Therefore, staff recommends the Board of county Commissioners approve this amended plat request with the following conditions:

1. That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. All plat notes from the original Final Plat of Ranch at the Roaring Fork PUD shall be shown or referenced on this amended plat.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy) then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in 5:22 of the Garfield County Subdivision Regulations.

Mr. Green wanted to apologize for not having the plat submitted within the time frame. He is asking that the Board sign the plat so they can get it recorded tomorrow.
Commissioner McCown – I make a motion we approve the amended plat with the three conditions noted by staff. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER AN EXTENSION OF THE CONDITIONAL APPROVAL OF THE BAIR RANCH RESORT SPECIAL USE PERMIT. APPLICANTS ARE CRAIG AND DORIS BAIR – CRAIG RICHARDSON

Craig Richardson, Craig and Doris Bair, and Steven Isom were present. The Board of County Commissioners approved a Special Use Permit to allow a Resort on a property owned by James Craig and Doris Bair on December 3rd, 2007 memorialized in Resolution No. 2008-46. As approved by the Board all conditions of approval shall be completed within nine (9) months of the date of the Board of County Commissioners (the Board) approval, if conditions have not been met, at the Board's discretion an extension of three (3) months may be granted if requested by the Applicant prior to the expiration of the nine (9) month time period, the Board may also require that the operation of a resort on the subject property cease and the Special Use Permit approval may be revoked. Staff received a request for an extension on August 27th, 2008. In a letter provided by the Applicant's representative; it is stated that all work on the septic system and building permit applications have been completed. However; as of Wednesday, September 3, 2008 complete building and septic permit applications have not been submitted to the Building and Planning Department. Craig explained there were 8 conditions and condition number 8 stated; all conditions of approval needed to be completed within 9 months, or the applicant shall submit a request, and up to 3 months may be grounded at the Boards discretion. Craig also went over condition number 3; the applicant shall submit a water quality analysis for each of the 6 wells, Craig was now informed there are 3 wells and 3 springs. Craig feels this is something the Board may want to discuss. What is in the application may not be what is on the ground. Also it required is a submittal of well permits, for the 4 unpermitted wells and this is another discrepancy. The applicant shall obtain building permits for the illegal structures on the property. On Friday the applicant submitted septic and building permits; they are missing the plan check fees, which was required at the time of submittal. Craig reminded the Board that this issue goes back to 2003 when Steve Hacket (Code enforcement officer), first addressed this with the property owners. The request today is an extension; but there is also the issue of the representations, in the application, not being what exists on the site today. Steven said there is only one well that is actually a public well; it is used for the Lodge and Caribou Cabins, they tested it, and it is fine. The rest are in-house use only, and he would like to amend this to be one well used for a public well. On the other one there is no point for in-house. Commissioner McCown asked when you say in-house domestic, what do you use them them for. Steven said they are using the Bair's personal house; they have 2 houses there and they have their own domestic wells, which are normally not tested. They have tested the one that is used for the lodge where they have public use; that well is fine. Commissioner McCown said we have gone from 4 wells to 1 well. Steven said there is only 1 well that is actually used as public consumption. Commissioner McCown asked if any springs were being used and Steven stated no, they are all used for irrigation. Commissioner Houpt asked, what was the reference to the 6 wells? Steven said in the filing since they never filed with the water court, all of the streams and the in-house domestic wells, we had to file all of them. He stated it took 6 months to get through water court; it has all been done. Commissioner McCown stated he did not have the original application in front of him; but it seems like some of these were remote locations and they are all tied into this well? Steve said no, the others are picnic areas, a hunting cabin, and they use bottled water for those areas; the only water they have up there is for flushing toilets. Craig stated his only concern is that there is running water to those cabins, and what we are hearing today is not what was represented in the application. Craig said they say they have signs for non-potable water; but if it is running, chances are it could still be consumed. Chairman Martin said that goes back to a lot of the old places that having running springs; they weren't recorded, and didn't get a permit simply because they didn't want to get a permit, but they were using the water and had claim to it. This was way before the courts. Commissioner Houpt asked are those remote cabins being used by the public or just the family. Stephen said the hunting cabins have no water, they use bottle water, and we have one common old mobile toilet up on Vail Mountain for all the hunting camps. It has its own septic system; there is no use of potable water. Chairman Martin asked Steve if he thought 3 months was enough time to get things in order.

Steve said he would love to have 6 months. Commissioner McCown – I make a motion we grant an extension until March 30, 2009 for the completion of this conditional use permit. Commissioner Houpt – Second. Steve asked on testing the one well that is used instead of the 6 wells. Commissioner Houpt said she is still not clear on which wells run to which facilities. The original application talked about 6 and then you talked about testing 4….. Commissioner McCown stated he has 6 months to clear that up with staff and Chairman Martin and Commissioner Houpt agreed. Craig said his concern is what the condition states. He then explained the 6 wells came from the State engineer and she included the springs. The condition actually says the 6 unpermitted wells…… Commissioner Houpt – I would support testing it just to get everything on the table but, you can work it out as Larry said with the staff. Chairman Martin restated the motion on the floor is to continue until March 20, 2009.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED APPROXIMATELY 20.5 MILES NORTHWEST OF THE TOWN OF DEBEQUE OFF COUNTY ROAD 211. APPLICANT IS CHEVRON USA, INC. – DAVID PESNICHAK

David Pesnichak, Debbie Quinn, Chevron representative Julie Justice and Tim Dobransky were present
Debbie determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Mailing on the notice was for both hearing but the publications are separate.
Chairman Martin swore in the speakers. Craig entered the following exhibits: Exhibit A – Mail Receipts ; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Staff Memorandum; Exhibit E – Application; Exhibit F – Letter from Jake Mall of the Garfield County Road and Bridge Department dated August 12, 2008; Exhibit G – Email from Deborah Quinn of the Garfield County Attorney's Office to Tim Dobransky of Cordilleran Compliance dated August 13, 2008; Exhibit H – Letter from Joyce Dyer dated August 13, 2008; and Exhibit I – Email from Deborah Quinn of the Garfield County Attorney's Office to Tim Dobransky of Cordilleran Compliance dated August 27, 2008.; Exhibit J – Ownership documents from Cordilleran Compliance in response to Exhibits B and Exhibit I. Chairman Martin entered Exhibits A – J into the record

DESCRIPTION OF THE PROPOSAL

The Building and Planning Department received a Special Use Permit (SUP) application for "Temporary Employee Housing" facility on property owned by Chevron USA, Inc located on an approximately 54,000 acre property approximately 20.5 miles North of the DeBeque, CO (See location maps).
More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. According to the Applicant:
This site is remote and is intended to be contained on an approved COGCC well pad along with other drilling facilities. The Temporary Employee Housing facility will be in use year round to accommodate those considered to be "essential personnel" to the drilling operations; however the housing facility will not be at location for more than a cumulative of one year. The maximum number of people to be housed at a facility will be 24. The Applicant has stated that operations are anticipated to begin on the 598-36-AV well pad in August, 2008. There are 22 wells anticipated for this well pad and drilling operations are to take approximately 330 days. Garfield County Attorney's Office: See Exhibit G - "As indicated in the two letters dated February 8 and February 11, 2008 that you included in the application, between Carolyn Dahlgren and James Talbot, Chevron and the County reached an understanding about submission requirements for what we refer to as the entire "Y Lot" that Chevron owns. The current application is incomplete in its proof of ownership of the property in the following respects:

1. There should be a current ownership letter on behalf of Chevron that confirms and updates what Mr. Talbot represented in his February 11, 2008 letter, and the letter should enclose any associated corporate merger documents.
2. We need a map of the entire "Y" parcel showing the parcel in which the 598-36-AV temporary housing will be located, along with all the other contiguous land. Although you included assessor parcel maps, none of them show the location of this particular proposed use nor is there an overall map of the entire "Y" ownership that includes the assessor parcel numbers and the location of this proposed use. (The adjacent parcel map included as Exhibit 4 does include Assessor parcel numbers, but does not show where the proposed use is located.)
3. We need a specific Affidavit of Surface Ownership regarding the 598-36-AV property, including ownership of the SE1/4NW1/4 Section 36, Township 5 south, range 98 west, 6th P.M., which appears to be the property upon which the well pad and temporary housing will be located. This affidavit should refer to and include the back-up documents for the specific location for the proposed use, not just the deeds which you did include, but the chain of title going back to US patents, as Chevron has done in other applications. Also, the deeds you did provide do not highlight the particular portions of the legal descriptions relating to the property upon which you have applied to locate the housing and do not show ownership in Chevron, so either the affidavit of ownership or letter update from Chevron needs to address how it is that Chevron now owns these parcels.

Also, the letter of Acting Agent authorizing you to represent Chevron is dated 4/5/07 and should be updated as well."

STAFF RECOMMENDATION

Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of

approval unless explicitly altered by the Board.

2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. *Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.*
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractor's and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
30. No animals shall be allowed at temporary employee housing sites.
31. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
32. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.

33. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
34. Each facility shall have a minimum total capacity of 6720 gallons of potable water storage which shall be refilled a minimum of every three days.
35. Each facility shall have a minimum total capacity of 6,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.
36. The Applicant shall submit all documentation as outlined in Exhibit G and Exhibit I prior to issuance of the Special Use Permit. This documentation shall be reviewed and approved by the Garfield County Attorney's Office.

Craig stated staff does recommend eliminating condition number 23. The applicants had nothing to add at this point. Commissioner McCown – Move to close public hearing. Commissioner Houpt – Second. Motion carried. Commissioner McCown – I make a motion to approve the special use permit for temporary housing on resource lands with the 22 recommendations from staff. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD. APPLICANTS ARE DANIEL AND MARK GARDNER. – DUSTY DUNBAR

Dusty Dunbar, Jacquelyn and Daniel Gardner, applicants, and Mike Sawyer, Levenworth and Carp were present. Deborah determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Mailing on the notice was for both hearings but, the publications are separate. Chairman Martin swore in the speakers. Dusty entered the following exhibits: Exhibit A – Mail Receipts ; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Staff Report; Exhibit E – Application; Exhibit F – Letter via email from Rob Ferguson, Grand Valley Fire Protection District, dated August 22, 2008. Chairman Martin entered Exhibits A – F into the record. Dusty Dunbar explained: Contractor's Yards are contemplated in this Zone district as a Special Use (§3.02.03). The intent is to utilize an existing steel garage structure and the area immediately adjacent to it. The structure was built for use as a residential garage structure and used in the past decade to house and service agricultural machinery, materials and equipment, and for the minor repair of vehicles belonging to family. (Major repairs to over-sized or commercial vehicles are performed off-site at appropriate commercial facilities.) The structure is not heated and has a concrete floor. The property is accessed County Road 303 by a privately maintained, gravel-surfaced private driveway. Traffic generated by a standard residence is estimated at 10 vehicle trips per day, from an adjacent driveway. The excavation vehicles are currently stored off-site, but return occasionally; they are parked overnight in the area designated to be the contractor's yard. No formal traffic analysis was requested or provided with this submittal. Most of the vehicles that will utilize the facility are owned by residents of the parcel (Gardners.) There are no employees working on-site nor vehicle washing that would require sanitary facilities or the handling of waste water. Sanitary facilities are provided in the adjacent residence for the occasional need, or the owner's use. Generally the employees go to the site where the equipment is stored, park their personal vehicles, and drive out from there in the excavation equipment. In the area proposed as the Contractor's Yard, other activities take place including welding and repair of the excavation blades and minor vehicle maintenance. There is a pile of metal stock, mostly scrap, from which the operator gathers stock to weld pieces onto blades, etc. The activity area is represented to be less than one acre; storage is to be limited to enclosures and an area to be surrounded by screening. Ongoing storage of vehicles may be required to be screened from view with adequate vegetation or fence. The application must satisfy the requirements set forth in Section 5.03, 5.03.07 and 5.03.08. There will be a minimum of water usage related to the trucks and equipment. Only minor maintenance is generally component replacement and occasional storage of the vehicle on-site. No vehicle washing on-site is proposed. The proposed Contractor's Yard operation will utilize an existing residence for any sanitary or office purposes, and has no other employees working on-site. (They may park on-site but drive the equipment to the jobsite elsewhere.) The existing well and ISDS are adequate for the use described. Staff referred this application to Garfield County Road and Bridge Department (Road and Bridge). Comments from Road & Bridge were included from the applicant as Exhibit E of the application. No additional traffic analysis was deemed necessary. Adjacent uses include residences, residences with accessory agricultural use, residences with personal vehicles for business use (pickup trucks), residences with commercial vehicles and vacant agricultural parcels. The operation of a Contractor's Yard on the subject property is consistent with the existing adjacent uses. There is a minimum of outdoor lighting and no additional lighting is proposed as part of this permit. There is storage of tools and truck supplies inside the garage building. The other equipment on the property is agricultural and personal vehicles, not considered part of this operation. Screening from the west of the garage and north along the road is recommended. Screening could be in the form of an 8' fence or vegetation. A total enclosure of the metal stockpile is required, and that screening is recommended to be in the form of an 8' high solid-board fence. Vegetative screening is recommended for the contractor's yard. If any of the fuel is used in business vehicles it is recommended that the fuel tanks be located on the contractor's yard site, and include a containment basin to prevent groundwater contamination. There is little or no run-off or water use associated with the vehicle repair and maintenance activity, as washing the vehicles is not permitted and there are no employees continually working on-site to require additional sanitary facilities. Staff recommends periodic treatment of the gravel driveway to reduce dust emissions. The use shall be required to meet the noise standards so as to not compromise the residential character of the neighborhood. The residential / agricultural nature of the neighborhood and adjacent uses would allow for a daytime dbA of 55 (7 am to 7 pm) and 50 dbA at night (7 pm to 7 am). Noise level may exceed the Residential level of 55 daytime by no more than 10 db(A) not to exceed 15 minutes in any one-hour period. Noise generated by the proposed use will need to be demonstrated to be within the parameters for the existing residential neighborhood to comply with State Statute 25-12-103. Wildlife is more apt to utilize the open pasture area on the south end of the property because there is less human activity there, and water is available. The use is centered in and adjacent to the shop building, so

there would be little disturbance to wildlife. Any native vegetation has long since been removed by agricultural operations of the ranch from which this tract was created. Staff recommends that the Applicant control noxious weeds and minimize disturbance, and the applicant seek advice from the Colorado State Extension Office on 'green screening' with vegetation, if it is to be used instead of the required fence. While this permit is not being sought to attract additional vehicles to the site (the permit is requested to accommodate the occasional storage with no anticipated expansion of the present level of use), there is an effect from heavier vehicles traveling onto the public road from the gravel surfaced private drive. The apron should be surfaced to prevent dragging gravel onto CR 303. The proposed Contractor's Yard is located off County Road 303 on a 20' wide driveway apron. It is the opinion of the Road and Bridge Department that the proposed use will not impact county infrastructure, and has complied with regulations in the past. While the Contractor's Yard area is not separated from the adjacent parcel boundary by a 300-foot distance, it is separated from all residential structures by that required distance, with the exception of the Applicant's own residence. The operation of a Contractor's Yard is not expected to impact adjacent uses. Because the use on-site is limited to minor maintenance, limited storage of components and equipment that is adequately screened and enclosed, and the use is proposed to be administrated by conditions set forth by the BOCC in the SUP, staff feels that no additional security or permits are necessary. No sound assessment was performed at time of application. The use shall comply with the noise standards cited in Colorado Revised Statutes (CRS) 25-12-103 for the Residential zone. A decibel level is measured at 25 feet from a property line. The residential / agricultural nature of the neighborhood and adjacent uses would allow for a daytime dbA of 55 (7 am to 7 pm) and 50 dbA at night (7 pm to 7 am). Noise level may exceed the Residential level of 55 daytime by no more than 10 db (A) not to exceed 15 minutes in any one-hour period. Any noise generated shall not exceed the levels or time parameters of CRS 25-12-103. (2). Because the commercial vehicles are generally stored off-site, the number of trips generated by this operation is comparable to that of normal residential use. All vehicles accessing the site will be licensed and in compliance with County, State and Federal requirements. Comments from Garfield County Road & Bridge include the requirement that *'Any vehicle exceeding Garfield County oversize/overweight limit shall have an oversize/overweight permit issued by Garfield County Road & Bridge Department*' Staff has included a recommended condition of approval requiring compliance with all applicable air quality laws and regulations. Because the commercial vehicles are generally stored off-site, there is limited generation of heat, glare, or radiation. Extended engine idling associated with 'winter warm-up' is, in fact, dissuaded by diesel engine manufacturers, with an in-tank electric heater preferred to warm the engine fluids. Staff recommends that engine idling be kept at a minimum of 3 minutes to reduce fumes that could be considered a nuisance. Activities such as welding or vehicle repair generate noise, fumes, glare and heat. These activities shall be adequately screened, during hours and in such length that is compatible with the residential character of the neighborhood, and meets the noise requirements of CRS 25-12-103. Staff referred this application to Grand Valley Fire Protection District for comment. After reviewing the Special Permit Application and reviewing the previous letter sent to Garfield County dated January 23, 2008 for Daniel & Mark Gardner the Fire District doesn't have any objections to granting the Special Use Permit.. There is storage of flammable or explosive items in this operation; however it is in levels well below the threshold where Federal permitting is required. Staff recommends the applicant be required to have a fire suppression plan and safety equipment available on-site, and work with the fire protection provider to identify chemicals and flammables to ensure the safety to the fire fighting responders. All storage of flammable or explosive solids or gases, however, shall comply with all applicable laws at the national, state and local levels. Staff recommends requiring the Applicant to utilize the Best Management Practices regarding the storage of this material identified in a Hazardous Materials Spill Containment and Management Plan to be created by the Applicant as part of the conditions of this permit. MSDS (Material Safety Data Sheets) lists that detail each chemical's safe handling, fire suppression methods and recommended disposal should be included in the plan. The records should be stored away from the area where the chemicals are stored. The subject property is visible when traveling on County Road 303. There are few residences on adjacent properties, but limited screening may be required. It is particularly important to screen the metal scrap pile, as it is storage of materials that requires the project to meet the industrial standards. The required solid-board fencing enclosure no less than 8' in height will adequately screen vehicles and materials from view. Staff recommends the applicant also consider how the operation might be screened with a green (vegetative) hedge. Staff recommends requiring the applicant to utilize the Best Management Practices identified in a Hazardous Materials Spill Containment and Management Plan (to be created and submitted by the Applicant) such as storing waste in sealed and labeled containers and promptly cleaning spills. Storage of material that may be transferred off-site shall be conducted indoors. Heavy equipment is generally defined as large and powerful equipment for jobsites, namely earth-moving equipment such as graders, dump trucks, loaders, haulers and trailers. There is occasional heavy equipment storage overnight, but mostly of personal vehicles (pickup trucks).

The subject parcel meets the required acreage size for 'Heavy Equipment' as it is 20 acres. The property is not located in a platted subdivision. Staff conducted a site visit to the subject property. There are no residential structures closer than 300 feet to the proposed contractor's yard area with the exception of the applicant's own house. This standard pertains to storage of heavy equipment. Vegetative screen to block the site is recommended. Staff recommends solid-board screening of the metal stockpile. A solid-board 8' fence to visually screen whatever components of this use the Board finds the need to screen, and that will be constructed within 3 months of permit.

Staff recommends approval of the proposed Special Use Permit allowing a "Contractor's Yard" with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. Volume and sound generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute 25-12-103, and 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.

3. The Applicant shall comply with all performance standards identified in §5.03.07 and §5.03.08 of the Garfield County Zoning Resolution of 1978, as amended, with the exception of 5.03.07 (5) calling for Contractor's Yards to be separated from existing residences by 300 feet, whereby that of the owner/applicant's residence shall be excepted from this requirement.
4. The metal stockpile and parking area shall be adequately screened; the stockpile with a solid-board 8' fence to be completed within 90 days of permit, which shall comply with Garfield County requirements including standards as to setbacks, height and sight distance, and the parking area shall be screened with fence or vegetation.
5. No materials and wastes shall be deposited upon the property in such way that they may be transferred off the property by any reasonably foreseeable natural causes or force.
6. The Applicant shall prepare and submit a Hazardous Materials Spill Containment and Management Plan that utilizes Best Management Practices.
7. Storage of flammable material shall be conducted so as to meet all applicable regulations utilizing the practices identified in the Hazardous Materials Spill Containment and Management Plan and meet all local, County, State and Federal regulations and comply with CRS 30-20-105.
8. The applicant shall have safety equipment in place, develop and implement a plan developed with the fire protection service provider to safeguard persons on or near the property. These measures shall include the safety to animals and wildlife. The plan shall be reviewed to the satisfaction of the fire protection service provider prior to the issuance of the Special Use Permit.
9. Periodic mitigation measures to address fugitive dust shall be performed to maintain the driveway at an acceptable level, no less than once a year.

Commissioner Houpt asked about clarification on activity on property; if approved will the equipment still be store offsite except for when equipment is being worked on.
Dusty said at present it is satisfied that way; you can make it a condition of approval, but what this application is seeking to do is to have permission to have them on site periodically to be maintained and repaired. That still will require screening in order to have them there occasionally.
Commissioner Houpt stated there was a letter that talked about 4 to 6 pine trees.
Dusty said one of the early submittal letters from the applicant stated they wanted to install a vegetative screen along the west boundary of the property, and the Board has the discretion to choose either a solid board fence or some sort of fence to an 8' height or vegetation or both. Dusty recommended that the stock pile be enclosed with an 8' solid board fence. Mike Sawyer felt the Gardner's are an example of why the County has a special use provision. The Gardner's have been around for a long time. Daniel and Jackie are working ranchers; they run and operate a working ranching operation. As with many other ranchers they need to supplement their income, and Daniel uses his skills as someone who knows his way around excavation equipment. Mike wanted to answer a few questions that Tresi had with regard to the storage of the equipment, it is the Gardner's intent to continue using an off site storage location for the bulk of their equipment. They intend to bring the equipment back to work on occasionally. If a piece of equipment is taken out of use for an extended period of time; it maybe parked on the property behind the screening. Generally the equipment goes from site to site and there maybe short periods of time in between job A and job B it goes to this off site location for storage. Daniel stated Mike wasn't even aware of the expenses that are involved in Daniel bringing equipment home. Daniel said he doesn't want to bring equipment home because of the expense. Daniel stated there are a couple of things that stay at the house all the time; they are not permitted and they are strictly used for agricultural purposes. Mike said the other item that he didn't think was completely brought out in the staff report is the contractor yard will be used for a car pool staging. That is to say Mr. Gardner's employees do come to the property on a daily basis in their personal vehicles, no heavy equipment. They then commute to the job site in pick-up trucks that Mr. Gardner has. On any given day there may be 4 or 5 cars and pick-ups that come about 7:30 a.m., and will be gone from the property by 5:30 or 6:00 p.m. Daniel re-stated exactly what Mike said about car pooling. Mike stated about screening; the Gardner's have agreed to the screening mitigation plan. Mike asked everyone to look at Exhibit D; a site diagram, Mike stated the Gardner's are planning to put in fencing as well as vegetation screening. Mr. Gardner spoke with his neighbors and they had requested on the property boundary and the boundary with the County road; the screening be vegetative, because it will look nice. Mr. Gardner has agreed to a vegetative screening plan as embodied in this exhibit. The scrap iron pile will sit behind an 8 foot high wooden fence; which is on the interior of the contractor yard area. The contractor yard area, as Dusty indicated, is a minor part of the applicant's property. It sits on about 1 acre or 1 ½ acres out of a 20-acre parcel; it is grdted and graveled and he noted with regards to the conditions, there is really no evidence of any run off or waste being carried off site. Daniel stated it is well graveled with regular production gravel; it is an extremely low traffic area. Mike included letters from neighbors and explained where the neighbors lived. Mr. Tranney submitted a letter that says based on Daniels's honesty and genuine concern with his feelings he has proven as a neighbor he will work with me on any concern or issue that may arise. Mr. Domingis also submitted a letter, stating no problems have risen regarding the use of heavy equipment on the property in the past and does not object to the special use permit. The Gardner's are willing to accept the terms of the staff recommendations with a few exceptions. The first one is the provision that there be an annual dust mitigation treatment, they don't believe there is any evidence that there is fugitive dust problems. The area is well graveled and is traveled at very low speeds; if there is evidence of a dust problem, then that kind of treatment can occur. Right now they do not see a reason to spend $1000.00 on mag chloride for a problem that doesn't exist. The second point or clarification in provision number 6, it mentions a storm water management plan; this is a small operation and again no evidence of any transport of debris or any debris off site, and to the degree there are some stock provisions in terms of best management practices. The applicants are willing to consider implementing those; but they don't believe this rises to the level of an engineered storm water management plan. They want to make sure as a condition of approval it is not interpreted as such. Dusty wanted to add that they are not requiring a full

storm water management plan; they are attempting to come up with a different kind of approach to this, hazardous materials, spill control and clean up plan which speaks briefly to carrying things off site. Deborah stated that Dusty has done a good job of stating when the compliance period is; but this one doesn't have a compliance period. Whether it needs to be done before the special use permit is issue or otherwise in the recommendation, she would like it to be clarified. Commissioner Houpt asked Dusty if she had a time frame in mind; Dusty stated she put in 90 days for the fence. Mike said with one caveat; the applicants are intending to buy trees this fall and get them planted. Another set of trees will be put in, in the spring. Dusty stated they have put in other applications that granting of approval falls outside of the traditional planting season; accommodations can be made and she would be willing to modify the conditions for that.

A motion was made by Commissioner McCown to close the public hearing. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the special use permit allowing a contractors yard with the conditions listed by staff, include in number 4 (addresses screening) he would add the verbiage that planting (May 15, 2009) dates must coincide with growing seasons and could be extended beyond the 90 days allowed for the fence. Adding number 9 that the signs must meet a sign code, if installed, and number 10 this special use permit will only be valid under the current ownership of the property. Commissioner Houpt seconded. Chairman Martin restated that the last one was understood; if you should sell the property, the special use permit goes away. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD. APPLICANTS ARE HANK AND KAMRON KRACHT – FRED JARMAN

Fred Jarman, Hank and Kamron Kracht and Walter Brown were present.

Deborah determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. David McConaughy, 420 7th Street, Glenwood Springs, states that the application, as they read it, includes a private access easement to get to and from this property to County Road 337. The copies of the notice, that he has seen, included no legal description of the private access easement. It crosses at lease 3 other parcels; the owners of those parcels are not listed in the application. In fact two of them have submitted letters of protest to the application. Without some description of that legal private driveway, an indication of whose property all this truck traffic will be going on, the notice is defective.

Commissioner Houpt asked Debbie if there was anything listed on the notice and Chairman Martin stated in the application it does say there is a private drive shared by three.

Deborah reviewed the notice and it includes information under the practical description, Deborah read the notice, it does not include a description of the private easement itself; but it does make reference to it.

Commissioner Houpt asked Mr. McConaughy if it was his concern that it goes through or over those other properties to access, they would have to go through those properties. David McConaughy stated he has a map that shows it. Hank stated they have an easement down that road and the other easements go across his property too. Commissioner Houpt asked to see the map. Commissioner McCown stated he is confused; before we start taking evidence… Chairman Martin stated we need to see if we are going to open public hearing first.

Executive Session – Notice – Legal Advice

Commissioner McCown stated he would like a 5 minute executive session for some legal advice and that is in a form of a motion. Commissioner Houpt – Second.

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

Chairman Martin asked for a motion to come out of executive session. Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown stated there is no flaw in notice; let us proceed. Commissioner Houpt agreed. – Second. In favor: Houpt – aye McCown – aye Martin – aye Chairman Martin swore in the speakers.

Fred entered the following exhibits: Exhibit A – Mail Receipts ; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Resolution of 1978 as amended; Exhibit D – Special Use Permit Application; Exhibit E - Staff Report; Exhibit F - Letter in Opposition from Bart and Lynne turner dated July 7, 2008; Exhibit G – Petition in Favor of the SUP signed by 23 Neighbors dated July 10, 2008; Exhibit H – Letter in Opposition from Becky Warner dated September 3, 2009; Exhibit I – Letter in Opposition from Mary Anderson dated September 3, 2008; Exhibit J – A cover letter with Signatures, Morrisania Mesa Residents and Nearby Residents Letter of Concern and Opposition to the Kracht Land use Application dated July 24, 2008, received in Fred's office today September 8, 2008 and Exhibit K – Letter written by Mary Watson and John Seybold dated September 7, 2008. Chairman Martin entered Exhibits A – K into the record.

Fred Jarman explained:

REQUEST: The Applicant requests the Board of County Commissioners (the Board) approve a Special Use Permit (SUP) allowing a "Contractor's Yard" on a parcel zoned Agricultural / Residential / Rural Density (ARRD). Contractor's Yards are contemplated in this Zone district as a Special Use (§3.02.03) and defined in the Zoning Resolution in Section 2.02.1555 as the following:

The use of land for the purpose of storing machinery, equipment and supplies for an individual business provides services to clients through the use of machinery, equipment or supplies. Such use may include office and repair facilities.

PROJECT DESCRIPTION

Hank and Kamron Kracht (pronounced Kraft) own a 9.88-acre tract on Morrisiana Mesa which has been improved by a single-family dwelling, shop / barn building, Ag. barn, and where the bulk of the property is presently in active agricultural operations (hay-field production / pasturing horses). The Krachts have operated a water hauling business for the last two years at this location which basically consists of operating four small (80 barrel) water trucks used in the oil / gas field hauling water for dust control for various operations. The drivers (up to 8 employees) come to the property early in the morning, leave their personal vehicles and take the water trucks and return at the end of the day leaving the trucks parked at the property. (From May to September, two of the trucks stay up in the Piceance Creek area. From October to April, two trucks are parked in the shop/ barn.) The Krachts do minimal maintenance (oil change/ lube) at the shop but have the trucks primarily maintained at manufacturer / dealers staying within the terms of the

warranty. The Krachts propose to replace their existing (65' x 50') shop / barn with a slightly larger (80' x 50') building in the same general footprint to house the shop, increase storage, and provide two bays for parking and working on the water trucks. The property is accessed from County Road 337 by a privately maintained, gravel-surfaced private driveway which is shared by three properties. *The application must satisfy the requirements set forth in Section 5.03, and 5.03.07 and 5.03.08.* The property is served by a permitted well and ISDS. The water used for the business is not obtained from the property. The well (augmented by a West Divide Water Conservancy Contract) and ditch shares provide adequate legal and physical water to the residence and agricultural activities and is properly augmented to do so. The Krachts state that they occasionally wash their trucks on site. Originally, the Krachts proposed a bathroom in the new shop / barn but it would have required a new augmentation contract which was significantly costly. The existing structure does not have a bathroom and they have since deleted that request from this application. Staff finds that there is no need for the bathroom or additional ISDS. Staff does suggest the Board require that washing of the vehicles occur at a location permitted for that water use as it does not appear the well permit and augmentation plan allow for that use. The truck trips generated can be characterized by 2 employees (drivers) employees coming in the morning to pick up their two water trucks and returning at the end of the day. At most, if all four trucks are at the property, then 4 employees drive in and out in the AM and in and out in the PM for a maximum of 16 one-way trips per day. Public access to the property is provided by CR 337 which terminates and then a private drive picks up that provides access to the property which is also shared by two other properties. Staff is unaware of any legal document that dictates the terms of the use of the shared driveway; except to say, the Krachts have explained that they provide much of the annual maintenance and dust control. The Application contained a report by JR Engineering which concludes that the shared driveway and parking area are adequate to handle the proposed use and that impact to adjacent property owners appears to be minimal to none based on the distance all of the homes are from the common driveway. Staff also referred a similar application with much fewer trips to the County Road and Bridge Department which provided the following comments that are germane to this application, but were requirements of the neighbor, Jabs:

Garfield County Road & Bridge has no objections to this application with the following comments

- *Cr. 337 is a narrow gravel road with residents close to the road and their quality of life needs to be taken into consideration with the addition of truck traffic on Cr. 337*
- *A stop sign shall be placed at the intersection of the driveway and Cr. 337. The stop sign and installation shall be as required in the MUTCD (Manual on Uniform Traffic Control Devices)*
- *Any vehicle exceeding Garfield County oversize/overweight limit shall have an oversize/overweight permit issued by Garfield County Road & Bridge Department.*

Staff finds that no additional improvements to CR 337 or the shared driveway are necessary with the exception of general dust control and annual maintenance already being performed on the shared driveway. The established neighborhood character is primarily defined as 10-acre small farming tracts with residences. Much of the surrounding properties are in active hay-production with horse pasturing. The subject property can be described in the same manner where the Krachts farm the bulk of their 10-acres but also operate a minimal water hauling business. The property is extremely well kept, well designed and organized. It would appear, if the 2 to 4 "H & K" trucks were not parked on the property, one would not know that there was any business operating from the property. There is no signage, no adverse lighting, employees are limited to picking up and dropping off the 2 to 4 water trucks, there is no outdoor storage of any kind on the property. This use operates more like a "home occupation" than a typical Contractor's Yard. The business use does not include any outdoor storage of "equipment." The trucks are the only component of this operation which is not screened. From the site visit, Staff concludes that there is no need to screen the trucks on the property as they are fairly secluded from view from most, if not all residences, in the area. (Staff will provide a PowerPoint presentation with photos that will show the general character of the area and the lack of visual impact to neighboring properties in the area. As the trucks are parked now, they are not visible at all from the public right-of-way (CR 337 or CR301). More specifically, they cannot be seen from the north, south or east as they are blocked by topography and the Kracht's residence and shop / barn. Nonetheless, the Krachts have committed to planting 10 – 12 evergreen trees along the south side of the barn and parking area to better screen the trucks. Staff believes this is well intended, will add value to their property, and will effectively screen the vehicles from most viewpoints. Lastly, the minimal trips generated by these trucks are less impacting than some of the agricultural activities that are a use-by-right in the same zone district. Staff finds that this use will not detract from the established neighborhood character. There is little or no run-off or water use associated with the vehicle repair and maintenance activity, as washing the vehicles is not permitted and there are no employees to require additional sanitary facilities. Staff recommends periodic treatment of the gravel driveway to reduce dust emissions. The proposed use is required to do maintenance inside and the only noise is from the 2 to 4 vehicles leaving and returning to the property. The residential / agricultural nature of the neighborhood and adjacent uses would allow for a daytime dbA of 55 (7 am to 7 pm) and 50 dbA at night (7 pm to 7 am). Noise level may exceed the residential level of 55 daytime by no more than 10 db(A) not to exceed 15 minutes in any one-hour period. Noise generated by the proposed use will need to be demonstrated to be within the parameters for the existing residential neighborhood and shall be required to comply with State Statute 25-12-103. The used oil from this use will be collected on-site then taken to a location legally able to handle waste oil. Wildlife is more apt to utilize the open pasture area surrounding the property because there is little human activity there, and alfalfa fields are attractive to ungulates. The use is centered in and adjacent to the shop building, so there would be little disturbance to wildlife. Any native vegetation has long since been removed by agricultural operations of the ranch from which this tract was created. Staff recommends that the applicant control noxious weeds and minimize disturbance. The truck trips generated can be characterized by 2 employees (drivers) employees coming in the morning to pick up their two water trucks and returning at the end of the day. At most, if all four trucks are at the property, then 4 employees drive in and out in the AM and in and out in the PM for a maximum of 16 one-way trips per day. Public access to the property is provided by CR 337 which terminates and then a private drive picks up that provides access

to the property which is also shared by two other properties. Staff is unaware of any legal document that dictates the terms of the use of the shared driveway; except to say, the Krachts have explained that they provide much of the annual maintenance and dust control. The Application contained a report by JR Engineering which concludes that the shared driveway and parking area are adequate to handle the proposed use and that impact to adjacent property owners appears to be minimal to none based on the distance all of the homes are from the common driveway. Staff also referred a similar application with much fewer trips to the County Road and Bridge Department which provided the following comments that are germane to this application, but were requirements of the neighbor, Jabs: The parking of 4 trucks and the proposed shop / barn constituting a Contractor's Yard area is adequately separated from the adjacent parcels. More than that, it is well buffered from all residential structures in the area. The operation of a Contractor's Yard is not expected to impact adjacent uses. Because the use on-site is limited to minor maintenance, limited storage of components and equipment that is adequately screened and enclosed, and the use is proposed to be administrated by conditions set forth by the BOCC in the SUP, staff feels that no additional security or permits are necessary.

STAFF RECOMMENDATION

Staff recommends approval of the proposed Special Use Permit allowing a "Contractor's Yard" with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. Volume and sound generated shall comply with the standards set forth for residential neighborhoods in the Colorado Revised State Statute 25-12-103, and 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.
3. No vehicles to be serviced beyond reasonable maintenance may be stored on site.
4. The Applicant shall prepare and submit a Stormwater Management Plan utilizing Best Management Practices, and shall implement the plan in conduct of this permit.
5. Storage of flammable material shall be conducted so as to meet all applicable regulations utilizing the practices identified in the Stormwater Management Plan, meet all local, County, State and Federal regulations and comply with CRS 30-20-105.
6. No more than 420 gallons of used oil may accumulate in a six-month's time period, and no accumulation shall be greater than that at any time. That accumulation must be stored in a labeled container that meets the requirements set forth in all local, State, County and Federal regulations for the proper storage of used oil and other chemicals. The containers are then to be stored inside a properly sized safety vault that serves as a containment basin and meet any required containment and spill management requirements set forth by Federal, State, and County and local regulation to prevent spills onto the property and beyond.
7. The applicant must have fire safety plan in place to safeguard persons on or near the property. These measures shall include the safety to animals and wildlife. The plan shall be reviewed to the satisfaction of the fire protection service provider.
8. Periodic mitigation measures to address fugitive dust shall be performed to maintain the driveway at an acceptable level, no less than once a year.
9. Emission of smoke and particulate matter: Every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations;
10. 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 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;
12. 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.
13. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.

Commissioner McCown asked Fred on number 4 would a containment plan for hazardous material, wrapped in with number 11 address your concerns more than a storm water management plan would address? Fred said he thought it would work. Fred showed the slide again to show how many feet the Kracht's house is from other residents. Walter Brown stated the conditions listed they concur with and are ready to comply; except for one instance no water is filled at the site; trucks are taken into Parachute to fill them. The trucks come back empty. Also 6 months out of the year, two trucks aren't on the property at all. Hank was called upon to fill his truck from his irrigation ditch to put out a fire. The Kracht's have been maintaining the road as far as dust, plowing etc. He stated he understand there are a lot of people here in favor of the application, some that aren't. There was a petition filed this morning which is against the application and they understand the concerns as to the developments going on in Parachute and other areas. Chairman Martin asked Mr. Brown if there a written or recorded shared use agreement on the private drive. Walter stated not that he has found. Chairman Martin asked how long it has been in existence.
Hank Kracht stated it was a big ranch and they subdivided it into 10 acre parcels about 12 – 13 years ago.

Chairman Martin stated but there is no recorded shared use agreement that you know of. Hank said not that he knows of but he does know that Williams has an easement down that road, they have a well pad over there. On each side of our property there are well pads. Chairman Martin asked who did they have that easement with. Hank said it had to have been Post Ranch; the well pads were drilled before he and his wife moved there. Chairman Martin stated it would appear on your deed or the purchase of that property. At this time Chairman Martin stated they would call on the public, as the applicant you have a right to respond or not. We hope you will reserve your answers until the end. Chairman Martin asked Jean to call from the list. Karl Napier wanted to mention that Hanks trucks were the first on location for the fire. Mr. Napier owns a piece of property near Hank and he doesn't see any problems with what he does. He stated he never knew of any covenants, that is why he bought the property. He stated Hank's property is clean, you don't see his trucks, you don't hear them, they don't run the jake brakes up and down the roads. Chairman Martin asked Karl if he shared the driveway and Karl stated no, he is two roads over from Hank. Bill Olsary stated he would like to concur; when he bought his land on Morrisania Mesa, he was given no covenants as to what you could do with your land. It is his belief that the subdivision is one of the oldest subdivisions in Colorado. He is trying to figure out, in his own mind, whether the interest in this case, which has created a problem in our neighborhood, neighbors against neighbors; whether it is relevant to operating a business. He went into great detail about the history of Morrisania Mesa and its development for agricultural uses. He is hoping the question will be answered as to what the concern of the neighborhood is over this issue. Scott Overall just wanted to say that he lives two roads over; he also bought his property with no covenants and doesn't see any problems with the permit. Jason Jabs stated he lives just below Hank and sees the road traffic every day. I see it as just another vehicle coming in and out of the driveway. Nate Schaffer stated he has been a resident for about 25 years and have seen a lot of changes. His dad lives on 337 Road. He has never seen a problem; Hank's trucks drive slow, they water the road and he doesn't see a problem with what they are doing. David Tonder stated he was just here to observe. Mary Ann Tonder said she is with him to keep him in line. Jack Castle stated he is the neighbor where the road first splits, at the curve and he shares the drive with Hank and Kamron. He has know them for 10 years and he thinks if everybody is as good a neighbor as Hank and Kamron the world would be a better place. Jack also wanted to thank John for personally taking care of his issue last Friday.
Nancy Alderson Cooley state she and her husband own two properties, one in Silt and one up on Morrisiana Mesa as well. I would personally love to have their water trucks next to me in Silt. With the threat of fires every where who wouldn't want to have these great people next to them. She has come to know Hank and Kamron quite a bit over the last couple of years and whenever you are at their place it's clean, the place looks great and they take pride in what they have. They are always, from what I have seen and experienced from other people as well, more than willing to share what they have with others and that includes their water truck business as well. She highly supports their business.
Dori Kivett stated she doesn't live there and she is a close and personal friend of Hank and Kamron. The amount of time she has spent there; when the trucks are there, you don't even see them. They come in, they do a shift change and they are gone. It's is a glorified parking lot for a shift change and she supports them. David McConanghy stated that some of the neighbors asked him to give you a list of legal reason why you should deny this. He stated he will let the neighbors speak for themselves as to why they are opposed to this particular application. But, he stated in general it is a feeling that the character of the neighbor is generally shifting from one primarily of agricultural and residential to more commercial. Given that you just recently approved one contractors yard; here comes the next one. How many more are there if you approve enough special uses, if everybody becomes special pretty soon nobody is ag. He gave Fred his power point and he presented. There is no proof of legal access; the staff report on pages 3 and 4 acknowledges that no one seems to be aware of any legal document that dictates the terms of the use of the shared driveway. What we have is a private easement that crosses at least three, maybe four other tracts. Historically if this easement in this area was created at the turn of the century, you can be sure what access meant back then was residential. He thinks the owners of any of those tracts, some of whom have opposed the application, can certainly argue this would be an expansion of access use into commercial activities; which is not allowed. Either way he feels that is the applicant's burden to prove that they have access for commercial truck traffic on this private easement and they haven't done it. No one debates they have a right to access their house; but there is no actual proof that they even have that right in the application. He showed everyone a map and talked about the tracts. This was from a recorded document that was referenced in the site plan that the applicant submitted. Ms. Warner owns tract 23 and she submitted a letter opposing the application. Tract 11 is owned by the Turners and they also submitted a letter opposing. What you don't have is proof that you have an access easement that allows commercial truck traffic; what you do have is two owners of the underlying land who don't seem to want that commercial truck traffic. The real point is why they don't want commercial truck traffic; because this is generally and gradually eroding the character of this neighborhood. Fred mentioned that the industrial performance standards may be more of a guide than a hard and fast rule; not sure he necessarily agrees with that. When this use was added as a special use to the ARRD zone it didn't specifically say one way or the other; your industrial performance standards do prohibit storage of "heavy equipment" in a platted subdivision. There is no exception for heavy equipment in a contractor storage yard. It may have been created before the County had subdivision regulations; but it is a subdivision, it is 10-acre parcels and it is shown on a plat. The purpose to that is to ensure that you don't add contractor yards in the middle of residential areas. The same rational applies here; we have a residential, agricultural subdivision and we are adding a new use that would change the character. It also happens to be adjacent to the contractors yard you approved a month or two ago on tract 6, which is the Jabs property. What your code says, at Section 5.03.11, is that you have the power to deny a special use where a lack of separation will injure the established character of neighborhood. Again what you have done is taken, or what you will be doing is taking a residential, agricultural area and approving two contractors' yards right next to each other. It is turning this into a little industrial zone and he thinks that is what the neighbors would like to avoid. He showed Tract 6 which was the Jabs property.

Bruce G. Brynildson said he is a rather new resident; he has lived there for 3 years. The reason he purchased on Morrisania Mesa was because of the ARRD planning. This business of special use permits and contractors yards was news to me the last time he was at the BOCC in July. He shared with the Board the idea where the camel sticks his nose in the tent; if you don't stop the process pretty soon the whole camel is in the tent and you're out. The idea is at what point do we issue special use permits for contractor's yards where we completely change the area and it's character. He has a copy of the Morrisania Ranch sales brochure; dated between 1910 and 1922. There was a letter of reference in it as to why people should buy up there. It also described that this land company has in fact and does in fact offer financing on 10-acre parcels. It also talks about these parcels growing large quantities of, potatoes, berries, fruit trees etc. He is making these statements because he believes this is a subdivision; an old subdivision and it did adhere to the requirements of the law in 1910. If you go to the assessors office you will find that the document that recorded the plat, number 39511. If you read the deeds on all the properties and you go back to the plat map that David just showed you; the title or description of each of the lots is based upon those tract numbers. If you put all that together it seems we have a subdivision; be it an old subdivision. If he understood the rules, "under subdivision: he got off of the internet, it states; "subdivisions recorded prior to the effective date of these regulations, which is 1984, shall be governed by the appropriate regulations enforced at the time of the subdivision was created". He doesn't know what the rules were 1910 when this document was recorded; but he is sure whatever regulations were in place in that time, were in fact met. Otherwise they wouldn't have accepted it and created this recorded document, 39511. If that is the case and you go back to this highlighed place where it talks about heavy equipment being stored in a platted subdivision, this is what we see taking place here, which tells him that the people who created those rules and regulations recognize that heavy equipment should not be stored in ARRD zoned areas. Simple as that. If you turn left on 337 Road and this permit is approved; what we have at the end of that private drive is a mini industrial complex. Chairman Martin stated the rules and regulations are totally different than we have now since 1977 under zoning and subdivision that was adopted in '84. We would have to go back and take a look and that would be the acceptance of the Board of County Commissioners, and any kind of rules and regulations they would oppose on that. Chairman Martin stated they were struggling with that as well. Bruce said in the presentation when they come to platted subdivision, no; he is taking issue to that. It seems it is in fact a platted subdivision, and if so this sort of activity; parking heavy equipment overnight is disallowed. Chairman Martin said that is the determination we are being asked to make. Bruce said he has to believe that whatever was required they adhered to. Chairman Martin said he explained what was required and that was what they draw it up, record it and then they sell property and there was no approval within the Board of County Commissioners. Bruce said the plat map; apparently all the legal descriptions used today to describe the properties do in fact reflect what was drawn up back in 1910. It seems to be applicable to today. Shirley Brynildson said she was just observing. Ray Sacca said he moved to Morrisania about 9 years ago. The primary reason for buying the land was because it was ARRD. He wanted to have a garden, raise a little hay and do my thing when I retired. He opposes the zoning change. Chairman Martin explained it is not a zoning change it is a special use. Carol Sacca said she moved to what she considered a pristine area. She doesn't doubt the character of these people or how beautiful they keep their property. She is only worried that they already have one special use permit; this is the second one. We know there are other people operating business up there that will be here fairly soon to ask you for those same things. She doesn't know when special doesn't become special anymore and when does it stop. Kevin Whelan stated he lives on County Road 338. Nothing to add other than we love the area and I'm sure all our neighbors do. We just want to keep it as is and thank you for your consideration.
John Broderick stated he lives at the old Nimes place. He stated nothing against the applicants on this but he thinks there is more important information that needs to be relayed to you and it has been just basically been touched on. Morrisania was platted in 1898, the plat map he has in Garfield County shows it was adopted in 1910. He stated to Commissioner Martin, in relationship to the present, this has come in front of the Garfield County commission when Wayne Rothgary wanted a subdivision request. Morrisania Mesa residents came to the Commission, showed the platted map, showed they had been involved in the comprehensive planning process and that Morrisania Mesa should be adopted as a bonefided subdivision and he thinks our records will show that it was. Rothgary probably came forward in 1996 or 1997 and this issue was handled before the Board. He hopes the record reflects that your commission has acted and Morrisana was a subdivision and should be treated as so. There are some issues they talked about, however they are asking for a special use permit for an industrial level development. Now you have to decide whether you are going to permit that on the Mesa. He thinks what the Board is hearing from the people is that you should be permitted in areas that the County planned that for. That reflects going back to the County Master Plan. When the residents of this Mesa, myself included were involved in the master plan we stepped forward and said that Morrisania Mesa has a character that lends itself to small parcels for agricultural development to foster the historic agriculture that has been so important to Garfield County. He thinks the same issue resonates now. He wanted to note a few things; in the background of the comprehensive plan, it said it was going to guide and accomplish and coordinate a harmonious development of the relevant turf in Garfield County in accordance with the present and future needs and the resources that best promote the general welfare. That is what's important not whether this should be allowed, but what best promotes the general welfare on the Mesa in relationship to the comprehensive plan you have adopted. He also pointed out in the zoning regulations you talk about your general provisions. They are to promote health, safety, and welfare to lessen road congestion, protect the tax base, and to foster the states agriculture. All of these things, and he is not sure if you allow a special use permit like this, you are actually holding to the general provisions that you put forth in your land use applications. Within thos you actually have some criteria to help you determine whether you should allow a special use permit. Is the use appropriate to the general environmental character? What is the general environmental character of Morrisania; it has been 10-acre parcels used for agricultural and small business. Is such use, does it not create more hazards; an issue of the truck traffic, whether is it minimal or not and maybe Hank and Kamron specific isn't a problem, but again if there is more and more special use permits on Morrisania Mesa the truck traffic will increase, the noise will increase, the issue and safety for the children will go down. The

other thing you have to look at is does it create effective or offensive noise, dust, smoke, glare etc., and he would say yes. Is that what you want on Morrisania Mesa; it's not what he wants. Finally it states, is such use compatible to the uses existing and permitted already. He states it is not. The existing uses on Morrisania Mesa are agricultural. He is suggesting the Board looks at the criteria that is available to you under 5.03.09. This special use permit would be denied. In closing he recommends to the Board they deny this permit under 5.03.11 saying you have the ability to deny a special use permit if it impacts the traffic nature, if it negatively impacts safety or if it is injurious to the established character of the neighborhood or zone or district.
Jane Hines Broderick, 3758 County Road 301. She stated she thought Hank and Kamron have been fabulous members of the community and again this is her feeling about their application. A lot of us are shell shocked by the amount of increased truck traffic and associated impacts associated with natural gas drilling. A lot of us have done well with increased activity and they are happy for people when times are good. On the other hand she had two neighbors, one moved to Grand Junction; Toby LaBogne who was very successful in the water hauling business in Parachute. Never once did he propose, or impose, the idea that he would park his vehicles, at the end of the day or change shifts, on his property across 301 Road from where she and John live. Adjacent to Toby's property is Rick and Michelle McCurdy. Rick has recently started to haul water for the industry and he owns six trucks now. He leases a commercial lot else where; not on Morrisania to park his trucks. She believes he does that because he loves Morrisania for the reason she loves Morrisania and out of respect for his neighbors. She believes when you live on 301 Road; which is now being paved, when you live on an adjacent road they are dusty and Hank and Kamron are agreeable to do dust mitigation. She has a child with asthma and a friend, Charlotte White who has asthma from all the truck traffic. As a general courtesy to your neighbors who expect a standard of living and enjoyment on a Mesa that has been around since 1910 with the general overall purpose of providing fruit and agricultural products; this is a big change for those of use who are shell shocked by the growing industry. We also don't want to see the tragedy of the commons here. We don't want every special use permit to be permitted just because there is precedent for it; we want each one to be examined carefully. We want you to hear that so many of the sixty (60) families that live on Morrisania are opposed to this idea. We hope you will respect that. Mary Anderson – I agree that Hank and Kamron are great people and the only thing we are protesting is the industry or contractor yard. Her question to the County Commissioners and perhaps the planning department; when you approve these contractors yards and they come in and say they are only doing a shift change once a day, or they only have 4 trucks, then they buy 6 or 8 trucks and they run 24/7; does the County Commissioners know that happens. I'm asking this about any yard in the County; not just Hank and Kamrons, because it seems that businesses have taken place within our County that haven't been permitted to be businesses. Does any one check on that, how do we know?
Chairman Martin stated through the code enforcement officer, complaints and investigations are handled through planning and zoning, and then it comes to us. Yes, we know there are violations out there and he believes they take the appropriate action. Mary Anderson asked if someone gets more trucks, more traffic and…..Chairman Martin explained they are all subject to review and if there is violation of the special use permit there is a provision that allows the special use to be removed. Commissioner Houpt said it is primarily complaint driven. Mary Anderson said, so the neighbors have to tell on the neighbors to make this work and Commissioner Houpt stated; practically speaking she thinks it is true. Mary asked another question; when there is a contractor yard and the trucks are at the property, do they fuel their trucks within the yard space or do they fuel at other areas. Chairman Martin said it depends on each one. If they are a containment facility and that was one of the requirements if they have more than so many gallons of fuel, there has to be containment, a permit, safe guards etc. Fred stated in this application there is no part of the proposal they would fuel on site. Fred wanted to answer one other question of Mary's; she raised a good point on what is the limit on whether it is 4 or 6 trucks, should the Board move in favor of what is presented today, it would specifically be only what you are seeing here. If it goes from 4 to 5 for example; then you have zoning violations. Becky Warner stated she wrote a letter in opposition to the contractor's yard. She has no opposition against Hank and Kamron; but she feels so very privileged to own property in this area. She owns the property to the south and north of Hank and Kamron. This is her life investments, her retirement and she chose to live there in order to live in the country and have her animals. She stated it just hurts to think this is happening. They didn't buy property there to have industrial uses next door to them. If this gets passed today, she will be right back here when one of her other neighbors come and want a contractor's yard. This is not the place for contractor's yards; there is plenty of property in Garfield County that this would fit in a lot better than this farming community. Rick Hanson also lives on Morrisania and moved up there from Phoenix. He is in the process of building a house and finding out he's right back in an industrial area. Williams put a well 1,000' from his backdoor and it is not a good thing and there is nothing he can do about that either. He hopes the Board makes a good decision today.
Bill Olsary wanted to ask a question in terms of the neighborhood; it is relevant to exactly what is it because one is operating a business to make a portion or their total living in this area on their 10 acres of ground. He stated he was speaking of Rick. He stated Rick came from Arizona and approached me about signing a petition; he stated to you Rick, you had dump trucks up here operating and you put a shop in. He stated Rick was operating 2 dump trucks and he never worried about Mr. Overall here passing by his houses, rattling chains and what have you. There are other people up here operating businesses too, so are we saying you can't operate this kind of business on 10 acres. Bruce over here is operating a backhoe business and he has spoke to this issue; he has a backhoe and a dump truck parked at his house, so what I'm saying, someone has to answer; what are we ruling against. Rick Hanson wanted to reply; he had one dump truck when he first moved here and wasn't aware of what he wasn't supposed to be doing. He stated he did build a shop and it is full of antique cars. Bruce Brynildson wanted to rebut; yes, I own a dump truck, it's a 1950 Studebaker he is restoring. As far as the backhoe; he lives on a private road and the backhoe is used to maintain the road for snow control etc. He asked Bill, when you asked me to dig for you, you weren't hesitant about asking me. His question of the Board; on a previous issue before you, I believe Commissioner McCown, did you put a clause in the previous special use permit, #10 said something about the permit having a sunset condition. When the property sells the permit goes away? Commissioner

McCown stated he did. Bruce Brynildson asked if that was a standard thing and Commissioner McCown stated it was strictly up to this Board. Bruce asked what if we were to request that something like that could be put into this and Commissioner McCown stated it might happen. Walt stated they would be happy to have that provision. He stated there has been a lot of animosity expressed here. This has been going on for 2 – 3 years, there haven't been any complaints and they are keeping it as is. The staff report is accurate about what could be done there. They are trying to keep everything this way mostly out of respect for their neighbors. Deborah Quinn said that she noticed that the subdivision regulations are not part of the record. She wanted to advise the Board; there isn't a definition of platted subdivision within the zoning regulation. In the subdivision regulations under Section 220.37 there is a definition of plat which is the only thing that is close to platted subdivision, other than the definition of subdivision that refers to Colorado law which wasn't in existence when this one was created. The plat says a map and supporting materials of certain described land prepared in accordance with these regulations as an instrument for recording real property interest with the County Clerk and Recorder. Other than that there isn't any other guidance within our regulations on the platted subdivision issue. Fred wanted to clarify a point that David McMonanghy brought up, which was a statement that Fred made. This is a special use permit that does not legally have the standards we have used as a guide. Not dissimilar from when you approved, for example, a kennel as a use. There was a lot of time putting together standards you would use to regulate a so called kennel. The question as to if this is within a platted subdivision is mute; that standard does not apply legally to this use. Commissioner McCown made a motion to close the pubic testimony part of the public hearing. Commissioner Houpt - Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the special use permit for a contractors yard striking no. 4, incorporated that into no. 11 to read that an appropriate containment plan for any flammables or explosives, solids, gases, oils etc., must comply with the local fire code. Adding no. 14 to read; adopt the road and bridge concerns regarding a stop sign at the end of this road. No. 15; the special use permit is valid only as the current ownership of the property is maintained and no. 17 the vegetative screening that was testified to, be allowed to continue until May, 2009 for that plan. Commissioner Houpt stated second for discussion. Certainly after hearing the discussion of the application; but others can see there are always compelling arguments on both sides. She finds that the evidence illustrating that this is not within the character of the neighborhood, as it stands with the comprehensive plan is pretty compelling. She agrees there are certain areas in the County people move into with the understanding or belief that area will be preserved in the manner in which it was when they purchased their land, and she thinks it is the Boards responsibility to make sure that we respect that and follow the comprehensive plan as closely as possible. She feels they did a good job in keeping their business clean; but it would go against what she believes the comprehensive plan give us as a guide for me to support this particular application today.
Chairman Martin stated he saw the issue definitely dividing a neighborhood and there will be no satisfying anyone. The physical change in the neighborhood is a garage or actually a large building extending a continuation of 2 trucks parking in the same spot they have for 2-3 years; making it a non-compliant use. Chairman Martin stated it will be a compliant use; he doesn't see any change in the actual neighborhood in the last few years. He stated they will make a determination if it has really changed and they will also make a determination if they will allow the use on an individual basis. Commissioner McCown stated if we are talking about the quality of neighborhood; he thinks someone mentioned that was a large ranch and it was broken up 12 or 15 years ago. As far as Commissioner McCown is concerned, that is when the quality of the neighborhood changed. He doubts that there is a single person sitting in this room today making a living off their land selling potatoes and apples down at the farmers market. It is not being used to all of the "quotations" he has heard today from the sales brochures by the Morrisania Mesa Subdivision, if in fact it is a subdivision, was to be used for agriculture to promote the livelihood of the folks that homestead that land. There is not one of you in here that could make a living on the 10 acres up there unless you are growing something completely illegal. It is not economically feasible these days; we are all here doing exactly what we can, to the best of our ability, and that is to scratch out a living on this old mother earth. He really hates to see neighbor against neighbor reactions on these things; nothing is worth that, there goes your quality of life. He can't see this as a tremendous imposition to everyone; nor can he see the devaluing of the property having looked at what he sees taking place on the ground up there. That is why he made the motion and he supports it. In favor: McCown – aye Martin – aye Opposed - Houpt

CONSIDERATION OF RELEASE OF BONDS RELATED TO, AND TERMINATION OF RESOLUTIONS 97-70 AND 2003-39. THESE RESOLUTIONS APPROVED SPECIAL USE PERMITS FOR LUMBERING ON A PROPERTY GENERALLY KNOWN AS TEPEE PARK RANCH WHICH IS LOCATED 9 MILES SOUTH OF THE CITY OF RIFLE, AT THE TERMINUS OF COUNTY ROAD 317 (BEAVER CREEK ROAD) TO FORREST SERVICE ROAD 824 WHICH TERMINATES AT THIS PROPERTY. INVOLVED PARTIES INCLUDE BLACK DIAMOND MINERALS, LLC AND NORM CARPENTER D/B/A TEPEE PARK RANCH, LLC – KATHY EASTLEY

Kathy Eastley, Jim Beckwith counsel for Mr. Carpenter, Jack Leuallen, counsel for Black Diamond and Scott Hall, were present. Deborah asked questions on the notification and Kathy Eastley answered all questions. Deborah noted Kathy did some mailings and noted who received noticed by mail. She did a supplementary notification and also noticed the bond company. Kathy stated they never received notices back; it was delivered by the Post Office but the card never came back. Kathy has been in contact with the bonding company, they are aware of the hearing today. Deborah asked when the posting of the property was done and Kathy stated it was posted August 7, 2008 by our code enforcement officer. Deborah determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Chairman Martin asked if the notification was acceptable and he felt they should accept. Kathy entered 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 Report; Exhibit F – Resolution 97-70 – Natural Resource Extraction Tucker Frase; Exhibit G – Resolution 2003-39 – Natural Resource Extraction Norman A. Carpenter; Exhibit H Resolution 2008 – 86 – Natural Resource Extraction Black Diamond Minerals, LLC.;

Exhibit I – City of Rifle Watershed District Permit No. 01-80; Exhibit J – Minutes to BOCC hearings on May 19, 2008 and June 9, 2008; Exhibit K – "A Review of the Teepee Creek Timber Sale" by David R. W. Hoefer dated September 12, 2003 (with cover letter); Exhibit L – "A Review of the Teepee Creek Ranch Timber Harvest" by David R. W. Hoefer, dated August 26, 2008 (with cover letter); Exhibit M – "Teepee Park Forest Management Plan" prepared by Jeff Calvert of David Levy Forestry Services dated April 1996; Exhibit N – application for Special Use Permit – Timber Harvesting, Teepee Park Prepared by Mr. James A. Beckwith dated February 21, 2003; Exhibit O – Special Use Permit Bond Resolution 97-70, FS 422281 in the amount of $100,0000 by Intermountain Ranches, LLC. dated October 1, 1999; Exhibit P – Special Use Permit Bon Resolution 97-70, FS 4550380 in the amount of $75,000 by Intermountain Resources, LLC dated October 15, 2001; Exhibit Q – Special Use Permit Bond Resolution 97-70 FS 4931962 in the amount of $100,000 by Teepee Park Ranch LLC dated October 1, 2006 w/attached letter from GAIC; Exhibit R – Special Use Permit Bond Resolution 97-70, FS 4931963 in the amount of $75,000 by Teepee Park Ranch LLC dated October 15, 2006 w/attached letter from GAIC; Exhibit S – Letter from Patricia Clough, Great American Insurance Company dated January 12, 2007; Exhibit T – Memorandum to the Board of County Commissioners from Fred Jarman, Director of Building and Planning, dated August 6, 2007; Exhibit U – Letter signed and sealed February 18, 2008 from Patricia Clough, Great American Insurance Company regarding sale of property; Exhibit V – Memo to the Board of County Commissioners from Marvin Stephens, Road and Bridge Supervisor, dated May 14, 2008; Exhibit W – Email from Jake Mall dated August 14, 2008 with attachment – Invoice from Frontier Paving, Inc. dated July 30, 2001; Exhibit X – Proposal from Frontier Paving, Inc. dated September 3, 2008 for overlay on 1.6 miles of CR 320; Exhibit Y – Proposal from Frontier Paving, Inc. dated September 3, 2008 for overlay on 2.8 miles of CR 320; Exhibit Z – Letter from Tom Russell to Intermountain dated October 15, 2001; Exhibit AA – Material from Terry Broughton received August 28, 2008; and Exhibit BB – SUP 'permit' Resolution 97-70.

Chairman Martin entered Exhibits A – BB into the record On May 19, 2008 a request was made by Tepee Park Ranch, LLC for release of bonds associated with road improvements and Board consideration again occurred at the meeting held on June 9, 2008. Staff is providing additional information so that the Board may make a fully informed decision regarding this matter at a noticed public hearing. Both resolutions also included a requirement that the new owner meet with the Board. The Board asked that this meeting with the new owner, Black Diamond Minerals, LLC. be scheduled as well. Kathy Eastley explained:

The Special Use Permit approved in Resolution 97-70 was issued October 29, 2001, Exhibit BB to Norm Carpenter, Intermountain Resources LLC, (PKA Tucker/Frase).

2003 – Resolution 2003-39 (Exhibit G) approved a Special Use Permit for Natural Resource Extraction for Norman A. Carpenter and conditionally permitted logging activity. Conditions of Resolution 2003-39 are itemized in the Exhibit, but those of particular note are itemized below:

Condition 1. That all representations of the applicant, either within the application or stated at the meeting before the Board of County Commissioners, including the forestry plan, shall be considered conditions of approval.

PROVISION OF BONDS

As identified above, the Special Use Permit approvals required road improvements to both CR 317 and 320, security for damage caused to CR 317 and 320 by operations, and continuation of a bond for an asphalt overlay of 1.6 miles of CR 320.

Resolution 97-70, Condition 8 required that "prior to the issuance of a Special Use permit" the applicant shall pay for an overlay of at least 1 ½ inches of asphalt overlay of County Road 320 from Taughenbaugh Avenue to the intersection of CR 317 and 320, AND this condition required a road bond of $100,000 to be used for the repair of CR 320 and/or CR317 due to damage attributable to the activity. See Exhibit O which is entitled "SPECIAL USE PERMIT BOND" and dated 1999. This document is identified as Bond No. FS 3 42 22 81 and further stated that the $100,000.00 road bond was to "ensure the repair of damage attributable to Principal's logging activities on CR 320 and/or CR 317". The Principal in this bond was Intermountain Ranches, LLC. In 1998 and 1999, portions of CR 320 were included in a County tar sanding project. In the summer of 2001, a portion of CR 320 that was subject to condition 8 of Resolution 97-70 was paved with an asphalt overlay, which, according to Jake Mall, Administrative Foreman of the County Road and Bridge Department, was a 1.5 inch overlay for 1.6 miles from the intersection with CR 332 to just past the entrance to Rifle village south or CR 357A. This overlay cost the County $37,999.13 and no funds were received from Intermountain. See Exhibit W. Road & Bridge indicates that the total distance of CR 320 from the intersection of Taughenbaugh Boulevard to CR 317 is 2.8 miles.

On October 15, 2001, Road and Bridge Director Tom Russell sent a letter to Intermountain Resources indicating that all the improvements to CR 317 were made and met the approval of the County Road and Bridge Department. See Exhibit Z. On October 15, 2001, Great American Insurance Company issued Bond No. FS 4550380 in the amount of $75,000, Exhibit P, for Intermountain Resources, LLC, "to provide a road bond in lieu of road paving on CR 317." On October 29, 2001, the Special Use Permit authorized by Resolution 97-70 was issued to Norm Carpenter, Intermountain Resources, LLC (PKA Tucker/Frase), Exhibit BB. In February 2003, James Beckwith submitted an application dated February 21, 2003 to County Planning on behalf of Norman Carpenter, Landowner and Intermountain Resources, LLC, Timber Owner, which was considered as part of the record for Resolution 2003-39. Included in this application, at page 23, is the following representation: A bond for the re-paving 1.6 miles of GCR 320 has already been posted with Garfield County under GarCo SUP 97-70. This bond will continue in full force and effect upon award of the SUP requested here. See Exhibit N. Resolution 2003-39 Condition 4 stated that a road bond would remain in place with the County to overlay 1.6 miles of CR 320 with asphalt at the completion of the timber harvest. This resolution did not repeal or replace Resolution 97-70, so the conditions of both resolutions are still in effect. On October 15, 2006, Bond No. 4131963 was issued by Great American Insurance Company for Teepee Park Ranch, LLC, in the amount of $75,000 "to provide a road bond in lieu of road paving on CR320." See Exhibit R which is entitled "SPECIAL USE PERMIT BOND." A letter from Great American dated January 12, 2007 stated that this bond replaced bond number FS 5440380 and requested that the prior bond be cancelled. A similar request was made with respect to the $100,000 bond for repair of damages to CR 317/320, both letters indicating that coverage had never lapsed for either bond.

See Exhibit S. August 6, 2007 a Memorandum (Exhibit T) was issued to the Board from Fred Jarman regarding notification of replacement of two bonds that were originally issued to "Intermountain Resources, LLC" that had been issued to Tepee Park Ranch, LLC. The Board of County Commissioners approved the cancellation of the prior bonds based on the replacement of them with the current bonds by Board action on August 6, 2007. See Exhibit S which is unsigned however a signed copy is available at the Clerk and Recorder office. What exists today are these two bonds issued to Teepee Park Ranch, LLC.
December 2007 – Transfer of the property from Teepee Park Ranch, LLC to Black Diamond Minerals, LLC. February 18, 2008, Great American sent Notices of Cancellation of both bonds due to the sale of the property to Black Diamond, but without prejudice to any rights existing under the bonds, see Exhibit U.
Teepee Park Ranch, LLC has requested release of these bonds. Minutes from the discussions by the Board of County Commissioners on this request at the May 19, 2008 and June 9, 2008 are attached, see Exhibit J. The current cost estimates to pave either 1.6 miles or 2.8 miles of CR 320 with a 1.5 inch asphalt overlay are$256,051.36 and $442,267.10, respectively. See Exhibits X and Y. Kathy stated the purpose of the hearing is two fold; first to meet the new owner of the property, Black Diamond Minerals LLC, and to satisfy conditions of approval of both resolutions. The second item is to consider the release of the bonds that are associated with the special use permits which we are also seeking termination of. The bonds currently in place have been renewed several times. The first bond is for $150,000.00; it is stipulated for damages to roads for logging activities on County Road 320 or County Road 317. The second bond is for $75,000.00 and it was provided in lieu of road paving on County Road 320. Jim Beckwith stated as a point of clarification; both of the current bonds are reissues of original bonds that were issued earlier, one in 1999 and the other in October 15, 2001 (about the time the first SUP was issued). One of the bonds refers to County Road 317; the realignment which had to be done prior to the first permit even being issued. Jack Leuallen stated that Black Diamond has no interest in logging, won't be logging, doesn't want the special use permits etc.; however, it also seems to him the first issue is whether or not the bonds are released, and if they are, whether the special use permits are to be terminated. Certainly there is a condition in the special use permit that the new owner should come before the Board; it seems the intent was that Black Diamond was going to continue in logging operations, we are here to answer that question. From his vantage point; the key issue is they are not going to log. Commissioner Houpt stated for clarification purposes; the recommendation is to terminate the existing permits or otherwise if we don't there will be other instructions. One of the conditions would release those bonds. Chairman Martin stated there were two different purposes for those bonds; one was to repave after logging. The road did get repaved; but it was prior to logging. Beaver Creek improvements have been accomplished; should we release or not. Commissioner McCown – Move to close public hearing.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we release the two bonds that has been alluded to today regarding special use permits associated with the timbering, Resolution 97-70 and 2003-39, and the said special use permit to allow timbering to be revoked as well. Commissioner Houpt Second.
Deborah wanted to clarify that both special use permits and the resolutions authorizing them; will be revoked. Deborah stated there are three resolutions outstanding. Commissioner McCown stated; then both relating to the timbering operation. Commissioner Houpt stated she would amend her second for that purpose. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER ADOPTING FINAL AMENDMENTS TO THE TEXT OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED, GARFIELD COUNTY SUBDIVISION REGULATIONS, OF 1984 AS AMENDED, AND EXISTING "1041 REGULATIONS" (AREAS AND ACTIVITIES OF STATE INTEREST), AND ADOPT A NEW LAND USE CODE UNDER THE PROVISIONS OF 30-28-112 C.R.S., AS AMENDED. APPLICANT IS THE BOARD OF COUNTY COMMISSIONERS. – FRED JARMAN

Fred Jarman and Mark Bean were present. This is a continued public hearing from August 4, 2008 and Fred explained:
BACKGROUND: On August 4th, 2008, the Board of County Commissioners (the Board) opened and continued the public hearing on the Draft Unified Land Use Resolution (the Draft Code) so that it could be referred to the Planning Commission for their final review. As you will recall, that review had to occur in a 30-day period. This has been accomplished as the Planning Commission reviewed the Draft Code on August 27th, 2008.
PLANNING COMMISSION RECOMMENDATION
The Garfield County Planning Commission unanimously recommends the Board approve the Garfield County Unified Land Use Resolution of September 2008 with the following suggested modifications (also attached hereto shown in blue.)

Pg. 4-7	Section 4-103(G) (2) – changed "working" to "calendar" days. This was changed since 7 "working " days could translate into 14 "calendar" days, which the Planning Commission thought was to long.
Pg. 7-130	Section 7-130 – add "residential". This was added to acknowledge that storage should be allowed in a commercial or industrial subdivision.
Pg. 8-2	Section 8-102 – change the percentage to 15% for any land use action, throughout the County. The Planning Commission felt that the requirements for affordable housing should be consistent throughout the County.
Pg. 8-3	Section 8-201 – Change the requirement to one (1) house for every five (5) built having to be affordable. This change was made for the same reason as the previous change, to maintain consistency throughout the County.
Pg. 9-2	Section 9-104 (J) – Change the word "along" to "within and adjacent to". The Planning Commission thought this language was clearer as the intent of the requirement.
Pg. 16-__	Add the definition of "Solar Power Generating Systems" as: "Also referred to as solar arrays, a device / system which converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy. Such facilities are intended to create electricity to be

delivered to a variety of consumers beyond the facility and are not constructed specifically for, or accessory to, the principal use of the subject property."

Pg. 7-129 Section 7-819 – Add standards for Solar Power Generating Systems as:
A. The Application shall demonstrate how the proposed project will not impact wildlife and domestic animals through the creation of hazardous attractions, alteration of existing native vegetation, blockade of migration routes, use patterns or other disruptions.
B. The Application shall demonstrate how the proposed project will impact truck and automobile traffic to and from such uses and their impacts to areas in the County.
C. That sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed use(s).
D. The Application shall provide a plan for site rehabilitation after the use is terminated.
E. The County Commissioners may deem necessary a financial security before a land use permit is issued. The Applicant shall then furnish evidence of financial security payable to, in a fashion acceptable, and in the amount calculated by the County Commissioners. The financial security shall be adequate to secure the execution of the site rehabilitation plan in workmanlike manner and in accordance with the specifications and construction schedule established or approved by the County Commissioners.
F. The Application shall demonstrate that the facility shall be able to comply with the volume of sound standards set forth in the Colorado Revised Statutes.
G. The Application shall demonstrate that the facility shall be operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;
H. The Application shall demonstrate how the proposed facility will be operated so that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
I. 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.
J. Any lighting of the facility shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
K. Such facilities shall not result in any structure exceeding the maximum height limit, setbacks, or lot coverage of the applicable zone district in which it is located.

Pg. 7-129 Section 3-39 & 3-42 – "Solar Power Generating Systems" as a Major Impact Review.

Fred stated this was referred to the planning commission on August 27; they reviewed all changes. Mark has presented the general changes and there aren't very many, and the thirty (30) day time line was met which is required by statute. The 2 pages show you point by point the areas that were focused on. What is attached to the memorandum, in color, shows you the black was originally sent to you, the changes in red when to the planning commission and their changes in blue. We will simply go page by page, 4-5 pages, to show the changes. The next major discussion would be how the Board feels about enacting these rules. Fred stated when is the effective date, there are couple of thoughts which he will hold until they get through. The Board discussed these changes in depth. Mark suggested they authorize staff to come back with a resolution effective January 1, 2009. Don said, lets do a draft resolution; the final draft will include all the flow charts and it will include one black lined copy with the resolution adopting the date January 1 when we will bring this back to the Board. They all decided the draft resolution would be submitted to the Board on October 13. Mr. Green asked if there was an opportunity to provide comments between now and October 13. Commissioner Houpt stated it has not been adopted, therefore you can make comments.
Don stated any changes you make from the black line will go back to planning commission; the evidentiary part will not close until the final resolution is adopted. Fred reminded the Commissioners in your amendment process it starts at the planning commission. Chairman Martin asked if there was a motion to continue until October 13. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

SEPTEMBER 15, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, September 15, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

DISCUSSION OF PROPOSED WORK SCOPE FOR 2009 FOR RFTA – DAN BLANKENSHIP

Dan Blankenship sent a letter, September 1, 2009, thanking the BOCC for their generous contributions to RFTA in 2008. They are now asking the BOCC for a continuation of support for 2009. Dan explained the ridership statistics in 2007 and 2008 and felt at the pace the ridership is going they should easily exceed 100,000 riders by the end of 2008. Garfield County's total contribution to RFTA in 2008 for transit and

trail construction was $610,000.00. RFTA is requesting Garfield County to fund its top three transit priorities in 2009 totaling $658,000.00; however they are also asking the BOCC to consider providing funding for two other potential new transit services (all outlined in his letter). Listed are the 5 top transit priorities in 2009:

1. Status Quo Grand Hogback Bus Service in 2009
2. Increased Grand Hogback Bus Service in 2009
3. Local Match for Two Over-the-Road Buses
4. New Battlement Mesa Service
5. New Service to CMC Spring Valley Campus

Dan suggested the Board support the first three on the list due to the number in ridership to Glenwood Springs and also some support for some buses that they are getting a grant of $3.56 million available for 2008. A local match would be $100,000 each. This gives 17 more seats on each bus.
Don has some technical issues. There is an existing IGA with RFTA as related to the Hogback route and it includes dollar amounts and service to be provided. He asked the Board to give directions on an amended IGA. Commissioner Houpt said this will still have to go through the budget.
A motion was made by Commissioner Houpt in amending the IGA to include the items 1, 2, 3, by RFTA, the statue quo Grand Hogback Bus Service in 2009; the increased Grand Hogback Bus Service in 2009; and the local match for two over-the-road buses. The motion was seconded by Commissioner McCown.
Ed – one other thing and that is improving the bus stop at Cottonwood. We want to explore the cost outside of this list that Dan submitted. The Board commented that this will be a separate subject.
Ed said this is especially important when we build the affordable housing project.
In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt asked about the progress being made on the Battlement Mesa
Transit Service. Dan said this falls into the same category as some other things, that being the high fuel prices; he said the RFTA Board is hesitant to make a solid commitment to this Board without seeing what the fuel cost is going to do. Chairman Martin – This may be a different discussion possibly with CMC. The senior programs are satisfactory. Dan added, thanks to Mildred Alsdorf and continued to give her kudos.

REQUEST FOR APPROVAL OF NEW BOARD MEMBER TO THE LIBRARY BOARD – WILMA PADDOCK

Wilma Paddock submitted the request for a Board member from the Parachute area.
A letter and resume was received from Bernita J. Grove for this position.
A motion was made by Commissioner McCown to appoint Bernita J. Grove for the library board from Parachute. The motion was seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye

DETERMINATION OF 2009 DESIGNATED HOLIDAYS – KATHERINE ROSS

The proposed holidays are as follows:

New Years Day, Thursday, January 1, 2009
*** Optional - Day after New Years, Friday, January 2, 2009
Presidents Day, Monday, February 16, 2009
Memorial Day, Monday, May 25, 2009
Independence Day, Friday, July 3, 2009
Labor Day, Monday, September 7, 2009
Veteran's Day, Wednesday, November 11, 2009
Thanksgiving Day, Thursday, November 26, 2009
Day after Thanksgiving, Friday, November 27, 2009
Christmas Eve Day ½ day, Thursday, December 24, 2009
Christmas Day, Friday, December 25, 2009

A second proposal was also made with the day after New Year eliminated.
A motion was made by Commissioner McCown accept the optional version including the Friday off after New Years Day. The motion was seconded by Commissioner Houpt.
Commissioner Houpt reiterated that Martin Luther King Day should be observed as it falls in line with other federal holidays and she personally advocates for that and believes this County should recognize that day. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL OF AMENDMENT 35 IMMUNIZATION CONTRACT – PUBLIC HEALTH

Don said this is the standard contract.
A motion was made by Commissioner McCown to approve the amendment for $55,681.00. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

AUTHORIZATION FOR AWARD AND SIGNATURE OF CONTRACT FOR THE PARACHUTE BIKE PATH – MATT ANDERSON

The public bid for this contract opened on September 4, 2008 at 2:00 p.m. and four bids were received:

PV Consulting - $133,053.59
KECI Colorado Inc. - $143,736.00
Glacier Construction - $145,062.00
Gould Construction - $177,668.00

Matt is recommending rejection of the low bid based on items within this bid. PV Consulting did not provide the proper information requested and Matt was concerned as they have to sub-contract most of the actual work. Matt is recommending they award to the second low bidder, KCCI Colorado Inc. for an amount not to exceed $143,736.00. Matt stated the second request is for a budget supplement to request funding and currently Road and Bridge has a current commitment of $50,000 and this is requested on behalf of the Engineering Department and requesting to move some money to make a total commitment of $145,000. Don stated there is one other technical issue with this to raise for the Board's consideration. Currently, I'm not aware of an IGA with Parachute that covers this project, there is a letter that Matt provided on April 3 that pretty clearly states that the town will contribute $40,000 plus an additional $5,000 and they pay upon invoice from the County; but there's no IGA to support that so it puts us technically in a

problem when we award the contract without the funds in hand. Does the Board want to see an IGA in place for this project? Also, I don't know if the project is entirely built outside the town but he is not sure of their right of way issues on this. Matt said he didn't get an answer back and Robert McKnight is out today so the approval would be contingent on clearing all those issue up as well. Chairman Martin – This also has an impact on the city shop because it's the retaining wall that holds the city shop from the roadway and the movement of a fence which is adjacent to the property at the intersection that goes to the library, city hall and to the town shop, so we've been talking about this for at least 8 years that I know of and it hasn't changed much. Don – I understand that and in checking my files on this the last correspondence received on this project was in 2005; again after the Chair stated I know if there are liability issues either. This is not the largest contract we've done either. Commissioner Houpt – It's not, but it's important to follow process and I would appreciate administration and the legal department would work together on creating the IGA and looking into the easement issues and liability issues. Ed – His concern is time. Commissioner Houpt – But those are still important issues and it may not take that much time since we've been having this discussion. Chairman Martin – This is already a used walking path and its being improved.
Commissioner McCown – What is the participation we're expecting from Parachute if we're looking at awarding the bid for $145,000 and the low bid that you recommended is $143,000; what would they be bringing to the table. Matt - Parachute will bring $45,000. Chairman Martin – What we've done is woven that into the entire contract of $145,000. Commissioner McCown – I don't think we can award this bid without a formal commitment from Parachute. Commissioner Houpt – Unless we commit to the entire $145,000 and then seek reimbursement; but, I still think we need a formal agreement. Matt – I'll be bringing this back before you once that's all cleared up and did note that we are requesting to throw out the low bid on this which came in at approximately $133,000 and the reason for this is because our bid document states that they were supposed to provide certain information on staffing, project schedules and our concern is they are not a primary construction company, they are a construction management company out of Evergreen and it brought up a lot of concerns specifically on who would be doing the work, i.e. subcontracting and it raised a lot of red flags for us. He stated that these bids are good for 60 days and he will bring this back before the Board once the IGA is completed.
Commissioner Houpt made motion to award the contract contingent on the finalization of the IGA with Parachute and their commitment for $45,000. Commissioner McCown seconded the motion.
In favor: Houpt – aye Martin – aye McCown - aye

COMMENTS ON FEDERAL OIL SHALE COMMERCIAL LEASING REGULATIONS – JUDY JORDAN

Ed referenced the draft letter that Judy submitted to the Board by stating this was on the oil shale commercial leasing regulations. Judy – As you know the Department of Interior has already released their final PIES on oil shale and now they are in the process of developing their commercial leasing regulations so they released a draft of those for comment and basically I put together a draft letter in the response to the BOCC on comments. A number of local governments in the area are also responding similarly. By way of background, I have not read the entire three million pages of oil shale leasing regulations. Tresi Boyd warned me that I needed a stiff cup of coffee and to only read it in the morning. But most of what's here is based on two things: previous comments that the County sent to BLM on St. Patrick's Day on their PEIS on their draft and the other is our four county economic study which indicated that in order to accommodate our oil and gas development much less oil shale, we need a huge capital infusion and equally important that infusion needs to happen before the actual workers arrive to work on oil shale. So, Tresi's suggestion to me from Shell was that there needed to be some kind of mechanism in there built in for private industry to put money into the system for capital investment before they actually jump in and start the construction of oil shale processing facilities. So that's the second reason for the theme that's in the letter here. Two things in this letter – reiterate the comments we made before that its difficult to comment or understand what the impacts will be socioeconomically on the area before we can identify technology that's most likely to come about because the technologies that are currently being experimented with go from A – Z. They're 180 degrees out from each other as far as resources that they'll need and these are concerns. It's premature for them to be releasing these oil shale leasing regulations number one as we've said before and number two, when they do that there needs to be some type of mechanism for the industry to put some money into the system ahead of time and then receive credit back for that infusion.
Commissioner McCown – Which governmental entities, I happened to be at the Associated Government meeting last Thursday and I know Club 20 has come out with support of the adoption of the regulations with some modifications; and Associated Governments and the towns and cities involved with that supported the adoption Thursday with some changes, one being written into the regulations just exactly what you're talking about only we were very specific that with the adoption of these regulations it would give the companies that have R & D projects at least a glimpse of the rules that they're going to have to be playing with when they have to establish economic viability of their project. Without knowing what the royalties might be, what the socioeconomic pressures might be, how much capital they're going to have to invest outside of their project; without these rules those are just blank spots on a map. So, everyone was of a consensus that we need to go forward with these rules, this is not leasing, this is the adoption of the rules and we need this in writing in the rules that probably 50 – 70% of the billions of dollars that a company will have to invest in a project is going to be off-site, capital investments for infrastructure to support the towns, the area, they have to build a town whatever; but it's going to be off-site costs and we supported that they could recover dollar for dollar on their federal mineral royalties for every dollar of off-site investment that they make prior to the start of their industry. So, we were quite specific and in that we also wanted the verbiage that the split on royalties would never be less than 50% back to the local government as far as the royalties split where somebody tacked on some legislation for 49/51 that's due to expire this year. We wanted explicit regulations that the balance would never go below 50% coming back to the local and state governments. Commissioner Houpt – I am surprised that you moved forward in supporting that, there's clearly a different approach of thinking on how this should move forward and I personally would not support that. I don't know how you can move forward with the creation of regulations when we're so far from being in the place where the companies who are participating in research and development know

what's going to be commercial viable. We've seen a big push on leasing; we've seen a big push on creating regulations and we're still in the middle of research and development and anything that goes into regulations right now would be guess work. There would be no basis for creating these regulations. I think this letter is very consistent with what Jesse Smith put together last spring and with the position that this Board has taken in the past. I think it's premature to move forward with regulations when the federal government put together a very comprehensive and very responsible research and development program and now we'll kind of throw forward some regulations that may or may not be appropriate to the outcome of the research and development phase. Commissioner McCown – I really tend to differ with you; I think that there is a clear path that Shell is taking on their technology. There is a completely different technology that will be taking place in Utah. I think there's still a third party that's out there that's developing their technology that may even be a different method but unless they know the rules that they are going to have to play by, they don't know if they even want to start with the RD& D project because that within themselves is going to cost billions of dollars. One other thing that we put in there, and it's not in the rules, that any company that might apply for a R D&D or a commercial lease that does not have an RD&D lease must also consult with the local governments just like those folks that have RD&D leases must according to the rules. Chairman Martin – There was also a comment by Club 20. Commissioner McCown – Well, Rio Blanco County wanted that specific because it was not in the rules to that affect. These folks have to know the rules of engagement that they're going to be developing toward if we don't give them some parameters that they're going to have to meet ie. 1% through 12% on royalty recommendations, that is huge. 12% is huge when you're looking at the capital investment they have to make in their projects. So, that has to be decided, they have to know what's out there before they're going to proceed with investing billions of dollars even in the RD&D projects; leasing is not even on the table – this is rules; this isn't about leasing. This is about development rules that will apply to commercial leasing should it ever happen. Commissioner Houpt – Well, and realistically you can see where the vote going to go here, but we need to have a better understanding of what they're going to bring forward and impact us with before we can put a responsible set of regulations together or even respond as a local government or we're short changing folks in the future because we have no idea right now what's that's going to look like. I applaud the federal government for the research and development phase that they put together, I think that was a very responsible move, I don't think it's responsible then to move forward with the next step before that research and development phase is over with. So, if we're going to be moving forward – this is what I would support because this protects us into the future. Otherwise, we react to regulations that have been put together that may not be appropriate to what we finally see in 5 – 10 years on the ground. Commissioner McCown – There will have to be at least one and probably two more complete EIS's done before any leasing or commercial development can be done. This isn't creating a hysterical situation where somebody's going to come out and start their retorts in the morning. Commissioner Houpt – It's opening the door to something that we need to move forward with in a very responsible and thoughtful manner and I think that putting together regulations at this stage in the research and development phase is premature. Chairman Martin – Okay, of course we've only been working on oil shale in Garfield County since 1884 so I think that it's slow and responsible at that point and fail safe. We've seen problems with everything in the world because they're no guarantees that the world's going to be perfect and that was a story that went away also, trouble in paradise. So anyway, I don't think we want to support this draft letter. AG&C had a very long conservation about this and they wrote everything down; Club 20 has also a written proposal. Commissioner McCown – AG&C as a group and that did include the City of Rifle, Steamboat Springs, Meeker, and the five counties in Northwest Colorado, Routt, Moffat, Rio Blanco, Mesa and Garfield County all felt that with the changes we made to the Club 20 proposal that it was unanimously supported by everyone who was represented at that meeting. I think you could get a copy of that if you would from Arron Diaz at AG&C and I would make a motion that we would send a letter comparable to theirs insuring that the points that I made today with the caveats, the ones that we changed to the Club 20 letter. Commissioner Houpt – But you're not making that motion today. Commissioner McCown – I'm making that motion right now. Commissioner Houpt – I haven't even seen the letter and there's no way I would second that motion or vote for it. Commissioner McCown – You're not going to support it anyway, you said you knew how the vote was going to go. Chairman Martin – And I've seen preliminaries from Club 20 and I didn't see the final version of the AG&C and I'd like to see that one too. I'll second the motion for discussion if we want to go forward with it or not. Commissioner McCown – This has to be in by the 22nd or it's a moot point. Commisisoner Houpt – Well, I think it's ridiculous for this Commission to vote on a letter that they have not even had an opportunity to review; I support Judy Jordan our Oil and Gas Liaison's letter, it's very consistent with the position we've taken in the past and I haven't had the opportunity to see either Club 20 or AGNC's letter and for that reason I would not only vote against this motion but encourage the rest of this Commission to reconsider that motion. Chairman Martin – Okay and understanding that we have a representative that sits on both of those committees here and giving that particular report and having it supported unanimously I do have the confidence that it is the right approach as well as reading part of the AG&C and Club 20's comments, so I have just the opposite view and I think we are taking a responsible step and think we do need to move things forward. It has been 100 plus years on this issue and I do know that three different companies that have their projects would sure like to have some help so that they can show that they can go forward in an economic way but need assistance in proving it to the world really that they can. There are three different forms, one is going to be traditional which is a retort, one is going to be the freeze wall as we know, and the other one is going to be using electrical current underground with a whole process underground and nothing on the surface except where they are recapturing the three gases and the oil itself. Big project, a lot of money and a lot of scientists involved, I don't think it's going to be detrimental to the environment with all the safeguards and I don't think that they're requesting this to go forward is premature. Commissioner Houpt – I would like to point out that the research and development programs that John just outlined can go forward without regulations being put in place prematurely. In favor: Martin – aye McCown – aye Houpt – opposed. Chairman Martin – We'll go ahead and gave direction to Judy to get the letter and draft it and the PEIS under John's signature. Commissioner Houpt asked that it be noted in that letter that it was

not a consensus decision to move this forward; we've done that in the past. Judy clarified the direction: I am to get hold of the Aaron's letter from AG&C as well Club 20 but you want it to look like AGNC's letter. Aaron's letter reflects some of the specifics that you talked about that weren't in Club 20's letter. So Aaron's letter is the one I want to aim at. Commissioner McCown – Yes.
Judy – And then make something that looks similar to that with John's signature on there and a notation that it's not a unanimous decision on the part of the BOCC.

REVIEW OF IGA FOR AFFORDABLE HOUSING PROJECT IN RIFLE – PAUL MENTOR WITH ASPEN FOUNDATION

Paul Mentor Finance Director with the Aspen Community Foundation and Geneva Powell Housing Authority Director were present. This project is a collaborative effort among the City of Rifle, Garfield County, the Garfield County Housing Authority, the Grand River Hospital District, the RE-2 School District and Aspen Community Foundation. They are hoping this project will result in 200-250 deed restricted rental and for sale housing units primarily for use by employees of the four collaborating jurisdictions. A survey of the employees in these four jurisdictions was taken and Garfield County employees participated very heavily and currently the process of compiling that data for further discussion among the partner representations is on-going and is at the front end of having some non-binding discussions. With six different developers who specialize in affordable housing who have agreed to donate their time to essentially help make sure we don't miss anything in moving forward as well as in structuring an RFP that would go out to the development community hopefully for construction of this project during 2009 with occupancy beginning in 2010. The project is still in the very early stages of the planning process; however the County Manager and County Attorney would like to provide the BOCC with a written status report on the project. The MOU is attached and would require action of the County so in going into your 2009 budget process your staff wanted to bring this forward for your initial review.
Included in the analysis were the following topics:

1. Project Definition
2. Project Development and Financing
3. Project Operations and Post Development Agreements

Commissioner Houpt – I viewed this project differently than what I'm seeing represented in the Memorandum of Understanding. It was my understanding that we were building affordable housing with some defined preference to employees but not strictly for the partner's workforce. In looking at the numbers realistically, I think we could serve well more populations than strictly employees of the partners – the County, the school district, the hospital and the city. Some of the partners have more need than others in the Rifle area and understand there's a boarder need for affordable housing in the area as well. So, as we move forward knowing that we're not putting this huge investment together for a fairly small portion of our population but have the ability to call it affordable housing with certain parameters for preference. That also opens up the opportunity for us to have state and federal housing monies come to this project.
Ed said we haven't dismissed that as an option and you are correct, it does allow us to attract additional federal and state funding for it. That's just a point that is still under consideration by this group. There is a huge demand amongst those four entities. If you look at the school district alone, they are having 75 people a year and most are from the Michigan area. They have some fine schools that produce teachers but there are no jobs up there and so we're able to attract them. The dilemma they face is housing. We see the potential for at least allowing those new teachers to have a place to live while they are getting settled in this area and then move on to something else after that. Ed said the group would be addressing the aspects of community housing in the next couple of meetings. Paul said the City of Rifle has expressed the same interest for broader housing for the community workforce; the shared interest that we see among the four partners is that all of us will have a need for employees. The possibility has not been taken off the table for community housing needs. More discussion was held with respect to the need for affordable housing.
Commissioner McCown – This is a flagship program and what has been needed in taking a lot of the lip service that we've been giving to affordable housing by four of the major employers in Garfield County and putting some houses on the ground. Other than imposing that on a developer, should they come along, and leverage their housing development with affordable housing. This is making it happen and if I read it correctly a preference will be given to those employees of the four entities but it doesn't restrict to just them. It's a very useful tool and I support it. I don't think we'll get that many Garfield County employees there. What makes this work is all four of these entities realizing the need for this and moving forward with it in a partnership. I support it wholeheartedly. Commissioner Houpt – I read it differently than Larry, I read it as strictly for the participating partners and I would have a real problem with that. I would want it opened up to other people who are in need of affordable housing so they can live and work in the same community. Chairman Martin – And we have to heed what Geneva has said over and over, if you use federal money you use certain federal guidelines as well as CHAFA money and other things which means you can't do it exclusively. We need to go ahead and support this. Don - Because of the Board's statutory limitations, you participate in affordable housing through the Housing Authority; the Garfield County Housing Authority will need to be the direct partner in this agreement and they will need to work out an agreement with the Housing Authority for our participation. Our participation is limited to non-property tax revenue so we'll need to identify that in the budget process. Ed stated we did this with the Meadows on their proposed IGA. The contribution of the proposed parties to this IGA is directly and solely to the construction of infrastructure for this project. Paul – There will be two agreements: a Memorandum of Understanding which is attached which includes a proposed financial contribution from each of the jurisdictions for Garfield County; it is $1.5 million. Those are seed amounts which I'm not sure if we plan to limit those to infrastructure or include those in an overall project financing contacts. The infrastructure is going to be a big piece; a $13 million or so infrastructure cost based on the preliminary numbers included in the memo. The second agreement would be a more detailed Intergovernmental Agreement among the jurisdictions and it would govern not only the development phase but also the post development and operation of the project going forward. So the MOU is the agreement that we're trying to finalize in the next month or so because that will be the companion piece for an application or series of applications that the partners plan to make to DOLA for infrastructure funding. It is a representation for desire to proceed by

the parties that we would like to have to go forward to DOLA with that application. Don – A quick look at the proposed contributions plus Rifle's giving them credit for the property they're bringing to the table, plus the anticipated DOLA grant for which we'll need to apply as well, so we're pretty close to the to the infrastructure costs. Commissioner McCown – You're looking for some type of action on the MOU.
Paul said the MOU is still preliminary; it will need to be modified. The Board gave their support to proceed.

COUNTY SHERIFF UPDATE – LOU VALLARIO

REALLOCATING SHERIFF'S BUDGET AND CONTRACT FOR SUPPLEMENTAL FUNDS TO CARE

Connie Baker, Leslie Rockley and Lou Vallario were present. Lou stated he had set aside a specific amount of funds for Divide Creek but they are still not operational. He has $50,000 he could allocate to CARE to help them out. Leslie summarized the situation saying based upon the additional number of animals they are taking care of has generated a shortfall in their budget. In canine costs alone it came to $141,064 so far this year. They anticipate an increase in canine costs for 2009 as well.1/5 of the budget comes from the County and the rest is private funds. Private funds are decreasing and animals are increasing.
Lou said construction issues with the Divide Creek have been the problem and they will not open until 2009. Commissioner Houpt is supportive of CARE and stated we have money in our budget in 2008 to cover this and suggest that this $100,000 come from the general fund and further discussion on the $50,000 that you have offered. She made a motion that under these unique circumstances and based on the increase of the animal population and other projects, that we identity an addition $100,000 from the general fund to allocate to CARE for 2008 and thank the Sheriff for the other $50,000 to go to CARE if that works for his contribution. Commissioner McCown – Second. Don said for his agreement purposes its $150,000.
Lou said there is an increase of $150,000; the last $50,000 is already in the contract. Chairman Martin said we just basically doubled our contract with CARE basically at $200,000. Commissioner McCown summed it up as a $200,000 bill coming. In favor: Martin – aye Houpt – aye Opposed: McCown – aye
Don clarified that this includes authority for the Chair to sign the amendment.
Procedural question on the Consent Agenda – Don DeFord
Don said there's an item listed at L, that also concerns the spay and neuter program and does this need to be pulled for this upcoming discussion.
Commissioner McCown stated his Consent agenda doesn't go beyond J.
Chairman Martin – J. is the authorization to sign the first amendment to CARE and BOCC contract 508.

CARE REQUEST FOR ADDITIONAL SPAY/NEUTER FUNDS

Lou stated that CARE was on their own since he didn't directly give them the money for the spay/neuter funds. Don stated this item is listed on the consent agenda.
Leslie reported they have done very well with the money that the County gave for the spay/neuter program and the money has been used and they found other money to help with the program as well.
Commissioner Houpt requested a year end report on these numbers.
Don said other than the $6,000 requested in Amendment 1, they are not asking for any other funds.
Correct.

COUNTY ATTORNEY UPDATE – DON DEFORD

DISCUSSION/DIRECTION RE – PROPOSED RESOLUTION ESTABLISHING EMERGENCY RESPONSE FUND

Don DeFord, Lisa Dawson, and Lou Vallario were present. Don – A proposed draft resolution was included in the packet; this was prepared and presented subsequent to the discussions with Lou a few weeks past for the need to have a dedicated source of funding for his department for emergencies – fire fighting primarily but others as well. Don said after discussing this with Lisa and Lou this may not be the direction they want to go with this. If the Board agrees with them, Don would need further direction from the Board.
Lisa Dawson – In doing some research on the approach on setting up a fund for these monies, technically this is not quite appropriate for setting up a fund. A fund should be funded by special revenues and this $500,000 for emergency response is a transfer from the general fund and it would more appropriate to have it set up as a line item. We discussed the concerns about the parameters for this line item with Don and our proposal would be to set up this line item in the emergency management fund and then set it up with parameters giving Lou authority to spend these funds for disasters. Lou – The issue is statutory funds are not funded from general funds and that is what he's hearing that these funds should be also since this is funded by general fund money. My suggestion was to make this a line item in the emergency management budget that is already maintained. Not fire suppression but under emergency management with the caveat that there are specific things that it can be used for inclusion in some of the language Don put in the Resolution. Don – in our discussion there are two uses we need to talk about and that are the uses of that line item if it were set up that way as described in Item No. 4 of the proposed resolution; and also the limitation on elected officials for authorizing payments without approval of the Commissioners which is limited to $10,000 right now. There are a number of occasions when Lou needs to be able to authorize expeditiously payments that sometimes far exceed $10,000.
Commissioner McCown – Agreed, but at the same time we have mechanisms in place when disasters occur. The MAC for instance would have members of this Board present that could authorize that kind of expenditure. Ed said a discussion would be occurring this week with the sheriff and with all the participants that traditionally are in the MAC to reactivate that which enhances our training and we'll also be doing some exercises so we are indeed up to speed.
Commissioner McCown said he didn't want to take this personally, but when we talk about significant expenditures, that should be on the hook for expenditures that far exceed that amount allocated; that's BOCC responsibility and he couldn't think of a time with fires or anything where the Board wasn't able to be contacted. Lou – The MAC thing is different and it is designed when you have multiple disasters going on you definitely give the players at the scene the authorization to expend the funds. If we're talking about a fire i.e. the Porcupine fire and we basically brought in 20 plus air drops and before I call in a heavy tanker it is a $10,000 drop and if I don't have funds in my account then I can't authorize that because that is an

illegal expenditure. By the time I come back to this Board it is after the fact because we're talking emergency situations. Don was saying if there's an authorization level of $10,000 perhaps he needs to extend that to get that job done immediately and then be able to come back at a regular meeting or assemble the Board over the phone but the emergency could necessitate making a decision before it can be brought to the Board for the spending levels. Commissioner Houpt mentioned we've had discussion and that's why we now have this Resolution in front of us. Because that $500,000 is money for Lou to expend in an emergency situation without other red tape involved, it isn't a typical line item. It is set up for emergencies and if we have to do it this way to accomplish that, that's what I would support. Don said he had discussions with auditor and yes you can do it. Commissioner McCown – There is no significant difference whether it's a line item or in an Emergency Management fund; we know the intent and purpose of it. Chairman Martin - The New World Accounting System will have the parameters.
Lou summarized that the Board would like this to be a fund and incorporate in the resolution some spending limits. Commissioner Houpt didn't have a problem if this was a line item but reiterated that this needs to be worked out with finance. Don – This will have to come back to the Board for feedback for a spending limit to exceed the $10,000. Commissioner Houpt suggested Lou to give this some thought as to what that spending cap should look like during emergencies. Ed threw out the figure of $100,000 and Commissioner Houpt agreed.Once this resolution is prepared, it will come back to the Board as a consent agenda item.

DISCUSSION/DIRECTION TO STAFF REGARDING; HOUSING AUTHORITY EXPANSION OF BOARD OF DIRECTORS

Don and Geneva have discussed this and Geneva would like to expand the Housing Authority Board from 5 to 7 members, leave the current members and add two more.
Geneva – This is not an advisory board as they do not do public housing.
A decision was made to schedule this for a public hearing probably on October 13th.

COUNTY ROAD 306 – CONSTRUCTION AND ENFORCEMENT OF NOBLE ENERGY AND ROAD AND BRIDGE

Chad Williams, Attorney for Noble, Wilbur Kroger, P.E. from Nolte Associates, Inc.; Mike Bonkiewicz, District Manager for Noble Energy; Marvin Stephens, Jake Mall and residents on 306 were present for this discussion. Don stated this came to his attention by road and bridge as well as concerned citizens over the subject of a construction permit first issued in 2006 and a pipeline permit to install a 16" pipeline in 2007 that is causing difficulty by residents using the road. There is a potential right of way issue as well.
The construction project raised concerns with the permit for the pipeline and conditions were placed on Noble Energy by the Board and the Road and Bridge Department.
Jake briefly explained that Noble had permission to be working within the road surface of County road 306 and they would be required to replace the road base surface with 4 inches of road base on the length of County road 306. It was to be completed to the specifications in the permit. Some of their equipment will be on part of our road while they are doing some of the work. This was to be done by private contractors. There was a discussion about the delay in traffic and a 10 minute delay was agreed to by the Board.
Marvin explained in detail the condition of the County road as being barely impassible and he also submitted various photographs showing the road conditions. He said we need to find a better and safer method to get the project done. The road is currently closed and residents can either go up Wallace Creek or Spring Creek. Jake has had conversations with Noble and they understood they would have to use the road and keep one lane open; however this is a very narrow section of the road. Marvin reminded the Board that this was before them and conditions were placed on the permit in 2007. Jake stated he closed the road to the traveling public under these emergency conditions and it is essential that we get the road open. Marvin pulled the permit due to safety issues and the fact that the conditions of the permit were not being adhered to. Photos were submitted showing the pipeline.
Chad Williams, counsel for Noble stated they are displeased with the contractor originally hired for the project and that firm has been terminated them; we will not be using them for future projects. Also, Noble is ready to mediate this problem immediately. Discussion took place over the lack of supervision over the project, disputed right of way, and property owner's complaints; namely Linda Dixon representing her mother, Muriel Dixon and another landowner Nate Dutton. Linda Dixon read into the record a letter addressing this issue last spring dated April 1, 2008 stating the road was a deeded road for the school bus and not for a pipeline. This has been a County road since the late 1950's however there is no legal description. Now there's this issue with the right of way. Linda explained that she measured the road from the southwest corner. Her findings were that Connie's fence is on the edge 78 – 80 feet on the right side of the road. Murrays take more ground on the east side 75 – 80 feet. The historical right of way is not that wide. She is upset because in her opinion this has not been resolved or explored. She went on to explain that a Noble representative, a land man out of Houston, came to see Linda and Muriel Dixon in 2004 saying they needed a pipeline at the cattle guard to Murray's. She knew it would be a problem. A pipeline easement was presented and they said no, we won't approve it. Now her question is will the local government subvert that clause. There are no roads to transfer off lease gas. By now we are aware of federal leases. In 2004 when Noble tried to get this contract she went to an attorney to straighten it out because they starting drilling all around us. We have been 4 years writing contracts. This pipeline has now gone into private property; Noble proceeded on other end. Linda stated she feels the County needs to be a full hearing and a full investigation with Linda's attorneys. Nate Dutton stated he doesn't hold Noble responsible totally, most on this falls to the County. These roads were handed over to EnCana and Noble but the decisions on how the construction was to be operated lacked monitoring from the County. Flag cars have priorities and they held up stop signs and messed with the County road. It is due to the fact that nobody was monitoring or inspecting, because had they been they would have seen the problems. The County turned the road over saying to the energy company, you give us chip and seal and take care of our roads; this is not what the property owners idea of deeded over ground and then the County saying you forget about it. The local residents lost school bus service in 2002 due to an accident off Spring Creek Hill that almost killed kids. The bus lady took the position that the road was not safe. We came to the Board of County Commissioners and action was taken to condemn other parts of the road. The road right of way has

narrowed from 60 foot to 50 foot. He spoke with Bert Garlitz within the last 6 months and was told him the road and bridge folks were just janitors now and we don't do anything. Tap the oil companies; they will fix the road. Linda said she attended an April meeting where Noble came and explained in a half-hour segment on how they were going to honor the old timers by respecting private property rights. Nate Dutton – if you don't play ball, they shut your wells off. Chad Williams was not inclined to get into the minutiae of the actual details absent the Board of County Commissioners asking that I do so. There is a lot to say about this including from the prespective of safety of the construction contractor and actually encountered threats of physical harm, which is why wells were shut. This is going to be a contentious dispute. I can advise the Board that at least Nathan Dutton is represented by confident counsel from Grand Junction to the extent that there is a claim that the oil and gas lease in some manner precludes our use of the County road, all land issues aside. They have a private remedy; I disagree with that. I don't think it's right, but that is available and it is beyond the scope of permitting issues so I would simply say we contest much of the factual complaints with all due respect to the Dutton's but I'm not going to get more into this absent the Board that would need additional information. Chairman Martin – We will stay on the road issue and how we're going to approach that particular issue, the permit that has been suspended at this time and we'll need to deal with that and involve our legal counsel. Linda forgot to mention that this spring they were talking about with the ditch, it comes up further in the gulch on our property further east and it goes into Spring Creek and into that irrigation ditch where the Noble subcontractor was tearing away from the slope. Apparently the reason is they dug too close to the ditch and that's why it filled up with water. It's not a spring there, that's a dry hillside. Getting back to the permit issue, we strongly advise you not to continue this project because even though Mr. Williams speaks to a remedy. In the meantime that situation gets more complicated if you grant them permission to proceed and they want your blessing. I guess this Board has to ask you if it's worth the problems that are coming down the road because of it. We strongly urge you not to continue this permit; some of this stuff needs to be sorted out because they will continue to cause damage. As far as threats, I think there have been threats all around. Rumors have been put out there about the kind of money we're getting. My 85 year old mother goes to the grocery store by herself and different residents and family members were photographed and had license numbers taken down by Noble security people and as soon as I went up there and talked to one of the subcontractors who was measuring the right of way, I found myself boxed in by trucks, so I was aware that if I wanted to leave, I wasn't able to. Like my brother said, Noble tried to slide it in, the County looked the other way hoping it would go away and it's not.
Don asked Linda in terms of the County issuing any future permits, if the Commissioners were to choose to issue a permit to Noble to restore the road to some type of satisfactory traveling condition, do you know if there would be disputes on the right of way and the use of the right of way for that purpose?
Linda – We've been advised that it's in everyone's best interest to revoke the permit and a full hearing prior to the issuing of any other permit for an application. As far as remedying the damage, I don't know. This would need to be discussed with legal counsel. Don – Not the pipeline issue but simply to restore the road. Linda – Who would be restoring the road? Chairman Martin – This hasn't been decided yet but that is our number one concern is getting it reestablished and going from there. Linda said it was obvious that you can't just turn these things over to a big oil company and hope its going to be done right.

EXECUTIVE SESSION – COUNTY ROAD 306 DISCUSSION

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 - No decisions were made in Executive Session.
Don stated there were two items for public action as you move forward with this. There are two outstanding bonds, one for $100,000 and one for $500,000 assuring performance of the conditions of the permit that was issued to Noble Energy and if you believe I should give notice to the bonding company of violation of the permit, I will need that direction. Also, in terms of moving forward in terms to restore the road to its original condition, you need to give specific direction on how you want that to proceed. And the permit for the pipeline is under suspension right now so work is not allowed to proceed on that at this time.
Commissioner McCown made a motion that we maintain the suspension of the license for the pipeline, or the permit for the pipeline and that the pipeline that's in the ground be abandoned, that the roadway be restored to its original condition and that notice be given to bonding companies that there has been a violation occurred, the work actually being done in the roadway as far as reclamation and restoration of that road to its initial condition will be done by a 3rd party contractor under the supervision of the County and paid for either by Noble or by the bonding company. Commissioner Houpt second.
In favor: Houpt – aye McCown – aye Martin - aye
Chairman Martin – It is unanimous and we're take up other issues on this particular corner and what have you and will be in touch with all parties. Don – I will have further discussion with Mr. Williams about Noble's position on the action taken by the Board.

COMMISSIONER REPORTS

None given.

<u>CONSENT AGENDA</u>

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 a Contractors Yard on County Road 352 and Within the ARRD Zone District – Applicants; Bruce and Dee Snode – David Pesnichak
f) Authorize the Chairman to Sign the Special Use Permit for an Industrial Support Facility ("Central Products Facility") Which Includes Material Handling, Pumping Facilities, Staging Areas, Storage Areas and Processing – Applicant; Chevron USA, Inc. – David Pesnichak

g) Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit for One Temporary Employee Housing Facility Located on a Well Pad Described as 598-36-AV – Applicant; Chevron USA, Inc. – David Pesnichak
h) Authorize the Chairman to Sign a Resolution Authorizing Release of Special Use Permit Bonds FS 493196 and FS 4931963 and Terminating Special Use Permits for Natural Resource Extraction (timbering) Approved by Resolution 97-70 and 2003-39 for a Property Know as Tepee Park Ranch Located 9 Miles South of The City of Rifle – Principal for the Bonds is Teepee Park Ranch LLC; Property Owner is Black Diamond Minerals, LLC – Kathy Eastley
i) Authorize the Chairman to Sign the Amended Plat for Battlement Mesa Offices, LLC where the Applicant Seeks to Correct a Boundary Line Between the Two Parcels – Applicant; Battlement Mesa Offices, LLC – Dusty Dunbar
j) Authorize the Chairman to Sign the Resolution of Approval for the Alpine Animal Hospital SUP for a Veterinary Clinic in the ARRD Zone District – Applicants; Alpine Animal Hospital, P.C. – Dusty Dunbar
k) Authorize the Chairman to Sign the Resolution a Rural Lands Development Option Application for a 723-acre Tract Land – Applicant's; Davies Mesa Ranch Estates, LLC and David K. Danciger Special Power of Appointment Trust – Fred Jarman
l) Authorization to Sign the First Amendment to C.A.R.E. and BOCC Contract (508)

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the Consent Agenda Items a - l; carried.
In favor: Houpt – aye McCown – aye Martin - aye

HUMAN SERVICES COMMISSION
FOOD ISSUES IN GARFIELD COUNTY/NATIONAL HUNGER AWARENESS MONTH – ANDREW COONAN AND MIKE POWELL

Andrew Coonan with the Hunger Action program and Mike Powell from Lift Up were present.
The Board was provided a presentation from the Western Slope Food Bank of the Rockies Lift Up/Extended Table. Western Slope Food Bank's mission is to end hunger by efficiently procuring and distributing food and essentials to people in need through our partner agencies in Northern Colorado and Wyoming. They went on to explain the nutrition programs available. They feel the faces of hunger will surprise everyone. Food Security as defined by the Colorado State Extension Office is access to all people at all times to enough food for an active, healthy life.
Mike said they patronize this program a lot. The cost of food is $.18 cents per pound. Because of what they do, the people that support Lift Up benefit. For the month of August 2008 they issued 911 sacks of food and the extended soup kitchen had two months where 900 plus meals were served. In July over 1100 meals were served at the soup kitchen. The economy is tougher and people are relying on help from the outside. We have served over 11,000 this year. Chairman Martin has been supplying the senior programs with fresh fruit and vegetables. He suggested anyone who has extra could do the same.

BOARD OF HUMAN SERVICES
APPROVAL OF EBT/EFT DISBURSEMENTS FOR AUGUST, 2008

For the month of August, 2008, client and provider disbursements for allocated programs, totaled $313,998.87. Client Benefits for food assistance totaled $165,541.58 for total EFT/EBT disbursements for August equaling $477,540.45 and requested Board approval and signature.
Commissioner Houpt so moved and seconded by Commissioner McCown.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME CONTRACTS

The department is requesting consideration and approval of the following agreements/contracts:

1. Out-of-home placement contract with Turning Point, for State ID Q427626 in the not-to-exceed amount of $56,254.32.
2. Out-of-home placement contract with Turning Point, for State ID G0138820 in the not-to-exceed amount of $56,867.93.
3. Out-of-home placement contract with Rainbow Group homes – R894048 in the not-to-exceed amount of 19,370.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out-of-home placement contract with Turning Point, for State ID Q427626 in the not-to-exceed amount of $56,254.32 and the Chair be authorized to sign. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out-of-home placement contract with Turning Point, for State ID G0138820 in the not-to-exceed amount of $56,867.93 and the Chair be authorized to sign. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the out-of-home placement contract with Rainbow Group homes – R894048 in the not-to-exceed amount of $19,370.00. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF THE 8-PARTY INTERGOVERNMENTAL AGREEMENT AND MEMORANDUM OF UNDERSTANDING FOR THE SENIOR PROGRAMS

A copy of the current IGA and MOU were included in the Boards packet for final review. The 8-Party IGA has been circulated to the other entities and a verbal update will be provided at the meeting regarding the status of approvals and/or signature received. The grant applications have been submitted to the City of Glenwood Springs; however they have not received notification regarding the grants or contribution. Authorization for signature: one issue is that right now we have grant applications for recovering that cost with City of Glenwood Springs; it is in their approval process but it hasn't been completed. The 8-party agreement does not include Glenwood Springs. Commissioner Houpt asked if they had been invited to the table. Dave Sturges said he was appointed and reported that the application is in process and they have every intent to participate. We are working to get the City of Glenwood Springs on the IGA. We honor and appreciate the Senior Citizens. I will probably be the representative on the Board. Commissioner McCown

confirmed with Dave that it was okay to precede without the City and then amend it. Dave agreed that Glenwood is being slow and this was fine. Lynn responded to a question from Commissioner Houpt regarding the wording and Lynn clarified that it was encouraging every municipality to participate. The advisory board will advise the Board with direction as we go forward. Don said the first action is approval of the IGA and MOU. Lynn said the IGA is on-going and the MOU is through 2008.
A motion was made by Commissioner McCown to approve the IGA and the MOU and the Chair authorized to sign and then presented for the other entities to sign. Motion was seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye

APPOINTMENT OF GARFIELD COUNTY'S REPRESENTATIVE ON THE SENIOR PROGRAMS ADVISORY BOARD AND CONSIDERATION AND APPROVAL OF SENIOR PROGRAMS ADVISORY BOARD RESOLUTION AND RECOMMENDATIONS FOR APPOINTMENT

The draft Resolution was presented to create the advisory board for the Senior Programs and appointment of County representatives. Lynn stated that Judy is a non-voting member and Lynn will be supporting Judy. Lynn said she would prefer to look at 11 members. The following are being submitted as recommendations as members:
Lin Stickler and Janette Kaufman, Colorado Mountain College; Pam Zentmeyer from the Town of Carbondale; Pam Bunn from the Town of New Castle; Robert Knight, Town Administrator of Town of Parachute; Betsy Suerth, Town Administrator of the Town of Silt; and Lynn Renick for Garfield County as the Director of Garfield County Department of Human Services; Mickey Neal for Garfield County Council on Aging. The Council of Aging alternates are Mary Jane Hangs and Jo Ann Duffy.
Commissioner McCown wanted to make sure the members were appointed to staggering terms so they would have consistency among the members. Lynn said she will get a broad resolution put together and their by-laws to address that question. She will bring that back before the Board.
A motion was made by Commissioner McCown for signature authorization and appointment of the names that have come forward but the other entities may need to come forward for official adoption at a later time. Don said we need the Board to approve the form of resolution and appoint the names that have come forward today. Commissioner McCown added in his motion to approve the Resolution creating the Garfield County Department of Human Services Senior Program Advisory Board and appointing membership of 11 members including those submitted today and when we have a list next month, adding those to the membership. Motion was seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM REPORTS:

BOARD OF HEALTH:

No issues.

DISCUSSION REGARDING 90 DAY MORATORIUM ON GAS DRILLING – SCOTT DENADO WITH BILL BARRETT, SUSAN ALVILAR WITH WILLIAMS, CHER LONG WITH ENCANA

Commissioner Houpt left the room due to her conflict of serving on the Colorado Oil and Gas Commission (COGCC). She did state that COGCC is not taking further testimony on this issue.
Scott DeNado, Manager from the Environmental Health for Bill Barrett Corporation and Donna Gray from William Production, Parachute and Cher Long were present.
Scott was drafted to discuss this with the Board of County Commissioners. He stated that this in response to the memo that Judy Jordan put out and we've had discussions with Judy and Ed on this issue. We want to get our side of the story on the record. We felt the memo presented an inaccurate picture of where we're at with the proposed rules as of today and this discussion is pertinent to the County and will have a lot of bearing on the County as they move forward. The rules are in a state of flux. They are proposed at this point and certain portions of the rules have been decided on; the wildlife portion has not and those parts are in flux as of today. The COGCC draft rules are silent on this timing limitation issue. The DOW has continued to say they have their place in this mitigation strategy and they are still on the table as the industry is concerned. They have publically stated that the BLM uses variances to these timing limitations too freely so that causes concerns for the industry that these timing limitations will be a part of the plan going forward in these areas. The final outcomes for these are months or even years away because they've been put off for a separate stakeholder process. The difference between Ms. Jordan and our analysis is that she calculated all acreage in Garfield County as a whole and basically divided that by 640 acres or the acreage in a one mile section and then multiplied that by 2 wells pads per 640 acres and then times 12 pads to reach what we consider a very optimistic but unrealistic outlook for both drilling and resource production in the County. The reality is that the proposed regulations apply a maximum of 2 well pads per legal section in our interpretation of that. There's still a question to that but we're pretty confident with our discussions with the COGCC that this is specifically what they are talking about, that legal box, every legal section – 2 pads per section versus the random 640 acres that was used in Ms. Jordan's analysis. Ms. Jordan also assumed 12 wells per pad which would be 24 per section that would access all minerals in that section and this estimate is not even close to accurate based on 10 acre spacing which a number of companies are doing including ourselves and Williams. That would take up to 32 wells per pad or 64 wells per section to access all the minerals in that section. Scott went through an analysis that Kent Rider put together and read these into the record. He basically summed up that there are problems with assumption.
Commissioner McCown interrupted Scott saying he was basically talking about BBC and Williams, how does this affect some of the smaller operators that have less leased acres noting that you guys, Williams and EnCana are in the mix as well that have significant acres leased such as Laramie Energy. Scott says BBC considers themselves fairly small in comparison to EnCana and Williams, and some other operators were involved in this analysis as well. You have less areas to go to is what happens and BBC is a good example of that even though we have a lot of leased acreage, we're completely covered by timing limitation so we have nowhere to go if we're timing restricted. Rigs for Bill Barrett would simply go away under that scenario. Again, it would depend upon those small operators onto what amount of timing limitations coverage they had over their leased acres. If they had a lot, they would have nowhere to go; if they had very little then it wouldn't impact them as much. Scott went on to explain some of the other factors that do and

can basically affect every well pad that we put out there. Geology is one and it depends on the geology and where the gas is located has a lot to do with where we put our well pads as well as how far you can drill directionally. Topography is another issue and a concern including large cuts and fills and typically people want to avoid those kinds of things. Multiple leases in the diagram show good representations of leases and owners and underneath the ground you have multiple mineral owners that further complicate things. Existing surface uses including houses, barns, pristine hayfields, etc. that surface owners want us to avoid is another factor in how we are able to locate our surface pads. No surface occupancy (NSO): If there's an existing NSO on federal lands for instance or on private lands we have certain portions of our leases that have NSO prior to or part of the lease again restricting use. Under the ideal scenario that Ms. Jordan put together, none of these factors were considered and we understood that; Judy understood that as well but we wanted to present that there are a number of things that do affect these things, even if you could pick that ideal location right in the middle of the ½ section; under today's technology you still couldn't reach all the resources in that ½ section with directional drilling in the Piceance Basin. Summarizing some other factors, Scott said lack of infrastructure, pipelines and roads, and to hopscotch around doesn't make sense for industry because if you don't have the pipelines or roads in place typically we phase our development across a leasehold. This is not practical. Large pad sizes whether we're talking about 12 pads or 12 wells per pad or the 32 under the 10 acres spacing, you're talking very large pads at that point and then you start thinking about multiple surface owners, multiple lease owners and the complications on the surface of putting a 32 well pad that takes resources from several mineral leases on one surface owners property or even crossing borders. Directional drilling, just to the high cost of it and the further you have reach out cost more to drill those wells. Then surface use costs can increase significantly as landowners become knowledgeable that they basically hold more cards in negotiating. What the cost of that surface use is what we would be required to drill, whether it's 12 or 32 wells from a pad. So, under the proposed regulations these consulting options and these comprehensive drilling plans or CDP as they're called as far as industry is concerned offer in determinant relief. We just don't know and if you have discussions with Ms. Houpt, I think she would agree at this point that it hasn't been decided. Any scenario that Ms. Jordan paints or that we paint today is grey and we just wanted to get the information out there that there is a lot of factors to be considered basically all of which would cause industry to drill significantly less wells which would significantly result in less resources produced and less royalty and tax returns for the County.

DISCUSSION REGARDING PRESENTATIONS BY CANDIDATES TO THE ENERGY ADVISORY BOARD (EAB)– BETSY SUERTH

Betsy Suerth, Chair of the EAB and Jonathan Black a member of EAB were present.

The EAB Board has asked us to communicate the EAB's desire to allow the Commissioner candidates to speak at our October meeting during the public comment period with specific guidelines and values. As stated in the Resolution that established the EAB, two of its purposes include education and the dissemination of oil and gas development. Jon discussed the intent of the Board through the ability to have the public comment to allow an educational process saying we have a vehicle and that is the EAB. televised and contacts a lot people out in the community. Part of the educational forum is not only just with social and environmental, but also technical and the ability where there's the element of political education which is the Board's intent to utilize the public forums to allow the County Commissioners to stand and put forth their platforms. It is also the intent of the Board and allows an equal time frame for each member and each candidate to be invited to be allowed to have their say and the public to listen to what their platforms. It is also the intent of Board to remain politically mutual; we do not want to compromise the position of the Board by any means whatsoever or to show any basis to any party one way or the other. In light of what developed throughout the course of the evening it was left as Betsy and I to address the County Commissioners here today and we're seeking a course of direction on how you'd like the Board to proceed with this matter. And, whether you feel you will allow the EAB in lieu of legal standing or competing issues which might be developing. Chairman Martin – In all fairness since I'm a candidate, I will step down and let the other two discuss this issue and the policy and approach they wish to take so there won't be a perception that I'm guiding anything in one way or another.

Commissioner Houpt – When we first discussed this we didn't have a clear understanding of what the intent was; I didn't know if there would be a question and answer opportunity or if you were just seeking information from candidates. The way you've proposed it seems reasonable to me. The most important statement was that you would make every effort to remain politically neutral. When we put this Board together the intent was to leave the politics at the door and try to work out the issues surrounding activity of the oil and gas development in Garfield County. I think that's a critically important goal and wouldn't want to have the unintended consequence of this be that it splits the Board and suddenly drives a wedge through the group that won't allow good outcomes to continue to come out of the group. Have you as a group talked about that as a concern or is that simply not a concern? Betsy – That was a concern and there was quite a bit of dialogue when the discussion came up to invite the candidates to the EAB to speak specifically about oil and gas issues and the Board debated about how we would handle something like that and therefore the Board agreed to set boundaries and wanted to have this session being conducted under public comment so it would be on equal footing but they wanted it to focus on education of the public and really the candidates themselves specifically on how they feel about oil and gas for 5 minutes per candidate and without any question & answer sessions that might present baizes we might see in more of a forum.

Commissioner Houpt said at this point she was fine but wanted to hear from Larry. Commissioner McCown – I still have a problem with it. As you're probably aware I wasn't the biggest fan of the EAB to begin with and I think it's direction and goal was made very clear at its inception and that was to gather information, to share information for the representatives that live in the various areas of the county and the industry to share information they have and make recommendation to the Board of County Commissioners. I cannot see how providing a venue for political candidates to speak before your Board can provide any information to you that you would make a recommendation back to this Board on. And, without that, I see no purpose in allowing those political statements to be made because that is your flagship mission as an advisory board thus the name – advise the Board of County Commissioners on oil and gas issues, on oil and gas problems, the resolutions of those, the mitigation of them, how we look at the end of the day. I see

nothing that you could advise us of. The public will have and you and your members apply opportunity to view candidate's nights. There will be at least 3 of them in the month of October that will all be televised and will be held in varying parts of the County starting with Battlement Mesa, Rifle, Glenwood Springs as there always is and I don't think you're board would be deprived of any information that those candidates might be able to give you and your group. I just think it's an inappropriate forum. If it is allowed at your venue I think that would really bring some question into the County personnel policies and the County building activities on trying to eliminate that from occurring in other venues. And so, I don't want to allow the camel's nose under the tent if you will in this circumstance. Commissioner Houpt – I'm not sure under what other circumstances that would come to light. One of the things that the EAB has done since becoming organized is served as an education forum and they put the brochure together, they've had educational components to their meetings and so it's been than just an advisory board to the Commission. If there are very strict parameters, I think I'm okay with this. But I think we have to have two people who agree on it. Don handed out copies of the minutes I asked Marian to prepare from your September 2nd meeting indicating that the Board took action on that date and Commissioner McCown made a motion, as he stated, I would make a motion we do not allow the EAB to conduct political campaign forums as a course of their operation. You seconded and you both voted in favor of the motion. So this motion stands until there it's rescinded. You remember this came in front of you because the Resolution as just described to you that formed the EAB does use those terms and it was accurately represented to you what's in that and both Ed and I were seeking additional direction from you where we stood on this. There were two votes in favor of the motion. Commissioner Houpt – It's problematic with two people because and I did support it until I received further clarification of what would actually take place and I would make a motion that we rescind the motion that was made on September 2 because of new information that has come to light describing the process and the intent of not the forum but the ability for the candidates to speak during public comment about the positions they take on oil and gas issues knowing that its not what I would consider a traditional political forum. Commissioner McCown said that motion will die for lack of second. I stand steadfast on my position that I made the motion on September 2 and I have not been given any information that changes my mind. Maybe it's viewed by some people as an information gathering session; I see is no different getting 5 minutes of free air time on a television that work that will go out to constituents that are going to do one thing, either vote for you or against you. It is a political venue, anytime you are a candidate and you get up and speak in front of any public venue while you are a candidate, you are campaigning. It doesn't matter what you're talking about – you're campaigning. Your goal is to get elected, if not you're in the wrong business. Commissioner Houpt – So that's your answer; we won't be changing our position today. This motion of September 2 will stand and you won't be able to invite those candidates forward for their comment. Jonathan – This is primarily what we've come here today is to seek that direction, confirm that direction and we'll give that out at our next meeting on Thursday, October 2. Betsy – Note of information for the Commissioners, the EAB has put together a committee to reexamine our purpose and for possible recommendations to come back for changes for our charge – look at and revisit.

APPROVAL OF GARFIELD COUNTY LOCAL MATCH PLEDGE FOR DEPARTMENT OF LOCAL AFFAIRS/GOVERNORS' ENERGY OFFICE GRANT – ALICE LAIRD AND HEATHER MCGREGOR

Alice and Heather appeared before the Board today to ask for a letter to include in the application regarding local match pledge, listing both a case for dollars and in-kind local match. The proposal is due September 19th and they are working to complete all the presentations to local governments participating in this effort. They provided a chart of the current local match pledges from local governments. They are also working to secure additional in-kind and cash matches from other organization, utilities and private sector organizations. Dave Sturges and Jim Rada are also on the committee.

Discussion was held regarding this request. Commissioner Houpt – As far as projects, we need to list them as the dollar amount they are going to cost and then apply for grant money but not anticipate receiving a 50/50 match. Ed stated $500,000 would be safe to put in for the Human Services Annex building for augmenting energy savings. Commissioner Houpt – So put an additional $500,000 in, in the in-kind column. Commissioner McCown – This may or may not get built but there's no penalty if it doesn't. Heather said they needed at least 25% for the match and they have received enough cash.

Commissioner Houpt – Okay, so besides making a motion that we approve the $200,000 and the $575,000 in-kind is there anything needed from us. Alicia – Ed mentioned an additional $50,000 in discretionary funding. Commissioner Houpt –Unless it is specifically budgeted for this project, it's not guaranteed at all, so if this is going to be your budget proposal that we give them $250,000 instead of $200,000 but otherwise it's not going to be guaranteed for this project. Ed – I was going to provide them the $200,000 and see how far that went and if there's an additional need then we have a plan. Chairman Martin – Then you come back and we discuss that and identify what the needs are to see if we can assist you. Don – Is there some type of agreement that you're going to ask the County to sign? Alice – Anticipate that it would be an intergovernmental agreement that the County would enter into as well as the six municipalities and the library district and then a governing council that would result from that. Don – Is that an agreement that will confirm these contributions? Heather – These contributions are subject to those 2009 budget approvals so all this is contingent on your overall capital investment for going forward.

Don – Normally we require some type of an agreement; the finance department requires it.

Commissioner McCown suggested we could do a contingent IGA. We will be the grant applicant.

A motion was made by Commissioner Houpt that we authorize contingent on 2009 budget approval, $200,000 cash to this project and indicate $575,000 in in-kind and authorize the Chair to sign the grant application. Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

EXECUTIVE SESSION

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session before we open comment on the next agenda item.; motion carried.

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

CONSIDERATION OF REQUEST FOR ENFORCEMENT OF CONDITIONS OF APPROVAL FOR SPRING VALLEY PUD – DONNALYNE LAGIGLIA

Jim Lochhead representing Spring Valley, Donnalyne LaGiglia, Lou LaGiglia and Don DeFord were present. Don DeFord issued a letter to the BOCC regarding the above subject and his findings on the subject. He reported that on August 11, 2008 Donnalyne LaGiglia alleged that the developers of Spring Valley PUD were delinquent in compliance with a BOCC requirement. Additionally, she alleged the County Attorney had failed to properly respond to this issue and apparently failed to seek enforcement of the condition benefitting the LaGiglia's. Mr. DeFord requested the Garfield County Clerk's office provide him with the minutes of the discussion where the Board gave directions regarding the LaGiglia property (attached minutes as they relate to the preliminary plan public hearing of December 7, 2007). He also attached several other documents from the Clerks office. Additionally, he contracted Fred Jarman seeking a copy of the relevant conditions of approval under which Ms. LaGiglia believes performance should have occurred. Mr. DeFord has attached copies of the response from Fred Jarman and you will note that the condition of approval he provided was attached to the preliminary plan approval. He explained what the condition requires and that the subject condition does not complete its requirements until the time of final plat. His final finding is that Spring Valley Holdings, LLC has not filed its first final plat, therefore the developer has not been required to transfer and dedicate an easement for the benefit of the LaGiglia's in compliance with your specific written condition of approval. The project has not proceeded with physical development; therefore there is no development water supply system to which the LaGiglia's can connect. Donnalyne reiterated her June memorandum and read into the record what has been discussed in previous meetings. Lou mentioned the easement to the spring. He noted that in the December 7, 2007 meeting they were working with the developer regarding part of the representations and statements in order for this Board to grant them to go forward to redo the PUD. He believes that we have documents that weren't submitted but spelled out all the negotiations. He believes they have an effect on his water and the development in turn needs to provide water to them.

Commissioner McCown – That line that used to supply water from that spring to your operation that has clearly been destroyed for whatever reason. Donnalyne – The spring allowed irrigation to their land and due to the loss of that water resource a lot of vegetations has died. Commissioner McCown – The house that was allowed access to by the developer to be built, that damaged your line; was that a part of this Spring Valley Development? Donnalyne – No, this is separate. Commissioner McCown – So that's actually a separate issue from this. Lou – Yes except we had talked before about going around them and getting permission from the County to go down the road and back around which can be resolved without having to go and dig under their driveway. None of this has been resolved. And that was the other issue about how long do we wait and typically they don't have to sit down with us on that easement where that spring is until they go to final plat. If they never go to final plat then I guess we'll just have to use that old line, that's the only easement we have. Jim Lochhead stated there is no copy of this memo and as far as I'm aware, there are 3 requirements that relate to the approval: 1) a condition on that on final plat it requires you show as easement to the County road. That condition came and prior approval and we went through you a whole history of that line and when it was broken and that there's sitting on top of the where the line used to be, etc. and the bottom line was the developer agreed to include an easement in the final plat; 2) this is also part of the approval for the preliminary plan is that basically any adjoining landowner and Tom Gray represented to you at the hearing that Spring Valley Ranch would allow the LaGiglia's as well as well as other landowners to hook up to the water system when it was built; 3) this is a stipulation in one of the water rights decrees for the wells for Spring Valley Ranch that as I recall that provides if the spring flow is diminished at all Spring Valley would have a number of options including just conveying its interest in the spring to other spring owners, also allowing any of those other spring owners to hook up to the water system for the development. The bottom line is that all of those conditions of approval for a development which has not yet occurred and that's the limit of the County's involvement. There have been a number of discussions over 10 years with the 3 or so different owners of Spring Valley Ranch as it's gone forward with the LaGiglia's about various alternatives including joint development of a pipeline from the spring, including development of wells, etc. The bottom line is that those agreements which are side agreements between Spring Valley Ranch and the LaGiglia's for various reasons have not come together and it's really not my point to sit here and point fingers at either the LaGiglia's or Spring Valley Ranch but just to tell you that those agreements have never come to fruition. The Spring Valley house has been without water supply and without a well since July of this last year and there was a monitoring well that was drilled within 600 feet of the LaGiglia's; they were unable to come to an agreement for a joint well sharing agreement and so Spring Valley Ranch abandoned that well and drilled another well outside the 600 foot limit because they needed a water supply and they couldn't reach an agreement. Those matters are between Spring Valley Ranch and the LaGiglia as a private agreement or failure to agree and are not related to the requirements for the development which have yet to become operative. Donnalyne – Pointed out document E showing a layout on what was has been placed already in the ground to service both properties; a lot of the mechanics are in place and the final hook up is not quite there. If you look at the documentation between Tom Gray and us and how it was transferred to Danny Goldberg, we're talking for whatever reason an agreement didn't happen. I believe there is some manipulation going on here before you folks that they needed to get approval and knew we were a thorn in their side. This looked very real and then suddenly they pulled the carpet out, so she is asking the Board to look at that – the intent was there.

Commissioner Houpt – I read this and remember that in the discussion of everybody working in good faith was a huge part of why I had a comfort level and didn't bring up a condition that would address that particular issue and that's unfortunate with so many hearings. Why can't we count on good faith efforts of a developer who says they will work with a property owner and it doesn't seem that big of a deal but I have to say we're at this point we can get pass the site agreement issue. I read the testimony of Tom Gray and it says I appreciate Lou's comments on the water situation and we have been working with the LaGiglia's and I think we have a solution and then it goes on to say they'll bear the cost of hooking it up and then I was the next to speak and if I thought there was any concern at all, I would have said something.

Jim – I have not been involved and cannot speak as to who was agreeing for what and do know as it was reported from Tom and to you that I believe things were moving toward a resolution and its my understanding that Spring Valley Ranch was in the process of drilling the well and spent some $65,000 for an additional tank in anticipation of serving both houses. In terms of negotiating the terms of that water service, who would pay for what, whether the water would be chlorided – there were a number of issues that basically between the two parties, they couldn't reach agreement on the terms of hooking those two houses up to that well. We believe there was a good faith effort.
Commissioner McCown – Asked Jim to refresh his mind on the history on water line and granting the easement for a neighbor's house. Jim – As I remember the line which served both the Spring Valley Ranch house and the LaGiglia was not operatable, it was broken. That line went through a neighboring property. The spring is actually located on the Spring Valley Ranch property and then the line, the line broke, it was inoperable and then it was either taken out or unhooked from the two houses by Hal Terrell back 10 or more years ago. Since that time there was a house built by the 3rd party on where the easement for the line was and so when we, in the course of one of the approval processes for Spring Valley Ranch, we went though this whole history and that was when Spring Valley Ranch said we'd be happy to give the LaGiglia's an easement because Spring Valley Ranch didn't have an intent to hook up their ranch house again to the line but would give the LaGiglia's an easement thought Spring Valley property so if they wanted to run a line from the spring around up to the County road and then down and back to their house they could so. Chairman Martin – Remember the testimony and how bad that line was and how it was put in originally and it crumbled. Lou – Yes, there was problems with it over the winter and you would have to go down and fix it but whichever owner, decided they didn't need that line anymore and they kept telling us they were going to fix it but they never did. Donnalyne stated it was not so much the line but the gravity flow. We have written letters to the Hal which is on record somewhere saying let's just get rid of this ram pump and put in an electric pump and that didn't fly and the next thing we knew, that ram pump was moved and the individual who built the house had permission to build over it.
Commissioner McCown asked who was the other user. Lou said there are 7 families and everyone below has 10% except for one who had 25% and we have 25% of those rights.
Commissioner McCown - What are the other users that have deprived of the use of their water doing? Lou said they have use of their water at this time. Commissioner McCown asked if the maintenance is shared on the percentage of use of that water line by the other owners. Jim stated he understands that the ram pump was repaired or attempted to be repaired in 1999 at the sole cost of Spring Valley Ranch and also once the line went out Spring Valley Ranch drilled the current well that went out last summer and the LaGiglia have been receiving water from that well from 1999 until this summer when that well went out. Again there's an attempt to work with the LaGiglia's to share a common water supply but those agreements just haven't come to fruition and that's all been at the cost of Spring Valley Ranch.
More discussion was held regarding the ram pump and how the LaGiglia's got a bill and responded with they wanted to go a different route; they made another decision upfront to put it on their tab. As far as sharing of a well, the LaGiglia's have a hose that went from their yard across another yard hooked to a spigot and got some dribbles – this was the extent they received. It was a help but it didn't replace or irrigate the loss of the vegetation on the acreage they have. The question is, does this issue qualify for the County's jurisdiction or not and shall we impose any conditions on an approval that has not gone forward to final plat. Commissioner McCown summarized that as much as he could sympathize with the LaGiglia's, there hasn't been any action or lack of action that has occurred that would negate us taking action on this land use approval. At final plat some of these things would be required to occur and it's still in limbo. I recognize there's a high level of frustration and it sounds like this has gone on for a number of years, definitely prior to December, 7, 2007 action and there was testimony given by both parties that negotiations were in place and they were going well. I took this at face value but that is a civil negotiation between the LaGiglia's and Spring Valley; it was not a condition of approval that you guys continue to play nice and negotiate with each other. It was clearly alluded in the testimony by both parties but there is nothing other than the granting of that final easement at final plat that I can find anywhere in those minutes or conditions of approval that obligate us or Spring Valley Ranch to any kind of action that that we can take today.
Commissioner Houpt said she found same result and we've had other discussions in the past about this Commission's expectations that this would be taken care of but as I read thru the minutes indicate that both were in good negotiations at the time and reflective of the conditions that the Board gave, I don't know how we interject ourselves into this discussion. It's one of the concerns that comes up when developments are put on hold but even with that, this particular impact wasn't part of the actual development application or the conditions of the development so it would still be difficult to link it to that. There's a concern here and hopefully the two neighbors will be work this out. I don't know what this Commission can do and wish we had some way to sit everyone down and work out a logical agreement. Before me and what's on record, no solution that's in our purview. Chairman Martin – I see it as an agreement and its on an exhibit F, page 1 that reads Spring Valley Holding will construct and pay the cost of the initial development of their well, the pump, the power for the pump needed for potable water and the connection of lines to the nearest feasible common connection between our properties that is the common water system and that it preferences by our proposal which is conditioned upon the approval of the amendments to the entitlement and that's a commitment. They testified to that and they need to live up to their word.
Commissioner Houpt reiterated this was not a condition and because of what's on paper we can't do anything about it. Chairman Martin – Still interprets it as an agreement to go forward. However, the final vote is 2 – 1 to approve this on December 7, 2007 and it stands that the interpretation was at that time.
Choices - Renegotiate or file civil action for the LaGiglia's.
This can happen at final plat but not at this time.

AIRPORT WATER UPDATES AND RECOMMENDATIONS FOR WATER SYSTEM AND LEASE PARCEL RATE – BRIAN CONDIE

Nolte Associates Will Kroger and Brian Condie were present. Brian informed the Board that with the addition of several large hangars, serious concerns surfaced with regards to the airport water system ability to accommodate growth. Nolte Engineering compiled technical data needed to evaluate actual water

system conditions. He explained what the problems were and they were reviewed by Jeff Nelson, Will Kroger and Brian. Brian stated if the funding and timing of the water system is approved, the east area lease parcels may be opened up to the public. At the direction of the BOCC a land lease parcel analysis was completed to identify the appropriate lease rate and selection criteria. Brian has provided "A modified copy of the appraisal, photos and a copy of a lease were removed". It is his recommendation that the BOCC open the east area lease parcel to public bid by October 1, 2008.
1 million gallon of water storage is available however it belongs to the City of Rifle and other users besides the Airport would be able to rely on the storage. $1.5 million is what is needed and finance stated to put it in the 2009 budget. We need more water flow and first thing we need to do is upgrade the water system to the Airport. Timeframe on the second phase is to open up the east area for development – October. Put in a budget request for the $1.5 million and get it out to bid. Once approved, open up the east area in October for bids to build hangers. Before we can open up the east area, we can fund the cost of the east area by the developers. Land values are 35 cents a foot for the building footprint and 19 cents for the entire building envelope. Brian recommending that we open it contingent upon funding for the main water system – open October 1 and run through it through November 20 and it will give us a idea before the final budget is due as to who is actually interested. If we have more than 5 people that come forward then we can fund the infrastructure costs for the east area and recapture that that cost from the tenants. The Commissioners have asked me to get an appraisal on the land value. The proposal says we go to .35 cents a foot as our starting point but if you look at it, its 35 cents a foot for the building footprint. We do 19 cents for the entire envelope and other than Eagle we are the only ones that do the entire building envelope. Everyone else does the building size. Converting those numbers over on the first parcel, he recommends we do a 35 cents, right now we're at 55 cents and we're still selling hanger lease parcels. If we lease the entire building lot to the owner, and the reason I recommend that is because if you give them a building lot and you charge them by hanger size, they will put a smaller hanger on a lot that can accommodate a larger hanger. If we convert that over we're already 20 cents a foot over on his recommendation and we're still selling hangers. My recommendation is to set the rate for the first phase showing the entire build out of all 25 parcels, the first phase I recommend to do at the current rate, the 2009 rate which will be a little over 19 cents a foot; once all 9 of these are taken the remaining parcels are more scarce and I recommend we go up to 26 cents a foot for the entire lease parcel and then the last one is 35 cents a foot which gets us up to the dollar per square foot that Centennial has. By the time we get to the last 6 lots, if you want it, you're going to pay in essence the same rate you would pay on the Front Range to build a hanger out here. That's the escalating clause in leases and Brian doesn't think we'll have a problem with that. Discussion continued on how this would work if two people want the same parcel. Brian explained it would go to a lottery system if everyone wants the 19 cents per foot cost. Regarding sales of sprinkler systems because of the fact they use less water but we have to put in an 18 inch line for our airport to accommodate these and somebody's not telling us the truth on sprinkler systems. These are designed on flow and the ones that go into houses with a 1500 tank flies in the face of this kind of water demand. Chairman Martin – To hook up to all the facilities outside the fence which happens to be the Fire Station, are we going to accommodate these folks with a new extension of the line. Brian – A point of entry to the airport so they would still be on this.Chairman Martin – Would this be wise if we're redoing everything to include the BLM and the Fire Station and they are outside that fence. He suggested considering in the future that same type of line that feeds off the main that we're doing the new loop system back to them. They are our partners. Some cost sharing opportunities are possible. Brian will add this to the list. Brian – Each hanger would have to have their own meter. Don added this will add a change to the IGA with the City of Rifle. Brian commented that we are working with the attorney in the City of Rifle. However, we want to get this into the budget and advertise in October. Commissioner Houpt favors having an arm going down to service the fire house. Once we know that this is a bad system, we have a responsibility to replace it. That should include other facilities being served by that. Commisioner McCown – We can bring it to the new loop and stub it out to the Airport. Brian will be asking of the Board today, in order to open up the areas, we have infrastructure costs and it's on there for about $2 million dollars which we would recover from the tenants in addition to the $1.5 million. This will be on my budget and come back in revenue but the $1.5 will not. Today Brian is requesting is that I will put the water line on the budget pending funding for that to open up the east area for request for proposals for hangers; that the lease rate be the 2008 rate which will be a little over 19 cents for them and the selection criteria that we discussed. The lease rate, the building size, residential and lottery. Those are the things that I am asking to be able to proceed with at this time. Ed said we're deferring the big building here in Glenwood so that frees up about $6 million that we thought we were going to incur next year. Brian reminded the Board that next week we'll be going to NBA in Orlando and we'll run across several hundred aircraft owners and we want to have this information and say you've got 40 days to get us a proposal if you want to build a hanger.

DISCUSSION OF THE 7TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 7TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Cathleen Van Roekel submitted the notice for the public hearing. Chairman Martin swore in the speakers. Cathleen submitted the Resolution and explained the attachments.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 7th Supplement to the 2008 approved budget and the 7th Amended appropriation of funds and the Chair authorized to sign. In favor: Houpt – aye McCown – aye Martin – aye

PUBLIC MEETINGS

CONSIDER A PLAT AMENDMENT AND AUTHORIZATION FOR THE CHAIRMAN TO SIGN THE AMENDED PLAT FOR ASPEN GLEN, FILING 1, LOTS B3, B4 AND B5 – APPLICANTS; LESTER AND CYNTHIA PRICE AND ASHTON AND SUSAN LEE – KATHY EASTLEY

Debbie determined the noticing was adequate and advised the Board they could continue.
Planner Kathy Eastley submitted the following exhibits: Exhibit A – Garfield County Zoning Regulations of 1978 as amended; Exhibit B - Garfield County Comprehensive Plan of 2000; Exhibit C – Application and Exhibit D – Staff Memorandum. Planner Kathy Eastley explained there are three adjacent lots included in this application with the amendment requested to vacate the central lot and incorporate the lot area into

the adjacent lots. This action will result in one less lot in the subdivision and the Design Review Committee of Aspen Glen has reviewed and approved the proposal.
STAFF RECOMMENDATION
The plat 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:
5. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
A motion was made by Commissioner McCown to approve plat amendment and authorization for the Chairman to sign the amended plat for Aspen Glen, Filing 1, Lots B3, B4 and B5 with the condition of approval. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye
CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATION FACILITY – APPLICANTS; STEPHEN AND SUSANNE SELF – CRAIG RICHARDSON
Craig announced the application had a defect in notice and this will be rescheduled.
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN ACCESSORY DWELLING UNIT IN THE ARRD ZONE DISTRICT – APPLICANTS; GARY AND PAT WALLACE – DUSTY DUNBAR
Pat Wallace and Gary Wallace, Dusty Dunbar, and Debbie Quinn were present. Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Application and Exhibit F - Staff memorandum and Exhibit G – Memo from Steve Anthony. Chairman Martin entered Exhibits A – G into the record.
Planner Dusty Dunbar explained that the proposed ADU is to be a new free standing unit, approximately 1388 square feet. Access for the ADU will be provided via an existing driveway that presently serves the principal dwelling unit. The driveway comes from Gage Road which connects to County Road 319. Gage Road is a private road and serves residences on adjacent parcels.
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. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permit, grading permits and access permits, including approval for a septic permit which can accommodate the accessory dwelling unit prior to the issuance of the building permit.
4. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet
5. The accessory dwelling unit shall not be conveyed as a separate interest, but may be leased.
6. Five trees no less than 4 feet in height shall be planted as vegetative screen to screen the ADU from the residence to the north.
A motion was made by Commissioner McCown to close the public hearing. The motion was seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to a Special Use Permit for an Accessory Dwelling Unit in the ARRD Zone District – Applicants; Gary and Pat Wallace with 7 conditions of staff. In favor: Houpt – aye McCown – aye Martin – aye
EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE – CR 204; DISCUSS CLAIMS HAZARDOUS SPILL ON 246 – 162 AND 162A AND CROUCH, DEBEQUE FIRE DISTRICT AND PROPOSAL FOR DEVELOPMENT OF THE HEALTH AND HUMAN FAIRGROUND PROPERTY.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken:
CONTRACT – CR 204 – DRAINAGE ISSUE
Don stated the Board needs to approve the grant from Chevron to the County and the Chair authorized to sign the drainage easement as discussed and presented.Commissioner McCown – So moved; Commissioner Houpt – seconded. In favor: Houpt – aye; McCown – aye; Martin – aye.
HAZARDOUS SPILL – COUNTY ROAD 346 – JIM SNYDER'S DITCH – JUNE 2--9
Don stated as it relates to the accident on County Road 346 with regard to a hazardous spill in excess of $40,000 as I understand it the Board wants to have this money paid back for the clean up and damage to the truck and we would like to pursue our costs. Commissioner McCown – So moved; Commissioner Houpt – Second.In favor: Houpt – aye; McCown – aye; Martin – aye.
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, October 6, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

ADRIENNE CROUCH – COUNTY ROADS 162 AND 162 A

Adrienne Crouch wanted to read a letter into the record and she also wanted to ask a few questions. On October 2, 2008 she certified a letter to the Garfield County Commissioners; she has not received a signature card back yet. On October 01, 2008 she received a letter from Mr. Don DeFord, County Attorney on the subject of "Status - Crouch Issues". On November 3, 2003 five years ago next month, she entered into the public record in the Garfield County Commissioners meeting many exhibits associated with the Stirling Subdivision as well as issues with County Road 162 and 162A. She entered into the record the requirements that John Stirling and the Board of County Commissioners entered into on September 8, 1992 and recorded at Reception #438797. She entered numerous exhibits including the Razzores, my neighbors quit claim deed to the County for the expansion and realignment of County Road 162 not 162A. On February 29, 2004, over 4 ½ years ago, she notified the Board by certified mail that the 1999 Crouch Exemption Amended Plat produced in 1999 but changed by the County in December, 2002 and recorded by the Clerk's office was incorrect. Again you have done nothing. She continued saying her numerous certified requests to the Board including not only issues over chain of title to County Road 162A.but also County Roads 162, the 1913 Road, 102 Road as well as County Road 100 and in addition. Mr. Don DeFord's letter makes it sound like there are two other issues in front of the BOCC, which is totally not true. The Board has had years to establish that these issues do not just pertain to Henderson/Stirling's Subdivision signed by the County Surveyor - Mr. Robert Scarrow, who either had already surrendered his license and/or was required to send all work to the State Board Surveyors as he was on probation. In addition the many County Surveyors and the Road and Bridge department have told you over and over again in writing that the Crouch plats are incorrect as well as the position of the 162 Road and it is still on her property. On November 23, 1987 the Crouch family still had all of their property. Scarrow and Walker (Harrington) made an improvement survey that changed the descriptions of County Road 102 and 162. The Crouch's have property that is directly associated with both of these roads. She was not informed of this improvement survey or the title companies. There are numerous issues and do not guarantee the rights-of-way for power lines or County Road 162. You the County Commissioners as well as your legal and planning staff have know for years that there are serious problems with her family's land and have chosen to ignore me. An addition to this is an August 3, 1993 easement for the purposes of ingress and egress recorded at Book 871, 245 in the Clerk's office that was given by persons not owning the property. The plat was created by Sam Phelps, former County Surveyor, and signed on August 9, 1993 for Scarrow and Walker. It states this improvement survey "is based upon a sectional split as prepared by KKBNA Inc., on a map prepared for CD Barnes dated July 29, 1982. Please provide this plat that should be in the County's possession. On January 18, 1994 Sam Phelps approved his own work as County Surveyor signed on August 9, 1993. This directly affects my family's property. I have requested the easements for County Roads, 102, 162, 162A and 100 because my parent's title policies and mine have these documents as exceptions. You the County have given a permit to Kinder Morgan in the easements next to the County roads. You are required by law to know where the County roads are located and to have recorded easements and ownerships of these roads before any permit for work is allowed. In May, 2007 the State Board of Licensor for Architects, Professional Engineers and Professional Land Surveyors unanimously decided to investigate Mr. Frank Harrington associated with her property. On August 15, 2008 she received communication from the State Board that they are waiting on a response from Garfield County. You – Garfield County are required to respond to the State Board. You – have had 4 years and 11 months to address these issues and now Mr. DeFord says that Mr. Harrington will tender those documents for my review. Mr. DeFord states that "any subsequent actions concerning those documents are under your control". It is unacceptable that you have ignored my requests and that you continue to narrow the scope of your responsibilities and make it look like this is only about 162A and Harrington. First of all I had nothing to do with Harrington. I strongly recommend that the Board follows Colorado State Statutes and respond to my request in writing and complete my formal requests and stop skirting the issues. How sad it is to think you may pass these issues on to the next set of Commissioners. The last thing I have has already been testified to you in your regular meetings and that is a matter of record.

Chairman Martin stated they all received the documents and it was forwarded to the legal department.

Adrienne stated also for the record, you have approved the Stirling Ranch PUD when all the requirements for land and water were not completed; they are still not completed and you voted in favor or it and you continue to ignore the issues. Now, next week, on the 13th you have an opportunity to look at the Hunt Ranch Subdivision and I am stating now, the land, the road and the water issues are not complete as they pertain to road easements that the County has given. Quite honestly you will see in my other letters that Land Title has guaranteed the Crouch property also. To say yes we have a title policy for Hunt and Stirling is all about the exceptions; it is all about when it was guaranteed. Who did the survey plats? Where were they recorded? The Stirling Ranch for instance has two pages of exceptions and they don't even guarantee their plat or anything on the subdivision. What kind of guarantee is that? In addition so that you know, last Friday afternoon Tim Atwater for Source Gas (Kinder Morgan) called me and stated Mr. DeFord had made a telephone appointment with him for today at 10:00 a.m. to discuss 102 Road and the easements that the County has given to Source Gas as it pertains to 102 Road, 162 Road and 100 Road. Tim Atwater assures me and promises me he will find out what has happened to those easements because the County is required to have legal descriptions of those roads they have put in gas lines. The County gave permits in 2001 to Source Gas (Kinder Morgan) to put a gas line in my water ditch. I spent $18,000.00 with the lawyers who

should have know that already, and now Hunt Ranch is going to give that same easement to clear up a title policy for the Hunt Ranch. This is completely unacceptable and I want the legal descriptions and easement descriptions for 100 road, 102 road and 162 road because they affect my family's title policies. So stop narrowing it down to Harrington, which really has nothing to do with you guys; this is a separate issue with the State. Don DeFord stated in regard to an appointment with someone from Source Gas at 10:00 a.m. today that is obviously not accurate. He will be in front of this Board today at 10:00 a.m. and that has been scheduled for months. Secondly in regard to the letter Ms. Crouch discussed he gave copies to the Board of Commissioners. That was sent at the direction of the Board. That letter does in-fact state, as you know relates to the letters which the Board has given me as direction. I do not take directions from Ms. Crouch; those are the only issues in which the Board has outstanding direction. In regard to the State Licensing Board for surveyors, at least in regard to his office, I have received no communication whatsoever from that licensing board. In regard to the easement restrictions, I think that is an outstanding request that has been pending for years at this point. However, the Board has looked at that issue as Ms. Crouch stated today and she is aware of apparently some exceptions to a title reflected in a title policy that she has refused to give the County. If that title policy in fact reflects those exceptions to title, it also points to the documents in the public record where that exception can be found.
Adrienne stated that Tim Atwater is the right-of-way manager for Source Gas and he goes all over the region. I do not believe he misrepresented it because he told me that Don DeFord) had personally told him to call back. Don stated that was simply inaccurate, Ms. Crouch. Adrienne said "well we'll see".
Don stated that every Monday when the Board meets he sits with them. Adrienne said, anyway Source Gas is on line with me and they know they are going to be sued along with the County if the easements aren't found.

COUNTY MANAGER UPDATE – ED GREEN

BUDGET

Ed wanted to point out the Commissioners have received the budget books per guidance from the State. He is to provide the Board with an adoptable budget by October 15. We will be presenting the budget to the Board on Friday, October 24, 2009 at 9:00 a.m.

AIRPORT CONFERENCE – ORLANDO, FLORIDA

Ed let everyone know why he was wearing a particular shirt to the meeting; the theme at the Florida conference is "Request Rifle". The FAA and the State have what they call the stump system; this requires people to designate air space coming in for a landing. The stump space is very full in Aspen and Eagle and it is available in Rifle – "Request Rifle". Ed also feels this promotes the opportunity for more hangar space for private entities as well.

REQUEST FOR APPOINTMENTS TO THE FAIR BOARD

Jim Sheets, president of the Garfield County Fair Board sent a letter to the Commissioners concerning the current vacancies on the Fair Board. He has informed the Commissioners that Jimmy Smith and Perry Will have agreed to sit on the board. Mr. Sheets is requesting they be placed as board members as soon as possible.
Commissioner McCown asked if this was for the rest of the year and then January 1 they reappoint and Ed stated yes. I make a motion we accept Jimmy Smith and Perry Will to the Fair Board.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

REQUEST FOR RENEWAL OF APPOINTMENTS TO THE GRAND VALLEY CEMETERY DISTRICT BOARD

Betty J. Letson wrote a letter to the Commissioners requesting she be reappointed as Secretary-Treasurer for Grand Valley Cemetery; her term expires December 31, 2008.
Commissioner McCown - I make a motion we accept the appointment to the Grand Valley Cemetery District Board of Betty Letson, Marita Douglas and Kerwin Stark.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

2008 PDO BUYOUT – LISA DAWSON

Finance will follow the established procedures to pay out 40% of personal days off (PDO) accrual to "buy back" the hours over the maximum at 40% of pay rate. Only employees who are eligible for the buyout are those who have taken at least 120 hours of PDO in 2008.
Lisa Dawson explained the personnel manual regarding PDO buyouts. Because of the wording she is requesting this be approved this year.
Ed Green felt this was one procedure that was working very well.
Commissioner McCown – I make a motion we authorize the buyout of the PDO accrual over the maximum. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

AUTHORIZATION AND APPROVAL FOR CONTRACT TO CONSTRUCT A PUBLIC RESTROOM AT THE GARFIELD COUNTY AIRPORT – MATT ANDERSON

A total of 3 proposals were received for this project, they are:

Groth Construction	$109,600.00
Kuersten Construction LLC	$197,111.90
J. Dyer Construction	$193,165.00

Matt is recommending Groth Construction for an amount not-to-exceed $109,600.00.
Commissioner Houpt stated you indicated the designs were different and we are trying to market to Pitkin County, Eagle County, and the entire Garfield County area. I want to make sure if we are going to invest money into the Airport that we are keeping that in mind too. We should have facilities that will meet the standards of people who will decide to use our Airport. Commissioner Houpt didn't see any plans and doesn't know what the difference was between the three bids.
Matt stated the difference was in the design. One of the things that Brian Condie mentioned in the RFP and especially at the pre-bid conference was that he wanted a simple design. Brian looked at Groth versus the other two and found it to be acceptable. The other two were more extravagant.
Commissioner Houpt asked Ed if he saw the designs and wondered what the difference was. She asked if it was a restroom for men and for women. Ed Green said yes but it actually relates to actual employees on the

flight line by providing them a convenient place. Matt stated he could bring this back to the Board as Commissioner Houpt wants to see the plans first. The Board agreed it should come back.

AUTHORIZATION AND APPROVAL FOR TWO SEPARATE CONTRACTS FOR THE SECURITY PROJECT AT THE GARFIELD COUNTY COURTHOUSE – MATT ANDERSON

Matt explained that originally this was one requirement which involved installing a new elevator, installing security equipment, constructing a wall on the third floor and renovating the courtroom on the first floor. I was determined that it would be in the best interest of the County to separate the requirements and only perform the third floor wall and the security equipment. They have decided it would be best to contract directly with Current Solutions for the security portion and with Groth Construction to construct the third floor wall at the Courthouse. Two offers were received to perform the third floor wall; they were Groth Construction at $23,500.00 and Mueller Construction at $24,188.00. Matt is recommending we go with Groth Construction. The price to perform the security equipment from Current Solutions is $45,587.00 and the County estimated it would cost approximately $65-70K. Matt wanted to explain the history of the project saying it went out as one contract and after 30 days they didn't get anything back because of the elevator issue. They decided to split it into different components as stated above. They will be including a card reader in the elevator is the only change. Commissioner Houpt asked when the project is completed what the public will be experiencing. Richard Alary said without going through security, the people needed to visit the Clerk's office, Assessor's office and/or the Treasurer's office, they will be allowed to come in the south entrance and go up the steps to the second floor or they can go into the east entrance and go to the second floor with assistance of the guards. They will have no access to the first floor courts area or the third and fourth floors. Matt stated when the contracts are finished they will be coming before the Board again to finish the elevators and the first floor court rooms. There are two requests before the Board today: Groth Construction for an amount not to exceed 23,500.00 for the construction of the third floor wall and Current Solutions for electronic surveillance equipment and security equipment, door locks etc. in an amount not to exceed $45,587.00.Commissioner Houpt asked Jean Alberico if she and the other elected officials are happy with this proposal. Jean stated she didn't think they had heard this proposal but this is probably one of the best solutions to get the people card readers. This will eliminate our people from having to go back down with customers.

Commissioner McCown – I make a motion we award the contract to Groth Construction for the wall and the third floor, and the Current Solutions for electronic surveillance equipment and security equipment, door locks etc. in an amount not to exceed $45,587.00 to Current Solutions and to Groth Construction in the amount of $23, 500.00. Commissioner Houpt – Second.

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

Executive Session Item – Ed Green

Ed stated he had provided information Friday related to the affordable housing project and he wanted to know if they wanted to discuss this in executive session and get legal guidance.

COUNTY SHERIFF UPDATE – LOU VALLARIO

REQUEST FOR FUNDS TO PAY HAZMAT SPILL CLEAN-UP COSTS

Lou submitted an invoice from ECOS for work completed at Mamm Creek Road Ditch in Rifle in an amount of $43,795.14.Lou stated they will seek restitution later if they have to. Lou wants to move money from the fire suppression fund into the emergency response account to cover expense.

Commissioner Houpt – I'll make a motion we transfer the fire suppression fund monies into the emergency response account number. Commissioner McCown – Second.

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

CONSIDERATION/APPROVAL OF IGA FOR WILDLIFE PROTECTION SERVICES AND WILDLAND FIRE PROTECTION AUTOMATIC AID AGREEMENT WITH DEBEQUE FIRE PROTECTION DISTRICT

Lou reported that DeBeque shall be the primary agency dispatched to incidents requiring wildfire suppression within a described geographical area. Such dispatch shall occur pursuant to the request of the authorized representative of the Sheriff and will be utilized along with other resources available to the BOCC and the Sheriff. At all times the Sheriff shall be responsible for determining the necessity for services requested. Don DeFord said that several meetings ago it was discussed for the need of operating expenses and Lou does utilize DeBeque in assist him in fire fighting protection. The Board does not technically have the authority to donate funds. It is done by contract and this is the purpose of this contract. Don assumes it will come out of same emergency fund and Lou stated yes, it would be up to the Board. Commissioner McCown – I make a motion the Chair be authorized to sign the IGA for fire protection services with the DeBegue fire district. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye Carolyn stated so the record is clear, when she first discussed how the contractual arrangement was probably, it was by the already existing mutual aid agreement. She stated she and the sheriff did go through the document and found out it didn't deal with funding issues like this.

CONSIDERATION/APPROVAL OF AGREEMENT FOR SWEETWATER FIRE PROTECTION SERVICES CENTER

Adrienne Brink, Bill Stevens, Lisa Dawson, Don DeFord and Fred Jarman were present.

The contract states the BOCC shall consider appropriation of $25,000.00 to assist in the construction of their building; $10,000.00 to pay for all costs of surveyors, civil engineers, architects and soil engineers to design and construct the subject building; $5,000.00 to Sweetwater upon transfer of the easement in Paragraph 2D and the form of Exhibit C; the remaining $20,000.00 will be directly paid to Sweetwater within 30 days of the BOCC's receipt of an awarded contract between Sweetwater and the contractor selected to construct the subject building. If the BOCC rejects the contract and plans submitted for the subject building, no transfer of the remaining $20,000.00 shall occur and the subject contract shall be terminated. Don stated he made a few alterations to the agreement. The substance is really in Exhibit A, the scope of services. The dollar amount changed to $29,000.00 total; the reason it is altered, when this was originally proposed it was his understanding that the Board would be responsible for providing an acceptable building and Eagle County would provide the necessary foundation material. That is not certain at this point but Don added an additional $4,000.00 if needed for foundation material. Obviously it is

needed for the building. Don stated they put $10,000.00 in as a best guess for professional services. Don thinks it will be less than $10,000.00. This structure, contrary to the deed, does appear to be in Garfield County and they will have to comply with building and zoning regulations. This may need a conditional use permit for this facility. Don suggests the Board waive fees since it is likely that the cost of the fees will come out of the money the County is contributing. Don stated they have discussed some of these things before. Under this agreement Sweetwater will transfer the easement to the County so that Garfield County has a legal right to have road and bridge equipment and operations from the site. They will end up constructing a basic structure to house emergency response fire protection people. Chairman Martin stated that this piece of property is part of the Sweetwater Community Club, a part of an original homestead that was dedicated to the school district. Deed got messed up a little bit in 1932; then in 1952 it ended up being filed in Eagle County but it is in Garfield County. The Sweetwater Club is aware of that and Mr. DeFord did have a deed that was somewhat erroneous in that it was recorded in Eagle County. That problem has been straightened around and all parties are aware. Adrienne stated they were trying to figure out if they had enough money for the building and with the remaining amount of money they would like to cover the concrete expenses. She said they have contacted Sarah Fisher in Eagle and she got them in contract with Tom Johnson who wanted them to make a proposal. Tom was going to send an email regarding making a proposal for some of the concrete money. Chairman Martin stated Peter Runyon; a Commissioner in Eagle County is waiting to hear from them also. Commissioner McCown asked Don if the actual title issues were cleared up. He wanted to make sure that no issues were remaining even though this land was transferred and given to the club. Now we are saying it is in Garfield County so did the separation actually occur? Don stated yes the deeding occurred. The improper recording of the deed in Eagle County was actually one of the things we changed.
Commissioner McCown - I make a motion we approve the agreement for services with the Sweetwater Fire Protection District and the Chair be authorized to sign.Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Don stated it will require a conditional use permit. The agreement should be signed by tomorrow morning and we will ask them to sign off on the easement and that would authorize the transfer of $5,000.00 to the club.

APPROVAL OF RESOLUTION ESTABLISHING THE GARFIELD COUNTY MULTI-DISCIPLINARY ADULT PROTECTION TEAM APPOINTING 2008 AND 2009 MEMBERS AND ADOPTING BY-LAWS

Carolyn stated the document in your packet is a draft. Karen explained who they had on board for this program and they still want to add additional members; they can go up to 25 and they have about 18 now. Carolyn is asking today that the Chair be authorized to sign the Resolution with the names plugged in; or they can bring it back on the consent agenda with the names put in.
Commissioner McCown – I make a motion we approve the Resolution establishing the Garfield County Multi-Disciplinary Adult Protect Team appointing 2008 and 2009 members as included in our packet and the Chair be authorized to sign. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don stated the remaining items for public discussion he would like to provide the Board with advice before any action is taken; status of agreements with C-Safe and Alpine Bank; County Road 309 and 162A; legal advice regarding your right-of-way use regulations; direction on code enforcement; status of the JPA with Chevron; County Road 306 and the Noble Energy contract; status of CARE contract; Vandehay litigation; dedication/vacation of portions of County Road 242 - JQS trail; and Carolyn needs to discuss an update on the Storey project; Continental Rifle litigation; the Treasurer is present to discuss the status of the banking agreements; Lou is present concerning two items with the Sheriff department. Don asked if the Board could go into executive session for those items?
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken: Public Discussion on the following items:

COUNTY ATTORNEY UPDATE – DON DEFORD

CONSIDERATION/APPROVAL OF SECOND AMENDMENT OF JOINT PARTICIPATION AND DEPOSIT AGREEMENT WITH CHEVRON USA

The parties desire to amend this agreement effective June 1, 2008 to extend the project cost estimate deadline. Don stated this would extend the date for the entry of a project estimate by the County to October 9 and he would like the Chair authorized to sign this agreement first.Commissioner McCown – So moved. Commissioner Houpt – Second and she wanted to state that because she originally voted in opposition of this contract due to the language added to the contract supporting a potential application for a tax credit from the State she will not be voting to support this.
In favor: McCown – aye Martin – aye Opposed - Houpt – aye
Don stated the follow-up to this action is they have received the engineer's project estimate; it was sent to the Board via email October 3, 2008 from Jeff Nelson. The project estimate is at $25,353,698.95. The JPA provides that the BOCC tender this project estimate to Chevron and Don would like the Chair authorized to officially direct this estimate in the form Mr. Nelson submitted it to Chevron.
Commissioner McCown – So moved. Commissioner Houpt – Second, and for the same reasons she will not be supporting this motion. In favor: McCown – aye Martin – aye Opposed - Houpt – aye
Treasurer Georgia Chamberlain wanted clarification asking what would be required of her office with these contracts. Don stated the JPA anticipates that Chevron will make a direct payment upon invoice to the County finance department. Don does not believe there will be substantial involvement with Georgia's office at this point. There will be a Letter of Credit under the JPA in the amount of $25 million dollars that has to be posted by Chevron after acceptance of the project estimate cost by Chevron. Don believes the

Treasurer's office will probably hold the Letter of Credit. Georgia asked how long they anticipate the project will take. Don stated the date of project completion is December 31, 2010; that is the outside. It is anticipated to be completed by the spring of 2010.

CONSIDERATION/APPROVAL OF RESOLUTION AMENDING RESOLUTION NO. 07-34 DIRECTING SALE OF COUNTY HELD TAX DEEDS – RIFLE VILLAGE SOUTH

Don stated this resolution for the Board directed sales of tax deeds by the Treasurer. They relate to Rifle Village South. The resolution confirms earlier actions by the Board which was taken by motion. Previously the Board actually executed a resolution that directed the treasurer to proceed with sale of mineral interest under certain Rifle Village South lots. Later the Board elected to convert that to sale of full interest held by the County; whatever that may be, mineral interest not being entirely clear, surface interests are, so they need to amend the resolution that you are directing sale of full County held interest.

Commissioner McCown – I make a motion we approve the Resolution on amending Resolution number 7-34 directing the sale of County held tax deeds for Rifle Village South properties.

Commissioner Houpt – Second for discussion. Again, when we voted on this previously we discussed if it made sense to sell the surface or use it for public good either in a park situation or park/open space. The property is not good for development so it would make sense to her that they would not sell these parcels and that we use them for public benefit. Chairman Martin stated the state statute says once a request is received and we hold the treasurer's deed then we must offer them for sale. Commissioner Houpt stated unless you use the property for public benefit. Chairman Martin said he was not sure how they would use it. Again we don't have a park and recreational department or an open space district.

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

DIRECTION-POLITICAL ADVERTISING IN COUNTY RIGHT-OF-WAYS

Jake presented for the road and bridge department. Don stated road and bridge and the county attorney's office have received inquiries from the public about the use of what appears to be County right-of-ways for political advertising. Don pointed out to the Board that you have a resolution in place that prohibits the use of the County right-of-way for any purpose unless a permit is obtained. Don doesn't believe Jake has issued any permits for the current political advertising and probably not for some of the commercial advertising as well. Jake stated they haven't issued anything like that; they have for some subdivisions where they utilize a small portion of a right-of-way. Commissioner McCown said he thinks this happens every two years and it was addressed in 2006 and he thinks they addressed it fairly. We expect our road and bridge to respond to this much like our code enforcement; it is complaint driven. We have told them not to go out on sign patrol and pick up every sign you see; however, if you are working in an area and you see violations of any sign in our County right-of-way, pick it up take it back to road and bridge. The owner or the person who placed the sign can retrieve it. He sees no reason to vary from that position this year. We can't turn our heads and ignore it. If it's on the fence, leave it; inside the fence pick it up.

Commissioner Houpt said she thinks the important statement Larry just made is defining what the right-of-way is. Road and bridge would look at that from the area outside of private fences to the County road, is that correct. Jake stated that is the way we have always looked at it. Jake asked if the Board was interested in having a separate price for this type of signage. He said he is bringing this up because the drilling rigs do put up rig locations for emergency purposes; some of those are in the right-of-ways.

Commissioner Houpt thinks they need to look at the policy and make sure that it is practical and makes sense. She doesn't know how we can pull up some signs and leave others. Jake asked if they wanted to hold the standard utility fee for a sign for everyone. Commissioner Houpt said until something more formal comes to the Board. Commissioner McCown stated if he understood it correctly those are per sign per location. Jake stated yes and they have to be installed per the manual on uniformed traffic control.

Commissioner Houpt said she thinks there are many properties where there isn't a fence and there is a standard set-back from a County road too, what would that be. Jake said they consider it their maintained right-of-way which includes the bar ditch, the back slope of the bar ditch, across the driving surface to the back slope of the other bar ditch and the sections we need to maintain the road.

CONSIDERATION/APPROVAL RE-CONSTRUCTION/REIMBURSEMENT AGREEMENT – COUNTY ROAD 306

The BOCC issued right-of-way use permits to Noble Energy authorizing them to install a natural gas pipeline in September 2008. While performing the pipeline installation, Noble's contractor damaged County Road 306 significantly. The BOCC directed Garfield County to enter into contracts to restore County Road 306 and Noble has agreed they will reimburse the County. Gardner Excavation has been contracted with the BOCC to reconstruct and restore the road. The total cost of the contract is $209,735.00 and the BOCC will be responsible for contract supervision and performance of the contract.

Don stated they have discussed this before in the context of Noble Energy's installation of a pipeline; we have discussed a proposed agreement on which he would like to move forward. There is one item Don would like to clarify; in the draft given to you Don feels it needs to clearly provide in paragraph 3 that on competition of construction, both the Letters of Credit and the permits will be terminated. With that correction Don would like the Chair authorized to sign this agreement. Commissioner Houpt – So moved.

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

LITIGATION – EAST ELK – CAROLYN DAHLGREN

Carolyn stated the County Attorney's Office and the Code Enforcement Division of Building Department are seeking the Boards authority to start litigation both civil injunction and if necessary a criminal filing to deal with the expansion of an old camp ground that was non-conforming on east Elk Creek.

Commissioner Houpt – So moved.

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

CONSENT AGENDA – DON DEFORD

Don wanted to note on the consent agenda, there are two items he would like to comment on. The first is item 5D, a Resolution altering the Purchasing Code to provide $100,000.00 authority to the Sheriff to expend funds from the Emergency Response Fund. Don feels this is in line with a previous action of the Board. Item 5G relates to an IGA with RFTA. Ed and Dan Blankenship had some further negotiations after

the Boards last action. The contract amount is actually less than the original authorization. That's why it is on the consent agenda, it's little different than what you authorized.

CONSENT AGENDA

a) Approve Bills
b) Wire Transfers
c) Changes to Prior Warrant Lists
d) Approval of Resolution Amending Resolution 2006-41 Concerning Amendments to the Garfield County Procurement Manual – Special contracting Authority emergency Response Agreement
e) Approval of Resolution Establishing Office Hours and Work Weeks for the County Offices and Specifying the Schedule of Regular Meeting Days of the Board of County Commissioners and Related Matters.
f) Authorize the Treasurer to Release $2,970.00 to RFTA Pursuant to Resolution 05-95
g) Approval of Amended Intergovernmental Agreement Regarding the Grand Hogback Transit Service
h) Approval on Revised Contract with Health Care Policy and Financing for single Entry Point Services
i) Liquor License Renewal for Sunlight Inc. d/b/a Sunlight Mountain Resort – Jean Alberico
j) Authorize the Chairman to Sign the Resolution Memorializing the Revocation of a Portion of the Sanders Ranch Planned Unit Development and Rezoning that Portion to Residential General Suburban Density
k) Authorize the Chairman to Sign the Resolution for a Special Use Permit for a Contractor's Yard – Applicant; Hank and Kamron Kracht – Fred Jarman
l) Authorize the Chairman to Sign a Special Use Permit for a Natural Gas Conditioning and Compressor Station at Conn Creek – Applicant; Oxy USA WLP LP – Fred Jarman
m) Authorize the Chairman to Sign the Amended Plat for Jean and Robert Perry III where the Applicants seek to Consolidate 4 Parcels of the Original Cooperton Townsite into one Parcel – Applicants; Jean and Robert Perry III – Dusty Dunbar
n) Authorize the Chairman to Sign the Resolution of Approval for a Special Use Permit Allowing a Communication Facility (this approval repeals and replaces Resolution No. 2008-11) – Glenwood Commercial LLC – Craig Richardson
o) Authorize the Chairman to Sign a Special use Permit for One Temporary Employee Housing Facility on a Property Located South of New Castle and Owned by the State of Colorado, Division of Wildlife on Garfield Creek State Wildlife Land – Kathy Eastley

Commissioner McCown – I make a motion we approve the consent agenda minus items 5D and 5G as presented. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

ASSESSOR

ABATEMENT/REFUND OF TAXES FOR MARQUETTE EQUIPMENT FINANCE, ABATEMENT NO. 09-006, SCHEDULE NO. P007431 IN THE AMOUNT OF $2,409.29 – LISA WARDER

Lisa Warder was present and stated notification was done by mail. This was personal property with an SMM, special motor machinery tag and should not have been taxed through the assessor's office.
Commissioner McCown - Move to close public hearing.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the abatement for schedule no. P007431, abatement no. 09-006 in the amount of $2,409.29. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

DISCUSSION OF COUNTY ROAD 309 – MARION WELLS

Chairman Martin asked if Marion wanted to participate and she stated no because she was not notified. Commissioner Houpt thought it should be moved to next week as she would like Marion to participate and she would like to get some resolution to this. Marion stated she would have to check with her legal representation; she doesn't know. Commissioner Houpt thought it would be very difficult to have this discussion without Ms. Wells's participation. Chairman Martin stated they would wait for Ms. Wells answer as to when she would like to have this placed on the agenda. Marion stated she was going to present with notice and she called that off wanting to see what was done today. If you truly wanted to have my participation what the heck happened about the notice. Her brother-in-law called her and asked if she was going; she said going where and it says to me you don't want my participation. Chairman Martin said the Board does want her participation. Commissioner Houpt said she thought there was a breakdown in communication. She thinks the intent was to coordinate with Marion. Commissioner Houpt said she was very sorry this happened. Commissioner McCown said he was under the assumption that Marion requested this meeting and Chairman Martin thought the same. Marion stated no.
Chairman Martin stated they will wait and thanked Ms. Wells.

COMMISSIONER REPORT

Commissioner McCown; Personnel policy review in the morning, 9:00 a.m.; Friday, 9:00 a.m. budget presentation. Commissioner Houpt stated that was her schedule as well.
Chairman Martin – Last Monday, training in reinstituting the MAC; Tuesday, Senior Programs held at the Rifle center, had a discussion on the van service; met with Dick and Ned Prather in reference to his spring pollution, two polluted springs, hoping to get a report from Judy on this issue; met in Denver on the CCI legislative agenda and the priorities for Colorado County's; Potato Days in Carbondale, good celebration; leaving Wednesday for Susanville, California on the Western Interstate Region with 15 different states regarding BLM and US Forest Service issues; received from Governor Ritter notification that our Garfield County Traffic Control Safety Equipment Grant has been granted regarding emergency signs; and attended a special meeting in Parachute on the 15th.

EXECUTIVE SESSION

Don said there are still two more items which need discussed in executive session. Continental Rifle Litigation and Ed wanted to discuss affordable housing.
Commissioner McCown - Move to go into executive session. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Chairman Martin asked for a motion to come out of executive session.
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin – aye
Action taken:
Commissioner McCown made a motion to approve Items 5D and 5G listed on the Consent Agenda. Commissioner Houpt seconded. In favor: Martin – aye McCown – aye Houpt – aye

CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AND SPECIAL USE PERMIT FOR A UTILITY TRANSFER FACILITY (NORTHWEST-GARMESA 16: NATURAL GAS PIPELINE) IN THE OPEN SPACE ZONE DISTRICT – APPLICANT; PUBLIC SERVICE COMPANY, REPRESENTED BY LARRY K. CLAXTON, JR. – DUSTY DUNBAR

Larry Claxton was present. Carolyn Dahlgren stated to Larry because your company, Excel Energy Public Service is an entity with eminent domain powers, the ownership and noticing requirements are slightly different than what the BOCC usually sees. Carolyn asked specific questions such as who owns the land over which the right-of-ways will be drawn.
Larry stated the easement Public Service has is on privately owned property by Number 11 Enterprises LLC, and the other portion is on publicly owned property by BLM.
Carolyn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Staff PowerPoint Presentation; Exhibit G – Memo from Steve Anthony, Garfield County Vegetation Management, dated September 17, 2008 and Exhibit H – Letter from J.T. Romatzke, Colorado Division of Wildlife Area Wildlife Manager, Northwest Regional Service Center, Grand Junction, dated September 26, 2008.Chairman Martin entered Exhibits A – H into the record.
Planner Dusty Dunbar explained: The Applicant (Public Service Company) seeks to install a 16" utility service delivery line to transfer natural gas from the production areas to the north to delivery points in the Grand Junction area. The new line will be placed in an existing corridor that has been in use on BLM and private lands for the past 50 years. The project includes a CUP application for the portion of the pipe facility on federal Land (BLM) and an SUP application for that portion that is on private land. The 4-mile long pipe facility has about half lying on each public and private land. The applications will be processed concurrently.
STAFF RECOMMENDATION
Due to the following conditions:

- 1) the limited nature of potential impacts to surrounding properties,
- 2) the remote location of the property on which it is situated,
- 3) the proposed expansion is to an existing facility located in an existing disturbed route,

Staff recommends the Board approve the request for both a Conditional Use Permit and a Special Use Permit for the Northwest Garmesa 16" Natural Gas Utility Line for Public Service Company of 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 unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable Federal, State, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility. A safety plan shall be developed with the Lower Valley Fire Protection District and submitted prior to the issuance of the CUP and SUP.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: the utility line and related facilities shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: the utility line and related facilities shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
7. Emission of heat, glare, radiation and fumes: the utility line and related facilities shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard.
8. No temporary human occupation is requested in conjunction with these permit request, and no permission for such is granted.
9. That all proper building permits are obtained for the structures associated with the operation of the utility line and related facilities prior to the issuance of a Special Use Permit and Conditional Use Permit.
10. Permit bonding shall be put into place and an updated reclamation plan for this acreage shall be submitted prior to the issuance of the permit.

Commissioner Houpt asked about the weed management security saying you have $28,000.00 you had recommended in your report. Do you want to make that a condition of approval?

Dusty stated that was what the permit bonding is; we could include to say vegetation management bond to clarify. Commissioner Houpt said she would like that clarified. Also the DOW letter had outlined some recommendations. Did you consider following the recommendations as presented in DOW letter?
Dusty said the DOW letter does have a tremendous amount of association with the conditional use permit portion on BLM that is on the publically held properties and will no doubt be a condition of approval and possibly Larry could speak to that. Commissioner Houpt asked if there was any reason not to make it a condition of this approval and Dusty stated no.Carolyn stated to Chairman Martin as a follow-up to what Tresi asked about the re-vegetation bonding, at one point in the report it stated that the bonds are already in place. She is asking if this is accurate; have they already given bonds to the treasurer. Dusty said they have come up with an amount but the bonds have not been paid. Carolyn asked if they could use security instead of bonds and Dusty stated okay. Carolyn stated on condition number 3 the report calls for Public Service to meet the Colorado Oil and Gas Conservation Commission fire regulations and this is PUC regulated; it's not an oil and gas conservation regulated pipeline. Carolyn would ask the applicant to tell us if Excel Public Service is willing to submit itself to these regulations or not. Dusty stated it would satisfy the requirement. Larry stated Public Service would like to stick with the PUC requirements for fire management and not be held to the Colorado Oil and Gas Conservation Commission requirements. Chairman Martin stated these should be in harmony with the Lower Valley Fire
Protection District.
Larry thanked Dusty and has a presentation if the Commissioners would like to see. Nothing was presented however, he did want to make a couple of points: 1) Public Service has begun their application process for the Colorado Department of Transportation access permits. There will be a field visit next week to further the application process. 2) The third party environmental assessment that is being performed does cover the public and private lands. The Bureau of Land Management recognizes that work on private lands is a connected action to their approval and that gives the additional layer of protection through that third party. 3) The Best Management Practices (BMP's) are included in our storm water management plan which has been submitted to the state. 4) Public Service is asking, since it is a four mile long pipeline, if they can have storage on each end of the project. They would like to have the one acre for each site if it is possible. This would be a temporary storage area. Public Service is a public utility; they have an obligation to provide gas to our customers and the need has been determined by the growth of the Grand Junction area. Commissioner Houpt asked Larry if he had the opportunity to read the DOW letter and if he had any problems having that incorporated. Larry stated he had read the letter and no he did not have a problem. He stated the majority of the letter was based on construction occurring into the front end of those restrictions for the winter range. They have since moved their construction date to after those restrictions. The only thing he did see was the seed mixture. They would need to make sure it is consistent with what the BLM and the County will have for a required seed mixture.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt
to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion to approve the conditional use permit for the Northwest-Garmesa 16" pipeline with the ten conditions as alluded to by staff, adding number 11 that the Division of Wildlife conditions be incorporated into the conditions of approval and changing number 3 from COGCC to PUC, with all the corrections and changing bonding to security.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the special use permit for the same pipeline with the same applicant and the same conditions.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Dusty asked Commissioner McCown about the last statement; it would be the Division of Wildlife conditions shall be the conditions of approval. Commissioner McCown stated it should be included.
Carolyn wanted to remind the Board that they needed continue this meeting today. When ever any two of you show up we have a public meeting.
Chairman Martin stated they will continue this meeting until 9:00 am tomorrow, Tuesday, October 7, 2008.
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

OCTOBER 13, 2008
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 13, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and, Deputy Clerk & Recorder Marian Clayton.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE: ED GREEN
CONSIDERATION AND APPROVAL OF 2009 MOU WITH COLORADO STATE UNIVERSITY EXTENSION – DALE HANCOCK
Dale Hancock submitted a draft of the Memorandum of Understanding by and between Colorado State University Extension and the County of Garfield, State of Colorado for Extension Programs.
Dale gave some background concerning a meeting with Dr. Young, which goes back almost a year. He is doing a quarterly payment for the year 2009. He had a copy of the MOU from Dr. Young's office from last year. He didn't find anything particularly egregious other than we agreed to pick up the 26 ½% on the

indirect cost; it comes out to about $25,000.00 per head. This is about what we would pay anyway if we were doing the books for that office now.
Commissioner McCown asked if this would be done on an invoice basis and Dale stated yes.
Carolyn stated this is not so much legal as it is a money tracking issue. At one point we discussed treating Extension like the entities that are funded by the Human Services Commission. Clarifying the dollar value of the lease that we give them in our building out at the Fairgrounds, this MOU does not reflect a lease and then a grant back to them. Rather, it says you will provide office space. It also doesn't specify issues about equipment; we need to talk about a little more. Are we going to still own the office furniture; is this going to be a complete divorce. She feels from the document they will still be using County owned equipment. Is that still okay for you; statutes don't require it one way or the other. She has asked Lisa Dawson (finance director) to check with the auditors, they said they see it both ways across the County and there is not an auditing issue.
Commissioner McCown stated that he though all three Commissioners needed to sign the MOU unless there is something different. I make a motion we approve the Colorado State University Extension memorandum to provide Extension service to Garfield County. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF IGA WITH TOWN OF PARACHUTE FOR COLORADO RIVER BRIDGE WALKWAY – MATT ANDERSON

Matt Anderson submitted the IGA for joint funding of Colorado River Bridge Walkway stating that the Town of Parachute and the County agree to joint funding to participate in the reconstruction of portions of CR 215 to the extent of placement of a pedestrian and bicycle walkway from the Colorado River Bridge to Grand Valley Way. The total cost of the project in excess of $45,000 would be the sole responsibility of the Board of County Commissioners making the total cost of $100,000 contributed by the County and a total project cost of $145,000. The Board would be responsible for receiving all funds devoted to the construction of the project, and disbursement of those funds to accomplish construction.
Matt stated a few weeks ago they attempted to award a contract for the construction of the River Bridge, Parachute by-pass and they realized they didn't have an IGA in place. The IGA you have before you is not a signed copy, however he was supposed to have received it last week. Matt is asking for approval of signature upon receipt of the signed copy.
Don stated the form of the agreement is fine; he asked Matt, do we intend to construct this project this year and Matt stated yes.
Commissioner McCown – I make a motion we approve the IGA for the joint funding of the Colorado River Bridge walk-way in Parachute. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF BOND TO NABORS CORPORATE SERVICES – MIKE VANDER POL

This was cancelled.

.**RELEASE OF BOND TO ASSOCIATED PIPELINE CONTRACTORS – MIKE VANDER POL**

This was cancelled.

RELEASE OF BOND TO PEAK USA ENERGY SERVICES – MIKE VANDER POL

This was cancelled.

APPROVAL FOR AWARD OF CONTRACT FOR THE CONSTRUCTION OF ADDITIONAL SNOWMELT IN THE SHERIFF'S PARKING LOT – MATT ANDERSON

Matt Anderson and Rich Alary were present. Matt submitted the bid award recommendation to the Board for Groth Construction for an amount not to exceed $126,500.00. Matt stated they did receive two bids; one of which was Groth for $126,500.00 and one from Kuersten Construction for just $70.00 more. This wasn't a low bid based proposal however, it did boil down to just that $70.00. Both construction companies have excellent history and they have both done a great job. Matt is asking for the award to go to Groth Construction. Commissioner Houpt asked Rich to explain the project. Rich explained there is existing snowmelt between the Sheriffs department and the courthouse and the steps going down. It doesn't cover the bottom landing before the walk-way across the alley; basically the project would take place in front of alley port. It will change how the existing snowmelt is controlled; right now it is controlled by a sensor that hangs on the wall. As long as there is snow on the sensor it will come on. If the wind blows the snow off the sensor, it doesn't come on. Ed stated that is probably the biggest concern with the EPIC committee and the Safety Committee. Don asked Rich if somewhere in that area there is an existing city of right-of-way; he wanted to know if this would infringe on that. Rich stated no, it is a fire alley. Commissioner McCown – I make a motion we award the contract for the snowmelt to Groth Construction in an amount not to exceed $126,500.00. Commissioner Houpt – Second.
Martin asked when they would start and Matt stated they will finish with the groundwork before the heavy snow season. In favor: Houpt – aye McCown – aye Martin - aye

NOTICE OF AWARD AND APPROVAL OF FUNDING FOR THE OCTOBER 13, 2008 CONSTRUCTION OF CR 204 – MATT ANDERSON

Matt Anderson submitted the notice of award and approval for contract signature and funding for the reconstruction of CR 204. Six bids were received. The recommendation is to issue the notice to award to American Civil Constructions who was deemed qualified and capable of meeting all the concerns of the County. The amount of the award would be fore $21,428,999.00.
Don asked the Board to defer the notice of award and the construction of County Road 204 until after Executive Session as he needs to talk to the Board about the status of the JPA and provide the Board with advice before any action is taken.
After Executive Session discussion the following action was taken:

COUNTY ROAD 204

Don stated this is a discussion on 204 and he thinks it is appropriate to go forth with the public discussion on the items listed on the agenda. The notice of award under the JPA occurs after both parties have made a determination of adequate funding and we have received a letter of credit from Chevron in the full amount of their level of participation. The first item the Board should do, from the County's perspective, is to determine if there is sufficient funding to go forward with construction of this project under the JPA. Don

has received nothing from Chevron indicating their position; actually he thinks they have until the close of business today. Commissioner McCown stated that given the numbers the Board has before them and the bid estimate from the proposed contractors, it does seem there is adequate funding available to move forward with this project. This also includes the Quality Control (QC) and Quality Assurance (QA) that will be forth coming in order to make this project go forward. As far as the adequate funding; it does seem to be appropriate. The letter of credit has not arrived and he thinks there are conditions that will trigger that action. He doesn't know how they were anticipating hearing from Chevron if adequate funding is available. Does it have to be in written form, certified, a phone call, e-mail; what do we have to have from Chevron to acknowledge that it would appear funding is adequate and who does it have to be from?
Don stated the JPA doesn't specify the form directly; he anticipates written communication from the official representative from Chevron. He expects the communication in writing just as he expects action from the Board today to be communicated in writing to Mr. Carter. Commissioner McCown asked if that individual was local or is he in Houston. Jeff stated he is in Houston and will be in town this week. Jeff met with him last Wednesday, October 8, 2009. Verbally he had given Jeff this project from Chevron and financial support point as a go. Mr. Carter did receive the notification letter that Jeff sent notifying of the total project estimate. Commissioner McCown stated from an action standpoint today; you are wanting the Board to verify we feel the funds are available in the form of a motion for this project to go forward.
Don stated yes so that in paragraph 1.3E he would ask for motion of determining that there is adequate funding to proceed with the project and direct that the County (either Jeff or Matt) communicate with Mr. Carter today in writing stating our position. Commissioner McCown – So moved. Commissioner Houpt – Second, because of the funding clause put into this contract she will not be able to support this. She is concerned about how this is showing up as one phase for the entire 10 mile stretch instead of what they have represented in the past, which is two phases. If we are guaranteeing adequate funding then she is not quite comfortable in what that means in terms of our contract. Although she thinks it is a good bid, she will not be supporting it today. Chairman Martin asked if any other comments and stated they needed to push this forward. There is adequate funding. In favor: McCown – aye Martin – aye Opposed: Houpt - aye

SOUTH BRIDGE – CITY OF GLENWOOD SPRINGS – ED GREEN

Ed stated he received a message from Mike McGill and the City of Glenwood would like to meet with Board sometime early in December to discuss the South Bridge options. Ed asked the Board to let Linda know what dates would work for them.

APPROVAL AND AWARD OF THE QUALITY ASSURANCE CONTRACT FOR THE RECONSTRUCTION OF CR 204 – MATT ANDERSON

Matt Anderson submitted the approval for contract signature to provide Quality Assurance (QA) and Quality Control (QC) services in support of the recommendation of CR 204. The recommendation is to award PBS&J for an amount not to exceed $536,205.75. Don stated he had a question on the structure of the contract, which is a little different than the way we are preceding at this point. Regarding the potential termination; one of the mechanisms that was placed in the JPA to address that was to allow either party to terminate their participation under the JPA if the constriction of Phase I exceeded the project estimate. He stated he may be in error in this; but he is viewing this as if they received one project estimate for the entire project that the Board would prefer that we billed this as one phase. Is that correct, and if so, what happens with project overruns and how do we terminate the JPA? Commissioner McCown stated this has been wordsmith to death. We have almost flushed this project. If we need to write it in two phases; write it. If we need to bid it in two phases; bid it. He wants to see this done. We are chocking the chicken here trying to get all the I's dotted and the T's crosses and they are going to flush $25 million dollars. This project came bid in two phases; it is right here in front of us. Both phases together were well below the engineers estimate and the money that has been allocated to this project. He doesn't care how it is written up. He doesn't care what it has to take between you and Houston to match the JPA; he wants it done this week. He wants to award the project next Monday. He hopes that everyone understands that this is what he feels needs to happen on this. It doesn't need to go to the first of the year, we have a contractor sitting in the room that bid this project in good faith; bid it in two phases, its been looked at as a ten mile project, a four mile project and a six mile project. All three of those came in under the estimates we have; he feels they are protected. Whatever it takes to write it up so that our attorney and the attorney in Houston are comfortable, do it. Commissioner Houpt said she just had to say, the attorneys have done a fine job of working together and trying to put this together. It is a complex deal; there are various parties involved getting this done. There has been some disconnect on how things have come back to the attorneys and she doesn't want anyone group to be targeted for the time it has taken. Commissioner McCown said he did not say that, and he also applauds the work of both attorneys because it has been like herding cats to get this project where it is today. But, we have the money, we have the bids, we have the fact that it is below our estimates even including the QA and QC. All we need is the wordsmithing and the only people who can do that are the attorneys. He also applauds the work the attorneys have done and he was not being critical of our attorney; he was just giving direction. Commissioner Martin stated; looking at the recommendation, again broken down in two phases and they do not exceed the bid or the estimate, and the overall not-to-exceed $21,428,999 he is very comfortable with. He feels very good with the contingency and the way it is broken down. He feels they need to make it a ten mile project and get it done.Commissioner Houpt asked if Don had everything he needed to do that and Don stated he will talk to Stacy Saunders and if there needs to be an amendment. Commissioner McCown stated there you go; that is what I would ask.
Ed stated in answer to Tresi's concerns; they did talk to Shawn specifically about the mineral severance tax credit issue. We told them that our priority was the interchange at CR 215 and we would then retain anything from Chevron until that issue is resolved. Don stated his anticipation is that Jeff will contact Shawn today? Jeff believes it was understood they would get the official information to Don; but he will call to expedite.

CONSIDERATION/APPROVAL OF AMENDMENT TO PURCHASE OF SERVICES AGREEMENT WITH VISUAL LEASE SERVICES RE: NATURAL GAS AUDIT (GORMAN)

John Gorman submitted the amendment to Visual Lease Services regarding the natural gas audit stating that the BOCC and the contractor entered into an agreement on the 9th day of June, 2008 and the BOCC,

Assessor and Contractor desire to alter and amend that Agreement as listed in Exhibit A – amend the scope of work.
The oil and gas equipment audit is broken down into three tasks:

1. Conduct a physical inspection, where access if allowed or obtained and record (GPS) Global Positioning Satellite with a decree of accuracy of one meter of all well bores including both producing and non-producing wells, salt water deposal wells, compressors, compressor stations, meter houses, and pipeline crossings.
2. Valuation of all locally assessed taxable oil and gas equipment which includes natural gas processing plant, treating facilities and pipelines.
3. Provide GIS data including GIS points with field collected data for Garfield County's GIS mapping system. Provide scans of pipelines of linking the non-geo-referenced digital images to the associated GIS data.

John Gorman stated he thought this was for an executive session but he will proceed. He stated that Visual Lease Services was contracted in 2006 to do physical audits of oil and gas personal property. They began in 2007 and it wasn't completed; John contracted with them again for 2008. Part of the plan is to use these folks for a continuing update. As you know we have had a County explosion of activity in the drilling fields. John stated they have not had the capability to keep up with the kind of injuries in well sites, equipment, pipeline and all the etceteras. There has also been a delay getting information from various oil and gas producers of the kinds of equipment they have especially the pipe line. What has been booked on their records is the original installed cost of the pipeline etc. They are now beginning to get the kinds of details we need. They have about an additional 1,200 oil wells that have been installed with equipment, etc. The plan what we budgeted for was $7,000.00 was for the continuing update for this year contracted with Visual. What John is asking today is for the Board to approve the contract. Visual Lease has already completed about half of the work without us ever agreeing to pay them. They have to do the work when the opportunity is there. They have been out in the field and will be back this month to pick up more equipment. Ed asked if they needed to characterize this as ratification. Commissioner Martin stated just an extension. Commissioner McCown stated this lease does not have an expiration date
John stated it was from July 1 through December 31, 2008.
Don clarified the original shows December 31 and the amendment does not change that period. Should we anticipate another amendment in December to extend in 2009 and if so it will need to come back to the Board in December.
Commissioner McCown – I make a motion we approve the amendment for the purchase of service agreement with Visual Lease in an amount not-to-exceed $7,000.00. Commissioner Houpt – Second
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF 2ND AMENDED PURCHASE OF SERVICES AGREEMENT – ANIMAL SHELTER

Don DeFord presented the second amendment purchase of services agreement for the CARE animal shelter that agrees to pay the shelter a not to exceed three hundred and fifty thousand dollars modifying the current agreement made as of December 17, 2007. The CARE facility will bill each quarter to the County and the first three invoices shall be for the amount of fifty thousand and the final invoice would amount to two hundred thousand dollars. Don believes the Board has already authorized the Chair to sign this. It has not been signed by CARE; when it is signed by the Board, then the funds can be released.
Commissioner Houpt stated they had just given them additional operating money.
Don stated yes; they gave money under the CARE contract not the spay and neuter contract. Don just wants to make sure the record reflects that the Chair is authorized. All Commissioners stated yes.

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE

Don stated he had a number of items and has already noted County Road 204 and the Joint participation agreement with Chevron; he needs to provide advice on the contents of the contract and he anticipates public discussion and action on the items that Matt and Jeff have listed; Debbie needs to talk about the status of the Iron Bridge Project and provide legal advice; Debbie needs to provide advice on the upcoming hearing on the Hunt Ranch; Don and Marvin need to talk about the status of County Road 306 contracting, they need direction with the contract with Nobel; quick discussion on legal issues involving the CHM contract, the JQS trail and a recent admissive from Mr. Danielson requesting records. Carolyn will give an update on the Story location.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into executive session. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to come out of executive session. In favor: Houpt – aye McCown – aye Martin - aye
ACTION TAKEN:

COUNTY ROAD 204 ACTION IS SHOWN UNDER THAT TOPIC IN THE ORDER OF THE AGENDA

Don stated he would like to go into executive session as stated previously described.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into executive session. In favor: Houpt – aye McCown – aye Martin - aye
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of executive session. In favor: Houpt – aye McCown – aye Martin - aye

Action taken

IRONBRIDGE – LETTER - POTENTIAL DEFICIENCIES

Don stated the Chair needs to be authorized to sign a letter of potential deficiencies regarding Iron Bridge.
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

COMMISSIONER REPORT

Commissioner McCown – Wednesday is the County Road 215 meeting and the location is to be announced. Thursday the CMC Advisory Committee will meet at the West Garfield County Campus from 11:00 to 1:00.
Commissioner Houpt – Looks like my week also and we do have a follow-up budget meeting.
Chairman Martin stated the Budget meeting is 2:00 – 5:00 Wednesday with hearings from the election officials with their budget; last Wednesday, Thursday, and Friday he was in California regarding public lands. The new bail out plan effects the payment in lieu of taxes and the way we are going to receive monies. He stated we will see an increase this year; however, the next three years we will see a decrease based upon this year. We will go from 91% of this year, 83% etc. He stated we also have the Secure Rules Schools Act, know as the 25% fund for service departments; they will probably see that program phased out within the next two years. There was a demonstration and hopefully support in our region for Summit County, Grand County, Routt County on the biomass removal on the Quincy Library Group and their approach on how to take care of both the overgrowth, undergrowth, 37% of pollution on carbon comes from forest fires so far this year. They convert that to electricity; there are six plans and the seventh one was just de-commissioned because of the lawsuits in reference to removal of the biomass from the forest. They are looking to bring this to Colorado as well for meeting all those standards. There is a request from Garfield County on aging and that is to assist; also move forward working with the Sheriff on the model traffic code so he can enforce parking; handicapped parking within Garfield County.
Don said there was a meeting last week which he attended with the sheriff, representative of the DA's office, and representative of the Garfield County District and County courts; his understanding of the meeting is there will be further discussions involving the court clerk court, chief judge, and other implementing counties concerning the traffic code. The anticipation is to bring this to the Board at the end of this year or the beginning of next year adopting a full Model Traffic Code.
Chairman Martin said there has also been a request from the Emergency Communications Authority to make sure that they get all monies that are awarded to them, the excess that may or may not have been collected as stated to Ed Green. On the 21st there is a transportation meeting sponsored by CCI at the Community Center. There is the Valley Symposium on the 24th. On the 17th there is the Senior Program Center at CMC at noon; this is the information exchange and group meetings on priorities.

CONSENT AGENDA:

a. Approve Bills
b. Changes to Prior Warrant List
c. Grants - Sales Tax Recovery Distribution for September $64,380.27 – Georgia Chamberlain
d. Authorize the Chairman to sign the Acknowledgement of First Partial Satisfaction of the Subdivision Improvements Agreement for the Creek Side Estates Subdivision; Applicant is Empty Enterprises. – David Pesnichak

A motion was made by Commissioner McCown to approve the Consent Agenda Items a - d. The motion was seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye

LARAMIE ENERGY REQUEST FOR RE-VEGETATION SECURITY RELEASE – STEVE ANTHONY

Mr. David Clodfelter of Laramie Energy, LLC has provided correspondence to the Vegetation Management Department requesting the County acknowledge satisfactory performance under the terms of our Road and Bridge Permit Nos. GRB06-U-103 and GBRB06-U-104 and release security for revegetation held in a Treasurer's Deposit Agreement. Steve Anthony has reviewed the permits and the revegetation work performed in the County right(s)-of-way and Laramie Energy has satisfactorily performed all revegetation obligations. There are no potential claims that may be asserted by Garfield County against Laramie County. A completed form "Acknowledgment of Satisfaction and Direction to Treasurer, Treasurer's Deposit Agreement" was presented for signature by the Chairman. Steve stated this is a request to release their revegetation on County Roads 342 and 344, which is Fairview and West Divide in the amount of $8,000.00. Steve looked at this in late August to verify it was satisfactorily completed. This one was not recorded and asked if Chairman Martin could initial the document.
Commissioner McCown – I make a motion we approve the acknowledge of satisfaction and direction to the Treasurer's Deposit agreement release of money in the amount not to exceed $8,000.00 for Laramie energy pertaining to Road and Bridge permits GRB06-U-103 and GBRB06-U-104. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF RESOLUTION PROVIDING FOR APPOINTMENT OF SEVEN COMMISSIONERS TO THE BOARD OF THE HOUSING AUTHORITY OF GARFIELD COUNTY, COLORADO, AND REPEALING RESOLUTION NO. 84-264. – GENEVA POWELL

Don DeFord and Geneva Powell were present Don stated this is a noticed public hearing, state law requires you provide notice of a hearing at which you will appoint members to the Housing Authority. Don has reviewed the notice and it is adequate and the Board may proceed. Don has a draft or a form of proposed resolution in front of the Board that would alter the current composition of the Housing Authority increasing its membership to seven individuals. It also addresses the reappointing of the existing five members; it does purpose to appoint one additional member, a sixth member, Mr. John Baker. His identity was provided to Don's office by Geneva. Don stated they do have a "to be determined", and that is a hard appointment to make. He has a final resolution that would delete that unless Geneva has an additional individual who would like to be on the board today. Geneva stated they do not have one at this time. The existing Board was concerned about having an even number board membership. When the request to include Mr. Baker gave us six, they thought maybe they should go for seven. Currently the board, historically speaking, is more of a consent board. Commissioner Houpt asked if these were new expiration dates. Don stated those are the current terms and the resolution provides that when someone is identified/nominated by the Housing Authority Board it will come in front of you in a similar manner for appointment. Geneva stated that they have not received an acceptance from Mr. Baker.

Commissioner McCown moved to close the public hearing. The motion was seconded by Commissioner Houpt. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the resolution providing for the appointment of seven commissioners to the Board of Housing Authority and repealing Resolution 84-264, noting the County Attorney's comments where in actuality we are only appointing six today, and another amendment to this resolution will be coming forward or a different resolution once the seventh person is chosen. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

ADRIENNE CROUCH – COUNTY ROAD 162 AND 162A

Louis Buetner was present representing Ms. Crouch. Louis wants to know if the Commissioners can give him a yes or no as to what they are going to do about the encroachment on Ms. Crouch's property by the 162A Road. Chairman Martin stated they are working on it; that is not a yes or no. Chairman Martin stated he does not have the final answers yet. Louis stated the County has been working on it for over 5 years Chairman Martin stated he is aware of that. Louis stated he has been working on it for over 2 years. Is there any foreseeable conclusion on this? Chairman Martin stated yes. He stated he does not have a date because he doesn't have all the information he needs to put on the agenda in order to make it an agenda item to put Adrienne with you at the table and to make a final decision by this Board. We will get there eventually. Commissioner Houpt stated the Board is still waiting for information to come back to the Board. Louis stated he thinks it is very simple. The road exists in the County's name; it is on her property as shown by two County surveyors. It can either be taken off or……
Chairman Martin said that is also a public hearing, notification etc. through abandonment or vacation. They need to make sure there are at least two public forward. We need to confident enough to go one way or the other. Louis said the thing is, there is no reason to abandon the raod because it shouldn't be there; there is no dedication for that road. Chairman Martin said that is what the research has to show us; we don't want to make a mistake and vacate something we have no right to vacate. Louis said there is no reason to vacate it, all that's needed is to move it off period. Chairman Martin said it's easy for Louis to say; not as easy for us to do.

CONSIDER A REQUEST FOR A PRELIMINARY PLAN EXTENSION OF ONE (1) YEAR FOR LEXIE MEADOWS SUBDIVISION. APPLICANT IS JIM BOB VENTURES LLC – CRAIG RICHARDSON

Davis Farrar was present on behalf of the applicant.Craig Richardson submitted the following request: Staff received a request for a one (1) year extension from the original date of approval on October 6th, 2008. If approved, the Preliminary Plan approval will be extended to December 10th, 2009. Davis Farrar stated, due to the current market conditions the housing and financing has pretty much dried up. They are requesting the year extension hoping things will turn around in that time frame.
Commissioner McCown – I make a motion we extend the preliminary plan approval until December 10, 2009. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER THE APPROVAL OF A PRELIMINARY PLAN APPLICATION FOR HUNT RANCH SUBDIVISION. APPLICANT IS HUNT RANCH LLC – CRAIG RICHARDSON

Craig Richardson, Kate Schwarzler with OTAK, Greg Amsden with Hunt Ranch LLC and Jennifer Meshow, Administrative Assistant at OTAK were present. Jennifer answered all questions on notification. Deborah Quinn asked that Jennifer be sworn in for the notification. Chairman Martin swore her in. Deborah determined that the noticing requirements were accurate and timely and advised the Board they were entitled to proceed. Mailing on the notice was for both hearings but the publications are separate. Chairman Martin swore in the speakers. Craig entered the following exhibits:

A	Mail Receipts
B	Proof of Publication
C	Garfield County Zoning Resolution of 1978, as amended
D	Garfield County Subdivision Regulations of 1984, as amended
E	Garfield County Comprehensive Plan of 2000
F	Staff Report
G	Application for Preliminary Plan
H	Memo from Garfield County Vegetation Management, dated March 3rd, 2008
I	Letter from Division of Water Resources, dated February 12th, 2008
J	Email from Mark Kadnuck, CDPHE, dated February 29th, 2008
K	Memo from RFTA, dated March 3rd, 2008
L	Memo from Eagle County Development Department, dated February 21st, 2008
M	Email from Colorado State Forest Service, dated February 11th, 2008
N	Memo from Carbondale & Rural Fire Protection District, dated December 6th, 2007
O	Memo from Basalt Planning and Zoning Commission, dated March 4th, 2008
P	Email from GarCo Road and Bridge Department, dated March 5th , 2008
Q	Memo from Mountain Cross Engineering, GarCo consulting engineer, dated March 3rd, 2008
R	Email from Colorado Department of Transportation, dated February 10th, 2008
S	Email from JD Sturgill, dated February 16th, 2008
T	Response email from Colorado Department of Transportation to JD Sturgill, dated February 17th, 2008

U	Email from JD Sturgill, dated February 17th, 2008
V	Email from Sylvia Wendrow, dated February 24th, 2008
W	Email from Robert Tobias, dated January 26th, 2008
X	Email from Roberta McGowan, dated January 21st, 2008
Y	Email from Caroline Duell, dated February 21st, 2008
Z	Email from Karen Kean-Hines DVM, dated February 17th, 2008
AA	Email from Becky Chase, Dated January 17th, 2008
BB	Email from Garfield County Environmental Health Department, dated March 3rd, 2008
CC	Memo from the Town of Carbondale, dated March 24th, 2008
DD	Email from Mike and Kit Strang, dated March 5th, 2008
EE	Email from Susan Cuseo, dated April 2nd, 2008
FF	Email from Susan Edmonds, dated March 30th, 2008
GG	Email from Tim and Gina Young, dated April 10th, 2008
HH	Email from Laura Van Dyne, dated March 17th, 2008
II	Hunt Ranch Response Letter, dated April 8th, 2008
JJ	Memo from Rocky Mountain Ecological Services, Inc., dated April 1st, 2008
KK	Letter from Mark E. Hamilton, Attorney for the Applicant, dated April 11th, 2008
LL	Letter from Colorado Geologic Survey, dated April 16th, 2008
MM	Email from Jo Ashton & David Bell, dated March 9th, 2008
NN	Email from Wayne Hall, dated April 19th, 2008
OO	Email from Karen Cox, dated April 19th, 2008
PP	Email from Linda Keefe, dated April 20th, 2008
QQ	Email from Richard and Gayle Wells, dated April 21st, 2008
RR	Email from James Peterson, dated April 21st, 2008
SS	Email from Nina and Jess Pederson, dated April 22nd, 2008
TT	Letter from Katha Rossein, MD and Ronald Razzore, MD
UU	Letter from Doug Dotson, Dated May 28th, 2008 application amendment
VV	Letter from Sara M. Dunn, Balcomb & Green, P.C. dated June 24th, 2008
WW	Email from Roberta McGown, dated July 24th, 2008
XX	Memo from HP Geotech, dated May 8th, 2008
YY	Email from Nancy Miller, dated May 10th, 2008
ZZ	Email from Richard Wells, dated April 28th, 2008
AAA	Email from Sara Dunn, dated May 12th, 2008
BBB	Letter from Craig Richardson to Doug Dotson dated May 12th, 2008
CCC	Letter from Mark Hamilton of Holland and Hart, dated August 4th, 2008
DDD	Letter from Gay Lewis, Someday Ranch
EEE	Email from Caroline W. Duell, dated August 13th, 2008
FFF	Letter from Richards Wells, Kings ROW HOA, dated August 12th, 2008
GGG	Letter from Loyal Leavenworth, Kings Row Resident
HHH	Email from John Piccinati, dated August 18th, 2008
III	Suggested water settlement agreement plat note language, Balcomb and Green PC, dated August 12th, 2008
JJJ	Email from Adrienne Crouch, challenging Hunt Ranch legal description, dated September 25th, 2008
KKK	Email from Greg Amsden, response to exhibit JJJ, dated September 30th, 2008
LLL	Email from Adrienne Crouch, dated October 2nd, 2008
MMM	Letter from Glen Sloop, Someday Ranch, dated September 25th, 2008
NNN	Legal Notice, insert dated September 11th, 2008
OOO	Memo from Eagle Count Board of Commissioners, dated September 29th, 2008
PPP	E-mail from Connie Wood, Dated October 7, 2008

Additional exhibits were added in at the meeting:
Exhibit QQQ – Letter from Lathrop Strang; Exhibit RRR – Email from Susan Cuseo, dated August 13, 2008; Exhibit SSS – Letter from Land Title Guarantee Co., dated October 10, 2008 in response to Exhibit JJJ; Exhibit TTT – Fender Deed Referenced in Exhibit JJJ; Exhibit UUU – Power Point by Applicant; Exhibit VVV – Davis Farrar's Presentation; Exhibit WWW – Petition of 125 Neighbors; Exhibit XXX – Map from John Olson and Exhibit YYY – Article in the Aspen times, dated October 13, 2009.
Craig Richardson explained:

GENERAL PROJECT INFORMATION

General Property Location / Description

The Hunt Ranch property contains 561 acres and is generally located approximately 4.5 miles northeast of Carbondale and 3 miles northwest of El Jebel in the Missouri Heights area in east Garfield County. The property is adjacent to the Eagle County line. In close proximity, there is the Strang Ranch, Panorama Ranches Subdivision, and King's Row Subdivision.

The property consists of rolling topography with approximately 250-acres of active pasture land with the remaining acreage consisting primarily of juniper / pinyon and sage vegetation. Presently, uses on the Property are agricultural in nature where 250 acres of the property is devoted to irrigated hay and pasture production during the growing season as well as serving cattle during the winter months. There are three residences and a variety of structures that all serve the ranching operations.

Proposal

The Applicant requests approval from Garfield County to subdivide the subject property into 93 single-family residential lots while devoting the remainder of the Property to active agricultural operations and common open space and trails.

In a letter from Doug Dotson, dated April 8th, 2008 (Hunt Ranch Response Letter) (*Exhibit II)* it is stated the Applicant feels it is unreasonable to require every subdivision to meet the standard of affordable housing. The Applicant feels that the location of the proposed subdivision is not an appropriate location for affordable housing. Hunt Ranch Preliminary Plan complies with the current land use designation in the Garfield County Comprehensive Plan of 2000. An increase in density from what is contemplated in the Comprehensive Plan is not requested. Therefore, the Applicant is not required to contribute to Garfield County's affordable housing stock. A mix of housing types (two family-dwelling, multi-family dwelling) is not allowed as a use-by-right. However, the applicant has represented that five (5) lots (Lots 17, 18, 28, 50 and 51) will have floor area ratio (FAR) limitations established at 2,500 square feet to ensure a mix of housing within the proposed subdivision. In the strict sense, the proposal does not result in an increase in density beyond the Comprehensive Plan's designation, so regulatory affordable housing is not required. Staff finds that the applicant's proposal meets some, but not all of the Comprehensive Plan's goals.

The applicant states that the subject property's location is not appropriate for integrated affordable housing. It is stated in the Hunt Ranch response letter that the applicant believes affordable housing should be located near municipalities and public transportation facilities. In order to comply with this section of the Comprehensive Plan, the applicant has committed to initially selling the five lots encumbered with FAR limitations for no more than $250,000. Said lots will not be deed restricted as represented by the applicant. In order to ensure reasonable cost to residents throughout Garfield County it is represented that Hunt Ranch, LLC will establish a resident occupancy restriction on these five lots. Staff recommends that the Board of County Commissioners require the submittal of a deed restriction for each of the five lots limiting the initial sale price to $250,000, FAR of 2,500 square feet and resident occupancy as represented by the applicant. A deed restriction is the only way the County can ensure the representations of the applicant.

The subject property is encumbered with apparent slope constraints. The applicant's soils report demonstrates adequate soils for placement of an ISDS system. It has demonstrated that each lot has an area 1-acre or greater with less than 40% slope for the construction of a single-family dwelling unit and ISDS as required. The applicant's proposal conflicts with §7.5 regarding private water and sewer systems.

The subject property is encumbered with slope constraints that appear to exceed 25% on some of the proposed lots. A substantial portion of lots 42, 45, 46, 47 and 72 as demonstrated in Attachment R of the application are encumbered with slope constraints of 30% or greater. The applicant has utilized a cluster design without requesting the lot increase incentive in order to remain in compliance with the density requirement identified in the Comprehensive Plan. However, the applicant could utilize the cluster design option to reduce the lot size of the proposed lots to one (1) acre. This would allow the applicant to place a greater number of lots on areas of the subject property that are not encumbered with slopes greater than 25% and still maintain the proposed agricultural open space. Utilizing the cluster option to reduce lots sizes does not require the applicant to pursue the lot incentive.

Garfield County consulting engineer found that the applicants proposed water system appears to be adequate supply regarding water rights, wells and augmentation plan. Staff has not been presented with any evidence demonstrating that the proposed water supply is inadequate.

Staff recommends that the Board require that the requirements of the Court's water decree be included in the covenants. It is also recommended that the Board require a plat note identifying the governing decree. The plat note shall also reference the conditional nature of the water decree.

In order to hold the County harmless from any and all claims, causes of action relating to an adequate water supply, Staff is recommending the Board require language in the Covenants, Subdivision Improvements Agreement and as a plat note holding the County harmless. Water quality analysis tests submitted were reviewed by Jim Rada, Garfield County Environmental Health Department Manager. In the comments provided it is stated that the tests results were incomplete for the following reason:

1. Well No. 4 was not tested for radionuclide and only one bacteriological sample result was included in the report and it is not denoted which well the sample was taken;

The Applicant is required to demonstrate Colorado Department of Public Health and Environment approval at the time of Final Plat application. Staff finds that a condition of approval requiring that the Applicant provide Staff with documentation regarding an approved Central Water System at the time of Final Plat application is sufficient.

A. Irrigation Water

Irrigation water will be provided through central irrigation system owned and maintained by the Home Owners Association. An irrigation storage pond is proposed near the domestic water tank and is designed to hold approximately 3.0 acre/feet of storage. Irrigation water will be delivered to each lot via a raw water pump station. As represented 130,000+ gallons of irrigation water will be stored upslope from Lots 80 and 81. Jim Rada, Garfield County Environmental Health Manager has raised a concern regarding possible flooding. The Applicant states that the proposed storage pond will be constructed with a liner to prevent leaks that could have a negative impact on area ISDS. Additionally, the pond will be constructed with an overflow pipe system designed to carry more than the proposed ditch capacity. The overflow will be directed to the existing hay field for use as irrigation.

(p. 3 memo from Sopris Engineering, LLC attachment to Hunt Ranch Response Letter)

B. Waste Disposal

The Application proposes that the wastewater generated from the 93 single-family lots will be handled by individual sewage disposal systems (ISDS) on each lot. The soils characteristics in the area range in suitability for ISDS depending on moderate slopes and shrink-swell characteristics. The Applicant has provided the following language regarding ISDS management to be included in the Covenants:

C. Public Access / Internal Road System

The proposed internal road system has been designed to meet the standard of a minor collector except the identified shared driveways which have been designed with the minimum Right of Way and the existing "Road G". The proposed roads will be dedicated to the County for public access but owned and maintained by Hunt Ranch Property Owners Association. The Preliminary Plan identifies three shared driveways (depicted on Lots 34-35, 40 and 44). Garfield County Subdivision Regulations will require that the proposed shared driveways be included as part of the internal road system and designed to County

standards. The following lots will utilize shared driveways 1.) 34/35 2.) 40/41 and 3.) 44/45. The shared driveways located serve lots 40/41 and 44/45 as depicted do not provide fee simple access to lots 41 and 45. The Applicant is proposing to provide a driveway easement to ensure access to said lots.

The Applicant has determined that existing "Road G" is a dedicated public right of way that continues to the Eagle County line (Book 36, P. 218). This right of way is depicted on Garfield County road maps as 83 Road. The Preliminary Plan approved by the Board of County Commissioners shall depict this as a public Right-of-Way County Road 83. The application included a Traffic Analysis completed by Felsburg, Holt and Ullevig. The study finds that the proposed development will generate minimum impacts. Garfield County traffic impact fees will be calculated at the time of Final Plat. The Applicant can expect to pay approximately $267,000. Garfield County applies this fee to the study area which the proposed development is situated. Even though the traffic analysis does not identify required improvements, Garfield County Road and Bridge Department finds that in order to accommodate the proposed development, County Road 102 needs to be engineered and rebuilt to design standards with a minimum of a 22-foot shoulders and drainage as required, including all culverts as needed and replacement of older culverts to the Eagle County line *(Exhibit P)*.

The applicant is requesting that the Board of County Commissioners enter into a fee reimbursement agreement allocating all impact fees collected from any development along County Road 102 to Hunt Ranch, LLC for a period to be determined. In the Hunt Ranch Response letter, it is requested that the application be amended as follows: The Board of County Commissioners has required improvements deemed necessary as a direct result of a proposed development to be completed by the applicant. Staff included a condition of approval recommended by the Planning Commission requiring the applicant to complete the improvements deemed necessary by Road and Bridge. Staff does not support the proposed reimbursement agreement. At the Board's discretion, the applicant may be able to receive an impact fee credit for work completed. Staff referred the application to Eagle County for review. Eagle County provided comments concerning the distribution of 65% (as represented in the traffic analysis) of the generated traffic entering Eagle County. The applicant's consulting engineer met with Eagle County on April 3rd, 2008. Eagle County suggested that an Impact Fee of $500.00 be collected at the time of Building Permit submittal and provided to Eagle County. Should this option be considered by the Board, staff recommends that the applicant be responsible for drafting an Intergovernmental Agreement between Garfield and Eagle County to be approved by the Board of County Commissioners at the time of Final Plat Application.

(p. 8 Hunt Ranch Response Letter)

Colorado Department of Transportation (CDOT) reviewed the traffic analysis provided by the Applicant. It has determined that the proposed development will increase traffic by 22% at the intersection of County Road 100 and State Highway 82 *(Exhibit R)*. Therefore, a State Highway Access Permit will be required. CDOT will require a level 3 traffic study. The Board routinely requires the Developer to act as the Applicant for CDOT access permits and complete all improvements required. At the time of Preliminary Plan approval the Board may authorize the Applicant to pursue a CDOT access permit on behalf of Garfield County. Staff recommends that the Applicant be required to obtain the access permit and complete all CDOT requirements. The approved access permit shall be submitted with the Final Plat Application.

Fire Protection

The property is located in the Carbondale & Rural Fire Protection District. The property appears to consist of Low, Moderate and High Wildfire Hazard in the Comprehensive Plan that are designations generally based on existing slope and fuel type. The Applicant proposes a central water supply system with hydrants capable of producing a minimum flow of 1,000 gallons per minute. All homes will be constructed with automatic fire sprinkler systems. Carbondale & Rural Fire Protection District Deputy Chief, Bill Gavette has determined that the proposed water supplies meet the requirements of the International Fire Code. At the time of Final Plat the applicant will be responsible for District impact fees in the amount of $437.00 per dwelling unit ($437.00 x 93units = $40,641.00) *(Exhibit N)*. Rocky Mountain Ecological Services conducted a site-specific wildfire survey on the subject property. The findings and recommendations of this survey have been incorporated into the Preliminary Plan. In the comments provided by Carbondale & Rural Fire Protection District it is represented that the Department is in agreement with the recommendations provided by the applicant's commissioned consultant. The recommendations include defensible space, building design and access recommendations for each of the identified High, Medium and Low Hazard Ratings as identified in 1.2 Figure 2 of the Wildfire Hazard Review. Staff recommends that theses recommendations be included in the Covenants and Restrictions.

D. Drainage & Floodplain Issues

There are no FEMA mapped floodplains on the property.

The drainage study provided by the applicant concludes that no long-term adverse impacts to drainage are anticipated. Roadway culverts are designed to accommodate flows for 25- year storm events.

Chris Hale, consulting engineer for Garfield County provided the following comments regarding drainage *(Exhibit Q)*:

1. *In the drainage plan the existing Basins 5, 6, & 7 seem to correspond to the proposed Basins of R, S, T, & U but with significantly different flows. The calculations should be verified. Detention or other mitigation may be warranted to avoid downstream impacts.*
2. *Cul-de-sac for Road D appears to drain onto Lot 16 and then through Lot 17, Lot 18, and Lot 19 before an easement is provided for drainage.*

E. Wildlife

The application contains an analysis of the wildlife found on or near the property completed by Rocky Mountain Ecological Services, Inc. The analysis considered impacts to Elk, Mule Deer, Black Bear and Harrington penstemon known to have habitat on or adjacent to the subject property. The analysis states that the subject property does not contain habitat for Federally Threatened or Endangered species. It is acknowledged that the proposed development will impact winter range habitat for deer and elk.

By clustering homes and preserving large tracts of undeveloped land and adopting strict dog policies, deer and elk will continue to utilize the subject property as habitat. Section three of the Ecological Assessment provides a number of impact mitigation recommendations. It is represented in the application that all applicable recommendations have been incorporated into the proposed development. Staff recommends that as condition of approval the Applicant include the applicable recommendations into the Restrictive Covenants for the proposed development.

Harrington's penstemon, a globally rare plant has been mapped on the subject property. There are no regulations regarding the protection of this plant. The Ecological Assessment recommends marking the populations prior to locating building envelopes. The highest concentration of the Harrington's penstemon is found on the southwest portion of the subject property. This area is to remain undeveloped open space.

The Planning Commission included a condition of approval requiring that the Applicant submit a more detailed inventory that addresses the specific location of yellow toadflax, oxeye daisy, absinth wormwood and all county-listed noxious weed as suggested by Garfield County Vegetation Management with the Final Plat Application. It was also recommended that the treatment of all state and county listed noxious weeds prior to the submittal of the Final Plat. Treatment records shall be provided to Garfield County Vegetation Management at the address provided.

F. Trails / Paths / Parks

The Applicant proposes a primitive surfaced single-track trail to run along the outside of the development through the open space parcels for the benefit of the lot owners. The Applicant also proposes a 10-foot wide asphalt trail / path along the main loop road (Roads A and D) as well as along CR 102 between the two entrances to the project. The proposed single-track trail appears to run through proposed lots. The Applicant will need to legally describe the proposed single-track trail within an easement granted to the Hunt Ranch Property Owner's Association in order to insure that the represented trail is made available. This easement shall be submitted with the Final Plat.

The application represents that the proposed asphalt trail will be made available to the public. In order to ensure that the proposed trail is available to the public the applicant will need to include the trail in the public right of way or establish a new right of way ensuring public access. The Hunt Ranch Property Owner's Association will be responsible for all trail maintenance.

At the time of Final Plat, the applicant will need to provide a detailed cost analysis, sealed by an Engineer licensed by the State of Colorado outlining all proposed public improvements. This cost analysis will be used to determine the required security to ensure all represented public improvements are completed.

It is not clear if the proposed trail along CR 102 is to be constructed within or outside of the County ROW. If the Applicant is proposing the construction of a trail within County ROW the Applicant will be required to consult Road and Bridge. The proposed trail is to be maintained by the HOA. A legal description of the proposed trail shall be included in the Final Plat application.

G. Open Space

The application represents the preservation of the historic agricultural aspects of the subject property. The Preliminary Plan identifies this area as Lot 1 (155.86 acres). It is not clear how the Applicant intends to accomplish this representation. The application first states that the Applicant considered utilizing a local or regional land trust to ensure preservation of the agricultural parcel. It is represented that the Applicant has only attempted to reach an agreement with Aspen Valley Land Trust (AVLT). It has been determined that the proposed agricultural lot does not meet the objectives of AVLT. The application then states that if an agreement with a land trust is not reached other options will be pursued. The Applicant will need to demonstrate the exact method to be used to accomplish this representation. The Planning Commission included a recommended condition of approval requiring the Applicant to place the Agricultural lot into a perpetual conservation easement. The conservation easement is to be included in the Final Plat application.

§6.0 of the Garfield Comprehensive Plan of 2000 Agriculture:

Planning Commission Recommendation

On August 28th, 2007 Garfield County Planning Commission by a vote of 6-1 forward of approval to the Board of County Commissioners with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The applicant shall include an approved Colorado Department of Transportation Access Permit with the Final Plat application;
3. The applicant shall complete the improvements to County Road 102 identified in exhibit P, Garfield County Road and Bridge Department referral comments, this requirement shall be included as a component of the Subdivision Improvements Agreement;
4. The applicant shall provide a 30-foot road easement from the centerline of County Road 102 the length of the subject property;
5. All fences and structures owned by the Applicant encumbering the new ROW shall be moved back by the Applicant for that portion adjacent to Hunt Ranch <u>prior to the submittal of the Final Plat application</u> the completion of this shall be included as a component of the Subdivision Improvements Agreement;
6. The applicant shall include the recommendations of Rocky Mountain Ecological Services regarding Wildfire Hazard mitigation in the Restrictive Covenants (including but not limited to defensible space, building design and access recommendations);
7. The applicant shall include the recommendations of Rocky Mountain Ecological Services regarding wildlife and vegetation in the Restrictive Covenants;
8. The applicant shall provide documentation regarding Colorado Department of Public Health and Environment approval for the proposed Central Water System <u>at the time of Final Plat Application</u>;
9. The applicant shall be responsible for RE-1 School Impact Fees as identified in §9:81 of

the Garfield County Subdivision Regulations of 1984;

10. The applicant shall include an ISDS Management Plan in the Covenants;
11. All existing and proposed easements shall be depicted on the Final Plat;
12. The applicant shall map and treat all State and County listed noxious weeds on-site and provide documentation of this to the satisfaction of Garfield County Vegetation Management **prior to the submittal of the Final Plat Application**;
13. The applicant shall provide a Revegetation Plan consistent with the revised Revegetation Guidelines from the Garfield County Weed Management Plan, adopted on May 7th, 2001at the time of Final Plat Application;
14. The applicant shall include language regarding the requirement of site-specific soils and foundation investigations required at the time of building permit submittal in the Covenants;
15. Should the Board deem necessary, The Applicant shall be responsible for creating an Intergovernmental Agreement regarding impact fees to be paid to Eagle at the time of Building Permit Submittal to the satisfaction of Garfield County Board of County Commissioners;
16. The applicant shall include a Storm Water Management Plan that focuses on erosion control that prevents the detachment of soil rather than sediment control, which focuses on removal of soils particles from runoff in the Final Plat Application;

17) The applicant shall include the following plat notes on the final plat:

a) One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries.
b) No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as defied by C.R.S. 25-7-401, et. 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) Based on the analysis of the sub-soils on the property, Individual Sewage Disposal Systems and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.
h) All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the incorporated Homeowners Association of the subdivision.
i) The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).
j) Development with the flood plain is subject to Garfield County Administrative Permitting.
k) Accessory Dwelling Units are prohibited within Hunt Ranch Subdivision;
l) A Site-specific soils and foundation investigation shall be submitted with the Building Permit application for each lot within Hunt Ranch Subdivision, the report shall include test borings and consolidation testing to address collapsible-soil hazard potential;

Should the Board approve the proposed subdivision Staff recommends that the Board include the following plat notes and recommended conditions of approval in addition to those recommended by the Planning Commission:

m) All lots are subject to the conditions identified in the water decree in case no. 05CW301 including terms and conditions of the Settlement Agreement with the Missouri Heights Well Users Association;
n) Hunt Ranch Subdivision Homeowners Association indemnifies and holds Garfield County harmless from any and all claims and causes of action arising from or in any way relating to the adequacy of the water supply;
o) Lots 17, 18, 28, 50 and 51 shall be limited to a Floor Area Ratio 2,500 square feet;

p) Resident occupancy for Lots 17, 18, 28, 50 and 51 require that the occupant reside in Garfield County nine-months a year;

18) The Applicant shall include the terms and conditions of water decree case no. 05CW301in the Subdivision Improvements Agreement and Restrictive Covenants;
19) The Applicant shall submit a deed restriction for Lots 17, 18, 28, 50 and 51 outlining the representations of the Applicant regarding FAR, Resident Occupancy and the $250,000 initial sale price;
20) The Applicant shall include the recommendations of Rocky Mountain Ecological Services' wildfire survey in the Covenants and Restrictions;
21) The indemnifications regarding required of Hunt Ranch Subdivision Home Owner's Association regarding water supply and the proposed public trail system shall be included in the Covenants and Restrictions.

Greg Amsden, Operating Manager of Hunt Ranch LLC, the investment group for Hunt Ranch LLC is from the southeastern United States. They have extensive holdings and commercial developments throughout the United States and are very financially capable. Two people are here from the project team; land planning for OTAK is Kate Schwarzler and on water decree is Sara Dunn from Balcom and Green. Greg felt Craig Richardson and the staff did a very good job. The topography wasn't covered in Craig's presentation; the land rises gently from the west and Greg went on to explain how the property is situated; Greg showed the area on a map.

Kate Schwarzler with OTAK gave a power point presentation showing a zoning slide with the existing zoning as ARRD. She stated this requires a 2-acre minimum lot, which they have complied with. They clustered the development to ensure a greater degree of open space; this amounts to about 230-acres of preserved agriculture areas. The primary access is from County Road 102 and Sarah will discuss the centralized water system in detail. Sewer is provided by individual septic systems and they are providing several recreational amenities to the property.

Greg Amsden stated they have gone over their focus and goal to preserve the agricultural use of this property. Their plan is to put a conservation easement on that parcel; Lot 1 (155-acres), parcel A (65-acres) and parcel E (7-acres). Martha Cochran at Aspen Valley Land Trust would look at the conservation easement but because of their policies they do not like to talk about conservation easement until the development approvals are completed. As a back-up Greg spoke with Christine Strickland of Colorado Open Lands and their policy is to contact the local land trust first. To further preserve the land they will put a deed restriction on lot 1 and explained where it was located. It will restrict the residence there to a maximum size of 3,500 square feet. There will also be a plat note that prohibits further subdivision on any of the Hunt Ranch property. As far as funding the conservation and agricultural parcel in the development, they are proposing a real estate transfer assessment ½ of 1% to begin with the initial lot sales and continue in perpetuity for both land sales and improved property. Half of this transfer assessment will be contributed to the land trust that holds the conservation easement and half will be contributed to the ranch maintenance and the maintenance of the agricultural parcel including weed management, re-fencing, and anything that requires maintenance in the agricultural parcel. There is a long term lease they are proposing; the ranch managers on site have been there for 10 years and their lease came to an end in May, 2008. It has been renewed for another 5 year period. It has a clause that will automatically extend that lease to a 10 year period at a rate of $10.00 per year. The agricultural land and parcels will be separate from the HOA. The development they have proposed is to basically be exclusive of the agricultural parcels and separated. There is a right to farm stipulation in the index and on the final plat. There will be restricted use, the owners in the subdivision, the only area they can use is parcel B as the trail winds through this; but it will be closed during April when planting and staging of cattle occurs.

Kate wanted to show how the Hunt Ranch would fit in with the surrounding development areas. They feel they are in compliance with zoning in terms of the density, and the density is appropriate for this property in comparasion to the surrounding developments. They did cluster the housing to preserve the open space.

Sara Dunn stated the words used are "fragile and sensitive" by Missouri Heights residents to describe the ground water resources up there. She thinks the most important factor is left out, which is they are renewable, rechargeable and sustainable. The Basalt Water Conservancy District has been studying this aqua for 20 years. They monitor a number of well sites and spring sites. One of those well sites is located in the Kings Row Subdivision. They have determined that the levels in the aquifer correlates to two things: climate and precipitation. The other is the irrigation return flows. Hunt Ranch engaged its own team of qualified professionals, which included engineers, geologists and hydro geologists in order to evaluate the available data. Independently they reached the same conclusions of the Basalt District. The applicant has developed a plan to sustain the levels and have a zero net impact from the development on the aquifer. They will recharge back to the aquifer; gallon for gallon every gallon that is consumed through the centralized water system. The centralized water system will be composed of four wells; one or two will be operating. This will be in-house use and very limited; 500 square feet of drip irrigation around the house; the rest of the irrigation will come from the raw water system. They can't control the climate and the precipitation but, they have planned a way in order to minimize the impact during these draught periods. The have the augmentation pond. There will be two years of recharge water stored in the pond. The first draw of water available to the ranch will be used to refill this augmentation pond. From the augmentation pond water will be released and it will go down to the recharged and detention area which is the lowest point of ranch. When the flood irrigation is occurring, the excess would pool there and naturally recharges. They will take steps to enhance and protect the area including gravel lining as well as the pipe will be below the surface so no contaminants can be introduced. This is the only development in the area that proposes to recharge to the aquifer. On the irrigation return flows, on average this ranch imports 600 to 800 acre feet of water into the basin. To the amount they will be consuming, from the domestic uses is 14-acre feet. The applicant has entered into an agreement with the Missouri Height Well User Association; the intention was to have a blueprint of how this water court decree was going to be implemented and enforced. It is something that the Division of Water Resources has requested in a number of these complicated cases. They want something easy to understand. As to the water resources, Hunt Ranch is not part of the problem

they are part of the solution. This is the first development to implement this type of strategy in order to sustain the levels within the aquifer and they think they have taken the time and spent the monies necessary to develop a sustainable plan.
Kate stated she wanted to address some of the transportation issues. Reports did show that even with full development of Hunt Ranch, all roads and intersections will operate at an acceptable level. As to the Highway 82 intersection, they are applying for an access permit from CDOT. The current TIA does meets the CDOT requirements and they feel that on Highway 82 the turn lanes are already in place. The intersection already operates at an acceptable level of service with or without the Hunt Ranch traffic. Hunt Ranch is recognizing that improvements will need to be made to County Road 102 based on discussions with neighboring residents as well as the County. They want to do improvements at approximately $1.3 million dollars, which includes the $267,000.00 traffic impact fee to do the improvements. Those improvements include the repaving and widening of County Road 102 from County Road 100 east to the county line. Also they will be making appropriate drainage improvements along that county road and improving the intersection to County Road 102 and Jess Peterson's residence to make that a safer intersection. Also, providing some additional right-of-way for County Road 102, and lastly providing a traffic impact fee to Eagle County if Garfield County does enter into an IGA with Eagle County.
Greg Amsden discussed additional housing saying that although Hunt Ranch is not required to provide affordable housing, they have voluntarily set aside 5 lots with a reduced pricing strategy with size restrictions of 2,500 square feet and resident occupancy restrictions. In addition they have the agricultural operator's parcel which is also restricted to 3,500 square foot size and a resident occupancy ranch and an operator restriction. From the stand point of the integrated housing policies in the Comprehensive Plan, they do not have any minimum size restriction on any lot in Hunt Ranch. This will allow for greater diversity in home sizes and affordability, and it will allow an owner to build a home that is consistent with their means. ADU's have also been eliminated. As far as providing a diversity of housing that would include multi-family or duplexes, those are not allowed in this zone district. We hope the way we have approached this will lead the way for future subdivisions in the County to provide some form of affordable housing and reasonably priced housing and alternatives for locals.
Kate wanted to discuss some of the recreational opportunities provided on the plan. In addition to the open space there are 3 parks that will be developed for the residents. There would be a public trail include in the upgrade to County Road 102 as well as the paved trail that runs along the loop road, which would be approximately 3 miles in length. A natural trail, soft surface trail, would go around the outer perimeter of the property, and they feel it is very important to preserve the visual corridors and the hillside views of the property. There would be no ridge lining; very important to them to make sure people won't have a view of a house sky lining to interrupt their view of the mountain. The building sites are 4,230 feet lower in elevation further allowing the Panorama Ranches to preserve their property. They took into consideration view corridors throughout the property during the site design and, they will be addressing exterior visual impacts of the project with development regulations. She showed slides on how they were dealing with environmental sensitivity and the way they are addressing this. The ly-out has been developed in context with the existing natural characteristics of the site. This helps to reduce and minimize the disturbance to the site. They are going to encourage on-site construction recycling; providing for wildlife habitat; and providing for wildlife already there. Addressing wildfire safety is of great importance in that area so all of the houses will be sprinkled and there is a pressurized water system to address this. Lighting has been a big concern. There will be international dark sky association standards required. There will be architectural design guidelines set in place that address many of these items. For example: the energy check making sure buildings will be energy efficient, colors and materials non-reflectivity and also building forms encouraging horizontal buildings as well as encouraging people to go low and preserve the view corridors. The majority of the lots are oriented to maximize the southern exposure for energy conservation. She wanted to discuss the ways they have responded to comments throughout this project. They took this in front of the Planning Commission in April, 2008 and they found the project did comply with all the applicable goals and policies of the Comprehensive Plan by a vote of 6 to 1. They were in favor of cluster development to help preserve the agriculture land and have a significant amount of space. The applicant has made several revisions to their plan in response to neighbors and the staff, the first was to make sure there was an approved water supply management augmentation plan. They created more separation between the development within the Hunt Ranch and homes in Panorama Ranches and also lowered the homes in elevation to minimize the visual impacts. They eliminated ADU's from the subdivision and reduced lot sizes throughout. They did additional clustering in the southwest corner. They also restricted fencing, which was an issue to wildlife movement and they moved a Hunt Ranch home site for Leslie Bethel and Larry Martin due to the concern that it would block their views. Most recently in response to staff and neighbors they have agreed to upgrade County Road 102 and in addition they feel they are compliant with the Garfield County Comprehensive Plan goals.
Gred Amsden stated the proposed plan is a sustainable style of development. It blends historic land uses with current residential trends. It protects, enhances the wildlife, and protects against wildfire and it preserves the water uses. It minimizes visual impacts to surrounding neighbors and they believe it establishes a new standard for future subdivisions in Garfield County. This development plan meets both the zoning regulations and the goals and the policies of the Garfield County Comprehensive Plan.
Craig Richardson stated the applicant is talking about building envelopes. What staff sees is that you are able to amend the plat to increase size. Staff would like to see a plat note identifying those lots.
Chairman Martin gave instruction to the applicant and the audience.
David Myler lives about two miles from Hunt Ranch. He is in the development business; he was a land use attorney practicing in the Roaring Fork Valley and representing local governments. More recently he has represented the private sector; it is unusual to be appearing at a public hearing and he is not here in a representative capacity, he is here for the same people who live in Missouri Heights. The Hunt Ranch presents very compelling issues that will determine the future of Missouri Heights. The resolutions of those issues are much too important for himself or anyone else who is there to sit on the sidelines. It has been his pleasure to work with virtually all the consultants on the developer's team over many years. No

matter how good of a job they do designing this project you can't overcome the fact that there are simply too many homes being proposed in this location. It is too dense in terms of the land use code. Like many in the room, he is not opposed to developing homes on Hunt Ranch. He is opposed to the number of homes that are being proposed. He likes the clustering and he likes the agricultural preservation but, there are simply too many homes in the clusters. At 93 units in Hunt Ranch it displayed the characterizations and the spin that the applicants have put on it, which is simply out of character with Missouri Heights. All you have to do is to walk out near or on the Hunt Ranch and look around 360 degrees and immediately in front of you is about 6 square miles of ranch most of which is hayfields and sage brush. He said he stood out there near the entrance road and counted 40 homes within that 6 square miles; 1 home per 100 acres. That is what Missouri Heights is all about; it's about open space, it's about agricultural activities, it is a non suburban area. Although, the concept of character is somewhat subjective but the goal of preserving the character in areas is addressed in the Comprehensive Plan in a couple of ways. One, in the suggested densities for this particular part of the County, which goes from high of 1 unit for 6 acres to a low of 1 unit for 10 acres. It is also set forth in the agricultural preservation provisions of the Comp. Plan. Admittedly, the applicant is pointing this out at every opportunity that there are some older subdivisions in Missouri Heights that were developed in densities similar to what is being proposed here at Hunt Ranch. They are, of course, much smaller in overall size. He thinks the largest has 57 units. More importantly, those subdivisions were reviewed and approved in a time when the community was less aware of the negative impacts of development, and the importance of reserving the character of the place. They were approved before comprehensive planning. Hopefully we have learned a thing or two over the years about responsible development. While we can't turn back the clock we can certainly make decisions going forward that reflect the character of an area and the preservation of aspects that are important and whole concept of sustainability through smart growth. Other developers in Missouri Heights, more recent developments, seem to be more in tone to the character that is so important. They realize the density in the past cannot be sustained going forward; they cannot be sustained into the future. They set a more appropriate standard and lowered the bar when it comes to density. Projects like Stirling Ranch and the Ranches at Coulter Creek which have densities in the 15 to 20 acres per unit. Interesting enough, all those developments have been able to set aside significant amounts of acreage for agriculture use, equestrian facilities, and for open space in general. He doesn't think they need to have the high density. The projects he is involved in up and down the Roaring Fork Valley and added that I'm not here saying one thing and doing another; where he is representing the developers as land use counsel, areas range in density of a high of 1 unit per 20 acres to a low of 1 unit per 160 acres. Based upon his experience, this is a level that allows you to maintain character and also gives the agricultural operation as being preserved and a chance to succeed and be viable. He believes that based upon your regulations the Board has the discretion and the authority to determine the appropriate density at Hunt Ranch. There is nothing in the Comprehensive Plan that guarantees the applicant a minimum density. As he mentioned earlier; the Comp Plan suggests a range; 1 unit per 6 and 1 unit per 10, but ultimately it is your choice, your decision. This is your discretion to decide within that range what is appropriate. From his view and he thinks it is shared by everyone speaking here today; 1 per 6 is much too much, 1 per 10 is still a little dense from his point of view; but at least it is still in the range suggested by the Comp Plan. He has to acknowledge that landowners should be able to rely on the Comp Plan to some extent until it is changed. What really snapped the density issue in the focus for me was the applicant's traffic report. It provided that the traffic would increase as a result of this development by 22% on Catherine's Store Road; think about that. Hunt Ranch occupies about 5% at the most of the land area served by Catherine's Store Road; but 22% of the traffic is out of proportion, it is out of place, it is too dense for Missouri Heights. He appreciates the applicant's commitment to maintain a significant amount of the agricultural areas within this property. There are many benefits that will improve the neighborhood as a result of that and they should be commended. He is concerned that the agriculture operation they are proposing will not last. Eventually there will be pressure from the homeowners; especially if there are 93 of them who thought they were moving to the suburbs to curtail the agricultural operation. They will start complaining about the smells, the noise, about the flies, about the safety of their children, and who knows what else as a result of the ag operations. He thinks this is one of the reasons that staff and the planning commission suggested a perpetual conservation easement so it wasn't up to the homeowners to change the rules. That doesn't mean it isn't going to create a conflict. It is also why the neighbors, in a petition you will see, are suggesting the 300 ft. buffer that is very wisely provided for in your Comp Plan be established in this case. David used a pointer on a map to show the buffer area. The lack of affordable housing has long been recognized as a serious problem throughout this valley. He has spent a big chunk of his career dealing with affordable housing issues both public and private. He certainly appreciates the offer to restrict 5 of the lots providing discounted lots will certainly impact a few people. Frankly it will do nothing for the larger problems we have for our workforce. The people who will buy those lots and build a 2,500 square foot house will have ¾ to 1 million invested in it. Those aren't the people who need housing. This project will do nothing for them. He understands the exemptions that exist in the code; he doesn't like them but he knows they are there. On the other hand it is a privilege to develop land in Garfield County. He thinks we can expect more of these developers or any developers, especially when it comes to affordable housing and especially in this day and age. It is certainly not inappropriate to ask them to create deed restricted housing. He disagrees with the applicant that this isn't a good location for onsite deed restricted housing; it is the density that is not in the right location. Once you decided to allow density, he sees nothing wrong for working residents. The idea this isn't a good spot for working residents to live he thinks is un-American. In conclusion the folks in this room need your help. You have the authority to reduce the allowable number of homes on this lot from 93 to 57. By applying the low end of the density range that is set forth in the Comp Plan that is still a lot of homes. He might be wrong about this but he thinks that would still be the largest single development ever approved in Missouri Heights. In doing so, you will not be depriving the developer of a profit opportunity. As he has learned in this business for over 30 years; less is often more when it comes to density. In doing so, you will be reducing the negative impact on this project, almost all of which can be attributed to density. You will be increasing the likelihood that the agriculture operation will succeed. You will be establishing an important precedent of

the future of Missouri Heights as we move into the Comp Plan review and, perhaps evaluate other projects. Last but not least you will have earned the thanks of the present and future residents of Missouri Heights who are your constituents. In the interest of time Mr. Chairman I would like to ask those in the audience who would agree with these comments to raise their hands. He will take any questions. (Everyone on the audience raised their hands).

Davis Farrar presented a power point and said he echoes Mr. Mylers comments. He too represents private and public sector development concerns and has been in the business for many years and he actually worked for Garfield County at one point. He thinks the developers have proposed a project they have put a lot of work into but he thinks there is a hurdle or two they are just having a hard time getting over and that is compliance with the Comprehensive Plan. He would like to speak to the issue of density and compliance with the plan. The Comprehensive Plan speaks to a range of density; 1unit to 6 acres to 1 unit for less than 10 acres. The purpose behind the designation is to look at, among other things, hazards, slopes, septic systems, and most importantly compatibility with adjacent uses. He means adjacent or surrounding uses, he doesn't mean selected properties based on what you feel like choosing. Showing a map with the parcels in Missouri Heights, he stated this was a comparison to 170 surrounding Garfield County parcels. He didn't select Panorama, Kings Row or Stirling Ranch; he chose the surrounding properties. Out of the 170 parcels; the average lot Size is 18.4 acres. Getting more specific, select the properties that immediately surround Hunt Ranch; the number goes up a little bit. This was a comparison to adjoining Garfield County parcels; the average lot size being 24.05 acres, or if you want to be nice and take the Strang Ranch out, which is some 400 acres, it still drops to 11 acres per unit. That is considerably lower density than what the applicants are proposing. This is based on surrounding uses or immediately adjacent uses. The developers have 549.78 acres in Garfield County; he came up with 11.97 acres in Eagle County and that is sort of irrelevant to the discussion but a total of 561.75 acres. I had a conversation with Fred Jarman and he will check his information; Eagle County is not part of your jurisdiction. At 549.78 acres at 9 acres per unit that is 61 lots in the project not 93. He continued to talk about acres and how many lots it should be. The Hunt Ranch density in his opinion is too high by approximately 32 lots. He also wanted to underscore something that Mr. Myler mentioned; the Kings Row Subdivision and the Panorama Ranch Subdivision were approved between 15 to 20 years before the current Comprehensive Plan. They were done without the benefit of this current plan and without the benefit of thinking this is somewhat dated at this point. Stirling Ranch was approved under the current Comprehensive Plan with a density of 1 unit per 17 acres. So what does Garfield County get from the Hunt Ranch; first thing is 890 daily vehicle trips, no affordable housing with 5 lots and a price of $250,000.00 for each. Then, you put a unit on it between $600,000 and $800,000.00; is this anything that most could afford. There is increased demand for road maintenance and the project is approximately 24.4 miles round trip to the closest road and bridge shop. Increase demand for the sheriff's services and it is approximately 37.4 miles round trip; increase demand for County administrative services, same distance round trip; increase demand for schools, the closest public school to this site is 19.2 miles round trip. There are greater service cost to the project than are generated by revenues from this project. Has anyone done a fiscal impact analysis for the Hunt Ranch project? He knows it is not a requirement or regulation but it certainly is something as an elected official should make sure that the existing residents aren't picking up the tab for a project that cost more to serve than it generates in revenues. That fact has been documented by the Urban Land Institute, the American Planning Association, American Farmland Trust, and many other organizations. Why should the existing Garfield County residents subsidize the Hunt Ranch? One; we will have an absolute reliance on cars, because you can't walk to the store. These are single use properties, no mix of use and the elimination of walking or biking to get to services adding additional high cost of services. Even though they may be maintaining their own roads, the motor grader and the maintenance have a long way to go to serve that project; long distances to work, daily necessities, urban centers, schools, etc. We are asking the BOCC not to approve the Hunt Ranch under your discretion until you can guarantee that existing residents in Garfield County will not have to subsidize this project. Davis said he doesn't want his tax dollars going towards something that is not paying its own way. The density is no compatible with surrounding lot sizes and should at least be 9 plus acres per unit. That is a reasonable range and that's what was contemplated in the plan and the project demonstrates that it is not a net benefit to Garfield County.

Craig would like this discussion from Davis to be entered as Exhibit VVV.

Chairman Martin entered Exhibit VVV into the record.

Becky Chase lives next door to Hunt Ranch and she represents the Missouri Heights Well Users Association; they have approximately 80 members. She is here to talk about water. She was involved in the process of fashioning the agreement between Hunt Ranch and the Missouri Heights Well Users Association. It was a long process and the water decree and settlement agreement looked good on paper. They slowed the flow down and hopefully prevent exhausting the ground water supply in the area surrounding that ranch. However; it is only going to work if the decree and the agreement are followed over the long term. She is not concerned about the developer doing their part; she is concerned about future homeowners. There are a few things she thinks the County Commissioners can require as conditions of approval of this subdivision to help ensure compliance with the water. One thing is the re-vegetation of the land which is disturbed from putting in the infrastructure and that the water necessary comes from either ditch water or water trucked in. The amount of domestic water approved for the subdivision as a whole is not sufficient for this purpose. Second; since you implemented the planning staff's recommendations especially the ones that address water - Number 17M, 17N and Number 18; 17M is especially important to us and that would require a plat note stating the detail of the water agreement and the settlement agreement. Specifically about there being no more than 500 square feet of water to be used outside from the potable water system and 9,500 square feet of drought resistance. She also talked about 17N and Number 18. The settlement agreement already requires a memorandum of agreement be reported in the Garfield County real estate records; she trusts that will not be an issue. Third thing you could do is require developers to provide sample landscaping plans. Those should be made available to perspective buyers and realtors. Her concern is that new homeowners will need a lot of education and specific landscaping guidelines in order to understand severe restrictions for outside water use. The protected

covenants for Hunt Ranch include a requirement that all landscaping must be pre-approved by the HOA before the water tap is turned on and that's great. However, as far as she knows there has been no specific landscaping design plans created. She spoke to Katie about this in June and didn't hear back as to whether or not they wanted to do that. She believes IronBridge Subdivision did something along these lines. It is not a completely unheard of request. The amount of dirt disturbed in even building a modest home with an 1,800 square foot footprint and septic system will be at least 5,000 square feet. That doesn't include a driveway or utilities. The domestic water can be used to restore only 500 square feet, or 1/10th of that dirt. Homeowners will need to know how to cover up the remaining 400 square plus feet without using domestic water. They will have to use decks, patios, and rock gardens. Decks and patios are part of a home design. If a person doesn't include their landscaping plan as a part of their home design there is a potential for problems once the house is already built. People need to know up front before they ever go to their architect with a house design what the landscaping demand will be. If the raw water system is not running at the time a person finishes their home they won't be able to cover up extra dirt beyond the 500 square feet. Then they will have obnoxious weeds. She believes it will be very hard for the HOA to enforce the covenant regarding landscaping design without having thoroughly educating people. From her 20 years living in Missouri Heights newcomers simply do not understand how dry it is up there. If a perspective buyer had been in Hunt Ranch this summer, looking around at the immediate neighbor, they would have been pleased how green everything was. This is only because they had a good year in terms of available ditch water. The supposed buyer builds his house in the year of a severe drought or completes their home in mid-August and there could be no ditch water available to assist them in re-vegetating the land that they disturbed. The tendency then would be to over use their domestic water allotment and simply pay the fines for doing so. History tells her because she has seen this in her own subdivision that fines do not deter those people. The HOA is under obligation by virtue of the settlement agreement to actually curtail water use by non-compliant owners. She does not want to have to fight new residences about water. She would like to see Hunt Ranch embrace its water restriction by becoming a model community.

Susan Edmonds gave a power point presentation. She wanted to talk about the traffic issues and present the Board with a petition signed by over 125 local residents. She stated she was not a traffic engineer, but she is schooled in design and has a doctorate and taught courses in experimental design and statistics. She showed the plan to the board and stated the Hunt Ranch indicates they expect 65% of the traffic to travel across Road 102 and down the El Jebel Road and only 35% over to County Road 100. This was based on data taken from the Kings Row area; they have neglected to look at the time and distance it takes to travel from the proposed entrances of the Hunt Ranch to Kings Row. She has indicated this in red. Even if you are planning on heading up valley towards Aspen, it is a shorter trip time to go down Road 100 and across Hwy. 82. It is not taking into account they delay at the intersection. She continued to talk about the intersection at the El Jebel road and Highway 82 receiving an "F" rating in performance in the morning; time discrepancies will become greater not less. Why 65% of people leaving the Hunt Ranch would choose to take a longer route she doesn't know. In addition virtually all of the construction traffic can be expected to come up and down Road 100. She thinks it is a very good idea that Road 102 will be improved; she has seen no discussion of improving Road 100. There are at least 4 hairpin and blind curves and it is a steep and winding road. Some of those hairpin curves are so tight that a truck pulling a trailer cannot make it if another car is coming in the opposite direction. It seems to her that the traffic study numbers need to be completely redone. She wanted to take the rest of her time to present a petition that has been signed, which she read into the record. The point is that throughout this process the community on Missouri Heights has been involved in every meeting from the very first day and through every part of the planning process. This is not a last minute appearance by the people; they have been involved from the beginning. The number one objection has been density. It is not the density per-se but the absolute number of houses which is too great. The Comprehensive Plan allows for a range of possible densities. What she found very frustrating as a citizen is that despite every person bringing this up, it has not been discussed for one minute at any of the meetings of Planning and Zoning. If you look at the minutes, everyone raises the issue of density and not once has this range been discussed. They feel it is the responsibility of the County to decide density. Why a range than an absolute number? She is asking they think of other places where we commonly see ranges; most commonly we see ranges in our judicial system. Penalties are often stated as 10 to 20 years or a fine of $5 to $10,000 dollars; why a range? The reason for the range is to allow discretion; when a judge delivers a sentence he does not go to the person and ask would you like 10 years or do you want 20? That is exactly what has occurred in the Hunt Ranch development; the developer has said what range of density they want and there has been no discussion from the Planning Commission so far. She feels they deserve a discussion and a debate on the densities in this area.

Louis Buetner, a private surveyor and he has a client who has property in both sections 20 and 29, which is in the proximity of this development. In researching her property he has found that there are extensive monumentation up there for properties that are probably in the wrong place. About a month ago he told the Board he believed he found an original government monument up there for the south corner Section 20. Since then he has shown it to four other survey people and they all agree with him. If so, the property boundaries of Hunt Ranch can be in error of some 45 feet. Also the southwest corner of Section 20, which is the section the development is in, has not been located in 45 years. There was a monument set by a private surveyor, who put a County surveyor's cap on top of it. It was a witness corner; there has been no documentation as to where that witness corner is in relation to the section corner. In regards to state statutes in replacing these monuments or establishing these monuments, a witness corner must be on one of eight lines. If we do not know where the corner is we cannot locate property. The section corner is an essential item for locating all lines in the section. Hence the boundary of this development, though it may be in compliance with adjoining properties, may be wrong. He thinks his client's property, tied to this section corner, is located some 70 feet wrongly. He is not a resident of Garfield County and he has no direct ties. He just wanted to put forth this information as to the survey problems up there. He thinks the surveyor of this development and he will be getting together. Other questions he has found up there are legal questions and he will not approach those at this time.

John Olson contractor in valley referred to a map from the staffs presentation. He is an adjoining property owner to Hunt Ranch and a developer adjoining property to the Hunt Ranch. He has concerns with the water, a big concern with the density; but his biggest concern is wildlife. This piece of property is an amazing wildlife refuge. Briefly, he touched on water, passed out a map showing his property colored in orange. At first his property was 200 acres. He showed five quarter acre corner sections in pink and he put where the 5 building envelopes are. In blue it shows the two wet wells that service the lower 4 building envelopes, as well as back in the back on lot 5; you can see the one good well they hit on lot 5. All the red dots are dry wells to the right of him. They used the same drill rigs 10 years ago. It is pretty scary thinking about the things they are talking about. They have self admittedly described how precarious their water situation is up there. He can't speak for lot 5 and why we happened to hit a well there but he can speak correctly as to why the two lower blue dots hit water. That's because they are basically on an irrigation ditch. You are bringing water from afar to get water on this ranch. This is a big irrigation ditch that goes above this property that they happen to have all the water rights to. Something that has not been brought up by anyone in this room, and he doesn't know if anyone knows this but that entire irrigation ditch located above and through his property was culverted last week. This gives him big concerns that his wells are even going to be good another year let alone what they are talking about in terms of their augmentation and where it is going to come from and how the aquifers are being replaced. He said he was just here to tell you some facts; that is about all he knows about water. He knows he drilled and hit water. Now about density, from his experience he had 200 acres and he put 5 lots on it and used the Senate Rule 35. It was an extremely profitable development. He believes that is what is appropriate for this area. He feels when you use the demographics they wanted you to use, and the subdivisions they chose to use as surrounding subdivisions to determine how ever many acres per house; they chose not to use any of mine. In fact Davis didn't use mine either; they also didn't want to use what was down here, Spring Park Meadows. If they had used what has gone on in that area with regards to what is normally being seen today and not the historically factor of a long time ago, then the 6 acres density is so far out of character with what going on right next to the ranch. They left out the biggest parcels in their calculations and they are at 24 without even using those. I made $2 million dollars on my development; that is a beautiful question to get asked as a developer. That's the way it is supposed to be. If you take their numbers they ran through their formulas, the land was listed around $8 million and if you used Senate Rule 35 and gave them 16 acres and you applied my appraisal, which I got in August and my appraisal came in at $1.2 million dollars for my 35 acre parcel. If they just did that and you do the math, they would make $20 million dollars. They don't need to be throwing 93 units in our face. Last thing is the zoo; you will see on your paper they are calling the Hunt Ranch the zoo. A funny thing happened within a month of him buying this with a friend of his to do this development. He had 100 people within the first month and about a dozen people said, "you bought part of the zoo"? He found out what the zoo was all about; it is the most densely populated area of wildlife in our country. All the elk that come down from Basalt Mountain congregate during the night over this area and he showed on the map where they go. During the summer he has seen 45 to 100 head in there; during the winter including last Saturday morning there was 250 head. At 8:00 a.m. in the morning hunters park and they walk down through the oak brush and watched the elk running out. His point is that this is probably one of the most prime elk habitats. They have stuck all their primary development right in the worst part of it all; right where the primary food source and bedding grounds are. For the record in the Aspen times today, page 8, "Officials raiding agricultural water, no answer to shortages". He continued to read the article.

Gay Lewis would like to speak from her heart; there is no one in favor of this development. The only people here for this development are the developer, their advisors, their legal team and the realtor who stands to make money from future sales. No one else that lives on Missouri Heights believes they need such a large development. Hunt Ranch will tell you their development is similar to the ones however, these developments were built over 20 years ago. You as Commissioners are elected by us, paid by us and you should listen to our voices. Garfield County is currently reworking the Comprehensive Plan in our area. She has already received her survey and hopefully you all have received yours and filled it out on-line. She noticed every question deals with open space; the P & Z recognizes the change and the attitude of the people. They are concerned about changing the rules and so should you. Just because this enormous development fits the current Comprehensive Plan as it stands; you as our elected officials have the power to reduce the density. Please consider our request since you are in essence a lame duck Board. I would propose that you step aside and allow the newly elected Board who will represent the current voice of your constituents to consider this proposal since they will be involved during its construction. Give the survey a chance to change the Comprehensive Plan.

Glen Sloop stated that Sue Edmonds mentioned the word process; he sent the Commissioners a register letter which said none of us want these problems. It seems to him what is not working is the process. The process says citizens we are not going to pay attention to you, we are just going to get through this. One thing that happed at the P & Z was an off hand comment that said "where have you guys been". Are you just whining? He stated they weren't; they volunteered to help with process, they volunteered to help with the Comprehensive Land Use Code and he didn't like it because it became part of the record. He felt this was an inappropriate comment. He stated that is why he sent the letter as he wanted it noted - Exhibit MMM. The Board is going to change; the dynamic and everyone in the room feels this is too big of an issue to force through. Mr. McCown is getting paroled; it would be beneficial to the future if we take a step back and review this a lot slower. As Sue said, the debate should go on and on. You can't reverse things you screw up.

Janver Derrington stated he lives in Panorama Ranches; he sees the elk all the time as well. He just wanted to point out one thing; the developers are so proud of their 6 acres per unit, which sounds good on paper, but when you take the land being sold as residential lots and divide by the units; it is something like 2.8 acres average. The minimum lot size in Panorama Ranch is 5 acres. They are roughly doubling the density of the immediate subdivision. This is not a suburban subdivision; it is rural and we want to keep it that way. They have done some good things but they haven't gone far enough.

Kit Strang stated she is speaking for entire Strang family and other neighboring ranchers. She has lived on Missouri Heights for the last 42 years and neighbors of the Hunt ranch. We along with other neighbors would like to see the Hunt Ranch succeed if it starts. Their worry is sufficient water. The water rights will determine how much water should flow in the irrigation ditches. If you approve the development then she urges the Board to limit the number of home sites to the minimum rather than the maximum. She stated reasons are heavy snow years and wet summers are a blessing and not the norm. Misery (Missouri) Heights is historically a dry, windy area. Spring winds are devastating; the climate is getting warmer and drier ever since they moved there in 1965. For agriculture purposes Hunt Ranch is relatively short of water. In 1977 and in 2002, the Hunt ditch never turned on during the entire summer. New legislation in Colorado House Bill 1141, which she read into the record and added that Garfield County covers a large and diverse landscape; the amount of development needs to stay in balance with the landscape, the environment, and the climate. Reducing the number of home sites in the plan to the minimum number allowed would give this lovely piece of land a fighting chance to survive. In anning for the future we need to remember what we have learned from history, that being Missouri Heights has always been dry.
Lance Allen showed where they live. The loop road is what he was afraid was going to happen; it is right in front of him and he hoped it could be avoided. He feels this is an urban type subdivision layout. He would like to see the houses clustered in a different way with a much larger band around the perimeter so that all of the homes are pushed away from the neighbors. We have 5 acres; they are talking about home sites in the neighborhood of about 2 acres. Their homes will be two and one half times closer than ours. Concerning Mr. Olson and the calving ground, we've been living there for 16 years and have enjoyed seeing the elk bedded down. He can imagine he will be looking down on roof tops like a town right down below. Lance talked again about water concerns and how dry it is getting and added that global patterns are beyond any of our abilities. He feels it is not too much to ask for them to have at least 50% less homes. He also talked about the El Jebel road which is very steep and the curves are awful. It is very dangerous. Lance stated 90% of all traffic will come out of the development and go over and come down Hunter Road toward Catherine Store as it is the cleanest shot to the highway.
Felix Tarnaue stated he is scared to run his tractor across the road now as the traffic is so fast. He stated in their neighborhood meetings they talked about how many houses and it never changed from the maximum density. It is all about money and greed. When is enough, enough? They have the right to build but you the Board have the responsibility to listen to all of us; you are supposed to be stewards of the land, you are supposed to be passing it on.
Robert Tobias stated he couldn't possibly add to what has been said.
Adele Hubbell stated she lived in El Jebel and she is an Eagle County resident. If this development is approved and 65% of the traffic from this development is going to come down through Eagle County then she believes Garfield County will have to put a lot of money into the infrastructure of 100 Road to encourage people to use Garfield County roads and not the Eagle County roads. One of the gentlemen said, Garfield County people don't want to pay for Hunt Ranch; well, Eagle County residents do not either. She does agrees with what everyone has said including the fact that the people who live in the subdivisions next door to Crawford Ranch, when they plow or do haying, irrigating etc., next to Blue Lake, people come out with their fist to us.
Carol Nieuwenhuizen stated she also lives in Eagle County but she is part of the Kings Row Subdivision. She thinks everybody have already expressed in better words than she ever could; she feels it is too dense a project. She wanted to add a few things that people haven't really talked about with the wildlife, the elk and their habits and she is concerned about when they start crossing from Second Chance Ranch into Hunt Ranch across County Road 102. She would anticipate with the increased traffic there may be more problems with wildlife being hit and killed by vehicles. The other thing she agrees with is the traffic going down to Catherine Store road will be a lot higher than the traffic study the developer has indicated. Right now there are acceleration lanes to get onto Highway 82, and there are turning lanes for Highway 82 getting onto Catherine Stores; but there are no turning lanes at all for Catherine's Store onto Highway 82. Can you imagine a line up of vehicles; some will want to go up valley, some straight. Right now at this intersection you tend to get pot holes on the right shoulder at the corner. She wants appropriate turn lanes to get onto Highway 82. What's the point of having an acceleration lane on Highway 82 when no one can make the right hand turn because everyone else is going straight or turning left. Also there are a lot of horse trailers which go down to Catherine Store; she herself has horses and goes down by Catherine's Store.
Bill Blakeslee works for The State of Colorado and he is one of two water commissioners in the Roaring Fork Valley. Bill stated that Mr. Olson pointed out something that he said has never been brought up before. Bill wants to add to that; Sara Dunn presented a very good water case. The thing that is happening today throughout Missouri Heights is the irrigation procedures, the thing that charges all the wells in the area is the fact that irrigation has always recharged the system. With all the ditches going into the pipe and delivering water to the sprinklers, in addition to the fact that the expanded use on Missouri Heights has been considerable over the last short number of years; all the recharges are going to change dramatically. Many wells that once produced will become subject to non-producing or reduced in stature. That might be a great concern, no only to a new subdivision but also all of the people who currently live on Missouri Heights.
Suzy Ellison stated she agrees with everyone's concerns; she lives half way up Missouri Heights. We watch the traffic go up and down and up and down and in the winter time its slippery if it can't get graveled in time. She has a hard time believing 65% of the people traveling will go to El Jebel rather then come screaming down our hill and around those turns. Every year people go flying off the curve. Her big concern is the construction traffic; those figures don't say anything about how many truck loads a day of gravel, how many loads of pipe, how much concrete nor how long? Right now it's unsafe and very scary to go walking or ride her bike. At the P & Z hearing they were told quite bluntly that the problem with the traffic was us and we drive too quickly. She disagrees with that; it may be part of the issue, but part of it is the volume. She brought up the fact that she is a teacher and if they had only 1 child per household that would 93 more kids, that's means four or five new teachers in the schools in Carbondale. She was

surprised the school district hasn't commented on this. 50 kids means another school bus at least. As Davis pointed out it is a cost we're paying for; the whole County will be paying for this because it will require more services, more law enforcement, etc. The only person who she can see that benefits is the developer.
Katha Rossein stated she agrees with everything that has been said today. What Suzy just talked about in terms of traffic; as a physician that has lived in the area, she has been called to her neighbors many times for simple normal things. Colds, bruises, falling off horses and breaking bones; what she doesn't want to be called to is kids being hit by cars. She feels this is a very real and serious concern.
J. D. Sturgill stated he lives in Carbondale. He has spent most of career as an engineer in another state on the other side of Mississippi. If this proposal came across his desk, and a lot of them did, he would have sent it back for further review. The traffic issues are something he cannot agree with. He totally recommends that the Board takes a step back and look at this and consider all the very excellent positions that have been stated here. He is very impressed with the depth and accuracy of the comments. We are not showing up late; this whole group has been involved or tried to be involved from the beginning. Now it's your chance to take a step back and look at it.
Carol Duel wanted to ask a question; she lives off of County Road 102. She knows a lot of the people have sent email and letters to the Board and she wants to know if they are part of the record.
Chairman Martin stated yes and Commissioner McCown stated her Exhibit was Y.
Greg Amsden wanted to give some initial comments and then go to each individual who did studies. The water issue; they did receive a water decree approximately one year ago. It is a County regulation to have in place before you do any subdivision hearings at the BOCC level. Some of the density issues brought up by people who are in the planning industry both David Mylar and Davis Farrar, left out one recent subdivision that might be of interest - Callicotte Ranch. It is about 160 acres in size almost exactly 25% the size of the Hunt Ranch. The density on that if you multiply it times four comes out to the Hunt Ranch density. When you look at the two properties they were only required to put in a road impact fee of the standard impact fee. Hunt Ranch is proposing a 4½ times the impact fee which is a public benefit as it really is a County road that is not in great shape but not in bad shape. As a developer you can't cover the entire universe to try to cover up County deferred maintenance.
Sara Dunn from Balcom and Green said they have agreed to the plat notes and the inclusions in the declarations. Of the latest version that would be plat note M and N; they referenced the decree, the settlement with the Missouri Heights Well Users Association and they retain the jurisdiction provision. As to Mr. Olson's comments, they did perform two 24 hour well tests and the results of those are summarized in the letter from the Division of Water Resources; it is Exhibit I. She referred to the third paragraph and read. The irrigation comes from two separate sources; one is the Neimin ditch, which relies on surface flows. The second is Missouri Heights Mountain Meadow irrigation water; those shares come from Spring Park Reservoir. They have two buffers within their system; Spring Park Reservoir that can store early water and then there is the onsite reservoir, which stores the two year augmentation supply. They looked from a water perspective at Senate Bill 35 exemptions and what that would look like from the water perspective; it was a less appealing alternative. It would have resulted in somewhere between 16 and 20 exempt wells that would require no augmentation. They felt it would be more detrimental to the aquifer than the current plan. The comment regarding the irrigation ditches being piped that will result in less seepage to the aquifer but, they are one of the participants in that project and it increases efficiency. They have no legal requirement to continue that ditch seepage; wells and properties have benefited from that, they have no legal right to the continuation of that. That will increase the supply to the Hunt Ranch; to the other Neimin ditch and Missouri Heights Mountain Meadow Irrigation Water that are legally entitled to that water. Condition O was mentioned a couple of times; it states the Hunt Ranch Homeowners Association indemnifies and holds Garfield County harmless from any claims and causes of actions relating to water. Her primary concern comes from not with this project but more global concern.
Commissioner McCown asked at one point in time there was talk of utilizing raw water; is there a separate raw water system that is going to be incorporated with the potable water, two separate systems that will allow for some outside irrigation other than the 500 square foot he has heard mentioned.
Sara stated yes; there will be a separate piped raw water pressurized system. The decree allows for 9,500 square feet per lot to be irrigated from this system. We refer to this in the settlement agreement, a number like the CSU extension service number as a reputable place they can go for that type of information. They have no objection coming up with landscaping plans to show how that would work. The intention was that the 500 square feet would be drip irrigation for trees and shrubs and flower beds.
Commissioner McCown stated but that will be a combination of about ¼ of an acre.
Sara stated yes, there is no concern regarding holding the County harmless from any cause of action.
Greg stated that many of the studies that were performed on the property were done approximately 2 years ago. They have been in existence since that time. Hunt Ranch LLC or Garfield County; he does not believe they have received any contradictory studies. A lot of the information we received from the public comment is not backed up by any kind of professional documentation at all. He said because people make statements and he thinks a lot of it is coming from the emotional side of it. He said he would be honest and say if he lived next to a 500 acre ranch and had a home looking over it and someone developed it, he too would be upset. From an emotional stand point he wouldn't. From a factual standpoint the County has requested that they do these studies and they all come back and if they came back with shortfalls or they didn't have supply or that the traffic was too heavy then we wouldn't have this plan in front of you today.
Jeremy Hawn – Traffic Engineer. He wanted to hit on a couple of comments. First when we talk about the number of trips that will be generated by this site, we go out with 890 trips per day. How did we come up with those numbers? There is a book called the ITE Trip Generation Manual and it is basically a book of hundreds of land uses, homes, stores, commercial developments and there are thousands of studies for each one of these land uses. For single family homes there are over 1,000 studies done, unfortunately not a lot of studies have been done in the mountain communities. The numbers they are using in their report are conservative. By conservative he means high. The same time they did Hunt Ranch study they also counted cars gong in and out of Kings Row. If we look at the amount of cars going in and out of Kings Row, it's about half the number you would expect using the ITE Trip Generation rates. We won't use half the

numbers in our study even though that might be the case. They want to find out the worse case. If entire development is build out, what would happen assuming this high trip rate. We need to keep in mind when this is built out there is a chance that the volumes coming in and out of this Hunt Ranch development are going to be significantly less than what we show. Even at that level it still shows it works as an acceptable level. Highway 82 intersection doesn't work very well today, and it is not going to work very well in the future regardless if Hunt Ranch what is built out or not. Second concern was where traffic is going to and from. They can only use the information they have at hand. Again since Kings Row is a very similar development, we would assume the traffic patterns would be very similar. Jeremy went on to talk about the traffic statistics. If everyone wants they can go out and count traffic again but is it going to make that big of a difference. Lastly Susan, that was a very good representation you showed. It is not based on delay; it is basically a distance and a speed.
Greg stated the density is obviously the most sensitive issue with this development in the neighborhood. The reason they chose this density, on the high side, had to do with that we were putting benefits in this development that are not seen anything they studied in that area. Benefits such as the agricultural preservation and it doesn't seem like the neighborhood wants the agricultural; he is not quite sure. The big thing to do in the development is to set aside that much acreage. The loop road system there is probably the most expensive infrastructure you can possibly put on this property. The reason they did it was to put homes away from the agricultural preservation. The improvements to County Road 102 are substantial. The road impact fee is only $267,000.00 and the estimated cost from Sopris Engineering is $1,288,000.00. The fact of creating some affordable housing (he knows this doesn't meet what people consider affordable housing) but he spent 25 years in Vail and the biggest thing that was missing was the local profession housing. They are actually focusing on a different group; a single person who is a local professional could buy a lot here and have a home. It will probably be in the $650,000.00 range. That might seem like a lot of money but look at the overall real estate market that is 2 bedrooms. They are agreeing with all of the staff recommendations. A comment was made about going back or taking a step backwards, this development has been in process for approximately 2 years and to subject this application to the zoning process or the changes in the zoning process, or the Comp Plan he thinks it is a very unfair scenario.
Felix Tarnaue stated he believes there has been professional people from the water commissioner on saying there is a problem with water.
Gay Lewis stated she is on the board of the ditch company. What they keep trying to float over is yes there is a reservoir that provides water; but Spring Park Reservoir historically has only had one day of water. All of the land on Missouri Heights used to be flood irrigated; it doesn't happen any more. Neimin ditch for part of their property is the only thing that is flood irrigated; everything else is in a sprinkler system. There are years we don't have any water; we are planning on piping most of the ditch eventually coming out of the reservoir. If we pipe it there's no leaching which we historically lose 7 feet of water per day. They can say all they want, they can have a two year supply reservoir; but what if we had a drought for 3 years. Water is not there and Greg says we haven't come up any people, or official people that will do roads and trails; well, we don't have the money. I've watched enough special victims units; you can hire anyone you want to say what you want them to say.
John Olson said he believes if the locals who were with me on Saturday morning would not sit here today and say they believe they have addressed the wildlife issue. With regards to employee housing; he is doing 32 units in the town of Basalt and has gone through every single rung of the approval process. The reason why the 32 units have gone through is because 16 of them are affordable employee housing, not only affordable but they are designating them for school teachers and for government employees - 50%. To displace hundreds and hundreds of elk is so much more important, and should be a high priority. Density - have them put the density clustered right down the middle, put it where all the elk and the deer can have all the freedom they need.
Robert Tobias said he took exception to the comment made by Mr. Amsden; these were emotional responses. We had a team of professional that we paid over $130,000.00 over the past 3 years to provide information and studies. They hired a hydrogeologist, Tim Decker; hired Kevin Patrick's law firm of water attorneys in Aspen. They had the benefit of Dave Mylars expertise, which fortunately we didn't have to pay for. They had the benefit of Davis Farrars expertise which we did not pay for. They did not choose to fund a traffic study to refute the existing study because first of all we unable to raise more money and secondly because they didn't feel it was their responsibility. To say these were emotional responses is simply inaccurate. The settlement agreement relative to the water was participated by their challenging the representations of a developer. Water court cases are rare and we challenged them.
Glen Sloop stated that the inference that somehow the Nenim ditch and the reservoir constitutes two buffers if not true.
Sara Dunn stated the on site reservoir and Spring Park Reservior and she wanted to make it clear that the Nenim ditch is solely dependent on surface run off; there is no buffer because if it is not in the creek, it doesn't get in the ditch. Having reservoirs allows you to pull in an early flow that is available before you need it possibly for irrigation, to catch your winter flows, that type of thing.
Glen Sloop the inference was that you had many different golden parachutes, so to speak, to save the water. It all comes from the same place no matter what.
Commissioner Houpt asked the County Attorney to respond to a condition.
Deborah stated if in fact the applicant is of the belief that there is no cause of action; perhaps they could state that in their homeowners agreement. Given the legal climate these days, this issue came up after an article in the paper about a neighboring County having angry homeowners in front of them because their water supply was bad, and given the creativity of all the new lawyers coming out of law schools; she thought it would be prudent to have that clause for the Boards protection.
Commissioner McCown commented on the elk population on the ranch; the Division of Wildlife was a referral agency and they turned in no comment. Don't be overly critical of the applicant because the specialists chose not to comment on this.
Deborah stated a lot of issues have been addressed in some proposed covenants that were tendered in connection with the application; she doesn't know what the Boards direction is going to be today, but if it

goes beyond today there will need to be some changes made in those covenants; she has talked to Miss Dunn about them.
A motion was made by Commissioner McCown to close the public comment portion of the public hearing. The motion was seconded by Commissioner Houpt.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner Houpt is making a motion to deny this application. There have been many concerns raised today, the least of which for her is that she does not believe that this development is compatible with the character of the neighborhood. There are several other issues she can discuss with her colleagues as they move forward.
Chairman Martin stated they need to have findings for the denial and one of them is that it is not compatible to the neighborhood. Chairman Martin asked Commissioner Houpt if she had any others and she stated that was the main one she is going to stand on right now.Commissioner McCown – Second for discussion. Commissioner Houpt stated the water commissioner came with concerns and that is a first for her and this greatly concerns her. Over the years there have been some real concerns with County Road 100 and she is concerned with keeping up with infrastructure needs as we move forward. Her main basis for this denial is she believes it is too dense; too many units being proposed for this development. The County has a Comprehensive Plan in place and she believes the Comprehensive Plan needs to be looked at independently for each development that comes forward and there is a range. What's appropriate in one area may be less appropriate in another and in looking at the character in this neighbor and how it is growing more recently; she believes the character goes to lower density. Commissioner McCown stated he probably won't support the motion if it comes to a vote. He feels we have a Comprehensive Plan for a reason and it is just exactly what the last word implies; it's a plan. Someone asked about the range, if it had no range it would be a regulation. The plan allows from 6 to 10-acre density as part of the flexibility that is allowed in a planning process. If it said you could have 4 homes per 10-acres or for 40-acres that would be a regulation; we have those too, that is a zoning regulation. Not only has this application met the Comprehensive Plan; it has met the zoning regulations. Is it popular; not by any means? Is the water going to be there for perpetuity; they have a decree from the water court that says they have a legal source of water and they can utilize that water as they have proposed. Will the water be there forever; do we control how much it rains, no we don't. I have a personal problem with the philosophy of sixteen 35-acre lots on that 560-acre ranch with 16 unrestricted wells. He hopes the well owners association would have a problem with that as well. Those are unrestricted wells; you can turn them on and let them run until the water runs out. This use is restricted to a minimal amount of water. He guesses if this was in his backyard he doesn't know how he would look at it. He has to look at it as the regulations and the Zoning Regulations that were given; the Subdivision Regulations, and the Comprehensive Plan. This development has met that; it is on the most liberal side they could go. They didn't go with 8-acres, which would be dead in the middle; they went with 6-acres. They got the maximum density they could get; but they also set aside, and apparently that has no value to anyone, the agricultural portion of this land; everyone says it doesn't have any value. If it doesn't rain it will dry up anyway. He doesn't know how to address that for the rest of them that are farmers and ranchers in the room; that is exactly what is going to happen to your land if it doesn't rain. What's the difference; they have set it aside for that purpose. The gentlemen who is going to be looking at roof tops, he's going to be looking at that many fewer. Fifty some percent of this project is in an open space or an agricultural type designation that will not have rooftops on it. 25% is the required amount of open space in your average subdivision. *Chairman Martin* stated he has been asked if it is right or wrong for the neighborhood and if there are benefits to the public or not. They have faced and resolved all the issues in regard to wildfire, wildlife, density, traffic, and one thing they didn't discuss was the storage of water outside of the actual reservoirs and ditches. Also discussed was the discretion and flexibility of the Board and are we really preserving agriculture or not. It comes down to this, is it to the benefit of the public. First of all they have a right to develop; they have the rules and regulations in place as Larry has stated. We have to balance, is it right for the neighborhood, is it right for the development and have all the issues been addressed properly. According to the P & Z Commission they have, according to staff everything has been addressed down to the issue of identifying the County on different issues. We will call for the question.*Commissioner Houpt* wanted to say a few more words. She doesn't know how the vote is going to come out but she thinks it is very critical as they move forward and recognize the importance of comprehensive plans as a Commission. She just couldn't end this without thanking John for bringing up the wildlife issue. She does know that the DOW has been extremely busy and they don't always have an opportunity to respond. They don't have the staff and resources to do so. She doesn't think there needs to be any finger pointing just because we didn't hear from them means that there is some concern about that as well. *Commissioner McCown* stated that they have been asked or it has been insinuated several times today that during the course of this hearing we can adjust the density for this development. We can't; we have the option of either approving it or denying it and sending them back and they start the process all over with the density they think might or might not be approved or voted down again. Larry stated they cannot randomly in a hearing of this type, set a density for a development that comes before us; we review the information we have and we cannot randomly change the density. *Chairman Martin* said he would also like to thank the applicant and the entire team. Very nice application; very through job, presented everything, presented arguments well and also sustained your arguments with the evidence put in front of us. Also thanked the citizens; they did a lot of research and invested time. Chairman Marin stated he has never seen a demonstration of unity within the area trying to work it out. Call for the question; all those in favor of denying the application.
In favor: Houpt – Aye Martin - Aye Opposed: McCown – aye
CONSIDER FINAL AMENDMENTS TO THE TEXT OF THE GARFIELD COUNTY ZONING RESOLUTION OF 1978, AS AMENDED, GARFIELD COUNTY SUBDIVISION REGULATIONS, OF 1984 AS AMENDED, AND EXISTING "1041 REGULATIONS" (AREAS AND ACTIVITIES OF STATE INTEREST), AND ADOPT A NEW LAND USE CODE UNDER THE PROVISIONS OF 30-28-112 C.R.S., AS AMENDED AND AUTHORIZE THE CHAIRMAN TO SIGN THE

RESOLUTION OF APPROVAL MEMORIALIZING ACTION BY THE BOARD. APPLICANT IS THE BOARD OF COUNTY COMMISSIONERS. – FRED JARMAM

Fred Jarman and Mark Bean were present. This is a continued meeting and notification has been established.Fred Jarman presented the Board with a Resolution adopting the Unified Land Use Resoltuion of 2008 and approving a Text Amendment to the Garfield County Zoning Resolution of 1978, as amended; approving a Text Amendment to the Garfield County Subdivision Regulations of 1984 as amended; approving a Text Amendment to the existing 1041 Regulations (Areas and Activities of State Interest). Fred stated as a functional matter, it is important to know there is an official original resolution as well as a map with a signature block on both documents. Both need to be in front of the Chairman at this point and will need to be signed. There is a draft of both of those in your packet. The background is that it has gone through the planning commission and the Board. This has been a tremendous work effort over the last five years and they believe this is a good document. They believe it is much better than what you have in place today. A couple of areas Fred wanted to highlight as he wants the public to understand are areas where we have seen major improvements. He feels these are the standards, there are specific standards related to environmental protections in place, which is not in the current code. As a matter of process this took a lot of time and we tried to put in processes that were more efficient. Is this a perfect document; of course it is not perfect. He feels it is important to keep in mind this is a dynamic document; it is a changeable document. Fred feels this reflects the current times as best as they could right now; what you have in place does not do that. They feel this is a better approach to the land use challenges. Fred is urging the Board to authorize the Chairman to sign both the map and the resolution itself and forward it to the County Clerk. Mark Bean said the one thing for the benefit of the public, the resolution before the Board is going to note or will note a provision for the enactment officially of this as January 1, 2009. Today if you approve and sign, it will not go into effective until January 1, 2009. Commissioner McCown stated the way this is phrased, this is an amendment to our existing plan. Don said it can be treated as both; the amendment and potentially as the adoption of a new code; he thinks both the legal and planning staff have viewed this as amendments to the various regulations you have in place. Because of the extensive nature of what you are doing; some might interpret it as a new code; so with caution we followed that process. Commissioner McCown stated that was the nature of his question. In the heading of the resolution and in the whereas it alludes to it as being an amended plan. It does mention it is a new code; there are new parts in the amended plan; but he doesn't think anywhere that he has found the terminology that this is a new code.

Don said no, we don't literally state that, they do state in the very first line; for instance a resolution adopting the land use code and approving. But, they could put it in there. Commissioner McCown said he didn't know if it was important. He doesn't have a problem amending it; he feels that is what they were doing all along. Don said to Larry that he and Fred have talked about that and Don thinks the language of this resolution in that respect is adequate. However; Mr. Jarman pointed out an issue to him in the wording of the resolution earlier today and Don has given it a closer look in terms of the map. Don does think there needs some changes made to the resolution to deal with the adoption of the map; the land use map. On the second page in the middle, the resolution he has drafted refers to the official land use mapping - Exhibit A is a minor item. He believes Fred has pointed out it might be better to refer to that as Exhibit B. Exhibit A would be the document and Exhibit B would be the map. He would also like it referred to as the Land Use Map of 2008. Don stated as he looked through the comments starting on page 4 after the resolution of the Board, which are the most important parts of this, he doesn't see a sentence in there officially adopting the map. He would like to add a new paragraph two where the BOCC approves and adopts the Land Use Map of 2008 -Exhibit B as the official map. Commissioner McCown asked why he didn't just keep it in the same context in paragraph two and call it Exhibit B as it would be the map for 2008 and Don stated they could do that. Phil Vaughan thanked the Commissioners for the work they have done on this document since last November. He thinks the process has worked well and there will be requests for amendments both from staff and the planning commission, County Commissioners and the public on things we didn't see. Phil asked a procedural question; when reviewing the map you are all talking about; Phil noticed a couple of properties that were zoned incorrectly. The question becomes; if you adopt that will those properties be rezoned or if there are any inconsistencies or errors; how would that work.

Don stated the map adopted through action of the Board becomes the official map. So the short answer is yes; it does accomplish a re-zoning. This was talked about as a staff also and the official map as adopted is just that. Chairman Martin stated within the provision, if there is an error in zoning, they have a right to come before this Board and point out the error for correction. Commissioner Houpt said but, if we are aware of errors before we adopt it, this probably would be the time to take care of that. Phil doesn't know if the current map still has those errors or not.Commissioner McCown said this map would take effect January 1, 2009 as well. There would be a time to modify any known problems. He thinks that puts an erroneous liability on a landowner if we know something is improperly zoned and allow it to go forward on the map; then put the burden on them to come in and prove the error. If we know there are problems then let's correct them before John signs the map. We can give the authority to sign the map but it has to be with the corrections that are known to be wrong and not beyond that. We can't randomly change the map.

Don stated to Larry, because procedurally, he would like to follow a little different process, although he thinks it still gets him the same end result. There has to be a point in time when the Board actually adopts a map. If you decide to proceed today and approve the code and the map as it sits in front of you, Don would like them to do that. Then between now and the effective date verify that there are not errors on the map as well as in the code itself. In the first meeting of the Board in January accomplish those changes that need to be done through official amendment, and then we have a public record.

Commissioner McCown said he didn't have a problem, he just doesn't want to transfer the burden onto the property owner. Don said he thought Larry could give that direction today to the staff; likely in the next two months or so we will find errors in the text as well; and the map. He thinks they can come back at the first meeting next year of the Board and make those corrections. Commissioner McCown asked Don, would we continue this meeting so we don't have to do the notice issue again. Don said you could do it either way. Continue this meeting and do the clean up and come back in two or three weeks, or you could go forward if you want to adopt it, and then do another notice. Commissioner McCown stated that

personally he would like to get this voted on and done today so that the developers and the general public know that it is going to change; they will be under the new plan. Hopefully the Board can give whatever directions necessary to correct the map. Mark said as clarification, he believes what Don is saying is to set a hearing date the first part of January that would be dealing with corrections identified. Commissioner McCown said he would certainly support that. Don stated there is not yet an index and that will be accomplished in the next few weeks.
A motion was made by Commissioner McCown to close the public hearing. The motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt - aye
Commissioner McCown – I make a motion we approve the resolution adopting the Unified Land Use Resolution of 2008 and approving a Text Amendment to the Garfield County Zoning Resolution of 1978 as amended; approving a Text Amendment to the Garfield County Subdivision Regulations of 1984 as amended and approving a Text Amendment to the existing 1041 Regulations, Areas of Activities of State Interest and that the Chair be authorized to sign and also approving the map which will appear as Exhibit B. Commissioner Houpt – Second. This is very difficult discussion for me; she has seen a lot of good work go into this document. On August 4, 2008 she had five pages of concerns in this process that couldn't be addressed. Certainly at the Commission level they couldn't be addressed and some of them are so large in terms of how certain zoning fell out and the matrix, that she can't say publically that she supports it. If they were smaller issues, then she would say yes this is a living document, and we are going to see changes. There are some significant things in there and she would like to make the August 4, 2008 minutes a part of this record. Issues like having light industrial and having industrial under one definition, and the matrix where we have some uses by right, and some limited review uses that she really thinks need to be major review. She finds those to be very large issues and so as she votes against this. She applauds the work that went into this. She feels the process will be much easier for the public to use; but there are some main points she simply does not agree with. Chairman Martin said that is a philosophical difference between regulations and non-regulations and he thinks they will always have that when they have a group. No issue will go unresolved; at least through the majority of the Board.
In favor: McCown – aye Martin – aye Opposed Houpt - aye
OPEN RECORDS – MR. DANIELS
Don would like the Board to consider a public action on two items discussed in executive session; the first, consideration for open records for Mr. Daniels. He believes all three Board members have received this request as did Don. Don has prepared a response for Mr. Daniels and would like to know if he can respond on behalf of each of the Board members, unless you want to do individually.
Commissioner Houpt stated she needed to recluse herself as a County Commissioner as she has been working on this issue as an oil and gas commissioner.
Chairman Martin and Commissioner McCown stated they had no problem with Don replying and Don will go ahead.
LAST ITEM - FURTHER DISCUSSION – COUNTY ROAD 204 – DON DEFORD
Don DeFord reported on County Road 204 saying he had received notice from Mr. Nelson regarding the estimate for Phase I of $16 million and this meets the concern he had this morning. Therefore, he would like direction from the Board to go forward with the negotiations on this project with Chevron.
Commissioner McCown made a motion that Don be authorized to go forward as presented.
Commissioner Houpt – Second.
In favor: McCown – aye Martin – aye Opposed Houpt - aye
ADJOURNMENT

Attest: Chairman of the Board

_____ _____

OCTOBER 20, 2008
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 20, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Marian Clayton, Deputy Clerk & Recorder.
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
COUNTY MANAGER UPDATE – ED GREEN
NOTICE OF AWARD AND APPROVAL OF LETTER OF CREDIT FOR THE RECONSTRUCTION OF COUNTY ROAD 204 – MATT ANDERSON
Ed Green, Matt Anderson, Contract Administrator, Michael DeBerry from Chevron and Don DeFord were present.
Ed stated we have two items related to the County Road 204 project. One is the Notice of Aaward for approval and the second is the Letter of Credit for Reconstruction and Matt is here to discuss that.
Matt presented in the Board packet the details of the Joint Participation Agreement (JPA) that has been submitted by Chevron and this needs BOCC approval and signature.
Don said that late last week there were a number of developments concerning the items on the agenda today and Michael DeBerry from Chevron, manager of Pienance Basin operations based in Grand Junction was present. Don stated that late last week, he was contacted by Stacy Sounders, counsel for Chevron who has been working with this for the last many months on developing various documents for the County Road 204 project and Chevron received notification from the proposed issuance for the Letter of Credit that the bank, Wachovia would not be issuing that letter. This came last Thursday night. As a result of that

Chevron needs to establish relationship with another bank to issue a Letter of Credit. At the end of the discussion, we will be proposing a 3rd amendment to the Joint Participation Agreement (JPA) that will extend the time for one week to allow Chevron to properly place a Letter of Credit, tender that to the County for approval and then we will ask that the items on your agenda today be continued since the JPA in its current form and in the proposed amendment form requires that you approve the guarantee from Chevron before you go forward with the award of contract.
Michael DeBerry explained where they were on behalf of Chevron; late Thursday, as Don just explained Wachovia notified us that they froze issuing all lines of unconfirmed credit which was a sudden and unexpected development. Immediately Friday morning we began pursuing establishing an alternative line of credit through JP Morgan Chase under all of the previously committed terms that were to apply to that Letter of Credit, which was to be secured through Wachovia. That was pursued throughout the day Friday and things were moving forward towards establishing this alternate Letter of Credit to be provided. The desire to be by mid-week of this week; however we are not positive that we can actually achieve delivering a fully advised Letter of Credit through JP Morgan Chase to the County within the 5 days specified within our current JPA. Not being certain that we can achieve that 5 day threshold from when we all agreed that yes we would have sufficient funds in place and were ready to move forward with the project leads to our desiring to put into place a 3rd amendment allowing time to one week from today to provide that Letter of Credit under the previously agreed terms and conditions to the County. Don said this morning he handed out to the three Commissioners the proposed 3rd Amended Proposed Joint Participation and Cost Agreement. It really is essentially a one-page document and it amends one paragraph of the existing JPA to extend the time period as Mr. DeBerry has just explained, one week to October 27, 2008. Mr. DeBerry is prepared to sign that document on behalf of Chevron today and I would ask that the Chair be authorized to sign on behalf of the Board of County Commissioners. Chairman Martin said and that's October 27, 2008. Commissioner McCown asked if we would anticipate setting a meeting for that day as well; continue this meeting probably. Don stated yes and you might want to discuss whether or not you want to extend it to that Monday or if you want to do it at some other time although the anticipation was untill Monday. Commissioner Houpt has indicated to me that she will not be available because she will be at the Oil and Gas Commission and she further indicated the same that she would not be available by phone or in person. Don said he will be asking that the other items concerning contract award, notice of award for construction contract and award of the Q & A contract be extended to that date as well. We also have to briefly discuss the surface lease issues this morning and might want to extend that also to a week from today or whatever date you choose. Commissioner McCown made a motion that we approve the 3rd Amendment to the JPA agreement for reconstruction of County Road 204 and that the Chair be authorized to sign and this matter and it be continued until October 27, 2008 at 9:00 a.m. Commissioner Houpt seconded but I do want to comment. I was unable to support the original JPA as I discussed the last time we met because of the clause that was included for a potential tax credit so I won't be able to support this because it's part of that contract. I will not be available on the 27th but you'll have a quorum if the other two Commissioners decide that's the day they want to have that meeting.
In favor: Martin – aye McCown – aye Opposed: Houpt – aye
Don asked Mr. DeBerry to sign an original so they will have in place today. Don also wanted to discuss a few other brief items on County Road 204; Bob is present because one of the things required when they go forward with the construction contract, under State law we have to represent to the contractor that we have budgeted and appropriated sufficient funds for the entire construction contract. Actually we could phase the contract; but it is his understanding that is not the decision of either the administration or the Board; we would prefer to fully fund this contract. That requires we have a budget amendment and an appropriation of the $25 million dollar of the engineers project estimate in place at the time the construction contract is signed. We anticipated that today, that has been continued; but Bob is present and it was noticed for a budget amendment today. We could proceed with that today if you choose to do so, or we could continue that until October 27, 2008. Commissioner McCown stated he would prefer continuing it until October 27, 2008 so that it all happens in a sequence. Don said we may need to re-notice it; why don't we do that. Last is the surface lease and since the other items are continued it may be appropriate to do this as well. There will actually be three of them; an agreement between Chevron and the County to allow use of three separate areas for staging by the contractor; if that is their desire it needs to be in place before the construction contract is actually signed.
Commissioner McCown stated it would be his preference to continue this as well.

APPROVAL FOR CONTRACT AWARD FOR QUALITY ASSURANCE SERVICES IN SUPPORT OF COUNTY ROAD 204 – MATT ANDERSON

This item will also be continued until October 27, 2008.

Budget/Executive Session Items – Ed Green

Ed stated they needed to finalize the budget; you have two days available, Wednesday the 22nd or Thursday afternoon.
Chairman Martin stated they need to make sure there are no items that did not get full discussion, capital projects, personnel issues, etc.
Commissioner Houpt stated they could do that in their regular hearing too.
Ed stated as he understood it the public hearing is to be held November 3rd at 10:15 a.m.
Chairman Martin stated that is correct.
Ed stated he has one HR issue to talk about in executive session.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Don stated he would like to have an executive session to discuss three items: Carolyn needs to provide an update on the Continental Rifle condemnation litigation and receive direction; County Road 309 and it will be a public discussion; perhaps need direction concerning code enforcement issues on Barrett and Frac Tech. Commissioner McCown asked if there was going to be any discussion on CR 306.
Chairman Martin stated yes there was supposed to be a follow-up and asked Marvin if that was a public session and did he have information to discuss. Marvin said yes.

Commissioner McCown stated he sees that as contract negotiation.
Don stated it is and he has not received further direction on it.
Carolyn stated she had some discussion with Ms. Houpt late Friday about one of the contracts on the agenda, which is federal money is going to a religious based organization. Do you wish to discuss this as well? Chairman Martin stated all right.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to go into an Executive Session; motion carried.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to come out of Executive Session; motion carried.
Action Taken:

County Road 306: There are two existing contracts we need the Board to consider, one is a contract with Gardner Construction to rehabilitate the road and repair work that was damaged by a contractor from Noble Energy. Also we need to consider an agreement with Noble Energy to pay for the costs of that rehabilitation project. The contract with Noble, specifically contemplated the use of Gardner Construction and the cost that were related to us by Gardner Construction. It is his understanding now there is a recommendation to terminate the contract with Gardner because of its difficulties in coordinating between Gardner Construction and area landowners. Also they would have to terminate the agreement with Noble not relieving Noble of any liability but anticipating we will need a second contract on that issue. With that in mind Don would like public action on both the construction contract regarding Gardner Construction and the contract with Noble Energy.

Commissioner McCown – I make motion we sever the contract for the repair and rehabilitation to County Road 306 with Gardner Construction for convenience and that we contact the Noble Energy attorney and renegotiate a contract for the clean-up since the contract with Gardner would be severed and the scope of that work would be increased to meet some of the landowner desires of encroachment on their property.
Don asked, so the motion is to terminate the Gardner contract and renegotiate the Noble contract.
Commissioner McCown replied yes. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
Don stated, also in regard to the same road, he needs authorization to enter into an emergency agreement with a separate firm that will be the subject to a separate RFP to perform the work, which will include both road reconstruction as well as rehabilitation on the adjoining property owners to property that was damaged also. Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

DUTTON'S PROPERTY

Don stated the Board will need to judge if this is action by the Board or simply information. He anticipates that he will contact the attorney who is representing the Dutton's and any other affected land owners; but he is only aware of the Dutton family properties to discuss this last issue on the scope of improvements they are seeking; although he understand from a meeting on the road with the Dutton's, County staff has a good idea of the scope of the request and also to discuss right-of-way issues and negotiate a contract with the Dutton's through their attorney that will allow us to enter their property and perform the rehabilitation work we just authorized.
Commissioner McCown and Commissioner Houpt felt this was just information.
Chairman Martin said he thought they were trying to protect all parties on this particular issue.

COUNTY ROAD 309 – MARION WELLS

Her attorney has contacted Don verbally and in writing late last week indicating they would like a meeting with representatives from the County on site to discuss issues with County Road 309 and potential work on that road. It is Don's understanding that they have time and date available on the 22nd at 11:30 a.m. to meet on site. Don is looking for authority to discuss and conduct negotiations to bring those back to the Board and specifically he need the BOCC to have a Board representative to attend that meeting.
Commissioner Houpt stated her understanding was that John is available.
Commissioner Martin stated he was available and has been there a couple of times before.
Commissioner Houpt stated that discussion will come back to this Board after the meeting.
Commissioner McCown said probably on the 3rd as that will be enough time to compile the information, discuss it or would we need to schedule for later.Commissioner Martin thinks the 3rd will be all right.
Commissioner McCown thinks there may be some consideration; he doesn't know what discussion will take place on the ground with the attorneys but possibly some right-of-way issues that require surveying. That may have to take place before the actual conveyance or whatever means we have to pursue to obtain land necessary to maintain this road in a safe manner. We may need an update in executive session and then schedule for a public hearing. Don felt certainly out of the meeting on the 22nd there will be a report for the full Board. It can even be a public discussion at that point. Marian Wells and her attorney want to be here; they can participate. Don doesn't know, until they get a report back from the committee on the ground so to speak exactly where we stand. It's possible we will be ready for action and maybe not.
Chairman Martin stated they will give a report back next meeting on the 3rd.

CODE ENFORCEMENT ISSUE – FRAC TECH

Don stated, on the two code enforcement issues, the Board has previously advised Don's office to proceed with a code enforcement issue concerning Frac Tech. Further site work by Frac Tech has been observed by County staff that indicates they are now in compliance with our code. We do not recommend, at this point, that we proceed any further. In terms of code enforcement, we would like the Board to withdraw your direction in that regard.
Commissioner Houpt – So moved.
Commissioner McCown – Second.

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

CODE ENFORCEMENT ISSUE – BILL BARRETT CORPORATION

Don DeFord stated they believe based on investigation as established, EMP Evaporation and Production Pit, on property for which they have not properly obtained a special use permit; we would like direction to proceed with code enforcement in regard to that issue.

Commissioner Houpt – So moved.

Commissioner McCown – Second.

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

CONTINENTAL RIFLE PROPERTY – INTERIM SETTLEMENT – ACQUISITION FOR AIRPORT PURPOSES

Don stated his office needs authority to proceed with an interim settlement on the Continental Rifle property concerning acquisition for airport purposes simply for the purpose of acquiring possession. We need to deposit certain amounts that were represented to the Board in executive session; he does not want to publically discuss this because this is not a final settlement. This is only to allow process and if the Board authorizes that we would take possession, but he still needs a final determination on value for which there is no settlement. Don is asking the Board to authorize deposit of the specified amount in order to gain immediate possession.

Commissioner McCown – So moved.

Commissioner Houpt – Second.

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

COUNTY ROAD 204

Don stated earlier on the County Road 204 discussion regarding budget and appropriation; Bob has located the public notification. It was noticed for today for a budget amendment and supplement; rather than re-notice Don would like the Board to continue that public hearing to October 27, 2008.

Commissioner Houpt asked if there was a reason they couldn't re-notice.

Don stated he didn't think they could because of the once a week requirement by the Citizen Telegram.

Commissioner McCown said he didn't see that as an individually listed item.

Don stated it was not listed because the agenda went in place before we had a discussion with finance; it was properly noticed however. Commissioner Houpt asked if it will just be wrapped into the whole 8th supplement, since it wasn't on the agenda. Are we continuing that?

Don said it needs to occur as a separate budget and appropriation because it needs to occur before the contract. Commissioner McCown – I make a motion we continue the discussion of the 8th Supplement of the 2008 Approved Budget and the 8th Amendment Appropriation of Funds until next Monday, October 27, 2008 at 9:00 a.m. Commissioner Houpt – Second.

Don stated it was in the 8th Supplement; but we discussed this item this morning in terms of appropriation and whether you wanted to go forward today with the budget, supplement, and appropriation for the contract, even though we weren't going to go forward with the contract award today. The direction Don understood was that you did not; you wanted to consider this specific supplemental appropriation and budgeting at the same time you considered the contract. Are you continuing the entire budget supplement that may include other things as well. He doesn't know or it only that portion that relates to the appropriation for County Road 204.

Commissioner Houpt asked if they where noticed separately.

Don stated no.

Commissioner McCown stated that is why he continued the whole thing.

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

CONSENT AGENDA

a) Approve Bill
b) Inter-fund Transfers
c) Changes to Prior Warrant Lists
d) Authorize the Chairman to Sign the Seventh Partial Satisfaction for the Callicotte Ranch Subdivision Improvements Agreement – Applicant; Callicote Ranch, LLC – John Niewoehner
e) Authorize the Chairman to Sign a Resolution for a Special Use Permit for an Accessory Dwelling Unit (ADU) at 0594 County Road 110 Within ARRD Zone District – Applicants; Gary and Leslie Jochum – Dusty Dunbar
f) Authorize the Chairman to Sign a Resolution for a Special Use Permit for an Accessory Dwelling Unit (ADU) at 1065 Gage Road, within ARRD Zone District – Applicants; Gary and Pat Wallace – Dusty Dunbar
g) Liquor License Renewal for Rhino Liquors – Jean Alberico

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

COMMISSIONER REPORT

Commissioner Houpt wanted to remind people that the Governor's Blue Ribbon panel on transportation and their finance and implementation panel will be here in this room tomorrow from 2-4; Friday the State of the Valley annual conference will be at the Hotel Colorado and Oil and Gas hearing start Sunday for three days.

Commissioner McCown – Personnel Policy continuance tomorrow 9-11:30 a.m.

Chairman Martin has 3 or four meetings tomorrow.

Chairman Martin left at 10:00 a.m. and Commissioner Houpt assumed the role as the Pro-tem Chair.

HUMAN SERVICES COMMISSION

HOMELESS ISSUE IN GARFIELD COUNTY – KAROLYN SPENCER

Holly Freeman with Catholic Charities, Stacy Durrett with the Salvation Army and Karolyn Spencer with Feed My Sheep were present. The homeless people here are a diverse group of men and women who are struggling to live and work in our area. Many come in response to national ads placed by construction, oil and gas industry, as well as the ski industry. Once here they can get the jobs, but have no place to live.

They usually earn enough money to provide themselves with camping equipment, clothing, transportation, and phones. Most of these people are afraid of large cities and don't do well there. Our population with diagnosable mental illness is low although we have a fair number of veterans suffering from PTSD. Surprisingly the heavy drug use such as methamphetamines, cocaine, heroin and hallucinogens are below the incidences in our general population. Many are alcoholics, and due to their living status, that problem is exposed to the rest of the community. The Feed My Sheep Ministry has a mission to empower the homeless to help themselves. They work with the growth and strength they see in them, giving them the hope and confidence to climb out of their situation. Holly is a case manger for the transitional housing program for Catholic Charities. Catholic Charities which moved to 10th and Grand Avenue two years. Holly wanted to talk specifically about what they do with the homeless in the area. She stated they have given the Board some facts about who they work with and the services they offer. Emergency assistance service is available that keeps things from getting to a much worse situation; example an individual has an infected tooth; we get them help so they don't end up in the ER. Some information not in the fact sheets are very personal stories. It doesn't talk about the individual who in a tragic accident lost a limb; they had no where to put him. They would have had to send to him to a shelter in Grand Junction, which is over capacity, or to a shelter in Denver, where he knows no one and would have come back anyway. Luckily Karolyn, through Feed My sheep was able to put him up. When this individual asked for counseling and they were able to secure the funding; they talked to Colorado West and they said it would be 3 months before they could get him in to see a counselor. This man is dealing with a brand new handicap, he used to have four working limbs and now he has three. If an individual does decide they want help with an alcohol problem they need to pay $300.00 per week at Colorado West and Colorado West will frequently call us to see if we will send people and help with the transportation costs to send them to a free treatment facility in Arizona. We do it, and we pray to God they go to the treatment facility; but we have no idea. It is worth noting for all that we do for the homeless individuals in our area; much of our time and resources go towards the homeless families in our area. We refer to these as the invisible homeless because many people don't realize there are whole families sleeping in their car, sleeping in hotel rooms, sleeping with friends; we call that couch surfing. They served one family that recently lost their housing; she had a 16 year old daughter, an 11 year old son and they applied to HUD for rent. They were told it would be a 4-6 month wait and they would need to find a 2 bedroom under $1,155.00 or a 3 bedroom under $1,425.00. Where is she going to find that apartment and on $11.00 per hour wage working retail, how is she going to afford that until she can get the help from HUD in 4 to 6 months? These are the realities; they are put into these boxes where there doesn't seem to be a solution. So the gaps we are seeing are emergency shelter, affordable housing, and mental health. Commissioner Pro-Tem Houpt asked, are the housing gaps throughout the County.

Holly stated yes, especially towards Carbondale; this woman was from Carbondale, her kids were doing well in those schools. We thought good luck; there is hardly ever HUD housing in Carbondale. People have 2 to 3 months to find a place to use their HUD voucher before they lose it and many families never find a place to use the HUD voucher and they lose it. Stacy stated the Salvation Army does emergency services; they fill in the gaps, Karolyn provides a service many people can't use because of where they live, their schedules. They provide showers, prescription help, bus passes, laundry vouchers; but also we try to spend time getting to know the homeless and like Holly said we are see a huge amount of new people. She had a great success story last winter; they had one individual who has been homeless for 10 years, sleeping on the streets of Glenwood. She got to know the individual and embraced him and got him into permanent housing. He is doing well and it amazing to see the shift in someone; moving them from the streets into a home. That seems like a small victory; but for him it has been life altering. They see people come in; they have family here now who answered an ad in Oklahoma for a great job in Glenwood Springs. $20.00 an hour; they loaded up all their kids in a pick-up truck; 3 children, a dog, all their personal belongs and came to Glenwood. Reality hit; $20.00 an hour wasn't going to get them into a home, they don't have $5,000.00 for the down payment. They camped all summer and were able to purchase a 48 year old motor home; they are sleeping in it for the winter with no electricity. These are the kinds of cases we see; along with every type of homeless you can imagine. They ask; where is the local shelter and we don't have any place for them to go. Their only suggestion is to learn to camp, or maybe you can do go Denver and get help. Karolyn thinks one of the most important things is there has been a great influx of homeless this year. By this time she has served 211 and she knows she didn't serve that many last year. One of the reasons is because industry, ski industry, construction industry, and the oil and gas are advertising nation wide. We are one of the few places in the nation that actually have jobs available. The economy is so depressed in the rest of the country; the are flocking here. They saw a lot of new people here who never camped in their lives and they were scared. They are selling everything and coming here and then of course there is no housing. Karolyn doesn't know if it is possible to hold these companies accountable; but they think they should be held accountable, for not only hiring people and bringing them here, but let them know what the housing is. Possibly require them to put them up for at least 3 months; it takes about 6 weeks to 3 months to really get settled. As you all know you have to have at least $3,000.00 to $5,000.00 to get an apartment here with first, last and deposit. If you notice from her note; and they consider this a positive, is they have a committee going to deal with issues that some of the chronic offenders of the homeless bring to the city. That will be happening more and more as the economy drives them here. They have about 75% of their people who are working; this is considerably more than the 15% Colorado average of homeless who are working. You can see there are a lot of people who are able to work and maintain themselves; but there is no where to live and not enough money to live on. This is more the issue she sees the County and towns having to deal with the influx coming in here. Other cities and towns are developing tent cities; happening in Seattle, San Francisco, California, Chicago, New York, because it is the only way. One of the things common in this area is to get them off the mountain sides; well where are you going to put them and no one figures that out. They are trying to work with the idea; if you are going to bring them in off of the mountains; where are you going to put them? That is where the shelter comes in; we do need one. That is probably about 3 years down the road; but at least it is a concept, an idea and a plan. In the meantime they suggest an in-city campground, supervised. They know when the homeless is unsupervised they don't always behave so well. In Feed My Sheep ministry they found the best way to love them is also tough love. They have strict rules,

supervised and they are fine. Commissioner Pro-Tem Houpt asked, there are different populations you are dealing with that are homeless at this point. The Board has been working on an affordable housing project in the Rifle area. Really looking at affordability with rentals; there is a gap in this County.
Karolyn stated, you know around here affordable means middle class housing.
Commissioner Pro-Tem Houpt said well no, we are talking about a range; we are working with the housing authority to figure out how to put housing in place so the vouchers can be used. There is workforce housing; but also there is affordable housing. Commissioner McCown stated that is the unique part of this project in Rifle; it will be a mix of housing. It will not all be single family residential; it will be rental units, multi-family, it will open up a much broader spectrum than we have seen in the past on what has been available. He stated they are optimistic; it is a work in progress and it is coming to fruition. Karolyn asked how many it was going to take. Ed stated about 240 units of mix use and probably 50% of that will be rental. The reason they did it is exactly what you are citing; we have needs for people coming in, the hospital, the school district and the city. They want to make sure we have housing available for people we are bringing in from Michigan and all over the country. Secondarily Tresi is correct; we want to also make available housing for others as well. They are working on a concept where we will be able to start with a phase that will have about 240 for us and another couple hundred for the oil and gas industry. We will be able to re-use the money that is invested for another phase. Commissioner Pro-Tem Houpt said they are not just looking at our workforce housing. She stated she is sure Karolyn works very closely with Ginny, and she has been telling us for years there is great difficulty in helping people find places to live. Holly said it is important to recognize that our teachers, and policemen all need housing and so do our people who work at Target, etc. Those people have kids; they need stability, if they bounce around they don't have stability. It is important for our whole community to recognize that everyone needs housing. Commissioner McCown stated that he thinks that has been the missing piece in the puzzle for a long time; your large employers have not participated in this type of thing. They bring the workforce in; they provide a salary and then you're on your own. You can look at the Meadows; how many people in the retail industry and the service industry that don't pay top wages. Karolyn said one of her guys, who is top notch was crew chief at 7-11 and didn't earn enough money to get an apartment. He was able to use our winter shelter to save for his deposits, he went into a place and then another place; but he could not maintain the apartment along with his diabetics. He is now camping again; saving money and hopefully he will have enough to go into something.
Commissioner McCown said as a previous owner of a service orientated business, you can not pay an hourly wage that is comparable to the construction industry or the production industry. There is a need for the lower wage people to support those service industries, or they will fail, and there will be no jobs.
Ed stated one thing this project does, it will be turning over rental units to Geneva and she will be able to use the vouchers that sometimes go unused.

BOARD OF HUMAN SERVICES – LYNN RENICK
APPROVAL OF EBT/EFT DISBURSEMENTS FOR SEPTEMBER 2008

ELIGIBILITY	
Total EFT/EBT Disbursements:	$438,408.38
Aid to Needy disabled	$ 4,614.50
Basic Cash Assistance – TANF	31,494.04
Child Care Assistance Program	45,468.73
Home Care Allowance	5,561.00
Old Age Pension	45,370.13
CHILD WELFARE	
Case Services	$ 232.00
Child Welfare Related Child Care	1,174.50
CORE Services	16,584.17
Out of Home Placements	40,076.96
*TRCCF/CHRP	61,262.28
Subsidized Adoptions	19,573.40
NON-ALLOCATED PROGRAMS	
Food Assistance and Benefits	$166,996.67
LEAP	

Lynn stated they are asking approval on signature only. Commissioner McCown – So moved.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin - absent

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

The department is requesting consideration and approval of the following agreements/contracts:

1. Out-of-home placement contract with Gateway Youth Services, For State ID T289179 in the not-to-exceed amount of $46,938.60
2. Out-of-home placement contract with Gateway Youth Services, for State ID T770061 in the not-to-exceed amount of $50,630.40.

Commissioner McCown – I make a motion we approve the out-of-home contracts for State ID T289179, T177061, the first one in the amount not to exceed $46,938.60, the second in the amount of $50,630.40.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin - absent

CONSIDERATION AND APPROVAL OF THE CONTRACT WITH COMMUNITY HEALTH INITIATIVES AS SUBCONTRACTOR TO THE STATE COMMUNITY PREVENTION PARTNERS GRANT – LYNN RENICK

Presented to the Board was a contract draft with Community Health Initiatives, Inc. for the continuation of the State's Colorado Prevention Partners grant to prevent and decrease substance abuse in the community. Shelley Evans will continue as the designated Project Coordinator and Dr. Jerome Evans will provide the evaluation component for the grant. The total not-to-exceed amount of the subcontract is again $110,000.00, which includes program activities, operating expenses and $6,336.00 for travel costs. The term of the subcontract is September 30, 2009 through September 29, 2009. The Board's consideration and approval on the contract is being requested.
Commissioner McCown – So moved. Commissioner Pro-Tem Houpt – Second.

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

CONSIDERATION AND APPROVAL OF THE AMENDED SCOPE OF SERVICES FOR THE KIDS PROMISE CHILD CARE CONTRACT – LYNN RENICK

Dana Damm was present.

The Board approved a contract in the spring of 2009 to assist Kids Promise with start-up costs for a child care center to serve up to 70 children in the Parachute/Battlement Mesa area. The scope of services for the contract (term 5/1/08 through 12/31/08) outlined categories of equipment needs and two months of salaries/benefits as allowable expenses. In discussion with Kids Promise representatives, the department is requesting an amendment to the scope to allow the agreed upon not-to-exceed amount of $100,000.00 to be utilized for more than 2 months of salaries/benefits, rather than equipment purchases. This does not change the not-to-exceed amount of the contract. The department is requesting approval on the amended scope of services. Lynn stated they are finding other priorities for the money to be used and give them flexibility.

Commissioner McCown – I make a motion we approve the amendment to the Grand Valley Educational Foundational Child Care Quality and Enhancement Contract. Commissioner Pro-Tem Houpt – Second.

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

Carolyn stated they do not have the signatures of the other two contracting parties; once Lynn gets that, do you want back on the consent agenda? Commissioner McCown stated they will include signature on this**.**

CONSIDERATION AND APPROVAL OF THE CHILD CARE CAPACITY AND QUALITY ENHANCEMENT CONTRACT WITH SUMMIT PRESCHOOL – LYNN RENICK

Laurie Wagner, director of Summit Preschool was present.

Summit Ministries Resources, Inc. currently serves approximately 155 children in Rifle. The organization has secured a new property in south Rifle and plans to place modular facilities on the grounds with a licensed capacity of 160 children. Lori Wagner has been working the State (CDHS) Licensing Unit and Garfield County's Child Care Program. In order to assist a smooth move and to stabilize the program, the department is requesting signature authorization on the contract to assist with fencing and outdoor equipment, rent on the modular units and salaries/benefits. The term of the contract is October 1, 2009 through June 30, 2009 in the not-to-exceed amount of $237,700.00 TANF Child Care reserves is available to fund this request. Commissioner Pro-Tem Houpt asked if this was a start-up cost contract; did she anticipate coming back for an additional contract. Lynn stated not at this time. This gets caught in the Senate Bill 177; at the end of June, 2009 all of the reserved monies for TANF child care and Title 20 will be decreased in terms of what we can expend. After June 30, 2009 they will need to look at priorities in terms of the expenditures. What Summit can do, if they are able to continue with the quality enhancement grant process, they would be eligibility to request some funds. This year they did not put a cap on that and this year they are planning to expend $114,000.00 on 37 other grants.

Commissioner Pro-Tem Houpt asked if this was all TANF money and Lynn stated yes it was. Commissioner Pro-Tem Houpt asked if all of the items listed were eligible through those TANF funds. And Lynn stated yes and they doubled checked with the State. Commissioner Pro Tem Houpt stated this is a significant investment and she would ask Lynn if they put together a business plan on how to move forward, understanding that these funds may not be there in the future. Leslie stated that she started Summit 6 years ago and they rented space from the Fellowship of the Rockies Church. At that time she and her husband were involved with the church; but they are no longer. They resigned from the church 3 years ago. In September, 2006 a new pastor came on and let them know as of October 31, 2008 they would loose their lease. They started to look at different grants as she is a non-profit to see what was out there. She was working with USDA Rule Development; it has been put on hold. USDA and she have worked on this for the past 2 ½ years trying to find a place for the families. They looked at several different properties which fell through, but this one came up on owner finance, and the planning and zoning of Rifle allow me to use the modulars for 3 years. In about 18 months or 2 years they should have a permanent building permit ready to go. She has been in touch with other foundations and she has a full time grant writer. They are going to eagerly pursue that as well as to keep working with USDA World Development. They came to the conclusion they will co-sign on the loan for me for $3 million dollars; but because of the economy right now, the banks wanted their co-sign plus the $500,000.00 on a $2 ½ million dollar loan.

Commissioner Pro Tem Houpt asked what curriculum do you use. Leslie stated they use creative curriculum; this year a few of our staff went to training along with RE 2 school district staff and were trained. The reason they changed is that a lot of her children leave from pre-school and go into kindergarten and she wanted them all to be on the same page.Commissioner Pro-Tem Houpt asked Leslie if they currently had 150 kids. Leslie said she has 155 enrolled; that doesn't mean they come everyday. She is licensed for 134 children from one year old to before and after school care. When they move into the new facility, she will be able to have 20 infants. She already has 22 on a waiting list; 12 of those are parents that already have children waiting for them to open.

Commissioner McCown asked what that will bring her total enrollment up to; will it still stay at 155? Leslie said she can have 250 children in the building, but the City of Rifle has a tap fee. On the tap fee, if she went in and said she will open and be licensed for 250 kids, that tap fee would be $180,000.00. If she lowers the amount of kids licensed and she admitted she is not going to have 250 kids on opening day. She went on to explain how many staff she employs and she stated she may lower the number of children to 160. Commissioner Pro-Tem Houpt stated your license currently through the state is up to 160; she is trying to picture this. Leslie stated not all those children come everyday; some only come 2 or 3 days per week. Commissioner Pro-Tem Houpt asked if it was typical to have more kids licensed to.

Dana said yes and on any given day because Leslie is licensed for 134 now, on any given day she wouldn't have any more than those 134, but she might have 155 registered because they will come on opposite days. In our area we have a lot of part-time parents working. Commissioner McCown stated that is total occupancy in any given day, it cannot exceed the permitted number. It may not be the same children everyday. Lynn stated for the record this money through TANF cannot be used for capital costs.

Commissioner McCown – I make a motion we approve the Child Care Capacity and Quality Enhancement Contract with Summit Preschool in an amount not to exceed $237,700.00. Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin - absent

Carolyn stated she has the originals for signature.

DISCUSSION REGARDING 8-PART SENIOR PROGRAMS IGA AMENDMENT ADDING GLENWOOD SPRINGS – LYNN RENICK

The department's Senior Programs received notification of funding from Glenwood Springs based on the grant proposals. Full funding for the 6-month period (July through December 2008) was received in the amount of $7,940.70 for the Nutrition Program; RFTA received $15,707.13 for Senior Transportation/Traveler Program. Based on last month's discussion, the department plans to go forward, working with the County Attorney's Office and the City of Glenwood Springs, to add an amendment to the existing IGA in order for Glenwood to participate on the Advisory Board. We will be communicating with other participating entities as this goes forward.

Lynn stated they are looking at an amendment to include the City of Glenwood Springs; it would be a nine party document and she would like to continue to work with County attorney's office on the wording of an amendment. No action at this time; just information unless further direction from the Board.

Commissioner Pro-Tem Houpt thought the assumption was this would happen and they are pretty well positioned to make it happen. Julie feels things are going great. Lynn stated in September they served 1,511 at all of the sites including the addition of a new site in New Castle where they served 60 meals in September. Rifle had its all time high at the Senior Delight Program of 103 on one day.

Commissioner Pro-Tem Houpt thanked Mildred Alsdorf who was in the audience.

CONSIDERATION AND APPROVAL OF SENIOR PROGRAMS ADVISORY BOARD APPOINTMENTS

Members:

Mickey Neal	Gina Sterrett	Joann Duffy
Mary Jane Hangs	Betsy Suerth	Nicky Leigh
Pam Zentmyer	Pam Bunn	Candee Albee
Mildred Alsdorf	Lin Stickler	Janette Kaufman
Cheryl Cain	Lynn Renick	Dave Sturges

Commissioner McCown – I make a motion we appoint all those names presented to the Senior Programs Advisory Board. Commissioner Pro-Tem Houpt – Second.

Lynn stated Jay Miller was not on the list and should be.

Commissioner McCown – I will amend my motion to include Jay Miller as a representative from the City of Rifle. Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent

PROGRAM REPORTS

Lynn stated they will be sending out 10 contracts for all under $10,000.00 for the annual capacity and quality enhancement for expanding or maintain existing child care.

Commissioner Pro-Tem Houpt requested that in the future they look at a policy issue as it pertains to monies they have put into various different programs. There is a grayer line between putting money into faith based organizations there than has been in the past. She feels it is a significant issue for this County to talk about. She doesn't have a timeline on this, but she feels they need a more formalized policy. We can talk to Don and see what kind of policy we need to discuss.

COLORADO SURPLUS ASSET FUND TRUST (C-SAFE) PRESENTATION – ROBERT KRUG AND GEORGIA CHAMBERLAIN

Georgia thought it was important to bring a representative of C-Safe.

Robert, client services manager for C-Safe, which stands for Colorado Surplus Asset Fund Trust is a local government investment pool under the State statutes, 24 75 601 and have been in existence since 1988. They are overseen by a board of trustees; he passed out a handout the Commissioners (third quarter report). They issue a report every quarter; they are overseen by the Division of Securities. Page 2 gives a highlight of who they are as a trust and the type of investments they are eligible to invest in. The quarterly summary also indicates the amount of assets they manage. As of September 31, 2008 it was around $1.8 billion with a rate of return of 2.4%. They delivered a net assets' value of around $1.00 per share, which they have done since their inception. They are also rated triple A since 1995. Robert spoke about the costs associated with managing the trust. The report shows the deposits that come in and redemptions that go out on a quarterly basis. Robert talked about the investments currently in the trust and they have a group of term securities representing about 3.8% of the pool. The reason Georgia asked him to come in is in the middle of September during the financial crisis, a couple of the money market pools did have a run on them, which was a first. Typically when redemptions are placed in a money market fund they might have about 20% liquidity and some of these pools the redemption has exceeded their liquidity. Currently those two pools are going through a liquidation process and when that came into play, our Board felt it was in the best interest of the participants to administer some limited restrictions. They are due to increase in our ill-liquid portion from 63%; up to about 70% very shortly. Ed asked if they were at 75% liquidity. Robert stated very soon they should be close to the 70/75%, correct.Ed asked when they anticipated 100%.

Robert stated they are waiting for the liquidation plan to help assess that. It is the Boards desire to normalize as quickly as possible. Commissioner Pro-Tem Houpt asked if this report was as of September 30, 2008 since there has been significant activity since that time. Robert stated the activity since that time really hasn't affected them in terms of any additional challenges. But you are correct especially from the stock markets perspective. Interestingly about 20 funds had a run on them; they were involved with three of them, one ended up merging and the other two have applied for the insurance program.

UPDATE ON THE ACCESS PERMIT FOR TRAVELERS HIGHLAND SUBDIVISION – KARL HANLON

Karl Hanlon came to 1) update the Board on two things and ask for clarification on the last item. We are working with the Clerk's office on getting the Public Improvement District election done and it is going along great and really appreciates the help that Marian and Jean have been fantastic working with our staff and getting that on the Ballot and all things concerned with the election.

2) Update on access permit saying the last time in front of you we had some discussion on whether or not the access permit that was in 5C LLC would be assigned to Parachute Commercial or if we would apply for a new one. We did in fact get it assigned to Parachute Commercial and we anticipate the notice to proceed within the next day or two. I just received a redline packet, went back to CDOT with the final changes that they had requested on design on Thursday of last week and I met with Dan Roussin on that same day and he said he expected his staff would turn that around in a day or two; they are very anxious to get this going and all the changes were extremely minor. About that access, we are doing it in concrete rather than asphalt for a couple of reasons, one being that cost of asphalt and the other is timing right now. Also, CDOT was very happy because it's a good surface material and long term and solution. We did supply a bond at the time of application for the full amount of the engineer's estimate which was about $185,000 in contingencies and that's in place. On the construction schedule, we are going to have a pre-construction meeting this week and our original schedule anticipated work commencing on the 22nd and not sure if CDOT will be ready to approve the pre-construction meeting to allow us to mobilize. We have the advantage that Mr. Hicks owns an infrastructure company that can do the work, so Prince Creek Construction is bonded to do this work and it's in CDOT's hands. What I'd like to request is that when the County has both the bond, which they have a copy of in place in the notice to proceed, that those building permits which are sitting in the building officials suspension file can be issued. This work is going to happen; there's money in place to make it happen and there's a construction schedule ready to go. We're simply requesting that we can also deal with those other issues that we've been waiting for some time to try to get building permits issued so that we can move ahead with some of those things in a timely manner before the weather closes in as well. As a sidebar issue, we're discussing the neighboring property with Frac Tech on how to resolve some of their issues relative to their inability to operate on the property until they upgrade their access. That may include addition of them into the Improvement District once it's formed or some other arrangement to make sure that happens as well. Therefore, I would like to say that we've worked really hard to accomplish everything that we were asked to and we'd like to not lose the winter as well on the building permits. He wanted to say thank you to your staff and CDOT as well as the Clerk's office in working really hard on getting all this to come together this fall.Commissioner McCown asked, would you envision the building permits being triggered on having those documents on hand at the County and filed and at that time they would be released. Karl stated yes, the bond is in place, they actually already have a copy of the bond and I believe it was in the packet that the Commissioners received and so we're waiting on the notice to proceed. I think with those two documents in hand there is no question that this project is moving forward. Commissioner Pro-Tem Houpt asked if counsel has any concern about that. Carolyn said no, I want to make sure we are talking about ISDS permits I assume as well as the building permits. Karl said yes; any permits that are pending in front of Mr. Schwaller right now or that may be submitted. I would like those to be able to be reviewed and issued. We're going to be under construction and we have a program where we hope to be completed in 30 days or less. It's a matter of getting out there, moving the lines before the weather closes in on us. Carolyn asked is CDOT has given you an average daily trip count that we have to be careful of. Karl – It's the original one underneath it which is not the ADT which we're all familiar with but it was like 60 for the 5C project which recognizing it's not being built and so that is sort of being used up by other uses on the property and I can't remember how they calculate that or if that's an hourly trip rate, it was a different trip rate than we normally think of in our traffic reports but we're going to be cognizant of that fact moving forward and we've actually had that conversation with Mr. Roussin. One of the things about all of this is that the active access permit was already in place so we just kept moving forward with it. So, we're going to try and deal with that as we go along and recognize the County and CDOT and the gravel pit are having discussions regarding what's going on, on the other side of the road as well. Carolyn – Right, but where I was going with that is that considering the weather closing in probably, do we need to come back to the Commissioners on a certain point on the building permit and the ISDS permits or will the weather keep you, the developer from going forward. Karl thought it probably will and they want to come back to the County. They are going to need to after the formation of the Special Improvement District and we'll probably have an idea in the next 60 – 90 days where all that's going to play out and what other improvements. I don't know where the Board is on the process with CDOT and the gravel pit on the other side of the road and your timeline but I imagine those two things will eventually coincide that we need to have a discussion about, if additional things are happening at that intersection relative to the other side of it. Commissioner McCown – Actually, Karl given the stage that the gravel pit is in, I think it is going to rapidly cease to be an issue – they are about out of material. Probably by mid next summer it will be a non-issue. Karl – Is CDOT going to require something out of them between now and then? Commissioner McCown – I don't know how they would leverage that because they have no permit pending in front of them. Karl – Didn't understand that and my suggestion is that we come back in say 90-days; we're going to have a couple more discussions after formation of the district and see where we're at.Carolyn – Asked for clarification, are you only asking the Commissioner to release the permits that are in suspension or are there property owners who will be coming in for new permits. Karl – I think there's going to be a few property owners coming in for new permits, I don't think it is a significant amount. I know of at least one lessee who would like to do some temporary structures that has a building permit pending. Obviously we need to be consonant of the access permit perimeters and I'd also say that this intersection is going to be a heck of a lot better than it has been at any point in the past. Commissioner McCown – That was my question, given the improvement to this access and its existing 60 ADT's or whatever the number was with 5C, has that been amended to allow for an increase in traffic as you went through the process? Karl – We did not, we really didn't want to rock the boat with that initial access permit that was issued to get those improvements done. I don't want to make any representations on that because it's all been informal conversations but my informal conversations with both the engineer and with Roussin a while back, not more recently because it hasn't come up, was that the improvements being made to the intersection really covered most of the anticipated problems you might see there for some period of time. I can certainly ask for that update from our traffic engineer. Commissioner McCown – In order to operate legally as you continue to develop the project here would have to be an ADT number plugged in somewhere that you could not exceed. Karl – Right and that's where the current permit is; as I

recall they were using a slightly different one because it involved heavy trucks and I think it was an hourly trip count of 50 or 60 and recognizing the 5C Project isn't actually going vertical, so it's not going to be using any of those numbers and so those numbers are being spread out amongst everything else.
Commissioner Pro-Tem Houpt asked what is the time frame on improving the intersection and when will that be completed. Karl – Probably about 30-days from notice to proceed. It needs to be done fairly quickly.
Carolyn said a motion was needed due to the fact that direction had been given to the building official to hold these permits. Commissioner McCown made a motion with the completion and the acceptance of the bond and the access permit from CDOT, in hand in the building departments, the current building permits that are currently being held in abeyance and any future ones that might come in can be issued.
Karl wanted to clarify that to the notice to proceed because technically the access permit has been issued. The notice to proceed is that we are going to start construction.
Commissioner McCown said but the documents in hand in the planning department that would allow this improvement to this particular section. Commissioner Pro-Tem Houpt – Second to allow this to proceed.
In favor: Houpt – aye McCown – aye Martin – absent

DISCUSSION OF THE 8TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 8TH AMENDED APPROPRIATION OF FUNDS – BOB PRENDERGAST

This was continued until Oct 27.Ed planning to have open house on November 19, 2008 for the new Justice Center; probably right after work around 5:00 p.m.

COMMENTS FROM CITIZENS NOT ON THE AGENDA

Jim Atkinson with Jehn Engineering located in Delta is here on behalf of the Town of Parachute; they have been contracted to do a water filtration modification to the town's water supply system. They are in the process of building a new building and it will be located in Garfield County. It is a prefabricated building; they have to go through the building department to get a permit and he is here to ask for a waiver on the building permit fees. He checked with the building department and the fee is around $345.00 and he is asking if the Board would consider waiving that for the town.
Commissioner McCown asked if the County would be inspecting the project.
Jim stated he believed we would because it would be part of the permit.
Commissioner Pro-Tem Houpt said, reviewing the plans so much of that is the cost of our doing the administrative duties.
Commissioner McCown stated it is not a money maker; it is a recovery of costs.
Jim stated the building itself is to replace a block building that is there; it is smaller and it is going to be a prefabricated wooden structure. The equipment, which will go inside is a series of filters for water coming from a natural spring.
Commissioner Pro-Tem Houpt said we have these structures in place that are really fair, it is not something we would typically waive.Commissioner McCown said the scope of this project, the $345.00 is fairly insignificant, isn't it? Jim said the total cost of the system, equipment and the building is about $100,000.00. Commissioner McCown said on behalf of the building department those are just cost recoveries, we don't charge fees to make money or build our department. Under the circumstances, as long as we are liable for the inspection and plan review; he thinks they have to keep those fees in place. If Parachute is able to work out something with a private engineering firm and a contractor that would review those plans and alleviate the County of any responsibility and do the inspection on the project, then maybe we could talk. Under the circumstances he thinks it is as cheap as they will get it done anywhere.
Jim stated, yes and had it been done within the town limits they would have done it themselves.

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR THE HYRUP COMPRESSOR STATION EXPANSION PROJECT BY HYRUP INVESTMENTS, LLLP – DUSTY DUNBAR

Dusty stated this was originally presented in 2005. This proposal is to modify an existing natural gas compressor facility built by Noble Energy and purchased by Williams Energy. The facility was built originally without permit and is being brought into compliance by the present owner. Noise infractions were the major concern. A temporary straw bale barrier has been installed to help absorb nose until the noise shrouds are installed on the compressors. The proposal includes a request for installation of three additional compressors with the same kind of noise shrouds.
Staff Recommendation:
Staff finds that because this use type is unchanged on this parcel and the project proposes to continue to mitigate the noise effects with sound attenuation devices, it is appropriate to recommend the Board direct staff to schedule a public hearing for the Board and not refer the matter to the planning commission.
Commissioner Pro-Tem Houpt stated you stated it was not originally permitted.
Dusty said the original site was not permitted and was brought into compliance as a result of code enforcement. It has been permitted and the existing compressors are being enclosed for noise.
Commissioner McCown – I make a motion to schedule this before the BOCC.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF A NATURAL RESOURCE FOR A COMPRESSOR STATION TO BE LOCATED AT 1620 COUNTY ROAD 300 SOUTHEAST OF PARACHUTE – APPLICANT; WILLIAMS PRODUCTION RMT CO. – KATHY EASTLEY

Kathy explained that the Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for a natural gas compressor station on a 40-acre property owned by Williams Production RMT Company. The site is located 6.5 miles southwest of Parachute on County Road 300.
"The Una Compressor station would gather gas from area natural gas production wells and compress it for transportation to Williams' Parachute Creek Gas Plant." Volume of gas to be compressed would range from 20 to 100 standard cubic feet of natural gas per day.
More specifically, the Applicant requests approval from the Board for construction of a maximum of eight engine-driven compressor units, all to be housed in insulated metal buildings. A Caterpillar 3516LE engine

will drive each unit and power a cooling fan which will be externally mounted, each unit will be treated with a Zeron® muffler.
STAFF RECOMMENDATION
Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the fact that the site itself will be situated in an area characterized by industrial activity related primarily to natural gas extraction and processing activities, and 4) the compressor station is contained adjacent to a COGCC approved well pad (UN, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
Commissioner McCown pointed out to Kathy he thought there was an error on the compression of gas. I make a motion to schedule before the BOCC.
Commissioner Pro-Tem Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – absent
CONSIDER AN EXTENSION FOR AN EXEMPTION PLAT FOR THE ZIEGLER PARCEL – APPLICANT; PEREGRINE 08 INVESTMENTS, LLC – KATHY EASTLEY
Tim Thulson was present
Request
Kathy Eastley presented that on June 16, 2008 the Board of County Commissioners approved a Subdivision Exemption for the Ziegler Parcel. As identified in §8:33 Subdivision Regulations of Garfield County of 1984 the Applicant is required to submit the Exemption Plat to the Board for signature within 120 days from the date of approval. The Applicant's representative, Tim Thulson (Balcomb & Green, P.C.) has submitted a request for an extension of approval.
Should the Board move to approve the request Staff suggests extending the one hundred twenty (120) day time requirement to allow an additional ninety (90) days from the date of the deadline extension.
Tim stated they need to get an access permit and it takes time. The 90 days will allow us to finish the platting.
Commissioner McCown – I make motion we grant the 120 day extension to the Ziegler Parcel.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent
CONSIDER A SPECIAL USE PERMIT FOR A TWO-FAMILY DWELLING UNIT LOCATED AT 23 PONDEROSA DRIVE IN THE WESTERN HILLS SUBDIVISION – APPLICANT; 23 PONDEROSA CIRCLE, LLC – KATHY EASTLEY
Sid Fox, Planning Consultant on behalf of the applicant was present along with Kathy Eastley and Debbie Quinn.. Debbie Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Kathy submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Garfield County Comprehensive Plan of 2000; Exhibit E – Application Exhibit F – Staff memorandum; Exhibit G – Memo Dated, September 16, 2008 from Jake Mall, Garfield County Road and Bridge; Exhibit H – Letter Dated, October 2, 2009 from Ron Biggers, Glenwood Springs Fire Dept.; Exhibit I – Letter Dated September 24, 2008 from Lorie Kagay; Exhibit J – Letter Dated, October 12, 2008 from Marilyn Dorman with Photos and Exhibit K – E-mail Dated, October 13, 2008 from Jake Mall, Road and Bridge. Pro Temp Commissioner Houpt entered Exhibits A – K into the record. Planner Kathy Eastley explained:
REQUEST
This is a request to allow a two-family dwelling unit on the subject property located in Western Hills Subdivision in West Glenwood. Two-family dwelling units are contemplated in the Residential Limited Urban Density Zone District (R/L/UD) as a Special Use (§3.02.03).
The applicant is 23 Ponderosa LLC, a corporate entity related to Colorado Mountain Express which provides shuttle service from Aspen and Vail to Denver. The existence of two units in the dwelling pre-dates the recent purchase of this property and the applicants are seeking to bring the site into compliance through this application. The applicant utilizes the units as employee housing.
STAFF RECOMMENDATION
Staff recommends approval of the proposed Special Use Permit allowing a two-family dwelling on a property located at 23 Ponderosa Road and owned by 23 Ponderosa Circle, LLC with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended;
3. The two-family dwelling unit shall not be conveyed as a separate interest but may be leased;
4. Prior to issuance of the Special Use Permit the applicant shall seek a driveway permit from Garfield County Road and Bridge;
5. Prior to issuance of the Special Use Permit the applicant shall provide documentation sufficient to the Building and Planning Department regarding shared maintenance of the rear access and shall install a stop sign at the intersection parking area access and Donegan Road (CR 130) per Road and Bridge recommendations.
6. Prior to issuance of the Special Use Permit the applicant shall gravel the parking area. (Kathy stated it has already been layed down)
7. Maximum occupancy for each unit is limited to two (2) residents per bedroom.

Commissioner Pro-Tem Houpt stated there was concern brought out in the package about the maintenance of the road and accessibility with the number of cars that have been using this residence and could be; what type of discussions did you have with road and bridge about that issue. She thinks some of the concerns today will be some road maintenance issues.
Kathy did speak with Jake Mall about this after a site visit. Kathy brought up site photos to explain. In her discussions with Jake Mall, the access road which goes to the corner of the property, Kathy was unable to

find ownership of that parcel. Jake stated that he believed it was a public roadway that was created during the subdivision; however, it was never dedicated to the County, but it is a public road. There is no maintenance performed by the County; one of the adjacent property owners said they were taking care of the road. In her discussion with the applicant; they have stated they will speak with the adjoining neighbors there to discuss maintenance.
Sid Fox stated the purpose before the Board today is to legalize a pre-existing condition. We are not here proposing any changes to the home; the applicant is controlled by Colorado Mountain Express. Colorado Mountain Express provides transportation to our mountain community; their headquarters is in Edwards and they provide shuttle service to Vail, Aspen, Glenwood markets and into Summit County. Paul Golden is present today and he is one of the managers for Colorado Mountain Express. Sid thinks it is important they understand Colorado Mountain Express has a long history of being very pro active and responsible in their efforts to provide employee housing. This unit was purchased early spring of 2007. At that time it was discovered that the house was set-up as a duplex. The call came to Sid to make sure there were no zoning issues moving forward. Sid has been working with the staff to get this home in conformance with the County zoning regulations. He thinks it is important for the Board to understand the operations; how CME provides employee housing in this particular unit. It will become clear some of the concerns of the neighbors; some of the potential impacts are mitigated by their operation methods. CME has a satellite facility in south Glenwood Springs; they have dispatch and van parking. The way this operation is set-up; in the winter they hire drivers, maybe a few dispatchers and those are typically employees with visas. They come specifically to work; very seldom do they bring a car to the home. That is not to say it will never happen; but the operation he wants to emphasize is that CME provides a shuttle service directly to the home for the employees. The shuttle goes to the home, pick up the drivers, and transport them to the satellite facility at County Road 154 south Glenwood Springs. They get their assignment, do their route, and come back to the parking area in south Glenwood where a shuttle will take them home. The parking standard is 4 spaces for this particular use and zoning. They have provided for 5 – 6 to handle private vehicles; but they think this will be minimal. The winter is the busy time for CME; they have arrangements to sublease the home to Glenwood Caverns in the summer time. It is Sids understanding that in the summer time the employees are in walking distance for the bus system to get to work. The parking and traffic issues have been addressed through the operational of Glenwood Caverns and CME. Also with Sid today is Tucker Thompson, the property manager; important the Board understand he is a responsible owner here with local property management. A lot of work has been done since CME has owned the property; he has witnessed clean up and fix-up. There were some storage sheds in violation and Tucker had the storage sheds removed that were in violation of the set-backs in that zone district. They find all the conditions acceptable except for condition number 6; graveling of the parking area. Since the photos were taken; Tucker has finished the graveling of the parking area; doesn't believe this is necessary at this point. Sid is respectfully requesting the Boards approval.
Commissioner Pro-Tem Houpt asked how many people typically are living at this facility.
Paul Golden, executive vice president of property management for CME said there are two bedrooms in the basement and 6 bedrooms upstairs; typically the number of people who live there are anywhere from 10-12 people. The only bedrooms they double up are the larger bedrooms; most of the time it is a single person per bedroom. In the summer time the same holds true; Steven Beckworth from the Caverns typically has 10-12 people living there. It doesn't look like a very big house; but the addition put on allows 4-6 bedrooms upstairs and 2 down. Commissioner McCown asked which one of them would feel most comfortable addressing the access road as it was alluded to; it goes into the corner of an identified road. Sid said the current owner has been reaching out through the notice process and has not talked to the owner to the west and the applicant is very willing to work this out. The staff has included in a condition that we work out some type of maintenance agreement. He thinks some type of maintenance agreement and a shared responsibility for that will work. Ron Gray, owner of property just directly north. He has lived there 36 years; the new neighbors have been very good; kids in the winter and summer have been fantastic. Tucker has done a fantastic job cleaning up the place; but how did we get here.
1. The whole front yard was dug out to the basement so the grandfather could have an apartment and access to the outside. The grandfather died; kids where down there, grandma, grandpa, two daughters and three kids. At some point in time it became a one person apartment; rented. Mr. Gray made it a point to address the Ross's; if he had any problem parking in front of his house, he would go to planning and zoning and make it an issue. He has never had a problem parking in front of his house. The one person living there; never saw him; he was always on the road. The house sold to CME; when the big dig happened the sewer line clogged and he met with Mr. Golden and told him that was not in compliance. 2) There was a junk car in the driveway taking up a parking space. Again he addressed the issue of parking to the new owner; no harm no foul. All of the lower Ponderosa drive neighbor's park in front of their own house. No one parks in front of anyone else's house; great neighbors. Technical points; that house has one electric meter, one gas meter, and one water meter. It has one telephone line; goes right over my yard. Back yard parking; the previous owner used it for junk cars. The house is owned by an absentee owner; that is a fact we have to contend with. CME has been an exceptional neighbor; but they are a business, and they have a bottom line. Maybe that business might not do too well; they could sell that house at any point as a two family unit and we as neighbors are stuck with an absentee landlord from hell. They have had problems with the previous owner; with the extended family. That house was added onto in the back so the three triplets could be downstairs, the boy upstairs, Katie, mom could be up there and a little office. When the second unit went in as a small apartment; technically it was a violation. What would you have thought of me trying to kick grandpa out of there? Congress in its infinite wisdom chose to give houses away to make it easy to give away and now we are in a financial crisis. Without oversite things can go pretty bad pretty fast.
Harlan Porter, 60 Ponderosa Circle just east about a block. His main concern is someone purchasing the house down the road for a multi-family dwelling. He has a situation down the road and it is not fun to have people coming and going all hours of the night. There have been drug issues; anywhere from 6 to 10 vehicles every night which generates a parking problem and traffic on the street.

Gene Ellico lives to the south of the property. In 1972 we all moved in; what Ron says about the family is true and he discussed the people living in the house. Parking issues all the time; drug issues all the time and Ron can tell you it was confusion all the time. The County has turned a blind eye to single family homes and they are loaded, absolutely loaded with people. One problem he has is the road in the back; since 1972, whether it be a County road or whatever, he thought it was private because no one ever took care of it. Before CME bought the place they just punched a hole through. He built a retaining wall along the easement. What happens to him now if he wants a gate and the parking is there. There is no way they can use the back for parking. There has never been a County vehicle/person on that road in 36 years. Parking is a real problem and with 8 bedrooms, you are talking 2 to a bedroom, you're talking about 16 people. We all know what is happening in our community; they want single family dwellings. He stated he could do the same thing; remodel his basement and put in five parking spots. We are asking for a real problem; he is asking the Board to turn it back to a single family dwelling.
Commissioner Pro-Tem Houpt doesn't understand the problem with the private drive behind their homes and why it would be a place for people to clog.
Gene said they park along the easement right now; it was plugged up this weekend with cars. If he puts a gate up and wants out; what happens then? Gene feels we are using county resources for nothing. Gene stated if he could have a legal document, in writing, from these people (CME) they could go back and financially nail it.
Commissioner Pro-Tem Houpt asked if there were other multi-family homes on your block.
Gene said not on their street; maybe over by Harley's there is. But he is having the same problems.
Commissioner Pro-Tem Houpt said it is not a County road, and Kathy stated according to Jake Mall it is not a County road.
Marilyn Dorman, 237 Donegan; she has a copy of a quit claim deed which shows that Garfield County owns the cul-de-sac. She showed examples in photos of where she lives. She stated in order to get to her home you go through a cul-de-sac; there were 5 to 7 identifiable vehicles that are regularly parked in front of 243 Donegan, which is one of those duplexes. She stated she had pictures with her letter that showed how they were blocking the rear entrance to 23 Ponderosa. She said the road is not maintained; it is a gravel area and in bad shape. In the winter she is the only one in 15 years who has paid to have the area plowed out. It is a small area and very difficult to get the snow out of it. She used to plow snow across Donegan into the vacant lots; but now they have built those townhomes in there and there is no place to put the snow except behind Gene's house along their back fence. If it gets full of cars; there won't be any place to put the snow and we won't get anyone to even try and plow it. She agrees with Ron and Gene that CME has been a good neighbor and has cleaned it up; but for the future, if they don't own the property, what happens. You have a multifamily household and we know in West Glenwood single family homes do not have much definition. She knows of people who have lived next to homes where there were 18 people and 11 cars and there was nothing they could do about it. She is worried about it in the future; if we have two families, how many people will be living there.
Lorie Kagay stated she is the little bitty snow plow girl in the winter; we are running out of room for the snow. Ron is gone in the winter and she plowed in front of his house; bad winter. If they have more cars in the front of all those homes there would be no place to put the snow. There's also a bad issue with pets at the house; it is not fenced in and it got dangerous with bears.
Commissioner McCown asked if it was before or after CME bought the property.
Lorie stated it was before CME; CME has been great.
Sue Ellico, Gene's wife; she doubts they ever had the proper permit for zoning to put this house into a two family dwelling. She doesn't think they were ever issued the proper permits; if they were we were never notified. It would have been very difficult to protest; because of the circumstances when they started to remodel. Everyone felt sorry for the family; after it became a two family dwelling, one of the concerns she has is their home will diminish in value if they start a precedence of two family dwellings in the area. This whole street has been residential one family, and she thinks it should stay that way.
Gene Ellico stated CME has been fantastic and if they would happen to sell, there are a lot of bedrooms in there, and across the street from us the city approved the townhouses. Everyone has garages, driveways and that was supposed to take care of it. We have one gentleman who stretches out; he's parked in front of your house. No one will do anything about it; he moves it 6 inches, then he moves back 6 inches; but his suggestion and concern, if they sell, everyone stretches it out and that is our fear.
Sid stated a couple of thoughts; sounds like there are some legitimate issues in the neighborhood. He is stumped in that; he doesn't think the issues go away if you approve or deny this application. He thinks the issues are not that uncommon in a little higher density neighbors with parking, pets, or trash. CME has been a good neighbor and that is why we are here before you to recognize the circumstances with the house, and he thinks he is safe to let the Board know they are here to continue working with the neighbors on resolving and minimizing any issues they have. He thinks the County is in a better position with a permit in place to deal with some of these issues. With a permit in place you can attach conditions; you can direct the staff to enforce the conditions. They are willing to live with the conditions through the special use permit. We continue to request permission for the permit and emphasis they will maintain communication with the neighbors and deal with the issues.
Commissioner Pro-Tem Houpt said she is glad everyone is saying they are great neighbors because the number of people you have living in that home is a large number. When you said 2 people per bedroom, she didn't realize there were 8 bedrooms in this house. It seems more like a boarding house than a two family home.
Sid said we are just responding to your zoning code and come into compliance.
Kathy stated that is a condition that has been attached to previous applications. In an attempt to not allow for more than; you could potentially put four or five in a bedroom and some limitation was thought to be a benefit.
Roy Elwell, about 3 houses away; how would you monitor there are two people per bedroom, who's going to check it? Me, cops….

Commissioner McCown stated they could do a site visit as a condition of approval; we have access to that as a site inspection at any given time. If that is a single family residence; we don't have that access. There could be 18 cousins living in that single family house, and each one of them have a car, and we have no authority over that if it is single family. If it is multifamily with conditions; we can control it.
Roy asked how often would you monitor? Commissioner McCown stated if there is a problem.
Roy stated so someone would have to turn them in. Commissioner McCown – There you go!
Roy said that doesn't make a good neighbor. Commissioner McCown said apparently it is not fostering a good neighboring condition now. He has heard nothing but praise about the improvement that has been made by CME. Commissioner McCown thinks if everyone will be patient and give them some consideration I believe we can address this issue when we close the public hearing and make our motions.
Roy asked why they just didn't designate it as a boarding house. Commissioner McCown said it is different zoning completely. Then everyone of them could have a car. He stated, my point being is if that 8 bedroom home was occupied as a single family residence and there was remote blood kin, down to the aunts, cousins, uncles living in that house, there would be nothing we could do as a zoning issue and they could each have a car. Roy asked what about fire protection.
Commissioner McCown said it is an 8 bedroom home and will accommodate up to 16 people. Roy asked how they got out in a fire. Commissioner McCown stated through the doors, the windows…..
Roy said he would bet that the two units on the bottom floor do not have a rear door.
Commissioner McCown said he would not argue that point; they have to for occupancy, so it is not an issue. If it is a bedroom it has to have a method of egress. It cannot be in a confined area that cannot access the outside, or it is not properly build and would not be allowed as a housing unit; as a bedroom.
Commissioner Pro-Tem Houpt asked Kathy if each of the bedrooms have a window.
Kathy stated in her perimeter, walking around the home; there are window wells into the basement. It is a walk-out unit in the front; but there are window wells on the side.
Paul Golden stated in the basement units there is an actual front door; but if you go into the first bedroom it actually has an exit door off of the bedroom outside. The back bedroom has the window well.
Commissioner Pro-Tem Houpt asked Marilyn Dorman; you said you had a deed with you, do we need to make that an exhibit. Marilyn brought up the deed to the Board and gave to Debbie Quinn.
Paul Golden stated that one way you can actually control the people in the units is they have individual leases for every person. They have a record of every person that is an employee, and you can check to see who are these people. Paul stated they have a sub-lease with Steve Beckley and he agrees to a set number of people and it is stated in the lease. You can track in the summer and winter how many people are in there. Debbie Quinn said the quit claim deed presented was recorded in book 376, page 588 in June, 1966 and it is a deed from an individual James B. Minor to the general public for highway and transportation purposes. It is not a deed to the Board of County Commissioners of Garfield County, nor is there any indication that anyone has accepted this deed; the general public or the county.
Commissioner Pro-Tem Houpt entered this deed as Exhibit L.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. Kathy Easley explained why it was a two family dwelling unit instead of a boarding house.
In favor: Houpt – aye McCown – aye Martin - absent
Commissioner McCown – I make a motion to approve the proposed special use permit allowing a two family dwelling on a property located at 23 Ponderosa Road and owned by 23 Ponderosa Circle, LLC. The staff is showing 7 conditions with number 6 being the one regarding the gravel; since that has been done he does not see this as an encumbrance on the applicant, he will leave it in, but it has been done so there will be no extra burden on CME. Commissioner McCown added condition number 8 "upon the sale of this property the use of this property will revert back to single family dwelling".
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent

CONSIDER A SPECIAL USE PERMIT FOR ONE TEMPORARY EMPLOYEE HOUSING FACILITY LOCATED 20 MILES NORTHWEST OF DEBEQUE OFF OF COUNTY ROAD 211 – APPLICANT; CHEVRON USA, INC – KATHY EASTLEY

Tim Dobransky, Project Manager was present. Julie Justice posted the site and he spoke to her regarding it still being posted as of last night. Debbie Quinn reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Planner Kathy Eastley submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E – Application; Exhibit F – Letter from Joyce Dyer dated September 21, 2008.
Pro-Tem Chairman Houpt entered Exhibits A – F into the record. Planner Kathy Eastley explained that this application was submitted prior to September 1, when the new temporary housing regulations went into effect. The applicant opted to continue with the old resolution rather than with the new code.
The Building and Planning Department received a Special Use Permit (SUP) application for "Temporary Employee Housing" facility on property owned by Chevron USA, Inc located on an approximately 54,000 acre property approximately 20.5 miles North of the DeBeque, CO (See location maps).
More specifically, the Applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. According to the Applicant:
STAFF RECOMMENDATION
Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.

2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.

3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractor's and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for Temporary Employee Housing is twenty-four (24).
19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection

facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.

21. Each facility shall have a minimum total capacity of 6720 gallons of potable water storage which shall be refilled a minimum of every three days.
22. Each facility shall have a minimum total capacity of 6,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.

Tim Dobransky stated Chevron adopted to process these out.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special use permit for one temporary housing facility for Chevron USA Inc. with the 22 conditions presented by staff.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent

CONSIDER A SPECIAL USE PERMIT TO ALLOW AN ACCESSORY DWELLING UNIT – APPLICANT; TIMOTHY AND KAREN TRULOVE – CRAIG RICHARDSON

Timothy and Karen Trulove were present; Mr. Trulove answered all questions.
Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff memorandum and Exhibit F – Memo from Garfield County road and Bridge Department, dated September 19th, 2008.Protem Chairman Houpt entered Exhibits A –F into the record.
Planner Craig Richardson explained: The applicant requests that the Board of County Commissioners grant a Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU) located on a 35.01 acre parcel described as 3146 County Road 115. The proposed ADU two level 1,008 square foot apartment constructed as part of metal storage building.
RECOMMENDATION
Staff finds that the proposed structure will comply with §5.03 and §5.03.21 of the Garfield County Zoning Resolution of 1978 and recommend that the Board approve this request to allow an ADU on a property owned by Karen and Timothy Trulove located at 3146 County Road 115, with the following conditions**:**

1. All representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The Applicant shall meet all requirements of the Garfield County Zoning Resolution of 1978, as amended, and shall meet all building code requirements.
4. The accessory dwelling unit shall not be conveyed as a separate interest but may be leased.

Karen said she would like to have it approved.
Commissioner Pro-Tem Houpt asked if they were fine with the conditions and the applicants stated yes.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion to approve the ADU permit on the Karen and Timothy Trulove property located at 3146 County Road 115 with the four conditions alluded to by staff.
Commissioner Pro-Tem Houpt – Second. In favor: Houpt – aye McCown – aye Martin – absent

CONSIDER A TEXT AMENDMENT TO THE ZONING RESOLUTION OF 1978, AS AMENDED TO ADD REGULATIONS SPECIFIC TO GRAVEL EXTRACTION – APPLICANT; GARFIELD COUNTY BOARD OF COUNTY COMMISSIONERS – FRED JARMAN

Fred Jarman was present. Debbie Quinn stated this notice was publication only; she reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Fred submitted the following exhibits: Exhibit A – Proof of Publication; Exhibit B – Comprehensive Plan of 2000, as amended; Exhibit C – The Zoning Resolution of 1978, as amended and Exhibit D – Copy of the minutes from the September 10, 2008 Planning Commission, recommendation to the BOCC. Pro Tem Chairman Houpt entered Exhibits A - D into the record.
Commissioner Pro-Tem Houpt swore in the speaker. Planner Fred Jarman explained:
The documents in front of you, you as a Board initiated this text amendment to the current resolution of 1978. This is not the new regulation. The Board instructed the staff to sheppard this down to the planning commission; you did that and the documents they took to the planning commission included comments from Commissioner McCown and also your statement on what was recommended to them. They had two hearing on this; one was to the cover the Comprehensive Plan component and second to cover the actual regulations. On page 4 heavy bold, this is what the planning commission has approved and adopted formally; by resolution. Pages 4-6 all include the goals, the policies and objectives regarding gravel extraction. What is in front of you today are the regulations themselves. All the planning commission did was to separate out some of the more goal oriented or more policy type language out of the regulations and into the Comprehensive Plan and reserve the regulations for very specific regulations. Example; look at the goal on page 4 this is the umbrella goal they used in their deliberations. Fred feels it is very important to look at that. The planning commission forwarded to you a set of regulations they believe allows to the extent possible extraction while at the same time trying to protect all the values the County finds important. You have a red lined strike out version done so you can see what was pulled out or added to.
Commissioner Pro-Tem Houpt - As we come to questions we will just stop and talk about those. My first question is on page 9. She felt it would be helpful for Fred to give an overview as they are on television and many people have been interested. Fred went on to explain Section A; he went onto the floodplains,

which are identical to existing regulations which are ruled by FEMA. Fred asked them to look at the minutes on page 3; a question the planning commission raised, they were fearful that requiring a watershed permit and it is connected to the special use permit would broadened the cities jurisdiction. The regulations that the watershed permit allows the city is to examine what may impact their watershed, which obviously is in the County in a lot of situations. The planning commission didn't want a city to hold veto power over the County's desire, perhaps to approve a gravel extraction operation. Fred went on to explain what all that meant. Commissioner Pro-Tem Houpt said she is not quite sure, it appears there is a greater comfort level at hiding it than having it be stated specifically; that is going to be one of the permits that have to be in place before that can move forward. It's not unusual to require a watershed permit; we do that. Commissioner McCown stated it has been a part of the process that has ground things to a halt; because there is no set time line by statute that the cities have to respond to a watershed permit. He stands corrected if he is wrong; but he does not think he is. Debbie stated she didn't know the answer to city timelines. She stated as Fred explained they did not want to give cities the veto power over a County land use approval. Her explanation is if they have water related issues; they could deny a permit, but if they went beyond that authority, they could be subject to a lawsuit for abusing that discretion. It is something that is in the Comprehensive Plan that you protect watersheds, that didn't sway them either. It is still a requirement in other language, just not specified as a watershed permit. Commissioner McCown said the way our regulations are currently written; they have to have that before we can proceed, if striking number 10 they can be working with the town on their watershed permit and working with the County on their extraction permit. At the end of the day they have to have all of the required local permits if that is one of them; they have to have it. The fact that they don't have it in place is not grounds for the County's denial it can be a condition of approval. Fred referred Commissioner McCown to page 20; this still allows you to run concurrently. Commissioner Pro-Tem Houpt stated, it says the County shall not issue until they have obtained all of the permits. So why did they cross out the municipal watershed permit on page 20? Commissioner McCown said because if they don't have that; we can't grant our approval on a permit at a hearing. Commissioner Pro-Tem Houpt asked if they are saying they don't care about watershed permits. Fred stated this has been your practice on a couple you have looked at already. You will actually issue your permit itself, which is the ticket the developer actually needs to go move dirt. They can't get that ticket from the County until they get their watershed permit. You still have the authority as a Board. Commissioner Pro-Tem Houpt stated she is baffled over the language. In 13, we name CDPHE, USACE and on and on, but we cross out municipal watershed permit. Is there a concern; why wouldn't we keep that in this sentence? She is okay taking 10 out; but not 10 and language in 13; she feels it is important to be specific about one of the keys things we are looking for – the watershed permit.

Fred stated the staff does not disagree with you; if you read number 13, take out the red and he read it to her. A watershed permit is a local permit; taking out the red you still require a watershed permit. Fred went onto section B which relates specifically to air quality; he talked about measuring dust, 100% you can't see through it, 20% is on the other end of the scale.

Commissioner Pro-Tem Houpt asked how they came up with 20% and Fred stated that is the State regulation. Fred continued to talk about the language being the same as you have today in the code. This is specific to the time frame in which you can operate; 7:00 a.m. through 8:00 p.m., Monday through Saturday. Commissioner Pro-Tem Houpt stated this has been debated and it depends on where the location is. She feels it is not appropriate to have this time frame that is adjacent to a residential area. She has a real problem with the hours unless there is an indication; she doesn't agree with Saturday in an area adjacent to a residential area. Commissioner McCown stated; it is a business, it's like a train running, we don't shut them down on Saturdays. It's critical these businesses are open; most of them come in and they move a crusher from one location of their operation to another. It may be in Eagle for 3 months crushing an adequate amount of aggregate there to carry them through a 4 month period; then they move to Rifle, crush for 3 months. They need to run a minimum of 12 hours a day and sometimes longer than that in the summer to get the amount of material they needed to last that entity. What would the neighbors prefer; something every day for a year or something with longer hours for 3 months; get in and get out. We are extending the process by shortening the hours. Fred asked them to look at page 17, number 11; this was the condition they crafted after actions you have all taken. Under special circumstances such as night time activity and night time paving. Commissioner McCown stated, when the City of Glenwood Springs did Grand Avenue they were getting concrete from a batch plant out of a gravel pit by Aspen Glen and under our new regulations they would have had to do that during the daytime. Imagine what that would have done to the project and the traffic through the area. Commissioner Pro-Tem Houpt said she just doesn't think the regulations should have time frames attached them; it will be different depending on where the application is located. Commissioner McCown said these same regulations preclude any activity outside of the times listed. Fred stated that number 11 gives some wiggle room. Debbie said that number 11 also limits the heavy activity to a time frame of 7:00 a.m. to 6:00 p.m. The last two hours are for administrative and maintenance type activities; with special circumstances you can change that.

Commissioner Pro-Tem Houpt said if she recalls in one of the applications they had heavy work being done from 8:00 a.m. to 5:00 and on Saturday 9:00 to 12:00. She feels it really depends on the location. She doesn't know what "absent special circumstances" means either.

Commissioner McCown said that would be the need for a paving project to occur on I-70 from midnight until 5:00 a.m. Fred stated they could say unless otherwise determined by the Board of County Commissioners. Commissioner Pro-Tem Houpt stated she would like to do that.

Commissioner McCown asked if an applicant coming in with a gravel pit application knows what type of hours to plan on when he is plugging in the cost of his operation. Fred said they need to look at the core set and base….. Commissioner McCown, but can they assume that is adequate. If it is cut down by 2 hours a day production time, if it goes from 8-5:00 p.m. instead of 7-6:00 p.m.; that is cutting 2 hours of production time. Fred feels if you go with a set of core hours you have to stick with them; he is trying to give them guidance. Commissioner Pro-Tem Houpt doesn't agree with the hours.Commissioner McCown believes they have to have them in order to function. Fred said he sees them as a minimum standard; 7-6:00 for heavy crushing and the last 2 hours for administration. This has been your course of action on the last three

gravel pits. For us to guess beyond that won't get us very far and this still allows you to tailor on a case by case basis. It does provide someone with what to expect. Commissioner Pro-Tem Houpt thought that those applications talked about heavy equipment used. You could have office hours between 6-8:00 p.m. Commissioner McCown reminded her they could do maintenance, change oil, etc. None of the machines are making any noise, they are not running. Fred said for the record we will say this is in line with how this Board has approved the last three. Fred went on to discuss noise vibration, a key thing was to give better direction to operators as to how we determine noise and he feels they have done that.
Commissioner McCown said everyone understands there are exceptions to this 55 dBa and 50 dBa when they are in fact stripping the pit. Fred said it is not specific to say that. You have done that in the past; example, if you're trying to build your sound or noise mitigation, you have to make noise to be able to do that; build your berms and so forth until you get underground. The State statutes are permissive in that it lets you exceed those levels by 15 minute increments; you may want to include language in there that allows you to do that. All of us know that but it doesn't specifically say that. Commissioner McCown thought there was verbiage in the State regulation that allowed for industrial standards while the stripping and above ground activities are taking place. Commissioner Pro-Tem Houpt thought that was connected to Fred's reference on the 15 minute intervals. Fred said this was raised as a specific issue with the Silt operation. You all agreed to create berming for noise; you have to make noise to do it, that's okay. Commissioner McCown felt they needed that flexibility in there. Commissioner Pro-Tem Houpt asked if they could look at the State language and see if there is something missing in there. Debbie said because the introductory paragraph in C talks about complying with all applicable State, Federal and County regulations so it is already in there it is included by that reference. It maintains the flexibility by saying it shall comply with the standards set forth in the Colorado Statutes, as they may be amended. Fred feels they will see the value in letting that happen; we will check it. Commissioner Pro-Tem Houpt asked under visual impacts; the red lining was more descriptive right? Fred stated it is. Commissioner Pro-Tem Houpt asked why Number 2 was redlined. Fred stated, operationally it presents a significant challenge, particularly with reclamation if you are trying to reclaim the pit you have been operating. You have to pull that out and start using it on the surface while you are trying to reclaim the one you were just in; you wouldn't be able to do that if this language was still there. Commissioner McCown stated, normally a concrete batch plant and asphalt are a quasi permanent facility. You have to be willing to give up the reclamation plan if you are going to put one of those facilities in the bottom of your pit. That particular area will be the last part that is reclaimed. Commissioner Pro-Tem Houpt asked about 5 and 6; that would be the mitigation you want if it is not in the bottom of the pit. Commissioner McCown stated, number one there is no way you can screen a batch plant. They are probably 40 foot high; cement towers where the trucks run under and get the batch dumped in. You can't screen it. Fred stated if this were in place a good part of the Colorado River would be untouchable. Commissioner McCown said everyone views these differently but they are what they are. They provide a critical component to our lifestyle; everyone has aggregate in their daily lives. In their homes, driveways, their foundations, the roads we drive on; we have to accept some things for what they are. Commissioner Pro-Tem Houpt said, if you had a home and you had been there for 30 years and you are there because of the scenic value of that home; you may argue differently.
Commissioner McCown said his home is right across the street from an old gravel pit that has not been reclaimed. It is what it is; it's a building lot. There are some things we cannot screen no matter how hard we try. Debbie said they also included number 8 which also does require a plan for berming, screening, and buffering, they just didn't want to have an absolute. Commissioner Pro-Tem Houpt said then why number 6. How difficult is it to make sure that equipment is not adjacent to surrounding residences? Debbie said it may not be possible in some situations. Commissioner Pro-Tem Houpt asked, we will just be using a lot of conditions on certain projects. Commissioner McCown said they could condition non-approval.
Fred feels it is a case by case scenario; in your example Tresi, it has a lot of merit. A person has been there for 30 years; the open space they perceived as the environmental beauty around their home, they don't own. Commissioner McCown stated that realistically we are blessed or cursed, however you want to look at it with 99% of our gravel operations being in the river valley floor. As he has argued a lot of times, berming is uglier than the piece of machinery that is there for the temporary process. Commissioner Pro-Tem Houpt asked about number 10, what made 18 months the time for completing reclamation. Fred stated that was specifically due to the growing season. Generally, you as a Board and we as a planning staff have told someone we would give them 2 years to make sure their vegetation takes, that's 2 growing seasons. Commissioner McCown asked what about the scenario where you have your production facility in the first pit you opened up and that is the most logical place to leave it during the entire operation of the pit. That goes well beyond the 18 months; they would have to move it even if it was moving it closer to a neighbor's house just to appease the reclamation regulations. He does not agree with that.
Fred said by this; that is correct. Commissioner McCown thinks there has to be some conditions here that would allow for the preferred placement of a production; a crusher for instance and your stock piles are going to be in the bottom of this pit. If this is the most accessible to the scale, the easiest in and out; then you bring all of your other aggregate to this pit for processing. That may not be the first area that is reclaimed. Commissioner McCown doesn't think that is in our best interest. They all decided to put in "unless otherwise determined by the Board of County Commissioners".
Fred went on to letter E, impacts to the county road system. As you look through the standards you are obviously looking for a traffic impact study. Commissioner Pro-Tem Houpt asked how paragraph 4 and 6 work together; roads used to access will be upgraded and to prevent damage and mitigate dust and then you talk about if there is damage there will be replacement. How does that work together; what is required? Fred stated these are direct result recommendations from the traffic impact study and approval basically from the road and bridge department. Fred went on to talk about wildlife; in any application they have to tell us what is there and what is not there. The wildlife impact analysis allows you to determine if habitat is being impacted and can that be mitigated. Commissioner Pro-Tem Houpt asked about the paragraph that was being deleted; "final reclamation shall be designed to create an ascetically pleasing site or reclaimed area that will blend" ….. Fred stated that is pulled right into the Comprehensive Plan. That will be part of your reclamation plan. Commissioner McCown asked how the land owner, if this is a lessee, not the owner

of the property that is coming forward for an extraction permit, how does his interest play into this reclamation plan if he wants it reclaimed a different way than both the County and the operator may want to do it. Fred stated you are giving this permit to the person.
Commissioner McCown stated you are making him do something that is against his wishes if he wants to extract the gravel on his property. Fred stated that is correct; there may be conditions he doesn't agree with. Commissioner McCown said that's a good way to shut it down on a lease deal. Fred stated it is no different if you're leasing or if you're not leasing. Commission McCown stated; oh yes it is, if you are the owner and you get all of the money off of the gravel; if you are a landowner and you only get $1.00 per yard. But you want this area turned into a lake that you want to be able to develop into a housing project, and we require all these islands and loops that is a mosquito nest; no buildable envelopes around it, but it meets our reclamation plan you are de-valuing my property.
Commissioner Pro-Tem Houpt said they can participate in the reclamation plan; they are the applicants. Commissioner McCown said they have to also assume that every gravel pit, when it is reclaimed is not a wildlife sanctuary. But we are; we are reclaiming every gravel pit back for wildlife mitigation, and it's not. Commissioner McCown feels we have the mind set that the only thing we reclaim gravel pits for is wildlife. Fred went on to talk about compatibility with surrounding land uses. This is very difficult; it tends to be fairly large impacts to the land. Is it difficult to hide; absolutely. 1 through 8 were left in and these are what your current land use code requires. Commissioner McCown said this is the one he doesn't think a single operator in either valley that can meet or the compatible for the neighborhood. He thinks they are really making this tough to approve. Commissioner Pro-Tem Houpt said she looks at it as an opportunity to become more creative on how you deal with those areas where the view sheds are important. Maybe it is smaller phasing pockets. Commissioner McCown stated from New Castle to Rifle it is almost impossible to create a gravel pit that is not in the urban growth boundaries of a town.
Commissioner Pro-Tem Houpt asked on number 2; how did they come up with 300 feet, why not 500 feet etc. Fred said this was in the existing regulations; we left the number alone. Fred asked what they wanted to do on number 8 and Commissioner Pro-Tem Houpt stated she liked it but she knows Commissioner McCown doesn't like it. She stated she thought it was important because the reason they are doing this is because of where the location of gravel pits will be sited. It is important they find a way to grow some compatible. That was the whole purpose of all the long discussions and there are ways you can do it. Fred stated he could see the argument that because it is right next to town you had to pay special focus on this. His suggestion is to strike this; leaves the flexibility to address these things on a case by case basis. They found where it is in there more generalized areas and they will strike 8. On to reclamation and enforcement; some of the topics on slopes, the Division of Reclamation Mining and Safety have their minimums at a 1 to 3 slope. Fred stated they are trying to provide guidance to people so they can understand if they have wetlands, they know how to treat them with lesser slopes. Commissioner McCown said if you will look (he made a graphic to show). We are concerned about where we are permitting gravel pits and yet we're by our own reclamation design forcing them to leave a significant part of the product in the ground. Why wouldn't it make sense, while they are open, extract as much of the marketable product, get it out and then create the 3 to 1 slopes. Fred stated he thought they could do both; there was quite a bit of discussion on this. Commissioner McCown stated he would rather see, if we permitted a pit in an area that has aggregate; you mine it out, reclaim it to the 3 to 1 and you have houses around it, it's a great site and you move on. Fred went on to page 19; this is saying perhaps the County can ask for security to cover certain things they believe are not under the umbrella of what the DMRS would cover. Debbie stated it specifically says we will not double bond. Commissioner McCown asked if re-vegetation and reclamation are two different things. Debbie said it could be; to the extent it is covered by the state bond, we will not bond it and that was the intent of these two sections. Fred stated right now you are into the typical conditions of approval you have as a Board.Commissioner Pro-Tem Houpt asked about paragraph 4.
Fred said the planning commission felt this was better handled the Division of Water Resources rather than Garfield County. Commissioner Pro-Tem Houpt asked Fred if he wanted a motion today and he stated they would love to have a motion. Commissioner McCown stated he is still uncomfortable on some of the issues he brought up and he thinks some of them are probably unattainable and still proceed and get the result we want. That result is a good gravel operation that will allow the company extracting the gravel to produce it at an affordable price so that all the users in the County will have a source. He is struggling with some of these being attainable. Commissioner Pro-Tem Houpt stated she is struggling with some different ones; except she looks at this as a huge compromise from where they started out. She said the staff has done a tremendous job of pulling everyone's concerns in there. Commissioner McCown said the only ones that really trouble him and he thinks will cause the biggest problems are the reclamation. If those are in our standards that have to be met before a mine can be or a pit can be permitted then he thinks they are precluding an activity and that concerns him. He feels they will see that happening; road base right now is around $26.00 per ton, two years ago it was around $11 or $12.00. The less you take out of a pit the more the demand; the harder it is to permit one and it is a snowballing effect. He is not sure they are doing their constituents any favors; again he has very strong feelings about replacing natural habitat that you might disturb, but all of this reclamation for wildlife may not be in the best interest of our constituents if we leave all this material in the ground. Commissioner Pro-Tem Houpt said at the same time it is so important to balance the values we have in this County. She thinks this is what the document is getting to; it clearly promotes gravel extraction. Now there are some expectations, some regulations for reclamation. As Fred said there will be some end uses that will make a whole lot of sense and will have to be negotiated beyond where these regulations go. There is language in here that allows the County Commission to do that through conditions of approval. Commission McCown said these can be amended.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - absent
Commissioner McCown - I make a motion we approve the goals, objectives, policies and regulations regarding gravel extraction operations. Commissioner Pro-Tem Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – absent

Debbie Quinn wanted a clarification; Fred wanted the Board to approve these for both the existing land use code and the new one?
Fred said what we did today was just for the existing language code; he will be bringing this as amendment.
Commissioner McCown stated after the first of the year this will be part of the big amendment.
Commissioner Pro-Tem Houpt stated they will need to continue this meeting to October 21, 2008 at 9:00 a.m.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

OCTOBER 27, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The continued meeting of the Board of County Commissioners began at 9:00 A.M. on Monday, October 27, 2008 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioner Houpt was absent.

CALL TO ORDER

Chairman Martin called the meeting to order at 9:00 A.M.
Commissioner Houpt is assigned to the Colorado Oil and Gas Conservation Commission in Denver and will not be present today at this meeting.

NOTICE OF AWARD AND APPROVAL OF LETTER OF CREDIT FOR THE RECONSTRUCTION OF COUNTY ROAD 204 – MATT ANDERSON

Michael DeBerry, Don DeFord, Matt Anderson and Jeff Nelson were present.
Matt has provided the board with bid schedules and detail. It has also been anticipated that award of Bid Schedule 1 will be made for the entire 10 miles of road.
Recommendations:
Approve the Letter of Credit submitted by Chevron in accordance with the Joint Participation Agreement.
Approve issuance of Notice of Award
Approve authorization for signature of contract to American Civil Constructors for an amount Not-to-Exceed $21,428,999.00 for the contract to reconstruct County Road 204 contingent upon all other required approvals and contractor signature.
This is a continued meeting from October 20, 2008 under the provisions of the JPA, Joint Participation Agreement. We are the point in that agreement where Chevron USA, Inc. is required to present to the Board with an acceptable Letter of Credit in the amount of $25,000,000 for security on the project. Michael DeBerry is present and came forward.
Don stated that this is the next step under the JPA; last week I was provided with an electronic copy of the original Letter of Credit and received the original Letter of Credit on Friday and it is in my office. Don stated he has reviewed the Letter of Credit and it is the form to which Stacy Sounders and I agreed several months ago. It is now written by JP Morgan Chase and there is one slight difference I would like to note for the record. Compared to a host of Letters of Credit, it is one to which Don agrees that meets with the attorney. Ultimately it is for the Board to agree or not. This Letter of Credit is issued by an out-of-state bank. Normally, we require a confirming bank in Colorado, however in this case I have agreed that we would have an advising bank which does not give us the same rights visa vie the bank. That bank as a confirming bank would however. Morgan Chase has agreed that venue for all causes of action would lie in Colorado and would be governed by Colorado law and that was the primary reason in the past it was a confirming bank in Colorado. This Letter of Credit is now in a form to which I've agreed and we do have the original in hand. There are steps that follow if the Board accepts this security. If you wish to accept it, I would ask that you take that action by motion and authorize the Chair to sign a written response to Chevron indicating that you have accepted this as security so as we have that as a record for the contract.
Michael DeBerry had no comments saying he believes that everything has been addressed and that the requirements of the JPA have been fulfilled and we are in possession where we may move forward.
Commissioner McCown made a motion that we approve the Letter of Credit submitted by Chevron in accordance with the JPA and that the Chair be authorized to sign and a letter be issued and tendered back to Chevron with the previous statements alluded to by the County Attorney. Chairman Martin stepped down as Chair to second the motion. In favor: Martin – aye McCown – aye Houpt – absent
Don stated that with that acceptance he will prepare a letter of response for the Board and the original Letter of Credit will be held by the Garfield County Treasurer as all other Letters of Credit.

CONSTRUCTION CONTRACT FOR CR 204 – AMERICAN CIVIL CONSTRUCTORS AND NOTICE OF AWARD

Michael DeBerry, Jeff Nelson, Matt Anderson and Don DeFord were present.
Under the JPA the next step to take is to consider award of the actual construction contract in this matter. Jeff and Matt were included in the discussion.
There are three things that have to work in concert for the construction contract; you have to consider award of that contract which would be in the form of Notice of Award and you also have to approve funding for that contract. Under state statutes enacted a few years ago you have a choice of either phasing the project year by year or fully funding that project at the outset. For some time Don has discussed this matter with both the engineering staff and the County, as well as the financial department and it's been my recommendation that if you proceed with this contract you fully fund it at the outset and that requires a budget amendment and supplement that's included in the 8th Supplemental Budget which the Board continued for public hearing last week. Those are the technicalities and Jeff addressed the substance of the

proposal. Jeff Nelson stated that both Matt Anderson and I have looked over the proposal and we recommend award of ACC for the contract to reconstruct County Road 204 within one (1) year starting in 2008 and finishing at the end of 2009. Matt Anderson stated that we are recommend award to American Civil Constructors for not to exceed $21,428,999.00 for the entire ten (10) miles. Don said if the Board goes forward with this, we are dealing with the Notice of Award today not the actual contract. Our practice and we would propose following here has been to go forward with the Notice of Award and authorize the Chair to sign the actual construction contract within ten (10) days when that document is ready, when we have received appropriate bonds from the construction company and when they have presented adequate insurance. Commissioner McCown made a motion that we approve the issuance of the contract to American Civil Constructors in an amount not to exceed $21,428,999.00 for the contract to reconstruct County Road 204 and that the Chair be authorized to sign that contact and approve the issuance of the Notice of Award. Chairman Martin stepped down as Chair to second the motion.
In favor: Martin – aye McCown – aye Houpt - absent

APPROVAL FOR CONTRACT AWARD FOR QUALITY ASSURANCE SERVICES IN SUPPORT OF COUNTY ROAD 204 TO PBS&J – MATT ANDERSON

Don stated that before moving forward with the budget amendments since it is included in that Resolution is a proposed contract for Quality Assurance for the Project.
Jeff and Matt explained:
Jeff stated the QA and QC is for a PBS&J to oversee the construction and assure that all the specifications are being met and the construction is in accordance with the engineer plans and documents and also monitor the bid items in line item schedule fee method to assure that we're not overriding any of those items as requested by all parties that at any time during the contract. If there is an override then we will notify those immediately and try to resolve that issue.
The evaluation was based on proposed costs, past performance, and an understanding of the project. All bids were evaluated and PBS&J was found to have the best understanding of the project with a high confidence rating in past performance and excellent pricing.
Recommendation:
Approve award to PBS&J for an amount not to exceed $536,205.75 contingent upon all required approvals and contractor signature.
Commissioner McCown made a motion that we award the contract for QA and QC to PBS&J for an amount not to exceed $536,205.75.Chairman Martin stepped down as Chair to second the motion and he stated that it also allows the signature, etc. Commissioner McCown said yes, and that would include the authorization for the Chair to sign. In favor: Martin – aye McCown – aye Houpt – absent

8TH BUDGET SUPPLEMENT

Cathleen Van Roekel and Don DeFord were present.
Don determined that the public notice was adequate and advised the Board they could proceed.
Chairman Martin swore in the speakers.
Don stated he would like to move to the 8th Supplemental Budget Amendment and Supplemental Appropriation. The purpose has been described as it relates to the specific project however, there are other items included in the 8th Supplemental Budget.
Jeff Nelson presented. If there is an override, notify and try to resolve those issues.
Cathleen had submitted the Public Notice at the October 20, 2008 meeting and it has already been entered in that meeting as an Exhibit.Chairman Martin swore in the speakers.
Cathleen explained Exhibit A and it consists of two parts, budget supplement that has increases and decreases to the existing budget and also the contingency transfer requested based on Par Forms for new hires, promotions, transfers, etc. for September 2008. We're requesting of the Board that you allow the Finance Department to make those changes submitted today.
Commisisoner McCown asked if this will make the necessary adjustments to basically codify the action we just took with the awards. Cathleen – Yes.
A motion was made by Commissioner McCown to close the public hearing. Chairman Martin stepped down as Chair to second the motion. In favor: Martin – aye McCown – aye Houpt – absent
Commissioner McCown made a motion that we approve the Resolution concerned with the eighth amendment to the 2008 budget and the eighth amended appropriation of funds and the Chair be authorized to sign. Chairman Martin stepped down as Chair to second the motion.
In favor: Martin – aye McCown – aye Houpt – absent

COUNTY ROAD 204 – CONSTRUCTION STAGING AREA – SURFACE LEASE

Don stated the copies of these documents have been submitted in the Board packet and has referred to this as one (1) lease however actually there are three (3) separate documents. The Chevron attorney and Don agreed that for convenience down the road it would be better to separate each of the subject areas into a separate lease. The form of the document is actually identically except for the legal description and plat. We've decided to do this as a Surface Lease, it is temporary in nature only for the life of the project and will be used only if the contractor so desires through the subsequent construction contract that you've authorized today; we will pass through all obligations of the County in the Surface Lease to the contractor as we will do also with the drainage easement.
Commissioner McCown made a motion that we approve the construction staging area Surface Lease Agreement and the Chair be authorized to sign all three documents that are included in this contract. Chairman Martin stepped down as Chair to second the motion.
In favor: Martin – aye McCown – aye Houpt - absent

UPDATE ON TIMING – CR 204 PROJECT - JEFF NELSON

Jeff Nelson, County Engineer and Wes Gsgoff from PBS&J presented.
Jeff provided a brief update on timing saying that he could provide a general schedule but the detailed schedule would be explained by Wes. Jeff stated that we would like to start as soon as possible with some storm drainage and utility relocation on this project in 2008 and then commence thereafter to the reconstruction of the roadway up to around November 25, 2009 complete construction.
Don stated as far as his office we would be ready with a contract by Tuesday, October 28,

2008.

COUNTY ROAD 306 – DISCUSSION AND DIRECTION

Don DeFord, Marvin Stephens, Jeff Nelson were present. Don stated that the discussion on County Road 306 involved Marvin and Jeff. The Board can tell us whether or not you want this treated as deliberative information for executive session or for public session. There are some developments on which we need to update the Board and perhaps receive some additional direction.

Chairman Martin said we gave instructions and requested a report back on any of the findings and/or recommendation. Do we need an Executive Session on this?

Commissioner McCown asked if it involves right of way acquisition and possibly condemnation or what are we talking about.

Don said it does involve a discussion of the status of the contract with Noble Energy and with Gardner Construction, also direction from the Board on where to proceed at this point and how to proceed on this road as well as for work that needs to be done on an adjoining private property.

Commissioner McCown – Under the circumstances an executive session is appropriate to discuss and then any action that we come up with be taken in a public forum and further discussion will rule but I move that we go into executive session and discuss County Road 306.Chairman Martin said in the manner in which Don described those items.

Don stated he will expect public action once we resume.

Ed stated there is another executive session item to discuss and he identified it as negotiations with the Town of Silt regarding the previous Road and Bridge Facility.

Don said the third item is to provide the Board with legal advice from the County Attorney's office regarding the status of the Vandehay case which is ACLU litigation in relationship with the Sheriff's office.

Commissioner McCown made a motion to go into Executive Session to discuss the aforementioned items.

Chairman Martin stepped down as Chair to second the motion.

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

Commissioner McCown made a motion to come out of Executive Session.

Chairman Martin stepped down as Chair to second the motion.

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

Chairman Martin stated that no action was taken in Executive Session.

Action taken:

COUNTY ROAD 306

Don summarized saying that during the course of last week Jeff Nelson and Marvin Stephens had discussions with various citizens on the status of the work on CR 306. Don had discussions with the attorney for Noble Energy and the attorney for the Dutton's and also had an opportunity to look at the requests that were made by Linda Dutton on behalf of the Dutton's for some of the damage that occurred to their property. With that in mind I made a recommendation to the Board and to staff that we actually develop a scope of work and get a description for the area of work so that all of the parties would have a better understanding of what was going to be done and where it was going to be done. Obviously my request would entail more time than the Board had envisioned in the direction that you gave to staff and so we brought it back to the Board to give further direction and how you want to approach this road and if you don't want to make any changes, fine, if you do we will need that information.

Commissioner McCown – Given the existing condition of that road it's presenting a very unsafe driving condition and so I would make a motion that we authorize our own Road and Bridge Department to go in and create a safe driving surface, not reconstruct the road back to its initial condition but just to create a safe driving surface, apply gravel to it, fill any ditches that are causing hazardous driving conditions and then allow Jeff the time to move forward with these agreements, the necessary access permits and have everything in place for the spring of 2009 when that project would then be reconstructed back to its initial if not better condition. Chairman Martin stepped down as Chair to second the motion as long as we made sure that the Dutton's were also included in the information as well as the other adjoining property owners letting them know that's what the direction is going to be so they are not taken by surprise some day to see a piece of equipment there and say what happened here. Marvin asked if this was to come from Road and Bridge or the legal staff. Don said he will talk with their attorney and he asked to be given today to get a hold of their attorney and maybe after that he'll contact Marvin. Marvin stated he will get with his crew and by Wednesday we can possibly start working on it.In favor: Martin – aye McCown – aye Houpt - absent

REQUEST FROM THE CITY OF GLENWOOD SPRINGS FOR PARTNERSHIP DONATION – SOUTH BRIDGE AND 27TH STREET IMPROVEMENTS

This agenda item was postponed until November 3, 2008.

Commissioner McCown made a motion to continue the issues with the City of Glenwood that were placed on today's agenda until we have a full board which will be Monday, November 3, 2008 and to place this under Mr. Green's time on the Agenda.Chairman Martin stepped down as Chair to second the motion.

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

BLACK HILLS - FUNDS FOR OIL AND GAS ACTIVITY UNDER COUNTY ROADS

Judy Jordan informed the Board that she was still receiving checks.

The Board instructed Don DeFord, County Attorney to forward a letter to the Black Hills Energy Company informing them we no longer accept funds for oil and gas activity under County Roads.

IMPROVEMENTS AT 27TH STREET & SOUTH GRAND AVENUE

This was postponed until Monday, November 3, 2008.

ADJOURNMENT

Attest: Chairman of the Board

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

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, November 3, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deborah Quinn and Marian Clayton, Deputy Clerk & Recorder.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – ED GREEN

RENEWAL OF BOARD MEMBER TERM FOR GRAND VALLEY CEMETERY BOARD FOR DUSTY RICHARDS

The County Commissioners received a letter from Dusty Richards letting them know his current term will expire. He would like to be on the board again for another term; this letter is a formal request for his reinstatement.

Commissioner McCown – I make motion we appoint Dusty to the Grand Valley Cemetery Board.
Commissioner Houpt – Second.
Chairman Martin stated he would like to send letter of thanks to Dusty for volunteering.
In favor: Houpt – aye McCown – aye Martin – aye

APPROVAL OF PARTICIPATION AGREEMENT WITH THE ECONOMIC REPORT

Greg Gumbel prepared the power point presentation which Ed made copy of and put in the Commissioners packet. The goal is to encourage businesses to relocate to Garfield County. This was aired on FOX Business News and at least 19 airings in chosen markets on other shows including CNN Headline News. It is normally aired at least 45 times including outlets such as the Discovery Channel, Travel Channel, and MSNBC. The cost is $19,700.00 for the scheduling fee. The cost to produce is much more than the scheduling fee. The Economic Report is responsible for all costs over and above the scheduling fee. They will be involved in every step of production. The projected airing of the segment is in March and the benefits are national exposure. It allows them to highlight the airport and surrounding areas with the focal point for economic development and the tourism industry in the County. They feel it will allow them to target the industries and markets they would like to see in Garfield County. They feel Garfield County can use the production material next year at the airport conference and at any other economic development forum They are requesting approval to proceed with the participation agreement, subject to legal review and concurrence. Ed stated they would like to customize a 5 to 7 minute feature segment to educate the new business community throughout the nation about the possibility of moving their operations to Garfield County. Ed stated Tresi had a concern of how involved we would be with the project and he assured her they would be very involved in every step of the production. We have to approve every part of the production. Ed went over the benefits saying they are very anxious to show the benefits of living in this community. Ed is asking approval to proceed. Chairman Martin feels it is a great opportunity. Commissioner Houpt said she is wondering about the timing; they are in the middle of conducting a survey on people's thoughts on growing this County. Will we have the opportunity to make sure that we are moving in a direction with the aid of those results? Fred Jarman said they expect to have their initial response back by the middle of December. The consultant will bring back polished results from the raw data. There will be a formal presentation to this Board in a joint meeting the second or third week of January. Commissioner Houpt asked if they are tied to the time schedule and Ed stated they wanted to do quickly as possible. She wants Ed to tell the production company that they have the survey going on. Commissioner McCown said it is definitely a good investment; the $19,700.00 from a marketing standpoint is virtually nothing. He has several concerns and one of those relates directly to the presentation made last month by the Salvation Army where they emphasized the need for housing and how industry was advertising the great job opportunities in this valley. The Salvation Army was complaining about people hearing about Garfield County being the land of milk and honey, and then coming here and living under bridges and tents. This was creating more of a negative impact on our society than a positive impact as far as marketing our area economically so he doesn't want to get the cart ahead of the horse. We do not want people migrating to Garfield County with no where to live. If you air this in March and you have a mass exodus of people coming to the land of opportunity and saying jobs are her with good paying opportunities then where are we gong to put these folks in April. He doesn't know if the timing is appropriate especially if the study comes back and it shows the citizens want zero growth in Garfield County. I don't think second homes are viewed as an economic engine. There are lots of possibilities here; 99% of them center on some type of mineral extraction and recreation. We are promoting the heck out of those now, how much more economic development can we stand in one of those fields. Time will tell in the not too distant future how everyone feels about recreation. He thinks it is money well spend as far as getting the national exposure but be careful what you wish for! He is not sure if infrastructure wise we are able to handle another tremendous influx of people coming here hoping this is where they are going to make their fortune. Chairman Martin stated that is why we want to be on top of the presentation. Ed stated he highlighted that very problem and the staggering growth our County is experiencing in oil and gas industry. They wanted to integrate that message into the presentation. Commissioner McCown - As long as we are careful and not promise the pie in the sky, your normal ad when advertising or promoting; be very cautious and error on the side of caution when doing ad so we don't give folks a false hope. Giving them the opportunity and the information they need to contact us and proceed further; but not hoping for a mass migration out of the upper mid-west for the economy. Commissioner Houpt thought Commissioner McCown raised two good points concerning the housing and the cost of living in Garfield County as well as the timing. She would like to wait until they get the survey back and allow that to be a guide for how we move forward.
Ed said they are looking for an answer quickly. Commissioner Houpt said we can give them an answer and say they we are interest but we want to wait until we have information back from our constituents.
Ed asked her if she would like to proceed and incorporate the information. Commissioner Houpt said no, she really wants it to guide it. She would like to wait until they have the information in front of them. By

putting a survey out what we are saying to the public is that we really want you to help us with our vision for this County and help us create the direction we are going down now. If we put out a big public relations campaign that isn't following the results of that survey; we may not be comfortable with the results.
Ed said what he wants to know; do you want to proceed with them only with a delayed time frame. Commissioner Houpt said she would like to delay it; but she thinks it is going to be important how they put this together. Commissioner McCown said he thinks if they are going to do it they need to benchmark our position. Save a spot; if we don't do it until May or June and if we don't do it we have lost $19,000.00. If we wait until June and decide to do it, it may not be available. Ed said we need to commit now; but we can delay the actual airing of it. Commissioner McCown said he is struggling with this survey; it is going to be the all knowing, all seeing future of Garfield County, he does not particularly agree with that. If you put the entire future of Garfield County on one survey, he thinks it is a tremendous mistake.
Commissioner Houpt said she is certainly not doing that; but she doesn't think they should send out a tool that we are representing to be one that they are going to use and then not have that in place when they make decisions. Clearly not looking at it as our sole tool for growth; but she thinks it is important to recognize the results. Commissioner McCown stated noting his concerns however; he will make a motion that we authorize the $19,700.00 expenditure with the caveat that the Board would control the timeline on the release and the production part of the advertisement. That can be incorporated after the study is complete. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF BOND TO NABORS CORPORATE SERVICES – MIKE VANDER POL

Nabors Corporate Services, Inc. has tendered correspondence to the Road and Bridge Department requesting we acknowledge satisfactory performance under the terms of our road use permit or overweight permit and further that we release their surety and bonding company from all obligations provided pursuant to that permit. Nabors Corporate Services, Inc. has satisfactorily performed all conditions of their permit and that there are no potential claims that may be asserted by Garfield County against Nabors Corporate Service, Inc. under the terms of that permit. So the request is that the County Commissioners release Liberty Mutual Insurance Company, the surety company, from the terms and conditions of bond number 20015692. Mike stated the request is for the release of a $500,000.00 bond and road and bridge has no problem releasing as they do have another bond in place. There were actually two different parts of Nabors and they just want to release this one.
Commissioner McCown - I make a motion we approve the bond release for Nabors Corporate Service Inc. in the amount of $500,000.00. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

PARTNERSHIP IN THE CONSTRUCTION OF IMPROVEMENTS AT 27TH STREET & SOUTH GRAND AVENUE – CITY OF GLENWOOD

The City of Glenwood Springs is asking Garfield County to participate in the construction of improvements at the 27th Street and South Grand Avenue project. The total actual cost has been determined to be about $285,000.00. The State grant portion will only amount to $114,000.00. The city included funding for design and construction of this signal in the 2008 budget. The city attached a summary of costs and it does not include about $2,500.00 of concrete work that remains to be completed, but is otherwise a final accounting for this project. The city is asking the Board to consider including this request for $85,500.00 to cover half of the local share of the cost of the new signal in the County's 2009 budget. This improvement, combined with the planned roundabout at the intersection of 27th and Midland should improve safety and efficiency of travel through this critical bottleneck. The final part of the solution will probably be to add a pedestrian bridge adjacent to the Sunlight Bridge to allow a third lane of traffic on the bridge for storage of east bound left turns. This may take 2 to 3 years to design, fund and construct. Chairman Martin stated under the current political storm we are under; he talked to Mike McGill who would accept that we postpone these two items until next year. Chairman Martin did not want anyone claiming that it was political in nature. Commissioner Houpt stated she had some questions to Don; is there an IGA being worked on for these projects, after our meetings last year she thought they had talked about that as being the next step. Don stated yes and no; there is a current IGA in relation to both projects (2 IGA's) that are more in the nature of planning documents. They do not formally commit the County to funding. In terms of these specific financial requests; there is no IGA. Commissioner Houpt asked what is the best next step; to her it seemed as if this was a step that shouldn't take place until we've met, negotiated and discussed it. Chairman Martin stated that is why he said they should postpone those. Don said in regard to both projects, from his perspective, he has to work on the contracts and he would need some direction from the Board to start an IGA process. He thinks he would view these letters as a way of introducing that topic to the Board. If it is postponed until next year; when it comes in front of the Board, the Board will give direction on whether you want an IGA developed or not. Commissioner Houpt - The second one is on the South Bridge project; we are going to have a presentation probably in December. This looks like it was part of the study. Chairman Martin stated this is an amendment; a request for more money to continue certain things. Ed said the other issue is that they will need an additional $200,000.00 next year for engineering costs. Commissioner McCown - Wasn't all of that discussed moving forward under the assumption that CDOT was going to build the interchange after we, as a cooperative effort, built the bridge. Ed said that was the original concept; he thinks C-DOT has pulled out. Chairman Martin said he would like to table those two items. The Board agreed.

PARTNERSHIP IN THE DESIGN & CONSTRUCTION OF THE SOUTH BRIDGE PROJECT – CITY OF GLENWOOD SPRINGS

The City of Glenwood Springs is asking Garfield County to participate in this project of selecting a location, designing, acquiring right-of-way and eventually constructing the South Bridge across the Roaring Fork River. The City received a State energy & Mineral Impact Assistance Grant in the amount of $500,000.00 of the total estimated cost of $1,500,000.00 for the Environmental Assessment, Design and right –of-way acquisition. The city also received a federal earmark grant through the ISTEA bill for a total of $3,089,300.00, with additional authorizations pending in the next 2 years. The city included funding for this assessment in the 2008 budget and contracted with Jacobs-Carter Burgess to perform this work. The

city is asking the Board to consider including this request for $89,313.00 to cover half of the local share of the costs through the end of September, 2009, for this project in the County's 2009 budget.
Chairman Martin tabled this project along with the one above.

SELECTION OF PRIMARY CONSULTANT FOR THE AIRPORT – BRIAN CONDIE

Brian presented and submitted information to the Board. The selection board recommends a consultant who can achieve design excellence while successfully controlling time and costs and who has the ability to understand and accomplish the specialized requirements of the project. They stated it is common to have one firm provide the basic services and one or more firms provide special services. It is extremely important that the contract documents clearly specify the division of responsibility and authority between all parties involved in carrying out elements of the project. Every 5 years the FAA requires/request that we go and select our primary consultant and it means that all the consultants get an opportunity to come in and bid on the project. The initial scoring by Matt Anderson, Dale Hancock and himself was that there was a clear division amount the top three. They were PRT Consulting, Armstrong and CH2MHill and all three were interviewed. After the interviews Randy tallied score sheets and came up with recommendation for the primary consultant which is he CM2MHill. Brain talked with the FAA and stated he has a lot of projects to close and to hand over from PRT. Chris Shafer allowed us to close out the existing projects while Brian makes the recommendation for CH2MHill. They would start January 1, 2009 and continue for 5 years. Ed has worked with CH 2MHill and found them to be very credible. Commissioner McCown requested clarification on the scoring method and Brian explained the process and the advantage of switching companies. Brian stated the final decision between was based on the facts that CM2MHill has completed more than 9 different runways and he wanted someone with experience on this runway. The depth of their experience team in Denver by having 30 aviation professionals is that they can fill in and help this project move along. Most of their team has been with CH2MHill for more than 13 years. PRT has done an excellent job and it is nothing against them; he just felt CH2MHill would complete the project the way he wanted it done.
Commissioner McCown – I make a motion we proceed with CH2MHill for architectural consultants for the next five years at Garfield County Airport. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC RESTROOM BID – BRIAN CONDIE

John Groth, Matt Anderson and Brian were all present.
This was solicited and publicized as a request for proposal; proposals were due on the 28th of August. A total of 3 proposals were received and are listed as follows:

Groth Construction - $109,600.00
Kuersten Construction LLC - $197,111.90
J Dyer construction - $193,165.00

The evaluation was based on price, design plan and past performance. Groth Construction has an acceptable design concept and plan, the lowest cost and excellent past performance within the County. Recommendation is to award Groth Construction for an amount not to exceed $109,600.00.
Brian stated he was unavailable the first time this came up and there were some questions. He was asked to come back and address the issues. Matt stated in the packet is the conceptual design for the public restroom. Commissioner Houpt stated; it doesn't really get to my question; her question was, what is the purpose of this, she was told at the meeting there was going to be a men's room and woman's room. The plans don't call for that; she wants to know the difference between the different projects, because the prices were different. She also wanted to know why they chose the bare bones one over the others, and are we really going to be addressing the need that we need to be addressing. Brian stated with them moving into the new facility; the old office is going away. In that office there were restrooms available 24 hours a day. When pilots fly in at midnight they didn't have to pay $150.00 for Atlantic to come out and do an after hours call. The restrooms in the office were joint use. Now that the office is going away they need another facility for local pilots to use 24 hours a day. They thought while they were digging up the ground and reconnecting to the utilities; they put in drop tank for the aircraft lab carts and the reason we went with one unisex bathroom is because that is what they had in the past. Commissioner Houpt thought if they were spending that amount of money, in excess of $100,000.00, we should have facility for men and woman. There are woman pilots who come in to our airport. If we are going to improve on our facility and market it; we should have a good facility. Not saying we should spend millions on a bathroom facility; but she feels it makes sense to have two separate restrooms. Commissioner McCown said he thought it would entail going back out for new design, construction and bid. He thinks they could expect a significant increase in price. He feels it will probably go up to $150,000.00 or 160,000.00. Brian said the other bid will come in about twice as much; he talked with Matt and he showed me a couple of projects that Groth has done. Brian discussed in length with Groth the different types of equipment he will be using and the structure he is proposing will match the current building. Commissioner Houpt said she had no doubt Mr. Groth will do a fine job; it is not about his proposal. For her it is about how we grow our airport and she is not going to be able to support this type of expenditure without having it serve people in a more professional manner. Why not just do it right the first time and it's not an add on later.
Brian stated it is 65,000.00 under budget. John stated it would still be the same building. There is a storeroom right next to it so we could put the two restrooms in. Commissioner McCown - And still be handicapped? Matt stated during the solicitation they did have a mandatory site bid. There were several questions from the proposers at the site visit and one of the things they told them with this design; it was to be a simple design. If we do decide to change at this point; they would have to cancel and re-solicit. If we word it this way it should be fine and if you to make changes later on it would have to be a separate contract. Commissioner Houpt thinks it makes sense to redo it. Ed asked does that affect the tear down of the old office.Brian stated the utilities are already shut down for the winter. Commissioner McCown said so they could use a port-a-john until we decide. Commissioner Houpt asked what the time frame would be. Matt explained the normal bid process takes approximately 2 months. If they put a rush on it, it could probably be done within a month. Chairman Martin said he looked at the restrooms that we have in new buildings and they are unisex. Commissioner Houpt said she thinks it is poor planning if we are really

developing this airport into one that we want everyone to use. If it needs to be built before the winter she understands moving ahead; but she cannot support a facility we are building from ground up that just accommodates one restroom. Chairman Martin said again; the misconception is wrong; it is for those coming in after hours. Brian said most of the local pilots don't fly in winter; there a few that come in after Christmas. Commissioner Houpt asked what would be the time frame if we approve this particular contract; when would this be built.Brian said they would start on Wednesday; the foundation would be before the end of the year and then the structure would go up. Commissioner Houpt stated we could do change orders on this contract? Chairman Martin said no; you would be changing the whole scope of the contract. Commissioner Houpt said she brought this up a month ago; if this delays it she apologized.
Ed asked why can't we build this now and have a mirror image of it later.Brian said building 2060 is still there; we could hook everything back up and heat it; just an option.
Ed asked if there was room for two structures. Brian said yes; concern is they have the dump station with its own driveway and they would have to extend the driveway to accommodate a new building. Commissioner Houpt said if you look at the plans it wouldn't take a lot if we put a rush on the bid process. It wouldn't take that much to put two rooms in there; there's a storage room that could be turned into another bathroom facility. Brian said the storage room was for their spill kits; we can get another little shed, that doesn't have to have any power or heat for the spill kits; we want pilots to have access to the absorption material in case they make a spill. The conversion of storage room is not a big deal. Commissioner Houpt said if we put this back to bid how long. Matt stated approximately 3 or 4 weeks; after that approximately 2 more weeks. Chairman Martin said they wouldn't even award until approximately the end of December. John Groth said yes they can build in the winter; depends on how much frost on the ground and it is added expense. Commissioner McCown said he didn't have a problem with the unisex bathrooms. He doesn't think this one is going to be a popular stopping spot for everyone. He doesn't have a problem with this design and going forward. Commissioner Houpt feels they are marketing to a pretty wide client base. Commissioner McCown said the client base flying in is probably not the market we are marketing too. Chairman Martin added; it is not commercial aviation, it is general aviation. Brian said it is our local pilots. Commissioner McCown asked if it was a design build again. Matt stated yes and they will give everyone the same opportunity; if they get more offers this time, we get more offers. Matt will add more detail about the design and what we are looking for.
Brian asked if that was what they are going to do. Chairman Martin said yes.

EASEMENT FOR POWER COMPANY – BRIAN CONDIE

A draft agreement was submitted to the Board for review with the statement of work. Brian said, in order to accommodate the relocating of Garfield County Road 319 due to the Garfield County Airport expansion at the sole expense of Garfield County, PSCo shall furnish or cause to be furnished, all equipment, labor, and materials necessary to relocate or modify 69kV overhead electric transmission poles as required as show on Exhibit A attached hereto and incorporated herein. Carolyn stated her major legal issues are how hard you want me to negotiate with the power companies about their indemnity provisions. She and Don have spoken to the Board about the constitutional probation of counties taking on the liabilities of an individual or an entity. Also the TABOR issues involved if a county should decide to take on someone else liability, how do we plan for what dollar amount we need to put to cover future liability. In this case we are moving large power lines; bad things could happen, but that is why we have engineers. The issue is the power companies; you literally hand over the money to the power companies. They do the design, they do the building through their contractors; yes our folks are on the ground. When she spoke to attorney for Excel, she essentially said to her; wait a minute your doing the design (Diane Davis), your doing the building and you're asking the citizens of Garfield County to take on your liability; something is wrong here. Carolyn has asked her to please go back in your organization and re-do your indemnity provisions to recognize that your engineers are doing the design, not ours. Your folks are doing the building; not ours. Not unexpectedly she said look at the introductory phrase that says to the extent allowed by law. Of course what that means is should someone get hurt or killed; should there be significant property damage we are likely to be in a lawsuit with public service. We are saying; as a matter of constitutional law we can't take on your design liability, we can't take on your construction liability. Carolyn is waiting to hear back from both entities as to whether or not they will give us a more specific indemnity agreement. Carolyn is asking today; how hard and how long do you want me to bargain with these entities. Are you comfortable with the introductory language that says to the extent allowed/permitted by law? Chairman Martin said they have run into these issues many times and they have decided they would take on that liability to the extent of the law. We have accepted that language before. Carolyn said she doesn't think her negotiations with either entity are over with. Brian and she may be bringing back a more individualized contract instead of the form contract; but that is essential the heart of the legal issue for her. Commissioner McCown stated, regardless of the agreement that is signed, if there is a suit, all parties involved will be named anyway. Let's move on and take our best shot when it occurs. Carolyn asked if she hearing to keep negotiation; but if she can't get anywhere, then what?

Commissioner Houpt said keep negotiating. Carolyn said the update on this is moving the lines on the Continental Rifle property at the west end of the airport. They still do not have a signed stipulation with Continental Rife. She is hoping this will happen this week. These two contracts are being held up by whether or not we have a signed stipulation, money and the court registry.
Commissioner McCown asked Carolyn if she needed further direction on this contract.
No motion was necessary at this point.

BUDGET SUPPLEMENT FOR $686,956.00 FOR CONTINENTAL RIFLE – BRIAN CONDIE

Brian stated they have enough money in the budget this year to cover this. However, his question with the County and finance is that we will not receive the funds they anticipated back. Whatever the court decides the value of the property is it would require a transfer from the general fund and not a budget supplement. Just letting you know; if we pay this we are not going to get reimbursed until after the judge makes the decision. Carolyn said on final valuation that Brian can't ask the feds for the money back on the stipulation for immediate possession.

Ed asked if they give us the money back, can the money go into the general fund or does it have to go to the airport.
Peter said the airport money has to go come back to the airport; but the fact that you borrowed it from the general fund internally you can reimburse the general fund.
Don - If it would be possible to follow the Chairs suggestion and hold off on giving you an answer on that until they have a chance to consult with finance.
Commissioner McCown - What he heard was that this is simply a notification of what has to happen. There is not any action requested today.

APPROVAL FOR AWARD OF THE GARFIELD COUNTY AIRPORT IMPROVEMENTS (ODALS) CONTRACT – MATT ANDERSON

This requirement was solicited and publicized as a request for proposals; proposals were due on October 16, 2008. Five proposals were received:

Electrical Excellence - $179,351.00
ACME Electric - $186,245.00
DACO Construction - $189,219.00
Airfield Western - $225,252.00
Western Slope Electrical - $276,650.00

The evaluation was based on proposed costs, past performance, and an understanding of the project. They are recommending approval for award to Electrical Excellence Enterprises for a not to exceed of $179,351.00 contingent upon approval of additional funds and contractor signature.
Brian said the bids came in a little higher than they have budgeted however, with the safety projects they have done they have stopped the aircraft from running off the runway. They have not had any incidents in a year. Brian wants to put one more safety feature in for the winter to try to avoid another accident. It would require additional funds for this one. Commissioner McCown - With the installation of this, will they be re-used once the new runway is constructed? Brian stated yes; the FA will pay to relocate and install.
Commissioner McCown – I make a motion we award a contract to Electrical Excellence in an amount not to exceed $179,351.00. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

APPROVAL FOR AWARD OF CONTRACT FOR REMITTANCE SCANNING SYSTEM AT THE TREASURER'S OFFICE – MATT ANDERSON

Georgia Chamberlain and Matt Anderson were present.
This requirement for a remittance scanning system should be deemed Sole Source procurement based on the following reasons:

1. NetVantage has already been programmed for use with the Treasurer Tax Collection Software (Tyler Technologies) and if completed other companies would fail to produce a better price based on the fact that the software is ready to use.
2. Tyler Technologies has expressed concerns with any other system stating that there would be issues and start up costs.
3. NetVantage is currently being used by 4 other Treasurers who also use Tyler Technologies.
4. The information technology department has stated that having multiple unknown vendors with different systems within the County could pose a security risk and has approved NetVantage.

They are recommending approval to award the contract to NetVantage for an amount not to exceed $68,774.80 contingent upon negotiated terms and conditions regarding any license agreement and contractor signature.
Matt stated one of the important issues to note is that this is really two different proposals. One was with the contractor route, the other is a proposal for a remittance scanning system was with our current bank, which we already have an agreement for. If they do a contract they have to go through the bidding. If they went through Alpine Bank they would have to do an amendment to the current agreement. The Treasurer has looked at both methods and has decided she would like to go with contractor method because she feels Alpine Bank software is inadequate. She feels this would be a better system for their use. What Matt is proposing after talking with IT is that some of the other people are using the software and he believes this would be a sole source procurement with the company they are looking at. This is mainly because of security concerns and compatibility issues with the current tax collection software which is Tyler Technology.
Chairman Martin - Your recommendation is not to exceed $68,774.80 and Matt stated yes.
Commissioner McCown asked what this would allow the expansion of.
Matt answered - According to our procurement manual we have looked at the prices and they are fair and reasonable. Georgia Chamberlain said it expands the tax collection process; you put the coupon and the check in and it posts the payment and it does a check 21 deposit and then it is sent over to the bank. There are other uses such as can be used in the clerk and recorders office for license plate renewals and it can also be used for all of our revenue collections. It is being used in Weld County, Adams County and Grand County. Grand County Treasurer helped Georgia in attending the web-a-knar to decipher what the banks software could provide versus what Grand County is using. The Weld County Treasurer said he would be happy to come in and talk to the Commissioners about it.
Commissioner McCown asked if this was like a scanner, is there a bar code on the payment and your check will be scanned, the barcode scanned and it will issue back to a mother computer somewhere that you paid your taxes. Georgia said yes. Chairman Martin said his understanding is it is like what they do in Wal-Mart, you put your check in and it takes it and automatically makes sure it is good and then it takes the money out of your account and puts it in this account. Matt said one of the things from the proposal is that you can scan up to 15,000 checks per day. Commissioner McCown said he does not doubt the creditability of the system; he finds it hard to believe that the number of checks Alpine bank handles a day that their software isn't adequate to support the number that we handle. Georgia explained that this is a specific kind of software; it is not Alpine's software on handling checks and deposits, it is for the tax collection program. They have only done it for utilities companies; they have not done it for property tax collection. They also enlisted the IT department in helping us make this decision because is beyond the expertise in my particular office. Commissioner McCown asked if there is an on going maintenance contract that goes with this. Matt stated yes, it would be a separate. It is under 10,000; he believes it is around $5,000 to $7,000 for the software maintenance. IT is aware of the

hardware purchase and he does not believe there is any licensing issue rather he believes they are flat out purchasing the software. Matt will double check licensing and he will work with legal and will negotiate those. Commissioner Houpt – I make a motion we approve and award to NetVantage for an amount not to exceed $68,774.80 contingent upon negotiations and terms and conditions regarding any license agreements and contractor signature to install a remittance scanning system at the treasurers office. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION/DIRECTION – REQUEST FOR USE OF COUNTY PROPERTY – HOSPICE GIVING TREE EVENT

Markie Butler, executive director of the newly formed hospice within our community provided the Board with an update on the end of life services in the valley; many people throughout the Roaring Fork Valley are aware that the Roaring Fork Hospice closed services at the end of June. Out of that became a new hospice funded by Valley View Hospital, Aspen Valley Hospital and the Aspen Medical Foundation to establish a new independent free standing 501C3 corporation for hospice services. The services will run from Aspen through Rifle and hopefully into Battlement Mesa; Battlement Mesa probably will not happen for another 6 months. One of the major events that has happened year after year is the loving tree. This is when they celebrate the lives of those they have lost. They are dedicating December 9, 2008 as a day to host events up and down the Roaring Fork Valley. Events will occur all the way from Aspen, Snowmass Village, Basalt, Carbondale, Glenwood Springs and they hope to offer a new event in Rifle. To that end they looked at the Human Services building in Rifle and she understands she needs to come before the Board to ask to use the facility. Commissioner Houpt asked if she was requesting to put a tree up in the lobby area.

Markie Butler said as she walked into the facility there was one room on the other side of the entrance. The lobby would probably be the best; what we do for the loving tree, people have an opportunity to buy handmade ornaments with the loved ones name. Ed said traditionally we have not hosted such an event in our buildings. The County offers facilities next door at the Fairgrounds. Don stated that Commissioner Houpt brought this issue to him last week and from discussions Don had with Carolyn, he was not aware there was a policy adopted by the Commissioners concerning the use of any County facilities for such an event. However, since that time Don received communications through Carolyn and through Lynn indicating that Lynn does have a policy. Lynn Renick said it is really not a process; it has been more of an administrative process since the opening of the Human Services Building in Rifle. In the past, since the opening of the building in September, 2005, they have been scheduling community use. The do have a scheduling process, it goes through our services administrator and then they make the determination if it is an appropriate request. They have turned down several requests based on things like chili cook offs and different things. Their accepted process has been that they have not allowed fund raising or political activities to occur at that building. They do refer them over to the Fairgrounds; they have a nominal fee. They do receive a lot of requests from different non-profits and they are trying not to set precedence. They don't have clean–up no set-up team and they don't have maintenance. There is an access issue after hours; they usually ask for some level of Garfield County employee or representative to oversee the access and use of the building. With this request, if the Board wants to approve it, this would be changing our process. Commissioner Houpt said when she talked to Don; she was calling primarily to see if we had policy, her original recommendation was to please call Lynn Renick. She doesn't know how you would evaluate this activity if they came to you. There is also the option of the new building at the Fairgrounds. Ed said it is fairly large and he asked Markie if she considered using the Event Center at the Fairgrounds. Markie wasn't familiar with that building. As long as it's a nice location and people can park and get into a facility that would be fine. The event will last only a couple of hours.

Ed said he thinks she should take a look at the facility and they have a huge kitchen there. He suggested she talk to David Ebeler – 625-2514.

DISCUSSION/DIRECTION REGARDING NATIONAL FOREST PAYMENT – THERESA WAGENMAN

Theresa is requesting discussion/direction to decide on the distribution of payment from the National Forest Reserves. Allocations in prior years have been 5% to schools, 15% to Title III projects and the remaining 80% to the R&B Fund. By doing the same this year the breakdown would be:

		2008	2009
Schools	5%	$ 28,807.00	$ 25,926.00
Title II, Title III	15%	86,420.00	77,778.00
Road & Bridge Fund	Remainder	460,905.00	414,815.00
Total Amount Received		$576,132.00	$518,519.00

The program was supposed to end in 2008 but has been extended through 2011. She has to report back to the State by November 12 on how we will be allocating this payment. The State Statute requires that 15% to 20% of the money is to be used go to Title II and Title III projects. We are required to allocate a minimum of 5% to schools and the road and bridge department. In the past referring to charts for the allocations her first question is would you like to allocate the payment the same. Theresa stated she talked with Eric Burgman, Department of Local Affairs, who had some important information that may affect your decision. There is an interrelationship between this payment and the BLM PELT payment that we received. Historically this federal forest payment would reduce our PELT payment by $.60 on the dollar therefore, moving forward that will reduce our PELT payment by a dollar for dollar basis except for any portion that we allocate to the school. Any amount allocated to the schools does not reduce our bill on the PELT payment. They are encouraging us to allocate more than the 5% to the schools. Chairman Martin asked if Eric explained the prior year payments regarding the federal mineral leasing. He explained to Theresa it is a reduction in PELT based upon the payments. Theresa further asked if there were any statutory requirements from the BLM payment that we get that requires us to allocate to the schools; there is not. First question is how do you want to allocate this; 5% to the schools and 8% to road and bridge? Commissioner McCown said he is really not clear on who picks the projects. Theresa - That will go into the second question; in the past we have allocated 15% to Title III projects, moving forward we cannot do that any more. 15 to 20% we have to give to Title II and III projects whereas in the past all of it has gone to Title III projects. This is money the County sees and we use it for search and rescue, fire fighting and so forth. We haven't had to report back to the State how we used it. Only 7% can go to

Title III projects and the rest has to go to Title II. Title II projects is money that is held by the State Treasury and they will set aside that money for Title II projects and a RAC (Resource Advisory Council) is established. Chairman Martin stated it is the Forest Service RAC not the BLM RAC. You also have to do your fuel reduction and also help the Forest Initiative Acts with the money you are putting there; something new, which means you have to have cooperation with the Forest Service. Commissioner Houpt said if we take this issue first she would say they should put the maximum amount into Title III and balance the rest. Theresa stated we can't put the maximum in Title III anymore.Commissioner Houpt explained we can put the maximum amount allowed which is 7%. She would like to see the County increase the amount given to schools.
Commissioner McCown said it doesn't go directly to the schools; it only reduces the State portion that goes directly to the schools. We are not doing them any big favors. Commissioner Houpt said you are right; the State equalization, good point. Let's keep it local then. It would be nice if these monies could be targeted; are we certain that these funds go into the State equalization fund. Commissioner McCown said the way it has been distributed; it goes directly to the schools, but then they have to report it and it gets reduced. He also stated that he has never heard of a RAC under the Forest Service. Chairman Martin stated this is something new they have come up with and it is a parallel to the RAC under the BLM and the access codes. This is following suit saying we need to have some kind of relationship with our communities and this RAC is what they are trying to get done. Theresa explained, in the memo from Eric Burgman it stated we do not have to establish our own RAC; we can participate under a RAC.
Chairman Martin pointed out that in the Bill this revenue will decline every year for the next 4 to 5 years. Theresa stated there was a schedule at the back of the memo the Board received; you will see it goes through 2011 and there are some deadlines to report back to the State on how we are going to allocate the funds. You will see we are going to receive $576,000.00 for year 2008; but then through 2011 it will slowly decline downward. Commissioner Houpt said one advantage of giving a higher percentage to the schools in spite of the fact that it is equalized through the States budget is that it will free up some money for other state programs. If everyone gives more to the schools it might make a difference for other programs like transportation or other budgets that are really hurting right now. She is proposing they give 10% to the schools instead of 5% and 7% to the Title III programs and the 8% to Title II and she will make that a motion. Commissioner McCown said so you're cutting Road and Bridge by 5%? Commissioner Houpt stated yes. Chairman Martin - We have a Schedule A Contract with the Forest Service to keep trails and roads open right now and to do the maintenance so by your motion you're cutting it. He doesn't see this as a positive. Commissioner Houpt feels they can make it up with the general fund budget balance. Chairman Martin said no; that is what these monies are for, access to public land, use of public lands and have cooperation with the Federal Governments because these lands are not paying taxes. Commissioner Houpt said she didn't have a budget in front of her to show that we needed that extra 5% and it is also for schools, so that wouldn't be part of that equation. We have kept 80% for road and bridge for years and she is thinking an additional 5% for schools may not be a bad idea. It's a motion. Chairman Martin stated that also cuts into the budget for search and rescue as well as the other things we use. Commissioner Houpt said no it doesn't because Title III we do not have control over. She put the maximum of 7% in there. Theresa explained that in 2009 they will have to separate all the funds out and report back to the State. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Opposed Martin – aye

EXECUTIVE SESSION – ED GREEN

Ed stated he had two items: Lynn needs legal guidance on issues related to Human Services and Debbie and I would like to discuss contract negotiations with Meritage in Rifle.

COUNTY ATTORNEY UPDATE – DON DEFORD

DIRECTION RE: BASALT WATER CONSERVANCY DISTRICT – APPOINTMENT OF DIRECTORS

A motion has been filed in Civil Action 5593 requesting the appointment of directors to the Board of Directors of the Basalt Water Conservancy District for Division 4, 5 and 7. The following individuals are seeking reappointment as directors of the divisions indicated for an additional term of office to continue until December 15, 2012:

J. Richard ("Dick") Hunt	Division 4
Gary Knaus	Division 5
Art Bowles	Division 7

The Court will hear said motion on December 10, 2008 at 8:15 a.m. in the Garfield County Courthouse. Applications for appointment as Director will be accepted by the District Court until November 15, 2008.
Don stated he does not have to have action from the Board but he wanted the Board to have an opportunity to consider it. You do have the ability to nominate others. It is a statutory process that is being followed but you are not required to participate in it. Commissioner Houpt stated she was fine with this.
Commissioner McCown stated he has no problem with the nominees.

CONSIDERATION/APPROVAL OF IGA FOR JOINT FUNDING OF I-70/PARACHUTE INTERCHANGE IMPROVEMENTS

The scope of this agreement generally consists of the reconstruction of I-70/Parachute Interchange, as such the interchange as it currently exists is at the point where the extension of County Road 215 through the Town of Parachute bisects or crosses I-70. The project will consist of reconstructing and widening both the east and west exit ramps from I-70 to the point where they intersect with that crossing. The BOCC's participation in this project shall be limited solely and exclusively to the contribution of funding for a part of the project. The BOCC shall not participate in any manner in the design, contracting, or actual reconstruction that constitutes the physical project. The cost for the BOCC portion of the project shall not exceed $200,000.00.
Don stated there was an IGA in the Boards packet but he thinks the Board was authorized to sign this and he wanted to make sure. As you can see from the document, Parachute has signed off on this agreement.
Commissioner Houpt – I'll make a motion we adopt the Intergovernmental Agreement for joint funding of I-70 Parachute Interchange improvements and authorize the Chair to sign.
Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin - aye

DISCUSSION/DIRECTION REGARDING COUNTY ROAD 309

Don stated there is information regarding CR 309 that was obtained from a site visit by Commissioner Martin as well as staff members. If the Board would like to consider this in executive session, they can. Don sees no reason to and asked Chairman Martin to report on what he observed.
Chairman Martin stated he was not the only one there and we did walk up and down and talk to the person in question and also her attorney. We did decide that it needs to be surveyed; also we want to make sure there are no written agreements, no written documents of anything describing a prescriptive use, which has not been able to be produced. We have a little bit of history on CR 309 and how long it has been used as a public right-of-way and it has been a lot more than 20 years. What we said was to go ahead and get it surveyed then sit down and negotiate with the landowner, who is claiming encroachment, come up with an agreement with her attorney to go ahead and either deed the right-of-way and have it recorded taking care of all future concerns.
Don felt that was an accurate summary; the only thing he would like to add from his observation is he concurs with John there is a prescriptive right-of-way use. It needs to be established, as John as indicated, by survey of the location of the current road, current bar ditches or drainage ditches that service the original road and identify what if anything falls outside of that use. Just as a general observation it appears to Don that most, may be not all of that road, does fall within the prescriptive use. There may be some areas slightly outside of that and they need to identify those. Chairman Martin stated that would be an agreement with the property owner as well as the type of improvements; such as the drainage ditches, the head gate, whatever is there and making sure we have the right to make those repaired through this agreement upon that private property; that was also discussed that would have to be in place as well. Commissioner McCown asked if his site visit also indicated where some of the project may be off the prescriptive use; there were areas of encroachment onto the existing roadway that would not allow maintenance and continued maintenance in the future of the road? Were there fences in the bar ditch? Don stated yes, some fences were close to the bar ditch and that is one thing we will have to address once the right-of-way is established in negotiations. There is one area, from Don's perspective in terms of liability that may present an issue and John has identified that in the vicinity of the head gate. Chairman Martin stated it is not the property owner's head gate or a ditch. Commissioner McCown said his question was; there is encroachment as well as encroachment from the County on a possible private landowner; however there is encroachment by the landowner onto possible County right-of-way. Don said he would think that would be fair; he thinks negotiations will need to be both ways and address both issues.
Commissioner Houpt asked if there were discussions of safety issues along that road. Chairman Martin stated yes, that is why Jeff and Marvin went along to identify those issues once a survey has been established, the right-of-way established and agreed upon and then address the different safety issues as we go through. Commissioner Houpt stated the agreement will also talk about how the property owner will work with the County to allow those projects to move forward. Don said he thinks that is fair and it may be that the agreement or the proposed agreement may cause to have to acquire some small areas of right-of-way to address this right-of-way issues, safety issues as well as Larry has noted that the property owner will have to agree to as part of the exchange and the relocation. His perception on the ground after some initial discussions, he thinks there was a pretty open exchange between the parties. Chairman Martin thought so as well; as he understands it, it can be achieved. Don wanted to understand on CR 309; should he go ahead and have the County survey establish a centerline and width for the existing roads so we have a starting point on negotiations?
All Commissioners stated yes.

COUNTY ROAD 306

Linda Dixon, property owner, Jeff Nelson and Marvin Stephens were present.
Don stated there is new information that has developed between discussions with staff and property owners in the vicinity of 306. If you want to consider this in executive session you can, but you can't take any action. If you want to do publically that is the Boards choice also.
Chairman Martin asked Linda Dixon to come forward. Chairman Martin asked if she had any objections of having this in the public session in reference to our discussion on the road.
Linda stated she did not.
Chairman Martin stated that he and Mr. Stephens met with Linda and her brother Dave, down on CR 306 as requested. He thought there would be three different steps: 1) to establish the trust and working relationship between Linda, as a property owner and 2) stabilizing a slope and 3) stabilizing the water running into the bar ditch and the trench. A pipe was placed in the ditch and filling up with water constantly and the ditch runs constantly. It will erode and the whole side of the hill is going to drop off. Chairman Martin asked do we wish to take one step at a time. Number one is to temporally fill in the hole, establish some kind of drainage system and to stabilization the slope. Once that is done we will sit down and make sure we are running the parallel course on legal access, description of the road, the platform to be moved and constructed and then the third is to establish the overall opening of road to the general public. Chairman Martin asked Linda if that was correct and she asked what the second step was.
Chairman Martin said to make sure we have the placement of the road, the template of the road in the right place as well as addressing some of the encroachment on your property, clean-up of your property and then we go on to the third step.
Linda replied that basically the second step is the re-construction and figuring out the legal right-of-way.
Chairman Martin asked if he was putting words in her mouth because that was the agreement at the road meeting between you and me at least.
Linda said right, we need to see how the first step goes and their concern was that the road is really unsafe. A temporary fix is not going to really be adequate for the road to be safe for traffic.
Chairman Martin said that's why they want to stabilize the irrigation ditch and the drainage system.
Commissioner Houpt asked what kind of timeframe the Board will be looking at with all of the various steps.
Chairman Martin said they would like to get the slope stabilized and the trench filled as soon as possible. Then working that parallel course with Linda to make sure that Mr. DeFord and her attorney are working together to make sure they have the legal descriptions to work onto the second step.
Chairman Houpt said the reason she asked; we have talked a lot about getting this road back into shape so people can safely use it through the winter. She is wondering where that fits in.
Marvin said just as Linda discussed and John talked about, the first step is to stabilize the ditch bank and the ditch that is open where the water is running into. If they can get all that corrected and get the irrigation ditch in

operation like it needs to be then they will re-negotiation or talk about the next step to do. He said he will be using 3 or 4 guys to get this accomplished and discussed the equipment he would need.
Commissioner Houpt asked if there was any part of the road that will be put back together so people can use this road.
Marvin stated not on the first stage.
Commissioner Houpt asked what access will other people have to their property in this area.
Marvin stated the road will remain closed until they go through the three steps John talked about.
Linda said, basically the people on the north side of the cattle guard where the road is closed, where Connie and her corners meet, they always go down the Spring Creek side anyway. On the other side, at the other end of the closure is considered the Wallace Creek side, and her family can go down that side. No ones access is really cut off except some heavy truck traffic perhaps. Basically people go down their respective creeks, unless they want to drive through to the other side.
Commissioner Houpt asked if there were any overall safety issues that we need to be concerned about concerning prolonging this project.
Marvin stated they haven't contacted the neighbors who may need to use the road and perhaps the Board would want to give us that direction.
Chairman Martin said they need to make sure everyone is up to snuff on how long that is going be done, the process. He doesn't believe there are any citizens that have any house between the cattle guard and Nate's place that use that road.
Linda said on the historic portion; Connie Murray has a drive-way there and she leases her place, or she did before it was torn up by well pads, but she accesses that maybe a couple of times a year. The people she leases it to can still get in there. Linda suggested the flat stretch doesn't seem too bad if you want to close at her driveway.
Chairman Martin stated the cattle guard to Connie's turn is only 1,000 feet if that. It is all stabilized and it doesn't seem to pose a problem.
Jeff met with Connie and she didn't bring up any unsafe issues or conflicts of her getting in the driveway.
Commissioner Houpt asked if that area will be open for Connie.
Marvin stated yes, she leases her place to run cattle on and that is one of the important items regarding the water over there on an irrigation system.
Commissioner Houpt asked what timeframe Marvin was planning to complete the road.
Commissioner McCown said he is wondering under want authority you are closing this road beyond 90 days.
Don stated this issue had come to him Wednesday or Thursday of last week and he looked at statute; there is the 90 day limitation on closing a public or County road; however it is 90 days in a any calendar year. So, Marvin would be entitled to close it under that statute for 90 days this year as well as 90 days in 2009. Don said he doesn't know how that works out. Commissioner McCown asked if it could run concurrently.
Don stated yes, one right after the other because of the calendar year language in the statute. Optimistically under this plan it would be the end of March if the days work out.Commissioner Houpt asked, ultimately what are we planning on accomplishing with these three stages, or are everyone's expectations in line with each other. Are we moving forward on something that has a defined end?
Marvin said he believed in the end that everyone wants the road open, but there are some legal issues that need to be negotiated. A short distance from where we are working now is a road they had build in there that never was accepted by landowner and the old road abandoned it. Chairman Martin stated that is the parallel course we are trying to work on and they want to be fair. Linda has also indicated that she does as well. Linda - When you say you are working toward that, what do you mean working in that direction physically? Marvin said legally to get the road re-established. The old road was abandoned and turned back to the property owners.
Linda said the old road has been reclaimed, there is a well pad that runs across it and there is a right-of-way that has been deeded across. There are a lot of issues there; the title of that needs to be cleared up. Linda gave the Board her four year history in dealing with the energy company that was involved. You think you to the table and you have agreed on everything and suddenly it twists and turns again. She is certainly willing to proceed with negotiations but they don't have any hope this is going to go smoothly. It just depends on how badly the other parties want it.Commissioner Houpt said that's why she thinks there needs to be some definition here. Was everyone on the same page on what needed to be accomplished and how we want to move forward together on this? Linda said she thinks so; the bank obviously needs to be stabilized, it is going to erode over the wintertime and then you will be dealing with Connie Murray and her attorney's. That bank has been eroded, it's been dug into and now water is leaking into the trench below that has the exposed pipe. Jeff the assistant engineer and Marvin and different ones have pointed out how that road eventually is just going to move. They don't have a problem with the County coming in and stabilizing that. She stated the Board has received a letter from her attorney citing the case laws on private gas companies putting their pipelines in County roads. In the meantime if we could negotiate with that kind of research in mind and we don't have a problem getting the road situation completed; you know the issues of this road. Commissioner Houpt said but we seem to have a timeframe in which to accomplish this with the 90 day closure law. Don said it will take more than 90 days and that is why, in response to Larry's question, that it covers two calendar years. In terms of work stabilizing the bank, you're talking about immediately. Who are the property owners and the adjoining property owners that would be affected by the County working on that project?
Linda said it was basically her property that is in a life estate; the road goes through her property.
Don said at this point we would need some type of a temporary construction agreement just limited for that work. It appears to me we would also, if we do this work, some type of permanent drainage easement for discharging water but maybe he doesn't understand the physical situation.
Chairman Martin stated it goes under the road right now and it is already established in the culver; however it is not making it to the culvert through it, it is crushed and probably plugged as well. That is the extension of that culvert; it is so close to the trench. Those are the things we would make sure that Dave and Linda agreed upon and also the stabilization of the slope; they would be there and they would be invited to be there, Dave especially as he knew what was going on. Starting at the top of the hill down; again it is temporary construction, Linda. She agreed to do that and to make sure that the trust is there, the workmanship is there and that Marvin and everyone live up to their words. As we go on, that establishes a trust of the working

relationship and then we can go down the line. Linda stated that Dave pointed out that the water could be pumped over to the side. She doesn't think it is a problem with pumping the water over the road and having it go ultimately to Spring Creek. Commissioner McCown asked if it would be easier to stabilize that ditch with a pipe. Marvin said there was discussion on the pipe and it may be the way they go.
Linda said she is thinking at this point, it should be somewhat temporary; livestock and wildlife do drink out of there. Now that the slope has been damaged or eroded somewhat, they can always go further back. Maybe it is best to leave a pipe in there so you don't encourage hoofs and things like that to go up and erode it further. Traditionally and historically it has been right there; so if you drive your cattle up the road they stop and get a drink. Commissioner McCown said it is usually tough on a new ditch. Linda you know until the silt gets in the bottom they tend to seep. He though the pipe might help stabilize the slope.
Marvin stated they may build a little catch basin right there before it crosses the road and it will still give access to the livestock and wildlife.Commissioner McCown asked if this will entail another survey.
Don said maybe not on the initial work but certainly after that we will all need a legal description out there. Commissioner Houpt said we know it takes a long time to get that accomplished and that is one of her concerns about the time frame. Commissioner McCown said, but we can't team up until we know what the legal right-of-way is going to be. Chairman Martin stated that is the second part of sitting down and negotiating what kind of template we want to see; where we want it located; what it is on the ground now and does it stay or does it move or does it compliment the corner or not. Those are the issues we have to do in the second phase.
Marvin said Jeff Nelson will come up with a scope of work on the second phase so it will all be in writing. Commissioner McCown stated and that will include the reclamation of the Dunton property.
Jeff said he would like to recommend, due to the conditions and conflicts on this project, that we go with an alpha survey. We do full research of who owns what easements, right-of-ways and everybody will know who owns what, who didn't get transferred and make it very clear and come up with a proposed right-of-way condition. Chairman Martin stated it will protect everybody on both sides with the recorded document. Commissioner McCown asked if he was talking title search and Jeff replied yes.
Don asked Jeff, in addition to a title search, do you think we should get a surveyor outside of the County government to do the survey on this? Jeff said he believed if they wanted to expedite this, with his current work load that may be a very good alternative. Chairman Martin asked if he had to sign off on it.
Jeff stated yes and he just has to check the work. He stated they have been experiencing better turn-a-round lately. Before they go to that he will approach him first. Don asked Jeff if he needed the survey before he did the scope of work. Jeff stated yes, that will determine the cut fill, reclamation, ect.
Commissioner McCown asked how can we determine the survey until we get the negotiations on the right-of-ways done. Jeff said the survey is in two phases; existing, you can go ahead with the alpha existing and that research he recommends ASAP. It takes 60 – 90 days sometimes. Phase two would be the legal acquisition of the right-of-way for the proposed survey. Chairman Martin stated that would be negotiated with Linda and the other property owners. Jeff said Linda will be highly involved in that phase. Right now Connie Murray is involved in the first phase and he believes it is because it her irrigation water historically.
Commission Martin asked this will just entail a centerline survey on the existing road where it is on the ground. Jeff said yes, this first phase would show all the background ownership and then the general centerline of where the existing road and ditches are now. Marvin wanted to be sure he was clear; they can start repairs Linda, this week. Don stated he will need an agreement to allow Marvin's crews to work on the property. From listening to particularly Jeff's comments; we should move forward with an existing condition survey immediately. Jeff stated minus the topol and all. Marvin asked if this could go into next week before construction starts.
Don felt that was likely. Commissioner Martin asked Linda if there was anything that wasn't touched on. Linda said no, she said their main concern was that this isn't just window dressing just to get the road open. Commissioner McCown thinks the other landowners need to be notified of the plans so they are not pitting neighbor against neighbor on closing roads. He has received emails from one that is not real happy with the condition of the road. He feels it is only appropriate and there are not too many houses up on the whole loop. Commissioner McCown suggested to Marvin to just stop and tell them that the road will be closed until next March. Take the normal procedures to close. Linda said the only problem they had with neighbors; they thought they could go through with their hunters. Don wanted to let the Board know they have an existing contract with Noble Energy concerning re-construction of the road. Don has informed their attorney that they are not going forward with that about 10 days ago and Don told them he would get back to them when they had full direction on how they would expect Noble to participate. Don would like to wait until next week. Chairman Martin stated the next step would be negotiate to make sure they have the temporary agreement in place to do the stabilization work with Linda.

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don needs to provide legal advice concerning the JQS vacation hearing; Cassie would like to discuss three separate code violations issues and obtain public direction on those issues; Josiah Smith, property owned by Mr. Vezzoso at two different locations and US pipeline code enforcement; and Ed has already mentioned his two items.
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:

INJUNCTIVE RELIEF – EASTLEY AND VEZZESO

Don first moved to the code enforcement issues concerning property owned by Easley's and Vezzoso off of Red Canyon Road, the staff of Don's office and the staff of Mr. Jarman's office have requested authority to move forward with an action requesting declaration and injunctive relief. Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Opposed Martin - aye

INJUNCTIVE RELIEF – US PIPELINE

Don stated, property identified by US Pipeline owned by Calvin (_); the staff of both the legal office and building and planning department have requested that you authorize us to move forward with injunctive relief regarding that property as well concerning violation of the zoning code.Commissioner Houpt – So moved. Commissioner McCown – Second. In favor: Houpt – aye McCown – aye Martin – aye

DOLA GRANT

Ed said they have met with Meritage in Rifle and the next delivery point is to assemble a grant request to DOLA, which will be a four party request. The question is; do you want us to proceed with that with the understanding that our contribution will be $2 million dollars eventually.

Commissioner McCown thinks they need to get it out on the table. Those participants that have chosen to participate which is the hospital district and the school district; those are two of the participants at the onset that said they were having the greatest amount of problems in getting workers because of the housing situation. Basically what will happen is the increase from $1.5 million to $2 million will backfill the shortage that the school district and the hospital is creating by not funding this grant request and jeopardizing $8 million dollars going toward this project.

Commissioner Houpt felt it was important if we move forward today that they find a way to be more active partners in this. She thinks that needs to part of the agreement that is drafted.

Commissioner McCown stated under the circumstances and that being said; he will make a motion that we proceed with the application for a DOLA grant for this housing project and the Counties contribution to the housing authority, who will be the participant in this, will be $2 million dollars. Noting that none of those County funds will be expended until this project comes to fruition, all of the money is in place, and agreements are signed with all the appropriate parties. Our money will remain secure and it will be secured by deed of trust in the eventually that this does go forward. Commissioner Houpt – second.

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

CONSENT AGENDA

1. Approve Bills
2. Changes to Prior Warrant Lists
3. Approval of Excerpt from the Commissioner's Minutes dated October 20, 2009 Regarding Travelers Highlands Public Improvement District – Release of Building Permits – Marian Clayton
4. Authorize the Chairwoman Pro-Tem to sign a Resolution for a Two-Family Dwelling Located at 23 Ponderosa Drive in Western Hills Subdivision – Applicant; 23 Ponderosa Circle, LLC – Kathy Eastley
5. Authorize the Chairwoman Pro-Tem to Sign a Resolution for One Temporary Employee Housing Facility Located 20.5 Miles North of DeBeque – Applicant; Chevron, USA, Inc. – Kathy Eastley
6. Authorize the Chairwoman Pro-Tem to Sign a Resolution of Approval Allowing an Accessory Dwelling Unit – Applicants; Timothy and Karen Trulove – Craig Richardson
7. Authorize the Chairman to Sign a Resolution Denying the Hunt Ranch Preliminary Plan – applicant; Hunt Ranch LLC – Craig Richardson
8. Authorize the Chairwoman Pro-Tem to Sign the Resolution Concerned with the Approval of a Text Amendment to the Garfield County Zoning Resolution of 1978, as Amended, Related to the Adoption of Specific Regulations for Gravel Extraction – Applicant; The Board of County Commissioners – Fred Jarman
9. Approval of Resolution Creating the Garfield County Department of Human Services Senior Program Advisory Board and Appointing Membership for the 4th Quarter of 2008 and the Calendar Year 2009
10. Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit for the Hiner Gate Communications Tower Extension – Applicant; Chevron USA – Dusty Dunbar
11. Authorize the Chairman Pro-Tem to Sign the Resolution of Approval and Special Use Permit for a Service Pad Booster Compressor Station described as Well Pad Site 598-36-BV – Applicant; Chevron USA – Dusty Dunbar
12. Authorize the Chairman Pro-Tem to Sign the Resolution of approval and both a Conditional Use Permit and Special Use Permit for the GarMesa Natural Gas Utility Transfer Facility – Applicant; Public Service Company – Dusty Dunbar
13. Liquor License Renewal for White Buffalo West LLC d/b/a White Buffalo West – Jean Alberico
14. Authorize the Chairman to Sign the Correction of Acknowledgement of Partial Satisfaction and Ratification of Treasurer's Partial Release of Treasurer's Deposit Agreement for Creek Side Estates Subdivision – Georgia Chamberlain
15. Authorize the Chairman to Sign a Letter to Colorado State Bank and Trust requesting Cancellation of Letter of Credit for Callicotte Ranch, LLC – Georgia Chamberlain
16. Authorize the Treasurer to Release $2,227.50 to RFTA Pursuant to Resolution 05-95 – Georgia Chamberlain

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

CONSIDERATION OF RESOLUTION VACATING PORTIONS OF PUBLIC ROAD RIGHT-OF-WAY OTHERWISE KNOWN AS THE JQS ROAD AND ACCEPTANCE OF A NEW PUBLIC ROAD RIGHT-OF-WAY FOR COUNTY ROAD 242, JQS ROAD (IN PLACE)

Don DeFord, Tom Stuver, Stan Potter and Terry Potter were present.

Don stated in the Board packets is a proposed resolution that would move forward and both vacate some of an ancient dedicated right-of-way across Potters property that may at one time have been used as part of the JQS Trail. Also, through the same resolution accept a dedication of right-of-way for the existing road as it is currently located and has been for some time which also crosses Potters property. Attached to the resolution are legal descriptions. You should have a plat attached which is a very explanatory document on what you are being

asked to do. By statute under Title 43 regarding the statutory vacation process we are required to give written notification to property owners adjoining the portion of the road proposed for vacation. That has been accomplished. The only such owners are the Potters and we mailed notification so the requirement has been met. He also wanted to tell them under Title 3028-110, road vacations and acceptance of new roads are a matter to be considered by the Planning Commission as well as the Board of County Commissioners. Under that statute the Planning Commissioner has no authority to actually approve or deny a request to vacate. They can only make recommendations. In the past he believes it was in regard to County Road 118 that this type of circumstance occurred where we are having proposed vacation and dedication for a road that the public is currently using. The County Commissioners have decided to dispense with that procedure. Don stated he is obligated to advise you of the requirement. He briefly discussed this with Mr. Stuver and because it is a potential to affect title; he doesn't know if Mr. Stuver has any comment in regard to this. The Board should either move forward or not; if you decide to send it to the Planning Commission and continue today's meeting; or if you decide not to go forward and consider the resolution he feels the documents are self explanatory and the last comment he has on the resolution is; it does wave your own adopted vacation process to move forward so none of the requirements would apply. Mr. Stuver stated he is prepared to ask the Board to go forward; Mr. DeFord and he have been working on this since April, 2007. Chairman Martin stated it doesn't deny access to any public lands around the surrounding area. The Hunter Mesa area, which is a recreational area for BLM, that access is still intact. Commissioner McCown stated he had no question but he would make the comment that he believes under the circumstances, the Potters would be the only agreed parties to the fact that this may have to go to the Planning Commission for review, which serves absolutely no purpose. They can only make recommendations and this Board has the final say so anyway. That is a horrible piece of legislation. Since the Potters have been in agreement from day one and they are represented by legal counsel and he doesn't think there is anyone's position in danger by the Board going forward today. He doesn't see how it could even affect a future owner of this parcel should this sell at a later time. Chairman Martin stated the decision of the Board is not to refer it to the Planning Commission but to go ahead with the request and vacate these portions and accept the new portion of 242, is that correct. Commissioner McCown – I make motion we accept the resolution vacating portions of the public road right-of-way otherwise know as the JQS Road and accept a new public road right-of-way for County Road 244, the JQS Road, which is in fact the road that is in place today; and Exhibit D be entered as proof of the centerline right-of-way we are accepting. Commissioner Houpt – Second.
Don stated one issue he forgot and he wants to make sure that Mr. Stuver and he are on the same page is that it is Dons understanding that the Potters are dedicating a very short stretch of what is proposed to be the new Hubbard Mesa Road as well. If we can clear up issues with the BLM on a permanent right-of-way, the Potters are dedicating that portion that would cross their property so we could connect that road. Commissioner McCown said that is in another issue that will come forward. Don stated correct but he wanted to make sure they know the Potters have voluntarily done that. In favor: Houpt – aye McCown – aye Martin - aye

PUBLIC HEARINGS:

CONSIDER PUBLIC COMMENT FOR ADOPTION OF THE 2009 PROPOSED BUDGET – THERESA WAGENMAN

Don stated the notice is adequate to open the public hearing. Don reviewed the public notification, Chairman Martin swore in the speakers. Don stated they need a date certain and they should have one by statute. Ed stated there are three things that need to be done. 1) set the mills, 2) final accrual of the budget and 3) excess revenues, which doesn't need to be noticed.
Commissioner McCown stated December 15, 2009 is a regular meeting day and that is the last possible day. I make a motion we continue the public hearing to December 15, 2008 at the 10:00 a.m. timeframe. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

COMMISSIONER REPORT

Chairman Martin received a letter from Chevron stating they are not requesting any kind of severance tax credit for CR 204 and he had Marvin do an estimated maintenance schedule on the next ten years of what the CR 204 would be if we didn't make any changes to it and allowing it to be used as it is now - it's about $12 million dollars; had an interesting phone call that Mr. DeFord and he worked on in reference to an Oil and Gas conservation permit process in the restricted area against the order we had of 2000. Through that discussion they were able to get Patricia Beaver to rescind those APD's in the restricted area therefore a hearing must be done. It was the underground pilot program. Commissioner Houpt asked Don if they were going to amending the Chevron contract.Don said he has not received any direction from the Board or from Chevron to do that. If the Board wants me to seek an amendment to the JPA, he will certainly do that.
Commissioner McCown said you could take that subject up with their attorney suggesting an inquiry of Stacy Saunders. He was sure the letter was not issued without the concurrence of the folks in Houston and Stacy Saunders.

CONSIDER THE REFERRAL OF A CONDITIONAL USE PERMIT FOR A WAREHOUSE AND STORAGE AREA LOCATED 13.5 MILES NORTHWEST OF THE TOWN OF DEBEQUE – APPLICANT; OXY USA WTP LP – DAVID PESNICHAK

Daniel Padilla and David Pesnichak were present.
David Pesnichak explained:
BACKGROUND
The Building and Planning Department received a Conditional Use Permit (CUP) application for a "Warehouse Facilities / Storage Areas" on an approximately 10,300-acre property owned by Oxy USA WTP LP. The site is located approximately 13.5 miles northeast of the Town of DeBeque.
More specifically, the Applicant requests approval from the Board for a warehouse and storage area (2.5 acres) approximately two (2) miles past the end of County Road 213. Site disturbance is to be limited to 2.5 acres with site development consisting of material and equipment storage and a 100 x 60-foot warehouse building (Quonset-hut style). Total construction time is expected to be two to three weeks. As no permanent personnel

are to be stationed at this facility, no utilities are to be provided onsite aside from a portable toilet, portable power generator for occasional lighting and bottled water for personnel utilizing the site.
The proposed facility is not anticipated to be viewable from any public right-of-way or, following a review of nearby address points, from any existing residences in the area.
REQUEST
The application is for a Warehouse and Storage Area, which is a conditional use in the RL zoning district.
STAFF RECOMMENDATION
Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.
David stated there will be no permanent employees on site.
Daniel had nothing to add.
Commissioner McCown – I make a motion we schedule before the Board of County Commissioners.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
CONSIDER THE RENEWAL OF A SPECIAL USE PERMIT FOR A TEMPORARY EMPLOYEE HOUSING FACILITY OPERATED BY WILLIAMS PRODUCTION RMT CO. APPROVED DECEMBER 4, 2006 UNDER RESOLUTION 2006-115 – APPLICANT; CHEVRON USA – DAVID PESNICHAK
David Pesnichak presented the exhibits:
Exhibit A – Garfield County zoning Regulations of 1978, as amended (the Zoning Code); Exhibit B – Staff Memorandum Dated October 23, 2008; Exhibit C – Special Use Permit for Temporary Employee Housing on land Owned by Chevron USA, Inc. (Reception Number 715231); Exhibit D – Resolution Number 2006-115 (Reception Number 713754); Exhibit E – Letter Requesting Extension of Special Use Permit Approved Under Resolution 2006-115.Chairman Martin entered Exhibits A – E into the record.
David Pesnichak explained: Williams Production RMT was approved for a Temporary Employee Housing facility on land owned by Chevron Inc. USA located 55.5 miles by road (approximately 15 miles directly) North West of the City of Rifle and within the Resource Lands (RL) – Plateau Zone District. This Special Use Permit (SUP) was issued on December 4th, 2006 under Resolution 2006-115. Per Condition (11) of Resolution 2006-115, "The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners." The one year renewal is the purpose of the meeting with Williams Production RMT and the Board of County Commissioners (BOCC) on November 3rd, 2008. To current Special Use Permit expires on January 15, 2009. Based on a review of this application, the following points are worth noting:
1. The Application was approved on December 4th, 2006 while the SUP was signed by the Chairman of the BOCC on January 15th, 2007.
2. All required Building Permits and ISDS Permits have been issued.
3. Staff understands that this facility has been in operation since the issuance of the SUP on January 15th, 2007.
4. No compliance issues have been identified.
To this end, as "annual renewal review shall be based on the standards herein as well as all conditions of the permit", Staff has found that the Applicant is in conformance with the conditions of the SUP and is hence eligible for renewal of Resolution 2006-115.
Thus, Staff recommends that Resolution 2006-115 be granted renewal for an additional year with an expiration date of January 15th, 2010. David stated there are no outstanding compliance issues and staff recommends it be renewed for another year.
Commissioner McCown – I make a motion we approve Resolution 2006-115 to be renewed for an additional year with an expiration date of January 15, 2010.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
CONSIDER A PLAT AMENDMENT FOR WESBEN, LLC, WHERE THE APPLICANT SEEKS TO CHANGE THE BOUNDARY LINES BETWEEN THE TWO PARCELS – APPLICANT; WESBEN, LLC, REPRESENTED BY JOHN TAUFER – DUSTY DUNBAR
Dusty Dunbar, John Taufer and Deborah Quinn, Deputy Attorney were present.
Dusty presented the 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 Report; Exhibit F – Letter from Jack Jones, Fire Marshall, City of Glenwood Springs Department of Emergency Services, Dated June 10, 1997. Dusty Dunbar explained and gave a power point presentation:
Mail receipts were not required nor the proof of publication.
The applicants are requesting that the boundary lines for two lots originally created by the Steele Subdivision Exemption of 1998. Applicant is the property owner; lot 1 existing residence and lot 2 is vacant. Dusty went over the Subdivision Regulations; 6:10 (3) and 8.6.
STAFF RECOMMENDATION
Staff is in support of this amendment. Planning Staff therefore recommends that the Board of County Commissioners approve this amended plat request with the following conditions.

1. That all representations of the Applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
2. Any ISDS system installed must be adequately separated from water systems.
3. Within 90 days of approval, the Amended Final Plat shall be reviewed (paper copy), then signed and dated (mylar copy) by the County Surveyor, then signed and dated by the Chairman of the Board and recorded in the Clerk and Recorder's Office of Garfield County. The Amended Final Plat shall meet the minimum CRS standards for land survey plats, as required by Colorado state law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in §5:22 of the Garfield County Subdivision Regulations.

4. The title of this new, amended plat shall be Steele Subdivision Exemption, First Amended Plat.
Commissioner McCown asked Dusty if there are two wells at the location.
Dusty stated yes, there is one up on top. Commissioner McCown said that Dusty indicated that the lower lot is being served by a well but it a separate well. Dusty stated yes, there is distance of driveway and elevation.
John Taufer wanted to thanked Dusty and the staff for the nice work. He also thanked the Commissioners for their service; particularly Mr. McCown for his dedicated service. They are trying to increase lot 1 which will be increasing the building envelope size and it makes a much more desirable lot. He also stated their application really pre-dates the Comprehensive Plan of 2000. They agree with the 4 conditions.
Commissioner McCown asked John Taufer saying it was alluded to briefly in the presentation but do we need an access easement agreement across lot 1 to be included on this plat. That is clearly how you are going to access lot 2 and Commissioner McCown would like to add another condition; one that would allow an access agreement to allow access to lot 2 across lot 1 and it would merely be a formality so there won't be an issue later. I make a motion we approve the plat amendment for Wesben LLC with the 4 conditions alluded to by staff adding a fifth one which will deal with the access agreement across lot 1 to gain access to lot 2 be noted on the plat as well. Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye

REGULAR AGENDA: BUILDING & PLANNING ISSUES

PUBLIC HEARINGS:

CONSIDER THE APPROVAL OF A PRELIMINARY PLAN FOR THE SUAREZ SUBDIVISION – APPLICANT; KJS REVOCABLE LIVING TRUST – CRAIG RICHARDSON

Debbie Quinn, Sid Fox, Planning Consultant, and Juan Suarez were present. Mr. Suarez answered all questions. Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner Craig Richardson submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F -Application; Exhibit G – Staff memorandum; Exhibit H – Memo From Garfield County Road and Bridge Dept., dated March 19, 2008; Exhibit I – Letter from Mountain Cross engineering, Inc. GarCo Consulting Engineer, dated April 8, 2008; Exhibit J – Opinion Letter from Colorado Division of Water Resources, dated March 24, 2008; Exhibit K – Letter from Colorado Geological survey, dated April 11, 2008; Exhibit L – Memo from Garfield County Vegetation Management, dated April 8, 2008; Exhibit M – E-mail from Colorado Department of Transportation, dated March 26, 2008; Exhibit N – Resource Engineering, Inc. Suarez Subdivision – Well No. 2 Water Quality Summary dated February 5, 2008; Exhibit O – Resource Engineering, Inc. Suarez Subdivision – Water Resources Report, dated January 17, 2008; Exhibit P – KJS Revocable Living Trust Subdivision Authorization, dated April 16, 2008; Exhibit Q – Letter of Opposition from Edward Roseman, dated June 16, 2008; Exhibit R – Letter of Opposition from Andre and Cheryl A. Chartier, dated October 28, 2008 and Exhibit S – Fire Protection Plan.
Chairman Martin entered Exhibits A – S into the record.
Planner Craig Richardson explained: The subject property is located south of Rifle in the Grass Mesa Subdivision. More specifically the subject property is described as Lot 44, of the Grass Mesa Subdivision. A single family home is currently being constructed on the proposed Lot 4. An existing natural gas well and a Satellite Water Gathering Facility, operated by EnCana Oil and Gas Inc. is located on what is proposed as Lot 1.
Proposal
The Applicant requests approval of the Preliminary Plan subdividing 40.064 acres into four single-family residential lots. The Preliminary Plan also requests approval for an accessory dwelling unit on each of the proposed lots. Access will be provided to each lot via existing private roads (Grass Mesa Rd. and Rodeo Dr). Craig showed a map of the area. There are four wells on the property; water quality analysis was submitted with preliminary plan.

Proposed Development	Designation	Acreage
➢ Four Single-Family Residential Lots	Lots 1 - 4	40.064
➢ Four Accessory Dwelling Units	Lots 1 – 4	

Lot Size Breakdown	Area
➢ Lot 1	10.013 acres
➢ Lot 2	10.016 acres
➢ Lot 3	10.017 acres
➢ Lot 4	10.018 acres

Staff Recommendation
Garfield County Planning Commission forwarded a recommendation of approval to the Board of County Commissioners with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall provide a pump test (minimum four hours) for each of the existing wells and an written opinion from the qualified professional conducting the test regarding the adequacy of the wells to serve the proposed development including the requested Accessory Dwelling Units to be submitted with the Final Plat application;
3. The Applicant shall provide a water quality analysis for each of the existing wells demonstrating compliance with state guidelines regarding bacteria and nitrates to be submitted with the Final Plat application ;
4. The Applicant shall be responsible for 50% of the Traffic Impact Fees at the time of Final Plat (to be calculated after submittal of Final Plat Application);
5. The Applicant shall include language in the Restrictive Covenants regarding the future lot owner's Traffic Impact Fee responsibility required at the time of Building Permit submittal;

6. The Applicant shall depict a drainage easement to accommodate the existing off-site drainage basin that drains through the subject property;
7. The Covenants and Restrictions shall include language regarding the required installation of a totalizing flow meter, on each home, as required by Colorado Division of Water Resources well permits;
8. Covenants and Restrictions for Suarez Subdivision shall be consistent with Grass Mesa Covenants and State Law;
9. The following plat notes shall be included on the Final Plat:

q) 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.

r) 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.

s) 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.

t) No further divisions of land within the Subdivision will be allowed.

u) 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.

v) 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.

w) Based on the analysis of the sub-soils on the property, Individual Sewage Disposal System and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.

x) All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the Homeowners Association of the subdivision.

y) The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).

z) Accessory Dwelling Units shall be limited to 1,500 square feet and may not be conveyed into separate ownership.

aa) All lots are subject to the Declaration of Easements, Restrictions and Covenants for Grass Mesa Ranch.

bb) Water Quality Analysis conducted on the subject property have demonstrated high levels of Aluminum and Iron, individual water treatment systems should be utilized.

cc) Legal access is provided to Grass mesa Homeowners Association across public land as further described in right-of-way grant COC-36764

In addition to the Planning Commission's recommended conditions of approval, Staff has included the following:

10. The Applicant shall include the construction of water storage tank, dry hydrant and emergency access road as components of the Subdivision Improvements Agreement;
11. The Suarez Subdivision Covenants and Restrictions shall include language regarding emergency access road maintenance as represented in the Applicant's fire protection plan;
12. The Suarez Subdivision Covenants and Restrictions shall include table 9.1 Summary of Water Storage Tank Inspection, Testing, and Maintenance as depicted on the Applicant's fire protection plan.

Discussion:

Sid stated this was a fairly straight forward subdivision of an existing 40-acre parcel located in the Grass Mesa Estates. The applicant is proposing to subdivide a 40-acre parcel with four 10 acre lots. In accordance with the County regulations they are proposing each lot include an accessory dwelling unit with less than 1,500 square feet and they cannot be further subdivided from the primary lot or residence. Some of the basics of the proposal with respect to access, as Craig mentioned the direct access is off of an existing private road within the Grass Mesa Estates and the nearest County Road 319 which leads to an existing BLM access grant. It was approved by the BLM in 1983 and our attorney and staff determined that the access grant is currently in good standing with BLM. The BLM right-of-way grant leads onto Rodeo Drive leading to the Grass Mesa Road. A few comments with respect to the water supply because it is an important issue; the water provided to these lots and the proposed units are through a water contract with the West Divide Water Conservancy District and that contract has been approved. Well permits have been issued by the Colorado Division of Water Resources; the wells are in place to a depth of 215 to 230 feet in that area. Pump tests have been done, although they will provide further documentation of that with the final plat application. Those wells are producing anywhere from 3-10 gallons per minute. They do have an Exhibit J within the Boards packet from the State indicating no material injury as a result of those wells. It is important to mention that their water supply report, prepared by Resource Engineering which is included as Exhibit O, has determined the wells can provide a dependable water

supply with adequate water quantity and water quality. Craig did touch upon some high levels of aluminum and iron but those are not public health concerns rather more of aesthetic concerns. Those can be adequately and effectively treated with individual water treatment systems in-house. On a 10-acre lot they are proposing engineered on site individual sewage treatment systems and those will be individually permitted through the County ISDS permitting system. He wanted to emphasis some of the staff findings and provides the Board a little more insight of the proposed subdivision as Craig mentioned. The staff has found general compliance with the County Comprehensive Plan and it touched upon the existing zoning which is ARRD. The minimum lot size in that zone district is a minimum of 2 acres per lot and they are proposing 10-acres per lot. Most of findings with respect to water, waste disposal and mineral estates are addressed and are included in the staff recommendation under the recommended plat conditions. Traffic is always a concern. The applicant provided a traffic study with the preliminary plan application prepared by Kimling/Horn and Associates. Their findings and he didn't think it was included in the exhibit, but it was certainly included in the application. The finding is that the level of surface at the County road at the intersection of County Road 319 will remain at level service A. That is further commented upon by the County Road and Bridge in Exhibit H, which they basically had no objection to the proposal with respect to traffic. They have been working really hard between the planning commission meeting and today's hearing to bring before the County a quality fire protection plan, engineered by High County Engineering. They are proposing to include in the subdivision improvements agreement a provision for a 40,000 gallon buried water tank and a dry hydrant listed in condition number 10. Sid showed the lot layout on a poster board and Craig also pulled up his diagram showing the location of the buried water tank. They have been careful to make sure that there is an access easement for access and maintenance; but they have also provided in the covenants and will provide on the final plat that the emergency responders will have access anytime to that water source. The applicant has reviewed the staff findings and the recommended conditions and they find them all acceptable. Sid has had a chance to review the final draft of the protected covenants; it has not been submitted to the County but they will with the final plat application. He feels they are very well done and a lot of the specifics in the conditions; for example, number 5 including in the covenants, adequate notice to future buyers concerning the traffic impact fee. Sid wanted to touch on these so the Board has a high confidence level that the covenants have been prepared with some final edits as a result of this meeting. It is important to emphasis that the covenants do include a provision for no future subdivision of this land. He wanted to add that the existing covenants of Grass Mesa recognizes potential subdivision up to no less than 10-acre lots; that's where the 10-acre lot size came from even though the zoning would allow smaller lots in this area.

Commissioner McCown asked how they will fill the 40,000 gallon tank. Sid stated the water contract and the well permits do recognize the need for fire protection. Commissioner McCown stated he didn't see that listed on permits. Sid said it does recognize fire protection in a generic manner. Commissioner Houpt stated, so it hasn't actually been finalized. Sid said his understanding and Juan has worked on this, the permits and the contract recognize water use for fire protection. He doesn't know if it goes as far to recognize the 40,000 gallon tank. Craig stated Sid is correct; it just calls out fire protection. Craig recommends an additional condition of approval requiring an updated augmentation plan for the specific amount of water fire protection to be submitted at the final plat. Michael Meskin is a neighbor to the north. His first question is about the 40 acres; a year and a half ago at this body you gave him permission to lease 3.25 acres to EnCana for a satellite water storage facility. Michael was here and objected; he was over ruled and Juan has 3.25 acres missing. That would cut this proposed subdivision down 25%; he has the drawing of the surface disturbance if they would like to see it. What also didn't come up was that 8 units would be 76 trips a day up the Grass Mesa Road and 3,000 a year plus or minus and that is a disaster. That road can't handle what it has now with the traffic we have plus the use by EnCana workers. They talk about water; someone came up with 700 gallons a day per unit multiplied by 8 is 5,600 gallons a day - man that is right in my aquifer and that is not acceptable. Something is being built on the land right now and it has never been to architectural committee that he knows of, and maybe "he" can tell me what he is building there; he does have a building permit. It looks like the foundation is in; he would like to know why it wasn't submitted and if it was who did he submit it to. You really have to consider there isn't 40 acres. In some of the records in the planning commission; there is a receipt of monetary gain for the 3.25 acres Mike McGuire is on the Grass Mesa Homeowners Board. The road is a fairly delicate road; it can hardly handle the traffic on it today including the EnCana traffic and our own homeowners. To consider 8 more units with the occupants using that road which is just a delicate dirt road. Another main concern of almost everyone up there is the water. A lot of people have drilled wells and they got nothing. Some people have wells that have minimal water production. When they heard there has been more 4 more wells drilled taking water out of the aquifer that made people in the neighbor upset. The Homeowners Board has seen none of these plans; the architectural committee has seen nothing. The whole thing is being pushed through without any of the real neighborhood having any input as to the impacts. The impacts are huge not to mention the wildlife concerns. It is bad enough with all the drilling going on up there. We used to have herds of elk and deer but we don't have that much now. The infrastructure can't handle this kind of an impact. Chairman Martin asked Mike if he was also speaking for the Homeowners Association. Mike McGuire stated yes, he is. The neighbors are livid about this; not just that they have been ignored about it, but it went from a smaller production to 8 units. It is the road and the water, otherwise we don't have anything. Chairman Martin asked if there were governing covenants in place now and if the Homeowners Association is the enforcement. Mike McGuire stated the way the covenants read you are allowed to subdivide into no less than 10-acre parcels.

Chairman Martin asked if there was a requirement that they need to submit that to the architectural review committee etc. or not. Mike stated yes, and none of that has been done. It is not in the spirit of what is going on up there. The neighborhood is a bunch of folks that wanted to get away from the tight congested areas and everyone has a 40 acre parcel and now it is turning into one of these subdivisions where you know you do it by the letter of the law and talk to your neighbors. We just don't have the water to support this kind of thing. None of us really knew that until we started drilling wells and the neighbors were finding out sometimes they would hit water, sometimes they wouldn't. Some have drilled up to 4 or 5 wells before they actually hit a minimal amount and then they see someone coming in on a 40 acre parcel and drilling 4 times. It is setting precedence because this is not the only one that is going to be going on. There is another subdivision in the works with two 40-acre parcels being joined together in a partnership and they are going to subdivide 7 times;

that's 7 more wells and traffic. There is only one little dirt road that goes to our neighborhood. It is hard on us put to maintain the road the way as it is with the people who live up there now and the oil and gas production. They can't afford to maintain the road as it is. Commission McCown said you keep referring to the gas traffic, isn't the gas traffic required to use the back road in and not use your road? Mike said they often do not. Commissioner McCown asked if they were allowed to use the front road. Mike said no they are not.
Jeffrey Lang – Architectural Committee for Grass Mesa Homeowners stated in all fairness, he has seen the plan, pointed to the board the applicant provided. The only thing that took them by surprise was the ADU's. Their biggest concern is that this is going to set precedence up there. As far as the 4 10-acre lots, to him that is justifiable; it says it within our covenants that we can do it. As far as the ADU's go; they will start having infrastructure problems. Chairman Martin asked Jeffrey if it did go through the board, and did they give approval or denial on that. Jeffrey said they gave approval on it; but it was before they knew anything about the 3 acres that was leased. Chairman Martin asked if in the covenants you have a prohibit use of ADU's.
Jeffrey stated they didn't in the covenants, but the problem is they will have to amend their covenants just to protect our infrastructure. They are in the process of amending the covenants now.
Commissioner Houpt asked Mr. Lang; when they brought this in front of the architectural committed, you approve it and then earlier you also said, at that time you didn't know about the ADU's, was that part of the presentation? Jeffrey stated no; the presentation was just to divide the lot into the 4 equal 10 acre parcels. There was no ADU's mentioned at all. Jodi Daniels stated he is to be the 7 lots everyone is talking about. There is a sign up there for EnCana; they put it up personally to show their people and it flashes $1,000.00 fine. They have tried to address that but every once in a while someone crosses. EnCana just gave us ½ million dollars to try to improve the area up there. EnCana would like to give something back to the community; he believes they have received the ½ million dollars. During the process of buying there personally; it was for the opportunity to be able to subdivide the 10-acres. The main reason is that housing is a tough thing in the area and there are not many places you can find 10 acres available. Water has been harder for some people than others. He doesn't know of any place other than where there is city water that it can ever be guaranteed. He thinks the process and rules and regulations allows us to set forth to do testing and monitoring. There have been people up there that drilled a well and now they haul water for personal use. He thinks the density of how much you irrigate is a real concern; he didn't hear how many acres or square feet they were going to try and irrigate. He would have some concerns about keeping that within a minimum. Fire protection is good for our community whether or not we build a fire station up there or get a truck or whatever. With these lots being far apart it is important to have some water. He thinks it would be important as long as this water is made available to other people in case of an emergency. Talking with the district, it is in line with their intent. He doesn't know of anyone who would deny someone water out of well or anything in case of a fire, but it is nice to have these large pools of water. He believes the community is good in the sense that we should look at how things work together as a community but to stop us from doing things that was the in the intent of covenants which were made to be 10-acre lots. Actually that could be challenged because it is 2-acres, but no one really wants to challenge a covenant that is in place. There is that possibility; they don't have a real strong HOA because no one wants to volunteer. The roads as far as he is concerned, are maintained pretty well. Once EnCana got off of them they are not so washed board. They can be slick sometimes; they are wide enough for two vehicles to pass very easily. Another thing is in his research, this is why we have traffic studies, once it gets to a certain density then it will be harder for the next guy. He doesn't know what triggers the next guy; but this is the first subdivision proposed up there, and he can't see any reason to deny it. As for the ADU's; his feelings are, this whole idea of having family living with you, brothers, sisters, it's getting to be 2 -3 people buying a home together will not be too far out in the future. It is so expensive to own a home by yourself. He thinks that what Garfield County had intended in place of having an ADU is keeping it small like a mother-in-law apartment. Other counties allow you to do this over your garage. He likes the rural aspect of it; but then again how much water can be used outside. He thinks there needs to be some kind of perimeters around that. He is also worried about water and that is why they have gone through extensive studies on just putting monitors on the wells. When they did a test on the well; they monitored the other wells, just to make sure there is draw down. Further down the road it can cause wells to go down; just because in your local community you are drilling wells doesn't mean that somewhere else it could cause another problem. It is pretty hard to control everything and fear is always a great way to do that and he doesn't think at this point fear should be a motivator. It should be based on consulting fees that you pay professionals and just do the actual testing. He is in favor of this; but he wants to see how much water will be used for outside irrigation. Commissioner McCown said he didn't think the well permit gives an amount of water; it gives an area, 6,000 square foot in the well permit.
Jodi said 6,000 square foot is pretty small and he asked if that was per unit and Commissioner McCown stated yes. Jodi stated so that's 12,000 total and there was an augmentation plan in there? Commissioner McCown stated the West Divide. Jodi asked how many acre feet of water per year. Chairman Martin replied 1.11, which happens to be 361,695 gallons and that is specified as Condition No. 7 as the approval. They cannot exceed that. Sid wanted to respond to Mr. Daniels question about the outside irrigation. In addition to the 6,000 square feet; the contract does require sprinkler irrigation, which is more efficient. Chairman Martin stated that was in the West Divide contract and the other was in the State Water Engineers approval process that is what he was reading from. Sid stated in follow-up they are certainly not here to suggest that there aren't any potential problems or concerns that the homeowners or the County should ignore. They came in with every effort to recognize and comply with the Garfield County Subdivision and Zoning Regulations; Sid feels they have done a through and comprehensive job with respect to addressing all of the County's standards and criteria. They are aware of the existing covenants in place; he wants to emphasis there is very specific language in the covenants that recognize the potential subdivision of lots no less than 10 acres and the specific reference is upon obtaining all necessary County approvals. That is what has lead up to our application with their eyes open that they do need to recognize and comply with the covenants and certainly their supplemental covenants are the covenants specifically for these 10-acre lots. They are very clear in recognizing the existing covenants of the Grass Mesa Estates. Sid stated he is not familiar with the lease to EnCana so he can't comment specifically. It seems like it is a lease and not a fee simple subtraction from the total acreage. At the sketch plan approval by the County; the lot was a little bit less than 40 acres and so there was a condition and specific direction from the County that they had to comply with the covenants and come back with at least 10 acres. Between sketch plan approval,

which was about a year and a half ago, and today Mr. Suarez was successful in obtaining a boundary line adjustment. Sid thought it was only about 7 feet on the southern property line. That left the adjacent lot with 50 acres which is plenty large enough to comply. Commissioner Houpt asked Mr. Suarez, can we not just assume but know that the land in question with EnCana is leased or was it sold to them. Juan Suarez said no, it is not sold. When they drilled the well they needed something from me. Commissioner Houpt asked, but it is still part of this? Juan Suarez said oh yes it is part of the 40-acres. Commissioner Houpt asked Mr. Fox if the covenants have language about accessory dwelling units. Sid stated he didn't know. Debbie Quinn stated there is a provision in the existing covenants; paragraph one, titled residential use. It says it permits only one detached single family dwelling not to exceed 3 stories in height, provided that a private garage, private guest house, private stable, or barn, or other non-residential out-buildings may be constructed. Commissioner Houpt said so the private guest house could be an accessory dwelling. Deborah stated that was the current covenants for Grass Mesa provided. Chairman Martin stated in the application, section 5, which has all the different covenants. In the legal description, it does show EnCana has a lease on that particular piece of property. It is identified as a lease as well as an easement. His question is legal; is a lease really part of the lot and is that identified in that lot through number. Deborah stated that Mr. Suarez still owns the 40 acres. Chairman Martin stated it still part of the parcel itself, it is not cut out so it does not lose the acreage. Also on the State Water Engineers well permit; it does specify ADU's, single family dwelling and 6,000 square feet of outside irrigation as part of the permitting process. Rebecca Brack is a board member on the Homeowners Association. She asked why was nothing submitted from the architectural committee. It specifically states in the covenants they are to submit plans. Chairman Martin stated he asked that question; and the answer was they did receive and review it and they did not have objections to the four 10 acres parcels. Rebecca stated there is nothing in the plans about 2 units per lot. Chairman Martin said again in the covenants we were just looking at, it is one of the anticipated uses. Debbie said the section on the architectural control is section 6 of the existing covenants and it provides for submission of plans and specifications prior to building. There isn't any mention of the subdivision stage. Chairman Martin stated so that is proposed, but it is not approved at the present. Chairman Martin asked Rebecca if that answered her question and stated it means they have to submit to the architectural review committee for the building. Commissioner McCown – I make motion we close the public comment portion of the public hearing. Commissioner Houpt – Second. All in favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make motion we approve the preliminary plan for the Suarez Subdivision with the 12 conditions of the planning commission and of staff, adding 13, which would be a condition to not allow additional dwelling units. Commissioner Houpt stated no ADU's; we would have four lots with single family occupancy. Second. Craig Richardson wanted to know if they could include this as plat note.
Commissioner McCown stated it would be a condition of approval as well as a plat note.
Craig said they did speak about a condition regarding an updated augmentation plan, a 40,000 gallon storage tank. Commissioner McCown stated it was testified to, assuming it will be in there.Commissioner Houpt stated she would second that. She thinks it is important when we start looking at areas like this that we may be as a County to start getting more proactive with other agencies, the BLM portion of that road has been problematic in the past before we had any application that comes before the Board. Chairman Martin stated they were also dealing with a private road there as well and that is another issue.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A COMMUNICATIONS FACILITY (AM FREQUENCY BROADCASTING ANTENNA) – APPLICANTS; STEPHEN AND SUSANNE SELF – CRAIG RICHARDSON

Debbie Quinn, Britt Kelly, Gamba and Associates and Jim Teulouw were present and Britt Kelly answered all questions. Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. Planner Craig Richardson submitted the following exhibits: Exhibit A – Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Staff memorandum; Exhibit E - Application; Exhibit F –E-mail from Garfield County Vegetation Management, dated September 9, 2008 and Exhibit G – E-mail from Gale Carmoney, Development Director from the Town of Silt, dated September 29, 2008.
Chairman Martin entered Exhibits A – G into the record.
Planner Craig Richardson explained:
REQUEST
The requested Special Use Permit will allow the construction of a seventy-eight (78) foot broadcasting antenna on a 8.9 acre parcel of land located north of the Town of Silt, Colorado (the Town). The proposed antenna will be sued to broadcast a 1490 AM frequency to the Town and the outlying areas. Staff referred the application to the Town and they received comments from the Town and they have no issues. (Entered in as Exhibit G) The antenna can be seen but there have been no objects.
STAFF RECOMMENDATION
The proposed antenna is noticeably taller than other structures in the immediate vicinity of the subject property. However, Staff has not received comments for adjacent property owners or the Town regarding this request and recommends approval of the proposed Special Use Permit allowing a "Communication Facility" on a property owned by Stephen and Susanne Self with the following conditions:

1. That all representations made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The operation of this facility shall be done in accordance with all applicable Federal, State and Local regulations governing the operation of this type of facility;
3. The co-location of telecommunication facilities on one site is encouraged and the denial of a landowner/lessor of the co-location of a site shall be based on technical reasons, not on competitive interests. It is the County's policy to minimize the number of communication facilities by the encouragement of co-locating such facilities.

Craig stated since this item was not heard because of an error in noticing, they did receive comments from the Town of Silt and it was taken to the Town Trustees. They had no issues with the proposal, which they added as

Exhibit G. Commissioner McCown asked if there were any ancillary facilities that are needed with this antenna as a support facility; he didn't see mention of that and Craig stated he did not either.
Jim told the Commissioners there would be a transmitter building.Chairman Martin said they would need to make sure that the footprint has been established and where the footprint is. Jim said it would be no bigger than 10 x 10 and probably smaller. The transmitter itself is a cube 2 foot square with processing equipment on it. It would fit in a rack 2 foot by 2 foot and 6 feet tall. Commissioner Houpt stated, going back to Commissioner McCown's question, give us a layout for what the disturbance will be and how much land will be involved.
Jim stated the central point is the vertical tower, radiating from the bottom of the stand are copper radials in 3 degree intervals going out about 120 feet. Those are buried and they have agreed to bury them 12 inches deep assuming there is not a great deal of rock there. There will be a building beside the tower by the power building or it could be a little shed somewhere else on his property that would have a buried line going to the site. It requires electricity and it will be buried and not be seen. The only visible thing would be the tower itself and the transmitter building. Chairman Martin asked if there was a need for a fence around the antenna and Jim said yes, 5 or 6 feet high. Chairman Martin stated there is a requirement for screening. Craig didn't feel there was a screening requirement. Commissioner McCown said what would they be screening. Commissioner Houpt asked about the 12 feet for burying, is that standard? Jim said he has heard it everywhere from 3 inches to 3 feet and all you want is to keep it covered. Commissioner Houpt stated it's a large area and she didn't know if there had been any discussion on how the land can be used. Jim said you could still use it as a hay field over top and still irrigate it and have some agricultural use. Craig said the applicant is restricted to what is represented in the application; he assumed it would be the antenna itself. He thought the electricity would run through it and didn't know there would be an out building. Craig would like to request a condition of approval requiring a site plan; demonstrating where the building will be and the disturbed area submitted prior to issuing the SUP.
Commissioner McCown said he doesn't know if we should put in the conditions of approval; alluding back to reverting back to the agricultural use, he doesn't know if you are able to plow in the cable, dig a trench; but for an area that is going to be farmed, a foot is the minimal bury he would like to see. If a farmer snags a cable he will be liable and would be subject to extensive expense rendering his land useless. Although he is doing the lease; to get the multi-use out of it, let's bury it to a depth that will insure continued existing use other than the small area; the footprint and the tower and the building. Jim said it ended up they haven't tried the land; there are special plows which do one furrow and the line goes in. He stated if it was pretty well rock free it doesn't make a difference; if it has to be hand dug it becomes much more problematic. Commissioner McCown said even if you are running into rocks, there is equipment that will dig through that. If you plow agriculturally you seldom plow a foot deep, but it is not uncommon to chisel a foot deep, so the water can go in.
Commissioner Houpt asked if he was suggesting a deeper bury. Commissioner McCown said he didn't know in the building codes what is required as far as burial of wire. He thinks they do have certain standards and he thinks it will be more than 1 foot. Commissioner McCown stated he would be satisfied with 18 inches and said if he needs to, he would include in the conditions. Chairman Martin – Do we have a motion to close public hearing? Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special use permit for a telecommunications tower with the 3 conditions of staff adding a fourth one that all cables associated with the antenna structures and buildings be buried a minimum of 18 inches and a site plan be presented showing the exact footprint of all facilities and locations at the site. Commissioner Houpt - Second.
In favor: Houpt – aye McCown – aye Martin – aye

BUDGET SCHEDULING

Don DeFord stated he needed to talk a little more about budget scheduling approval and the certification of mill levies. He was thinking about what was done earlier today in continuing the budget until December 15 and he checked on the statutes and he checked with Lisa and Theresa on their schedule for both budget approval and mill levy certification. Don would like to know if the Board has available time on December 22, 2008 in the morning to consider certification of mill levies. The reason is that the statute provides that the local jurisdictions have until December 15 to certify their proposed mill levies to the Board to be referred to the assessor. The assessor needs time to get his figures to the Board. The assessor has already indicated he will not have them ready until December 22, 2008, which is absolutely the last day on which you can certify.
Theresa said she thought Linda had emailed and communicated this to the Board.
Chairman Martin stated that it is open to the public as well so it needs to be posted.
Don stated you set the budget for the December 15; you can do that, in the past your practice has been to do the mill levies and budget all at one time. If you are going to have some subsequent discussion on the budget it may make a difference.
Don stated the statutory requirements are only to adopt the budget first and then the mill levies. Do you want to leave the final approval of the budget on December 15 or do you want to move to December 22.
Everyone agree on December 15, 2008 at 11:00 a.m.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

NOVEMBER 10, 2008
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 10, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

COURTHOUSE SECURITY – OPENING OF THE SOUTH DOORS TO THE COURTHOUSE

Lou Vallario, Jean Alberico, John Gorman, Georgia Chamberlain, Judge James Boyd, Martin Beeson, Jim Bradford, Shawnee Barnes, David Snearly, Court staff and Assessor staff were present for this discussion. The subject was the confusion involved in opening up the 2nd floor and reconfiguring security.

Lou Vallario stated that he was not aware that the south doors were to be opened. He received a tremendous amount of complaints about the elevator and the access limited by a card reader and he wasn't sure who was in charge of this project. By Friday afternoon of last week, enough was enough and he requested the elected officials and the justice staff to attend today to clear up this mess. His job is to provide security for the Courts, Judges, District Attorney, Probation and associated staff working with the justice system. Lou agreed that the general public and those voters who needed to access the second floor would like not have to go through the security and Lou thought the early voting polling place had gone smoothly. He didn't understand the need for voters to have access to the second floor on Monday and Tuesday. His suggestion is to close the south doors until all measures are in place to secure the justice portion of the Courthouse. He needs time to reconfigure the security. Last Friday, he was receiving all the blame for the problems and this created frustration. Lou said this must come to some conclusion if he is to provide the needed security. Commissioner Houpt agreed with Lou and said the push was to open the south doors for Election Day. Jean commented to Lou's concern that Monday and Tuesday her office actually is a polling place and a large amount of people came to the Courthouse to vote for various reasons.

Lou said had he known about this he could have made arrangements. The whole project is a total misunderstanding but the end result is that we're compromising our security. Lou stated he was not the project manager and didn't know who was in charge. Commissioner Houpt referred to the lack of a chain of command. Chairman Martin stated that the Commissioners and others were involved with the construction regarding moving security around to accommodate the elected official's offices. We contracted with a company to oversee the job but we didn't have a project manager. Chairman Martin said he took the responsibility and the decision was made by the Board. Now, let's sit down and hear everyone's issues and work out each step and get the security in place as needed. Commissioner McCown – The need has been there for 2 years; customers complain about having to pass security to do business with their elected officials. He asked if the elected officials want the south doors open for access to the their offices.

A resounding yes from all three – Georgia, John and Jean want to have the second floor open to the public. Lou agreed there was a consensus but we need to hear from everyone because this could affect everyone in the courthouse. Say if someone didn't get off second floor and went to the other floors and had not passed through security and had a gun. Then we've put our judicial staff at risk for harm. Commissioner McCown estimated there are about 50,000 that don't like going thru security so the question is how to secure the building. These are the people who keep our lights on and these three offices bring a substantial portion of the funds to keep the County functioning. Lou reiterated that the security is not complete and he will need to have an additional security person on duty to ensure that no one is going past the second floor without going through security. Commissioner McCown said we are still on the same playing field. Secure the courts and open up the second floor for those needing access to the elected officials.

Lou wasn't suggesting that he is opposed it was that he was not included in the loop. Basically we're securing most of the building. Anytime you punch a hole in a light bulb the entire thing does not work. I want to go to the greatest level of security and can with proper equipment and staff. My job is to provide security for the judicial system. John Gorman said he understands the logistics but there must be a reasonable alternative. He gave a couple of scenarios such as a weapon from the non-secure area getting into the secure areas or someone waiting in the secure stairwell. Some leaks could happen. When we change the protocol, it would always be good to do this in a clear way and that did not happen. People were going upstairs and then they were not able to get into the second floor; therefore, we had some irate customers. He said he was accused of being in sympathy with the terrorists. Spoke to commissioners and others and it may be that we are somewhat delayed for a new building for the elected officials and will have to submit to start from ground up building a secure justice center and start from day one that will work for the justice system. Chairman Martin said we'll go back to the table and make it better. We need to make the general public happy with south doors opens but first let's get things resolved. Lou said he could make a rapid decision now by hiring a 3rd security person. Commissioner Houpt said she wants to close the south doors until the new system has been tested and running smoothly. Yes, it may delay people but we need to make sure it is working. John Gorman agrees that we should go back to the way it worked before. Those individuals who are in wheel chairs and others who couldn't access the elevator was a huge problem. Chairman Martin said we'll have to leave the south door open until we have a fix for the card readers and work out the bugs. Georgia agreed to wait to open it up.

Judge Boyd, Martin Beeson and Lou Vallario all voiced a confirmation that we need to be on the same page and will confirm with security that it is safe and working before the south doors are open once again. They expressed cooperation and understood the need to have the second floor open to the public. They basically agreed with Lou that some aspects are not ready. There needs to be physical construction in place and obviously there are some flow issues as to where the security station will be located and how access will be available to the elevator for the second floor. However, the first priority is to secure the justice department and address the Sheriff's concerns. It is very important to address this concern with Lou and in his view if keeping it open doesn't work, then we should work with Lou when he is ready and when he is able to manage it someway. Martin Beeson says he appreciate the security and from his perspective the issue of life, the issue of the Judges' safety as well as staff, court personnel and others need the security in place because we have some very angry people and some who get out of control. He doesn't want in any way a compromise of security to work out the bugs and he understands they exist. He also understands the public issues, however not to deal with those folks in a criminal mindset is not a compromise. If you compromise security and something tragic were to occur that is definitely not acceptable. This security also

protects the Probation office and those working in the Court Clerk's office. So let's go back to where it was because I want my people to be secured. There's enough of a risk whenever I leave this courthouse to walk to my car; I trust the Sheriff and want him to provide security.
Commissioner McCown made a motion that we lock the south door and Dale Hancock be appointed the project manager and work with Lou and not jeopardize security and then once everything is in place, open it again. Dale Hancock – We'll do it as quickly as possible.
The elevator card reader will necessitate bringing the company back in to undo the second floor. Lou and Dale will coordinate the project. Dale added there is no budget for the project.
Lou said he will make a commitment to unlock the south door but it will take him a few days to get security in place. Commissioner Houpt wants to have the final decision to be made by everyone but based on the Sheriff's recommendation. Second the motion. In favor: Martin – aye McCown - aye Houpt - aye

COUNTY MANAGER UPDATE: ED GREEN

ACCESS CONTROL PLAN FOR U.S. 6 THROUGH THE TOWN OF SILT – BETSY SUERTH

Betsy Suerth, Town of Silt administrator, Don DeFord and Ed Green.
Ed submitted a letter from the Town of Silt Town Administrator, Betsy Suerth, saying they are currently considering the creation of an Access Control Plan for U.S. 6 through the Town of Silt, from Ukele Lane (CR 229 to Davis Point (CR 235). This effort would take place in 2009 and will be combined with a transportation improvement plan update for the Town, including the area between the Colorado River and Interstate I-70. Silt believes this 2009 planning project will have regional benefits by consolidating the existing accesses, coordinating planning objectives with the County, CDOT and RFTA and providing a phased plan for various growth scenarios. Silt is asking for the County's participation in two ways: 1) inviting the County to provide staff for collaboration through meetings and perhaps updates to the BOCC; 2) Silt respectively asks that the County share in the cost of the project that is anticipated to cost between $85K and $100K and they would like to ask for $50,000 in cash from the County. Betsy added the outcome and benefits will be to provide a classification and safety of pedestrians as well as vitality of the corridor and they will be seeking the stakeholder's support. Commissioner McCown had some concerns about the County funding the lions share within the city limits of a municipality. Betsy said the County's share would be one-half. Commissioner McCown called attention to the fact that this was for planning only and wondered then how the project was budgeted? Betsy replied we're not there yet but hopefully with grants, the Town's share, development and accesses onto US Highway 6. Commissioner Houpt – What triggered the need and partnership with the County instead of the Town? Betsy answered due to the access though the main part of town. Some developers are looking for annexations and have had to apply for access; we're in negotiation and discussion with them. They're not in favor of Town of Silt being an urban corridor with somewhat controlled access and we do not want the scale of improvement access and egress lanes. Commissioner McCown noted there are four lanes through the town as it is. Betsy said, and all do have access/decel lanes. Commissioner McCown asked if the idea was to limit to strategic traffic only.
Betsy – No. Commissioner McCown asked, will 1st and 2nd Streets be affected by this? Betsy – They will not shut down the grid but enhance and utilize the augmentation through the town and make sure none are shut down but some are wide open for property access; she would like to see a safer plan. Commissioner McCown sensed some problems occurring by condemning access if we shut down current traffic on US Highway 6 & 24. Betsy stated there will be citizens and property owners involved as this will be a large scale operation and they plan to hold a series of public meeting with CDOT. Several public meetings are required and this is why it cost so much for planning. Commissioner Houpt said she does support this access control plan and was in favor of the $50,000 as well as identifying a staff person who will be working with the Town. A lot of things are impacting our County as well as the municipalities and we need to go forward. Commissioner McCown stated he could not support this if the motion is to fund more than ½ of the project. We are dealing with an unknown and he is not in favor. Unless we have the exact amount of the cost and then he would only support 50% of the cost of the study. Betsy said conceptually it was estimated between $85,000 and $100,000. Commissioner Houpt revamped her motion to include no more than $50,000 with a 2/3 cap. $85,000 could come in but her motion would be not to exceed $50,000 and not a 50-50 split. Chairman Martin stepped down as Chair to second the motion stating that this will require an IGA and assistance from Road & Bridge, Engineering, Board of County Commissioners and the legal staff. Commissioner Houpt asked if staff would work on an IGA on this project.
Ed said he thought we were talking about a 50-50 split. Don said after the IGA is drafted, he will bring it back to the Board but he asked if part of the motion was to have the Chair authorized to sign.
Commisisoner Houpt and Chairman Martin – agreed it was included in the motion.
In favor: Houpt – aye Martin – aye Opposed: McCown – aye

CONSIDERATION OF ADOPTION OF BY-LAWS FOR THE GARFIELD COUNTY FAIRBOARD – DAVID EBELER

David Ebeler and other members of the Fairboard along with Carolyn Dahlgren were present.
David submitted the By-laws for the Garfield County Fairboard.
David explained the problems in the current By-laws that create situations that the Fairboard has struggled with over the years. We want to have a County Fair as a whole and not have individual chairman of specific portions of the Fair. Legal staff has reviewed these and we are here today to get the Fairboard to function as an entire board. Carolyn addressed some legal aspects of the proposed By-laws referring to amendments to the Board of County Commissioners, liability insurance and the biggest one is the open meeting and open records act. Carolyn will work with this and asked if the Board would want to approve this with the understanding that some wordsmith was needed.
Commissioner McCown made a motion that we approve the By-laws for the Fairgrounds Board with the caveat that Carolyn will wordsmithing on those issues and terms the members are to serve. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF BOND TO ASSOCIATED PIPELINE CONTRACTORS – MIKE VANDER POL

Mike Vander Pol submitted the documents stating that the Associated Pipeline Contractors, Inc. has completed the terms of their permit and funds should be released to Travelers Casualty and Surety Company of America No. 104792693.

A motion was made by Commissioner McCown to release the bond. Commisioner Houpt seconded. Commissioner Houpt asked the question regarding what stage of reclamation are they at presently. Mike said no reclamation was needed, it has all been cleaned up and it was formerly the lumber yard on Hwy 13. It was leased land and there was a road bond for them and it had nothing to do with revegetation. In favor: Houpt – aye McCown – aye Martin - aye

RELEASE OF BOND TO PEAK USA ENERGY SERVICES – MIKE VANDER POL

Mike Vander Pol submitted the documents stating that the Peak USA Energy Services, Ltd. has completed the terms of their permit and funds should be released to Liberty Mutual Surety of America No. 22015692. A motion was made by Commissioner McCown to release the Bond for Peak USA Energy Services Ltd. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY ATTORNEY UPDATE: DON DEFORD

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE - Consideration/Approval of 2009 Contract for the County Attorney; Consideration/Approval of 2009 Contract for the County Manager. Other issues involved information that was brought up last week to pursue contract amendments on the JPA; also a matter the County is exploring with Chevron and will have more on this next week; also, in Executive Session an issue involving legal and Debbie Quinn will provide information regarding Ironbridge and status; 2 different litigation issues one being the case filed by Danny Martin; Code violation that involves Cassie and Chris and then Carolyn needs to provide legal advice and obtain direction on the CLEER contract.

A motion was made by Commissioner McCown to go into an Executive Session. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin – aye

Don and Ed requested their contracts be discussed individually in Executive Session.

A motion was made by Commissioner McCown to come out of Executive Session. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

Action Taken:

CODE ENFORCEMENT - SOBER HOUSE

Commissioner McCown made a motion to proceed with legal action to bring the party into compliance. Motion seconded by Commissioner Houpt. In favor: Martin –aye Houpt - aye McCown- aye

CONSIDERATION/APPROVAL OF 2009 CONTRACT – COUNTY ATTORNEY

A motion was made by Commissioner Houpt to approve the contract with the County Attorney as presented. Commissioner McCown seconded. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF 2009 CONTRACT – COUNTY MANAGER

A motion was made by Commissioner McCown to approve the Contract with the County Manager as presented. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

COMMISSIONER REPORT:

Commissioner Houpt – There's a CMC West Campus Advisory Committee Meeting on Wednesday; Rural Resort Region on Wednesday.

Commissioner McCown – Associated Governments Northwest Colorado this Thursday; hunting season starts Wednesday but will attend that meeting where we're changing part of the articles of organization and I think it's important that I be there.

Chairman Martin – Tuesday the Elks will be celebrating and honoring the Veterans and a service and John has been asked to welcome and thank the veterans; Wednesday, Club 20 at the Rec Center in Glenwood Springs at 5 p.m.; Evening with the NCRS on Friday the 14th at 6:00 p.m. at Rivers; Letter from DeBeque thanking us for supporting everything we did on CR 204 and they are 100% behind getting the road done and working with Chevron on that particular issue; thanks to all the folks who gave me the majority vote and I'll be back for four more years. CCI in December from the 1st through the 3rd and need to make adjustments must be made for the December 1, 2008 meeting.

Larry will not be with us as a County Commissioner after January 5, 2009.

CITIZENS NOT ON THE AGENDA

ADRIENNENE CROUCH – COUNTY ROADS 162 AND 162A

Entered a couple of documents and asked a question. When is the Board going to respond to my requests over the last number of years? The first document to put into the Commissioners' hands is a letter from Don Scarrow to "Who It May Concern" dated December 12, 2007. "This is to inform you that Adriennene Crouch was given permission by me to review and make copies of documents found in the files of Scarrow and Walker, Inc. within or near the property owned by herself and members of her family". One of the documents that Adriennene entered into today is from Sherry Caloia addressed to Don DeFord and Mark Bean on July 28, 1992, "Dear Mark and Don, (she summarized) enclosed please find a copy of a Subdivision Improvement Agreement for Sun Mesa, now Stirling Ranch PUD. This copy is dated July 28, 1992 and does not include all the exhibits. Please review all the provisions as I have made significant changes to the external roads and other minor changes, security for improvement, paragraph – roads. Also enclosed is a copy of the legal descriptions of the entire roadway easement we seek across the Garfunkel, Razzore and Miller properties. (All neighbors of Adrienne parents.) These legal descriptions were prepared by High County Engineering and show the entire 60 foot right of way that we need to acquire in order to build the road to the specifications that the County requires. I have included a yellow sticky note of the legal descriptions for the Miller and Razzore's properties indicating the amount of acreage that can be excluded from this description. (This is the key paragraph) I am requesting approval of the final plat for the Sun Mesa Subdivision as soon as possible; in order to get this accomplished I am requesting that the final plat be issued even though the acquisition of property for the building of County roads 162 and 162A has not yet been finalized. I look forward to finalizing some of these matters with you in the near future". Also, the importance is that it copy's John Stirling, Sun Mesa Subdivision, David Harris, Land Title, Yancy Nichol with High County and Don Scarrow for Scarrow and Walker because I assume Robert Scarrow was on probation at that point. I think it is a significant document, I've never been notified or my parents of one thing that has happened with the Sun Mesa or Stirling Subdivision in all these years. They are still on my property and that's that. The last thing I have, I'm continuing to work with Source Gas, which is Kinder Morgan, I do believe I've put this into the record a couple times ago, but on October 2, 2001 the County

gave Kinder Morgan easements on County Road 102 with the permits; they gave me those permits. What's ironic about this the Stirlings, the Razzore's, Scherellie, came to me and said they wanted to put a water pipeline in. Kinder Morgan had already put the gas line in my water ditch. I called Dick Hunt because he said why don't you use David Hoefer at Leavenworth and Karp. Unbeknownst to me that law firm had been working for many years with Dick Hunt and all the neighbors. I used David Hoefer but I wasn't told that the County had already given permits on 102 road. So, my request again to you is the legal descriptions for 100 road, 102 road, 162 road and 162A road because they affect my family's property and I'm getting really close to doing something if you guys don't do something.

CONSENT AGENDA:

a. Approve Bills
b. Wire Transfers – COPS Debt Service
c. Inter-Fund Transfers
d. Changes to Prior Warrant List
e. Grants - Sales Tax Recovery Distribution for October $64,387.27 – Georgia Chamberlain
f. Authorize the Chairman to sign a Special Use Permit for one temporary housing facility to be located 20.5 miles north of DeBeque past the terminus of County Road 211 on land owned by Chevron USA, Inc. – Kathy Eastley

A motion was made by Commissioner McCown to approve the Consent Agenda as presented. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

APPRECIATION AND PRESENTATION TO COMMISSIONERS – SENIOR PROGRAMS

Mary Jane Hangs presented the Commissioners with a bouquet of roses. She explained these were from the senior program committee members to show appreciation for the support of the senior programs. They presented 800 roses to seniors and expressed the desire to have senior citizens stay involved. The senior citizens wanted to make sure the Commissioner knew how much they appreciated what has been done for the seniors.

WEST AREA HANGAR PROPOSAL – TOM HEUER

Brian Condie, Carolyn Dahlgren, Don DeFord, Tom Heuer, Ty Truelove and Robert Franken submitted the proposal. 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. The three present are the LLC. It is waiting for approval of the hangar and then Dan Kerstin will finalize the LLC.

Chairman Martin swore in the speakers. Brian Condie stated this proposal is to construct a hangar in parcel number 200WA. It is to be a private hangar and only one building containing six individual hangar bays. It will be a pre-engineered metal building 148 ft. long by 60 ft. wide. The anticipated construction costs would be $448,316.00. Brian stated the lease is the square footage of footprint of the hangar (8,880 sf) plus 20 feet of space by the length of the hangar on both the east and west sides for required apron; and 25 foot space by the width of the hangar on both the north and south for required set-backs. The total lease area of 19,800 sf at a rate of approximately $.19 cents per square foot would be $3,724.00 per year for the initial period of twenty years. After the initial 20-year period, the lease may be extended for two additional ten year periods for a total time of forty years. At the conclusion of the 40-year period, RIL, LLC retains ownership of the hangar building and may remove or renegotiate a new lease.

Brian recommended accepting the proposal to build the hangars.

Tom – The LLC is made up of pilots and they have a hangar in Glenwood Springs. Not many hangars are available. John Savage has sold all his hangars. In talking with Ty and Robert we decided that building our own hangars would be best and we will build two more and bring in other members of the LLC. He already has commitments. A discussion was held as to the legal survey, the taxi-way paving and whether or not this would be in lieu of rent. If the LLC paved the taxi-way it would be worth 7 years of credit before they paid rent. The Taxilane has not been officially surveyed. Carolyn asked if the County was going to pay the cost for the survey. Tom has already surveyed the parcel but it was not the legal documented survey necessary for the County. Brian said the County will take care of that through our engineer. Carolyn has emailed and spoken to the Alpine Bank and Kelly Cave is the lawyer working on the agreement so it's all happening. Should the Board approve this today, could the Chairman be authorized to sign unless we run into problems, then we would bring this back.

A motion was made by Commissioner McCown to close the Public Hearing. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

A motion was made by Commissioner McCown to approve the west area hangar proposed as presented today with testimony of the applicant as far as improvement to the Taxilane that is to occur, improvement would be paid for by the applicant and credited out in rent and the Chair authorized to sign. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

PHASE II HYDROGEOLOGIC STUDY – GEOFF THYNE

Judy Jordan, Jim Rada and Dr. Geoff Thyne were present.

S.S. Papadopoulos Associates was hired to assess and monitor the condition of the County's water resources. The contract was to Science Based Solutions (SBS). The purpose of this contract relates to the area south of Silt, Colorado and was analyzed in view of the data from past studies undertaken by the County as conducted in 2006 by URS. SBS described the nature of the geochemical conditions of the study area including their conclusions regarding the chemistry of the groundwater in the Wasatch Formation, influences of lithology on the water chemistry, the hydraulic relationship between the Wasatch and underlying Mesa Verde Group, the orientation and extent of fractures and structural features, any potential influences on water chemistry from natural gas wells or gas development activities such as fracing and well construction, and potential influences from other anthropomorphic activities such as land cultivation.

Dr. Thyne presented a power point regarding Phase II of the Hydrogeologic study.

Judy stated that following the Divide Creek Seep, the report was completed and the Board approved to hire interpretation of the report. Dr. Thyne is now with the University of Wyoming. This is a report of Phase I and Phase II together and is summarized and integrated to provide some impact criteria on the water quality of the study. Phase I was done by URS by the EnCana fine and provided the geological study for the County. Phase II was preformed S.S. Papadopoulos Associates and showed wells that needed to be

resampled. There were signs of elevated methane and we wanted to know; also some gas wells .The study research is south of the river and picked during Phase I and include east and west Mamm Creek and rural areas with ranches and drainages to the Colorado River. The Wasatch Foundation have low yields and generally good to poor quality water.
General comments: URS did the background study and provided a thick notebook and identified some problem wells as a localized problem and not related to gas wells.
S.S. Papadopoulos Associates collected 66 samples and now we have over 100 well samples.
Impacts to water quality: the state has defined impact to wells as that which exceeds the federal or state standards.
There are two types of impacts: 1) unrelated to petroleum activity; 2) related to petroleum
Most impact from petroleum wells is not sufficient to trigger regulatory action; none were above the standards. Benzene was exceeded in the Divide Creek Seep.
The impacts: Elevated methane gas in water wells; produced water in water wells; deeper (lower quality Wasatch groundwater moving upward along faults and drill holes). However, one part per million is not a concern. Low quality water seems to be moving upward and is a small secondary impact.
Hydrocarbon impact: Dr. Thyne said that Benzene was defined in the Divide Creek Seep. But remember all these hydrocarbons will naturally be removed over time. There are over 1000 gas wells and less than 264 samples were taken including monitoring wells, ponds, streams and water wells in the study area.
Increasing Methane in Groundwater: Looking at all the wells, some of the gas is coming upward and there will be higher methane (it is not regulated) of a very high explosive content. Most of the domestic well methane (impacts) we see is from produced gas, not from natural fermentation, which some people have alleged.
Geological features, like long, linear fractures in the area, may serve as a possible upward conduit for natural gas in the area according to Dr. Thyne. There is a natural geological feature here in this area consisting of faults and fractures which in special drilling zones coincide with the Divide Creek showed upward and a natural fault and they lost the gas into the Divide Creek seep.
A map was shown from URS showing the high methane wells. Most occur in the area of concern on the central eastern area and some in the south east area. While the water samples did not show any significant presence of benzene, which is a know carcinogen, Dr. Thyne noted compounds like benzene largely won't be detected 200 feet from its source. The brainhead at the top of the well is like an upside down cup and these are checked every month to see if gas is accumulating. They let this blow down or letting the gas down. It really shows us there is a lot of upward movement and high along existing structures. Nothing is unexpected.
Isotopic data. COGCC has proposed there are "false positives" that appear thermogenic, but are leftover after microbial oxidation of CH4. Unlikely explanations given many seep samples are produced gas (thermogenic) and there is no accompanying CO2.
If the County is interested, a determination can be made by looking at the bi-carbons in the water.
This leaves us with all these isotopic signatures. CO2 associated with the Williams Fork FMN CO2 concluded that most methane came from produced gas
impact on Water Quality. Natural background surface and near-surface Ca-Na HCO3 water with 500 ppm. TDS and low chloride and sulfate (potable is 500ppm). Natural groundwater from the wells: Na, CA HCO2SO4 with higher TDS (not always potable), but impacted groundwater with either or both elevated methane 1pmm and an NcCI component, very visible. Salinity – (TDS) was found in special drilling zones. This indicates upward movement of water from Wasatch. There are more impacts along structural features. An exhibit was shown of all the samples where we have small circles with very good water.Key indication of produced water impact is chloride. Groundwater has low chloride, produced water has high chloride. Alternative water evaluation using statistical methods group samples by similarity into a cluster. There are five basic groups of water statistically saying all these samples are very similar to each other and very different from the other guys. Types 4 and 5 have impact. Out of the 700 water samples about 450 have less than 50 parts ppm chloride and that's what we normally would see in this area if we had never seen any drilling activity. Then as you get up into higher chloride samples we have many fewer samples but we have some with higher chloride. Where are the impacts? West Divide and Mamm Creek have some impact from produced water.
Conclusions:
Natural background water quality is moderate to 'poor' in water wells, I could have put 'good' because a couple of them are good especially if you are near a stream then you have really good quality water in your water well. There are a few groundwater wells that show persistent elevated nitrate or selenium or fluoride – this is at least in two samples and over the regulatory limit and it's probably wise to notify those homeowners privately as they may want to take action to deal with that but it is not related to petroleum activities.
The COGCC has defined impact as concentrations of BTEX and methane; methane is not regulated that exceeds regulatory limits. So, we're simply talking thus far the state has regulated cases where benzene has been above the regulatory limit and that's how the state draws the line in terms of taking action. There are levels of produced gas and water however that are below regulatory action and we may want to discuss them and if there is anything that could be done about them. That impact seems to be growing over time and seems to be related to the number of wells that are being put in which is not unexpected.
Discussion
Commissioner Houpt had a question, we had a County citizen come in who lives in the area that has now been reopened for drilling and she was noticing bubbling in different areas. I believe that was when the COGCC brought up their false positives theory and back and forth on what might be causing that whether it's organic or created. You used an example of what they had indicated what that was but you didn't necessarily agree with the finding. Dr. Thyne said that both I and one of the senior geochemist at Papadopoulos have said if in fact they're right, accompanying that methane would be high concentrates of bicarbonate and we don't see that. So rather than have a more complex explanation of false positives we just call it a positive and drop the false. Again, if it were a matter that had to be resolved definitively there's

a simple analysis that we could do to do that, but no speculations beyond that point. This is a very standard analysis and it is to dissolve carbonate; there are a number of cases where this has been studied (around landfills) where there's a good indication of what range of value you would expect from the carbon isotopic signature of the bicarbonate. Commissioner Houpt –Because there are over 1000 gas wells in the area and less than 264 sample wells, that it is a low number. Dr. Thyne – 264 places we sampled, 15 or 20 at West Divide Creek, some of the 705 samples represent a same well that's been sampled 4 – 5 times so we probably have less than 75 water wells scattered over this whole area versus 1000 gas wells. It's overkill to put in a bunch of monitoring wells unless you knew for sure that you have a very high probability from a particular source and you wanted to verify it but it is a problem if someone said put your finger on where it's all coming from. We can't do that; we can say there's more leakage in one area than another. I am going to say in the 10 acre spacing in this area there's more leakage in some areas. Judy Jordan stated there is one potential exception to that in connection with a well we resampled a couple weeks ago. There's an old well drilled in 1959 which had problems when it was drilled and it has been an ongoing process. I pulled up a number of documents on COGCC website about that well. It seems it is a problem well that COGCC had to contend with during the 90's as well, so that might be a closely implicated well but that one we have information to suggest itself was problematic which is different from the case we made on previous wells. This one is probably a good reason to go back to the state about the proximity of our methane in domestic wells to that old problematic gas well and see if there's a connection.
Commissioner Houpt – So, given that there are so few water wells and a great deal more gas wells, how can we use this data now? It gives us general locations of potential problems. Dr. Thyne showed some figures in his power point. Commissioner McCown – Are there other water wells in the area available for testing that were not tested? Or, have all of the domestic wells been tested? And if not, why were they not? Was it because they were not made available by the landowners? Dr. Thyne - Not all the water wells were tested. Judy answered there was a number of things: 1) they may have been sampled once before; 2) some were and then not resampled in a later sample because the criteria for sampling was that there be some type of a detection the first time; 3) in some cases we did a confirmation sample; 4) in other cases these are domestic wells and we didn't have permission from the homeowners to actually sample their wells. The request was made for all of the wells we knew of and some of them we may not have records on.
Commissioner McCown – I would think the state engineer's office would have records of all these wells. Dr. Thyne said the state engineer's office does have records of all permits and URS did compile a record of all the permits and made some modest effort to notify homeowners but many people don't want their wells tested. Some were permitted before the permit process was a water issue. Chairman Martin said there are a lot of folks who do not want you to mess with their water issues which is another problem. They may test their own water and if they find results they bring those to us. Commissioner Houpt – But is there something that came out of this Phase II that we didn't see in Phase I that would trigger some information that we should pay attention to. Dr. Thyne - No, I think Phase II confirmed what we saw in Phase I which is we have areas where we see in the chart where there is increasing methane with the number of wells but that came out of Phase I data so the problem's been on the table for a while and we didn't see anything new because Phase II was mainly aimed at resampling wells which initially showed a problem that might require action and before the County would notify homeowners. We looked at the data through time and they stayed pretty much the same, we would notify homeowners of course with due diligence if it would require we take a second sample and confirm it wasn't an aberration. The data was looked at through time and it's very interesting through time that things stayed pretty much the same. So, whatever has been going on the last three or four years at specific wells has not gotten worse. What we can gleam from the data is over time we have seen a gradual increase in the background, if you will, of petroleum products as indicated by methane. You could project out into the future if we have 2000 wells or 4000 wells here's probably what we'll see happen. That's an issue that is difficult to get your hands around. Judy and I have tried to discuss it slightly and since we've just seen this now we're not really in a position to offer many ideas. Ed Green asked if we move on to the Phase III or do we do more with Phase II?
Chairman Martin – I think you can now specify certain areas for certain wells and go back and re-test them. Judy – There's a couple of things. Phase II, assuming the Board is okay with what I propose to do in the near future is completed and then the issue is to move on and actually scope out with Dr. Thyne's help what Phase III should look like. In the immediate future since we did get permission in many cases on the contingency that we actually go back and tell people what the results were for their wells; we really owe it to the folks whose wells we tested to give the results of their analysis. Judy asked permission to do this and the second is that since there were 66 different residences where we got samples from, we can't practically go back and explain to everyone what the nature of their results were so we'd like to have Dr. Thyne come out and do a public presentation in Silt as to what he found and in the process actually conveying the results for each individuals well water. We'll invite them to come to that meeting if they would like to learn more about what this data means in general. Commissioner Houpt though her plan sounded reasonable. Since we sampled people's water wells we should share that information with them.Chairman Martin and Commissioner McCown agreed. Commissioner McCown – When go to the public, will your answers be the same? Dr. Thyne said Papadopoulos has prepared a pamphlet to distribute to those individuals explaining what the results mean in general and it makes a lot of sense to me. Commissioner McCown – When you go to the public with your presentation and you get asked the questions that your students ask you, will your answer be the same? Dr. Thyne – The presentation will be the same shown today.
Commissioner McCown – And the fact that when we tested these wells initially and we test 3 or 4 years later, they don't appear to be getting worse but what's there it still there. Dr. Thyne agreed.
Commisioner McCown – The sad part of it that is we had no knowledge of what was there 15 years ago before any petroleum activity started. Dr. Thyne – Except for the methane; the methane according to COGCC has always been asked for by any major development, any company going in with a couple hundred wells to test the local water so we do have that and the increasing methane over time related to the number of wells. In terms of other water quality issues, no, we can't really say anything. We don't see any evidence for instance of your total dissolve solids going up a lot or something like that. A little bit of chloride over time in affected wells, but it's mostly the methane issue and that's all we can really say.

Chairman Martin – Which has really no standing at the present time. Dr. Thyne – 500 ppm is the standard for chloride and for methane we have no standard and basically once you get over 20 ppm you start making bubbles and so you just de-gas. 20-25 depending of the water temperature and that's mostly an issue for individuals who would have a pump house where it might accumulate just like radon, the same sort of thing without venting and of course many of these people have non-standard systems. Judy – There's also one other exception too to your question about have we seen the concentrations go up and Dr. Thyne doesn't know about this because we went back and resampled and it wasn't part of the report from Papadopoulos that he was asked to review but we got 11 mg per liter of methane and last summer when Papadopoulos took their sample initially and a few weeks ago when I went back and resampled we got 27 mg per liter. We have do have one .Commissioner McCown asked if we could fingerprint that. Judy – No, but it's close to that one old well. Commissioner McCown thought there could be isotopic fingerprints done. Dr. Thyne – If samples were taken they could. Judy – The original sample that was analyzed isotopically and we do have an isotopic fingerprint on the first one.

CONSIDERATION/APPROVAL OF DEED RESTRICTION FOR IRONBRIDGE PUD PHASE II LOTS 297-316; (TIM THULSON ON BEHALF OF L B ROSE RANCH, LLC) AND CONSIDERATION OF REQUEST FOR RELIEF FROM TERMS OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR IRONBRIDGE SUBDIVISION PHASE II, (TIM THULSON ON BEHALF OF LB ROSE RANCH, LLC)

Tim Thulson, Debbie Quinn, Fred Jarman and Andy Schwaller were present.
Debbie Quinn presented.
Tim Thulson submitted the final release of security and stated in his letter that the BOCC has been advised of the October 1, 2008 letter from High Country Engineering to Fred Jarman requesting final release of collateral for Ironbridge PUD Phase II. This request is deficient in the following respects:

1) The Building & Planning has not received the documentation that has been recorded;
2) The affordable housing aspect of deed restricted units (20) which is addressed separately today;
3) Letter of credit - $481,224.24 and text amendments to correct inconsistencies;
4) Recent bankruptcy of Leman Brothers Holdings, Inc. the County further requests a representation in writing from the authorized representative of LB Rose Ranch LLC specifically in paragraph 3c of the SIA specifically bankruptcy of the owner may void the SIA and could result in vacation of the Final Plat. No one has yet advised the County how this bankruptcy affects LB Rose Ranch, LLC. This representation is required before the County will take any further action relative to LB Rose Ranch, LLC.

Also, a statement of authority accepted by the underwriter for Land Title Guarantee Company will issue title insurance and will close transactions involving deeds and closing documents signed by the designated authorized signatories. Tim stated in his memo dated 11/05/2008 that 1) he does not believe the releases under the SIA should be conditioned upon the sale of affordable housing units. Further, he would note that the SIA does not identify under the "secured improvements" any of the affordable housing units; and 2) he would like to explore with the BOCC the option of securing Certificates of Occupancy prior to approval of the zone text amendments regarding set-backs w/i the Club Villas zone district. His argument is that conditioning CO's as such will place at risk numerous contracts which have been executed on houses which have been substantially completed. This delay is due to Tim's confusion and Ironbridge's end, given the purpose to be served in this regard which is the placement of median income homeowners within the community; rather it appears to place form over substance.Tim stated he had met with Fred Jarman and discussed whether to go forward with the 10 units; he submitted a proposal with the deed restrictions and the Housing Authority did come up with a proposal. Tim asked for CO's on the 10 units saying we would redraw the resistance to that if confirmed by the Board. The issues were discussed regarding potential clouds on the titles, how this would affect the sale of these homes, the timeframe, methods to alert the buyers of the issues, and then the motion to move forward. Debbie stated we have allowed things to progress to this point where people are ready to move in and close on these units. Commissioner McCown stated he was still supportive of getting these units out into the market but I'm not supportive of getting these units out into the market if the owners of these units are going to 1) not qualify for financing and 2) be encumbered with other problems that they didn't know when they were signing. That's just moving the problem and not dealing with the problem. I don't want to hand that off to these first time homeowners who are marginally qualified buyers - it's not fair. Commissioner Houpt agreed and stated we have one more meeting this month. Commissioner McCown said he would feel comfortable making the motion that we be prepared to release these units, approve the deed restrictions and be prepared to release these units, hold the security and once the amended text is in hand and is completed move forward but not until. Tim said when our application is complete and filed with the staff. Commissioner Houpt – So, we still will go through the process. Commissioner McCown – So we know that you have been in touch with someone who will sign the paper so you can move forward. Commisisoner Houpt seconded the motion. That means that nothing happens until the paper is in hand in the County. Commissioner McCown said there was no need to have Tim return, it can go to the staff's office once the document is in hand and notify Debbie and the wheels can start turning. Debbie said we will authorize the Chair to sign the deed restrictions so that will be ready to go. Commissioner McCown – Yes. In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT TO ALLOW A CAMPER PARK IN THE AGRICULTURAL INDUSTRIAL ZONE DISTRICT. APPLICANT IS SIMON CASAS AND GENOBEVA LOPEZ – FRED JARMAN

Fred Jarman, Debbie Quinn, Janet Aluise and Simon Casas were present.
Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Planner Fred Jarman submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D –Staff Memorandum; Exhibit E – Application and Exhibit F – Email from Burning Mountain Fire Protection District, dated May 28, 2008; Exhibit G – Memo from Burning Mountain Fire Protection District, dated July 15, 2008; Exhibit H – Memo from the Division of Water Resources, dated May 12, 2008; Exhibit I –

Memo from Resource Engineering (GARCO Consulting Engineer dated May 28, 2008; Exhibit J – Memo from Jim Rada of the Garfield County Public Health Department dated May 22, 2008; Exhibit K – Email from Mark Kadnuck of the Colorado Department of Public Health and Environment (CDPHE) dated May 13, 2008; Exhibit M – Email from the Town of Silt, Community Development Director, dated May 22, 2008; Exhibit N - Email from Division of Water Resources, Cynthia Love, dated October 6, 2008; Exhibit O – Email from Jim Rada, GarCo Public Health Department, dated November 5, 2008; Exhibit P – Email from Mark Kadnuck of the Colorado Department of Public Health and Environment dated October 31, 2008 and Exhibit Q – CDOT State Highway Access Permit, dated September 2008.
Chairman Martin entered Exhibits A – Q into the record.

BACKGROUND

The Existing Herons Nest RV Park is subject to Special Use Permit No. 1978-147. The park is permitted for thirty-eight (38) camper spaces and thirty-two (32) tent spaces. When the Applicant purchased the property the park was operating out of compliance. Without obtaining approval, a previous owner added an additional eighteen (18) camper spaces bringing the total spaces on-site to fifty-six (56).

DESCRIPTION OF THE PROPOSAL

The Applicant is proposing to expand an existing "Camper Park" to accommodate a total 76 camper spaces. Tents will only be allowed in designated camper spaces. Independent tent camping will not be allowed.

SITE DESCRIPTION

The 27.468-acre property is located adjacent to the Town of Silt and north of the Colorado River. Access is provided via Colorado Department of Transportation right-of-way. A portion of the subject property is situated within the 100 year flood-plain. The Applicant currently has a Technically Incomplete Administrative Flood-Plain Permit application. Staff has included a condition of approval requiring the Applicant obtain an approved flood-plain permit prior to the issuance of the requested Special Use Permit.

The Subject property is an existing camper park. Adjacent properties include a residential parcel located outside of the Town limits and an industrial parcel within the Town, owned and operated by the owner the residential parcel.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve the requested Special Use Permit allowing the expansion of an existing Camper Park to a total of seventy-six (76) camper spaces with the following conditions:

1. That all representation made by the Applicant in the application and as testimony in the public hearing before the Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The northwest leach field was not operating properly during a site visit conducted. Therefore, the integrity of the leach field must be evaluated and repaired if necessary prior to the issuance of a Special Use Permit;
3. A licensed professional engineer shall evaluate the flows of both ISDS effluent pumping systems to determine flow rates to each leach field, and an engineers statement demonstrating flow rates to the two (2) leach fields shall be provided prior to the issuance of a Special Use Permit;
4. The flows from the potable water system and flows to the two septic systems must continue to be monitored to ensure that flows remain balanced and less than 2,000 gal/day to each septic system, accurate records shall be maintained and made available to Garfield County upon request;
5. The Applicant and any future owners shall retain a qualified licensed PE or a minimum Class D certified wastewater treatment plan operator to conduct routine inspection and maintenance of the wastewater system. A report of routine inspections and maintenance activity shall be maintained with other system records for review by Garfield County upon request;
6. The Applicant and any future lot owners shall retain a qualified professional engineer or a minimum Class D certified water treatment plant operator to conduct routine inspection and maintenance of the drinking water system. A report of routine inspections and maintenance activity shall be maintained with other system records for review by Garfield County upon request;
7. A letter from a professional engineer certifying that modification and/or upgrades to the ISDS have been completed in accordance with the plans and specifications of the Special Use Permit application and explanation that sewage flows are balanced to the maximum extent possible;
8. At any time potable water flows average greater than 4,000 gallons per day over a 30 day period, the owner shall immediately report this information accompanied by the concurrent wastewater flow information, to Garfield County Building and Planning and Colorado Department of Public Health and Environment, Water Quality Control Division;
9. The camper park is limited to seventy-six (76) camper spaces;
10. Tents are only allowed within a designated camper space;
11. The camper park shall comply with all applicable Garfield County zoning regulations at all times;
12. All proposed improvements, including but not limited to utility expansion and fire protection requirements shall be constructed prior to the issuance of a Special Use Permit;
13. The camper park is limited to the existing fifty-six (56) camper spaces and shall not exceed this occupancy requirement until a Special Use Permit has been issued;
14. The Applicant shall obtain an approved Administrative Flood-Plain Permit prior to the issuance of the Special Use Permit;
15. The principal business of the park shall be to provide parking spaces for travel trailers, camper vehicles and/or tent camping. Occupancy in camper parks by any individual shall be

limited to no more than one hundred twenty (120) days per year in any one (1) or combination of camper parks in the County;

16. Add a condition – Rifle Watershed permit.

Janet – This is a challenge to make sure the occupants are not there more than 120 days. We are prepared to operate within all County regulations and monitor water and wastewater systems and we will be expanding our water system monitoring those systems on whatever basis the County would like us to monitor them. We will also have in place a dewater/wastewater operator here in the next couple of months. The woman who is managing the park right now, Angela Cushman will be taking her dewater license exam this Saturday and until that point that we find out she's passed we will have the principal engineer on the project who is Carter Page monitor the wastewater system. We do acknowledge there was a problem with the leach field and are very confident and submitted a letter on Friday stating that he's looking into the issue and we are trying to get to the bottom on it. We may have to excavate that portion of the septic leach field and we're happy to do everything to get that field operational as it was designed. Mr. Casas has taken about 30 dump loads of trash to the landfill and he has taken care of the issues that the County has had in the past about any of these things turning into a mobile home park. He is very sincere in keeping this as a RV park and limit the stay to 120 days and wants to prove to the County that this is the case.

No public comments.

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

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

A motion was made by Commissioner McCown to approve special use permit for the Camper Park with the 16 conditions as presented by staff with the 17th condition even alluded to in the testimony, add in that the necessary watershed permits be acquired before any issuance of this special use permit be released and the completion and improvement to the faulty leach field would also be done prior to the issuance of this. Commissioner Houpt seconded. In favor: Houpt – aye McCown – aye Martin - aye

ADJOURNMENT

Attest: Chairman of the Board

_____ _____

NOVEMBER 17, 2008
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 17, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

EXECUTIVE SESSION:

Don asked the Board for a brief discussion concerning contract negotiations on affordable housing; he would like to have this discussion before the discussion of the proposed DOLA grants.

Commissioner McCown - Move to go into executive session to discuss DOLA grant applications.

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

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

Action Taken: None.

COUNTY MANAGER UPDATE – ED GREEN

FIRE SUPPRESSION SYSTEM FOR INDOOR ARENA – DAVID EBELER

David provided a letter regarding the operation ability of the sprinkler system in the riding arena. It has not been in full operable condition since 2006. Since repairs, the system was not fully tested or inspected and two more leaks have happened in addition to the accelerator not functioning. The fire district does not recommend using this building until the fire sprinkler system has been fully inspected, tested and accepted by a certified fire sprinkler contractor of the Boards choice. If the building is used, a fire watch shall be instituted 24 hours a day/7 days a week. This should be done per the fire code and insurance guidelines. This person's only function should be to walk the area looking for and preventing fires.

David believes the system is 12 years old and the rust is due to moisture gathering in the pipe over time. There are several rust spots throughout the entire main trunk system. The fire department is recommending we replace this system. Commissioner Houpt stated it looks like this discussion has been going on for a long time. She asked if they already started to look into a system. David stated they have had it priced several times and the hardest part is getting the work done. It appears it would be most beneficial to use galvanized piping. They have done some fixes on the system. Commissioner McCown asked if they could meet the pressure requirements with plastic. David said he has asked; no answers yet.

Commissioner Houpt asked if they were exposed pipes and wouldn't that be a problem during a fire to have plastic. Randy said they would have to look at the code. Commissioner McCown stated he just didn't want to replace these pipes every 12 years. Dale Hancock stated they have been trying to get this squared away since 2006. The fire marshal called him and they had a lengthy conversation about due diligence and what is appropriate. The final analysis; it is our call, but he pointed out in terms of his concerns, the indoor arena itself is no longer just an equestrian facility. There are a lot of trade shows and they have a lot of people inside the facility. Commissioner Houpt asked if they had a system recommendation for them.

David stated he had one; the galvanized system and they have worked with the Rifle Fire Department. To replace it would be approximately $40,000 and that would replace all of the main pipes to Kevin's standards. Commissioner Houpt asked if he had someone to do the work and he stated FPI out of Denver can do the work immediately. Commissioner Houpt asked if he had a bid from them and he stated yes.

David stated it is for $38,000.00 from FPI and he is asking for $40,000.00 because of a new electrical switchover.
Commissioner McCown – I make a motion we authorize the emergency procurement for services on the sprinkler at the indoor arena in the amount not to exceed $40,000.00. Commissioner Houpt – Second. Chairman Martin asked David if he had a timeline of when they can start and he stated he would call them. In favor: Houpt – aye Martin – aye McCown - aye

DOLA GRANT APPLICATION FOR HUMAN SERVICES ANNEX – RANDY WITHEE

The proposed project is to design and construct a human service annex south of the present facility located in Rifle. The project will help support the human services in providing working space to meet the rapidly growing needs of the County and its residents. The dollar amount of the request to DOLA is $600,000.00. Randy is looking for direction from the Board on how to proceed; do we turn the application in. Commissioner Houpt asked; on the human services annex, is that going to be connected to the existing building. Randy said that is something they have to look into. He talked about the amount of fill needed. Ed felt that a campus arrangement would be cheaper. This building is the one we are going to be used as a pilot for energy efficiency. We would have to retrofit the other building to make it all work. Commissioner McCown said there will be a separate heating system. Commissioner Houpt asked what will we need if we do continue to grow as a County and what makes most sense. We talked about designing this so that it could be expanded. Ed stated that Randy has laid that out and has developed it in a campus arrangement in a U shape around the parking lot. Randy provided a sketch and reminded the Board that this is not an approved concept. Commissioner Houpt said you end up with 5 separate buildings.
Commissioner McCown stated if you could keep it all as one building, it would look like a strip mall. Randy said they also have to look at the City's requirements. Ed feels a campus arrangement would be esthetically pleasing.

DOLA GRANT APPLICATION FOR MOUNTAIN FAMILY HEALTH ANNEX – RANDY WITHEE

The proposed project is to design, construct, and equip a facility to support the services provided by certified physicians, physician assistants, and family nurse practitioners in Rifle. The proposed location of the facility would be due west of the human services building in Rifle. The dollar amount of the request to DOLA is $400,000.00. Commissioner Houpt stated the original plan, before we started talking affordable housing, was to submit a grant for $1 million and now we are down to $400,000.00. Where are we on that and how feasible is it to build what is appropriately needed? Ed said Dave is flexible and could upscale it again if that is what they needed to do. One component that was going to be included was a mental health component. Commissioner Houpt said it seems to her that we build buildings and grow out of them before we open the door. She would hate to spend the money and not have the facility that is large enough to meet the needs in western Garfield County. Ed said the original concept was around 10,000 square feet and he downsized it to around 6,500. Dale said he thinks the concept of the campus allows for the phasing; can't presume that our future financially is in perpetuity on the growth mode that it has been on.
Commissioner Houpt stated exactly, but our needs won't go down. Dale feels it could happen and they could leave the area Chairman Martin said that is a reality we have to face which is an economic downturn. Commissioner Houpt said we are being realistic but mental health care is going to be a huge need when our economy takes a downturn. We aren't submitting the affordable housing grant for this cycle and her preference would be to build a building that is practical for accommodating this use. If that means tweaking it and it goes up to the same level as the other grants which is $600,000.00, she thinks that would make sense. Ed will talk to Dave this week. Commissioner McCown stated in our presentation to the grant committee, are we going to weigh our three choices. He doesn't want to see them prioritizing the Mountain Family Health project over our own buildings. This is a leased building to a non-for-profit. He thinks it is important if their priorities are the Sheriff's annex and the Human Service annex and should prioritize them accordingly. Commission Houpt feels it is critical to get Mountain Family into Rifle; but she is very disappointed that it was not part of the hospitals new plan. Commissioner McCown said he doesn't want to see them jeopardize their projects - the two county buildings. Ed asked; what is the priority from the Board. Commissioner McCown stated the Human Service is number one, Sheriff two and Mountain Family three would be his vote. Commissioner Houpt asked if Chairman Martins was the same priority because we left the sheriff out of the justice center and she feels that is an important facility to put in place. She would put the Sheriff first, Human Services second and then Mountain Family. She wants to emphasis the importance of all three in particular the Mountain Family because there is no appropriate service out there. She recognizes that the medical community should be more engaged in Garfield County when it comes to Mountain Family. The hospital will continue to see a lot of emergency visits until they get involved in this project.
Chairman Martin asked if Columbine Health and Mountain Family are in the old GMA building right now. He thinks that will be torn down in the next couple of years; they will need a new home within the next couple of years. Ed said the obvious question is will they be allowed to be a condominium resident. Chairman Martin said they should start discussing that with the hospital now.
Ed restated priorities: Sheriff one, Human Service two and Mountain Family three.
Commissioner Houpt stated with a big understanding that they are all important.
Chairman Martin said also realizing the revenue stream may be diminishing; it may be time for re-prioritization. Randy said since the form has been revised that he needs an official Board motion.
Commissioner McCown – I make a motion that we authorize the energy impact grants to go forward as presented today, Sheriff annex - $600,000.00; Human Services - $600,000.00; and Mountain Family - $400,000.00. Commissioner Houpt said she would like for a friendly amendment to qualify the Mountain Family Health and allow the discussion to be had with Mountain Family about increasing to the $600,000.00 level. Commissioner McCown said he didn't know if that would be official Board action today. We wouldn't be voting on what we were approving today then. That would be authorizing negotiation with the Mountain Family board. Commissioner Houpt – That's what we have done with other contracts. Commissioner McCown stated it would have to come back to us the first week of December for

official action. Commissioner Houpt stated it can't, it has to go in by December 1. If we say up to $600,000.00, she doesn't think that changes anything. We have talked about 1 million in the past. Commissioner McCown asked if Mountain Family was okay regarding the increased rent on this as the size of the building goes up and they won't ask for a reduction when times get hard. Ed stated no they were very pleased with the rent. Commissioner McCown said I will amend my motion to allow it.
Commissioner Houpt - Second. In favor: Houpt – aye McCown – aye Martin - aye

DOLA GRANT APPLICATION FOR SHERIFF ANNEX – RANDY WITHEE

The proposed project is to design and construct a sheriff annex on the County to "boot property" south of the airport. This project will help support the sheriff department in enhancing their services in the western portion of the County. The dollar amount of the request to DOLA is $600,000.00.
See above – every part of the grant was passed.

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE

Don stated he did not have anything for the Board although if the Board needs legal advice concerning any items at 10:15 a.m. he is available to do that now. No executive session.

CONSENT AGENDA

a) Approve Bills
b) Changes to Prior Warrant Lists
c) Authorize the Chairman to sign the Acknowledgement of Second Partial Satisfaction of the Subdivision Improvements Agreement for the Big R Commercial Subdivision – Applicant; Big R Enterprises, LLC – David Pesnichak
d) Authorize the Chairman to Sign the Special Use Permit for Alpine Animal Hospital, PC to permit a Veterinary Clinic in the ARRD Zone District – Applicant; Alpine Animal Hospital, PC – Dusty Dunbar
e) Authorize the Chairman Pro-Tem to Sign a Special Use Permit for a Two-Family Dwelling Located at 23 Ponderosa Drive in Western Hills Subdivision – Applicant; 23 Ponderosa Circle, LLC – Kathy Eastley
f) Liquor License Renewal for City Market #28 on Battlement Mesa – Jean Alberico
g) Approval of October 15, 2009 – COGCC Waiver Request of Antero Resources (Dever A Well Pad – Airport)
h) Third Partial Release of Letter of Credit for Springridge Reserve, Phase III (Release Amount: $154,862.39) – John Niewoehner
i) Third Partial Release of Letter of Credit for Springridge Reserve, Phase IV (Release Amount: $162,618.63) – John Niewoehner

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

COMMISSIONER REPORT

Commissioner McCown – The grand opening of the Criminal Justice Center is at 6:00 p.m. on Wednesday evening in Rifle.
Commissioner Houpt – The waste diversion meeting will be on Wednesday at 8:30 a.m.; New Energy Initiative from 2-4:00 p.m. in Rifle and the opening of the Justice Center; and Friday, Rocky Mountain Rail Authority Board meeting.
Chairman Martin – He has a request to work with some folks in finance, treasurer, and the assessor on a project identifying the revenue sources; what is oil and gas and what isn't and then a CCI meeting on December 1, Monday.

BOARD OF HEALTH

CONTRACT WITH CMC FOR NURSING STUDENT CLINICAL ROTATION – MARY MEISNER

Mary stated she is requesting the Board reviews and signature. We are pleased to work with the students. Chairman Martin stated this is on on-going type contract we have had; he asked Carolyn if she saw any item that was out of order. Carolyn stated it is being brought to the Board because the contract is actually made between CMC and the Garfield County Public Health, which doesn't exist as separate entity. As long as you sign it Mr. Martin it will be clear and Mary needs to put in that she is the notice of receiver of the contract. There is no public money going out from us; it has a different fiscal year than what we are used to and it doesn't matter because they track the money not us.
Commissioner McCown – I make a motion we approve the contract with Colorado Mountain College for the nursing clinical rotation and the Chair be authorized to sign.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM UPDATES

Mary explained that the last two months has been a major push for the flu campaign and they have given out about 3,000 flu vaccinations throughout Garfield County. To date about 180 employees have taken advantage of that also. They had a vote–n-vaccination flu exercise on Election Day and it went well. In their homeland security grant there is an Emergency Support Function Group and they are working together with the local hospitals and had a pandemic flu exercise which went very well. Mary announced the new public health nurse, Michele Deshaies. They are involved in the planning committees for RE1 and RE2; the WIC case load is holding steady. Children with special health care needs continue to hold specialty clinics. The senior health program is continuing in Rifle. We are doing blood pressure checks and in the Parachute satellite clinic they go twice a month and are seeing an increase in that area.

HUMAN SERVICES COMMISSION:

EMPLOYMENT ISSUES IN GARFIELD COUNTY

Susan Burley, Division of Vocational Rehabilitation for the State of Colorado, said they provide services so people can go back to work. To be eligible for these services clients must have a documented physical, mental or cognitive barrier to employment. Examples of those barriers would be; a learning disability, alcohol/drug addition, depression or a significant injury that inhibits them from returning to the work force. They can't be in jail; they have to be able to take a job at the time available for work. DVR is an

employment agency; they offer services that are necessary and appropriate. They have a program called SWAT (School to Work Alliance). Unfortunately, Garfield County and Pitkin County do not have the program right now. This program helps people from 16 to 25 years of age who have mild to moderate needs; it is a 9 months to 1 year program. DVR has partnerships with Colorado West Mental Health, County Social Services, Colorado Workforce Centers, Probation, Colorado Department of Education, Independent Life Centers, and private providers. The employer benefits include work opportunity tax credit; it is a Federal program and the work credit can go to the employer. DVR provides on the job training programs; worker compensation is taken care of while they are working. DVR provides economic benefits. In the fiscal year of 2006, 1,979 Coloradans with disabilities were successfully employed in competitive jobs. The average annual salary rose from $3,358.00 to $16,975.00 after DVR's intervention. These new workers will add $26 million to the Colorado tax base for the first 12 months they are employed. This is a 443% increase in taxes paid and a 403% increase in earnings. Before DVR, the average wage of a client was $2.49 per hour with 7 hours a week worked. After DVR intervention, clients earned $9.87 per hour and worked 31 hours per week. Commissioner Houpt asked what it would take to get a SWAT program initiated in Garfield County. Susan said it would take an agreement between the school district and DVR. She thinks there have been conversations and they will be starting up again. Commissioner McCown stated apparently there is a wage discrepancy for the folks who need help and you're able to pay them as low as $2.49 per hour. He thought there was a minimum wage provision throughout the State that everyone had to abide by. Susan said there is a minimum wage provision; but if a person is taken into a supported employment plan, which would possibly include an enclave, they can be paid by piece instead of the hourly wage. Dale Hancock, on the ADA consultation; can you offer certification and compliance. Susan doesn't believe they can offer certification; they are able to consult and inform people as to where they can get the certification. Dale said you mentioned that you don't provide the services to inmates in custody; but if an inmate was eligible for work release or the community corrections program, would they qualify. Susan stated yes and if they cannot go into a job that is when we can't provide the services. Right now the State of Colorado has gone to what they call an order of selection, which is a waiting list. Commissioner Houpt asked; what does that mean to people. They go through the process and they get as far as the waiting list, what type of wait are they looking at? Susan said they do not know for sure. It is hard to say what kind of timeframe; it is statewide. Commissioner Houpt asked if some areas of the state have a longer list than others. Susan said it is all the same.

BOARD OF HUMAN SERVICES

APPROVAL OF EBT/EFT DISBURSEMENTS FOR OCTOBER, 2008 – LYNN RENICK

For the month of October 2008, client and provider disbursements for allocate programs, totaled $267,666.01. Client benefits for Food Assistance totaled $193,446.03. Total EFT/EBT disbursements for September equaled $461,112.04; the department is requesting Board approval and signature.
Commissioner Houpt – So moved. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION AND APPROVAL OF OUT-OF-HOME CONTRACTS

The department is requesting consideration and approval on one out-of-home contract with Gateway Youth Services.
Lynn stated this is simply approving the services from the facility and she is asking for approval.
Commissioner Houpt – So moved. Commissioner McCown – Second.
Dale asked would the Gateway Program be eligible for JCR.
Lynn said probably so, they may have already; it is in Grand Junction.
Dale stated; since Colorado West moved their secure program out they have been looking for resources for the youthful offenders. In favor: Houpt – aye McCown – aye Martin - aye

PROGRAM UPDATES

Mildred Alsdorf and Judy Martin were present.
Lynn stated the public assistance programming is continuing to increase; especially in the area of family Medicaid and food assistance. LEAP is very busy right now and they are seeing a significant increase between last year and this year. They had the foster care celebration and it was a great turn-out.
Judy gave an update; they served 2,136 meals in October and it was the highest they have done yet. There is a decrease in the Parachute area; but she feels it is because the seniors are moving out of the area. They have received close to $16,000.00 in donations from the seniors themselves at the meal sites to support the program. Judy is getting started on renewing contracts for next year. Battlement Mesa Shuttle - They have run two different kinds of shuttle services. One is a local service that they ran 3 days a week, Monday, Wednesday and Friday. They are still offering between that from 8:30 – 4:00 p.m.; that will be in existence until the end of December. They also ran a shuttle twice a week to Battlement Mesa and that ended in September. Judy and Mildred have been visiting various people involved to figure out what services were in existence and what is being offered now. They are still doing a needs assessment. They are having more requests for the services to go to Grand Junction. Mildred runs once a month to Grand Junction and they may need to add a second one if the numbers increase. They have not received a huge number of phone calls even though they have posted their phone numbers. They want people to call and tell them what their transportation needs are. Mildred stated that flyers were given out to all the people at the meal site. They gave flyers to Dick Smith and posted flyers at the post office. Mildred has had about 15 people contact her. Most people primarily want to go to the airport or the train station. Mildred informed them their main focus was doctors appointments, physical therapy etc. Mildred contacted Mesa Vista and talked to Kim and they have 33 people there and about 50% of their people use the shuttle within Battlement Mesa to go to the clinic. She is still investigating to see if people call them. Commissioner Houpt asked what would be the difference in setting up a shuttle in that area and the type of service people receive around Glenwood Springs. Mildred said they are primarily on call. They call a day ahead. A shuttle would run around different areas and pick people up instead of going to homes to pick them up; like they do now. A lot of seniors are not able to go to a bus stop. They ran it everyday and Mildred does it when they call and ask for the shuttle. In Glenwood Springs they had 747 riders and in Rifle 651 which total 1,398. This encompasses everything from Carbondale through Parachute. Commissioner McCown stated the services

that are ending are the ones in Battlement Mesa. Judy said, apparently they own two vans and they have over 100,000 miles each. .Mildred spoke to one of the drivers and they told us we don't want them. Judy stated they are planning on ending the local service on December 31. Commissioner Houpt mentioned that the Rural Resort Region project for 2009 is looking on how to service our aging population. Mildred said that CDOT gave them a van; they paid 20% and she also received a donation to purchase a van. Mildred passed out pictures of two vans. Mildred needs to know if they want logos on there from RFTA and Garfield County or would they like them listed. Mildred thinks with Garfield County and RFTA they need to put it on there. On the vans they have the phone numbers and it says Traveler on the front and back serving the seniors and disabled of Garfield County. Mildred is asking the Commissioners their input on what would be best on the vehicles. Commissioner Houpt felt it was important to have the contact numbers and who supports it. Mildred said the main thing she would like to know is if they would like to have all the cities and towns listed. Commissioner Houpt asked if they are saying generic communities or listing the communities. If the communities would like to have their names specifically she would trust Mildred's judgment on this. Mildred said she was putting the logos for RAFTA and Garfield County's logo on the vans. Commissioner Houpt said if they were doing those then she would keep the specific names of the communities on there. Judy wanted to mention that the only way the meal program is a success is due to the volunteers. They are in their 70's to 90's; they help serve the meals, prep set-ups, do the clean-up and they are the best. Chairman Martin asked when would the next senior program meeting be held. Judy said they do not have an advisory board meeting set-up yet. Lynn said the State put out an e-mail to the Commissioners regarding a Commissioner training in Grand Junction on December 11. She wanted to know if any of them are going. Chairman Martin said he will be going. Lynn said she will be going as well; Mike Samson, Commissioner elect has been invited.

DISCUSSION OF THE 9TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 9TH AMENDED APPROPRIATION OF FUNDS – BOB PRENDERGAST

Don has reviewed the noticing requirements for the public hearing and determined they were timely and accurate. He advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers. Bob Prendergast submitted the following exhibit: Exhibit A – Budget Supplemental and Exhibit B – Contingency Transfer request. Chairman Martin entered Exhibits A – B into the record.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the resolution concerned with the 9th amendment to the 2008 budget and the 9th amended appropriation of funds.

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

DISCUSSION OF ADMINISTRATION OF DOLA IMPACT ASSISTANCE GRANT, NEW ENERGY COMMUNITIES INITIATIVE – JACK KIRTLAND WITH DOLA AND CLEER REPRESENTATIVES

Alice Laird, Jack Kirtland, Shelly, Joanie, Tom Baker, Town Manager of Carbondale, Dave Sturges, Heather McGregor and Jay Miller, Rifle City Counsel were present.

Alice gave a brief update saying the grant was announced October 14 by the Governor. She stated they met as an information group on October 23 to discuss the next procedures for formalizing the group. They are clarifying the working group and who represents each jurisdiction. They met again on November 5 to start working through a MOU and it might turn out to be an IGA. They need to discuss with this group what needs to come first and what the steps would be to move from the grant award and the deliverables to the on going programs laid out in the grant proposal. Jack stated the board should have received an award letter dated November 3. This spells out the award to Garfield County in the amount of $1,605,000.00 to achieve the stated objectives. This marks the largest award provided of the proposals submitted. Jack feels very encouraged and optimistic about the amount of partnership and number of partners who came together in order to submit the application. Jack said they are looking forward to getting into the details and making sure the implementation of the award, along with the matching funds, are spent and the results can not only benefit Garfield County but they are hopeful they will be a model for other counties. Joanie commented on the process they went through saying there were 36 or 37 letters of intent presented to DOLA and the Governors Energy Office to apply for this grant. They only accepted 14 applicants that could apply; it was great that Garfield County's application came out so strong. It was really very highly rated because of the collaborative elements in it and the future of the model which included how to implement the energy office programs and try to increase energy efficiency. This is so highly visible in terms of the community's commitments at each level. Alice mentioned in addition to the grant award, through this whole process the effort mobilized over $500,000.00 in local match. On top of that $250,000.00 was added in seed funding for the clean energy investment fund, which is exciting because that will grow over time. Commissioner McCown asked Jack; is this a normal DOLA grant that is dealt with on a reimbursement basis or is this money fronted in a lump sum to an entity or entities.

Jack said they will negotiate a contract with Garfield County but they won't do anything different than what we do with any other grant contract. That is, they will provide for reimbursement of expenditures. Commissioner McCown stated the State will hold the money until it is spent by an entity then submit a bill to the fiscal agent, and then the agent will get the money and give the money to the other governmental entity. Jack said yes; the award is issued to Garfield County if you choose to go that route; the award letter spells out other alternatives.

Commissioner McCown said regardless of how it is dispersed it is a reimbursable contract. The $1.605 million dollars will not be given to any entity to disperse as needed by the other entities. Jack stated that was correct. Chairman Martin said the other option was that you have 9 separate contracts with all of the entities that put in for the projects identifying those projects, is that correct. Jack said that was a potential option. Commissioner Houpt said there was another option discussed at the organizational meeting. She asked Bob to weight in at some point. As she read through the grant it appeared to her that on several occasions a governing counsel was referenced, and Garfield was referenced as the fiscal agent with this governing counsel making all of the policy and program decisions. Has your office talked at all about how

to conform your contract to make that function work? Jack believes they are trying to make sure that whatever system is put into place; it isn't necessarily a one size fits all. Whatever the local structure, organizational capacity and political will; however you want to structure it, he thinks they are tying to be accommodating to allow for that structure to occur. He could imagine there could be 14 different types of alternatives out there. Typically we are proving monies directly to one political subdivision. Their responsibility for achieving that project is left with that Board of Directors. This is different. They really haven't thought through all the different options that can occur; but that is not to say it's a bad thing. They want to make sure it makes sense for Garfield County. Chairman Martin said when talking to Heather, it was to stay as simply as possibly to get these projects in each community and we would go together for those project. What scares him a little is if they do form a statutory advisory board then you also create another layer of government that then takes on a new life of its own. He doesn't think that was the idea of the overall grant, at least it wasn't his. What he would like to do is work with the group it to get it as simple as possible. Let's create a simple contract, not nine, unless the entities want 9 contracts. As we have talked before we have a review committee that makes recommendations back to the projects and those projects are approved within the jurisdiction, then it qualifies for the money. It was originally $2 million dollars, who has to scale back? Where is the other $400,000.00 coming from? That is part of the group we need to talk to who is scaling back? If not, who is putting up the extra money? We want to keep it simple with one contract. Commissioner Houpt said when you read the grant application, she is not sure they can keep it as simple as they have in the past. She clearly heard the objective as one that would create an entity that would be sustainable beyond this grant. That also is discussed in this grant application.
Tom Baker stated they have had two meetings and briefly what has come out of it is that they wanted to create a partnership, which had the potential of surviving beyond this grant cycle. No one is sure what that looks like whether it's an MOU or an IGA. He thinks many people think an IGA can accomplish exactly what they need and maybe the MOU is an interim document to keep the work going. As the Chairman said, the entities did not want to fragment this into 9 separate contracts. They felt as they came together as a partnership; they wanted to keep that partnership in place. With Garfield County as the fiscal agent; they have that potential. How do we make sure that the partnership counsel has both the authority and the responsibility on this? In summary, they are in the process of forming that partnership and trying to match authority and responsibility to ensure that everyone is treated equal. Chairman Martin said what he is picking up is that Tom would like to start another RFTA basically with the authority to have taxation on all of the areas and all of the entities through a vote, is that correct to look at sustainability. Tom said the group hasn't really defined what sustainability means in their minds. No one has said they want to pursue anything as sophisticated as that. We are in the infancy stages of trying to understand this all.
Commissioner McCown asked Tom if there was a discussion on the seed money. Would that come to the fiscal agent as well, to be held and administered and matched against the grant, or would that seed money remain with each of the 9 separate entities. Tom said there was a discussion that the seed money should be dispersed up front because there was going to be a need for some operating capital. Because everything is being reimbursed; how do we operate these first three months before something is done to send an invoice to Jack and get the money back? Commissioner McCown stated, as the fiscal agent that seed money would all come to Garfield County to administer and payout. Tom said he is not sure how it all works but yes, a couple of entities at the meeting said they had the ability to put their match money in play if it would count for the grant prior to the contract being made. That way there would be some operating capital.
Commissioner Houpt said those were two different issues; one, how do we move forward in 2008. Carbondale had money set aside for 2008 that they could put into the fund that will be set up. The other question; for 2009 will everyone be putting their matching money into this fund for this program.
Tom said that Carbondale did say they thought there was another entity that said they could put their match money in to help bridge this operating issue. Commissioner Houpt said that's okay for 2008 but, will everyone else be putting their matching money into the fund for 2009. Tom said most of the match money was allocated out of 2009 budgets. Commissioner McCown said he doesn't think and we have to be brutally honest, this whole thing came together under a timeline that no one was comfortable with. We had to rush to get this application in and none of this ground work was discussed by anyone. Now we have this money and we are trying to figure out what kind of a governmental entity or what we are going to form to be able to spend this money. This was totally done backwards to meet the timelines of the State. These discussions should have been done months ago and then we wouldn't have needed to worry. The governmental entities could have budgeted on whether or not the matching funds are going to come to the fiscal agent. We assumed that liability because we are the umbrella entity under which all of the other entities are in. That doesn't mean we are the best one for the job. No one really knows what the rules are; we have this whole game and a bag of money and no one knows the rules. Now we are trying to make up the rules so we can spend money. Jack commented to Larry that he understands that is an issue and he thinks it is likely better that at least you know you have a set aside amount of funds that can be used for these purposes, and spend the time developing the organizational structure. Commissioner McCown - It has been said quite clearly there are participants in this program that aren't comfortable with Garfield County holding their money. If that is the case we need to get a new fiscal agent on board right away so that any of those concerns or worries will go away. This will not work unless all the seed and matching money goes to the fiscal agent. If that is not going to play out then somebody in this organization needs to pick a new fiscal agent for openers. Joanie said, what she has seen and how the group is forming, they are looking at these issues and trying to figure out by consensus to come up with a recommendation on how they think it is best to proceed in terms of these kinds of details. She thinks essentially they will develop the contract that will develop a contract with DOLA will establish the work plan or the group.
Commissioner McCown stated that will have to be done with an IGA. Joanie said if that's fine for you, it's fine for us too. Commissioner McCown said the group cannot function unless there is IGA because it is not an officially recognized group. It is a group of citizen who chose to get together and discuss the needs and the issues. So, unless it is officially designated by an IGA and by resolutions from each of the governmental entities it is nothing. Alice stated that Commissioner McCown raised an excellent point about the timeframes and all these issues that have to be worked out. Stepping back a little bit, some background

on the development of the grant proposal; they went around to each partner organization and said here is this grant opportunity and can you designate a point person to be part of this working group. So, each entity that is involved designated a person. If they did that by formal vote, they were on the agenda and people pitched in from each jurisdiction and we have wonderful partners in the development of it. But, it was done through each partner entity appointing some representatives. Once the grant was awarded, it was celebrating that success and saying, okay we worked through all this very quickly. The next point is to make the structure more formal, that was the initial steps. They were hoping to do a very simple MOU to at least identify the representatives, then go back and confirm the designated representatives from each of the partner organizations, set up regular meeting times as one step more in figuring out all these details and then work towards an IGA, which would be another level of commitment. All the questions you are raising are exactly the questions that they have been wonderfully confronted with this opportunity and the group met very briefly in October. Commissioner McCown asked, what was your vision of authority of this next group you are forming? Alice said every step of the way they have been learning from examples all around the country, that are already succeeding in help businesses and households save energy with very specific services. There are partnerships where they joined together to provide these services. The whole concept of taxes wasn't on the table. Commissioner Houpt said she thought there is a looming question out there. In the typical grant that we would enter into with DOLA, Garfield County would not only be the fiscal agent, but the authority over the program. If she understands the question, is the NECI governance board that is referenced in this grant application going to be the authority board. The one who will be making all the decisions on the programming and policy, or is it going to be an advisory board to the Garfield County Board of County Commissioners as the fiscal agent. She thinks they need to understand how they are going to work together. Chairman Martin said he was confused. Each municipality had a project they identified; the City of Rifle had theirs on street lights and they are ready to go with an application on their own. They said hold off and put it together. Those are all individual projects, as the City of Glenwood Springs, Garfield County, etc. Now we are throwing it all in and saying who gives priority to these projects? It's the authority board that is a new government within a government making those decisions. He does not think it is the right way to go. Shelly thinks it is more of collaboration, not a government within a government. Chairman Martin said if you are making it formal and you're giving them authority then they become an entity amongst their own. They make the decisions and priorities and have the ability to take the money and distribute it where they want to on a 2/3 vote. Shelly said she thinks for now they are looking at how to implement the grant and get the goals of this grant accomplished. You're right that each community has programs. But there are also Countywide community initiatives that would benefit all the citizens and that is where the more sustainable programs come in that can work on a long term basis. They wanted each community to have the freedom to have a small project on their own. For example: Glenwood Springs has local match monies they are putting up to do energy efficiency upgrades in some of their facilities; these projects are considered a local match for the grant. Commissioner Houpt thinks this project has already started with the need to have this policy-making body because we didn't receive the full grant amount. So this group, as a whole, needs to make the determination on where those additional monies will come from, or what programs will be lower on a priority list. Already there is a function that needs to be served by this body. Commissioner McCown said he was under the assumption, if whatever amount from $2 million down to $1.6 million, each project would still have the same viability, it would just be reduced by that particular percentage, and it would be up to the local entity if they wanted to go forward and contribute the difference or not. He never thought this would go into a pot of money and be re-prioritized by a group again. This grant was awarded for all of these specific projects that the local government sent in. Jack said just as we do with any other project that we enter into with the local government and a contract, they have a high degree of specificity in terms of what the outcome is going to be. He envisions the County Commissioners will sign off on that contract and you will know how much is going to Rifle, New Castle, and Garfield County for the various projects being implemented. There will also be matching funds that will be part of that contract; so it has gone beyond the $1.6 million dollars. You also have a year to negotiate the contract with us. He wants everyone to know that it's not envisioned that this money can be reprioritized and redirected to other uses beyond what was included in the grant application. Chairman Martin said if this grant is 100% allocated then how can it generate more money and more projects, etc. It has a life and it is very specific on what it is to be used for. The partnership can continue in two ways; one government is getting together and thinking about how we can do other grants, etc. Or, it could get together and it could become a governmental agency that has the authority to tax. Is that the way we go? He doesn't want to create another taxing district. Alice stated this grant and the whole concept of a regional partnership focused on these outcomes. It is something that is very timely and can generate additional funding sources. Since it was awarded they have already put in for $150,000.00 more. That gap between what was put together and what was awarded she thinks is something that can be made up in large part. Chairman Martin said I'm looking at my attorney and she's giving me the raised eyebrows; who put in for the extra money, what entity. Alice said CLEER, as a non-profit. Chairman Martin asked what his obligation was to CLEER at this particular time for that extra money. Alice said none. Chairman Martin asked if they were putting that into the pot for the grant.
Alice stated the programs are awarded to very specific components of solar rebates and they all tie into the overall menu of the program.Chairman Martin asked Alice if they administered themselves as CLEER. Alice said these are the issues that they need to be formalized with this working group. It was not as informal as you described Larry, they were all appointed by each partner jurisdiction. We need to take the next step forward and say; this is real, there is funding. Commissioner Houpt stated at the November meeting they talked about what types of committees would come out of that too. One would be a more technical committee that would be comprised of staff members, local people who are working on new energy issues, and then the policy governance board. There is a very specific group she heard talked about at the last meeting to make those policy decisions and program decisions as this grant moves forward. Garfield County would be the fiscal agent and join in an agreement through an IGA with NECI as the fiscal agent and have a contract with the State that fully recognizes the structure of this regional partnership.

Chairman Martin stated that is a statutorily a special district. How are you hiring people and using tax payer dollars? How are you dispersing and making contracts without being a recognized special district in one way or another? Dave said he doesn't believe that is the question; he feels the question he is interested in hearing from your staff and the State officials is, what is the description or the requirements of being a fiscal agent. He thinks when you talk about public dollars you need to have accountability and Dave believes that a fiscal agent is that point of accountability. Beyond that we are in new ground; he doesn't see an entity that will try to spend the funds that were awarded for these projects.
Chairman Martin said to Dave that he agreed with him; he saying sustainability, the follow-up, the generation of new dollars, etc. He said he is not talking about the project money right now. All of this requires more and more money and who is going out getting the funds and distributing the funds; the future funds. Dave said he doesn't think there is in anyway a discussion of going to a taxing authority. He doesn't think that sustainability has to be tax dollars; he doesn't think that is the plan at all. He thinks the objective is to find someway to work together that meets the commitments. Jack has mentioned your outcomes; they want to see outcomes. Dave feels they all need to have fiscal accountability and that is particularly the County's role. What is new, he thinks, is how we can get comfortable with it. Is some entity, not a government entity that works to see that those funds get to those projects to solve those out comes. The word IGA or MOU has been raised; it is clear in his understanding, there has to be an IGA when government's work together. Clearly there is an IGA between the State and Garfield County as a fiscal agent. What he doesn't think they all know about is what kind of document might be from Garfield County as the fiscal agent to this new group. It is not a special taxing district. This has been a good conversation as we are all talking about our concerns. If we take those concerns and work with your staff, he thinks they could come back with a proposal or a discussion that at least recognizes everyone's concerns. To Larry, you raised a point about the money pledged or matched by all the entities should come to the County. There may be a distinction between what was a cash match and a match that the government retains but, it is pledged to this particular project or outcome. Carolyn asked is it possible there are two levels of things going on; one is a specific project that each entity has matched money. The other is the ongoing effort going into the future. Is it possible there should be two different kinds of government structures for those two different kinds of projects? Alice wanted to clarify the grant proposal saying the grant itself is so long and has so many components that they put it down to what are the deliverables. Most of them are programs and services that help households and businesses throughout the entire County with the goal to reduce energy costs, or install renewal energy equipment. The whole concept of this partnership is joining together to create programs and services that you can't get individually. The component of individual projects for jurisdictions, such as Rifle specified Deerfield Park because they had put in a letter of interest. In addition greener public facilities, each jurisdiction is hoping to get reduced energy costs for the facilities that apply renewable energy on some of their public facilities. But the individual project component on this grant proposal is not as large as she is hearing in this discussion. She wants to emphasize it is not this hodgepodge of individual projects; it is services and programs with specific outcomes and deliverables. Chairman Martin asked if those funds were included within the grant.
Alice stated right and they are focused for specific programs. For example Glenwood Springs is very interested in energy efficiency program for the commercial and residential sector. Chairman Martin said you haven't answered the question and that is; those projects are in the grant application with everybody's hopes and is what they signed on for. The other part is the ongoing programs, who is paying for that? Alice said in the near term what is laid out in deliverables over the next year, which they were hoping would be an MOU/IGA that says; here we came together for this grant, here's what is promised, and here's how we are going to achieve it. That raises the question, what is the ongoing structure. If this succeeds, do Garfield County residents want these kinds of ongoing programs and you are exactly right – that should be a longer term discussion on what that ongoing structure and governance will look like. Chairman Martin asked; who's paying for it right now to make that happen so they can say they are acceptable. Who pays for those programs and puts them in after the grant has been used up?
Alice said they would need to decide that once these particular deliverables and milestones are met. They need to decide should this continue. Chairman Martin stated it will be a program those partners would have to contribute dollars to then continue the program. Alice stated if they choose to. Commissioner McCown stated that Dave brought up some points that he has too a small issue with and that is any of the matching funds that were committed to this project were clearly taxpayer's money; unless there's a source out there I'm not aware of. This is all tax money; clearly Garfield County's match for this came out of our general fund. It is tax dollars that could be applied to human services, the sheriff; it could be applied to any number of entities. Let's not pretend there is magic money that appears when we apply for grants and it is not a tax issue because it is. Commissioner Houpt stated that she though Dave was talking about in-kind versus cash. Commissioner McCown replied that in-kind is still tax money. If we are proposing to do upgrades to buildings that aren't covered by a grant that is still tax money. David stated he didn't intend to get off that far; they are tax dollars. Are these going to be things that will commit people beyond this? That's a tough issue. Commissioner McCown stated he may have grown a bit cynical. When you start out with new formations of partnerships and contributors for new programs, everyone is at the table the first year and you look around the next year to keep that program going, and you're the only dog in the fight. That program either dies or you pick it up. Garfield County has picked up programs and then they bail on us. Is that what we are going to be committing the people to here in the long term? We need to know that up front. If this is project related like I think it was for this specific grant then I'm in support of it. If we are talking in the same conservation about a long term sustainable program for alternative energy for Garfield County then I want to see commitments from all the other entities in this County to be at the table. Commissioner Houpt agrees with Larry and that is why they are talking about an IGA; what she has heard from people is that they wanted the responsibility and the liability of making this successful. Commissioner McCown said every IGA will have that a clause where you can opt out for cause, then are you still eligible and the constituents of your local government and/or County eligible for the benefits of this party. Every IGA will have that or no one will sign it. It's only as good as the intent and when it comes to the financing the intent shifts. Joanie said they hope the strength of this grant and the success it promises will delivery a lot of

benefits to the citizens of Garfield County. She thinks if they provide this benefit, the communities will come forward in the long run. A lot of the match came from performance contracting; this is where each entity has agreed to have the services of an energy services company come in and look at your facilities for energy savings. Those entity saving will fund the upgrades in the buildings; you will save money in energy savings and maintenance. This money is then the savings that you are contributing as part of the match to this grant. Because you had such a large group and have such large buildings, school districts were also interested; we were able to obtain a lot of matching dollars in terms of the energy savings. It is a huge way to leverage funds from the capacity of the Governors Energy Office Programs. Chairman Martin said that gets back to his point; what did he commit to all these other new programs, and you are telling me I am committing all of the savings back into the program. No matter how much I save I commit back again and I can't use that money in other areas where I need to. Joanie said those savings stay to you. Chairman Martin asked; what if I save enough that I have to put into a different program out of the general fund, such as healthy babies or something. He has to make a prioritized decision on the budget; will I continue to reinvest into renewal energy projects or am I going to pay for the sick babies. Those are budgetary issues you are asking me to commit to on this project. He stated that is the way he sees it. He sees it a downturn in the economy and a downturn in all the revenue sources and a downward turn in the ability to make those choices. He feels they will have to make some hard decisions in the next one to two years. Do we lay people off or not? Commissioner McCown thinks the initial commitment will be a cash layout upfront and then the savings will be spread out 10 – 15 years. You will not realize a cash return on this.
Joanie said you look at what is the cost for the energy and what is the cost of the capital upgrade and then whether or not you want to do them. You don't have to do all of them; do the ones that make sense. The idea is that you are participating in the process. Chairman Martin agrees it should be that way.
Commissioner Houpt wanted to get back to the contract issue. She wants to know if they can we enter into a contract as a fiscal agent with DOLA understanding that the policy governance board is comprised of the partners that are in this grant. Jack said that Garfield County has to take the responsibility ultimately for making sure the performance of the contract is met. Delegating that responsibility; there are some things that can be done in terms of assigning responsibilities that would require the consent of the State. It has never been done as far as Jack can recall; local government assigning their responsibility to another local government, or a creation of an entity through an IGA. Commissioner Houpt asked; when you read this grant and you saw that there was going to be a governance policy council, what did that mean to you? Jack said it meant that counsel would be an advisory committee to the BOCC. Essentially they would do the hard work making sure projects were developed, budgets related to those projects made sense, they essentially gave their blessing, and the policy group would advise the county. Commissioner Houpt said practically speaking that could work because then it would go to Bob and then onto the consent agenda. What she is wondering is if that will work out with everyone.
Chairman Martin said that was the original concept with the advisory team, the technical team making those decisions. Commissioner Houpt stated they never used the word 'advisory'. Shelly stated right, she thinks the main concept is does the group of partners have the responsibility for making sure that the goals of grant are met. Chairman Martin said he agrees except the technical issue is that Garfield County has to be responsible for it when we enter into the contract with Jack to make sure it was done. There has to be one entity that says yes it was. Then we can say for sure to Jack the money was used properly and we verified it. Shelly said she can understand it is difficult for the County to take on that fiscal responsibility without having some oversight on it. Commissioner Houpt said she didn't think it will be something they would debate in a Commissioner meeting. She thinks they will hear from staff and it will be part of the documents they receive at every commission meeting on expenditures; then, if there is a problem they may hear about it but you would hear about it as well. She sees Bob Prendergast and Ed Green being more engaged in make sure that the monies the commission is responsible for are going in the right places. She doesn't see them turning away any program decisions that the governance group makes. Chairman Martin says he still sees it going back to each entity, each government, and making sure that they have the approval of the entire Board before they give the okay to go forward with that agreement or recommendation. It's no different than this Board. If we are the fiscal agent we are reporting to the State and verifying it has been done. That is a huge responsibility and a statutory responsibility that we entered into that contract saying we have done it right. We will see it in our audit because all of that money will have to run through the County. Whoever the fiscal agent is going to be will have to go through that scrutiny above and beyond everyone else. If we are going to be that fiscal agent, we need to sign a contract with the Department of Local Affairs and be 100% accountable. David wanted to make a point; he thinks it is this issue of the fiscal agent. He thinks it would be very helpful and it would help the County and their staff to be very clear about what they need in term of documentation, decisions, and disbursements. The County would feel ultimately comfortable saying to DOLA they are satisfied that these funds are being expended for the outcomes that DOLA gave us the money for. He thinks it is really a question of what paper you will need from the advisory committee, whatever we call it, so that when the advisory committee sends in the bills, your people will be satisfied they can survive an audit form the State. He thinks a very honest exchange about what people are concerned about is what accountability means to the State government. Jack said he wanted to make sure they understand they have a number of contracts with Garfield County right now. Historically we have had no problems in the management of those grant funds and he expects the same to continue with the administration of these monies. In terms of what is required he doesn't know if there would be any additional requirements placed for the expenditure of these funds; but essentially they have a package of what the documentation requirements are and they are pay request forms. You have been involved with this for years. Commissioner McCown said those are all very straight and above board; but Jack, if for example the advisory board approves an expenditure that is done by the City of Rifle and it's outside of the scope of this application say they don't do lights in Deerfield Park but they decide to do solar panels on City Hall and the advisory thinks that's a good deal; they send in the submittal and it goes back to actually the State who has the final approval and you say no; this doesn't apply with the scope of the contract. Who's responsible for those funds in the interim? The expenditure has been made and it doesn't fit the scope of the contract.

Joanie said she though Alice would call Jack and ask for an amendment to the contract before they would approve it. Jack doesn't think there will be that kind of independent action; he could be wrong. Commissioner McCown said that is the whole point; it wouldn't have to come to us to review the contract. At some point in time it needs to come to us as the fiscal agent for more than disbursement. Larry asked if it was a change of contract, did the Commissioners have to a party of that as well. Jack said it would be done in advance of making the expenditure. Chairman Martin said he thought where Larry was going is if the other board had the ability to make those changes on the contract that we entered into, would you honor it or not without our okay? Commissioner Houpt - But if it is okay with State and it is okay with any other CI governance board, why would we care as the Board of County Commissioners because we are going to have someone sitting on that governance policy board as well. Chairman Martin stated because you changed a contract that we entered into saying we would have certain things, and it would be up to us to make those changes in the contract and negotiate with Jack. Commissioner Houpt said she wouldn't think the State would go forward with it if it changed anything terribly significant in the grant.Chairman Martin said it also sets up an argument between the board and the Board of County Commissioners that you don't want to get into. Commissioner Houpt asked what kind of argument. Chairman Martin stated if they think it's a good one and they make that change into the contract, we disagree with them changing the contract, we have a conflict. Commissioner Houpt stated that is the whole concern this group has; we as a Board of County Commissioners would take a position against their recommendations on this grant. Chairman Martin stated on in the change of contract; this Board will have to make those changes with the Department of Local Affairs, not the other board. Carolyn asked who is going to be hiring the people to do the energy audits. Who's going to be writing a contract with CLEER to continue this sustainability effort over the years? Is NECI going to be created as a statutory entity which has its own contracting authority? If not, it can't do that because it doesn't exist as a legally recognized entity. Only the BOCC or one of the pre-existing entities has the authority to contract. Alice said these are exactly the issues the group needs to sort through. One option is that it becomes a 501C3 similar to the community office for resource efficiency. That is a partnership between governments and utilities that does have the ability to contract and disburses the renewal energy mitigation program funds in Pitkin County. There are other models we can draw from. Chairman Martin asked if the other group was formed, would they be able to pay you.
Carolyn stated if it is a statutory entity formed by an IGA; it is able then to contract or if it is a 501C3; but whatever the form is it assumes that form has been approved by each of the participating entities and that hasn't happened yet. Chairman Martin said those entities would then have an obligation of dollars to appropriate to that organization. Carolyn said this is all based on year to year appropriations and we can get out of it if we want to. She did want to say; they talked about both an MOU and an IGA, they are still contracts. Whatever the form is it still has to be approved by Glenwood Springs City Counsel, Carbondale, and the BOCC, etc. She is not sure except that the way you are presenting, Alice, the MOU would be more of an interim document moving onto an IGA. They are still documents that have to be approved by each entity; not by the individuals, who by motion, have been allowed to be the current representatives on the working group. Alice said the current concept is, whatever that document, it needs to go back to each partner board. Chairman Martin said he still sees this as two separate issues. Number one is to do the contract with Jack, do the specific programs that were within there, and then create another entity to accomplish the goals of sustainable renewable energy. He really doesn't see them tied together with this grant money except for maybe the partnership. He doesn't see any funding source to keep it going in that way. He sees a division living up to the contract we sign. There are nine contracts signed with Jack and then we can take on the new organization as a secondary project. Carolyn stated the way the application was written, it is one. That is a question back to Jack; can the projects be split off from the future effort. Jack stated they could. You are saying two contracts with Garfield County; one to do the bricks and mortar and another State contract to. Chairman Martin said not necessarily; we do the contract making sure that those performances are done. A continuation of that, not using the grant dollars, is another source of money and another organization that is created out of that, and then it continues down the path.
Jack said he could only say that the way the application was structured there was money that was requested in order to continue this sustainability effort, which he thinks was envisioned for a three year period of time. Chairman Martin asked Jack if he knew how much money that was and Jack said $200,000.00 of the $1.6 million dollars. Joanie said all the proposals put together, the sustainability section of that was highly evaluated, in long terms of can this being continued what kinds of long term benefits could there be in the regions. Chairman Martin stated they had an advantage as they didn't get to read the full application and that is what they are struggling with. Commissioner Houpt said she doesn't see how they can move forward without having the governance group in place. It is represented in the grant application and from what she has heard from the State, that's one of the reasons this was approved. She feels they have to figure out how to get the money into this region, get it to the programs that are demonstrated in this grant application. There has to be a policy board put together to determine what is going to be done between the $2 million requested and the $1.6 million that was received. She knows the finance department has the system set up, but there are some contract issues that they now have to interpret and identify so that we can move this forward. Carolyn asked Commissioner Houpt if NECI as an entity is able to contract having it's own liability and so forth, needed for the identified projects or is it needed as a decision making body for the sustainability efforts. Commissioner Houpt stated it is needed for the projects as identified in here; because they specifically talk about funds for hiring people for the management of this project. It has been identified by the partners that would Alice and Heather either through CLEER or individually. Yes, there is money designated for this entity to move this grant forward. Carolyn asked if Alice and Heather were needed to do the greening of the new buildings in Garfield County, the Rifle Deer Park project and to do the specific projects. There seems to be a massive difference between the brick and mortar projects and the sustainability effort. Chairman Martin thinks identifying the $200,000.00 to administer and to use those dollars which the contract would be under has been identified, but as a fiscal agent making sure that is done still falls back on the County. It is the responsibility of the County to account for those dollars to be used in the proper manner through the advice of the advisory board and the contracts which Garfield County would have to enter into. We are still on the hook making sure those monies are used properly.

Carolyn asked if each individual entity, Garfield County for example, has its own construction contract and Chairman Martin said absolutely. Carolyn said she didn't' think Alice and Heather are going to be overlooking that construction contract. Commissioner Houpt said she would not totally agree with that because as part of the grant they will be consultants for the projects, or they are going to identify specific consultants to these projects. This is a program that we will be overseeing and managing these projects. Joanie said they have been talking about developing a work plan and specifically looking at each part of the grant in terms of what would be promised to be completed as objectives in that. For each of these sections of the grant, the greening of government facilities, the programs that deal with communities and saving energy and businesses and houses, she thinks they can look at that work plan and develop the basics for what has to go in the contract for deliverables that Jack will accept. That is what they are negotiating and talking about now in our committees. First they have to get the organizational structure set-up; but then ultimately they want to develop the work plan and have it agreed to. Commissioner McCown asked who Alice and Heather are working for. Alice said currently they were employed by CLEER. Their role in all of this is very ambiguous and they are just providing an interim role of helping the group work through this. Commissioner Houpt said she thinks the question is; who is employing whoever is hired to run this grant. Alice said that needs to be figured out; but ideally this policy group is incorporated as a non-profit, where it has the ability to secure additional funding, grow these programs to benefit Garfield County citizens and businesses. Commissioner Houpt said there was an illustration drawn and she believes it was done by Dave Sturges. She asked Dave to explain. Tom stated if they are going to hire someone to manage this, who does that hiring? On an interim basis, trying to go for now and then the longer term, the group was of the opinion they would like to be responsible for hiring and evaluating the performance of that management entity. That path has not been figured out yet. Chairman Martin said that goes back to Ms. Dahlgren and his point; you have to be a statutory, recognized government within a government, or organization or special district to do that. Carolyn said they don't have to be a taxing entity.
Chairman Martin stated then we give them authority to report back for the expenditures. Joanie asked; what are the issues in that type of structure. Chairman Martin said it gets too complicated. If there is just a simple format where we trust each other and work together and get the projects done and sit down at the table, then we have $200,000.00, do a contract with whomever through the recommendation of the board, the County signs the contract and make sure the projects are done. If you want to create this whole new entity, then it takes a path of its own, a life of its own etc. It will probably outgrow us all. Commissioner Houpt said it is still guided by the grant application; it is governed by the IGA or whatever contract is put together. This is the path that this project has to follow; this is what was approved. She doesn't know how anyone can deviate from that; but she does know that the partner groups, or partner board, are more qualified to determine who they want to hire for the management of this grant than the Board of County Commissioners and it makes more sense for that group to make those decisions. Chairman Martin thinks he is just as intelligent as everyone else in the room and feels he has the ability to make those decisions as part of the group as well. It doesn't mean that we have to exclude one board over all the others and he thinks they are doing that. Commissioner Houpt said no; Garfield County would have a representative on that board as well. Dave said we have now gotten much further than a contract between DOLA and the County. Now we have stepped into what kind of contractual relationship might be between the County and let's say 501C3, which removes the issue that Carolyn has brought up. It seems to him they have got down to a couple of issues; one is hiring and the other issue is a work plan. A work plan is saying what is going to be done, and that is the accountability for everyone. Not only where the money is being spent; but how it is being spend and for what purpose. Does that match the outcome? He is suggesting they work with Garfield County staff and try to get some language that may be useful to go into an MOU. It would be essentially from the County to the 501C3; but he has heard some words and he wants to make sure he understands what is being said. He doesn't believe anyone is comfortable with the word delegation; is that correct and Chairman Martin felt he could assume that. Commissioner Houpt asked in what context Dave was talking about. She doesn't mind having the NECI policy governance team be the group who makes the program decisions. Because of the way we are set-up; any expenditure would still come to us as a consent agenda item and if there is a problem with it our staff would point it out and we would have to discuss it. She is sure the governance board would be aware and would be in this room as well; but some of this is just a matter of semantics. Our system is set up so that this Board is going to approve expenditures that go through our finance department anyway. In terms of establishing an IGA or whatever else or however we want to approach it basically saying we will make those expenditures through the County system however, the partnership will make program decisions and hiring decisions. To me that is what we need to work through right now. She doesn't look at that as a delegation of power; she looks at it as following the terms of this grant. As you said Jack, about an hour ago, this is a pretty different program. But the grant was adopted and accepted by the State; we need to look at it that way. Dave said he was glad they raised questions about delegation; this was the word that was drawing the most fire and how it would actually work. He is only suggesting that maybe they stay away from the word delegation and make the responsibilities very clear; but he doesn't see this succeeding at all if there is not a conversation going on consistently with the County staff and the 501C3. Everyone in this chain of the dollars; is responsible at some point for how it is going to be accounted for and assessed by the State. He thinks they can try to set up a system with an understanding that everyone has a right to put their hand up and say let's talk about that and try to get into the specifics of what everyone needs in order to make a decision. He has not proposed anything is this to determine how someone gets hired; this needs to be discussed. He could see some arguments why they should not be employed by the County and he can see some arguments that someone says, that is the only way it makes sense. The issue is; how do we know what we are tying to get done? He thinks this phrasing of work plans is going to be very important and maybe work plans become those references in the MOU. Carolyn asked Dave if he was assuming what is now NECI will constitute itself as a 5013C. Dave stated in order to overcome the issue; it sounds like it answers those questions; he doesn't know if they are proposing, at this state, anything beyond a vehicle that tries to deal with this grant obligations. Commissioner McCown asked; can 9 separate governmental entities become a 5013C?

Don stated he has looked at this in the past and he hasn't found authority for the County to enter into membership in a private corporation; so we have solved that uniformly in the past by forming an inter-governmental organization under the statutory IGA process. It is very simple and straight forward in its forming language and usually proves to be fairly difficult when you get down to the facts. Short answer is; it doesn't look to him that they can be part of a 501C3 as a private corporation. That doesn't mean we can't form a separate entity; we can do that by IGA. He stated they could contract with a 501C3.
Chairman Martin stated; except again that is the Board of County Commissioners contracting with an entity. What he was saying; through the advisory board and the analysis of the advisory board says, this is the firm we wish to contract with. Here are the qualifications, make a recommendation and we as the physical agent say fine; we make the contract, it is in the name of Garfield County to them by the recommendation of the advisory board; Jack is satisfied and it is straight forward and simple. We just cut through all the red tape; we're working together with some success.
Commissioner Houpt asked; what happens if there is a situation where the entire advisory board brings a recommendation forward and the BOCC votes against it. Chairman Martin said if it was outside of the contract; they will have to stand on that particular one, or go back and negotiate with the State to make the changes. You can't just do it because they say to. What it amounts to is the process amending the contract; amend that contract and go back to the board and then we can go ahead but we haven't violated the contract. Tom summarized, we have a meeting on Wednesday and would like to say to the group what he is hearing. There are contractual obligations that the County wants to deal directly with the entities. Whoever is going to manage this; the contract would actually be done directly with the County. The delegation of program management and operations would depend on NECI to do; although you have to retain the form authority on the contractual aspects. Chairman Martin said right; it all works, they deal face to face with everyone and they don't have any other legal obligations other than giving direction, getting the results, and bringing it back to the board so we can report it has been accomplished. Tom said the stumbling block is, how much do we trust each other. He thinks this is what it is going to boil down to. Commissioner Houpt said in this situation it is very well defined; the program is very well defined through this grant. She would rather see more flexibility. She thinks there is a need to move this forward. She believes through an IGA they could create something that better defines everyone's role. Jack said perhaps there is a way to do that once you actually proceed. Provide some time; see how things are working with a more traditional approach. If in fact there are conflicts that emerge, the County would have to come back to us and say they need to amend the contract. He thinks overall everyone needs to get a sense of this trust issue. Are you effectively being able to implement the projects; are you getting accomplished what you want to get accomplished? If the answer is yes; there is probably no reason to go back and do anything. If no; they can certainly reconsider. Commissioner Houpt stated; as long as this is the format and she is only speaking for herself and it doesn't change, the fact that this is a regional grant proposal with regional projects that is what was approved by the State and that is what Garfield County signed off on it; but she said they signed off on a very different project. This is not a Garfield County new energy initiative; this is a collaborative initiative and she doesn't want to take away from that. It has to be very well defined in this contract. Jack said he understood and he knows that Garfield County represents all the municipal interest as well. He thinks they look at County government as being a regional government. His recommendation is to give it a chance to work. Commissioner Houpt thinks perhaps they could get a contract with the State as the fiscal agent; but she thinks it would not serve this group well if they didn't also enter into an IGA that clearly defined the relationship between everyone. Commissioner Houpt had planned on attending the meeting; but asked John and Larry if they would like to as well, she feels it is a good opportunity to understand where everyone is coming from. Chairman Martin feels the third meeting will be a better one. Alice asked who can attend. Chairman Martin and Commissioner Houpt will attend, Wednesday, November 19 at Human Services in Rifle from 2-4:00 p.m. Commissioner McCown will not be able to attend. Ed stated the issue is whether this board advisory does or does not drive this boat. From an administrative standpoint that is the real issue for us; if it drives the boat then financial every contractual decision has to go to that board rather than be driven by the Board of County Commissioners. Ed stated Garfield County already has policies and procedures set up with the BOCC. If you set a new board over our administrative functions then all bets are off. Commissioner Houpt is not sure; she thinks they are taking it too far, because we are spending monies that have been granted not only to Garfield County but to Rifle, Glenwood Springs, New Castle, and Carbondale.
Commissioner McCown stated that's where you are wrong; it is granted to Garfield County as the fiscal agent. Commissioner Houpt stated we are not in the driver's seat; maybe we did this wrong.
Jack stated they have the alternative to make the decision; if Garfield County wanted to segregate out the funds that were going to benefit Garfield County, they could contract individually for those aspects of the application. Commissioner Houpt said again she goes back to the original application that the State decided to approve, and what she read is that all of these entities, who have their logos on here, applied for this grant. The only reason Garfield County signed the letter is because the State wants to work with one entity to flow the money through for this program. This is a regional program and she is hearing today from you and her collogues that; you Jack, Chairman Martin and Commissioner McCown's perception; this is more of a Garfield County project and we get to make the decisions and we get to veto decisions, and she doesn't think that is in the spirit of this grant application. Chairman Martin stated he thought Commissioner Houpt was wrong. Commissioner Houpt stated; good, put it on the record if she is wrong. She wanted them to explain to her how she is wrong. Chairman Martin explained if we enter into the contract as the fiscal agent then we have our obligations. We have again our own project that was in this grant and we have our own funds that are pledged to this project. It means that we are going to do our project correctly and we will report it properly. We will have the trust in the other governments that they are doing the same thing; it goes to the advisory committee and comes back to us and again we have the word of the other governments they have done the proper things. Then we submit those reimbursements back to Jack and they can forward that money back to the proper government. He said they will also work with the extra money to continue working with initiatives to get people involved in renewable energy. It is a regional issue; we are the regional government, we are the arm of the State. We take in more in our boarders than each municipality;

it doesn't mean we are telling them what to do, it means we are being responsible to the State and saying things were done properly. What veto power do we have over those projects; none.
Commissioner Houpt stated; okay that's on the record. When you go back and have this meeting; we need to talk about what language is going to be in the IGA with Garfield County as the fiscal agent.
Commissioner McCown asked if this advisory group had their own legal counsel. Dave said no but he was not speaking as a lawyer. Chairman Martin asked if there were any issues that had not been brought up.
Carolyn asked Joanie, in the work plan and the scope of services that Alice was going to work on which is the attachment to the DOLA grant, are they one in the same. Alice clarified at the last meeting that the group that met is aware of time passing and there are timeframes they need to be sensitive to, so they are asking for a 3 month start-up work plan. Chairman Martin asked if they were doing this pro-bono.
Alice said basically. Carolyn asked Joanie if the GEO dollars were hard dollars or, are those projects that individuals and businesses can enter into. Joanie said it depends on the grant; there is a solar grant program, there will be hard cash dollars paid for residents or businesses to put solar on. Carolyn asked if the fiscal agent will hold that money. Joanie stated it will be paid on reimbursement to the County or whoever the entity is. Chairman Martin said that goes back to the other question we did have; we become the bank on those projects, pay that up front and then get reimbursement back from the State on those projects.
Joanie stated correct unless you go to the IGA. Carolyn asked if the work plan would lay out each of these different programs. Joanie said that is what they envision. Commissioner McCown stated if an entity is created by an IGA, can they be their own fiscal agent if another entity is created Don, by IGA's, can they in turn apply for grants. Don said that was a question for Jack. Jack said contracting directly with them; we need the contract under statute with a political subdivision of State. If in fact they become a political subdivision of the State, he doesn't think they do it through an IGA. Chairman Martin said that opens another issue; the conflict between the new statute and the provision that we can't loan money for projects as a governmental agency. It's the same principle; the County actually forwards the money for the project and then gets reimbursement from other programs. The special district gets reimbursement from tax over a period of time; but it is the same principle, the County forwards money and acts as a bank to do projects. He doesn't think they want to get into that. Joanie said the way this will work for the programs that we have for the solar programs for residential and businesses and also for specific projects that will be implemented. She stated they could sign those partnership agreements with Garfield County or Glenwood Springs, but it is a regional effort, so they wanted it to be done on a regional basis. They could also sign with a non-profit; so in the interim on the application, dollars are reserved. They put in the application so they could reserve the dollars to be spent in this region and the way the monies are allocated in the solar programs; they paid for the incentives to the individual businesses and the State paid it back. It can set up anyway to make it work. Carolyn stated that Jack's form contract has a successor and interest clause in the event that the contractor is an entity formed under IGA, the contractor warrants it as established protections that ensure that in the event the entity ceases to exist then ownership of property shall go back to the forming partners.

CONSIDER A REQUEST FOR EXTENSION OF THE COMPLETION DATE FOR THE SUBDIVISION IMPROVEMENTS FOR BIG R COMMERCIAL SUBDIVISION AS EXECUTED ON NOVEMBER 5, 2007 – APPLICANT; BIG R ENTERPRISES, LLC – DAVID PESNICHAK

David Pesnichak, Debbie Quinn, and Barb Clifton were present.
Planner David Pesnichak explained the request. On November 5, 2007, the Board of County Commissioners approved the Final Plat Application for the Big R Commercial Subdivision which entailed subdividing the 30-acre property east of the City of Rifle into 10 commercial lots with conditions. This approval provided the applicant, Big R Enterprises, LLC, one year to fulfill the requirements of the final plat and the Subdivision Improvements Agreement which will expire on November 5, 2008. Since the approval of the final plat and signing of the Subdivision Improvements Agreement, the applicant has completed all improvements with exception to the completion of the fire alarm system within the existing buildings. Two partial releases from the original $409,906.56 Letter of Credit have been made since November 5, 2007. The Letter of Credit currently has a balance of $31,439.00 to ensure completion of the fire alarm system.
REQUEST
The property owner requests the Board grant a 3-year extension to file the final plat which would expire on February 15, 2009.
STAFF RECOMMENDATION
As the Board is aware, there are no specific standards or criteria to judge this request. As such, this decision is solely at the discretion of the Board. Since the vast majority of the improvements have been satisfied, based on past record, there is no evidence that the fire alarm system will not be completed within the timeframe identified by the applicant. To this end, staff recommends that the Board grant a 3-month extension to the property owner to complete the subdivision improvements as described in the Subdivision Improvements Agreement prior to February 15, 2009. In addition, staff recommends that the Letter of Credit be extended 6-months past February 15, 2009, with a new expiration date of August 15, 2009.
Discussion:
David passed out a letter and explained that the purpose for the extension was that the applicant had not completed the inspection for the fire alarm system. The letter is from their engineer indicating it has been inspected and installed; there is no need any longer for the extension.
Barb Clifton stated they are withdrawing the request for an extension.
Commissioner McCown – So moved. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER AN ANNEXATION IMPACT REPORT FOR THE QUEENS CROWN DEVELOPMENT INTO THE CITY OF RIFLE – DAVID PESNICHAK

Planner David Pesnichak explained the request.
The proposed development is anticipated to consist of light industrial development with a small area of medium density residential development including approximately 18 industrial lots and two multi-family lots. The site will be accessed by city streets which are annexed into the City. Domestic water and sanitary

sewer will be extended to accommodate the proposed development. Electric, gas and telephone service will be provided by the City's existing utility franchise.It is staff's opinion that this annexation will have little to no negative impacts on Garfield County. Further, considering the increasing demand for appropriately equipped and located industrial parcels within Garfield County, it is staff's opinion that this is a much needed development. As such, staff recommends that the Board of County Commissioners accept the Annexation Impact Report as submitted. Commissioner Houpt – I make a motion we accept the annexation impact report from the City of Rifle on Queens Crown as presented. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A CORRECTED & AMENDED PLAT FOR BLOCK 11 OF TRAVELERS HIGHLANDS SUBDIVISION – APPLICANT; HARLAN MCELROY AND K & H LEASING, LLC – FRED JARMAN

Victoria Patsontarus, representing Harlan McElroy and K & H Leasing, LLC was present.
Planner Fred Jarman explained:
DESCRIPTION OF THE PROPOSAL
Harlan McElroy owns Lots 5 – 8 and 17 - 20 of Block 11 in Travelers Highlands Subdivision and K & H Leasing owns Lots 10 and 15 of Block 11. Prior amended plats have been approved by the BOCC combined varying combinations of these 5,000 sq. ft. lots over the last several years. In doing so, an error occurred in the final naming of the combined lots which resulted in duplication of parcel titles as Parcel A. The purpose of this corrected and amended plat application is to correct those errors and correct title.
STAFF RECOMMENDATION
Staff recommends that the Board of County Commissioners approve this corrected and 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.
    a. 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.

Commissioner McCown asked what assurance do we have, because there is still a lot of small lots left out there, how do we assure it doesn't pop up again once we correct the ones that have been done? He talked about the parcels getting called the same name again; is there any guideline.
Fred stated in theory as it goes to Carol Hawkins, she will keep a tag on these and ultimately records them in the assessor's tax record and tax maps.
Victoria clarified there are 10 lots within the 24 lots of block 11 that this would affect. Essentially, there are lots that will be duplicated when ownership changes. Carol Hawkins has reviewed this before it was brought and filed officially. Commissioner McCown – I make a motion we approve the corrected and amended plat for block 11 of Travelers Highlands Subdivision. Commissioner Houpt – Second.
In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR TEMPORARY EMPLOYEE HOUSING (SKINNER RIDGE 598-36-BV) IN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT; CHEVRON USA, INC – DUSTY DUNBAR
TIM DEBRANSKY AND JULIE JUSTUS, CHEVRON WERE PRESENT

Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Planner Dusty Dunbar submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff memorandum; Exhibit F – Memo via e-mail dated November 3, 2008 from Jake Mall, Administrative Foreman, Garfield County Road and Bridge Department; Exhibit G – Memo via e-mail dated November 5, 2009 from Steve Anthony, Director, Garfield County Vegetation Management and Exhibit H – E-mail, containing three separate e-mail trains and related attachments between Deborah Guinn, assistant Garfield County Attorney and the Project Manager and representative for this application.
Chairman Martin entered Exhibits A – H into the record.
Planner Dusty Dunbar explained. The Building and Planning Department received a Special Use Permit (SUP) application for "Temporary Employee Housing" facility on property owned by Chevron USA, Inc located on an approximately 54,000 acre property approximately 20.5 miles North of the DeBeque, CO . More specifically, the applicant requests approval for one Temporary Employee Housing facility to house personnel for the purpose of natural gas drilling operations. This site is remote and the housing is intended to be contained on an approved COGCC well pad along with other drilling facilities. The Temporary Employee Housing facility will be in use year around to accommodate those considered to be "essential personnel" to the drilling operations. The housing facility, however, will not be at location for more than a cumulative of one year. The maximum number of people to be housed at a facility will be 24. The applicant has stated that operations are anticipated to begin on the 598-36-BV well pad in October, 2008, to coincide with the commencement with drilling there. There are 22 wells anticipated for this well pad and drilling operations are to take approximately 330 days from commencement.
STAFF RECOMMENDATION
Due to 1) the limited nature of potential impacts to surrounding properties, 2) by proceeding with this proposal there will be an overall decrease in traffic on unimproved roadways and county roads which will promote safety and wellbeing, 3) the fact that the Temporary Employee Housing facility will be situated on existing well pads with active gas operations, and 4) that the Temporary Employee Housing facility meet the requirements set forth in Section 5.02.21, Staff recommends the Board approve the request for a Special Use Permit for Temporary Employee Housing on in the Resource Lands (RL) zone district with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
4. Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
5. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility 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 facility may begin.
6. All Special Use Permits for Temporary Employee Housing are subject to all applicable building code, state and federal permit requirements, fire protection district requirements and fire code requirements.
7. Water and wastewater systems proposed to service Temporary Employee Housing must comply with all applicable state and local laws and regulations.
8. Applicants must keep appropriate records, to be provided to the County upon request, to demonstrate that water supplied to a site is from an approved source and that wastewater is disposed at an approved facility. For facility serving twenty-four (24) people or less, the operator must conduct monthly tests (or quarterly if an on-site disinfection system is installed) and maintain records of stored potable water samples specific for coli form. Any tests indicating coli form contamination must be disclosed to the Garfield County Board of Health or designee.
9. In no case shall unsafe water be used for drinking, nor shall raw sewage or contaminated water be discharged on the ground surface.
10. The maximum allowable time length of the Special Use Permit for Temporary Employee Housing is one (1) year; however, no single Temporary Employee Housing facility allowed under this Special Use Permit shall be onsite for more than a cumulative of one year. For good cause shown, the permit may be renewed annually in a public meeting with notice by agenda only. Annual renewal review shall be based on the standards herein as well as all conditions of the permit. A permit may be revoked anytime through a public hearing called up by staff or the Board of County Commissioners.
11. Inhabitants of the temporary housing shall be applicant's employees, contractor's and/or subcontractors, working on the related construction or mineral extraction operation, and not dependents of employees, guests or other family members.
12. Temporary employee housing sites shall be maintained in a clean, safe and sanitary condition, free of weeds and refuse. Any hazardous or noxious materials that must be stored on site for operational or security reasons must be managed in accordance with all applicable federal, state and local laws and regulations.
13. Fire Protection General Requirements: Provisions shall be made for giving alarm in case of fire. It shall be the responsibility of the duly authorized attendant or caretaker to inform all employees about means for summoning fire apparatus, sheriff's office and resident employees. All fires are subject to §307 of the 2003 International Fire Code (IFC) including but not limited to permits, attendance, open fires, coal grills, fire bans and bon fires. One (1) or more approved extinguishers of a type suitable for flammable liquid or electrical fires (Class A, Class B and Class C), carbon dioxide or dry chemical, shall be located in an open station so that it will not be necessary to travel more than one hundred (100) feet to reach the nearest extinguisher.
14. Outdoor food storage is prohibited unless facilities that prevent the attraction of animals to the temporary employee housing site are provided.
15. The applicant shall provide a detailed map and GPS coordinates to the Garfield County Sheriff's Office and the relevant Fire Protection District which is sufficient for emergency response purposes, including location of the temporary employee housing site; private and public roadways accessing the site, marked as open, gated and/or locked; and detailed directions to the site from a major public right-of-way. The map is subject to approval by the Garfield County Sheriff's Office and relevant Fire Protection District.
16. The applicant shall notify the County when site development begins for each facility. The applicant shall verify in writing, by site plan and through photo documentation that the site, water system, and sewage disposal system were designed, installed and inspected in accordance with the said special use permit and comply with all applicable regulations, permits, and conditions. All written documentation and site plans verifying compliance must be stamped by a certified Colorado Engineer. The County also reserves the right to inspect a site, without notice, to assess compliance with the Special Use Permit for Temporary Employee Housing. A determination of noncompliance with any Special Use Permit for Temporary Employee Housing, or condition approval thereof, is grounds for revocation or suspension of said permit, in accordance with Section §9.01.06.
17. No animals shall be allowed at temporary employee housing sites.
18. The maximum number of occupants permitted under this Special Use Permit for

Temporary Employee Housing is twenty-four (24).

19. Sewage systems shall to be installed and maintained in accordance with the Garfield County ISDS regulations with all pipes and connections water tight and lids kept securely in place at all times except during normal cleaning operations.
20. Wildlife-proof refuse containers must be provided for trash. At least one thirty (30) gallon (4 cubic yard) container shall be provided for each unit or the equivalent in a central trash collection facility. Said container(s) must be durable, washable, non-absorbent metal or plastic with tight-fitting lids. Refuse shall be disposed of not less than once weekly.
21. Each facility shall have a minimum total capacity of 6720 gallons of potable water storage which shall be refilled a minimum of every three days.
22. Each facility shall have a minimum total capacity of 6,000 gallons of sewage and wastewater storage capacity which shall be emptied a minimum of every three days.

Commissioner Houpt asked Dusty to go back to the slide that shows the well pad. She asked where the proposed location of the housing, and Dusty pointed it out to her.

Julie Justus stated that was the rig layout; it depends on once they set the rig up on the site, then they will set the housing to the east perimeter. Commissioner Houpt asked if they tried to set it far away from the activity. And the answer was yes. Dale Rickstrew representing himself as well as aunts and uncles and in one case a cousin said he owns some of the mineral rights apparently on or near this property. He is here to inquire if there is going to be a rig on the property?

Julie stated yes; they have two rigs operating right now.

Dale said he was curious and he received public notice by mail and wondered if this affected his mineral rights. Julie stated no it should not; if they were going to drill on his mineral rights he would be notified of his rights. At this point this is all on Chevron owned property. Dale stated it was not his property; however they have the mineral rights through deaths in the family. Chairman Martin explained if Dale was a mineral right owner you may be entitled to certain royalties, it depends. It won't diminish your mineral rights; but it is being developed. Debbie explained that the entire parcel that is in question here is based upon the definitions in our land use code which is 54,000 acres. There are a number of different mineral interest owners underneath that entire 54,000-acre parcel; so you may have gotten noticed because of that. It may not affect your specific minerals. In connection with the attorney's review of this application, they did have a letter from Michael DeBerry from Chevron, authorizing him to represent them on behalf of Chevron. In the recent economic times it has become important for the County Attorney's Office to know that the people that are authorizing various land use applications actually have the authority from the entity, which they represent to do that. The attorney's office has requested generic statements of authority from Chevron USA for Mr. DeBerry to submit the application. They did get an attorney from Chevron, indicating he did have the authority and it should be in the documentation that is part of Exhibit H. It needs to be recorded before the issuance of the SUP.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye

Commissioner McCown – I make a motion we approve the special use permit for the temporary employee housing facility on Chevron USA well pad 598-36 BV with the conditions provided by staff; adding condition number 23 that the filing of the 'authority to represent' letter be filed as well prior to the issuance of the special use permit. Commissioner Houpt – Second.

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

The meeting will be continued until Wednesday, November 19, 2008 at 2 p.m. at the Rifle Human Services Building.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

DECEMBER 1, 2008
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 1, 2008 with Chairman John Martin and Larry McCown present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder. Commissioners Tresi Houpt was absent due to a death in the family.

CALL TO ORDER

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

COUNTY MANAGER UPDATE – DALE HANCOCK, representing Ed Green

REQUEST FOR APPROVAL OF APPLICATION FOR MEMBERSHIP IN GARFIELD COUNTY HUMAN SERVICES COMMISSION FOR SUSAN ACKERMAN REPRESENTING CHILDHELP RIVER BRIDGE CENTER

Susan Ackerman is the new director of Childhelp River Bridge Center and she is applying to continue to represent their Center on the Human Service Commission. She is a licensed clinical social worker and has been for 30 years in both management and direct service. She has lived and worked in Garfield County for 17 years and has a solid working knowledge of the County's local issues and resources. She speaks Spanish and has lived in several Spanish speaking countries.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to second the motion to approve Susan Ackerman representing Childhelp River Bridge Center on the Human Services Commission. In favor: McCown – aye Martin – aye Houpt – absent

APPROVAL FOR CONTRACT AWARD TO CONSTRUCT WALL ON FIRST FLOOR AT COUNTY COURTHOUSE AND DISCUSSION OF COURTHOUSE SECURITY – MATT ANDERSON

Matt is recommending approval for award to Groth Construction Inc. contingent upon contractor signature. The price to construct the first floor wall is $19,300.00. This contract would be deemed a sole source contract because no other pricing was obtained. Matt feels the pricing is fair and reasonable based on County estimates of approximately $25K to $30K and previous work completed by Groth Construction.

We are taking about 3 feet out of the room to cure the bottleneck. Lou feels this will assist the process in the public getting through the security. This will eliminate congestion and it is money well spent.

Jean – We only use this room for Early Voting during Election. She will need to find another place in 2010 for the general election. Dale said the security will not be compromised.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the contract for the construction of the wall on first floor of the County Courthouse for public access and elimination of the bottleneck with an award to Groth Construction for an amount not to exceed $19,300.

When he made the motion he thought this would eliminate the public from having to go through security for the second floor. Matt stated the elevator situation could be $500,000 plus and a construction of about eight (8) months. We are still looking at these issues. Matt stated they are still waiting on the preliminary findings.

Commisioner McCown said he not been directly involved in this but I'm having a hard time believing that the technology is not there to put a card swiped in that elevator that will only allow it to go where that card is authorized to go and if you're a citizen coming in and you're only authorized to go from the first floor to the second floor, that's all you can do. I don't know why that can't happen, it seems with the technology available today that it would be a possibility. Chairman Martin said that swipe card is in the elevator and it does work.

Dale said we need to have a second discussion regarding the second elevator company and find out their recommendations and find out what technology is available and get to the bottom of these questions before we take any further action. This construction will get people in and out of the snow.

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

COUNTY ATTORNEY UPDATE – DON DEFORD

EXECUTIVE SESSION: Litigation Update – and these items all involve legal advice or information that's in a deliberative process and nature. I would like to speak to you and provide you advice concerning assessment of Treasurer's fees and this is simply a matter of information and it is about a policy decision needed in two weeks; legal advice regarding application of Amendment 54; update on current litigation regarding Danny Martin and a code enforcement violation – Elk Creek, with Fred included the discussion.

Chairman Martin had one other and that is the policy in reference to the appointment on boards and commissions of the County Commissioners – a policy that we should have in place so we know what our responsibilities are, what the Board can expect from those that are representing the County Commissioners on those boards.

Commissioner McCown – Asked about the Crouch issues; I would like an update and advice on this since there was some correspondence that came to us and would like to discuss that.

Don suggested starting with the Elk Creek with Fred and the Treasurer's fees with Georgia last.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to second the motion to go into an Executive Session; motion carried.

Don said we'll take the Treasurer's fee last since Georgia was not present at this time.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to second the motion to come out of Executive Session; motion carried.

Action Taken - COUNTY ROAD 162 AND 162A

Don stated that the Board considered action concerning 162 and 162A on issues raised by Adriennene Crouch. He requested a motion be made to release documents to the public and Ms. Crouch copied.

Commissioner McCown made a motion to authorize the release of correspondence and attachments regarding various issues regarding County Road 162A raised by Adriennene Crouch; these are to be released to the public and Adriennene Crouch notified and copied.

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

COMMISSIONER REPORT

Commissioner Houpt - absent

Commissioner McCown – Thursday, I have the Northwest Oil and Gas from meeting 10 – 12:30 at the Fairgrounds Event Center in Rifle; Communication Board meeting also on the same day in the afternoon.

Chairman Martin – I will be leaving after the meeting today for CCI Legislative meetings in Denver; sponsoring the Reindeer and Decoration Celebration in Glenwood Springs and the lighting on Friday at 4 p.m. Training on December 11th.

CONSENT AGENDA

a) Approve Bills
b) Wire Transfers
c) Inter-fund Transfers
d) Changes to Prior Warrant Lists
e) Grants – Sales Tax Recover distribution for October $64,380.27 – Georgia Chamberlain
f) Authorize the Chairman to Sign the Resolution of Approval for a Camper Park in the Al Zone District – Applicants; Simon Casas and Genobeva Lopez – Fred Jarman
g) Authorize the Chairman to Sign the Special Use Permit for a Contractor's Yard in the ARRD Zone District – Applicants; Hank and Kamron Kracht – Fred Jarman
h) Authorize the Treasurer to Release $1,500.00 to RFTA Pursuant to Resolution 05-95 – Georgia Chamberlain
i) Authorize the Chairman to Sign a Resolution Approving a Special Use Permit for a Communication Facility Located North of the Town of Silt – Applicants; Stephen and Susanne Self – Kathy Eastley
j) Authorize the Chairman Pro-Tem to Sign a Special Use Permit for an Accessory Dwelling Unit on a Property Located at 3146 County Road 115 – Applicants; Timothy and Karen Trulove – Kathy Eastley

k) Authorize the Chairman to Sign an Amended Final Plat for Aspen Glen Clublodge Lots 1 and 2 – Applicant; PCA, LLC – Kathy Eastley
l) Authorize the Chairman to Sign the Resolution of Approval and Special Use Permit for a Temporary Employee Housing Facility in the Resource Lands Zone District – Applicant; Chevron Oil Shale Company, a Division of Chevron USA – Dusty Dunbar
m) Liquor License Renewal for Glenwood Tramway LLC – Jean Alberico
n) Approval of the Report of Corporate Changes for Aspen Glen Golf Club Management Company d/b/a Aspen Glen Club – Jean Alberico

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the Consent Agenda Items a - n; carried.

GARFIELD COUNTY EMERGENCY COMMUNICATIONS AUTHORITY – 2009 BUDGET PRESENTATION – CARL STEPHENS

Carl Stephens presented the budget for the Commissioners to review. He stated this is a simple budget this year. We are projecting sales tax to be flat for 2009. The biggest expense is in salaries. We added an operationan reserve and we added reverse 911 calls for cell phones. We also added towers to reach the black holes in New Castle and Silt.Commissioner McCown stated the Emergency Communications Authority Board has approved the budget and the fund balances are healthy.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the Resolution concerned with the acknowledgement of the receipt of the Garfield County Emergency Communications authority's Budget for the year 2009.

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

COMMENTS FROM CITIZENS NOT ON THE AGENDA:

Adrienne Crouch submitted additional documents into the record. A document from 1992 regarding the road that's encroaching on her property. This is part of a special meeting on September 28, 1992 and the reason I bring this one to your attention is because your staff, particularly Don DeFord has known about this issue with 162 and 162A along with 102 Road in the Stirling Subdivision for decades. This says, " that there was a Commissioner outdoor fieldtrip for the subdivision road for Sun Mesa that needs to be widened is under discussion". Of course, as usually, I was never notified. "The proposed road is centered in a right of way; the right of way could be placed next to trees". I believe that this road originally was supposed to be a quarter mile to the east of me. "Speaker asks if the County would consider deeding this road back to the landowners now making it a private road; this is all private land. Commissioner Arbaney stated, that a standard needs to be set that whoever buys here will have adequate roads, attorney Don DeFord said that legally there has to be access to the subdivision and continued by saying if the road is vacated, the easement dedication has to be placed back for the benefit of the subdivision so that there would be access. Access roads such as this fall under the internal subdivision standards. Mark Bean told Don this morning that a 50 foot right of way is acceptable under the internal subdivision standards, a chip and seal surface is required on an internal road. This road was surfaced last year. It measures 22 feet when the gravel is kicked back. If the road is deeded back to John Stirling, he would be the owner of the road". Well I'd like to know which road that is because when the Razzore's quit claimed a road to the County, the exhibits show that it was John Stirlings land rather than the Razzore's land. So if the road is deeded back, John would be owner of the road; if the road is vacated it goes to the adjoining landowners. "Someone asked does the County intend to do it's improvements up to the point of where John's property ends as opposed to further along". I'll like clarification on where John Stirling's property ends or begins. "The answer given is no unless someone came in there and wanted to subdivide. The subdivision calls for 25 sites. Commissioner Arbaney stated if you reduce the template all you're doing is reducing the safety of the road; if you put this volume of traffic on this road you have a very unsafe road." And that's still true. "Someone is asking the Commissioners, would you say the reason you need this width is to build the road or maintain it as well. Someone answers; it enhances the maintenance considerably but would facilitate the construction. Don says he needs more direction from the BOCC. He suggests that all present convene in a regular meeting to fashion some real proposals. The speaker says what if we were to come to you with John and we tried to come up with a plan that we thought would be consistent with your goals". Well how about the neighborhood goals. Is that a productive process for you? "Don suggested that if they want to develop a planned preliminarily that would be fine but Mark and King need to be kept informed of what the proposed ideas are". I believe if I'm not mistaken that the subdivision improvement agreement between the County and John Stirling was approved on September 8, 1992 so it's kind of like you have something that's he's committed to and now you're backtracking to say oh let's, to accommodate Stirling and I still say that there is no legal access to that subdivision over and over again the County included Mark Bean, Don DeFord, and the people that I hired namely Ron Liston, numerous law firms, basically communicated with you guys without my permission and that you had me quit claim land for part of an easement to accommodate Stirling when I knew nothing about it, and that was in 1998 and I would say that's questionable on ethics and that's all I have to say but I would like some confirmation on when you're going to give me legal descriptions on 100, 102, 162 and 162A.

Chairman Martin – We had a meeting today Adrienne and we're releasing all that information to you and you should receive that, that's also become public documents as well. We had in everything from the title research to the survey to the plat reviewed all of the testimony of the County Surveyor with the information and his opinion and then you'll receive that in the mail shortly. Adrienne – Also, one of your proceedings from recently, Don DeFord said in those proceedings that Mr. Tuttle had publically told you guys about the survey problems and I talked to Mr. Tuttle and he said that was not true. Chairman Martin – We've not had Mr. Tuttle in front of us. Adrienne – Exactly and you might want to review that because it very clearly says in a public proceeding or a letter to me that Mr. Tuttle spoke with the BOCC and communicated the issues and I don't believe that's true. Chairman Martin – We'll research that as well. Adrienne – In addition I do have my old surveyor's review of the work which you guys want and it's almost finished and that's goes back to the state. Chairman Martin – And the information we surveyed again is public information that we paid for and we are sharing with you everything that we have.

CONSIDER A 1-YEAR EXTENSION TO THE PRELIMINARY PLAN APPROVAL FOR EAGLE RIDGE TOWNHOMES – APPLICANT: EAGLE RIDGE INVESTMENT HOLDINGS, LLC – DAVID PESNICHAK

David Pesnichak and Debbie Quinn were present. On Monday, December 17, 2007, the Board of County Commissioners approved the Preliminary Plan Application for the Eagle Ridge Townhomes Subdivision. This approval entailed subdividing the 7.315-acre property near Colorado Mountain College and described as Lot 1, Filing 1 of the Los Amigos Ranch PUD, into 48 residential multi-family townhome lots with conditions. This approval provided the Applicant, Hayden Rader, 1 year to file a final plat application to Garfield County which will expire on December 17, 2008.

REQUEST

The property owner requests the Board grant a 1-year extension to file the Final Plat which would expire on December 17, 2008. (See the letter attached to this memo from the Applicant's representative.)

STAFF RECOMMENDATION

As the Board is aware, there are no specific standards or criteria to judge this request with the exception of the code language listed above and that this decision is solely at the discretion of the Board. Staff recommends since the request was proposed prior to the initial 1-year deadline expired; the Board granted a 1-year extension to the property owner to file the Final Plat prior to December 17, 2009.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the request for an extension of the preliminary plan approval for the Eagle Ridge Investment Holdings, LLC. until December 17, 2009. In favor: McCown – aye Martin – aye Houpt – absent

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A WATER TREATMENT PLANT IN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT: ALTELA, INC. ON BEHALF OF LARAMIE ENERGY II, LLC – DUSTY DUNBAR

Dusty Dunbar and Debbie Quinn were present. The applicant proposes an installation of a small demonstration water treatment plant that utilizes patented Altela Rain system to treat/purify produced water. The system will be installed immediately adjacent to the existing Laramie Energy well 20-12, just off the well pad. One daily trip is required to service the site; it is automated and operates 24 hours per day.

Staff Recommendation:

Staff finds that because this use type on the parcel is relatively unchanged as well as because the project is limited in its complexity that it is appropriate to recommend that the Board direct staff to schedule a public hearing for the Board and not refer the matter to the planning commission.

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair That staff be allowed to set this before the Board of County Commissioners.

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

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO PERMIT AN ACCESSORY DWELLING UNIT IN THE ARRD ZONE DISTRICT – APPLICANTS: BURNT PARK TRAIL, LLC REPRESENTED BY JOHN DUNN, ESQ. – DUSTY DUNBAR

Dusty Dunbar, Debbie Quinn, Robert B. Thomas, General Contractor and John Dunn, Esq. were present. Debbie reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.

Dusty, the planner submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Application; Exhibit E – Staff memorandum; Exhibit F – Memo via e-mail from Vegetation Manger Steve Anthony, dated November 17, 2008. Chairman Martin entered Exhibits A – F into the record.

The applicant requests the Board of County Commissioners grant a Special Use Permit for an accessory dwelling unit located on a 35.234-acre parcel in the Sweetwater drainage on the eastern border of Garfield County, northwest of Gypsum. The proposed ADU is to be the top floor (1070 square feet) of a new free standing unit that serves as a garage/shop. The building is for private use. The ADU is situated down the hill about 200 yards from the principal 3 dwelling unit. Access for the ADU will be provided by a driveway that attaches to the existing access for the principal dwelling. The access driveway meets County Road 151A, which merges with County Road 151, eventually to the Sweetwater Road connecting to Colorado Highway 13.

Staff 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 unless otherwise modified by the Board.
2. All lighting associated with the ADU shall be the minimum amount necessary. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits, including approval for a septic permit which can accommodate the accessory dwelling unit prior to the issuance of Building Permit
4. The gross floor areas of the accessory dwelling unit shall not exceed 1,500 square feet.
5. The accessory dwelling unit shall not be conveyed as a separate interest, but may be leased.

Applicant:

John Dunn asked that Robert Thomas, general contractor be put under oath.

Chairman Martin swore in Robert Thomas.

John Dunn said the applicant adopts the report of staff in support of this application; we accept all of the conditions which staff has recommended for approval and ask that the Board approve in accordance with the staff's recommendation. Commissioner McCown – It would appear that this ADU is for a snowmobile guide as far as a residence for that individual. John Dunn, the attorney and general manager for the applicant, but not the owner of the LLC. My client is the owner. The proposed use of this property is simply by the owner, my client, who is very much into snowmobiling and wants the opportunity to be able to snowmobile at this location. He is not a guide and there will absolutely be no commercial activity involved with respect to this use.

Public comment:

Paul Testwuide and Bert Parks' neighbor on the southern border. They've been doing a lot of construction this summer and they are good neighbors. My contention is several folds: this is a recreational area up there; our home is mainly used for recreation. And, when we purchased the property we thought others would conform to

the same regulations as the other neighbors that are consistent with 35 acre parcels. I understand when you add another unit, you add people, you add infrastructure, you add more needs, more use, you use more water and quite frankly when the historical users pool was set up in Green Mountain they specifically said all these lands are to be used as one dwelling unit and the amount of water that it would take to use one dwelling unit. So, with at least 40 more properties that are for sale right now in the Gypsum valley there's going to be a lot of these requests I would assume and a lot more needs; and to set a precedent to add ADU's doubling the size of the use of all those properties I think is a slippery slope. Also, I think you're aware that all the water that's used in the whole Sweetwater valley is over appropriated. There are more people wanting to use more water than there is water. In fact, in regard to your client John, we wrote you a letter; he had put a pipe in the Riland Creek to do his irrigation this summer which was totally illegal and asked no one for any help. If they wanted to use the water for concrete, if they had asked us we would have said certainly, but to go in the dead of night and put things in, I get a little suspect over excess water use. My main concern is the proliferation of use of existing rules and regulations that will lead to over use of the infrastructure of that valley, which is already being taxed so I would certainly urge both of you to consider the future and consider the neighbors and vote against this proposal. John Dunn responded and said he understands what Mr. Testwuide was saying and willing to submit to him and to the Board that this particular neighbor is going to have the same concern and that being his use of his property is going to be comparatively limited. It is now and we have applied for the secondary use. The owner by the name of Bob Levine, the owner of the LLC spends time in Colorado in the winter and does not spend time in Colorado in the summer. He is very much into snowmobiling these days and he wanted a place close to the flattops where he could do snowmobiling. There's no commercial activity here, he certainly has guests from time to time that join he and his family but overall the impact of Levine's use on this property is going to be comparatively small. I will ask Bart Thomas, the contractor who put the pipe in the creek to respond to that. When we found out about that, we got it out and have assured Mr. Testwuide and his attorney that there will no water taken out of the creek. We have a well permit and that will supply a sufficient amount of water for his use. Robert Thomas – In our landscaping plan, we brought 70 trees early on and we were realizing that a couple of trees were drying out and didn't think to ask and we quickly decided to pull water out of the creek. We had them irrigating for about 6 – 7 weeks as we moved them on the property. They are currently being watered by that well system for the next two years. John Dunn said in conclusion, again, I agree with Mr. Testwuide and it does seem to me that the comments he has made would have more to do with consideration by the County of some rezoning of that general area but not to be something that could be directed in this particular application. The County staff has advised you that the application here is in order and it is in full compliance with the requirements of Garfield County and there really is no basis presented to you to deny the application and we ask you to approve it.

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

A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve with the 5 conditions as recommended by staff. Chairman Martin stated the County has very little to do with 35 acre subdivisions; it is zoned through comprehensive planning.

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

CONSIDER A PRELIMINARY PLAN REQUEST FOR THE QUEEN SUBDIVISION – APPLICANTS; DARYL AND KATHY QUEEN – FRED JARMAN

Fred Jarman, Daryl and Kathy Queen and Debbie Quinn were present.

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

Planner 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 Regulation of 1984, as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F - Application; Exhibit G – Staff memorandum; Exhibit H – Letter from Glenwood Springs Rural Fire Protection District, dated August 16, 2007; Exhibit I – E-mail from Jim Rada, Environmental Health Manger, GarCo, dated August 2, 2007; Exhibit J – Opinion letter from Colorado Division of Water Resources, dated July 27, 2007; Exhibit K – Letter from Colorado Geological Survey, dated July 29, 2004; Exhibit L – Letter of opposition from Ken Beckwith, 0889 Van Dorn Road, dated August 13, 2007; Exhibit M – Well permit #66061-F; Exhibit N – Off Site Basin Drainage Map prepared by Zancanella & Assoc. and Exhibit O – Minutes from the Planning Commission hearing on September 12, 2007.

Chairman Martin entered Exhibits A – O into the record.

Planner Fred Jarman explained: The applicants are proposing to subdivide a 4.64 acre parcel into two (2) single-family lots. The subject property is located off of Van Dorn Road which is just off of County Road 117 (Four Mile Creek Road) in the Cheyln Acres Subdivision. Currently, the property is improved with a single-family residence, shop building, well, and a garden area all accessed via a gravel driveway from Van Dorn Road.

The subject property is situated in what is known as "Cheyln Acres Subdivision". Cheyln Acres is not a recorded subdivision. The subject property was created and described by a meets and bound description. The Final Plat submitted shall depict the proposed development as Lots 1 & 2 of the Queen Subdivision.

PLANNING COMMISSION RECOMMENDATION

On September 12, 2007, the Planning Commission unanimously recommended the Board of County Commissioners approve the Queen Subdivision Preliminary Plan with the following conditions:

1) That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2) The Applicant shall include the following plat notes on the final plat:
    a. *One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries.*
    b. *No open hearth solid-fuel fireplaces will be allowed anywhere within the subdivision. One (1) new solid-fuel burning stove as 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. *Based on the analysis of the sub-soils on the property, Individual Sewage Treatment System and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.*
h. *All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the Homeowners Association of the subdivision.*
i. *The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).*
j. *Any building permit submitted to Garfield County Building and Planning Department for the newly created lot shall include a site specific grading plan that addresses the drainage issues raised by the Zancanella & Associated report authored by Tim Beck dated 4/28/03.*

3) The Applicant shall provide a water quality analysis and approved well permit for the well to serve the created lot to be submitted with the Final Plat.
4) The Applicant shall provide a copy of Declaration of Covenants and Restrictions to be submitted with the Final Plat.
5) The Applicant shall provide a copy of the Subdivision Improvements Agreement to be submitted with the Final Plat.
6) The suggestions made by Glenwood Springs Rural Fire Protection District shall be incorporated within the Declarations of Covenants and Restrictions and item four (4) shall be included in the Subdivision Improvements Agreements.
7) The Applicant shall prepare an “Individual Sewage Disposal System Operation and Maintenance Plan” to be submitted with the Final Plat. This plan shall be incorporated into the covenants as part of the Final Plat application review.
8) The Applicant shall pay the Traffic Impact Fee to Garfield County to be calculated at the Final Plat. ½ shall be paid prior to the signing of the Final Plat; the remainder is to be paid at the time of obtaining a building permit. This information shall be included in the Declaration of Covenants and Restrictions. This fee shall be applied to the new lot being created.
9) The Applicant shall pay the cash-in-lieu for the School Site Acquisition Fee for the new lot being created.
10) Prior to the submittal of the Final Plat the Applicant shall obtain an appraisal for the unimproved per acre market value of the proposed lot and complete the RE-1 school district fee formula found in §9:81 of the Garfield County Subdivision Regulations of 1984.
11) The Applicant shall provide a site grading plan demonstrating how flows from the two existing basins will be mitigated with the submittal of any building permit on the newly created lot. This shall also be required as a plat note on the Final Plat and within the CC&Rs.
12) The Final Plat submitted shall identify the created lots as Lot 1 & 2 of the Queen Subdivision.
13) The Applicant shall apply for a driveway permit prior to submitting the Final Plat for review.

Applicants:
Daryl Queen stated that Fred did a nice job. One item with regard to the drainage plan, we would like to have this addressed at the time of building permits. There are several possible locations for the second dwelling. The well we are currently using serves 3 lots and a new well will be provided for the new house. Exhibit M is to drill a new well. Hopefully the Board would look favorably on this as it is long overdue. The County’s been very patient.
Debbie – The deed you submitted didn’t include what the rights of way etc. She wants to know if all existing easements are shown on the final plat.
Kathy Queen submitted that the final plat that shows a 15 foot easement for electrical.

Fred noted on the well, Daryl is absolutely correct, I did misread my top two lines; however, in saying that the state did comment on that new well and the possibility of that being a viable well. The pump test was on the existing well and that's what gave the indication that it is within an area that will pump better water. Commissioner McCown – Given that statement, I'm not seeing anything in the conditions that would reflect the need for a pump test on the new well and that's standard boiler plate. We would add that as a Condition No. 14 that once that new well is in place and constructed that pump test has to be conducted.
A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to close the public hearing. In favor: McCown – aye Martin – aye Houpt – absent
A motion was made by Commissioner McCown and seconded by Chairman Martin who stepped down as Chair to approve the preliminary plan for the Queens subdivision with the 14 conditions as recommended with Number 14 being that the normal verbiage to ensure legal and adequate source of water.
In favor: McCown – aye Martin – aye Houpt – absent

NEW PLANNER – SCOTT HALL

Fred introduced Scott Hall as a new planner saying it was his first day with Garfield County. Scott is formerly from Las Vegas and has a very long resume filled with all kinds of backgrounds; he is replacing Craig Richardson.

ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

_____ _____

DECEMBER 8, 2008
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 8, 2008 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were Dale Hancock, Attorney Carolyn Dahlgren, Attorney Deborah Quinn and Jean Alberico Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 8:00 A.M. He also announced a happy birthday to Commissioner Houpt.

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

OIL AND GAS INDUSTRY – COMPLAINTS – LIMBACH – CR 346

Nancy Limbach stated the main reason she appeared today was to talk about the Gas and Oil Industry. She felt the County did a great job putting up signs about traffic and trucks. As you said John, the industry is only as good as the intelligence of the truck drivers. Tuesday there were 11 oversized rigs carrying big pipes, cranes and 9 gravel trucks within a 2 hour period of 6:30 to 8:30 a.m. on County Road 346. She wishes something could be done about that on a weekly basis. She has to repair her fences because the trucks are too big for the curves and they take out her corner frequently. Fortunately, she has had help from everybody putting her fences back together every week. It gets old; in the fact that they don't get tickets, they don't get in trouble for it, so they don't care. It has been 1 ½ years that this has been going on. The gas and oil industry has still not taken responsibility and she has a lawsuit now against I.E. Miller Trucking. They will not agree that anything was their fault; it has to be Holy Crosses problem, not theirs. Once again they had an oversize truck. The Tuesday just before Thanksgiving, she was getting ready to move into her house and I've said before our gas well blew up. The fireman and policeman came and put them under notice to evacuate should it be necessary. Figuring out how to evacuate 64 animals, etc. she wasn't going to say anything until there was an article in the paper about the incident and liaison, which was basically negating the fact there was any problem; it stated it must not have been too bad they didn't hear a thing about the smell from anyone. She feels we have lives and it is not a good situation. We had to worry about how they were getting out of there and where they were going. Antero did inform us and kept us updated. It's the other chemicals that are a big concern; it was an amazing amount of crap flowing into her pasture. She has horses, cows, and pregnant mares all in the same field that all of that stuff was dumped on. Who knows the long term effects? The scariest part is when you ask the fireman and the police and they say what are issues and what should we be looked at? They have no clue what is going in the air as far as pollution. This could have been a total disaster and we were fortunate; we don't know yet. She doesn't know what the real issues are such as what went into the air; they do know it spilled on the ground and it ran into the berms. Their berms are up against her irrigation ditch next to our pastures and you can see where it has leeched over the sides. It's a concern that our County is sitting there waiting for a major disaster and our fire departments haven't a clue how to handle it. She wonders if there is some sort of training for the fireman and police they can get so they understand. She realizes that the gas and oil does not have to tell people what is in those chemical ponds and that is scary. Commissioner Houpt said Nancy is absolutely right; the new rules they will be voting on this week do have a rule that covers a chemical inventory. She stated at the State level they are trying to get a handle on how best to address the rapid growth of development. One of the biggest concerns she has is to enhance the partnership between the State and the local governments and the response times so people are prepared for whatever disaster there might be. The local emergency responders are working hard to understand how to approach those situations and she feels they have spent a lot of time with the COGCC to figure out how best to respond. Nancy said it is scary when this all happens at noon and they weren't told until 8:30 that night. They had to ship in some experts from Texas; they didn't have a clue what they did or how to fix it. When they called us back they said it was too dark for them to know either; but they would reconvene in the morning so keep your doors closed and try not to smell it. Chairman Martin stated that he thought the all hazards team was alerted as well. Lou's crew should have been there as well as the State Patrol hazardous folks. Nancy stated all the police who stopped by were all local. Mostly, it was the fact they didn't know the chemicals

and they didn't know what to do or what the affect was going to be and you're all on your own if you want to stay here and breathe it. Commissioner Houpt asked if that was 8 hours after it happened that they knocked on your door or did they come immediately. Nancy said obviously they knew immediately; it was only 15 feet from her property line. Chairman Martin said there was a large response as well; everyone did respond and do what they were supposed to do. Nancy said she guesses the fact there was a response to this but they don't know what they are doing. Commissioner McCown said let's stop and think; our response teams from any law enforcement, fire department etc. do not have the capability, nor will they ever have the capability to pump mud down a well and shut it off when it blows out; that is left up to the industry specialists. Nancy said she didn't mean fixing it; but letting the people know what is in it. We don't know the chemicals and we don't know the effects but if you get headaches or whatever, which everyone did with burning eyes and the hard time breathing you would want to know the chemicals involved.
Chairman Martin feels there should be a follow-up on the information and that is the oil and gas folks and the enforcement folks. They should be gathering information and going from there. We will assist them in everyway; but it will be up to them to enforce it and he is sure there will be a large investigation, probably a fine and a few other issues.

COUNTY MANAGER UPDATE – ED GREEN – DALE HANCOCK

CONSIDERATION AND APPROVAL OF DRAFT RESOLUTION CREATING NEW ENERGY COMMUNITIES INITIATIVE ADVISORY BOARD – (CLEER) - CAROLYN DAHLGREN

Carolyn Dahlgren, Alice Liard, Heather McGregor, Jim Rada and John Niewoehner were present. Carolyn met last week in a smaller group and they all went through what needs to happen quickly. There is a general statement and the reason for the document is to create NECI as a formal advisory body to the BOCC. There are also specific short term tasks, which is unusual in resolutions. Carolyn had presented what she thought was the order of things that needed to be done; as the group worked through it, the decision was made that the first thing that needs to happen is that some portion of this working group needs to meet with Ed and Matt. They need to determine if it is possible for the BOCC to hire CLEER as a sole source entity for staffing this effort. Or, will they have to go out for an RFP? The second thing decided; whatever the decision is on staffing, the group needs to come back to the BOCC in its advisory capacity and lay out what is going to happen under this DOLA grant. Right now the scope of services has 12 project elements. The application actually addressed 11 items; those all need to be cut down into manageable strategic goals. She and CLEER members have suggested that those 5 or 6 topics chosen needs to go back to the NECI advisory board. They will come back to you and present a spreadsheet which will show you the strategic areas, relate those areas to each of the project elements and each of the deliverables under the grant, and tell you where the money is coming from to meet those project elements. You will know that the advisory group is bringing you recommendations that match the deliverables under the grant. Also, part of the spreadsheet will not only be the revenue; but the budget. They also talked about C on page 3, and it should say construction contracting. The decision at the smaller group level was that each municipality, the library district, RFTA, whoever is going to do a bricks and mortar project is likely to want to do their own construction contracting and using their own purchasing codes and to have the BOCC not hold the matching money. Rather, each of those entities would do its own project and then come back to the BOCC; give a copy of their construction contract and give you all of their invoices to prove they paid. Then the BOCC goes to DOLA and gets reimbursable dollars and then a County warrant would be written to the entity that did the construction. Some discussion was held about the performance contracting with the Governors Energy Office; but how much of the construction is going to be under the GEO's program, and how much is going to be a straight forward construction contract is not clear to Carolyn yet. Two other things they talked about; staffing for the long term beyond the first year and staffing into the future as well as the appointment of a technical advisory committee. Most importantly today is to get the folks who have been chosen by each of the entities who committed match money; get them appointed as the advisory board to the BOCC. Carolyn has emails from the Town of Silt saying Meredith Robinson and Bob Haze are their two representatives; Glenwood Springs has appointed Shelly Krupp and Dave Sturges as the alternate; Carbondale - Michael Hassig with J. Frost Merritt (Frosty); and Roaring Fork Transportation - Dan Blankenship. The library district is Amelia Shelley and the alternate is G. Rose. Two things we need to do today, which is to get folks appointed and make sure the rest of the document is what you want and then discuss what information you want right back from this board. Alice felt this was a great step forward however there's a few items they may want to change. Jim Rada went over some changes on the draft resolution. Alice talked about number 12 and Carolyn stated she just wanted to have some editorial leeway on 12. Commissioner Houpt asked who the work group was and Alice named all those who attended. Commissioner Houpt stated, the NECI board would be comprised primarily of elected officials and then the technical committee would be the professions that all of the jurisdictions have working for them. Is that the direction you want to go? She sees Jim Rada's name is there as our representative on the NECI board but she thought it was going to be a Commissioner. Is that because we are contracting? Carolyn stated no; that is up to all of you, she had not spoken with Ed before she put this together and Ed stated it might not be Jim. Commissioner Houpt said she would like to serve on the board if it is not going to be a conflict when things come back to us. Commissioner McCown said it should be at least a person of Mr. Greens' level or above to sit on this board. If you look at who's been appointed, for instance Dan Blankenship is representing RFTA and the rest are elected officials. Carolyn stated Parachute has to let them know who they will be appointing. Commissioner McCown felt that since this Board is the one who has the final review, it probably would not be wise for any of the BOCC them to sit on the board. Tresi you would have to recluse yourself as a board member when it came time to vote on the action that the County Commissioners have to take. I would recommend Ed Green be appointed as the County representative and Jim Rada for technical and Dale Hancock will be the alternate. Commissioner Houpt agreed there could be confusion but she may still go to the meetings. Commissioner McCown is confused about 6 projects instead of 12 or 13. How did that take place and whose projects aren't happening? Carolyn stated they are not choosing; Jack Kirtland was part of the discussion and essentially the spreadsheet will become part of our scope of services. Alice said the intent is to take the project areas and channel them into strategic program areas. The policy committee would be charged with deciding if anything will be left off the list. It is more

a way to say there are certain topic areas within the grant that fit into the residential sector instead of having this litany of programs that seems like a long list. Let's have residential energy programs and services, commercial energy programs and services. That was the intent; but it is the advisory group that is the policy making body. Commissioner McCown stated that each applicant initially will fit into one of those groups. Commissioner Houpt asked at what point will the NECI board be looking at dollar levels and how we will fit into the amount that DOLA gave us. Alice said the goal is that this working group will come up with a budget recommendation. Once they meet officially, probably in early January, they will sign off on the budget. Carolyn asked Alice; is it possible to come back to the Commissioners with both the DOLA grant and the spreadsheet at the last meeting in January, or do you think the NECI will have enough time to work through all of that? Alice felt it would be great to shoot for that at the latest.
Carolyn asked the Commissioners if they wanted to see anything other than the staffing and the spreadsheet, which you can think of as the DOLA grant scope of services; do you also want to see the recommendation on contracting through Garfield County versus a series of IGA's in January? Do you want to hear what the group has to say about staffing for the long term and appointments to the technical advisory group in January? Commissioner Houpt stated yes, whatever they have put together. She thinks NECI will be driving this project. When they have made decisions and are ready to bring to the Board of County Commissioners that should be what drives it. Commissioner McCown stated all of the IGA's have to be in place before any of this can go forward. Chairman Martin said they need a contract with the Department of Legal Affairs. Commissioner McCown said that has to go back to each of the elected entities and be approved at one of their meetings; he thinks it is very optimistic that there can be an IGA in place allowing the creation of this entity before the end of January. Carolyn stated they do not need that IGA as they are not creating this as a statutory entity. Each of the municipalities, the library district and RFTA, has formally appointed these folks to this advisory board. Because we are not creating NECIS as statutory entity; they do not need the overall IGA. Instead they need with each entity that is doing bricks and mortar to have an IGA around the construction projects. Chairman Martin said they need to know what the projects are and what is going to happen. But, we still need the contract with the Department of Local Affairs. It hasn't been mentioned yet. Carolyn said this is part of that and the spreadsheet will be part of the scope of services for DOLA. Right now DOLA has given this group and the Commissioners a draft IGA that has a bunch of question marks about where the money is coming from and what the budget is. For instance, the bricks and mortar projects will come under one of 6 categories called 'greening public buildings and renewable energy'. You will see those bricks and mortar projects listed and it will show you how much money is coming from DOLA, how much from the Governors Energy Office, how much is the in-kind match and how much is cash. That is what you need the IGA's for; once the spreadsheet is developed they will see if IGA's are needed on other things. Chairman Martin said that way they could finalize the Department of Local Affairs questions and then have a contract so they will allow the reimbursement to take place. Carolyn said they will aim to get back to the Commissioners with another draft in January. Are there things you want to change about this and do you want to see this on the consent agenda with all the names filled in or, do you want to authorize Chairman Martin to sign it when its complete? Commissioner Houpt said they have representatives at the meetings and she is comfortable with John signing when complete. She doesn't feel this particular Board is in the position of determining when those timelines are going to happen. She thinks NECI has some work to do in terms of getting the representatives and making sure that the entire group is comfortable with the direction that this document took and everyone can sign off on it. She thinks on the soft projects if an entity is putting tens of thousands of dollars into it, they would want some kind of agreement with Garfield County and what they sign. Carolyn said that would be an IGA. Commissioner Houpt asked; then we will have IGA's with everyone not just on the construction contracts, but on the soft projects as well.Carolyn said until we see the spreadsheet she can't answer that question. Alice wanted to comment on the spreadsheet and the overall schedule; this is a new program for the State. It is a new program where three State agencies are collaborating; Governors Energy Office, Department of Local Affairs and the Smart Growth Office, which is a subcomponent of Department of Local Affairs. There are a lot of unknowns and a lot of challenging complicated chicken and egg things. When we asked Jack Kirtland if there are any examples we can learn from, Jack stated you are the best example. We have to do a lot creating and building this as we go forward. Carolyn stated to Commissioner Houpt that this creates NECI as a true advisory board to you. That is the first step; the group has said the second step is let's deal with the staffing and third, let's get the spreadsheet figured out and from that we will know how many IGA's we will need.
Commissioner McCown asked if the By-Laws will be forth coming from this group so they know what it takes to make a quorum in order for an action to occur. Carolyn stated yes they have already starting working on that; but she didn't think anyone has drafted those yet. Last she heard was that the Commissioners wanted to operate on a 2/3's vote. Chairman Martin stated it has to be determined in the By-Laws. Chairman Martin stated; what we have in front of us is a Resolution creating the board as advisory and do we wish to approve or make changes.
Commissioner McCown – I make a motion we approve the Resolution creating the Garfield County New Energy Communities Initiative Advisory Board and appointing the membership as noted today; changing Jim Rada's position to Mr. Green for Garfield County; Dale Hancock as the alternate and filling in the blanks with those necessary names as they are given to us by the various governmental entities throughout the County and the Chair be authorized to sign when complete.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin - aye

COUNTY SHERIFF UPDATE – LOU VALLARIO

Sheriff would like to reset for a week from today. No one had any objections.

NOTICE OF MERGER FOR UPPER DIVIDE SUBDIVISION EXEMPTION – DEBORAH QUINN

Deborah stated this notice in merger is pursuant to Colorado Revised Statutes section 30.28.139 (3 and 4). This issue came to our attention through the assessor's office when a subdivision exemption plat for the Upper Divide Subdivision Exemption was recorded and submitted to the assessor for identifying new parcels. As you know the parcels themselves aren't actually created until there is a conveyance of those parcels. 2 or 3 of the parcels of this 4 lot subdivision have been conveyed. When the assessor was looking

at the map, it was determined that the parcel under which the County road exists was identified as a separate parcel and remained in the ownership of the sub-dividers. In order to correct that Deborah has worked with Mr. Hartert who represents the owners of the subdivision who have come up with a merger that allows the parcel underlying the road to be merged with lot 4, which had not been sold yet. What this accomplishes is to create a funny looking parcel that merges the land underlying the County road with parcel 4 of that subdivision exemption. That eliminates the problem that the assessor had of having a strip of land, subject to the County road right-of-way that was in a separate ownership from the rest of the land. Carolyn stated this was an issue because it was approved by the BOCC. Commissioner McCown stated he was not following and Deborah said let's look at two separate lots that are divided by a County road right-of-way. The owners came in and requested a subdivision exemption; their prior ownership, assuming the 2 lots were separately owned to the center of the road right-of-way, when they created the subdivision exemption they described the lots as going to the outside boundaries of the right-of-way. When those lots are sold it leaves another strip of land that is in the original ownership of those sub-dividers. The lots should have been described to the center of the road right-of-way and they were not; 3 of the 4 lots created were sold already, the only way to correct the error, in this instance, was to attach all of the extra land to lot 4, which had not been sold yet. Carolyn said she agrees with Larry we have this all over the County and it won't become an issue unless someone discovers oil and gas or some other mineral under the County road. Commissioner Houpt asked if the owners of the lots that have been sold that should have property to the center of the road have been consulted. Deborah said no because when the lots were created they didn't own to the center of the road. Those lots were created to end at the outside road right-of-way. Commissioner McCown asked if they had to do boundary line adjustments. Deborah stated no because the entire road parcel is now attached to parcel 4. She showed a map. Commissioner McCown said that is what's confusing; who owns the parcel above and beyond parcel 4. Deborah said there were 3 parcels created by the subdivision and those had been conveyed to other parties. Commissioner McCown asked why doesn't the same condition exist on the other parcels. Carolyn said because of how they were legally described when they were conveyed. Deborah said they were legally described to the outside boundary of County Road 313 as you see on the Map (Exhibit C). Commissioner Houpt asked if you are correcting for one then why not for all of them. Deborah said this description goes to the boundary of those other 3 lots. If you put in lot 1, 2, 3 on the northeasterly side of the map, they own to the outside of the right-of-way already. Lot 4 is taking the piece of land that wasn't otherwise located or described in that subdivision exemption and attaching it to lot 4. The subdivision exemption left open a whole strip of land and didn't assign it. Comissioner McCown asked if it was assigned to the County.

Deborah said just the road right-of-way and as you know we don't own to the center of the earth when we get a right-of-way. ommissioner McCown stated we do have fee titled roads that we own to the center of the earth. Carolyn said this allows someone to own that and we would advice people who do subdivisions to scribe to the center of right-of-way or make sure it is conveyed to a homeowners association. This is one solution; these particular sub-dividers agree it would be the most appropriate.Commissioner McCown said he still doesn't understand; it would appear that across parcel 4, County Road 313 is quite a bit wider than it is anywhere else. Chairman Martin stated according to the survey it is. Deborah doesn't know if that is an accurate representation (Exhibit C). Commissioner McCown said if we approve this, we ask for a minimum of a 60 foot right-of-way be granted when we approve this 4 unit subdivision.

Deborah said they did already grant the right-of-way. Commissioner McCown said it appears by taking this action and looking at the face of this map that we are creating a wider right-of-way across lot 4 than any of the other lots. Deborah said the road right-of-way throughout this subdivision exemption is the same width and it is legally described in Exhibit B. That is a meets and bounds description of the entire road parcel for a total of 2.249-acres. If you want to continue it and have me bring the subdivision exemption map to the Board so you know exactly what we received when the road was granted to us she can do that. But, it is her recollection that it is a consistent width throughout. Exhibit C merely incorporates the legal description of the road right-of-way that was created or included on the subdivision exemption plat as part of lot 4. The merger document itself indicates that it is subject to the right-of-way that has already been conveyed. It doesn't do anything to alter the right-of-way we already have.

Commissioner McCown – I make a motion we approve the notice of merger, if that's what has to happen to make this go forward, and put into the record the exhibits as presented by the County Attorney.

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

EXECUTIVE SESSION: LITIGATION UPDATE; LEGAL ADVICE -

Carolyn stated she had five items for executive session; building code violation - occupation of a structure without a CO; Deb has legal advice on the tolling agreement that is on the agenda; information on County Road 306; and provide direction to staff on the Dunton matter; update on the Continental Rifle litigation and the possibility of a settlement; and Deb has one addition - legal advise on the Strong Subdivision application.

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:

Code Enforcement Violation

Carolyn stated that the County Attorney's office is looking for authority to institute criminal and civil litigation, if necessary, regarding a building code violation with a building being occupied without a CO.

Commissioner Houpt – So moved. Commissioner McCown – Second.

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

COUNTY ATTORNEY UPDATE – CAROLYN DAHLGREN, DEPUTY

CONSIDERATION/APPROVAL OF TOLLING AGREEMENT – PRODUCTION AUDIT WITH WILLIAMS PRODUCTION RMT COMPANY

This agreement is made between Georgia Chamberlain, treasurer, John Gorman, assessor, the Board of County Commissioners of Garfield County and Williams Production RMT Company. The County is in the

process of completing the audit of ad valorem property taxes levied for the tax years 2002 through 2007 against oil and gas leaseholds and lands in the County operated by Williams.

CONSIDERATION/APPROVAL OF TOLLING AGREEMENT – GATHERING SYSTEM WITH WILLIAMS PRODUCTION RMT COMPANY

This agreement is made between Georgia Chamberlain, treasurer, John Gorman, assessor, the Board of County commissioners of Garfield County and Williams Production RMT Company. The County is in the process of completing an audit relating to ad valorem personal property taxes levied for tax year 2002 on equipment used in the natural gas gathering systems by Williams.

Action taken after executive session:

Tolling Agreements

Carolyn stated that Deborah provided the Board with legal advice regarding two separate tolling agreements and they are looking for authority for the Chair to sign.

Commissioner McCown – I make a motion we approve the two tolling agreements and the Chair be authorized to sign. Commissioner Houpt – Second.

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

COMMISSIONER REPORT

Commissioner Houpt – CCI winter conference last week, good sessions; meeting at the Governors Mansion on Thursday; this week, three days oil and gas in Denver, hopefully it will be the final deliberation of rules; Rocky Mountain Rail Authority meeting on Friday, and a meeting with EnCana still to be determined for this week.

Commissioner McCown – Last Wednesday, lunch with Randy Baumgardner - he is looking at carrying some legislation regarding FML distribution; Thursday Northwest Oil and Gas Forum and it was well attended. The trend for the day was scaling back on all activities and this week meeting on Friday at 11:00 with EnCana at the airport.

Chairman Martin remarked on the oil companies laying off and laying down rigs which amounts to about 250 people; he is bell ringing for Salvation Army as he volunteered last week; attended CCI as well as Northwest Oil and Gas Forum; sponsored a reindeer for Glenwood Springs; next week, thank you at the golf course in Rifle; meet with Randy on Thursday about severance tax; River Bridge, received an invitation for the twelfth and Tuesday will meet with the Wilderness Society. They are looking at reinstating our old wilderness area called Deep Creek.

CONSENT AGENDA

a) Approve Bills
b) Changes to Prior Warrant Lists
c) Grant – Sales Tax Recovery Distribution for November - $64,387.27 – Georgia Chamberlain

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

ABATEMENT FOR VINCENT ROSE, ABATEMENT NO. 09-018, SCHEDULE NO. R360404 – LISA WARDER

Notification was given to the taxpayer via mail.

Lisa stated this property was split to become a set of townhomes; due to clerical error, this schedule was not deleted at the time resulting in double taxation. This abatement is in the amount of $1,274.72.

Commissioner McCown – I make a motion we approve the abatement No. 09-018 for Schedule R360404 in the amount of $1,274.72. Commissioner Houpt – Second.

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

SILT SHOP LEASE AGREEMENT CAROLYN DAHLGREN

Betsy Suerth, administration from the Town of Silt and Carolyn Dahlgren were present. Carolyn stated this is an extension of the $10,000 payment and the reserve that is building up for the end balloon payment on the lease purchase for the Silt Road and Bridge Shop. Carolyn asked the Board if this is what they expected it to be. Betsy is taking this to the Town Counsel tonight for signature. Carolyn is asking that Chairman Martin be able to sign.

Commissioner McCown – I make a motion we approve the amended lease purchase agreement with the Town of Silt and the Chair be authorized to sign.

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

CONSIDERATION AND APPROVAL OF TREASURER'S SALE OF RIFLE VILLAGE SOUTH, BLOCK 8, LOTS 22-31 – GEORGIA CHAMBERLAIN

Georgia wanted to inform the Board of the auction she held on Tuesday, December 2, 2008. It was the Rifle Village South, lots 22-31 block 8, filing one. At the direction of the Board pursuant to Resolution 08-113, the Board had directed Georgia to sell these lots. They were sold to Taani Rust and Gloria Strouse, 335 Village Drive, Rifle for $50,000.00, which is the valuation placed by the assessor. Georgia has deposited the cashiers check into the bank. To finalize the sale Georgia needs the Board to decide if it is fair and adequate and to authorize the Chair to sign the deeds.

Carolyn stated there is one other item; there is a correction deed that needs to be signed by Georgia, recorded and then come back to the Board.

Georgia stated if this is approved, she and Chairman Martin will need to sign documents in MaryLynn's office.

Commissioner McCown – I make a motion we approve the sale of lots 22-31 in the Rifle Village South and the Chair be authorized to sign the correction deed and the quit claim deeds. Commissioner Houpt – Second; she did not support this sale. She believes this is a challenging area and thinks it would have served everyone to put into public use instead of selling the property. Chairman Martin said the people who bought the property know it quite well. In favor: McCown – aye Martin – aye Opposed Houpt – aye

REGULAR AGENDA – BUILDING & PLANNING ISSUES: PUBLIC MEETINGS

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR THE CONN CREEK II COMPRESSOR STATION IN THE RESOURCE LANDS ZONE DISTRICT – APPLICANT; CORDILLERAN COMPLIANCE SERVICES ON BEHALF OF OXY, USA, INC. – DUSTY DUNBAR

Daniel Padilla, Dusty Dunbar and Deborah Quinn were present.
Two new pre-engineered buildings are proposed. The larger one (45' W x 120' x 35' H) will enclose the two (2) Caterpillar 3616 NG compressors and exterior cooling units. The other (60' W x 70' L x 30' H) houses the motor controls for the station. Other equipment will include a Slug Catcher, dehydrator, 3 tanks (20' high and 12' in diameter) and 2 contactors (3' in diameter)
STAFF RECOMMENDATION
Staff finds that because this proposed use is sited adjacent to an existing compressor station, and because the project is located in a remote site in an area where considerable industrial activity is underway, that it is appropriate to recommend that the Board direct Staff to schedule a public hearing before the Board, and not refer the matter to the Planning Commission.
Dusty stated this was an additional compressor unit which will be put into a location adjacent to the one that exists. This will further enhance the gathering and compressing capability for natural gas; there are 2 buildings proposed.
Commissioner McCown – I make a motion we schedule before the Board of County Commissioners. Commissioner Houpt – Second.
Deborah want to clarify; the agenda says Oxy USA Inc. and the referral document says Oxy USA WTPLP; those are two different legal entities and Deborah is in the process of working with them to clarify who is the owner of the property. This should be accomplished by the time the Board gets the documents back. Daniel Padilla restated they are working with Deborah Quinn and the documents should be ready for recording tomorrow morning.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDERATION/APPROVAL OF AN IGA FOR JOINT FUNDING OF ACCESS CONTROL PLAN – TOWN OF SILT

Betsy Suerth, Town Administrator for the Town of Silt and Gene Duran, Town Attorney for the Town of Silt were present. The project that is the subject of this agreement shall be the development of an access control plan for U.S. Highway 6 through the Town of Silt, extending from Ukele Lane (CR 229) to Davis Point (CR 235). That plan will include a transportation improvement plan for the town is incorporating the areas between the Colorado River and Interstate 70, as well as those areas immediately adjoining U.S. Highway 6. The cost for the entire project shall not exceed $100,000.00 with the County portion equivalent to two-thirds of the total projects costs expended; but in an amount not to exceed $50,000.00. The Town of Silt will initiate, coordinate and lead the development of an access control plan. Deborah stated that Mr. DeFord's intention was to put into this agreement the direction the Board gave the last time this IGA was considered that is to authorize the funding for the IGA up to $50,000. That will be handled through a budget for 2009 and it will be up to 2/3's of the cost; we will receive invoices as they are received. The draft is from Don and includes suggestions in red made from the Town of Silt. There are no issues that the County Attorney's staff has with those corrections or changes. It is for the Board's determination whether or not in the provisions of 3C that you wish to change the 'may' to from 'shall'. The attorney's office initially indicated that any recommendations that the County had or CDOT had were required to be incorporated in the access plan, as you know CDOT will have to agree to the access plan for it to become an access plan; but the Town of Silt wanted that language to be more discretionary on their part. Commissioner McCown stated he certainly does not have any problem with 'may'; as long as the County has the same option incorporating it into the County's portion of the plan; a lot of this is in unincorporated Garfield County. Are we mandated to incorporate what comes back in this plan in the portion of unincorporated Garfield County? David Pesnichak stated if he understood the question correctly, as the plan moves forward, does that territory need to be incorporated into the Town of Silt? Commissioner McCown said no; he is not sure what the recommendation of the access plan will be in its final condition. The town by putting the word 'may' into the recommendations; 'may' be incorporated, he does not have a problem with that as long as the County has the same flexibility and 'may' incorporate those into our plans and not 'shall'. Deborah said another way to frame the question is whether the County has to sign off on the access plan to the extent that it is unincorporated Garfield County. So the 'may' doesn't matter because we will ultimately have to prove it. Dan Roussin, CDOT and Region 3 Program Manager said which is also incorporated to access and your question is a valid one. CDOT, the Town of Silt, and Garfield County would actually do an IGA if they can all agree on an access control plan. All 3 entities would have to agree. Sometimes we don't see everything at once; there will be a provision in the plan that if there are changes, they could all agree upon it and make those changes. The IGA will be flexible enough to have future changes if they need to be made. Commissioner Houpt asked does this make sense to the Town of Silt? 'May' doesn't have as great an impact as this paragraph would indicate because, at the end of the day it will be the three parties who agree to what is in the document or the permit.
Betsy said they understand it is a collaborative process and they will go back and forth on certain issues and all three will have to come to an agreement. Betsy will let their attorney, Mr. Duran comment on the 'may' and 'shall'. Mr. Duran stated the primary concern of the Town of Silt is the way the language is drafted with mandatory language; it would essentially require the Town of Silt to accept the recommendations of not only CDOT, but the County and RFTA. For example if RFTA wanted a pull-out for a bus stop and that conflicted with CDOT's access regulations; there can't be a pull-out within 20 feet of a right turn lane. He doesn't know what that is specifically, but if that was the case does that make the Town of Silt the arbitrator of that potential dispute. But by using permissive language that essentially allows the parties more flexibility on working those issues out and by all means the Town of Silt wants to work with all the entities involved but, when there is mandatory language, such as this, if there is a conflict who do we accept. We can't answer to two masters in that particular circumstance.
Chairman Martin said if we all don't agree with it, it won't be in there, and the agreement doesn't go forward. Deborah said she thinks what this agreement and the change does, it doesn't tie your agreement to fund the study with the ultimate approval of the IGA that results.
Commissioner Houpt – I make a motion to approve the IGA for joint funding of the access control plan with the Town of Silt as presented. Commissioner McCown – Second.
In favor: Houpt – aye McCown – aye Martin - aye

CONSIDER A SPECIAL USE PERMIT FOR PROCESSING AND MATERIAL HANDLING OF A NATURAL RESOURCE IN THE ARRD ZONE DISTRICT – THE REQUEST IS TO ALLOW FOR A NATURAL GAS COMPRESSOR STATION ON A PROPERTY LOCATED ON COUNTY ROAD 300 SOUTH OF PARACHUTE – APPLICANT; WILLIAMS PRODUCTION RMT COMPANY – KATHY EASTLEY

Charles Bucans of Star Valley Engineering, Tom Fiore and Phil Vaughn were present. Charles answered all questions. Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.Chairman Martin swore in the speakers. Planner Kathy Eastley submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Comprehensive Plan of 2000; Exhibit E – Application; Exhibit F - Staff memorandum; Exhibit G – Memo dated November 17, 2008 from Jake Mall, Garfield County Road and Bridge; Exhibit H – E-mail received November 14, 2008 from Jim Rada, Environmental Health; Exhibit I – Letter dated November 20, 2008 from JT Romatzke, Division of Wildlife; Exhibit J – Letter dated November 26, 2008 from Rob Ferguson, Grand Valley Fire Protection; Exhibit K – Letter dated November 26, 2008 from Charles Bucans responding to comments; Exhibit L – Construction Permits for four compressor engines and Exhibit M – E-mail dated December 2, 2009 from Steve Anthony, County Vegetation Manager., Chairman Martin entered Exhibits A – M into the record.

The Building and Planning Department received a Special Use Permit (SUP) application for "Processing and Material Handling of Natural Resource" for a natural gas compressor station to be located on 2.755 acres of a 40-acre parcel owned by Williams Production RMT Company and operated by Bargath, Inc., a wholly-owned subsidiary of Williams. The site is located along County Road 300, south of Parachute and currently is undergoing drilling operations. The compressors, Model 3516 Gas Gathering Compressors, will be located on and/or adjacent to the well pad / drilling operation and will have exhaust silencers installed with each engine housed within an engineered noise enclosure. The applicant is requesting allowance of up to eight (8) compressor units at this site. The proposed is situated at the southwestern end of CR 300 just east of Spring Creek between CR 306 and CR 304. The 40-acre parcel is split by the county road with portions of the property on each side of the road. The COGCC-approved well pad is located on the southern portion of the site with the proposed compressor station located within that well pad. Access to the compressor station is via the access road constructed for the well pad. The northern portion of the parcel contains improvements including agricultural related structures and uses as well as a single family home. The Una Compressor Station would gather gas from area natural gas production wells and compress it for transportation to Williams Parachute Creek Gas Plant. The system will be run remotely from the Parachute Plant therefore post-construction traffic to the site would be minimal, limited to approximately six (6) daily vehicle trips. The Compressors are proposed to be located adjacent to the drilling activities at the northeast portion of the pad. The site has been graded (as part of the drilling operations) and the compressors will be located up against a cut in the hillside. The Compressor Station has been designed to accommodate eight new Caterpillar 3516 gathering gas compressors, with seven of those being installed immediately and one additional compressor installed in the future, as needed. The proposed units would be equipped with residential grade exhaust silencers, cooler inlet and outlet sound attenuators, and a noise attenuating enclosure or building so that COGCC regulations for sound can be met.

Staff recommends the Board APPROVE the request for a Special Use Permit for Processing and Material Handling of Natural Resources for the UNA Compressor Station on Williams Production Company RMT property located at 1620 CR 300 with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable federal, state, and local regulations governing the operation of this type of facility.
3. The Applicant shall be permitted to operate four (4) Compressor Units on this site pursuant to the CDPHE Air Pollution Control Division Construction Permit for the portable compressor units. Full operation of the facility shall be permitted upon submittal of the CDPHE facility-wide permit to the Garfield County Building and Planning Department.
4. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
5. Volume of sound generated shall comply with the standards set forth in the Series 800 rules of the Colorado Oil and Gas Conservation Commission (COGCC) pursuant to the following noise mitigation measures recommended by Noise Solutions, Inc.:
    a. Install NSI "T" Style Cooler Inlet (high specification model) silencers on all of the Caterpillar 3516 units with Air-X-Changers Model 156EH coolers.
    b. Install NSI "L" Style Cooler Outlet (high specification, low frequency model) silencers on all of the Caterpillar 3516 units with Air-X-Changers Model 156EH coolers.
    c. Install an NSI acoustically treated "L" style building ventilation system on all the Caterpillar 3516 Compressor Units. The installed system must permit operation of all the units within the building with the compressor building doors and untreated openings closed.
    d. Install an NSI acoustically reated engine air intake silencer on all of the Caterpillar 3516 Compressor Units.
    e. Install an NIS acoustically treated building (high specification, low frequency model) on all of the Caterpillar 3516 Compressor Units.
6. Vibration generated: the Compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point

of any boundary line of the property on which the use is located.

7. Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards. Dust mitigation measures are required via a water or chemical suppressant to comply with opacity standards.
8. Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision.
9. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
10. Any lighting on the site shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
11. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
12. An annual review shall be completed one year from the issuance of the Special Use Permit. Such review shall include the site compliance with Industrial Performance Standards and the applicant shall be required to submit a noise study which analyzes the noise levels of the proposal once the site becomes operational.
13. Prior to issuance of the Special Use Permit the applicant must provide security sufficient to cover the re-vegetation plan reviewed and accepted by the Garfield County Vegetation Manager. The applicant shall submit seed tags to the Vegetation Department upon completion of the reseeding efforts.
14. All proper building permits are obtained for the structures associated with the operation of the Compressor prior to the issuance of a Special Use Permit.
15. The facility must provide a solid steel dumpster be used as a trash receptacle at the facility per the recommendation of the Colorado Division of Wildlife.

Kathy stated they wanted to modify Number 5, Noise Solutions Inc. who is the consult; however, the recommendation could be changed to allow for equivalent equipment rather than a particular brand or model number. Staff is recommending that be allowed so it is not specific to one manufacturer. In addition, based upon Jim Rada's recommendation, staff has included a recommendation for a condition that requires an annual review to be completed one year from the issuance of the permit, that review would review the submitted noise study to determine site compliance. Steve Anthony, vegetation manager, recommends that a rate of $4,000.00 per acre be utilized for the bonding or the provision of security for the rehabilitation plan. Steve stated the provision of security can be a letter of credit or the funds may be deposited with the County Treasurer. Kathy stated they would like to amend condition Number 13 based on Steve Anthony's recommendation as above. The applicants are requesting that a bond be permitted to be provided as security, and staff does recommend the letter of credit or the treasurer's deposit due to past issues that the County has had on collection of bonds. Commissioner McCown said the first is on the reclamation bond; if he understands correctly this is on an existing oil and gas pad. Isn't there already a bond held with the COGCC for that? Kathy stated that was how she proceeded through this application and the applicant stated there was no bond provided for the reclamation for the compressor site location, therefore, that is why she contacted Steve Anthony. Commissioner McCown asked on the noise mitigation; some things he read confused him as regards to the State statute. In the State statute it states clearly that the noise levels must be met at 25 foot from the existing property line; how does this 740 foot to the nearest residents compare to the 25 foot from the property? Kathy said they provided information in the application that included 350 feet from the facility. They also reviewed the noise based at the closest or nearest residence near the site which was 740 feet.Chuck Bucans thanked all the Commissioners and staff. He explained the equipment they would be utilizing. They plan on putting four compressors in immediately as they have permits for four. They held a public open house to get adjacent owner input and listened to their questions and concerns. He stated they addressed all of them and feels they satisfied all of them. Commissioner Houpt asked; in the past it has been a real challenge to mitigate sound issues and you're talking about a total of 8 compressors, do you feel confident you can accomplish the residential levels with the mitigation you recommended. Chuck Bucans said he does and he wanted to clarify that he thinks Larry is quoting old State code. New State code says 350 feet from the noise source or the property line which ever is further for 50 to 55 dBa's in the ARRD zone, or at the nearest residence the dBa has to be less than 65. He stated his answer is yes; they actually are going to require that their sound contractor guarantee that they meet COGCC rules as modified by Garfield County zoning or they will fix it.
Dan Roussin, CDOT, stated he hasn't seen the specific proposal on this special use permit but he wants to remind the Commissioners that County Road 300, at least on State Highway 6, the access point onto Highway 6 is inadequate for the use on County Road 300. He thinks there are two types of traffic impacts they will have; one the construction of their site, which is probably more significant than the actual operation and maintenance. He doesn't know if they have done an actual traffic study; he hasn't seen anything. There are issues at County Road 300 and Hwy. 6; this will be a challenge for the County, CDOT and the private property owners. Chairman Martin said the Colorado Oil and Gas Conservation Commission may also need to be sitting at the table and Dan stated absolutely. Commissioner Houpt - With that in mind there is a traffic report and she thought they could share the analysis of impact it will have. She said she knows during construction there will be a great deal of heavy equipment going through but in the long term what are you looking at. Chuck Bucans stated he did not remember the exact numbers but they were on the operation and maintenance side, he thinks 6 or 7 trips a week. Construction as you know

is probably 30 to 40 vehicles a day. The heavy equipment is very short term. The analysis was that traffic was not adversely impacted. Kathy stated the end result, of the compressor station, will be 6 trips daily. During the construction period it is 64 daily trips for a short period of time.
Chuck Bucans thanked the Commissioners and said they felt they had a good proposal and have met all the County code requirements. One other issue he wanted to speak to; Condition 14 on the building permits being required prior to SUP issuance. It is Phil's experience that the building people will not issue permits without an SUP. We have a Catch 22 here. Kathy stated this is a multi-stage process; the public hearing today is where a decision is made and then a resolution memorializes the action taken. The activity can't take place on the site until a special use permit is issued. She thinks they are correct in stating there is somewhat of a Catch 22. We can amend Condition 14 and scratch 'prior to issuance of the special use permit' where the condition instead would read; 'all proper building permits are obtained for the structures associated with the operation of the compressor' Chuck Bucans agreed it would make it doable.
Phil stated they would also like to request, if they could get approval, to have the building department allow for issuance for building permits. Commissioner Houpt stated they do want to make sure that everything is in place prior to the issuance of building permits. She thought after that is accomplished it should be okay. She doesn't want to wave any steps; it is important to follow the process.
Public Comment:
MaryAnn Bosley is an adjacent landowner. She has concerns and the main one is the site, the location and wonders why this location was chosen. When she tried to ask why they chose this location the answer she was given by Williams was because they owned the property. She thinks that was a very truthful answer; they don't have to answer to anyone and they can do what they want with their own property. They have a pad there now and it really makes sense for them but it is an insensitive location. If she owned the property they wouldn't be coming to me and saying we would like to put this on your property. She has agreed to 2 compressor stations on her property both times that she was approached by Williams and they told her she had the ideal site for a compressor station. She talked about it being up in the canyon and no one would know it was not there, nor would they hear it but twice she agreed with Williams to take a compressor station because they convinced her that she had an ideal location. Looking at this site, it sits up high in the middle of a big valley and there are no buffers. She thinks they rushed the process through to get it approved. She attended the meeting they had for the property owners and it was a waste of her time. It was represented to everyone to come and they would tell us about their plans. Williams said, if you have any questions we will answer them. She was upset because they didn't know what to ask. She told Williams she thought they were going to give a presentation. They did ask questions and they told them they would get back to them immediately with the answers to the questions. She said she can show the invitation and it said there would be a presentation. What we got back were a lot of excuses. She called after the meeting and said she noticed they were taking minutes at meeting; she asked for a copy of the minutes. No email came; she emailed Williams and received no response. Finally she got a response and it was that they are sorry; they have been out of the state on personnel business and couldn't answer the questions from the meeting. It goes on to say they will try to get the answers requested; sorry for the delay. She put in a call to Tom Fiore, Brad Moss, Eric Miller and she discussed her concerns with all of them and made suggestions to them. Both of them told her they would have to get back to her. No one got back to her; after a week she put in second call to Mr. Fiore, Eric Miller and said she had not heard back from them. She gave them her office phone number and never heard from anyone. She finally received an email on November 21 saying, "sorry for the delay in getting back with you; but I was out with the flu and since I have been back I have been real busy trying to get answers to your questions. Hopefully I will be in next week to answer your questions." They didn't do what they said they were going to do. Finally, in their defense, we received an email 5 days ago that sort of answered the questions. It was very brief saying here is a list of the questions you asked with one sentence answers. They didn't really address the concerns. She feels this is being rushed and the information has not come forward. She would like to see a map that shows the wells that this compressor station is going to service. She knows that when they start putting multiple wells on a pad, it became a little friendlier to people to centralize. Why can't compressor stations be centralized? Are they going to be spread out all over the County? As she said, she has agreed to two on her property – EnCana/Hyrup and she doesn't know why the Hyrup can't service this too. It was said by staff there is a lot of industrial in the area; all of that is on the other side of the river. This is rural, residential, and agricultural on the south side of the river; there are no compressors on the south side. When they approached her about compressor stations on her property they were very concerned with the buffer, the canyon. There is a canyon; there is buffer, but they want to put the compressor station where it is easy and cheap, right on the pad. They gave her somewhat of an answer that the canyon is too narrow. She doesn't know if they went out and looked at the canyon. They said there was water coming through the property; she says she knows the property and a culvert could hold the amount of water that comes through there. If it has to be there; she would like to see it moved in the canyon. She would like to see them spend the money to reduce all the noise by enclosing these in a building. At the meeting she tried to ask; what if it is louder than you think it is going to be. The answer was they would come back later and fix it. She thinks everything should be done pro-active in advance, if they want to come into this neighborhood and do a compressor station. She attended a meeting when another person complained they couldn't sleep at night with the bedroom window open because of the compressor station across the river that EnCana had. That family moved and went to Grand Junction; they put their house up for sale, it didn't sell and it is rented. These things have a big impact on the neighborhood and they can destroy your rural and remote residential neighborhood. She feels if they approve this, everything possible should be done to mitigate the noise, if it can be done. She continued to talk about the noise and how it affects everyone. We'll live with a compressor station for 30 to 50 years; let's take another look to see if this is what we want. She would like to know what remedies are in place if it is a problem. She doesn't want to be in front of the Board pleading with them like her former neighbor begging the Board to take action. This doesn't exist right now; we can create it however we want it. As Commissioners you have an opportunity to make it right for the neighbors. Lastly, right now when they went in and dug for the pad; they put all the dirt on her property; it's a trespass issue. They told her they wanted to do something about it and would she go out

there and look at it. There is a huge pile of dirt and could not tell where the property line was any more. She asked them to stake it so they could see what the trespass was. She thinks it is considerable and they said they would stake it immediately and call us. We haven't heard from them.
John Throm said he is feeling left out because he didn't get a letter or a notice and wasn't invited to the meeting. He represents Larry his brother-in-law who owns property to the east. John's property is just to the west of County Road 300. He stated he is not against compressor stations; he is against anything that is a continual noise. When a truck goes up the hill or when a pad is built they eventually go away. A compressor station runs and runs and runs. This location is up on a hill and it is a natural amphitheater to broadcast the sound to the north and to the east. It is not down in the valley and he doesn't think they looked at other locations enough to say that this is the place. We will be stuck with this for many years. If they put this in, this is a done deal. We are here to put stipulations on what they do; it is the golden rule one more time. He who has the gold makes the rules. He would like to see them do like EnCana did on the other side, make it electric. EnCana did this and it is a lot quieter, it still makes noise; but it is over on the industrial side of the river. He just has to stand up and fight for their rural lifestyle; it is being invaded. There is a compressor station up on the hill and he can hear it every morning, it sounds like a B26 coming over the hill and sometimes it sounds like a B52. When it sounds like a B52; who do I call? No one; he usually calls the sheriff because he's the only one that will listen. If he calls the companies, he just gets the person who is qualified to apologize; not anyone who can do anything. Chairman Martin stated there are two people he can call; one is the oil and gas liaison and the other one is the enforcement officer of the Oil and Gas Conservation Commission. It is a violation of the State statutes; they have to address it and mitigate the noise. They do have authority, at least one does. Chuck Bucans said on the noise issue; they are abiding by the COGCC rules as amended by Garfield County zoning regulations. My voice right now is probably in the 60's dBa wise and 50 dBa is quieter than that. Phil said the noise report which was prepared for the special use permit details out, as per the industrial performance standards and this compressor station will meet the COGCC regulations. If this compressor station does not meet COGCC requirements, the State has the ability to bring the facility in compliance or shut that facility down. Commissioner Houpt asked about the concern that the property owners have about the location of these compressor stations. When you have a well pad in place, that is temporary situation; when you put a compressor station in you are looking at 24 hours a day 7 days a week of noise. Regardless whether it is 55 or 65 DBA that is a constant noise people hear. Did you look at other locations and consider the potential impact that this does have on neighbors. She noticed on the map in the application that all of the industrial uses were pointed out; but none of the residential uses were included and she thinks it is very important, as they look at these more long term sites for facilities we should be aware of other options that are available. Tom Fiore stated they had another landowner who was adjacent; they are not here today but they specifically live up the canyon that was referred to. He came to us and didn't want them to put this in the canyon. They did look at the canyon; they didn't do this with a blind eye to that location. It is a very steep narrow canyon that has a water course in the bottom of it. He has been there four or five times and it has had water running in it. Because that water course is in the bottom of the canyon; building a flat pad in the bottom of the canyon would not be allowable. They would have to go up on the canyon side and in order to carve out enough property to get an adequate well pad; it would be extreme. They also have a landowner up above and then we get closer to his dwelling. He would like to say in reference to this particular site, they made every effort to tuck this site up into the hill. He talked about the ridgeline and showed pictures. He stated there are fundamental reasons they picked this site; one, they own the property and two it was their attempt to try and consolidate it by building it on a pad that was already there for a well site and the three pipelines they need to access are there both for gathering of gas and the downstream side of the pipeline, runs adjacent to theirs. They needed to get close to the pipes so they could tie in. Commissioner Houpt asked if there were any areas you looked at that are closer to the industrial area that may have been a better site for compressor station. Tom said there were two issues related to that one, the gas they are trying to gather is to the east and not in that area. If they could find property closer to the gravel pit or EnCana's compressor station; then it would be a question coming to you for an administrative permit for a pipeline. They would have to figure out how to get over there. He thinks that would be a daunting task at this point. Commissioner Houpt said, with 8 compressor stations, how many well sites are you anticipating serving. Tom stated he could not give the exact answer; that is not his side of the business. He works in how many cubic feet of gas he has to move through the compressor. He would estimate they are talking about 300 to 400 wells. Commissioner Houpt said there will be extensive piping anyway.
Tom said the gathering system that will be in, you are right. Noel Richardson, manager of the Spring Creek Ranch. Perhaps this last gentleman who spoke made the point for this being the wrong location. He has a question; he spoke to Sid Lindauer today who lives up Piceance Creek and has been fighting Williams for 5 years. Mr. Lindauer's home is 3,500 feet from the Williams compressors and they are telling us they will maintain the silence or keep it within the COGCC requirements; that seems highly impossible. They would like the Commissioners to see to it that Williams addresses the trespass issue.
A motion was made by Commissioner Houpt and seconded by Commissioner McCown to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner Houpt stated we will continue to see a great deal of long term facility sites in this County and we can't forget there is equal or longer term use that is already established in the area. She is not feeling a compatible location has been accomplished in this application so she made a motion to deny this application. Commissioner Martin - Second for discussion. Commissioner Houpt said she thinks through her questions and statement she has raised her concerns. She thinks it is very important as we move forward in finding sites of these locations; the companies recognize the importance of listening and understanding the concerns all the landowners have. There is a great level of respect and understanding of the natural resource we have in this County, and the recognition that this economy is developing and is going to grow depending on the world economy. She thinks at the same time, we need to grow together as a County and invest in a good balance of each others future. She didn't see that occurred in this situation and she simply can't support that unless; she really needs to see with any type of application, whether it is a commercial development or a residential development, or an oil and gas facility; she thinks they need to

respect everyone's property rights. We need to recognize that as a County, they need to move forward to grow in a really positive and beneficial manner. Chairman Martin stated he has gone up and looked at this area numerous times; there were several different compressor stations throughout the entire area. There are many gathering systems, many pipelines and future well sites. We have encouraged the industries to use their own property; we have encouraged them to work with their neighbors and meet all the requirements. In fact, the new sound regulations we helped forge and we need to make sure they are upheld. Chairman Martin said it is acceptable; even by Miss Bosleys statement, if it was on her property she would accept it, but it isn't so she is against it. He also heard that we do not want them at all in the area; Williams Energy has been awarded numerous times by the State of Colorado for meeting all the requirements of sound mitigation. Unfortunately, Sid can still feel the vibration in his foundation but that is not addressed under the rules and regulations. Chairman Martin called for the question to deny.
In favor: Houpt – aye Opposed McCown – aye Opposed Martin – aye
Commissioner McCown – I make a motion to approve the special use permit for processing material and handling in natural resources with the conditions listed by staff; Number 5, changing the verbiage from installing an NSI to a comparable NSI or comparable style in all of those A-E on Number 5 item. On Number 13 we came up with $4,000.00 for a fee on the reclamation and all of the proper building permits are obtained for the structure associated with the operation of the compressor, period. Commissioner Houpt – Second for discussion. Again she thinks it is very important and she appreciates the comprehensive effort put into this report. She thinks they really need to recognize the importance of taking these plans as we move forward as a County a step further and make sure we are recognizing and understanding some constraints that certain properties and neighborhoods have. Commissioner McCown said he has more faith in the regulations and the COGCC regulations. These were put together for a purpose; they are very clearly stated to meet the conditions in AARD or residential areas. If they don't meet those conditions; it is shot down, it is that simple. You make one phone call to the Rifle office at the COGCC and they come out with the sound meter take a reading and if it is not in compliance, they are given a warning. They have 30 days and if it continues, they shut it down. Why would we spend all the time and effort to come up with regulations that are compatible to residential noise levels if we don't allow it to occur in those areas? Why don't we just say; nothing of this nature can occur anywhere in the State of Colorado unless it's an industrial zoned area and then all we have to worry about are the industrial levels and noise; which is 70. We can let her rip then; we don't even have to have the buildings. That is why we have the regulations; they were put in there for a very clear reason, to allow these kinds of activities to occur in areas of residential, AARD. It is real easy to say the reason for denial is not compatible with neighborhood. 150 years ago, in this very County, there wasn't anything compatible to the neighborhood except the Indians and we're all here now. If that would have been the reason for the denial, nothing would have happened in this USA; because it would not have been compatible with the neighborhood.
In favor: McCown – aye Martin – aye Opposed Houpt – aye

CONSIDER A ZONE DISTRICT AMENDMENT FROM ARRD TO PUD AND SUBDIVISION PRELIMINARY PLAN FOR A 17.578 ACRE PROPERTY ON COUNTY ROAD 300, SOUTH OF PARACHUTE – THE REQUEST IS TO ALLOW FOR ZONING AND SUBDIVISION OF 5 LOTS FOR SEMI-INDUSTRIAL USES – APPLICANTS; GEORGE AND LESLIE STRONG – KATHY EASTLEY

Deborah Quinn, Eric McCafferty, George and Leslie Strong, Ed Bowers, Keith Mendenhall (Engineer) were present. Eric answered all questions. Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Kathy 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 – Special Use Permit and Resolution for Approval of Strong Contractor Yard; Exhibit H – Letter dated September 2, 2008 from Jake Mall, Garfield County road and Bridge; Exhibit I – E-mail dated September 9, 2008 from Jim Rada, Garfield County Environmental Health; Exhibit J – E-mail dated August 27, 2008 from John Niewoehner, Planning Engineer; Exhibit K – Letter dated September 8, 2008 from Mark Vanarelli, Co. Division of Water Resources; Exhibit L – E-mail dated September 10, 2008 from T.C. Wait, Colorado Geological Survey; Exhibit M – Letter dated September 5, 2008 from JT Tomatzke, Colorado Division of Wildlife; Exhibit N – Letter dated September 17, 2008 from Rob Ferguson, Grand Valley Fire Protection; Exhibit O – E-mail dated September 2, 2008 from Daniel Roussin, Colorado Department of Transportation; Exhibit P – Memorandum dated September 17, 2008 from Steve Anthony, Vegetation Manager; Exhibit Q – Well Permit 67484 Office of the State Engineer – Submitted September 8, 2008; Exhibit R – Well Test from J&M Pump, Inc. dated September 29, 2008; Exhibit S – Floodplain Analysis; Exhibit T – Erosion Control Plan; Exhibit U – Letter from Wagon Wheel Consulting; Exhibit V – Letter dated October 6, 2008 from Huddleston-Berry; Exhibit W – Justification for Increase in Height and uses not Itemized, draft Declaration of Protective and Exhibit X – Letter dated November 12, 2008 from Eric McCafferty, with revised Documentation including a PUD Guide, Declaration of Covenants and a Well-Sharing Agreement. Chairman Martin entered Exhibits A – X into the record. Planner Kathy Eastley explained: The Strong PUD proposes uses by-right that are designated as Special Uses in the A/R/RD Zone, including Contactor Yard (and related support facilities), Storage for Oil & Gas Drilling Equipment, and other activities itemized below. The PUD proposes two zone districts within the development; the Resource Support (**RS**) zone and the Utility and Easement (**UE**) zone.
George and Leslie Strong (Applicants) are seeking approval of industrial PUD and subdivision to allow for the creation of five parcels and a utility zone on 17.572 acres 200' south of Highway 6 on CR 300. The proposal is being requested to allow for uses-by-right in the PUD which are currently permitted through Special Use Permit review and approval in the A/R/RD zone district as itemized in §3.02.03 of the Zoning Resolution of 1978, as amended. The preliminary plan seeks to allow for the subdivision of five parcels and a utility zone.
CONDITIONS FOR THE ZONE DISTRICT AMENDMENT
The Planning Commission recommends APPROVAL of the Zone District Amendment to the Board of

County Commissioners if staff comments and recommended changes are incorporated into the PUD guide and declaration of protective covenants.

1. That all representations made by the Applicants in the application and as testimony in the public hearings before the Planning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. Declaration of Protective Covenants must be provided, consistent with the PUD Guide and other documentation provided and revised per Staff comments, referenced on and recorded with the Final Plat for the development.
3. The PUD Guide shall include a PUD Development Plan and the PUD Guide shall be attached as **EXHIBIT B** to the Resolution approving the Zone District Amendment.

CONDITIONS FOR THE PRELIMINARY PLAN

1. That all representations made by the Applicants in the application and as testimony in the public hearings before the Planning Commission and Board of County Commissioners shall be conditions of approval, unless specifically altered by the Board of County Commissioners.
2. No activity, other than that approved by the Resolution 2007-117, may occur on the parcel until such time as a Final Plat and related Subdivision Improvements Agreement is approved by Garfield County and recorded with the Clerk and Recorder.
3. The Preliminary Plan for the Strong Subdivision shall be valid for a period not to exceed one year from approval.
4. The Applicants shall apply to the State of Colorado, CDPHE Water Quality Control Division for a Public Water Supply for the site and meet all of the required standards of such. The approval of the public water supply shall be provided prior to Final Plat approval.
5. The Applicants shall delineate and legally describe all easements on the Final Plat and convey all easements to the Owner Association or to the responsible entity. This dedication shall be in a form acceptable to the County Attorneys Office and transfer shall occur at the time of recording the Final Plat. These easements shall include, but are not limited to all easements of record, utility easements, drainage easements, water system easements, storm-water drainage easements, open space, and all internal roads (which will be dedicated to the public on the face of the Final Plat) required as apart of this development.
6. Plat notes regarding geologic constraints shall be placed on the Final Plat in conformance with recommendations of the project engineer (Huddleston-Berry), the Colorado Geologic Survey and the Environmental Health Manager:
    a) Lot-specific subsurface foundation investigations and geotechnical testing should be done prior to building to identify specific subsurface conditions that may affect development (collapsible soils, depth to groundwater, etc.);
    b) Lot-specific septic investigations shall be done prior to building to identify subsurface conditions that may affect septic performance and design. Engineer-designed systems are required;
    c) Proper foundation and utility drainage shall be established for all subsurface elements within three feet of the seasonal high groundwater elevations, and positive drainage shall be provided around structures. Downspouts shall be directed away from the foundations;
    d) Establish and erosion control plan using best management practices;
    e) Sulfate-resistant cement shall be used for construction;
    f) Shallow foundations shall be placed on a minimum of 30 inches of structural fill and flatwork be placed on a minimum of 12 inches of structural fill. That fill should extend a distance equal to the thickness of the fill (i.e. minimum of 30 inches) beyond the lateral edges of the foundations.
7. The Colorado Division of Wildlife recommendations EXHIBIT M shall be considered conditions of approval of the Preliminary Plan:
    a. Strict enforcement of speed limits;
    b. Removal of all fencing, wires and lines from previous activities;
    c. The use of barbed wire to fence the site shall be prohibited;
    d. Minimize soil disturbance to prevent the spread of weeds species.
8. The Applicants must provide information requested by the Garfield County Vegetation Manager as follows and outlined in EXHIBIT P:
    a. The Applicants must treat the inventories tamarisk trees prior to the start of any construction activities and they the forward treatment records to the Vegetation Manager once the work is complete.
    b. The Applicants must quantify the amount of surface disturbance related to the road cuts and utility easements. A security amount may be required if the amount of disturbance exceeds half an acre.
    c. A Soil Management Plan shall be submitted that includes:
        i. Provisions for salvaging on-site topsoil.
        ii. A timetable for eliminating topsoil and/or aggregate piles.
        iii. A plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more.
9. At Final Plat the Applicants shall submit information compliant with water storage for fire suppression as recommended by the Fire Protection District.
10. The Final Plat application shall include information compliant with Garfield County Road and Bridge recommendations regarding signage on CR 300 and that signage shall be included in the Subdivision Improvements Agreement at Final Plat. Further the County Attorney's Office shall provide language in the SIA requiring necessary funding, should it become necessary, for improvements or repairs to CR 300 as stated in Road and Bridge comments in **EXHIBIT H**.

11. The Applicants must obtain a State Highway Access Permit for the intersection of State Highway 6 and County Road 300. Upon adoption of this condition the Board of County Commissioners shall assign the Applicants as designee to apply on behalf of Garfield County.
12. The Applicants shall include the following plat notes on the Final Plat:
    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 there under, will be allowed in any dwelling unit. All dwelling units will be allowed an unrestricted number of natural gas burning stoves and appliances.*
    c. *All owners of land, whether ranch or residence, have obligations under State law and County regulations with regard to the maintenance of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, using property in accordance with zoning, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and act as good neighbors and citizens of the County. A good introductory source for such information is "A Guide to Rural Living & Small Scale Agriculture" put out by the Colorado State University Extension Office in Garfield County.*
    d. *All exterior lighting will be the minimum amount necessary and all exterior lighting will be directed inward and downward towards the interior of the subdivision, except that provisions may be made to allow for safety lighting that goes beyond the property boundaries.*
    e. *The mineral rights associated with this property have been partially or wholly 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 min*

Eric explained how they got here today; George and Walt submitted an application for a subdivision of the property back in late fall or early winter of this year. They asked Eric to get involved. The planning staff stated if they subdivided the property the current special use permit for approximately a 6-acre site would be null and void because the assessor's parcel number would change. Eric asked what they would rather have; would you rather see individual special use permits for the individual lots, or would you rather see a planned unit development on the property. The answer was they would rather see a PUD because it will allow much more comprehensive planning of the site. Since the subdivision sketch plan was already in process, Eric started working on the PUD; they went to the planning commission in April of this year and identified they were going to do a joint application for the subdivision preliminary plan and PUD. Relative to the character of the area, before they started on the PUD, Eric asked the planning staff to give him an opinion relative to the comprehensive plan. As you know the current comprehensive plan is really quite silent to the natural gas industry. Eric didn't want to have to amend the comprehensive plan for this application because this is what is going on out there and all of their neighbors have industrial uses. The character of the area is quite industrial and Eric has a power point to show. The context of developing the PUD guide, the zoning for the subdivision and PUD, given the nature of the area; some of their impacts are similar to the impacts on their neighbor's property. So such things as berming and open space are really not necessary as it would probably be a waste of land. There will be no trails on the site, no public spaces and it is a very arid area. There is a very minimal amount of irrigation water however; they do not think it is appropriate to have large landscape areas. In putting together this comprehensive application they tried to create a baseline with the various studies they did. The most intensive land use they would expect is the contractor yard. The main part of that is storage; but materials are being brought to the site and taken from the site on a daily basis. Most of the studies have been focused toward that use primarily because that is what they consider to be the most intensive. They are not proposing an intensive use of water; they don't have any proposed truck washing facilities. They do have a valid permit with the State Engineer's Office and that is backed up by a West Divide Water contract. There has been a question about the water quality within the PUD and at the time of the planning commission hearing, we said we will work with a water engineer to have the water supply permitted as a public water supply. They have noticed in the area, there are some un-permitted land uses. Some of these individuals have called George Strong and said if he gets permitted they want to move onto his site. If this application is approved Eric thinks it could serve a dual purpose; one is providing the necessary infrastructure for this type of land use needed in the area. It also may be cleaning up some of the uses that aren't necessarily recognized through other special use permits. They acknowledged traffic is a chief concern; Ann Bowers is present to discuss this issue. They do not feel that this project is the proverbial straw that broke the camels back; their fractional amount of increase in traffic should not trigger this project being the project that has to have the site permits approved by the State Department of Transportation and also they should not be held to paying for all of that. They will certainly pay their fair share; it will need to be determined. If some of these land uses that aren't permitted come to this site; it could have the real results of moving that background traffic onto this PUD without any real increase in traffic at all. The traffic is already out there, it is already going to these land uses; the only difference would be they would be focused at their driveway intersection with County Road 300. Also relevant to traffic because of the way the administrative permit is set up; a lot of traffic impacts out on the road are generated by the neighbors and are probably not reviewed sufficiently by the County or CDOT. The point is; they are not the only game in town or the only one utilizing the intersection. Eric gave his power point presentation. Ann Bowers showed a few slides to address the traffic impacts of Hwy 6 and County Road 300. At this intersection now in the a.m. peak hour there are 253 vehicles that are traveling through the intersection. In the evening peak hour there are approximately 202 vehicles. Based on the

CDOT highway access code the improvements that are outlined in the traffic study; westbound left turn deceleration lane on Hwy 6 and an eastbound right turn lane on Hwy. 6 and the north bound to east bound right turn lane – those improvements are currently warranted under the 2007 volumes and obviously 2008 which is prior to Mr. Strong's development. The Strong Subdivision traffic; this is looking at the worst case scenario assuming employees are on the site, in the a.m. peak hour we're projecting 29 vehicles at the intersection of County Road 300 and Hwy. 6 and at the p.m. peak hour another 29 vehicles. To put this into perspective the percent increase in traffic at the entire intersection not just County Road 300, in the a.m. peak hour the proposed subdivision would have an 11% increase and a 14% increase in the p.m. peak hour. These percentages are just to point out the minimal impacts this proposed subdivision will have on that intersection and to point out the improvements that are being called for are currently warranted. Commissioner Houpt had a question about the 29 trips; that is assuming there would not be a use that would allow the storage of vehicles or equipment. Ann said it would; the majority of the 29 trips would be employees coming in the morning and leaving in the evening. The storage of materials on site doesn't generate a lot of traffic during the peak hours. She stated they concentrate on the peak hours because that is what CDOT focuses on. Commissioner Houpt didn't know if she agreed with that assessment; the use, if you have oil and gas trucks and equipment that will be used, if there is that use, she doesn't see that being calculated in their numbers at all. Ann stated besides the 29 trips in the a.m. and the 29 trips in the p.m. there will be additional traffic; this is the volume concentrated at those hours. The hours calculated are typically between 7:00 a.m. and 9:00 a.m. In the evening it is sometime between 3:00 p.m. and 5:00 p.m. Commissioner McCown asked about the other trips per day generated by these 5 lots and the uses associated on these lots, is that not counted at all in the overall trip count that reaches the percentile driving the need for an access permit in CDOTS eyes? Ann stated yes; when you look at the need for the improvements you look at the vehicles per hour and we look at those peak hours. It is not based on the amount of traffic over the entire day; if you have more than ten vehicles per hour making the left turn, then that triggers the need for the westbound left turn. If you have more than 25 making a right turn in that peak hour, that's what triggers it; it's the peak hour volume. Commissioner McCown stated that they are saying per their study they are not meeting the threshold that would require mitigation for an access permit. Ann said she was not saying that; she is saying that currently, based on the volume of traffic that is out there; those improvements are warranted now. Commissioner McCown asked if their traffic count reached 20% of what is there now. Ann said there are two different scenarios; for the CDOT access permit, they look at the increase of traffic on County Road 300 itself. On County Road 300, based on the usage they are at 23%. The other scenario is these percentages is the total traffic at the entire intersection. Chris Manera, from Colorado River Engineering addressed the public water supply. As you know the public water supply has numerous triggers; what is affecting this project is, if you exceed a population of 25 people over any 60 days in a given year, you are put into the health department regulations. On commercial developments the population uses are often fairly difficult to estimate and basically they are going on the assumption they would exceed that 25 limit. Two weeks ago they collected the water quality samples and he doesn't have the reports yet. There was some preliminary data taken last summer and there were no bacteria; so far it looks good. They are proceeding with going with a full blown public water system because it is non-residential it would be non-community and because the workforce would be a continuous type population, it is non-community and non-transient. Once that system is approved and built, it would have to be operated and monitored by a licensed water system operator. Commissioner Houpt asked Chris; with the process he is going through is he fine with the conditions outlined. Chris stated yes. Dan Roussin – Colorado Department of Transportation. On this project they looked at what the County sent them for referral. What they looked at was whether it needed a permit or not. At this time they had not reviewed the traffic study to determine if it meets our requirements. They look to see if a permit is needed or not, and in this case a permit is needed. He wanted to mention that he has been with this intersection close to 4 years now because of the Travelers Highland side, which they are working on. It will probably be completed by spring. More importantly he actually has traffic numbers from 2005 documenting from other professional engineers who have done counts out there regarding how much traffic has gone out there. He did not have the specific numbers in front of him; however, he can say those numbers have increased in the last 4 years by about 30 to 40%. This is significant; now with the two applications you had today, you get the cumulative effect on that intersection. 250 in the peak hour; he doesn't know if the passenger cars equivalents, PCE's were counted on that or not; probably not. That count only represents trucks and cars; PCE accounts for the trucks and how big of an impact it has on the intersection. It is probably a bigger impact than the presentation talked about. The report states there is a need for a left turn lane, a right turn decel lane and a right turn acceleration lane. It will be challenging to put those improvements in there. It will take a lot of effort and we will also have to work with the railroad to the north. It is not a simple thing; it won't be easy, but he feels it is very important and that is why the access code is in place to protect the citizens of Colorado. This will be very similar to the Travelers Highlands Subdivision because what happens is; you have one entity putting an impact onto a complete intersection. They will say it is not equitable and that is something the Board will have to determine, but it is a very difficult decision. Highlands Subdivision had to actually get a district together to accommodate the improvements on the north side. It was intensive; they had 240 different lot owners in the subdivision. The unfortunate thing is and the County Commissioners know this, CDOT doesn't have the opportunity to determine fairness to the applicant who requires the improvements. He stated they really rely on local governments to help them out on how the fairness happens. The key thing is; CDOT wants to work with the County and the applicant. They want to see the improvements put in place and work with the community to get those improvements in there. He doesn't want the BOCC to think they are not on board; but obviously their funding is on the south side. The key thing is they need to address the traffic issues. Commissioner Houpt asked Dan; have you seen other situations where an applicant will mitigate with the understanding they will receive a portion of their cost from future applications. Dan said there were a variety of ways to handle it. One obviously is the special district; on the north side it was the best solution because it was such a small community. On the south side you have a bigger community. In Routt County he has seen where they actually had an agreement with the landowner or the developer and they worked an arrangement; the

developer did the upfront cost and then had some payback once the development came through. The good thing about that is for new developments; the tough thing is the actual stuff that is already in place. There are a couple of other developments coming in such as the gravel pit on the other side; those are the people you might want to consider helping us with the problem. Eric wanted to clarify; relative to the number of lots and Travelers Highlands, he does not dispute at all that there are upwards of 240; however the vast majority of those lots are owned by two or three individuals, so it is relatively easy for them to set up a special improvement district. That approach is substantially more difficult on the south side of the County road. Ann wanted to clarify that the traffic study she conducted clearly they are not saying that these improvements are an issue because of the Strong Subdivision. We pointed out that those improvements are currently warranted based on the CDOT access code, it is not because of the Strong Subdivision.
George Strong stated he had definite concerns about the traffic up there. There is a new permit that came in from EnCana; they say they are temporary. The lay down pipe already has another application over and above it for Marathon Oil to be used right after EnCana is done with it. Marathon just bought another 11,000-acres above him. That is their gathering pipeline systems; they will be coming down through there for the next 10-15 years. He stated they need to quit making them temporary because these compressor stations and the gas stuff are not temporary. Something has to be done out there; he can't do it himself. He feels we need to get some kind of district and perhaps CDOT could use the strong arm approach against the gravel pit a little bit. They have 600 loads a day coming out of that pit; where is all that money going? There is plenty of money if we can collect it and have everyone do their pro-rated share and get the intersection done. Commissioner Houpt stated this was a very good example of what an adequate impact fee program would do in this County. Commissioner McCown said we have another option that hasn't been brought up; weight restricting that road from the point of your access to Hwy. 6 and 24 and routing everything down 300 road to Parachute. That is an option; it is one way to get around the access permit. If we don't have the room physically, because of the railroad to make all of this happen and he questions if it's there then that is our other option. Eric stated relative to traffic, certainly they would be willing to pay their fair pro-rata share of any improvements. If no improvements happen, he supposes if a weight restriction was placed at that intersection they could certainly live with that type of situation and move all the vehicles to the south. Relative to water, he feels Chris adequately addressed that. The process they are in and based on the findings, when Eric put together the PUD guide they really didn't look at the types of land use and the amount of full time employees that would be on the site. As they go this route of approving a public water supply; they would like to amend our PUD guide a little so they don't have the employee limitations that are specified in Sections D1, paragraphs B and C. Also, the suggested findings in the staff report say that this development may be in conformance with the regulations and plans; they suggest they are found in conformance. On specific conditions of approval; Number 2, they respectfully request that if approved they would be allowed to move forward with the project and begin leasing subdivision lots and stipulate that no lots will be conveyed without final plat approval. On condition Number 4 they request the last sentence be removed, as you know the permitting of a public water supply is a time intensive process. Residential subdivisions are allowed to receive final plat approval prior to final permitting by the State and they are requesting similar treatment. Condition Number 6D; they have already complied with the recommendation and do not think it is a necessary condition of approval. Condition Number 7B & C; relative to B, this condition has already been met and Condition C, they are proposing to comply with the Division of Wildlife recommendations on fence height; they are requesting this condition be re-written stating they agree to comply with the recommendation and still be allowed to have barbed wire above 6 feet. Condition 8A; they have previously complied with this recommendation and request that be removed. Condition 11; the way the condition is written, it requires this applicant to be responsible for review and permit Hwy 6 and County Road 300 intersection and they feel this is an undue burden to this application solely and they request the condition be re-written identifying that this development is required to pay its pro-rata share for improvements of the intersection. Conditions 12B and C should both be deleted as they contemplate residential development, which they are not proposing.
Commissioner McCown said he would like to ask George or whoever is going to have the authority to do this; he keeps hearing the terminology, pay our fair share. That is really hard to put a number to; what is your fair share and what is your willingness to form a district on the south side. That is the only way it can be assessed to the existing and other users. We can charge it if there's a gravel pit that comes in within a year; we can charge them the same we are giving you with the intersection. Then you would be at 50% each. We don't know what this intersection is going to cost. George said it was estimated now at about $800,000.00. Commissioner McCown asked George if he was familiar with the formation of a district. That is the fair way to do; that is how it was done on the north side. Commissioner Houpt said they actually held up any development until something was done. There has to be some access for heavy hauling and it makes a great deal more sense to have that occur on Hwy 6. She is not supporting the notion of suddenly re-routing traffic because we have an intersection that we are not dealing with. There has to be some movement forward to accomplish this intersection. Eric stated to Commissioner McCown; to answer his question, he thinks the answer is right there; our fair share is probably somewhere between 11 and 14%. Because that is the additional traffic that will be generated by this land use. There still is the concept that if there are unpermitted land uses out there now and they come to this site, which he thinks is a very real possibility then our actual increase in traffic would be substantially less than what the traffic study shows. Walter said you are also asking about the formation of a district; they would clearly be willing to join one. Getting one put together is like herding cats. Commissioner McCown stated again that was an undertaking by another applicant. George stated he is a little confused. We had an application ahead of me that had 4 compressors going and now they got approved for 8. That is not necessarily temporary or even if it is temporary for 6 months; the traffic is still using that road. He doesn't feel it is just for him to create the plan. He stated he is a land user and landowner; he has the first 200 feet of that County road showing 29 or 70 trucks a day, when the next 4 miles behind him is showing 600. Commissioner McCown feels that given the legal advice they were given this morning, they can't go forward with the land use unless the applicant is willing to get an access permit from CDOT. That is statutorily what has to happen. He doesn't know how they can make any provision around that. By your own traffic study it is increasing the amount of

traffic on that road beyond the 20% threshold. We can go forward and put that as a condition; it has to be a condition if we go forward, but to him it makes it unattainable. The County could apply for the access permit; but we are not going to do that, we will pass that honor on to you as the applicant.
Deborah read the statute (CRS Section 3028: 133.1) to the applicant. Walter asked if we withdraw the application today and come back in 3 months after some other sucker shows up, how does that grab you? Eric stated that is specific to a subdivision; it may not apply to another land use if it's not a subdivision. Commissioner Houpt suggested they work with others on that road and with CDOT. It's not the first time people have been faced with this and it is difficult. Commissioner McCown stated CDOT has the willingness but no money. Walter said he doesn't think CDOT is worried about the willingness and he isn't either. We are all worried about the giant railroad. You don't have room to do those improvements.
Eric stated if the issue is a subdivision and if the zoning is something the Board would consider, perhaps they could consider having 17 ½-acres of PUD zoned property and no subdivision at all; then we could have multiple lessees. Dan Roussin stated he has heard that before; the statute talks about the subdivision. All State highways are access controlled; the kicker is in this case the 20%. He wanted to be very clear it is not 20% of your development; its 20% of when the road increases. He would say they are close to being at the 20% change in use, since CDOT has recognized that intersection. They have counts, from a professional engineer for 2005, showing the existing traffic. He would be more than happy to share that. There are options; these are tough issues and serious issues. There is a willingness from CDOT to work with the developers and the County to try to accomplish this. Within CDOT they talked about it a little bit; CDOT has a grant from the Federal Government that is called the Hazardous Elimination Funds that the County can apply for. If that intersection has traffic accidents and they can document that; there might be money available for that. Oil and gas people; there are options for that as well. In regards to railroad, yes the railroad is a challenge; but he feels they have plenty of right-of-way to put the intersection in. The County road may need to be widened; that is something an engineer will have to look at. He thinks on the access side there is the ability to improve the intersection. On the north side, they are planning to put a right lane decel lane in for Travelers Highlands. They have money bonded for that particular improvement. Maybe they can talk about the ability to partner with the north side. Walter stated if Dan would accept us getting our subdivision approval, with the condition they would set up a taxing district using their 5 lots to start; that would get this started. Anyone else that comes along with a temporary or permanent uses on that road would be required to join it, at least they would try to meet the condition of setting up a district. Would they be satisfied with that as complying with the statute access part? Plus they would contribute their fair share of whatever the traffic is; at least they would have it started. Larry and the Board know it will not be easy to form a district with these guys and the improvements themselves, there may not be room for. Dan said he appreciates the willingness to come out of the box; in regards to providing effort, he doesn't have the ability to say "well never mind". It is a State law; he can't say well your working real hard and I know you will do it next time; he doesn't have that ability. To be honest with you; it is needed now. Walter said the number of those increases or use increase on that road have not been submitted to you. Like today, when you got up in front of the Board with Williams; you want me to note you have not seen that. It wasn't referred to you for comment. Dan stated the use of 8 or 9 will not require him to look at it, it's pretty small. Now the 60 or 70; does it increase it by 20%, he doesn't think so.
Walter asked, even if we formed a district it wouldn't make any difference. George stated they have a bootlegger right next door that runs 10 trucks who is willing to lease our lots. George said they are not adding much traffic to the road; they are just staging them there. He feels they are getting an unfair analysis just because everyone goes north out of our thing; they have all kinds of rigs to the south of them. We are not making that much of a dent in that road. EnCana's compressor station isn't temporary; they have office trailers in there running pick-ups in and out of there all day long. Don't shut me down and choke me out; I am a local businessman and I don't have that kind of funding or resource. Commissioner McCown said that is not the intent here, but given the type of application you came forward with today; we have to abide by the statute. If you would have come forward with another special use permit; guess what, we would have been able to look at it differently. But you didn't; it is a subdivision. Did we hit you with impacts on that special use permit? Maybe we should have; you come in with a subdivision and by statute it has to happen. You can go forward with your plan and Commissioner McCown said he is not giving them any advice. We either approve it or disapprove it today and then you have a year to file a preliminary plan to see what you can put together on an access permit. You have already invested X amount of dollars to this point and to walk away from it or you can see what you can put together in a year and maybe bring it to fruition. Ann asked Dan Roussin, what if we were to apply for the access permit and continue to work towards forming a district to collect funds and what if Mr. Strong would agree not to build to the maximum where we were over that 20% until such time these funds have been identified. She thinks there is room to make the improvements; she doesn't think the railroad gets in the way of making those improvements but what if something like that could occur where we could proceed and maybe don't do the fifth lot. Dan stated it is a good idea and working together is what we are trying to do. You can probably phase your development to a point where you could be under the 20%. He is going to say you are already above the 20%, and an access permit is required now. Based on the traffic study from 2005 which shows how much traffic has been on the road itself. This is something we will all have to deal with. He suggested any grants CDOT has available they could apply for and he also suggests that CDOT put this on the 2035 plan. Chairman Martin felt this is almost impossible to get done right now. He feels they need to have a condition that they work with the developer as well as the other landowners and as well as CDOT. Commissioner Houpt stated Mr. Strong won't be able to do his development until he has the access permit. It could be frustrating; it was for Travelers. But that is the reality and until CDOT gives you that access permit you won't be able to move forward with your development, even if we approve it today.
Dan stated the access process is two separate processes; the permit is the concept approval and they would suggest to the Board to say until the notice to proceed on the access permit is obtained. That will require a bond for the improvements; that will be one of the requirements on the permit. Commissioner Houpt said the other option is to continue this and it will give you time to think about how you want to proceed. George said he is a little confused; he wants to get this started, but he is being told he can't.

Chairman Martin informed Mr. Strong that he needed to apply for an access permit. George said you are telling me I won't be getting approved or won't get the permit so…
Dan stated we will give you concept approval. Chairman Martin stated to Mr. Strong; you apply for the access permit, that gives you time to get things together. George asked, the gravel pit, the new Marathon pipeline; what is going to start happening behind this? Are we going to get your support in saying alright, "same thing with George Strong"? Are you going to put in temporary or not; because they are not temporary guys, we know that. Are we going to get help so he is not waiting for endless things to get done? Chairman Martin said that will be an issue we have to take up with Dan, the County and all the property owners there. Commissioner McCown stated the gravel pit will be a permitted issue and that will be addressed through the land use process. The Marathon pipeline may or may not be; it may not fall under our guidelines. Walter said they would prefer to go ahead and have the Board approve it in as a nice a way as they can. We understand this would be an overwhelming issue; they just didn't think it would be all thrown on Mr. Strong. There is always that risk; it comes back to the change and the way the application was made. When they first applied it was a special use permit and Craig Richardson of the planning office strongly suggested we change it to the format before you now. We are not here on our own; we were helped into the position. Commissioner McCown stated he is not saying Craig gave you bad advice, he is just saying it changed the ground rules. Walter said they knew that coming in and they had no choice as they wouldn't have gone nowhere under the special use permit. Commissioner McCown said he thinks it's clear that they understand today that going forward with this and applying for the permit and getting a conceptual approval does not allow you to go forward and do wells and sell lots and build buildings. There has to be a mechanism in place to bring that conceptual plan to fruition. The Board is probably not going to allow anything to happen until the bond is in place. We didn't on Highlands, we had to stop it. You would be given that timeframe to work on it and get whatever is necessary; but, we would probably not allow anything to take place. Because once they are all built what do you do. Walter said the existing special use permit; that stands. Commissioner McCown said that stays no matter what happens right now. Kathy wanted to make a comment regarding Eric's comments about the conditions; you will notice in the staff report she divided the conditions based on the application. The staff felt the conditions of approval were critical to be adopted, particularly condition Number 2, under the preliminary plan that states, no activity will take place on the site other than what's approved through the special use permit for the contractor's yard be permitted; otherwise you would be creating a subdivision today. A final plat in the subdivision improvements agreement would be required prior to the other activities occurring on the site.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the zone district amendment with the three conditions recommended by the planning commission and staff.
Commissioner Houpt – Second. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner McCown – I make motion we approve the preliminary plan for the 17.578-acre property on County Road 300, south of Parachute, with the conditions as listed by staff which would mean if those conditions have already been complied with; no big deal, they don't have to comply twice. If you have the documentation; no foul, no gain. I am going to leave Number 11 in there; I think that is the one that address the access permit. The way I sees it, it is a hardship on Mr. Strong because he can't go out and start building tomorrow; but you do have time between now and the preliminary plan to put some things together, and include the County and CDOT and let us know where you are at. We don't have anything budgeted but part of that 300 road is the County's responsibility as well. Let us know; I see the County as being a player in this as well. Move forward with your plans, again keep us apprised through the planning department and working with Dan on the access permit, the concept, what it's going to take making sure it will fit. Let's make sure we are all on the right track; with that I think they can make this happen and have a safer intersection for everyone. I can't tell you that future boards will tell a gravel pit they have to pay $5.00 a truck trip or whatever for an impact fee. I think there will be some participation required in this intersection; whether it is to form a district or as an impact directly to the improvement of that road, we can do that. Commissioner Houpt – Second. This Board is going through this with other applicants as well. For her it drives home even more the importance of creating a more comprehensive impact fee process so that as we approve applications; even though it may only have 6% impact, we realize some investment in that as well. In favor: Houpt – aye McCown – aye Martin – aye

CONSIDER A REQUEST FOR A SPECIAL USE PERMIT FOR AN EXPANSION OF THE HYRUP COMPRESSOR STATION EXPANSION PROJECT ON LAND OWNED BY HYRUP INVESTMENTS, LLLP IN THE ARRD ZONE DISTRICT – APPLICANT; BARGATH, INC., REPRESENTED BY PHIL VAUGHN OF PVCMI-LAND PLANNING DIVISION – DUSTY DUNBAR

Phil Vaughn and Tom Fiore with Williams were present and Phil answered all questions. Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers.
Dusty 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 – E-mail Detailing Conversation Between Applicant Rep Vaughn and Planner Dunbar, dated December 2, 2008; Exhibit G – E-mail Detailing conversation Between Applicant Rep Vaughn and Jake Mall, Administrative Foreman, GarCo Road & Bridge Dept., dated October 30, 2008; Exhibit H – E-mail from Applicant Rep Vaughn and Letter Attachment from Bruce List, Director of Enterprise Security for Williams Energy, dated November 26, 2008; Exhibit I – E-mail from J.T. Romatzke, Area Wildlife Manager, Area 7 (Grand Junction) Colorado Division of Wildlife, dated November 3, 2008; Exhibit J – E-mail Detailing Conversation Between Applicant Representative Vaughn and Steve Anthony GarCo Vegetation Manager, dated December 1, 2008; Exhibit K – E-mail from J.T. Romatzke dated December 3, 2008; Exhibit L – e-mail updating conditions from Steve Anthony dated December 5, 2008 and Exhibit M – e-mail forwarding a signed and scanned letter from Travis and Shelia Sproles, 2285 House Top Mountain Drive. Chairman Martin entered Exhibits A – M into the record.

Planner Dusty Dunbar explained: This proposal is to modify an existing natural gas compressor facility (originally permitted in 2005) built by Noble Energy and purchased by Williams Energy. The facility was built originally without permit, and is being brought into compliance by the present owner. The facility was built at a time that the County was not requiring a permit for these facilities. The proposal includes a request for installation of three (3) additional Caterpillar 3516-Ariel JGT/4 residue natural gas compressors with the same kind of noise shrouds that have been installed on the existing compressor units. A temporary straw bale barrier has been installed to help absorb noise until the noise shrouds are installed on the compressors. When the noise shrouds (acoustical enclosures) are complete, the straw bale structure will be removed.

STAFF RECOMMENDATION

Due to the following conditions:

- 1) the limited nature of potential impacts to surrounding properties,
- 2) the remote location of the property such that it is situated and sees limited traffic serving the existing industrial on the site in an area with very limited general population traffic,
- 3) the proposed is an expansion of an existing facility that has been brought into compliance for noise and glare through the installation of sound attenuation shrouds and the use of neutral, tan non-reflective paint on most of the site's equipment.

Staff recommends the Board approve the request for a Special Use Permit for the expansion of the Hyrup Compressor Station with the following conditions:

1. That all representations of the Applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval unless explicitly altered by the Board.
2. That the operation of the facility be done in accordance with all applicable Federal, State, and local regulations governing the operation of this type of facility.
3. That the Applicant shall comply with the fire protection provisions included in the rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC) and the International Fire Code as the Code pertains to the operation of this facility.
4. Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes.
5. Vibration generated: the Compressor shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.
6. Emissions of smoke and particulate matter: the Compressor shall be so operated so as to comply with all Federal, State and County air quality laws, regulations and standards.
7. Emission of heat, glare, radiation and fumes: the Compressor shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. .
8. Any storage area for uses not associated with natural resources shall not exceed ten (10) acres in size.
9. Any lighting of storage area shall be pointed downward and inward to the property center and shaded to prevent direct reflection on adjacent property.
10. Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facilities may begin. All percolation tests or ground water resource tests as may be required by local or State Health Officers must be met before operation of the facilities may begin.
11. Three (3) new compressor units shall be installed on the site under this Special Use Permit. Proper building permits are to be obtained for the structures associated with the operation of the new compressor units prior to the issuance of a Special Use Permit.
12. Acoustic enclosures shall be put in place on all twelve (12) compressor units on the site prior to the issuance of the Special Use Permit and the operation of the three (3) new compressor units.
13. Unless specifically requested by the neighbor nearest to the site, the straw bale structure put in place for temporary noise reduction (prior to the installation of the sound attenuation shrouds on the compressors) shall be removed when all compressors and acoustic enclosures permitted with this action are complete.
14. A re-vegetation bond of $4000 per acre shall be submitted for the 3-acre site disturbance as per the Garfield County Vegetation Manager, and the site reclamation plan shall be followed to reclaim the site if the used as a compressor plant is ended.
15. Any additional or replacement fencing required for security shall be compatible to the rural character of the neighborhood and wildlife safety, that being non-climbable 7-foot high horse fence (made of 2 inch x 4 inch woven squares) capped with one (1) foot of barbed wire strands.
16. Any vegetative screen required by the BOCC shall be a browse-resistant species and an on-going plan to sufficiently water the trees or hedge to ensure long-term survival shall be put into place.

Commissioner McCown stated Numbers 11 and 12 are confusing on the conditions; this special use permit allows for 3 compressors and the placement of sound continuation enclosures around all of those that are here; but it says all of those must be put in place prior to the issuance of this permit. Commissioner McCown is confused on how we can do that without the permit allowing it to happen.

Dusty stated, because this is a dynamic operation, perhaps the applicant will help explain how they intend to deal with the numbers and permitting of the new permits in relation to the old permits. Some of them are enclosed now and some are not. Some of the old ones are going away and new ones are coming in.

Deborah wanted to make a clarification on the position of the attorney's office. In a previous application for a compressor station we also suggested that a letter of credit or a cash treasurers bond would be the

appropriate way to handle that security, simply because of the issues we have had collecting on bonds. She has worked with Mr. Vaughn on this particular one and they did come up with language, if the Board were to approve a bond as appropriate security that we can work with that to have some very specific language both in the bond and in the resolution of approval. We still would rather have a letter of credit or cash; but understanding that bonds have been the way to operate in the past, they have worked with the applicant to come up with some specific bond language. Phil wanted to hit on two specific issues and then talk about conditions. First, the acoustical enclosures, they are an important component of this site. This site was construction by Nobel Energy back in 2005. The acoustical noise enclosures are not something that and he is sure they have all had an opportunity to see these at work. These units are laboratory and field tested on verifying what kind of noise abatement can be done on site. That noise study that was prepared by their acoustical consultant and it fits in with the recommendations that are made about the acoustical enclosures. The fact of the matter is they must meet the COGCC noise regulations. Next are the traffic issues. They do have construction traffic on this site; they will have three pick-ups traveling on the road, which equates to 6 trips. They will still have the existing traffic on site which are the employees working their way in and out of the plant on a daily basis. That will be 2 pick-up trucks a day plus one maintenance truck, which is typically a two-ton. On the conditions of approval; only one they had a question about was Number 12. Acoustical enclosures shall be put in place on all compressor units on the site prior to the issuance of the special use permit and the operation of the 3 new compressor units. They would like to request the insertion of the word 'new' after "acoustic enclosures shall be put in place on all 'new' compressor units on the site prior to the issuance of the special use permit". Please do understand that in condition Number 4 we must meet the COGCC regulations. What our issue is, here we have a little bit of chicken and the egg; we have got to get the 3 new compressor units up and started. We won't start those of course until the acoustical enclosures are installed on that. Of the existing compressors, what they are going to do is start, obviously all those compressors are up and running and all but one of those has an acoustical enclosure on them. What their goal is when the three new units come on line; they are going to go ahead and shut down two of the existing units permanently and they will be removed from the site. What will occur is, the brand new unit will come in and replace one of those which will already have the acoustical enclosure installed over the top of it. Of course they will apply to Mr. Schwaller's office for a building permit for the acoustical enclosure. He thought maybe the easiest way was to put in the word 'new' between all and compressor units as a way of squaring that away. They don't want to be out of compliance with the special use permit. Commissioner McCown asked by including 'new' would you scratch Num
Phil stated they actually had 2 different sets of conditions.
Dusty stated the new version of condition 12 is somewhat modified. Number 12 would state; the acoustic enclosure shall be put into place on all new compressor units on the site prior to the issuance of the SUP and the operation of the 3 new compressor units. Commissioner Houpt said, but you still need a sentence in there that states all of the compressor units will have the acoustic enclosure. Dusty said in all fairness this application is for the expansion and not necessarily a condition of the existing, but perhaps if it is the Boards pleasure we could come up with a timeframe that would satisfy that goal. The goal is; they can't operate the compressor station without those noise shrouds and rather than risk being out of compliance and being shut down by the COGCC, that is under way. If it is the Boards pleasure for a time table; she could certainly include that. Chairman Martin said that only applies to those 3; the others are in compliance now. Commissioner Houpt stated you did work on them to bring them into compliance and Phil stated yes. Because that was part of the report, at the end of the day, all of them were going to have the acoustic enclosures. Dusty stated yes and as she understood it, the mitigation measure for the sound, until all of the compressor units have the noise enclosures around them; they have been replacing them and the 3 new units are already designed to satisfy that. Commissioner Houpt stated it is on record now.
Chairman Martin asked if Nate really wanted the hay bales to come down. Phil stated that was a condition noted unless specifically requested by the nearest neighbor to the site. Tom said the only person they have ever dealt with was Nate. George Strong asked if this was coming out of Wallace Creek onto 300 road as far as traffic. Chairman Martin said it is on the way up there. He stated he is a little confused on how we keep going on these Compressor Stations as temporary; he is having traffic issues on CR 300 as they know. These numbers however so slight do keep multiplying and multiplying and make him where he can't be a user on his own property. He would like it to be recognized by the Board that these compressor stations are not temporary. Every time you turn around they are getting re-build, worked on, moved in and moved out, upgraded, new pipeline; that does not make them temporary. Chairman Martin stated he has never looked at a compressor station as temporary; they are there until production has ceased, and that's 30-40 years, maybe even longer. George said the traffic accounts aren't taking that into effect. Chairman Martin said that is why he mentioned the road impacts on the Wallace Creek side.
A motion was made by Commissioner McCown and seconded by Commissioner Houpt to close the Public Hearing. In favor: Houpt – aye McCown – aye Martin - aye
Commissioner McCown – I make a motion we approve the special use permit to allow for the expansion of the Hyrup Compressor Station with the conditions presented by staff with Number 12, inserting 'new' after all, and striking Number 16. Commissioner Houpt – Second.
Dusty said there was mentioned about more than one neighbor, the way condition Number 13 is written is for the neighbor nearest the site. Would you prefer neighbors? Commissioner McCown said that would be the one and the verbiage is good. In favor: Houpt – aye McCown – aye Martin – aye
Commissioner Houpt apologized to the next two applicants; she had to leave to go to Denver.
CONSIDER A REQUEST FOR A SPECIAL USE PERMIT TO PERMIT AN ACCESSORY DWELLING UNIT AT 1963 COUNTY ROAD 210 IN RIFLE, IN THE ARRD ZONE DISTRICT – APPLICANT; RON PERAU – DUSTY DUNBAR
Ron Perau was present and stated he did not send out the notice to the mineral owners. He was not aware of who the mineral owners were. The person he bought the property from has the current surface rights and stated he had no objection to the SUP; but he doesn't have that in writing at this time. Ron asked if the mineral right owners were to object, would that prevent him from getting the SUP?

Deborah stated it could if it interfered with their rights to use the minerals, which is the reason that State law requires them to be notified in advance. Chairman Martin explained to Ron; if we go ahead you would have that possibility hanging over your head that they could object and the Boards finding would be reversed until settled. Ron said on his deed it states they don't have service rights; any access would have to be done off that property. Commissioner McCown stated in lieu of that fact that this it is already an establish building and he is not going to be constructing a new building, I think they would move forward today and it would be appropriate. Ron stated that he is willing to assume the liability.
Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate with the exception of the lack of notice to mineral owners. She advised the Board they were entitled to proceed. Chairman Martin swore in the speakers. Dusty 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 and Exhibit E – Staff Report.
Chairman Martin entered Exhibits A – E into the record. Planner Dusty Dunbar explained:
The Applicant requests the approval of a Special Use Permit for an Accessory Dwelling Unit (ADU) located on a 39.175-acre parcel east of the City of Rifle.
It is proposed to convert an existing free-standing unit, approx. 1200 sq. feet in size (located on the eastern property boundary), into an ADU as companion to a new residential structure being built on the western portion of the parcel. Access for the ADU will be provided via an existing driveway from County Road.
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. All exterior lighting shall be shielded to prevent light trespass on any adjoining property and be downward facing towards the structure.
3. The applicant shall obtain any applicable Garfield County building permits, grading permits and access permits, including approval for a septic permit which can accommodate the accessory dwelling unit prior to the issuance of Building Permit.
4. The gross floor area of the accessory dwelling unit shall not exceed 1,500 square feet.
5. The accessory dwelling unit shall not be conveyed as a separate interest, but may be leased.
6. No Special Use Permit shall be issued and no building permit shall be accepted by the County until the applicant can furnish legal proof that the spring can provide legal and physically adequate water for the units on the property.

Commissioner McCown asked if the building permit has been already been issued for the new structure. Dusty said the building permit has been issued; the certificate of occupancy has not. This action, as she understands it, Mr. Perau was intending to take the older structure down and the building department became aware there were two structures and this is the response trying to get this as an ADU and retain the use of the existing farmhouse. Ron stated on the issue of the spring; he never received a water certificate on it. He did go to the Colorado Water Department and found the spring is registered; he has to come up with a certificate from the person he bought it from. The only reason he mentioned getting water from the City of Rifle is because it is a stop gap until he can get that. There are cisterns in place and he can haul water. The City of Rifle was reluctant to write a letter stating he has the right to get water from their water supply. They said they never had to do it before; all you need to do is put quarters in the slot and haul as much as you want. Commissioner McCown stated that was not a guarantee. If they run slow on water; the first thing they will turn off is that public supply. That's why they won't give you a letter.
Ron stated he would drill a well if that is what it requires. He talked about how much water comes into the spring per minute. Commissioner McCown stated he was back to his question on Number 6. He knows the action they are taking today goes to the ADU; but he has a perfectly legal building permit. Was it questioned on his source of water when he came in and got his building permit with the building department? That should not be tied to the new structure; it is tied solely to this land use that is taking place and that's the ADU. Commissioner McCown would say Ron cannot rent this ADU structure and he cannot occupy it until there is a proven source of water to this. We can't go back and tie that back to his building permit. Dusty said it is a little bit related and Commissioner McCown is correct, if the ADU can't get water, it's the second structure on the lot that doesn't have a permit. Therefore, does it bounce the building permit out of compliance? Chairman Martin asked Ron if the farmhouse had water and Ron stated yes. He asked if it was coming through the cistern and Ron stated yes. He also asked if Ron had two lines running from the spring; one to the new and one to the farmhouse and he stated yes.
Dusty informed Ron he would need to give her an updated map that shows where the lines are on his property. Perhaps, rather than saying no building permit; maybe more specific, no certificate of occupancy. Commissioner McCown said on the ADU he was not going to give up on the initial structure, we didn't even know about that until he came for the ADU. He could have used his spring water forever and moved in.
A motion was made by Commissioner McCown and seconded by Commissioner Martin to close the Public Hearing. In favor: Houpt – absent McCown – aye Martin – aye
Commissioner McCown – I make a motion we approve the special use permit for an ADU rewording Number 6 to state that no certificate of occupancy will be granted for the additional dwelling unit until proof of legal water supply is provided. Chairman Martin – Second.
Fred Jarman wanted to clarify; he understands the old farmhouse will be turned into the ADU, which is really the goal. It may not need a certificate of occupancy from Garfield County, it's existing. There may be some building issues. As you remember the age old question; does it meet the current IRC building code? His sense is there is not going to be a permit that will be issued by us, he doesn't think. What Fred would suggest; instead of using that is to say no SUP is issued and can't be occupied until they provide

proof of water. Commissioner McCown stated they were handing in on the CO before; but it was on the new residence. He stated he will do it on the special use permit on the ADU which will do the same thing. Chairman Martin said it goes back to the other age old argument; historic building, not being able to be made up to code under the new international fire code, insulation code, ventilation code, heating code, building code etc., yet it is better to tear it down and start over and therefore lose our historic structures. If we say they have to meet all of that code; he doesn't think the farmhouse will make it.
Dusty stated before you go through with this motion; there was some modification.
Chairman Martin, do you wish to modify your motion. Commissioner McCown said he wanted to hear what Dusty had to say. Dusty stated, no special use permit shall be issued and no occupation of the ADU shall be permitted by the County until the applicant can furnish legal proof that the spring can provide legal and physically adequate water for the ADU on the property. Commissioner McCown said he would amend his motion as stated by Dusty. Chairman Martin – Second.
In favor: Houpt – absent McCown – aye Martin – aye

CONSIDER A PRELIMINARY PLAN FOR THE SUBDIVISION OF LOTS 2 AND 2A ON GRASS MESA INTO A TOTAL OF 7 LOTS – APPLICANT; G. H. DANIELS AND GREGORY HASENBERG – DAVID PESNICHAK

Terrill Knight, Knight Planning Services, Inc., G. H. Daniels and Gregory Hasenberg were present and Mr. Knight answered all questions. Deborah reviewed the noticing requirements for the public hearing and determined they were timely and accurate. She advised the Board they were entitled to proceed.
Chairman Martin swore in the speakers. David submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D – Garfield County Subdivision Regulations of 1984 as amended; Exhibit E – Garfield County Comprehensive Plan of 2000; Exhibit F -Application materials; Exhibit G – Staff memorandum; Exhibit H – Memo from Garfield County Road and Bridge Dept. dated September 16, 2008; Exhibit I – E-mail from Building and Planning Project Engineer, dated September 10, 2008; Exhibit J – Opinion Letter from Colorado Division of Water Resources dated October 9, 2008; Exhibit K – Letter from Colorado Geological Survey dated September 29, 2008; Exhibit – L – Memo from Garfield County Vegetation Management dated October 10, 2008; Exhibit M – E-mail from Colorado Department of Transportation dated September 11, 2008 and Exhibit N – Letter from Christina Sloan of the Sloan Law Firm, PLLC dated December 2, 2008 and Exhibit O – Letter from Andre and Cheryl Chartier, dated December 1, 2008.
Chairman Martin entered Exhibits A – O into the record. Planner David Pesnichak explained: This application was heard by the Planning Commission for Sketch Plan on September 26, 2007 and for Preliminary Plan on October 22, 2008. On October 22, 2008, the Planning Commission recommended approval with conditions.
In November 2008, the Grass Mesa Home Owners Association (HOA) began the process to allow one Accessory Dwelling Unit (ADU) per 20 acres within the restrictive covenants. Although this has not officially been approved by the Grass Mesa HOA as of the writing of this Staff Report, the Applicant has requested a reduction in the number of ADU's within the Daniels-Hasenberg Subdivision from five to three in order to maintain consistency with this expected amendment to the restrictive covenants. The three ADU's are proposed for lots 1, 5 and 7.
Staff Recommendation
Staff recommends that the Board of County Commissioners approve the subdivision with the following conditions:

1. That all representations made by the Applicant in the application, and at the public hearing before the Board of County Commissioners and Planning Commission, shall be conditions of approval, unless specifically altered by the Board of County Commissioners;
2. The Applicant shall provide a pump test (minimum four hours) for each of the existing wells and an written opinion from the qualified professional conducting the test regarding the adequacy of the wells to serve the proposed development including the requested Accessory Dwelling Units to be submitted with the Final Plat application;
3. The Applicant shall provide a water quality analysis for each of the existing wells demonstrating compliance with state guidelines regarding bacteria and nitrates to be submitted with the Final Plat application ;
4. The Applicant shall be responsible for 50% of the Traffic Impact Fees at the time of Final Plat (to be calculated after submittal of Final Plat Application);
5. The Applicant shall include language in the Restrictive Covenants regarding the future lot owner's Traffic Impact Fee responsibility required at the time of Building Permit submittal;
6. The Restrictive covenants shall include language demonstrating the homeowners obligation to construct a 1000 gallon water storage tank for the purpose of domestic water supply;
7. The Applicant shall provide a weed inventory of the subject property identifying all County listed noxious weeds and a map of specific weed infestations at the time of Final Plat;
8. The Applicant shall provide a weed management plan for as identified in exhibit L;
9. A common weed management plan including responsibility of individual lot and roadside weed management shall be included in the Covenants and Restrictions;
10. The Applicant shall provide a map or information that quantifies the area, in terms of acres, to be disturbed and subsequently reseeded on road cuts, utility disturbances, and around the proposed pond at the time of Final Plat;
11. Based on the total disturbed area, vegetation security shall be determined by Garfield County Vegetation Management and submitted prior to obtaining Final Plat approval;
12. At the time of Final Plat, the Applicant shall provide the Planning Department with a digital drawing file of the subdivision. The format of the digital drawing shall be in .dxf or .dwg format. The file may be submitted to the Department on 3.5" diskette, compact disc (CD), or via e-mail (in compressed format). The digital file shall be projected to fit within the parameters of UTM Zone 13, NAD 27, in

survey meters. A minimum of two ground control points displaying Northing and Easting shall be identified in the digital file.

13. The following plat notes shall be included on the Final Plat:
a.One (1) dog will be allowed for each residential unit and the dog shall be required to be confined within the owner's property boundaries.
    b. 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
    c. No further divisions of land within the Subdivision will be allowed.
    d. 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.
    e. 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.
    f. Based on the analysis of the sub-soils on the property, Individual Sewage Disposal System and foundation designs are required to be conducted by a registered professional engineer licensed to practice within the State of Colorado. These studies and plans shall be submitted with individual building permit application for each lot. The cost of these studies shall be borne by the individual property owner.
    g. All streets are dedicated to the public but all streets will be constructed to standards consistent with Section 9:35 of the Subdivision regulation of 1984, as amended and repair and maintenance shall be the responsibility of the Homeowners Association of the subdivision.
    h. The mineral rights associated with this property have been partially severed and are not fully intact or transferred with the surface estate therefore allowing the potential for natural resource extraction on the property by the mineral estate owner(s) or lessee(s).
    i. Accessory Dwelling Units shall be limited to 1,500 square feet and may not be conveyed into separate ownership.
    j. All lots are subject to the Declaration of Easements, Restrictions and Covenants for Grass Mesa Ranch.
    k. Water Quality Analysis conducted on the subject property have demonstrated unacceptable levels of Aluminum and Iron, individual water treatment systems should be utilized.
    l. The owner of each lot shall demonstrate that the required 1000 gallon storage tank to be used for fire protection has been constructed prior to the issuance of a Certificate of Occupancy.
    m. Accessory Dwelling Units have been approved by the Board of County Commissioners on lots 1, 5, and 7 and shall only be allowed on said lots.

Terrill Knight is the land planner for the project. He stated they are formally withdrawing the request for the ADU's and the plat note as well. He gave a presentation showing maps. He indicated the pond, which is already permitted, would be the fire protection as well as wildlife water. They took a proactive stance with their neighbors; they spoke with them and held an open house on Saturday, November 22. He feels they had a good discussion. Mike McGuire lives on Grass Mesa and is on the homeowner's board. He is here to address several issues; but the plan has changed since we first saw it. Only tonight did they learn there were going to be no ADU's. He still has issue with what some people see as an irresponsible use of water by having this pond that will have to replenished 24/7 out of the aquifer, which is already sketchy; a lot of the neighbors don't have any water. He thought it was interesting they mentioned the open house. The open house consisted of you went over there and got told what was going to happen no matter what they thought. It wasn't an exchange of ideas; it was his idea being related to me. Michael Meskin is happy they rolled back the ADU's; he was worried about that for the density of the road. The only thing that is a problem is with the pond; you're talking about 1 acre of water, 1 foot deep, it comes out to be 326,000 gallons to fill a pond and then you have to keep it filled. Why we have to fill it with well water is beyond him; it is sucking out water from the people above these particular properties. He hopes the Commissioner will see that. He wants to make sure it is going to only be 7 units or is it going to be 8; because of the existing home. Rebecca Brock is on the board of directors at Grass Mesa. She is concerned how they will fill the pond and the impact on the aquifer. Another concern with the pond is the wildlife that is not wanted, raccoons, skunks, bears, mosquitoes which mean West Nile Virus possibly. Chris Sloan wanted to respond to Mike McGuire's comment about only tonight they learned about the ADU's. The only reason they didn't withdraw the ADU's last week; they reduced to three based on what they though the HOA would approve, based on some rules that the architectural committee had proposed. There was one ADU per 20 sub-dividable acres; they misunderstood the HOA's intent. Their understanding is that they are going to discuss it in the next few months or so with some proposed amendments to the declaration to clarify the ADU issue. They realize, after talking today, the HOA is not ready to approve any ADU's and they want to work with the HOA. We withdrew because of this and we do respect the HOA's input. This has been a two year process; they have 4 permits, County and State. She explained those permits. It will

be managed by the Quicksilver Court HOA. Their position is that the applicants have a vested right to this pond based on their individual property right; but also the permit process they have already gone through. Garland Anderson says he hears what they are saying about the approval of the pond by all these agencies and so forth; but just as Larry explained a concern earlier today about respecting people that are already there. It hadn't been discussed with the homeowners and they haven't been considered in the sense that they are on this long gradual slope to the north down towards the river, and water is fairly scarce up there. All the homes existing right now, a lot do not have a high water capability and there are some parcels without any water. Regardless of the fact that they have been working with outside agencies and getting all these great approvals through State and Federal or whatever; it is still disregarding our need for our water and home investments. For someone to come in and suck our water dry is scary. We would like some consideration to be part of it rather than just the fact that yeah they met all the legal criteria to make this work for them. John Skellion, owner of lot 24 said he can certainly appreciate the time and effort they put into this project and as they said they have no objection as long as they do not have the accessory dwellings. Getting back to the water and the impact on the road with new people moving in; they have invested a lot of money, time and effort into getting their wells working and providing water for our families. Of the 42 lot owners who live up there; there are approximately 20 of them that don't have water at all and are hauling water. The issue is not the fact that they want to build a pond and they want to provide this to people who are investing in these properties; the real concern is the drain on the water table maintaining that level and filling it initially. They probably wouldn't have any objection to the pond if they would fill it from an outside source and keep it full from an outside source.
Chairman Martin said that is why it was referred to the Division of Water Resources and they do say how much water they can pull. The State Engineer has said there is not an injury to existing water rights. They do have an augmentation plan; we'll see if it works or not; but the State Water Engineer takes that out of our hands. Garland asked if there was any retribution and Chairman Martin stated water court. Terrill Knight stated they did not take this lightly. They have 2 experts sitting in the audience and when they began the process the applicants wanted us to do things properly and correctly. He understands there are some lots that don't have water whether we do anything or not. All of the information they have shows that they will have no effect on those lots; they are in an area where there is water; he thinks the neighbors will attest to that. The pond will have no affect on any other water. Chairman Martin said he thought everyone needed to read the letter from the Department of Natural Resource and Division of Water signed by the engineer, and again, why they issued these permits. He suggested they keep a copy with the homeowners association for your own use. Again if there is no physical water; everyone is out of water; if you're damaged or injured, then there are repercussions. Garland stated that is not exactly true; saying there is no physical water and everyone is out. Currently for about 20 people there is no physical water; but we are not without water. Chairman Martin said to Garland that he shares that with him. He has a piece of property he has to haul water to at least once a week. Michael asked if there is really an expert in water; he defies anyone to say they are an expert in water. Chairman Martin –The State Engineer has a degree and they recognize him. Michael asked if the State was liable at all if they run out of water. Rebecca Brock asked on Suarez's Subdivision, why was he required to fill his 40,000 gallon tan from an outside source; he could not fill it from our aquifer. Commissioner McCown said because he didn't have the water decree that allowed him to do it. This one does allow it. The State Water Engineer, for your information, does trump a lowly County Commissioner.
A motion was made by Commissioner McCown and seconded by Chairman Martin to close the Public Hearing. In favor: Houpt – absent McCown – aye Martin - aye
Commissioner McCown – I make a motion to approve the preliminary plan for the subdivision of Lots 2 and 2A on Grass Mesa into a total of 7 lots, with the recommendations of staff 1 through 13, striking N; that alludes to accessory dwelling units as a plat note, since there will be no accessory dwelling units, and there will be total of 7 residences on 7 lots. Chairman Martin – Second.
David Pesnichak - To clarify the motion; in terms of the no accessory dwelling units do you mean to say they cannot apply for a special use permit? Commissioner McCown said what we are approving today is 7 residences on 7 lots. In favor: Houpt – absent McCown – aye Martin – aye
ADJOURNMENT

ATTEST: CHAIRMAN OF THE BOARD

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DECEMBER 15, 2008
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 15, 2008 with Chairman John Martin and Commissioners Larry McCown and Tresi Houpt present. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder
CALL TO ORDER
Chairman Martin called the meeting to order at 8:00 A.M.
PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA:
Brian Condie, Airport Manager and John Price, Engineering from Xcel Energy were present. This is to discuss the Airport expansion and let the Board know that Xcel Energy distribution and circuits even though we do not have a contract for relocation today, we have been working very closely with DRD Consulting Engineers and have a game plan in place. We've made some preliminary work on our side of the substation to meet these goals. The right of way and property have all been acquired and we're ready to go on this project.

Brian said they still can't do the work but the FAA has asked us to finalize our construction plans so we are doing that. They'll be done before we have actually access the land. We have asked all the parties interested and involved to make comments on the final plat even though we can't enter into legal contracts with them yet.
Chairman Martin – We know what we are up against and we are working under the deadline and we're trying.

COUNTY MANAGER UPDATE: ED GREEN

Ed commented that he has 21 items today to discuss.

CONSIDERATION/APPROVAL OF CONTRACT WITH ASMI – BRIAN CONDIE AND CAROLYN DAHLGREN

Ed Green, Brain Condie and Don DeFord submitted the renewal for the Maintenance Service Contract for ASMI explaining the details and giving the timeline of 12 months. Carolyn also explained the exclusion in the contract. This was for facilities maintained by ASMI that are turned over after ASMI's maintenance action to the Board for status monitoring and operation under IRF Air Traffic Control with the FAA; other pilots are users of the system. ASMI therefore, is not responsible for operation of the facilities. The agreement automatically terminates in 12 months after its effective date.
A motion was made by Commissioner McCown to approve the contract Maintenance Service Contract for Aviation System Maintenance Inc. as presented for $2950 per month. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

CONSIDERATION/APPROVAL OF RELEASE TO CONTRACT NO. 12 – AIRPORT ENGINEERING – OLSSON ASSOCIATES – BRIAN CONDIE AND CAROLYN DAHLGREN

Don DeFord, Peter Mueller of Olsson and Associates and Brian Condie submitted the Release to Contract No. 12 for Olsson Associates and the Board of County Commissioners for Items 4, 6, and 9, which included Upgrade Runway 8/26 to ARC D-III; Extend Parallel Taxiway; and land and easement acquisition.
Brian said in moving this airport expansion project forward we talked with the FAA and we'll have Olsson complete the work that they started to 90%; then we'll do the construction drawings selection for 2009. That's where this Contract No. 12 actually comes into plan. This is the work for next year to get the west end moving forward. We did have an independent estimate.Commissioner McCown asked Brian if he was talking 2009. Brian said yes. Brain called attention to page number 5 in the contract and said the total comes up to $737,230 and the bid total is a little less because it was negotiated down a little bit. The total is $748,150. We had an independent estimate come in and after looking at this we made a couple of adjustments to the final contract. The independent estimate was 8%.Commissioner McCown said he was having trouble finding a total package – mine is broken out as Task 1, Task 2 and Task 3. Peter said they total $737,000. The total isn't in there and it's not because the way those three items are paid for differently; the first two are lump sums and the second is already with the maximum and it is not really appropriate to total them; but when we discuss the contract, the total is $737,230. Lock did the independent estimate out of Salt Lake according to Brian.
Brian said we changed and will use some people out of Denver and some out of Salt Lake but we did get different viewpoints. This time they were over the estimate by 8% and we attribute that to the fact that we're working in Garfield County and they are out of Salt Lake. This is still in the range acceptable by the FAA, 10% and this is part of the project that FAA wants completed and we can move forward as possible next year.
Commissioner Houpt inquired as to the $748,160 figure?
Brian – That was their original estimate then when we got the independent estimate back we went over item by item and we adjusted some of the items closer to the independent estimate; we left some of them higher than the independent estimate. Commissioner Houpt verified the final number to be $737,230.
Brian affirmed this was correct. Commissioner McCown – For clarification, this contract is good for this calendar year and under the time for performance are we appropriating funds for the 2009 year as well?
Don – We haven't actually said that and you're authorizing a contract and if it needs a budget adjustment and appropriation that needs to be done, then that will be completed. The question is, is it in the budget for 2009 under this contract. Ed said it is in the budget but not necessarily for this contract.
Commissioner McCown – So, action will be taking place after the first of the year that will extend this contract through 2009 but we're doing it in 2008. Don explained that the Board will see that in other contracts and you're authorizing that and all those have to be incorporated in the budget that you will also see later today but they are done subject to the approval of the 2009 budget.
Commissioner McCown made a motion that we approve the Release of Contract No. 12 dated December 15, 2008 between Olsson and Associates and the Board of County Commissioners in an amount not to exceed $737,230. Commissioner Houpt seconded the motion. Commissioner McCown - Everything we do is subject to concurrence of the FAA. In favor: McCown – aye Martin – aye Houpt – aye

EXTENSION OF UNDERLYING PROFESSIONAL SERVICES CONTRACT WITH OLSSON THROUGH DECEMBER 31, 2009, WITH MONEY APPROPRIATED THROUGH 12/31/2009 – BRAIN CONDIE

Don DeFord and Brain Condie submitted the Amendment No.3 Professional Services contract – Independent Contract and explained that the original contract was effective August 11, 2003, extended by way of Letter Agreement signed January 4, 2004; Extension Release No. 1 amended effective June 5, 2005; and Amendment No. 2 effective January 1, 2008. The original contract was also amended by Releases to Contract Nos. 2, 3 4, 5, 6, 7, 8, 9, 10, 11 and all have been recorded in the Clerk's office. The Engineer finds it necessary and desirable to enter into this Amendment No. 3 to the original contract for the purpose of extending the term of the original contract. This is the 6th renewal encompassing Release to Contract No. 12 for work to be performed in calendar year 2009.Brian said the 5 year contract with Olsson expires at the end of this year but we want them to complete the work they have started so Carolyn drafted this Amendment No. 3 to extend it through the end of 2009. Commissioner McCown clarified there will be two engineering contracting firms working for the Airport during 2009. Brian said depending on land acquisition we may have two firms in 2010 as well before they will be able to complete all of their work; but we're all hoping for the best. This is not duplicative work and the FAA made that very clear they would not pay for duplicative work.
Commissioner McCown wasn't seeing an amount not to exceed in this contract or any dollar figure.
Brian stated this is the master contract and it says they will be our consultant. Each individual release to contract has already been approved in each individual amounts. This is just to extend their master contract but before we can pay them any money we have to go to each release to contract. Ed said this is the next item.

Don – In terms of the master contract, normally it would have an amount not to exceed with some rough estimation on the total amount for the year and then you do releases against that. Why in this context did you not do that? Brian – Because we do not know the amount of money we're getting from the FAA until June or July of that year, so the total project is $32 million but we do not know of the funds we'll get each year.
Don clarified that the total amount will be limited by the amount of funds received from the FAA.
Brian said no, because the master contract also covers engineering and water and other things that the FAA doesn't pay for like the taxilanes and helipads that we've put in. These things come totally out of County funds.
Peter said the master contract doesn't have any amount in it; it says that each individual amount will be negotiated by the release to contract. Don – Each release is treated as a separate contract and under this scenario the master contract is really more in the nature of the general conditions that you see in a construction contract; it doesn't specify any amount then and it incorporates the terms in each release. Each release will be treated as a separate agreement. Commissioner McCown – So, for each release we could renegotiate the hourly rates.
Peter – Yes. Don – Agreed and said in theory you could. Anything not covered in there is the subject of negotiation for subsequent release. Ed said the principal purpose of this is fixed under the term.
Brain – For multiple year projects it's better to do this instead of going out for bid on every single one.
Commissioner McCown – Why did we go out for bids and got another engineering firm? Brian said because the FAA required us to go out for bids and every five years we have to go out and do this. Commissioner McCown – Okay, we did and we hired one and now we're retaining the one that we've had for five years to continue and finish doing work that they started which could be up to 2 to 3 years. Brian – Because the FAA won't pay for the new consultant to go back and duplicate their work and they are not able to take Olsson's stamp of engineering work and take it to another firm. Peter said this actually protects the County because if we took the plans and we started and used a different consultant to finish them off, then if there's a liability issue, the two consultants would be pointing fingers at each other. It's much better to have the consultant that started the work finish the work and come to a cleaner cut definition of where one stops and another begins. We are making a clean cut geographical definition; it's not a clean cut time definition, if you will.
A motion was made by Commissioner McCown to approve Amendment No. 3 to the Professional Services Independent Contractor contract that would allow Olsson and Associates to continue on special guidelines.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

AMENDMENT TO RTC NO. 12 WITH MONEY APPROPRIATED THROUGH DECEMBER 31, 2009 – BRAIN CONDIE

Brian Condie, Don DeFord and Carolyn Dahlgren submitted the Amendment No. 1 (2009 Renewal) to release to Contract No. 12 to Olsson Associates and the Board of County Commissioners ending December 31, 2009. The total compensation amount is $748,160.00 with approximately $117,000.00 encumbered in calendar year 2008. Therefore, $631,160.00 is the ceiling amount not to exceed for calendar year 2009 under this Release to Contract No. 12. Such amount may be altered. Brian said this is for the east end. Ed asked if this number shouldn't be $737,230. Peter hasn't seen this one; Carolyn didn't send it to me. Commissioner Houpt questioned if the first one took care of this one. No. Peter said this should be $737,000 less $117,000 so it should be $620,000 roughly. Ed said Carolyn may not have been aware of the fact that you guys negotiated the total price down to $737. Peter said it would be roughly $620,000 for 2009. A possible deferment was suggested until the next meeting. Ed changed the amount to the $737,230 and Ed approved it subject to that change. Carolyn arrived for the meeting and Ed updated her saying they just approved the extension of the term of contract for Olsson and now we're dealing with Amendment One which adds the money but what she didn't know is that they changed the amount on you Saturday as a result of negotiations and have negotiated the amount down to $737,230 from $748,000 so this needs to be approved subject to that change. Carolyn – Plus, she did not know what was in the 2009 budget and wasn't sure the 2009 budget was going to be fully accepted today and approved; the Amendment goes into effect 2009.
Don said I've already opined that all of the pages of the contract approvals are subject to the approval of the 2009 budget. Commissioner McCown – So this contract will actually be for $620,000; but only $117,000 expended this year. Do we have a contract that addresses spending the $117,000? Peter called attention to the fact that this one had already been approved.
A motion was made by Commissioner McCown to approve the Amendment No. 1, 2009 Renewal to Release to Contract No. 12 to Olsson Associates in an amount not to exceed $620,230.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

AN AMENDMENT TO RTC 10 INCREASING THE DOLLAR AMOUNT FOR TASK 3, USING 2008 APPROPRIATED FUNDS. – BRIAN CONDIE

Brain Condie, Peter Mueller and Carolyn Dahlgren submitted Amendment No. 1 to Release Contract No. 10 Project; Runway Reconstruction, Design Engineering and Construction Inspection – A.I.P. Project No. 3-08-0048-17 Olsson Associates. Brian said this is the hill off of the east end. When we initially approved the contract we went out and had a pre-bid meeting and probably half of the room asked for extra days so they could get their cost in line. Most of the local contractors didn't bid on the project as it was too large for them with all their equipment. We added an extra 5 days which was not in the original contract which came to an additional $10,000 for the engineer to be out here. Also in the excavation we didn't know how far down we had to go to get to the muck end of unstable soil out on the base of that hill. Then the contractor is over in days by 15 days which also adds $30,800 to the contract. That's the purpose of coming and asking for an additional $49,800. Ed said this is in additional to your reimbursable section of the original contract.
Peter said you paid us time and expenses to be out here with your contractor for various reasons that Brian explained. We had to be out there longer than we expected and we incurred some unexpected costs. We can justify about $60,000 but we don't need it all and so we are asking for $49,800 extra in our budget.
Carolyn explained that the Commissioners should make sure that everyone understands this is not a payment to the contract. Peter – This is to Olsson and Associates and again it is subject to FAA concurrence participation.
Commissioner McCown inquired if we will be subrogating the contractor for his delay.
Peter – Only where he can justify. He does have some justifiable delays for which we can't blame him. We're not quite sure how that's all working out; he's not finished yet. The meter is still running and if there's more delay and we incur additional unexpected costs it should come out of his liquidated damages. As it is the County will be picking up 5% of it.

A motion was made by Commissioner McCown to approve the Amendment No. 1 to Release Contract No. 10 Project for exceptional costs in the amount of $49,800. Motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

PRESENTATION TO COMMISSIONER LARRY MCCOWN FROM THE SHERIFF'S OFFICE

A number of staff from the Sheriff's office and Sheriff Lou Vallario were present. Lou recognized Larry McCown for his 12 years of service as County Commissioner to the County by presenting him with an engraved Plaque from the Garfield County Sheriff's Office. Lou personally thanked Larry and said he has been a friend, a mentor, a very good Commissioner in my opinion and he certainly helped me through my years as sheriff and my political years as well. You've been a lot of assistance in just in running the Sheriff's office. I appreciate your friendship, your candor, Garfield County Sheriff's office is very grateful to you and with that the Plaque it says, "Larry McCown, Garfield County Commissioner 1996 – 2008 in recognition of your efforts and continued support of the Garfield County Sheriff's Office". We thank you and want you to know your dedication has not gone unnoticed. Commissioner McCown thanked the Sheriff and his office staff commenting, this is before he starts asking for the vehicles. Lou's response – Timing is everything.

PURCHASE OF 2009 MOTOR POOL REPLACEMENT VEHICLES FOR THE GARFIELD COUNTY SHERIFF – MATT HUTCHISON

Lou Vallario, Tim Arnett, Contract Administrator, Kraig Kuberry, the undersheriff Colt Cornelius and Matt Hutchison, Motor Pool Coordinator submitted the contract to purchase 2009 Motor Pool replacement vehicles for the Garfield County Sheriff. This is to procure from Champion Chevrolet from the State of Colorado Price Agreement 07000YYY46M, ten (10) Chevrolet Tahoe special service police vehicles for a cost of $289,963.00. The purchase includes: 2 police canine units at $29,317.00 each for a total of $58,634.00; 5 patrol units at $28,675.00 each for a total of $142,375.00; and 3 undercover units at $29,318.00 for a total of $87,954.00. The total cost of the ten (10) vehicles totals $289,963.00.

Tim explained the need to purchase these vehicles saying they are designed for police applications. Colt Cornelius, Garfield County Undersheriff contacted various law enforcement agencies and after much discussion the Chevrolet Tahoe Police Vehicles were chosen due to be overall rating from the various departments questioned. These vehicles have heavy duty breaking systems, upgraded electrical systems, upgraded suspension, upgraded transmission and cooling systems. The committee made the decision not to trade in the older vehicles due to a lag time; therefore recommendation is to dispose of these vehicles by whatever method is the most advantageous to the County. A vehicle or equipment asset may also be donated to another governmental entity or volunteer agency at the discretion of the Board of County Commissioners. There is an expected saving of $10,000 in fuel costs.

Lou also said there is a savings by obtaining the vehicles from Champion to the tune of about $5,000 per vehicle. Lou explained that the 5 other cars will be used for the new trainees. He also stated that hiring is going well and he will provide an update in January 2009.

A motion was made by Commissioner McCown that we approve the purchase vehicles for the Sheriff's Department and the cost of the ten vehicles in an amount not to exceed $289,963.00 to a specific brand. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

6000/2000 GALLON CONVAULT DIESEL/UNLEADED STORAGE FOR WEST GARFIELD COUNTY LANDFILL – TODD URBAN

Tim Arnett, Contract Administrator and Todd Urban, Landfill Manager submitted the request to purchase a 6000/2000 gallon ConVault storage tank from Oldcastle Precast at a cost of $52,751.00 priced from the GSA Contract #GX07F-9110G. The justification for the purchase of this unleaded self contained storage tank if because Todd calls for fuel two to three times a month. The landfill uses between three to four thousand gallons of diesel a month. Going with the ConVault system, the landfill will be able to purchase fuel through the award we have with Western Petroleum, thus getting a savings on fuel price. A fuel management system will be installed to track fuel usage. At the present time fuel has to be tracked manually. Todd – This will enable us to track fuel and will be a major improvement at the landfill.

A motion was made by Commissioner McCown to authorize the purchase of the Confault Diesel/Unleaded storage for one 6000 diesel/2000 unleaded self contained storage tank from Oldcastle Precast for the not to exceed price of $52,751.00. The motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

ENGINEERING & ENVIRONMENTAL SERVICES FOR THE WEST GARFIELD COUNTY LANDFILL – TODD URBAN

Tim Arnett, Contract Administrator and Todd Urban, Landfill Manager presented the engineering and environmental services for the West Garfield County Landfill to NorthWest Colorado Consultants, Inc. (NWCC) for 2009. The scope of work for 2009 includes the development of cell 6. This is a renewal contract for one year beginning January 2, 2009 through December 31, 2009 to Gary R. Webber, P.G. Senior Environmental Consultant from NWCC who has asked for $78,290.52 according to his cost estimate which includes Methane and Groundwater Monitoring, Septage Impoundment Sampling, Construct East Impoundments; Construction Quality Assurance-Vertical Fill/Cell 6; Industrial, Special and Universal Waste Plan Update; Financial Assurance; Development and Management Plan Update; Waste Profile; and of Scope Technical Support.

Staff recommends renewal of this contract to NorthWest Colorado Consultants, Inc. for a not to exceed price of $78,290.52. This will be a new cell and it will include a berm to allow an above ground coverage.

Don commented that this contract, along with a number of other renewals the Board has seen before and will see the rest of this morning are subject to the Amendment 54 language that we need to include now in all contracts. Carolyn had a discussion with the county attorney's a month ago at a statewide meeting and the position that organization has taken is that all renewal contracts that are not the subject of competitive bidding are subject to Amendment 54 requirements. Don commented generally in discussions that he had with the administrative staff, Ed and I discussed how we would apply Amendment 54 and generally what we are doing is to all contracts include language that requires the contractor to comply with that amendment and then shift to the contractor the responsibility to determine whether or not it was a sole source government contract for the meeting of that language. That's why the Board is seeing it in all renewal contracts. This is new language for many contractors and many will be surprised with the reporting requirements that are required but the liability

needs to rest with the contractor. Commissioner McCown asked what tracking needs to follow-up if they do or do not comply. Don – They take the risk, the County does not track it through the reporting requirement; it is not to the County. The reporting requirement is for state agencies and if they then go ahead and fail to report one and violate the campaign contribution of requirements that are of the other side of that amendment, then the contractor is subject to the liability provisions of the amendment. Those consist of fines and monetary damages first of all; it can be up to the amount of the contract. They are prohibited from contracting with the State both currently and for a period of three years following the violation so that terminates the contract. For government officials who knowing violate the provisions of that amendment by not requiring compliance, there is a prohibition for holding public office for a period of three years. Commissioner McCown – A more general question is if that would apply to this individual and he, for whatever reason, chooses not to even participate in the state program. Don said that is a violation but the enforcement is two ways: 1) if the County is made aware of that so that there is a knowing component, the County is required to terminate the contract. 2) If the County does not knowing violate it, there's not a prohibition on the County but the enforcement mechanism is with the State Department of Personnel for whatever reason. Commisisoner McCown inquired if they have staff to even come close to looking at something like that. Don said he doesn't know but he has not inquired. This amendment has many unintended consequences. Ed explained that the original intent was towards labor unions and that's why the enforcement is with the Human Resources component with the State and they don't have a clue what's in it. Don said it appears to be drafted that way. So, that language will need to be included in the contract and now specifically on this contract in reviewing the packet information there appears to be a form of agreement in the nature of a letter agreement in the packet. This contract will need to follow our professional services agreement as well as with any other agreement. So, the form of contract will need to be modified and the Chair can be authorized to sign that but we'll need to get the correct form.
Tim – When he gets that, he will include it. Commissioner McCown – Does this engineering company have anything to do with our existing slug ponds? Kraig – As far as the new slug ponds, he is the one doing the designing. He is monitoring the one we have now with the water purification system.
Todd said this is under a separate contractor engineers right now and it's a one year contract. It is currently shut down and under a cleaning phase right now. When it first started up it was treating 100 gallons per day and after two weeks it went up to about 300 gallons a day and then before they shut it down to clean it, it was doing about 450 gallons a day of water. It's been shut down 1 ½ weeks. Kraig added they will be here back this week. Tresi – It wasn't a scheduled cleaning, they just need to figure out what is going on. Todd said it is scheduled for a once a year cleaning. The work is under warranty. Kraig – In case the Commissioners get calls, he has to shut down the ponds in order to build the new ones.
A motion was made by Commissioner McCown to approve the renewal contract with NorthWest Colorado Consultants, Inc. to provide consulting services to our Landfill for a not to exceed price of $78,290.52 with the necessary contract amendments necessary for Amendment 54. Motion was seconded by Commisisoner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

RENEWAL OF PURCHASE OF SERVICES AGREEMENT FOR PROVIDING BULK FUEL – KRAIG KUBERRY

Don DeFord, Carolyn Dahlgren, Tim Arnett, Contract Administrator and Kraig Kuberry, Assistant Director of Road and Bridge, submitted the renewal of purchase of services agreement for providing Bulk Fuel from Western Petroleum, who is not requesting an increase in the rack price for 2009. The agreement for year 2009 is a not to exceed price of $700,000. With the approval of the new 2009 two compartment fuel tanks to be installed at the landfill, both Rifle and Cattle Creek shops and the Landfill will include a tracking system for every gallon of fuel used and billed to the appropriate users.
Tim - This year we took a major hit for the cost of fuel.
A motion was made by Commissioner McCown to award the purchase of service contract to Westren Petroleum for bulk fuel at a not to exceed amount of $700,000 for the year.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

RENEWAL OF INTEGRATED MOSQUITO SERVICES FOR 2009 – STEVE ANTHONY

Tim Arnett, Contact Administrator and Steve Anthony, Vegetation Manager submitted the renewal contract for Integrated Mosquito Services for 2009. The recommended award is to Colorado Mosquito Control, Inc for a not to exceed price of $129,885.00. This is an additional 12.8% increase for 2009 to help cover the costs of living and doing business in Garfield County.
Commissioner McCown said these guys do unbelievable good work; if there's even a pothole they are testing it. And, the municipalities get a tremendous bang for their buck on our contract. He also inquired on the West Nile Virus count of cases. Steve said they had 5 cases in 2004, 1 in 2005, 2 in 2006, 5 in 2007 and zero cases last year. This is a partnership that we're all working on.
A motion was made by Commissioner McCown to approve the renewal contract for mosquito services for 2009 to Colorado Mosquito Control, Inc for a not to exceed price of $129,885.00.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

CONSIDERATION OF RUSSIAN OLIVE/TAMARISK PARTNERSHIP/FUNDING WITH CONSERVATION DISTRICTS – STEVE ANTHONY

Bret Jolly representing Southside Conservation District and Steve Anthony, Vegetation Manager submitted a memorandum to the Board for consideration to form a cooperative partnership with the Southside Conservation District to focus on Russian-olive/Tamarisk treatments and follow up restoration, a three year project for a funding request of $75,000 out of the 2008 Vegetation Management budget. Included in the memorandum was a detailed summary of the initial plan. This is a partnership and is to carry forward a new weed program. It consists of treatment along Dry Creek, Dry Hollow and Mamm Creek using helicopters for Mamm Creek and stump treatment for Dry Creek and Dry Hollow. Mamm Creek will be good for this as it solid for 5 miles and about consumes about 300 acres. They would like to designate the 2008 funds for the program and will use best management practices. They have been networking with the landowners, and plan to hold public meetings and get the landowners supportive. The second year would be to follow up with Knapweed and the 3rd year would be the restoration and plan to get some desirable species in there. Bret Jolly – We want to make sure we have a plan for what to plant so this stuff doesn't come back. We've been looking at it and the big project you've done on Mamm Creek at the Airport looks like it turned out pretty good but we want to go to the top and get as far up

as we can find it and try to keep it from going further and start pushing it back. I think we can still save Divide Creek and maybe even get Mamm Creek back but I just discovered on my property about 300 yards from the County road on a little drop, some extended Tamarisk and I haven't watered that pond for 15 years. We would really like to develop a partnership and try to get this done before it really drives everything out.
Commissioner McCown – I'm assuming by partnerships there will still be some landowner involvement as far as matching funds and also is there a density that makes the helicopter cost effective? Steve clarified the use of the helicopter for Mamm Creek and yes, it is due to the density. Commissioner McCown also wanted to make sure the partnerships understood that we would only kill the weeds and the landowner would be responsible for burning slash piles, etc. Steve said they haven't reached that point yet. Commissioner McCown wanted to make sure the landowner was informed as to the scope of our responsibilities. Steve said they do 50-50 or 75-25 on the cost share and it will depend on what the landowner wants to do and whether or not he hires it out.
Steve informed the Board that legislation was passed this year that provides money for next year. The Colorado Water Conservation Board has a million dollars for 2009 for Tamarisk and Russian Olive so we hope to tap into those funds. Carolyn – There is no existing IGA with the Conservation District. Steve – We've had MOU's but we need to update and formalize the agreements. Carolyn said one thing that's confusing is she's hearing a partnership with the Southside Conservation District and then I hear you talking about Districts. Steve commented there are two other districts that we have cost sharing with; Bookclifts and Mount Sopris so by Districts plural it would be on the whole cost of the share program that we worked the language on, that's who we partnered with and on this one it is more specific for this area with Southside. Carolyn – We'll need to work together to work on an IGA and come back to the Commissioners with a scope of services that clarifies what Southside is doing and also I heard you say the $75,000 is left over in 2008 but you want that to be dedicated to this IGA for three years. Steve said that is the request. Chairman Martin – He is wanting that to be part of his 2009 budget. We can have this on the consent agenda for approval. Commisisoner McCown mentioned the Commissioners cannot guarantee money 3 years out – it is subject to annual appropriations each year.
A motion was made by Commissioner McCown to approve the expenditure of $75,000 out of the 2008 budget in Vegetation Management to coordinate with the Southside Conservation District to focus on the problem created by Russian-olive and Tamarisk in this County. For 2009 the IGA will come back on the consent agenda. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR CONTRACT RENEWAL FOR CORRECTIONAL HEALTHCARE MANAGEMENT SERVICES – MATT ANDERSON

Matt Anderson, Contract Manager and Sheriff Lou Vallario submitted the renewal contract to Correctional Healthcare Management Services for 2009 for a not to exceed price of $883,808.70. This includes a 5.3% increase from last year's price. Matt – This is a standard renewal and the second renewal for this company. Some services were added and when that is complete, we will add those to the contract.
Don said there are some concerns and it involves litigation and he will discuss this in Executive Session.
A motion was made by Commissioner McCown to approve the renewal contract to Correctional Healthcare Management Services for 2009 for a not to exceed price of $883,808.70 contingent on the Amendment 54 being added. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR AWARD OF CONTRACT FOR SECURITY SERVICES FOR GARFIELD COUNTY COURTHOUSES – MATT ANDERSON

Matt Anderson, Contract Administrator submitted the contract award for security services at the Garfield County Courthouses in Rifle and Glenwood Springs. Matt recommended approval of the contract award but added there are two different security companies that provide services at Rifle and Glenwood. A solicitation was sent out to consolidate the requirement and have one vender providing security services for both courthouses. The proposal due date was December 8, 2008 and 5 proposals were received. These proposals are currently being reviewed and a decision will be made before the agenda meeting on December 15, 2008 so today he will be submitted the proposed contract award. Lou said we went out for an RFP and did get 5 proposals and out of those we did select Foremost Security. Foremost Security is $27.50 per hour; Citadel $27 per hour; and First Line $28.00 per hour. Wakenhut was $24.94 and $34.92 for overtime. Lou said he was recommended staying with Foremost Security. We want to stay with one company. They do a great job and recommended them because they have received good feedback on their public relations skills. He would request Foremost for both Glenwood and Rifle Courthouses. Matt said there will be 4 guards and it cost $57,000 per guard in 2008; in 2009 it will increase to $228,800 and he added 10% for overtime. Total for contract is $ 252,680.00. Rich Alary said basically in Rifle we have 50 people a day and here in Glenwood we have 500 hundred.
A motion was made by Commissioner Houpt to approve the contract for security services for both with Foremost in an amount not to exceed $252,680. Motion was seconded by Commissioner McCown.
In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR CONTRACT RENEWAL FOR CUSTODIAL SERVICES – MATT ANDERSON

Matt Anderson, Contract Administrator and Richard Alary, Maintenance Supervisor submitted the contract for renewal for Custodial Services for 2009 to Cardiff Cleaning Services for a not to increase amount of $325,698.30 which includes a 6.5% increase from last year's price. This increase has been determined to be fair and reasonable based on increases from the standard Consumer Price Index for Cleaning Services and is also based on other economic factors and increased wages. This is the 3rd renewal. According to our Procurement Manual we have a 3 plus one year renewal.
A motion was made by Commissioner Houpt to approve the renewal contract for custodial services to Cardiff Cleaning Services for 2009 for a not to increase amount of $325,698.30 contingent upon budget and Amendment 54. Commissioner McCown seconded. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR CONTRACT RENEWAL FOR HEATING AND COOLING SERVICES – MATT ANDERSON

Matt Anderson, Contract Administrator and Richard Alary, Maintenance Supervisor submitted the renewal contract for heating and cooling services to Climate Control Company for 2009 for $62,937.00. This includes a 5% increase from last year's price and is based on high energy/fuel costs, higher material costs and increased wages. This includes any kind of maintenance for heating and cooling. This is based on any kind of maintenance.

A motion was made by Commissioner McCown to approve the renewal contract for heating and cooling Services to Climate Control Company for $62,937.00. Motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR CONTRACT RENEWAL FOR AIR QUALITY MONITORING SERVICES – MATT ANDERSON

Matt Anderson, Contract Administrator and Paul Reasor, Environmental Health submitted a renewal contract for Air Quality Monitoring Services for 2009 to Eastern Research Group for a not to exceed amount of $119,252.00. This includes an increase of approximately 6% over last year's price based on economic factors and an increased workload. This is the first renewal and is the standard monitoring contract. They are starting earlier this year and he will add all the standard language.

A motion was made by Commissioner Houpt to approve the renewal contract for Air Quality Monitoring Services for 2009 to Eastern Research Group for a not to exceed amount of $119,252.00. Motion was seconded by Commissioner McCown. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR JPA RENEWAL BETWEEN GARFIELD COUNTY AND CHEVRON FOR THE RECONSTRUCTION OF CR204 – MATT ANDERSON

Matt Anderson, Contract Administrator submitted the JPA renewal between Garfield County and Chevron for the reconstruction of CR 204 which was originally approved in July 2008. The construction started in late October of 2008 and the projected completion date of the project is early to mid 2010. Because of the estimated completion date for the project is 2010; the JPA between the County and Chevron must be renewed annually until completion of the project. This will be the first renewal and will be for one year beginning on January 1, 2009 ending December 31, 2009. There are currently no changes to the JPA. Commissioner Houpt asked a question about any change with the severance tax. Don received a letter of correspondence from Chevron that set forth their position and it needed no adjustment. It is separate correspondence. This is subject to the 2009 budget.

A motion was made by Commissioner McCown to approve the JPA renewal between Garfield County and Chevron for the reconstruction of CR 204. Motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR EXTENSION OF CONTRACT FOR OFFICE SUPPLIES – MATT ANDERSON

Matt Anderson, Contract Administrator submitted the contract extension for Countywide office supplies originally awarded to Sandy's Office Supply for the first 6 months of 2009 in order to review various methods for procuring office supplies within the County more efficiently; it will allow for any bid time if necessary. Matt stated this will also allow the revision of the procurement policies which reflect any new procedures regarding this contract. He added that County procedures do not harbor proper competition of office supplies and limit the County to only one vendor. With the ever growing list of different Office Suppliers and the continual changing of prices it is not practical to renew this contract. Matt said it is proposed to have more than one office supply vendor with a blanket purchase agreement (not a contract) in which a price list with updated items and prices would be available within the contract. On each order customers will have the opportunity to compare/compete between the different office supply vendors.

The term is up and needs to be rebid. This would be a new process on how we order office supplies and furniture. Therefore, Matt is proposing two contracts with two different supplies currently set at $1,000 and would need competition between the two. He is asking to extend the current contract for 6 months to rewrite the procurement manual to allow for this.

A motion was made by Commissioner McCown to approve the contract extension for County wide office supplies originally awarded to Sandy's Office Supply for the first 6 months of 2009. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR EXTENSION OF CONTRACT FOR PRINTING SERVICES – MATT ANDERSON

Matt Anderson, Contract Administrator submitted the contract extension for County wide printing services to Jean's Printing for a period of 6 months in the year 2009.

Matt stated this will also allow the revision of procurement policies which reflect any new procedures regarding this contract. He added that County procedures do not harbor proper competition of printing services and limit the County to only one vendor. With the ever growing list of different printing services and the continual changing of prices it is not practical to renew this contract. Matt said it is proposed to have more than one printing services vendor with a blanket purchase agreement (not a contract) in which a price list with updated items and prices would be available within the contract. On each order customers will have the opportunity to compare/compete between the different printing service vendors. Matt stated this will also allow the revision of procurement policies which reflect any new procedures regarding this contract. He added that County procedures do not harbor proper competition of printing services and limit the County to only one vendor. With the ever growing list of different printing services and the continual changing of prices it is not practical to renew this contract.

This is the same as the Sandy's contract with the same scenario.

Discussion was held and Matt will come back to the Board. If we write a yearly contract, they are changing their prices so details need to be worked out. He envisions having no more than two companies however, with the Sandy's contract that might be a different process. He will suggest with Sandy's only two and then a state contract. Don - Matt and Don will meet and discuss this procedure.

A motion was made by Commissioner McCown to approve the contract extension for County wide printing services to Jean's Printing for a period of 6 months in the year 2009. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR EXTENSION OF CONTRACT FOR ARCHITECTURAL SERVICES – MATT ANDERSON

Matt Anderson, Contract Administrator submitted the contract extension for County wide architectural services for 6 months in the year 2009. This extension will allow for a review of the various County architectural and engineering needs and will also allow the incumbent architect to complete any remaining projects. This extension will also allow for solicitation time for a new requirement. Sopris Architecture rates will currently remain the same for this extension.

This contract needs to be rebid and has a few things to address. It will also allow the current contractor to complete his work. The current contract is strictly for engineering and sometimes engineering is needed and we don't have engineers and we need to either include it in this contract or have separate ones and talk with our engineers. Matt said we currently have architect and engineering as a joint venture and they generally subcontract. Commissioner McCown mentioned companies generally have their own engineers. Therefore, his recommendation would be to change the terms of the contract so they will provide those engineering services.
A motion was made by Commissioner McCown to approve the contract extension for County wide architectural services for 6 months in the year 2009. Motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

APPROVAL FOR RENEWAL OF CONTRACT FOR WASTE MANAGEMENT – MATT ANDERSON

Matt Anderson submitted the renewal contract for waste management services for 2009 to Waste Management for an amount not to exceed $27,740.50. This includes a 3% increase over last year's price. This requirement is in the 3rd year of renewal. Commissioner Houpt asked on the recycling, do they pick up comingling of glass and plastic? If we had a place on each floor for recycling it would be better utilized. If we are going to be paying for recycling we should have it available.
A motion was made by Commissioner McCown to approve the renewal contract for waste management services for 2009 to Waste Management for an amount not to exceed $27,740.50. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

COUNTY ATTORNEY UPDATE: DON DEFORD

CONSIDERATION/DIRECTION REGARDING ESTABLISHING A TREASURER'S FEE PAYMENT, COLLECTION AND REIMBURSEMENT POLICY

Don DeFord, Georgia Chamberlain, Lisa Dawson and Bob Pendergrass were present.
Don – There a draft resolution included in the Board's packet and he emphasized this is a draft to provide some sort of a framework for discussion. A couple of meetings were held with the Finance Department and the Treasurer and jointly we've discussed where we are going with this. At the start of the budget year because of confusion that came through the County Attorney's office on the need to collect the fee as well as whether the County would seek reimbursement, it is important to get this in place. This is particularly true in reimbursement contracts where we need to understand who is paying the fee. There were a couple of basic premises to start with on this resolution. One is that the statute on Treasurer's fees as it relates to taxes and other revenues is written in mandatory language. It is not a discretionary issue with the Treasurer and there are some rather severe penalties against the Treasurer personally for failure to collect the fee. So we needed to start with that process first to see how the fee would be collected by the Treasurer and then work from that to see whether or not there would be some type of reimbursement sought. Reimbursement – it seems from Don's perspective the easiest approach to this mechanically would be for the County through it's departments to pay the fee on monies that are tendered to the Treasurer for the benefit to a specific department and then leave it as a policy issue for this Board and the departments to determine when they would seek to re-coup that payment or not. That's why the first part of this resolution deals with the mechanics of collection and after the discussions we have there will be changes to the language that's in front of you. The policy Don envisions is that when a payment is received for the benefit of a department that the contract reimbursement is the easiest to deal with as it is straightforward in terms of Road and Bridge (R&B). If we're building a road and we're receiving reimbursement for payment for the construction of the road the payment, it would be credited to the Road and Bridge Department in full and then the R&B department would then pay the fee at the time the monies are tendered to the Treasurer's office. Lisa said that is correct and we discussed this with out auditors. It is a mandatory statute and this is the cleanest way for us to do the accounting for it is to recognize 100% of the revenue into the department and then have the department show an expense for the Treasurer's fees. Commissioner McCown – That same statute dictates where those funds collected by the Treasurer must go. Don – Yes, actually there's a constitutional provision right now; the statute provides that the fees would be paid into a Treasurers' fees fund. However, the constitution altered that provision even thought the legislature didn't make a change itself and it provides that all fees are paid to the general fund. That's why the mechanics that Don envisions is at time of collection of the fee it would be immediately transferred to a Treasurer's fee line item within the general fund.
Commissioner McCown – And there are other statutes that prohibit transferring general fund money to Road and Bridge. Don – Specifically as to Road and Bridge that's correct and Bob wanted to get to this issue a little bit today in terms of making each department whole and how we would approach that. R&B presents a unique situation because there is both a statute and case law that prohibit transferring money from the general fund to the Road and Bridge fund for a number of reasons. None of those relate to Treasurer's fees directly but it still affects that to the extent that the R&B fund is not whole because of this payment. The Board annually would have to decide whether or not to make adjustments to the mill levy for the Road and Bridge Department as you balance out the total County mill levy. It might require a very minimal reduction in the general fund mill levy and a very minimal increase in the R&B mill levy. This is an annual decision at the time of budget.
Ed said this would change your fund balance in Road and Bridge. Commissioner McCown – If that's taking ¼ million out of their budget it's a penalty for getting something done. There may be other DOLA grants that are involved that are out there that are unknown at this time. That's the $25 million dollars that I was looking at which was the Chevron money. Don – You raised the DOLA issue and that's still an unknown out there; we raised this issue with Jack Kirtland and no response has been received from him. Chairman Martin talked to Jack Kirtland at the conference and he was aware of this. Commissioner McCown – Item C addressed that real clearly in this draft. Don - Right now we treat DOLA revenue going to the Treasurer; R&B is a significant beneficiary of potentially DOLA grants. So, this presents a dilemma because of the prohibition in the contract with DOLA on the use of those funds for fees and that's the issue we raised with Jack.
Commissioner McCown – That comes back and R&B has to pay the Treasurer's fees.
Don – It has to be paid from other R&B sources then. Ed said Don is correct and we can make the adjustment in the mills on an annual basis to accommodate fees. Don – There are a number of exceptions on the collection of Treasurer's fees. Federal tax revenue is treated as all revenue received by the County that results from federal taxes; these are exempt from payment of fees. We're finding more as we go along just at the close of business on Friday, Georgia got communications that clearly indicated that all monies directed to the Social Services fund are exempt from payment of this fee. We may find other exemptions of fees. When we find those we

would stop payment on collection of the fee. Chairman Martin – Which would also be the federal mineral act, the PILT payment, AGNC and all that would be exempt. Don - There's also one hospital district in the County and those monies are exempt. School districts are exempt. So, those types of things are out there; we just haven't found them all. I didn't find one for the library. Chairman Martin – And the sale of livestock sale and its revenue. Commissioner McCown – At this point R&B is the only one we can't cover with transfers.
Don – The first part of the resolution deals with the collection issue. The second part would deal with, as what I've termed as reimbursement, and have gone back and forth if that's the correct language or not; but it's under what circumstances does the Board wish to try to re-coup the payment of this fee from some outside source. The best example is the deposit agreements that are sometimes used for security on subdivision developments. I anticipate that type of security the fee has to be paid and we would have the developer pay that fee.
Chairman Martin – That would also have to be specific that it would be the amount plus the fee, otherwise you're taking out of the amount you are assessing so it has to be a motion both identified. Commissioner McCown – What about the building fees and all those fees that are collected? Don said that was 2a in the Resolution and I'll concede that language is a bit convoluted. Don is trying to come up with language that would require when a department is established, a general fee, ie. Building and Planning or Landfill are the quickest examples, that they incorporate in that fee whatever the cost there would be to the department for payment of the Treasurer's fee. Commissioner McCown – If you raise fees by 1% to cover that you're raising the amount collected by 1% so then it's a snowballing effect and you never catch up. We'll use our best effort to get as close as we can and that is our protection. Commissioner Houpt – Can you have the base fee and then in all the materials say and there's a 1% Treasurer's fees so the total fee would be x dollars so that you still have the base fee and it doesn't keep retching it up. Commissioner McCown – But it will keep retching up the total amount and she's going to get 1% of that. Don – It would also work that the department would pay slightly more than they would ever collect. Commissioner McCown – All monies are coming back to the general fund taken out of their budgets that's funded by the general fund. Don - Does the Board want to try to in all circumstances to make the departments whole and if that's the case then we'll need to account for that in the general fund somewhere. Commissioner McCown said that would certainly be his intent. I don't want the department heads to have to budget for a 1% collection fee and then they would project what that's going to amount to over the year. No, let's do it as simple as possible and take whatever comes back in for the collection of those funds and pass it back into that department that it was collected by. Chairman Martin answered Tresi's question saying if there was a standard way of doing this in other jurisdictions by saying, no. As a matter of fact there's legislation being proposed called the 'County Fees Bill' that will be presented and it's one the issues that they do have within the 'County's Fee Bill' coming out of general government tax and finance; CCI and we've been working on that issue. One of the issues was the Fair fund or the collection of those and how no one has collected that 1% fee in reference to sale of animals, etc. A lot of the counties are not even collecting fees and weren't even aware that they were except for money that goes to other entities such as collecting for municipalities, special districts or whatever outside of the general county government business. This 'County's Fee Bill' will be a very interesting to see how it comes across. It is one of the first Bills to be introduced. Don – It really does need a re-write very badly and that's good news. Don - 2A tried to deal with the existing permits and we'll redo that language. 2B goes to these outside monies that we receive and you noticed I hit a couple of areas - deposit agreements we've discussed. I also put in a section on grant funds for which the County is acting solely as the fiscal agent. How do you want to approach this but you have a couple of these we've dealt with in the past, one coming up in terms of the CLEER project and how does the Board want to approach that problem when we receive grant funds or other revenues where we are simply administering a project.
Carolyn commented that this takes a lot of staff time. She wasn't sure what it takes in the Treasurer's Department. Don used CLEER as an example – we receive grant funds and again they are DOLA funds so we have that issue to address first but assuming that DOLA is not finally determined to be exempt, what department would pay the fee - the County Commissioners? Commissioner Houpt – Yes, and I would think it would then be treated as in-kind contributions especially if we're serving as the fiscal agent but others are involved. Chairman Martin – We had the same issue in regards to one of the trails that we acted as the fiscal agent as a pass through and you had also three different historical preservation pass through grants, etc. I don't believe we ever collected anything off of those grants to run 1% through the Treasurer's office. It is going to be a change of approach and it will affect a lot of folks. Jack considered it was exempt.
Don – If DOLA funds are exempt then it's not an issue; we will get rid of it. If it's not, is the County going to pay the fee and not seek some type of reimbursement from the other participating entities for just participating in the project as part of the County costs. Commissioner McCown thinks it will still vary from project to project. Don – How about as a policy matter, we assume that you are not going to seek reimbursement from other parties, then unless you direct us to do that so when we write up contracts we know. The reimbursement contracts I still would treat the same way unless directed otherwise. Right now when there are two or three parties to an agreement we're the managing partner like in the contract with Parachute where there's nothing in that agreement that is seeking reimbursement from Parachute or otherwise for treasurer's fees. I will tell you that the one example to the contrary was our project in Rifle where we by contract asked Rifle to pay for those treasurer's fees. But, for contract purposes if I assume in our office that we won't seek reimbursement unless directed by Board to do that by contract, that establishes a policy that we could follow and that's pretty much what we have done. Commissioner Houpt – So you would add that language so that's it's noted that we're budgeting for that treasurer's fee in a part of the project but it will be absorbed in those situations by the County in partnerships. Don can do that if the Board wants him to. Commissioner Houpt thinks we should have some kind of paper trail on this. Don hoped to do this with the Board by establishing a policy and practice by the Board unless the Board directed otherwise.
Commissioner Houpt thinks that is important for people to know that cost is out there. We can do this contract by contract. Commissioner McCown – There were two separate sources of funding on the City of Rifle contract; we were doing the engineering and procurement management; we shouldn't have to bear the cost of that because it wasn't our money. We don't have to do those kinds of projects either. That was a special favor to the City of Rifle and under the circumstances now it would have cost us 1% had that not been added and it wasn't even our money or our building. Don said that provision in that contract was there after discussions with Rifle and the Board. Commissioner McCown – I'm saying it would be voided unless specifically asked for; it

would have gone forward without that provision and we would have eaten 1% of Rifle's fees which would have been $220,000 to provide the city that service. Commissioner Houpt – It seems to me since grants that you apply for require a match, it would be good to have that as a normal line item in these negotiations because if we're absorbing it that's fine but it should also be treated as a match that can be recorded which gives us better leverage. Don – Even if the County is paying it in a reimbursement contract situation, as a matter of policy we should include the cost of treasurer's fees or all fees as a line item in the budget for the project. Does that seem fair? Commissioner Houpt and Ed agreed. Chairman Martin – You would still have to be specific that you're not taking the bottom line dollar and adding 1%. You will need to be very specific. You are going to have to say you are collecting the 1% fee on this amount and this is what the 1% fee would be, not added to the total to make it. Otherwise, you're back to what Larry's comment was – you're retching up the costs and always losing money. Commissioner Houpt – No, you would have that 1% in there, it just wouldn't be silent; otherwise that's correct. Don gave an example of a project where we get ½ million dollar grant for which is a reimbursement grant that money goes to Georgia through the Road and Bridge Department. A standard policy would be that we would pay the fees out of the department; R&B would pay the 1% to Georgia's office at the time they tendered the money to her and they would have a separate line item in the R&B fund for fund administrative and that would include treasurer's fees so you don't literally take the money you are receiving.
Commissioner Houpt was only talking in terms of grants and grant partnerships. Commissioner McCown – There was a $500,000 grant. Most DOLA grants are reimbursement grants. Do we ever get the full $500,000? They hold it and the money that's transferred through the treasurer's office on a $500,000 grant, does it all go through her office? Don – Yes, all the money goes through Georgia's office. Commissioner McCown – But it's depending upon the amount of the invoice. Don – All the money goes there but that doesn't mean all of the $500,000 goes there because I view DOLA grants as sort of a not to exceed figure because it's a reimbursement payment – we have to invoice DOLA and show that the money was spent and they pay and it should to go to Georgia and through the R&B department. It would be booked fully reimbursed to the R&B and out of a separate line item they would pay the Treasurer's fees on the amount that's tendered to Georgia's office. Commissioner Houpt – I think it's important that the state not forget that we have to pay this fee.
Chairman Martin – But they're exempt from it, so they're not worried about it. Don – That is the truth; they will take the position that is your problem – pay the fee. Then the question is if we're dealing with someone besides DOLA, say Parachute for instance, are we going to ask them in the contract to reimburse the County for the fee that we paid for the project? Commissioner McCown asked why couldn't Parachute claim immunity just like DOLA. Don – They are not exempt and again it goes back to what you said Larry, we don't have to do the project if they don't want to agree to pay it. All I'm looking for is what do you want us to ask these entities to do. Chairman Martin – This is why we put it in this 'County's Fee Bill' in reference to this very issue so hopefully we can address it in that. Don hopes it won't be a problem by the first of the July. Right now it's a mandate and this came up in the context of a project for which we will be getting reimbursement probably early in 2009. Commissioner McCown – This is more ironic if you have a two party agreement, Parachute and Garfield County for instance and x amount of matching funds, x amount of DOLA grant, all goes through Georgia and you're charging them 1% on their own money. People would probably have a problem with that. Don – The statute is written to cover all money going to the Treasurer. Don – As to the cost to the County, add this 1% and do you want to seek reimbursement unless directed by the Board or do you not want to seek it. Commissioner Houpt – Unless required, unless suggested by the Board but I'd still have it out there so that people see that it's a true cost. Don suggested he would write up the policy to indicate that we will include it as a project cost for County budgetary purposes and you will not seek reimbursement from outside parties unless the Board directs to do so by contract. Commissioner Houpt – That's specifically under this 2B. Chairman Martin - We will come back to this particular issue on the draft. Georgia – Who should she contact about this 'County Fee Bill'? Chairman Martin – That would be Chip Taylor at CCI - 303-861-4076. Don will take another stab at the Resolution and bring it back on the 5th of January. Bob stated they will try to reimburse and prioritize the interfer transfers to the departments. Don will agenda this on the 5th of January.

CONSENT AGENDA:

a) Approve Bills
b) Wire Transfers – COPS Debt Service
c) Inter-Fund Transfers
d) Changes to Prior Warrant List
e) Approval of the Board of County Commissioner Minutes for July 21, 2008; August 4 and 11, 2008; September 2, 8 and 15, 2008; October 6 and 27, 2008 – Jean Alberico
f) Authorize the Chairman to sign a Special Use Permit for a Communication Facility on a parcel of land north of the Town of Silt. The applicants are Stephen and Susanne Self – Kathy Eastley
g) Authorize the Chairman to sign the Mylar for an Amended Plat for the Steele Subdivision Exemption on Mitchell Creek Road. Applicant is Wesben, LLC – Dusty Dunbar
h) Authorize the Chairman to sign the Resolution of Approval for a Preliminary Plan to create a total of seven lots within a 79.81 acre property located on Grass Mesa. Applicants are Gregory Hasenberg and G. H. Daniels III – David Pesnichak
i) Authorize the Chairman to sign the corrected Final Plat of Block 11, Travelers Highlands Subdivision. Applicant is Harlan McElroy – Fred Jarman
j) Authorize the Chairman to sign a Resolution approving a Special Use Permit for "Processing and Material Handling of a Natural Resource" in the ARRD Zone District south of Parachute. Applicant is Williams Production RMT Company. – Kathy Eastley
k) Authorize the chairman to sign a Resolution approving a Preliminary Plan for the Suarez Subdivision. Applicant is KJS Revocable Trust. – Kathy Eastley
l) Liquor license renewal for Beau Jo's Glenwood Springs LLC d/b/a Beau Jo's at Buffalo Valley Colorado Style Pizza Grill & Family Tavern – Jean Alberico

A motion was made by Commissioner McCown to approve the consent agenda as presented.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

EXECUTIVE SESSION – LITIGATION UPDATE AND LEGAL ADVICE -

Don named the items he needed to provide legal advice to the Board as: East Elk Creek Campground; CR 309/Marion Wells claim; provide advice and receive some direction concerning County Road 306 status; legal advice on the renewal banking agreement; provide legal advice concerning liability issues and Trident; and the Planning Department wants to provide the Board with some direction and Don needs to provide legal advice on the application on the floodplain regulations. Carolyn needs to provide advice on a default leasing operating agreement at the Airport. Commissioner McCown requested legal advice on the impact of RETAC.
A motion was made by Commissioner McCown to go into Executive Session.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye
A motion was made by Commissioner McCown to come out of Executive Session.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye
No action – only advice and direction was given.

COMMISSIONER REPORT:

No reports were given.

HUMAN SERVICES COMMISSION:

VOCATIONAL REHABILITATION – COLORADO WORKFORCE – JANICE WOLFSON

Janice Wolfson and Penny Ream with Colorado Workforce presented a complete packet of information regarding the Colorado Workforce Centers stating this is a place where individuals seeking employment and businesses seeking employees can be matched and brought together to fit each other's needs. This is a free resource for job seekers and employers. It is a one-stop delivery system and the Act that created the program includes a list of required federally funded programs that must be accessible through the system. The Glenwood Springs Workforce Center includes vocational rehabilitation services.
Janice added that the employer must pay for no less than 50% of the cost of training for the individuals seeking the services. She explained how the success of their program is measured, who is eligible and the services that are available.
There are two locations: one in the Glenwood Springs Mall and the other in Rifle at 310 West 3rd Street.
She submitted a full report and explained all the services available. They also sponsor and create Job Fairs.
Job Seekers can register on-line.
She also submitted information on unemployment and a comparison between 2007 and 2008 with all the neighboring counties. They have gone up a little bit. The federal is 6.7%. Colorado 5.7% so far; in Garfield its 3.7%. She included comparisons on all sorts of labor markets.
Penny said they are getting a lot of recent calls on how to apply for unemployment. It takes a while to file. The website is very handy and she recommends using it if people need to apply for unemployment. Some have not lived here in this state long enough to apply but would be available next month.

BOARD OF HUMAN SERVICES:

APPROVAL OF EBT/EFT DISBURSEMENTS FOR NOVEMBER 2008

Lynn Renick presented the EBT disbursements for November 2008 in the amount of $524,188.64 and requested approval of the Board.
A motion was made by Commissioner Houpt to approve the EBT disbursements of $524,188.64 and authorization to sign the certification. Motion was seconded by Commissioner McCown.
In favor: McCown – aye Martin – aye Houpt – aye
Lynn stated the contracts and agreements presented by the Department have not been finalized regarding Amendment 54 language. However, she is bringing these contracts for the Board's consideration and signature in anticipation that the Garfield County Attorney's office will have the language finalized by the end of December.

CONSIDERATION AND APPROVAL OF OUT-OF-HOME PLACEMENT CONTRACTS

Lynn said the Department is requesting consideration and approval of the following out-of-home placement contracts:
1. Provider, Top of the Trail, ID number U199468 in the not to exceed amount of $11,160.24;
2. Provider, Southern Peaks, ID number G579695 in the not to exceed amount of $38,319.00;
3. Provider, Ariel Clinical Services, ID number P526378 in the not to exceed amount of $19,725.60; and
4. Provider, Devereux Cleo Wallace, ID number G633796 in the not to exceed amount of $37,234.50.

So moved by Commissioner Houpt and seconded by Commissioner to approve the Top of the Trail, ID number U199468 in the not to exceed amount of $11,160.24.
In favor: McCown – aye; Martin – aye; McCown - aye
Commissioner Houpt so moved and seconded by Commissioner McCown to approve the Southern Peaks, ID number G579695 in the not to exceed amount of $38,319.00.
In favor: McCown – aye Martin – aye Houpt – aye
Commissioner Houpt so moved and seconded by Commissioner McCown to approve the Ariel Clinical Services, ID number P526378 in the not to exceed amount of $19,725.60.
In favor: McCown – aye Martin – aye Houpt – aye
Commissioner Houpt so moved and seconded by Commissioner McCown to approve Devereux Cleo Wallace, ID number G633796 in the not to exceed amount of $37,234.50.
In favor: McCown – aye Martin – aye Houpt – aye

CONSIDERATION AND APPROVAL OF SUBSIDIZED ADOPTION AGREEMENTS

Lynn submitted the subsidized adoption contracts for consideration and approval of the Board for 2009:
1. ID number G455091 in the not to exceed amount of $26,765.40;
2. ID number G490136 in the not to exceed amount of $10,800.00; and
3. ID number Y948589 in the not to exceed amount of $14,760.00

Commissioner Houpt so moved and Commissioner McCown seconded.
In favor: McCown – aye Martin – aye Houpt – aye
A motion was made by Commissioner McCown to approve the subsidized adoption agreements ID number G455091 in the not to exceed amount of $26,765.40; ID number G490136 in the not to exceed amount of $10,800.00; and ID number Y948589 in the not to exceed amount of $14,760.00 for 2009. Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

CONSIDERATION AND SIGNATURE AUTHORIZATIONS ON TWO 2009 CONTRACTS WITH THE GARFIELD COUNTY ATTORNEY'S OFFICE

Lynn requested authorization for signature on the following contracts:

1) Agreement between the Board of County Commissioners and Garfield County Attorney for legal services, including representation of actions filed under the Colorado Children's Code and Colorado Probate Code, to the Garfield County Department of Human Services in the not to exceed amount of $90,000;
2) Child Support Enforcement Cooperative Reimbursement Agreement between the Garfield County Attorney's office and the Board of County Commissioners acting on behalf of the Garfield County Department of Human Services in the not to exceed amount of $45,000 for legal services as defined as eligible IVD activities within the Scope of Services. This will require signature of all three Commissioners.

A motion was made by Commissioner McCown to approve the Agreement between the Board of County Commissioners and Garfield County Attorney for legal services, including representation of actions filed under the Colorado Children's Code and Colorado Probate Code, to the Garfield County Department of Human Services in the not to exceed amount of $90,000; and Child Support Enforcement Cooperative Reimbursement Agreement between the Garfield County Attorney's office and the Board of County Commissioners acting on behalf of the Garfield County Department of Human Services in the not to exceed amount of $45,000 for legal services as defined as eligible IVD activities within the Scope of Services.

Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye

CONSIDERATION AND SIGNATURE AUTHORIZATION ON THE 2009 PURCHASE OF SERVICE AGREEMENT WITH PITKIN COUNTY FOR CHILD SUPPORT ENFORCEMENT SERVICES

Lynn requested authorization for signature on the purchase of services agreement with Pitkin County in the not to exceed revenue amount of $6,000 plus all incentives earned for the provision of Child Support Enforcement services to eligible IVD clients residing in Pitkin County. This is a renewal agreement and will require each of the Commissioners to sign.

A motion was made by Commissioner McCown to authorize signature of all three Commissioners on the purchase of services agreement with Pitkin County for the Child Support Enforcement services to eligible IVD clients residing in Pitkin County. Motion was seconded by Commissioner Houpt.

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

CONSIDERATION AND SIGNATURE AUTHORIZATION ON THE 2009 FOUR-PARTY WESTERN COLORADO 2-1-1 INTERGOVERNMENTAL AGREEMENT

Lynn stated the Department is requesting the Board's consideration and signature authorization on the Western Colorado 2-1-1 IGA renewal agreement for calendar year 2009 with Mesa County Department of Human Services, Hilltop Community Resources; and United Way of Mesa County who is the fiscal agent in a not to exceed amount of $50,000 to be paid in one lump sum. Lynn said they are trying to get this off the ground by doing more marketing and would like to renew this to go forward.

Commissioner Houpt confirmed that everything is in place.

Lynn said they will get the information into the system and get the providers information.

Commissioner McCown asked Lynn what type of education tools are we using to get this marketed.

Lynn – One of the issues we had was getting the contract signed and not able to get with the others to do the marketing. We need to sit down and meet with the partners and get this beefed up.

Commissioner McCown requested that they monitor them and possibly next year to market it better.

A motion was made by Commissioner Houpt to approve signature authorization on the Western Colorado 2-1-1 IGA renewal agreement for calendar year 2009 with Mesa County Department of Human Services, Hilltop Community Resources and United Way of Mesa County who is the fiscal agent in a not to exceed amount of $50,000. Motion was seconded by Commissioner McCown.

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

PROGRAM PRESENTATION AND CONSIDERATION AND SIGNATURE AUTHORIZATION WITH COMMUNITY HEALTH INITIATIVES, INC. FOR ADDICTION CASE MANAGEMENT SERVICES

Brad Osborn and Shelly Evans, director of Community Health Initiatives, Inc. as well as Lynn Renick were present. Lynn presented that The Right Door is a non-profit organization that has been operating in Pitkin County for several years providing addiction case management to primarily adults who are referred from law enforcement agencies or the courts. The Department has been in discussion with Shelley Evans, Executive Director at Community Health Initiatives and Brad Osburn, Executive Director at The Right Door regarding the provision of addiction case management services to families determined to be 'TANF eligible' in Garfield County. A business plan and scope of services has been included for the Board's review and Brad and Shelley made a presentation on the model. As part of the Department's newly developed Community Connections program and current availability of Colorado Works funding and excess TANF reserves through June 30, 2009, Lynn said they are requesting the Board's consideration and signature authorization on a six-month contract from January 1 through June 30, 2009 for an additional $120,000 in order to assist families and adolescents in Garfield County to access substance abuse services and treatment. Shelly, a founded board member in Pitkin County, explained that this was to reduce substance abuse as well as connecting people to services.

Brad Osborn is the technical assistance to the program. The main focus is about helping people get connecting when they are in crisis. Usually all the family is involved in the crisis. They have been doing this in Pitkin County for 5 years. In Garfield County we get to focus on the family and that is the main focus. Our goal is to help the family get the services they need. Brad said he has been operating for 5 years in the Pitkin County. We rely on the current sources. He has a passion of doing this in Garfield County. He has been meeting with the hospital administrators in Rifle. We will help them get to where they need. The real key thing is to monitor their treatment after they come back. We want to make sure they are following up with the treatment. We monitor their abstinence with drug testing and encourage them to stay committed. It is transitional from the beginning and we address the long term solution and what will make them committed to a lifestyle change. If they are not motivated we will not use the County's resources. We have a very strong financial stable program. In 6 months a good strong long term plan is to come back however, it takes two years to fully staff the program.

Brad stated that in Pitkin County we are tracking 800 clients. We will probably triple that number in Garfield County. It takes the whole community to get this accomplished. It will be called the Storm King program in

reference to the Storm King victims. Brad said if we do receive referrals we will expect payment from the recipient. Carolyn asked some contract questions; will CHI actually be hiring the case managers/staff for this program? Yes. She also asked if Brad was going to provide you services or is the Right Door providing CHI services? Brad will provide the services; it still needs to be determined if Brad will be paid personally by The Right Door or by TANF funds. Carolyn emphasized the importance of how this will be paid due to contract arrangement. She asked if the actual staff to the program would be Brad's employees.
Shelly – Yes, it will be the Community Health Initiatives program and CHI is the independent contractor.
A motion was made by Commissioner Houpt to approve and authorize signature of a contract with Community Health Initiatives for the Storm King case management services in an amount from January 1, 2009 through June 30, 2009 not to exceed $120,000 and those will be TANF dollars that will be used for this program.
Motion was seconded by Commissioner McCown. In favor: McCown – aye Martin – aye Houpt – aye

PROGRAM UPDATES

Lynn announced as of December 1, 2008 Karen Meier-Binde will be the Division Manager working with Human Services Commission to expand collaborative efforts and community program needs, as well as expanding our Family Connections program into a broader Community Connections project. Karen shall take over management of this expanded division that includes the Fatherhood Project and other child and family programming for TANF-eligible residents. The portion of the Henry Building once occupied by Probation will house this division with plans for 3 staff members to move in prior to January 1.Lynn said other contracts will be brought to the Board for consideration in January, including the lease and contract with Childhelp for the Child Advocacy Center program. She also plans to present a brief regarding the first year's accomplishments and update.

BOARD OF HEALTH:

2008 AIR MONITORING REPORT – PAUL REASER AND JIM RADA

Jim Rada made some opening comments regarding the Air Monitoring Program and shared a map used in the monitoring. Mary Meisner, Paul Reaser and Jim Rada provided the update 2008 Air Quality Program in a power point format. Paul Reasor presented. They now have a website and presented the following:

- Continue characterizing concentrations of local scale air toxics and particulate matter to develop a baseline reference for long-term measuring;
- Build upon our previous efforts that have identified data gaps for local source emissions;
- Implement a more targeted approach with the goal of answering specific questions about the potential relationship between the air quality in Garfield County and human health risk; and
- Further develop the basis for decisions on how Garfield County can best manage impacts of air pollution caused by overall development.

They are measuring particulate matter PM10 and PM 2.5 as well as Ozone (03), non-methane organic compounds and carbonyls.

Source Characterization includes:

- Speciation allows for determinate of sources
- Major sources can include:
  - Mobile source emissions (e.g. gasoline and diesel exhaust)
  - Oil and gas production
  - Other stationary sources (e.g. factories and power plants)
  - Wildland Fires
  - Biogenic emissions (natural emissions from plants)
- Characterization techniques
  - Sources have characteristic emissions profiles e.g. BTEX parameters - Benzene, Toluene, Ethyl benzene and Xylenes were all present at the sites and research has shown certain ratios of BTEX parameters to be characteristic of mobile sources. Biogenic emissions include isoprene and monoterpenes and these were measured in small quantities at the sites.
  - Monitored data can be compared to emissions inventories developed by the County and the Western Regional Air Partnership (WRAP).

Suggested additional analyses:

- NAAZS comparisons
- Incorporation of additional data sets
- Seasonal and annual summaries
- Spatial analyses
- Back trajectory analyses
- Review of rations of BTEX parameters to help identify vehicle emissions impacts
- Define what output products are useful to state epidemiologists to assess health risks.

Hazardous Air Pollutants (HAPS)

The EPA provides a list of pollutants that may be considered hazardous. Compounds of Benzene and Toluene were detected at all sites in quantities that may be considered by EPA as posing possible health risks. Significant levels of 1.2-Butadiene were evident only at the Rifle and Parachute sites.

One of the reasons they are here today is to request approval of the Board to establish the GARCO Air Quality Website which will include the following goals:

- To establish an internet presence for local air quality conditions and issues
- To continue enhancing our program's professional image
- To offer links to other relevant sites such as State Air Division
- To summarize and present complex information into understandable formats
- To increase public awareness of air quality issues and conditions in Garfield County
- To educate citizens on a variety of air quality issues
- To offer a virtual community, a place where users can interact and it equals to the empowerment of the community

Jim and Paul showed an example of the website and explained the educational factors connected with the website so individuals can understand what PM10, etc. means.

There is a data disclaimer attached and the data needs to be validated by the consultants.
Commissioner Houpt asked if this monitoring is compatible with what the US Forest Service is doing.
Jim Rada said they are working together with the Forest Service.
The request is for approval of the Garfield County Air Quality Website and permission to activate it.
Commissioner Houpt said it looks like a wonderful tool and more people are going to want to go to this link. Jim said they would like to add a comment section.
The 2009 Air Quality Program Goals are:

- Maintain current level of monitoring
- Find funds for additional, in-depth VOC, ozone and particulate analysis
- Complete RGI Grant (use products to advance development of a community-based air quality management program)
- Develop additional community outreach tools
- Utilize the Air Quality Technical Work Group as a tool to assure that we continue to progress
- Monitor State air quality rulemaking efforts

Jim said they will be looking for more funds and said the State is looking at giving us more funds.
He explained the goals in-depth. They are doing some community education about engine idling, myth busters and also about fireplace fires. Chairman Martin asked how they were monitoring the forest fires in California, Nevada and Utah. Jim said there are a number of agencies that watch smoke fumes and his crew has the ability to access the data from other monitors on the western slope. Chairman Martin asked are you utilizing the satellite data that show the movement of the plumes. These are readily online most every day on all activities. The reason John asked is because he has been charting the sand storm that came out of the middle east which ended up here and actually on Independence Pass with pink sand in the snow and so you can monitor that through those satellite photos which again causes ozone, cause all kind of pollution outside of our realm. Hopefully we can say, wait a minute guys, there's also another outside influence here besides putting the burden on all of us in the County. Jim – We can also do that and we can very clearly see the localized impact. Chairman Martin would like to see this online with more information. You might want to go through the IT folks.

APPROVAL OF EMTAC BY-LAWS – MATT OLIVE

Matt Olive, Emergency Medical and Trauma Advisory Committee (EMTAC) ember submitted the By-Laws in draft form. This is a board that serves at the pleasure of the County Commissioners and promotes Emergency Medical Services to the citizens and visitors of Garfield County. arolyn said before we get to the changes, the Commissioner approved our new Emergency Medical Services Resolution that the Board repealed and reenacted in April 2008 and then on May 5, 2008 you approved the Resolution creating the EMTAC and appointed the members for 2008. We should have put on the agenda for today the reappointment for 2009 because the EMTAC is not bringing any recommendation of any changes. This is a follow-up to what happened in the spring and now they are establishing their own By-laws and with your permission probably the first meeting in January will give you the list of members that are asking to be reappointed. arolyn and Matt talked about ten or twelve different things. The draft in the Board's packet was based on the Fairboard By-laws so there are some changes that need to be made because of that and some editorial changes. She asked the Board to give them the ability to do some editing; we won't go through every little thing. Carolyn addressed the most important ones are the budget and the ownership issues, and on resignation and removal. It's clear that should there be a removal by EMTAC; they have to come to the Board to have that removal approved.
Commissioner McCown referenced at the top of Page 2 under "voting member" would it be appropriate to put the number of members that may establish a quorum. Other issues were discussed and Carolyn wanted to make sure that these three folks are authorized to make changes. An annual report is due today.
Carolyn asked if the Board could by motion or if a Resolution was needed; she asked if the Board wanted to see this on the consent agenda. The Board felt it does not need to be done by Resolution.
A motion was made by Commisisoner Houpt that we approve the By-laws for the Garfield County Emergency Medical and Trauma Advisory Committee as presented with the amendments discussed ad that we adopt these By-laws. Motion was seconded by Commissioner McCown.
In favor: McCown – aye Martin – aye Houpt – aye

EMS LEGISLATION AND RETAC ISSUES – CARL SMITH, NANCY FRIZELL AND TIM HOHON

Carl Smith, Nancy Frizell and Tim Hohon presented a proposal for an additional $1.00 Motor Vehicle Registration Fee for Colorado's EMTS System. This would be an increase in fees and the new funds would be used to enhance and expand the EMTS grants program under the rules and regulations promulgated by the Colorado Board of Health. Included in the packet was a sample phone call template for individuals to call their legislators in support of increasing the state EMS and trauma grant program by adding the $1 increase on car registration fees. Carl said that Nancy has been appointed on the SEMTAC, the state board which is a significant step in recognition of all she's done for a number of years; and Garfield County has a good voice there to address our issues. Carl stated they have hired an individual as an independent contractor – Eric Smith and he came on July 1, 2008. We have been very satisfied with him and he has made significant progress. The first one is the transfer of the fiscal agent from the Northwest Regional Council of Governments to the Western RETAC. This was at the Council of Governments request to get that separated from theirs. One of the major things the RETAC does is an advisory capability to what's called the "Acts Allowed" for EMT's in all levels and there will be five levels that are extremely regulated down to a very detailed matrix as to what we can and cannot do based on a specific set of circumstances. The key issue that is managed is the level of the EMT intermediate. This is the advanced life support level and used heavily in Garfield County. The Northwest RETAC has more EMT intermediates that most of the state except for the southeast. Those two are rural areas and the intermediate level is a primary source of advanced life care. There was an effort to eliminate this and it would cause a severe determinate in services. The Northwest RETAC was one of the leads in that and that has been eliminated, and in fact there's a significant amount of state effort to refine that capability. There are continual ACTS allowed and they are continually going and making input on that which impacts the service that we provide in a number of different areas from pre-hospital to inter-facility transport. All of these are vital to the hospitals and the services that we have. This is an on-going issue. In the Long-Term Planning, Carl said

now that we moved funds to the Western RETAC. We are looking again at forming a 501C3 and we are seeking input from the Commissioners on their thoughts on this. Carl is on the planning committee for that. This is not something to get around the Commissioners but we want to understand what the Commissioner's concerns are and where we are going. We will be meeting again in January 2009 to investigate that. Carl said it is important to understand that the RETAC members are appointed by the Commissioners and serve at your pleasure so we if we are not going in your direction then do us a favor and find somebody else. We clearly want to support what the Commissioners are trying to do. The purpose of the 501C3 is basically to handle grants and funds and to be a little independent and not being, as Don DeFord said, this ambiguous group out there. We want to get some clarity on where's that's going. This is one thing we are looking for from the Commissioners, where do you want us to go with this. Is this within the realm of possibility or are we wasting our time.
Commissioner Houpt would like to see more information on what others are doing and why it really serves everyone well to have a 501C3 so you can handle grants; I wouldn't want to close the door to that without having that level of information. Carl said they have asked Eric to develop and start that process to see what other RETACs are doing and some more specifics on how it would help us, etc. We are pursuing that and we will come back in the near future to get this information back to the Board. Commisisoner McCown asked if the RETAC as an entity has legal counsel. Carl said we use the County's legal counsel. Commissioner McCown – Routt and Garfield County have probably been the two most active counties as far as trying to figure out what a RETAC is when it grows up and statutorily I think there are still questions as far as forming a 5013C; you are doing that under what authority? Are you going beyond your statutory limits by even forming these? I think it would probably be wise to get some outside counsel and not rely on County attorneys that may or may not be working at the pleasure of the Board of County Commissioners that appoint the members that make the RETAC. There could be a very clear conflict of interest there since they both work for us so; it may be smart to seek outside counsel before you proceed further with your 5013C plans. I've questioned it and if you read the statute verbatim you have one purpose and that purpose was to create the rules and the guidelines that the State send you down and charged you to develop this plan. Once the plan was developed you ran out of statutory authority real quick as far as doing anything else; so I would advise you to seek legal counsel before you go forward with this Carl so you don't get crossways. That would be my concern and I think your intentions are pure and I'm not saying there's anything particularly wrong with what you're doing; it's just a matter of having the statutory ability to do it. The EMTAC as much as the RETAC is a very thinly organized outfit and you will it's very specific in its formation and very limited in its scope as to what it can do. So everything that has happened has because nobody's called anybody's bluff on it; but one of these days if you get to dealing with considerable more funding which is the second part of your presentation here that could be an issue.
Carl said we have gone to the legislation and for a number of years, even though people don't realize it, but we have created a fee that goes to the state and runs the Emergency Medical Services Division of the Colorado Department of Health that was created in 1989. Obviously it raises about $5 million dollars currently of which there's approximately $1.5 million depending on the year going out in grants. The grants received in Garfield County in the last three years have been successful and prior to that there were other grants that the state just did not have the data that Carl could submit. The proposed legislation changes the $1 dollar to $2 dollars a year and that $2 dollars a year will raise $5 million dollars and be handled by the same rules that the current process that it currently being handled with the rest of the grant proposals. Of that $5 million dollars, $300,000 will be to monitor this grant system and the remaining $4.7 million dollars will go to local EMS ambulance services across the state for various funding. The purpose of doing this is to expand the funds. Currently we get money for equipment and for training and we want to expand that and hopefully do it with fixing facilities and operations. The majority of the money goes to the rural areas and what they call frontier, which is a question that has been raised, but a lot of Garfield County is frontier and a lot are not even in a fire district or ambulance district. It's to help fund those services that are financially unable to do that without grant sources. Carbondale has been successful at that and a number of other agencies have been successful in raising this money. So, what we are doing today is telling you about this and if you're aware of this then is it appropriate for us do to that; and secondly is to ask for your support either formally or informally through Colorado Counties. This has been discussed in CCI. Nancy – We have held conference calls about it and what they've been doing about it so far as the legislature. The Bill is supposed to be available in the next week or two and there are perhaps local people who want to raise legislation fees for other things from training and for road and bridge funding. It may get spent on a variety of issues. They wanted to explain purely what this part is about and emphasis that it is for rural, frontier and underserved areas. The state is aware of that and the only funding that ambulance services have is through the grant programs so it services more and more services. We don't have the funds for personnel and that is something they want to deal with in this issue especially for smaller agencies that don't even make a wage or budget out of their transfers. Commisioner Houpt thinks this is an important Legislative Bill but you have challenges in front of your because the Blue Ribbon Panel for Transportation is coming up with a full set of recommendations for increased fees for maintaining roads around the state. Who is sponsoring this? Nancy – Senator Morris in the Senate from El Paso County and Cherylin Peniston is the Representative from Westminster; Adams County has one and a variety of people are deciding if they are going on as co-sponsors. Coming from CDPHE in our government office, they realize the economy is in a tank and this may not be the year to do this but the plans were already going along and then October happened. We realize it is going to be very difficult thing to do. Commissioner McCown – Another issue with it is this the way RETAC in the not too distance past has chosen to take money directly away from the Counties and apply it to administrative costs. To me they are speaking out of both sides of their mouths if they are saying that these local entities are suffering from the lack of funding. They are taking funding away from them to run the next level of the bureaucracy. I don't think they are showing a lot of sincerity to those local entitles, the actual EMTs and folks that have the ambulances on the grounds if they are applying that money to administration. I see this as another source to come up with another $5 million dollars that could be possibly re-appropriated at the RETACs bequest and that whoever could turn this into another dynasty. The guys that are still struggling in Saguache County don't have anyone to work and no ambulances there.
Nancy said her understanding, unless things change, and what they've told us so far is that that $30 million goes to the grant program which is RETAC. Commissioner McCown – The RETAC and all that funding was created by that same $1 dollar registration. So this funding will go into that same $2 registration if it passes and that

concerns me because previously some of that funding has been handled has not come back to the local entities that have depended on it. Carl addressed this because he is on the planning committee and in 2007 and 2008; we have increased the funding back to $15,000 from the $14,000. Commissioner McCown – But it was taken at the discretion of the RETAC and if the administrative costs go those will have to be funded by some mechanism and this fund is the only one that RETACs have at this point. Carl said there are concerns and he shares them. Chairman Martin acknowledged that this would be a tough sale. Any kind of increase will be because of the fees that are being taxed and disguised as a fee is going to be astronomical this year. Every agency in the state is putting extra fees on top of things. CDOT is looking for a billion dollars. Commissioner Houpt asked if there are some protections to be put in place as a result of the language in the proposed Legislative Bill to make sure these monies go to these rural districts for operations. Carl – There is the legislation; it "allows the state EMS to create regulations" which they have done and that sets up how this is done. They have made promises and now we have someone on the SEMTAC who's here to monitor that. Commissioner Houpt – So the promises have been made in writing; it will be easier to call people and try to convince them if there are some protections. Nancy said she has not seen the 1989 law but the original law had words in there for rural, frontier and under severed services; that has not changed and was what the previous grant program was based on. It is also what the future increase in fees was to be based. Commissioner Houpt – It says "if there's an increase in funds those funds will go to those services." Nancy – Those are the words she heard being used for the primary use of the grant funds is to rural, frontier, and underserved areas. Chairman Martin said you know the HUTF funds are going down so that may be absorbed in with the allocation for the highway users tax fund and different funds plus CDOT looking at a billion to one and one half billion increase just to stay status quo. I imagine your $5 million dollars will disappear real quickly. Commissioner McCown said given the fact that we don't have the Legislative Bill in front of us, I would make a motion that we table this discussion until after January 13 and that this matter be brought back forward when the legislation is written. You would be dealing with a new Board at that point and they could make a decision on whether to support, not support or monitor this legislation. Carolyn – The meetings are the 5th, 12th and 19th. Chairman Martin – And the 13th for the swearing in. Carolyn said she wrote down at least four things: further discussion on the 2008 report if you want to do that; the 2009 reappointments; the new legislation and funding in general; and the Northwest RETAC report. When is the next Northwest RETAC meeting? Nancy – January 12th.

Commissioner McCown – My motion was for this to happen after the 13th. Commissioner Houpt said she wants to read the legislation. Chairman Martin also wanted to look at the legislation that will be presented because of possible changes. The motion died for lack of a second. There will be another discussion after January 13th. Carolyn reiterated that members will be reappointed January 19th.

CONSIDERATION/APPROVAL OF RENEWAL OF GARFIELD COUNTY BANKING AGREEMENT – 2008 (WITH ALPINE BANK) FOR FISCAL YEAR 2009 – GEORGIA CHAMBERLAIN

Georgia Chamberlain, Don DeFord, and representative from Alpine Bank, Kent Wilson were present. Georgia stated there may be a change in the renewal agreement however; she submitted the renewal banking agreement with Alpine Bank for the year 2009. Don said there were some changes made on Friday. Don explained the changes and some were requested by the bank. When amounts are over $20 million, they have to ensure they have the funds available. Don said they need to add the Immigration and Amendment 54 legislation. Kent said he appreciates the relationship we have with the County.

A motion was made by Commissioner McCown to approve the renewal banking agreement with Alpine Bank for the year 2009 with the changes presented today. Motion was seconded by Commissioner Houpt.

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

DISCUSSION OF THE 10TH SUPPLEMENT TO THE 2008 APPROVED BUDGET AND THE 10TH AMENDED APPROPRIATION OF FUNDS – CATHLEEN VAN ROEKEL

Cathleen Van Roekel submitted the public notice. Don DeFord determined it was timely and accurate and advised the Board they were entitled to proceed. Cathleen submitted the Resolution, Supplement #10 to the 2008 Approved Budget; transfer requests from the Contingency fund, back-up data and requested the Board approve the Resolution. Exhibit A is normally a two-part exhibit and today we have 3 parts. The first two parts are increases and decreases. The third part Theresa said included the end of year expenditures. It includes contingency adjustments in the last quarter of 2007 and adjustments were not made in 2008 and secondly, adjustments were not made for accrued leave payouts and this is in the summary of adjustments.

Commissioner McCown made a motion to close the public hearing. Commissioner Houpt seconded the motion.

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

A motion was made by Commissioner McCown to approve the 10th supplement to the 2008 approved budget and the 10th amended appropriation of funds as submitted. Motion was seconded by Commissioner Houpt.

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

ADOPTION OF 2009 BUDGET AND APPROPRIATION OF FUNDING – ED GREEN, BUDGET OFFICER AND THERESA WAGENMAN, FINANCE SPECIALIST

Ed Green, budget officer and Theresa Wagenman, finance specialist presented the 2009 budget. Since the proposed 2009 budget was presented to you on October 15, 2008 some changes have been made and Theresa explained those as well as presented to the Board in a handout.

Don confirmed the publication was submitted and it was accurate, timely and published in the Citizen Telegram. Chairman Martin swore in the speakers. Theresa submitted the budget supplement and book which contained a memo including the changes made since October; she explained them all. The allocation of mills is found in the budget document. We projecting in 2009 to decrease from 61.4 million dollar fund balance to $49 million due to a number of 2009 projected capital expenditures that are expected to occur and we also assume that all vacancies will be filled. Based on historical results we find the fund balance is likely to end up being $55 to $60 million in both of our county vacancy savings, deferred expenses, underestimated revenues and capital projects that may not happen. Today we are seeking the Board's approval to adopt the Garfield County 2009 budget. Ed stated that we currently have $76.7 million in the fund balance; there will some degradation in the last month of the year but I think you can certainly expect we'll probably exceed the $61.3 that was anticipated. Chairman Martin said it may look good in 2009 but we may need an adjustment in 2010 and we need to prepare for that right now. Commissioner Houpt said the way we've been preparing our budget, we

have been preparing for that and she really appreciated this document. It was written very professional and the materials area really very helpful and hoping that anyone who receives one of these will take the time to read it. It's very easy to understand. Ed and I had a brief discussion about projected budget. The trend we have taken is conservative and we are preparing for the inevitable anytime you have a volatile economic interest in your County. Chairman Martin suggested adding onto that statement the volatility of the nation and the world right now because it's in flux and we never know where we're going to end up. Hopefully we can live within our means; this is a 26% increase overall in the budget from last year. Ed said we are continuing to work on the Airport as well and you can see significant transfers out of the general fund to the airport. Commissioner McCown said I am hung up; again this goes very much against my gain to approve a budget that's not a zero budget. I think we have wisely in the past been very conservative in our budgeting and that's why you see the fund balances you do see and I credit all the department heads and the elected officials for spending very frugally given the funds that they've been given. I hope that we have gotten past the mindset and it would appear we certainly have with the folks we have that if "I don't spend everything in my budget I won't get it next year". I hope we have rewarded people for spending wisely in their budgets and in fact coming in with surpluses at the end of the year and not penalized them if in the following year they needed additional funds for a special project. I think that speaks highly of our people and I know we've got significant projects that are coming up this year that have been reasons to draw down our fund balances but it seems like it is happening easily that because our fund balances are healthy we draw it down. I think we need to keep those fund balances for the days that are going to be coming in 2010 and 2011 when not only the nationwide economy hits us but our local economy on our ad valorum tax base based on production of oil and gas is affected significantly by the activities we're going to see in the first quarter of next year. So, I think we need to be conservative and spend wisely and again I applaud all the department heads and the electives for doing that with their budget. We have given them almost everyting they've requested within reason and they come in with a Christmas list and it's pared down from there but, within reason is the key terminology and yes, I would have liked to have seen a more balance budget where there's not a $12 million dollar deficit. Commisisoner Houpt said it's the large capital projects that are most easily identifiable as those things pushing us over the edge and it's really very important as we move forward on those as a County that we figure out what the needs are in the next 5 to 10 years and how those are going to be maintained with a slim budget that we may see during that time period as well. I would like us to spend more time discussing that at the Commission level with Ed to make sure that we do have a handle on those costs that we will have over the next several years and whether what we're putting in place will carry us in the most practical and cost effective manner. Commissioner McCown – I made the suggestion and I would certain reiterate the importance of the Board being involved in the final cut of the Strategic Plan and Goals that are set forward in the upcoming year for the budget process. We weren't this year; we saw those at the same time as everyone else in the County did when the budget was presented and I don't think that's a wise way to go forward. I would, if I were going to be here next year, discourage that but we are the three that have to finally make the decision on what's in the budget and what isn't and being completed left out of that process I don't was fair to us given the reasoning behind why some of these items were included or excluded. Last year we went through a tremendous exercise that took a lot of time and ended up down almost to rock, paper, scissors. I don't want to go through that again but please include this Board in that final cut on what the priorities are going to be. Commissioner Houpt – Agreed. Theresa noted that on Page 27 of the budget book it would clarify the capital projects. Commissioner Houpt believes that more discussion is needed as we move forward into those projects. Chairman Martin – We are extending out our fund balance and we did save those fund balances and hopefully that we all see the value in the infrastructure improvements that will lead again to reducing the budget overall in the long term. But, we do have to invest initially and this is the bitter pill to actually invest into our future. Commissioner McCown – At the end of the day the capital investment is the easiest to identify but our most expensive and our more precious commodity is our employees and that's where the bulk of our budget goes. So we can build all the buildings we want but if we can't afford to pay people those buildings aren't going to do anyone any good and when the funding gets short, do you turn the lights off in a building or do you lay people off. The demand for service from those people is still going to be there. At the end of the day the personnel costs is what it drives the County's budget. We have an occasional spike where we built a $2 million dollar building or whatever but that ongoing renewal consistent cost with escalation, with raises, with retirement, with all of the insurance costs in personnel and it's there every year; it's reoccurring and it's the first thing we have to look out for. Ed said it is still less than 25% of the total budget, salaries plus benefits and that's significant because he didn't know of any organization that is even close to being that low. Commissioner McCown said the only thing that has allowed that has been the rapid increase in our revenue. Commissioner Houpt included the vehicles and all the other factors that go along with hiring a person has to be factored into that as well. Chairman Martin said the capital projects we are looking at for next year are over $12 million dollars. There's $18 million dollars in reference to the increase in budget where we put our priorities. Commissioner McCown noted we are fortunate to be able to do it because there are surrounding county entities that have zero hiring practices, zero increases in salaries/wages and there is nothing on their expenditure in capital projects. Ed said in October we presented the budget and showed what we did in 2007 where we had a projected end of year fund balance of $46 million and we ended up with $60 million. 2008 is panning out to be more with an expected fund balance of $48.6 and we'll end the year with probably $63 to $65 million. The only factor that could affect this would be with respect to turnover. In the last couple years that has been at 15% and I think it will go below 10% in the ensuing year because people want to migrate to organizations that have a stable job for them. That could affect us by $.5 million to $1 million.

Commissioner McCown made a motion to close the public hearing; Commisisoner Houpt seconded.

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

A motion was made by Commissioner McCown that we approve the adoption of the 2009 Budget and the Appropriation of Funding as presented. Motion was seconded by Commisisoner Houpt.

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

Commissioner McCown made a motion that we approve the Resolution concerned with the adoption of the Budget and the Appropriation of Funds for the fiscal year 2009 and the Chair be authorized to sign.

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

SUTANK BRIDGE – PUBLIC COMMENTS

John Hoffman and Charles Moore spoke to the Commissioners regarding the Sutank bridge. Charles said the bridge continues to sort of sit there and when he met with the Colorado bridge inspector five or six years ago he said he thought the bridge would probably fall into the river within the next three or four years and again that meeting with him was held 5 years ago. Now the floor of the bridge is so rotten and we covered some of the holes with plywood several years ago. It's extremely dangerous now and the thing that concerns me is if it sits now until spring and we get a little bit of snow on it, and the guys at the Road & Bridge have been trying to block it so no one would go across it; but someone keeps taking the chain link fence across it away and he suspects it to be the fishermen. Therefore, he is worried about someone going through the bridge. Charles said he talked to the State Historical Society and the fund which apparently gets its money from the gamblers and they are saying that the grant to restore the bridge is now up to $300,000 which is a stunning amount of money to restore that bridge and the grant probably won't be made until next summer. Chairman Martin said that is about 1/3 of the cost of restoring the bridge. Charles – It seems however if the funding ends up being done and he has talked with the crane service in Grand Junction and they said they could bring in a 90 or 100 ton crane and lift the bridge off the river, put it into the pasture owned by Colorado Rocky Mountain School who has given permission to place the bridge in their field. Then at least it would be safe whether it takes a year or two whatever until the funding is available. If we don't move it and it falls into the river then it's junk and I suspect it would cost a lot more than $20 or $25,000 to fish what's left of it out of the river. However, if someone goes through it in the meantime, that will also be a tragedy. Charles said he is hoping that the Road and Bridge guys could get in touch with the crane operators or have bids, but it would be great if sometime soon we could just lift the bridge off the river and put it into the pasture. More discussion was held with the Commissioners explaining the complexity of this bridge and the discussions held previously about the restoration.
Commissioner McCown – If the crane company wants to assume the liability then we would take it.
Chairman Martin assured Charles that this has not been a forgotten issue and the cost is staggering.
Commissioner Houpt had concerns but she wasn't sure if the bridge would survive the move; then when it's on the land and if someone climbs on it and is injured there is also that liability. Chairman Martin explained that we need to get the engineering report. Jeff has that information and it was estimated to cost approximately $120,000 to rehabilitate the bridge; to move it would cost another $20,000. You also have to consider the piers so we need an updated status report. Charles offered to give Jeff Nelson the crane operator's number and he said he will continue to lobby the state historical society. He has some contacts.
This will be placed on the January 5, 2009 agenda.
CONTINUED EXECUTIVE SESSION – To discuss and obtain legal advice regarding the floodplain regulations as they relate to access routes and grading; liability on activities; and one airport issue.
A motion was made by Commissioner McCown to go into Executive Session.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye
A motion was made by Commissioner McCown to come out of Executive Session.
Motion was seconded by Commissioner Houpt. In favor: McCown – aye Martin – aye Houpt – aye
Action to be taken:
FLOODPLAIN REGULATIONS
Don stated he would like the Board to consider a motion that would direct the Building & Planning staff and legal staff to jointly prepare a proposed amendment to your building code that would exempt the application of the excavation permit requirements as relate to access roads on private property since those roads are regulated by other state, federal or local entitles and pending consideration of such a proposed amendment and defer any enforcement of that provision regarding those roads.
Commissioner McCown so moved; Commisioner Houpt second.
Commissioner Houpt said she was not sure she agreed with deferring regulations of those roads so I look forward to seeing the proposed policy.
In favor: McCown – aye Martin – aye Opposed: Houpt – aye
ENFORCEMENT OF AN AGREEMENT AT THE AIRPORT
Carolyn stated we are looking for authority for the Chairman to sign a default letter under the lease and operating agreement that Mr. Bob Woodward holds and not sure if it's in his personal name, it may have been assigned to an LLC. Commissioner Houpt so moved; Commissioner McCown second.
In favor: McCown – aye Martin – aye Houpt – aye
COMMENTS FROM CITIZENS NOT ON THE AGENDA:
None
CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR AN EXPANSION TO THE 36-1B COMPRESSOR STATION IN THE RESOURCES LANDS ZONE DISTRICT. APPLICANT IS CORDILLERAN COMPLIANCE SERVICES ON BEHALF OF CHEVRON USA, INC. – DUSTY DUNBAR
Debbie Quinn and Dusty Dunbar were present. This proposal is to modify an existing natural gas compressor facility originally permitted under the Chevron Piceance Valley Pipeline-Administrative Permit #712207 in 2005. Dusty said the drilling was never undertaken at the well pad site but it was converted into a compressor station to gather and transfer natural gas to nearby market lines. The expansion is that of adding a Caterpillar gas-driven compressor and skid, with the goal of increasing capacity. No changes to the COGCC site dimensions are proposed. This is an unmanned facility to be operated remotely. The applicant states that one daily trip (via pick up truck) will take place with the purpose of inspection/maintenance. The construction phase for the improvements is brief and the operation of the site will comply with the standards expressed in industrial operations for the mitigation of associated impacts.
Staff recommendation:
Staff finds that because this use type is unchanged on this parcel and because it is located in a remote location distanced from human occupation and in an area with considerable industrial activity underway that it is appropriate to recommend that the Board direct staff to schedule a public hearing for the Board, and not refer the matter to the Planning Commission.
A motion was made by Commissioner McCown that we set this on the agenda for the Board of County Commissioners to hear. Motion was seconded by Commissioner Houpt.
In favor: McCown – aye Martin – aye Houpt – aye

CONSIDER A REFERRAL TO PLANNING COMMISSION FOR A SPECIAL USE PERMIT FOR A CONTRACTOR'S YARD IN THE ARRD ZONE DISTRICT. APPLICANTS ARE SHERRY & RON HARRIS. – DUSTY DUNBAR

Debbie Quinn and Dusty Dunbar were present. The request is permission to store heavy equipment on a residential property in the A/R/RD zone district by a Special Use Permit. The applicants seek permission to utilize a small portion of their property for parking heavy trucks, trailers and implements, and continue to utilize an existing enclosed garage for storage and minor repair. Roger and Sherry Harris operate R & S Trucking and there are no employees that work onsite. The equipment is driven to job sites during the day. If the vehicles/equipment is not stored at the job site, or if it requires minor repairs, it returns to the residence.

Staff recommendation:

Because the proposal is limited in its scope and complexity, staff feels it is appropriate to recommend that the Board direct the staff to schedule a public hearing for the Board and not refer this to the Planning Commission.

Commisisoner Houpt asked about the location as it looks like these parcels aren't that large.

Dusty said this parcel is not that large but the area is below a ditch and on another stand of trees so it seems to be more isolated. There are a number of smaller parcels in the area but there is a heavily wooded area around the backside of this parcel that makes it more private.

Commissioner Houpt responded that over the past few years we've had some concerns with this type of use in a different ARRD area and for that reason feels she would rather see it go to the Planning Commission.

Commissioner McCown - Second for discussion saying he things it is a waste of the Planning Commission's time to hear something this irrelevant; they have much more important things to do. This Board has the authority with conditions to approve, deny, set standards or whatever on these Special Use Permits and it's perfectly within the Board's preview to hear it.

Commissioner Houpt thinks we need to better define what the Planning Commission role is then because we certainly have been directing many applications away from the Planning Commission when there is a certain type of use or development that could create some controversary. I think it makes sense to give the opportunity for a couple of public hearings to take place. In favor: Houpt – aye Opposed: McCown and Martin

A motion was made by Commissioner McCown that we refer it to the Board of County Commissioners.

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

Commissioner McCown – This is disappointing if we don't know what the Planning Commission is doing. I think we've seen the results of their work recently with the rewrite of the Zoning Code and the Building Codes and I think they have their plate full of development issues that carry a much larger impact that this. And yes, everything that takes place in the County in someway or another impacts someone but I think that's what this Board gets paid for as well and that is making the decisions on issues like this that staff brings to us.

Commissioner Houpt – But I think everybody is well aware of what work the Planning Commission has been doing and I also think everyone's aware of the dual function that these commissions have. I'll stand by my position. In favor: McCown – aye Martin – aye Opposed: Houpt – aye

DISCUSS THE RESULTS OF THE 2008 GARFIELD COUNTY PUBLIC OPINION SURVEY AS CONDUCTED BY THE PLANNING DEPARTMENT AND VENTURONI SURVEYS AND RESEARCH – DAVID PESNICHAK

David Pesnichak and Linda Venturoni presented. The planning department has been in the process of doing the public opinion survey which is now ready for presentation to the Board of County Commissioners and the public in general.

2008 Garfield County Community Survey:

Executive Summary Report, December 2008

Purpose and Methodology

The purpose of the 2008 Garfield County Community Survey is to collect input from the community to be used in the new Garfield County Master Plan.

A book was also presented to the Commissioners showing the full survey report.

Specific areas identified for community input:

- Land use
- Growth
- Most important issues
- Strategic planning
- Impact fee initiatives
- Values/Assessment
- Oil & gas development
- Priorities for County Government
- Vision for the future

Methodology

In 2008, Garfield County contracted with Venturoni Surveys & Research, Inc., (VSR) to perform the survey analysis. The Garfield County voter registration list was used to sample local residents. Random sampling techniques were employed to select the samples. Letters were sent to potential respondents directing them to go to the internet to fill out the survey. All respondents were assigned identification numbers (IDN) to assure that no duplicate responses were counted. After two weeks, if the potential respondent had not filled out the internet survey, they were sent a reminder letter, paper copy of the survey and postage paid return envelope. The number of surveys that were mailed, the number of surveys delivered (surveys not delivered were returned by the post office as "undeliverable"), the number of surveys completed and the number of surveys returned, % response, and resulting margin of error at 2.96%. 478 people or 46% of respondents chose to respond to the survey on the internet and 570, or 54% chose the paper alternative. The internet/mail surveys were conducted in September and October 2008.

Highlights of Survey Results

#4. Survey Results by area:

Survey respondents were given a map and definitions of the geographic study areas identified for the survey.

Definitions of the Study Areas:

Area 1 - Carbondale (Includes the Town of Carbondale, Missouri Heights, Aspen Glen, and South of County Road 114 AKA "CMC Road")
Area 2 - Glenwood Springs (Includes the City of Glenwood Springs, West Glenwood Springs, Ironbridge, Sweetwater, Four Mile Road to Sunlight, North of County Road 114 AKA "CMC Road", Spring Valley, Red Mountain Road, Mitchell Creek, Canyon Creek, and Riverbend)
Area 3 - New Castle (Including the Town of New Castle, Castle Valley Ranch, Apple Tree, West Elk Creek, Main Elk Creek, East Elk Creek and County Roads 245, 243, 241, 314 and 328)
Area 4 - Silt (Including the Town of Silt, Harvey Gap and areas South, Silt Mesa, Areas East of County Road 227 and West of County Road 238, Divide Creek and County Road 313, Mamm Creek and County Road 315)
Area 5 - Rifle (Including the City of Rifle, Rifle Gap Reservoir area, all development off State Highways 13 and 325, the Garfield County Airport, Grass Mesa, and Areas East of County Road 317 and West of County Road 319)
Area 6 - Parachute (Including the Town of Parachute, Battlement Mesa, and All Areas West of County Road 325 to the Utah Border including County Roads 215, 204, and State Highway 139)

Linda Venturoni presented charts and survey results to show the study's conclusions.
Cheryl Chandler - The perception is not reality.
David said this survey was not to assess what people knew about the County but where they sit in their lives and how does this County look to them. So trying to measure what people know about Garfield County is a different survey and for the Comp Plan itself, it was really useful knowledge or information for us in the sense that people know there is an affordable housing problem, people know if they can't afford something. That's why it is really useful for us in terms of going into the Comp Plan which is a policy document. This isn't supposed to be a course in government operations. It certainly affects governmental operations but in this point of view it is more valuable to find out how people see their current lives than to education them on the ends and outs of the survey. Plus, putting all that information into a survey would have made it way too long for anyone to complete and it doesn't really fit in this context. This is just the beginning; it isn't the end of anything. This is to get our understanding of what people's lives look like to them. Commissioner McCown asked at what point in this process are you saying "this is the beginning" so where does reality get plugged in. David said the reality will come in the next two years over the Comp Plan rewrite process through the public meetings and other tools to say okay this is the way people view their lives; this is the way that people say the cost of living is tough. Commissioner McCown – You made a comment that people know there is a housing shortage and they know if times are hard but those same people that were questioned said they wanted to preserve the rural characteristics, cut down on growth and eliminate density. David – It wasn't to say that all the responses were going to be consistent with each other; people may very well say they may want cheaper housing and they want to be the only one in the County. We may not be able to accommodate that but that is part of their desire for our land use. Linda said a lot of times in these surveys, there are things that come out that really point out to educate the people more on certain trade-offs that need to occur. Commisisoner Houpt thinks it is a great opportunity to educate those of us who are creating policy because there is reality to the way people respond to surveys. They move to Garfield County or Denver for certain lifestyles and for certain reasons. And, those people who made the decision to spend time responding to this survey took some time to think about why they were living in Garfield County. So, yes there may be certain regulations in place that are already looking at some of their concerns, but if there are, then good for us, we're responding to a situation that our constituents have. This allows us to get even a better understanding of what the people we work for what want to see happen in this County. Chairman Martin – On the survey, did it say, have you dealt with Garfield County or land use regulations because that goes back to what Tresi said; otherwise, it's total perception without research on their part. Speaker - The specificity of it matters whether we have an affordable housing program in place and they know it or not, they are just identifying affordable housing as a concern. So I think we stay to the generalities of what they are tyring to achieve here and the specifics come later as you filter through it. We can tear this survey up by going to this and that but if you look at what you are trying to express to us here is roads are important whether they know a darn thing about it or not, it's perceptions. Whether Carbondale is informed on oil and gas - a percentage of them didn't care for it come hell or high water. David Frey – This is a polling of what's important to people in their lives today and my heart goes out to you Commissioner for having to deal with a Comp Plan that perhaps is outmoded and you had to rely on that document to make the decisions in the recent past which may not reflect present thinking. So, if you try not to get defensive about your past performance this survey is the beginning of fresh thinking. Chairman Martin – That may be but is it perception or it is reality that's what I'm looking at. You've got 22,000 people identified and 4,000 surveys were sent out and then you had 1,000 who responded. I'm trying to find some comfort in the survey itself. Commissioner Houpt said there was a science to doing this and it's tried and true and let's let Linda proceed. Commissioner McCown – And the reality is that - every four years on Election Day. Linda stated on the demographics they were all registered voters, homeowners and renters and we ended up with mostly homeowners; family status you have a lot of people who are retired and also a lot of people with children. We do random sampling techniques and when you do that you are measuring perception. Chairman Martin said there are 53,000 people here and then 22,000 were surveyed and then 1,000 responded. Linda said the way they did the sampling you can extrapolate it to the entire population within that margin of error. David –A document was handed out with the results and he said this is a useful tool as we get into the planning process. It's more or less a map book; that's what he calls it. Linda will be invited back and we'll have another opportunity once this information has been digested. Commissioner Houpt stated it is important for us to sit down and absorb the material and as we complete the Comp Plan we should educate people on why they should be paying for this kind of survey.
Speaker - The bottom line is to write a Comp Plan for the unincorporated Garfield County; one survey just for them. If you have landowners and you solicit them you will get a very different plan of how they want the County to look. Unincorporated areas should have a large say in the Comp plan. David explained why those who live in unincorporated areas are still Garfield County residents. One of the questions in the Comp Plan is to guide development in the municipalities. Chairman Martin said that lifestyles are different depending upon where we live. David – How is the County doing? What's important, it has to address all the issues in the County. Chairman Martin agreed this is just the beginning. Phil Vaughan spoke as a member of the Planning

Commission. You talk about the process and the role behind the survey but we didn't have any involvement as the Planning Commission. Commissioner McCown stated that the Planning Commission was to have input into it. He made the motion and that was one of the conditions. Linda said she worked with the staff and most of these questions were used in other counties. Phil – The Planning Commission has been tasked with the rewrite of the Comp Plan and we will come together to do that and take this information and digest it and continue on in the process on putting together the Comp Plan rewrite and work through that process as professionals. We've got a great group of staff, great group of volunteers, and people that work together on this. We'll come up with a Comp Plan that works well for Garfield County and we'll move forward on it. Phil said his wife received a survey and she completed the survey and said I really feel that this survey is noting that Garfield County is deficient in many, many areas because it was educating the survey taker. From what we learned today, I think it tells us why the company set forth in that fashion because it was not an educational tool it was a tool in order to evaluate what people currently feel about Garfield County. So with that information in our minds, we as recommenders and policy makers and volunteers for the County can make appropriate suggestions about what should happen on the Comprehensive Plan but that was something I was unclear on, so I learned a lot today too. Commissioner Houpt said there will be numerous other community members involved in the Comprehensive Planning process so that will help to better understand this survey as well. Chairman Martin said I would like to have had certain questions that I need more information to make my decisions and they were not asked. These are important questions to me because we obviously make the decisions but just a hint about what those questions would have been on the survey, it would have been nice not to guide the responses but to see what the responses were. Those questions will not be answered until we go through the second phase. Fred thanked Linda and her team from doing what was a really good job and Commissioner McCown is right, we talked about this at the Board and the involvement of the Planning Commission. What we were trying to consider was the important scope and who was going to do what. The further we got into it we realized as Phil said be careful not to cook the books before you put the survey out. That was the whole point and so in trying to achieve this ability of keeping a very unbasised hands-off from a policymaker prespective, it was critically important because we sure didn't want to go into this with a policy maker crafting everything and then lead the public. The Planning Commission has a very robust task ahead of them but as this Board does too in crafting policy regardless of the Comp Plan. There are gems in here obviously on how you read the question with the results and that's very legitimate actually. The Board is not the crafter of the Comp Plan, the Planning Commission is but at the same time this should be a huge set of values for this Board to contemplate from recycling programs to affordable housing. The comment before that Tresi had made where, okay people don't know we do have affordable housing regulation in place; kudos to you that you do and you also have the government stepping in where private industry won't in creating sites in Rifle – a lot of people don't know that's going on so all of a sudden you can say, perception is reality but we are doing these things and it's a great opportunity for the County to step up and say we're thankful of your opinions and we wants to show you how we're trying to get there. Commissioner McCown told Fred, I don't want to second guess in their wisdom but when you have a motion and it has conditions it's no different than we vote on a land use issue with conditions and if those conditions are changed or not followed after the fact there should be some recourse. I can tell you, I made the motion and the motion had the condition that the Planning Commission would review these questions and as planning staff's wisdom that they didn't want to skew it and didn't want to do whatever, and went ahead and we've got a tail wagging the dog situation here. I really respect everything that you guys have done but when this Board makes a motion and contingents it on how the action should happen, that's what I, as a Board member, expect them to be. I would have sworn on a stack of Bibles that the Planning Commission had looked at every one of these questions and blessed them and said we can deal with this – send them out. I am flat out disappointed. Fred – This is the area where you get into whether you negotiation land use by ballot measure or not but I think you have a very viable product.

ADJOURNMENT

Attest: Chairman of the Board

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DECEMBER 22, 2008
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 11:00 A.M. on Monday, December 22, 2008 with Chairman John Martin and Commissioners Tresi Houpt present and Larry McCown of conference call. Also present were County Manager Ed Green, County Attorney Don DeFord, Carolyn Dahlgren, Deborah Quinn and Jean Alberico, Clerk & Recorder.

CALL TO ORDER

Chairman Martin called the meeting to order at 11:00 A.M.

CERTIFICATION OF MILL LEVY – JOHN GORMAN

Lisa Warder presented the Resolution and Certification of Levies for fiscal year 2009.
The public notification was submitted. The levies and revenues as reported by all the taxing authorities were submitted to the County and will be submitted to the State of Colorado.
Don said they provided a form of Resolution as required by law and asked the Board to approve the Resolution concerned with approval of the Mill Levies for Fiscal Year 2009.
Commissioner Houpt made a made a motion to approve and authorize the Chair to sign.
Commissioner McCown seconded. In favor: Houpt – aye; McCown – aye; Martin – aye.

EXECUTIVE SESSION – DON DEFORD

Don had two items both of which will require public action.Carolyn needs to provide advice on litigation to the Airport and receive direction; Don needs to inform the Board of the changes that will were requested by Alpine Bank on the Banking Agreement.

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.

XCEL LINES AT AIRPORT

Carolyn Dahlgren stated she had received a counter offer from Centennial Rifle requesting an extra $35,000 to go from the $60,000 that you had proposed to $95,000 which would be ½ of Centennial Rifle's cost to move the Xcel lines on Centennial Rifle property. This dollar amount would be outside of any final evaluation in court over the value of the property that you are taking. Carolyn said it is the estimated cost to move the lines as given to us in November by Xcel.
Commissioner McCown said based on the recommendation of the Airport Manager I would make a motion that we allow the expenditure of $35,000 more bringing our total contribution to $95,000 and that would be an amount not to exceed on the movement of this line. Commissioner Houpt seconded.
In favor: Houpt – aye McCown – aye Martin - aye

BANKING AGREEMENT

Don said at the last meeting the Board approved the Banking Agreement with Alpine Bank for 2009. After the meeting and the action of the Board, I received a request for alterations for the form I presented to the Board. Those requested alterations and substance would alter the term of agreement which would terminate December 30, 2008 and terminate the agreement on December 29, 2009, and specifically provide that Amendment 54 provisions will be enforced only if applicable to this agreement and lastly in the event of the violation of statutes related to immigration, remove the language specifically stating they are entitled to consequential damages but leave all other remedies available. Don said he needs direction from the Board in order that he can respond to counsel for Alpine Bank; and if the Board accepts these alterations as made, I need a motion to that affect authorizing the Chair to sign the agreement as changed by Alpine Bank. Commissioner Houpt – Every single contract that we entered into this month, others have to follow Amendment 54 and I haven't decided how I'm voting on this yet but I'm not pleased that we are being asked to change this at the last minute. Commissioner McCown - Given the unknown about this particular piece of Initiative that was put before the voters in November, I don't think that Alpine is doing anything illegal. They are creating a system where they would fall under the compliance for the law as the amendment to the Constitution was written; if it does not take place after the first of the year, they don't have to comply. Now next year, come renewal time, they will have to apply or a new RFP will have to be done on these and then if you do an RFP you don't have to comply anyway. So, I guess I'm not as upset about it. I think their lawyer; it's back to the same old scenario, if you build a better mouse trap, you get a smarter mouse. And Mr. Emerson has come up with the smarter mouse syndrome and we're still dealing with the same bank that we have put our faith in for the last several years. They are not doing anything illegal or ill ethical. I don't have a problem signing the contract given the changes that their attorney recommended. Commissioner Houpt asked Don, won't this also require a change in the current contract? Don – Yes, the renewal on December 29 of this year. Chairman Martin – And then just reinstates this one with the new dates. Don said what he will suggest to Mr. Emerson, if the Board is willing to go forward with the substance of these changes as in Paragraph 4 making provision and terminating any existing rules. Commissioner Houpt said she is probably going to support this because it would put us in a horrible position if we didn't have a bank to contract with, but I'm not pleased with this tactic at all. Commissioner McCown made a motion that the Chair be authorized to sign the contract as amended based on the recommendations of Alpine Bank's attorney. Commissioner Houpt seconded.
In favor: Martin – aye McCown – aye Opposed: Houpt - aye

ADJOURNMENT

Attest: Chairman of the Board

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