

MARCH 12, 2007
PROCEEDINGS OF THE GARFIELD COUNTY BOARD OF COMMISSIONERS
GARFIELD COUNTY, COLORADO

The regular meeting of the Board of County Commissioners began at 8:00 A.M. on Monday, March 12, 2007 with Chairman John Martin and Commissioners Tresi Houpt and Larry McCown present. Also present were County Manager Ed Green, Assistant County Manager Jesse Smith, County Attorney Don DeFord, Carolyn Dahlgren and Jean Alberico Clerk & Recorder.

CALL TO ORDER

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

PUBLIC COMMENTS FROM CITIZENS NOT ON THE AGENDA

None

COUNTY MANAGER UPDATE – ED GREEN

- ***Approval of new members for the Human Services Commission***

Applications for Ronald Palmer for youth in western Garfield County; Jamie Lopez Ortiz representing social justice; and Cory Cook representing Boy Scouts were submitted for the Board's consideration for appointments to the Human Service Commission.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve Ronald Palmer, Cory Cook to the Human Services Commission.

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

- ***Proposed changes to GARCO GIS Parcel Data Distribution Policies document – Rob Hykys***

Rob stated during the discussion of the document, an inconsistency in the policies with regard to fees charged for the use of the data was pointed out. It was suggested that School or Library Districts should be subject to the same policies as Non-Profit Entities.

Policy #7.0 Special Districts: Special taxing districts which do not contribute monies to the Garfield County general fund are required to pay for GARCO GIS Parcel Data. Exception is made for School Districts and Library Districts, which are subject to Policy 6.0. Emergency service providers, organized as special districts, are subject to Policy 8.0. Special Taxing Districts shall not re-distribute GARCO GIS Parcel Data.

Policy #6.0: Non-profit entities: Non-profit entities are eligible for receiving Garfield County data free of charge if the use of the data will assist with a County or municipal project within the County. Contractors working for non-profit entities will be subject to the requirements described in Policy 4.0. If, at the GIS manager's discretion, it is determined that no benefit will be realized by the County with distribution of the data, the County may charge the requesting non-profit entity for that data in accordance with policy 5.0. The GIS manager may also waive data fees if providing data to the requesting non-profit organization is deemed to be of benefit to the residents of Garfield County.

Commissioner Houpt appreciates the changes.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to approve the changes to the Garfield County GIS Parcel Data Distribution Policies as presented.

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

- ***Child Support Award Presentation by the Colorado Department of Human Services***

John Burnhart, Larry Damien, Joy Davis and Lynn Renick were present.

Larry Damien presented awards and stated this is a program to collect child support and they have very ambitious goals. Competition was spurred called "going for the gold," and recognized the staff for achieving the cost dollars collected for a small county (Pitkin County). He also noted that Garfield County was the 3rd largest collection in the state.

Joy Davis, her staff Nicole Gray, Desiree Carpenter, Terry Peckham, Michelle Gardineer, Marti Ziegler, Maureen McCoy, Janelle Navarro and Lynn Renick were present.

- ***Procure a skid steer loader for the Fairgrounds – Jesse Smith***

Tim Arnett and Jesse Smith were present.

3 bids were received.

The recommended award bid for the Bobcat of the Rockies for providing one (1) Bobcat S185 Skid Steer Loader for a not to exceed amount of \$27,018 was submitted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the award to Bobcat of the Rockies for \$27,018.00.

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

- ***Procure a landfill compactor – Marvin Stephens***

Tim Arnett and Marvin Stephens were present.

Marvin said two bids were received and one withdrew. We did well on the trade of the old compactor and came in under budget.

The recommended award bit for the Wagner Equipment one 816F Series 2 Caterpillar Landfill Compactor including trade for a cost of \$214,251.00.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the bid from Wagner for one 816F Series 2 Caterpillar Landfill Compactor for a trade in cost of \$214,251.00.

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

- ***Procure two tandem dump trucks with quick hitch snow plows – Marvin Stephens***

Tim Arnett and Marvin Stephens were present.

The recommended award from Western Colorado Truck Center for two Mack Granites for a cost of \$289,584 after trade was submitted.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the bid to Western Colorado Truck Center for two Mack Granites for a cost of \$289,584.00 after trade.

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

- ***Discussion and action regarding charitable donations***

Ed stated a discussion was held with the wellness committee and they suggested the Pedometer funds be put into the competition and then the winner would donate a nominal amount to one of their charities. Carolyn mentioned Amendment One and her concern regarding the cash and payroll and said this would create a lot of problems. She requested to give legal advice regarding this in Executive Session.

COUNTY ATTORNEY UPDATE – DON DEFORD

- ***A. Consideration of Request to waive Treasurer’s Fee – City of Rifle Land***

Don DeFord were present.

Don stated that Georgia was supposed to be here for this action. This action is to waive the treasurer fee with the City of Rifle. This is for the Justice Center facility and the IGA with Rifle.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to waive the treasurer’s fees on the Justice Center in Rifle.

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

- ***B. Consideration of MOU with BLM, White River Field Office – Jesse Smith***

Don and Jesse were present.

A Memorandum of Understanding (MOU) setting for roles and responsibilities for Cooperating Agencies with the White River Field Office (WRFO) of the Bureau of Land Management (BLM) for the purposes of collaborative planning and production of an Environmental Impact Statement (EIS) for the White River Field Office Oil and Gas Resource Management Amendment/Environmental Impact Statement was submitted.

The purpose for this is to carry forth responsibilities and mandates under the National Environmental Policy Act and Council of Environmental Quality regulations at 40 Code of Federal Regulations, Part 1500 and the Federal Land Policy and Management Act CFR Part 1500 recognizing a compelling need to ensure that the interest of Garfield county is accounted for, and are meaningfully involved in the resource management planning process and associated EIS.

Roles and responsibilities, funding, joint responsibilities, implementation, amendment and termination were discussed.

A motion was made by Commissioner Houpt and seconded by Commissioner McCown to have the Chair authorized to sign the MOU with BLM and WRFO and the appoint person is Jesse Smith.

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

The first meeting is in Kremling in April.

Citizens not on the Agenda

Land Use Issue

Chris Jenusz – owns property near Buffalo Valley – 1.5 acres with two homes currently on it. A couple who have lived in one of the homes since 1964 received an eviction notice 6 years ago and ever since then he has been trying to correct the situation. It is a legal residence and was in effect prior to the 1973 zoning code. Chris has tried to split the property in half and if he is unable to accomplish this then the current residents would receive another eviction notice. This should have been treated as two separate lots. He has been to the Building Department and they have said there is nothing they can do; he would need to go through the Subdivision process for a cost of \$2500. Well, he finally decided to submit an application and did so about two months ago. The Building Department has explained to him that he doesn’t have a title to this subdivision and Chris has tried to explain that he wasn’t trying to subdivide; this is a two-parcel property and each parcel has its own utilities. Chris wants to cut the property in half. He has all 6 years of documentation.

Don said the legal department has not discussed this between the legal staff and the building department. Sounds like a formal operation that needs to go through the Board.

Don suggested they would discuss this and determine the problem. Don told Chris he should expect some correspondence from the Building Department.

- ***Executive Session: Litigation Update: Legal Advice –discuss the Silt BOCC litigation, Carolyn – Legal status of charitable donations, Legal advice request on the Burning Mountain Fire Protection District; Easement contract; BLM; PIS contract; Silt BOCC litigation; legal advise of the Burning Mountain Fire District; Contract negotiations for CR 204; Vezzoso code enforcement and particularly a case referenced by their attorney; Information on a notice of claim and Direction 221 position letter.***

Marvin is needed for Silt and CR 204.

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

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

[Issue already acted upon]- Waiving of Treasurer’s fees for the Justice Center

Georgia Chamberlain said it was understanding that the Board decided to waive those fees.

Commissioner McCown – just on the construction of the joint facility in Rifle.

Georgia - the Treasurer’s fees are somewhat of a misnomer; she collects the fees but the Board gets to spend those fees as they are placed in the general fund. In the future when it does come up to keep that in mind the BOCC can spend these fees however. It is fine; its two governmental entities and the taxpayers would appreciate the fees waived.

COMMISSIONER REPORT

Commissioner Houpt was in Washington DC and it was a very comprehensive week with discussions. She will submit a comprehensive report and would like to present it next week with a hard copy. There were very good meetings not only on energy and environmental issues, but other issues with respect to water ways and applicable

water, immigration reform and many others. This week on Thursday, Air Quality meeting in DeBeque at the Community Center and CCI on Friday.

Commissioner McCown – Jury Duty and Northwest Oil and Gas in DeBeque as Tresi mentioned from 10 until noon. Chairman Martin named the different issues that were discussed in Washington: those are to oppose the unfunded mandates, public lands, highways, health and human services reform, farm bill reauthorization, water projects on public lands, renewable energy and conservation, immigration reform, aviation reauthorization, special efforts in reference to counties and methamphetamine crisis, the transit issues that we have in front of us and the needs for funding and how to work that, repeal of the holding tax and federal taxes in reference that are affecting the different county issues, tourism, amenities, and land use and the endangered species. We went again to all 8 Colorado Legislative offices and talked to individuals as well as their chiefs of staff. We mixed it from the state of Washington to Maine, Florida to California – all representatives in exchange of information, etc. Out of that the BLM deputy director contacted John to attend a meeting in Denver tomorrow morning at 8:30 a.m. on the conflicts between grazing and multiple uses on public lands. John will attend and represent Garfield County CCI and WIR. This is a 2-day event.

Commissioner Houpt – another big thing for the National Association of Counties, renewal energy conservation seems to be the major focus this year and NAACO adopted a preliminary Resolution to support and demand that Congress really look at climate change and start putting monies into programs and research toward finding resolves and helping local governments move toward processes to assist in mitigating the pattern of climate change. This had a lot of support.

Chairman Martin –we recognize there is a nature phenomenon of climate change and we all recognize that, it was the acceleration of green house affects and our contribution to it. Commissioner Houpt – also had a meeting with the highway and transportation commission that has been traveling around the country with different communities and there is a real recognition that the solutions for tomorrow are not in continuing to widen highways but looking at issues and mass transit and also as we'll move into more transportation opportunities we have to look at different ways to fund highways and transit, so they are working as a commission at the national level to try to come up with some solutions and it will be interesting to see how the governor's transportation commission views this. Immigration issues were the same as the past three years and nothing has moved forward at all.

CONSENT AGENDA

- a. Approve Bills
- b. Inter-fund Transfers
- c. Changes to Prior Warrant Lists
- d. Approval of the BOCC Minutes for February 5th and February 12th
- e. Authorize the Chairman to sign the Amended Plat for Cerise Ranch, Phase I, Lot 1. Applicant: MKS Investments, LLC – Craig Richardson
- f. Authorize the Chairman to sign the Resolution of approval and the Martin Subdivision Exemption Plat – Applicants Marl L. Martin and Patricia L. Martin as joint tenants and Mickey M. Martin – Fred Jarman
- g. Authorize the Chairman an Amended Plat altering the road names within the Aspen Glen PUD. Applicant: Aspen Glen HOA – David Pesnichak
- h. Liquor License Renewal for Fairway Café at the Battement Mesa Golf Course and Kum and Go \$906 located on Battlement Mesa – Jean Alberico
- i. Authorize the Chairman to sign the Conditional Use Permit and Resolution of Approval of Home Occupation” allowing an arts studio on a property located at 7205 County Road 100. Applicants: Matthew and Deborah Welles – Craig Richardson

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

REGULAR AGENDA PUBLIC MEETINGS:

- ***A. Walkway up to recreation area on CR 107 – Linda Peacock***

Linda Peacock requested a walkway up to the recreational area on CR 107 from the BLM. She reiterated that it is unsafe and hundreds of people go up there and use the area. She also questioned the possibility of having a parking area at the head of the area. She posed the question of keeping the speed limit to 25 mph and posting walking signs.

Chairman Martin knows the area as Red Hill and commented that Davis Farrar was working on this. Chairman Martin suggested contacting Davis and work as a group on that.

Chairman Martin referred Linda to the Road and Bridge Department. He agreed this is a safety concern that we need to address. Sounds like the group needs to get together and address several issues. We need to see if they are still in force and if the Carbondale recreational folks are still are a part of that working group and Road and Bridge and sit down and discuss those issues and bring them forth. Acquisition of land at the trail head would require discussions with BLM because they own the land. He will take the initiative to contact Jamie and Davis and get back to Linda at 963-7200.

- ***B. Dumping of cars on private property – Bob Raymond***

The subject today stemmed from an incident that occurred on February 21, 2007 when dispatch was advised of a disturbance at 07338 CR 113 in Glenwood Springs. The incident involved four male individuals involved in a verbal altercation regarding vehicles that were being left on Bob Raymond's property formerly rented to an individual who had since been evicted.

Bob Raymond was in contact with Chairman Martin and stated he didn't have proper notice of the meeting today, he was expecting a phone call letting him know this was agended. He didn't get it and therefore he requested a postponement for 7 days. He requested this be heard at 2:30 p.m. next Monday, March 19th.

There is an investigation report and some things that Code Enforcement Officer Ron Van Meter did as well.

Lou Vallario was okay with this schedule.

Public comments and feedback.

Bill Slattery – I'm a land owner out south and have the problem as well and wanted to listen and see what I can do and can't do. We have cars off of Hwy 82 dumping on 154 Road and it's a problem and wanted to know what he can legally do.

Lou – this problem that Bill has is different than this issue – this is a private property issue. Vehicles that are off of County roads, public roads, on the right of way or on the shoulder is something the Sheriff can address. Either the state patrol or the Sheriff's office, we can red tag them and attempt to make contact and if not tow them. The issue with Mr. Raymond is a private property issue where there are vehicles left on his land at the hands of a previous tenant.

Chairman Martin thinks Bill is in the same position.

Bill Slattery said he is getting cars that are illegal and they are parking their cars on my parcel of property and leaving. Some have been there since October. What do you do?

Lou suggested Bill call him and he'll see what he can do. The stipulation is different on private property and public property.

Commissioner McCown – once the vehicles are towed it's not that easy; there is a real issue with old and abandoned vehicles left on property. The laws are in place but there's a piece of legislation missing to deal with these cars.

Lou – vehicles have VIN numbers and it is difficult for property owners to address this issue.

Bill – towing companies are unable to help with these vehicles.

Lou agreed that it is a statewide issue.

- ***C. Discuss funding for RFTA Transit Study – Dan Blankenship***

Pitkin County Commissioner Dorothea Farris, Alice Laird, Kristin Kenyon and Jason White were present to follow up to Dan's memo and provided a Power Point to better explain the planning efforts.

Kristin stated RFTA is seeking a transit planning partnership with Garfield County and other local governments in the region. The planning study area would include the I-70 corridor from Parachute/Battlement Mesa to Gypsum and the Highway 82 Corridor from Glenwood Springs to Aspen. Using Pitkin County mass transit sales tax proceeds they jointly administer, Pitkin County, the City of Aspen, and the Town of Snowmass Village have offered to match contributions from other communities up to a total of \$200,000. Any amounts contributed by governments throughout the region will help defray the \$600,000 that RFTA estimates the effort will cost in 2007. Depending on the amount of contributions received, RFTA will contribute the balance needed from its reserve funds.

The request is to have Garfield County consider making a contribution of up to \$200,000 for this planning effort.

Recognition was given of the \$248,000 contribution in 2007 to help support the Grand Hogback bus services.

Kristin continued to give the background of the overall amounts of funding to assist the Commissioners to understand the contributions and cost to offer transit services.

The plan is to retain a Project Development & Engineering Team to help refine and implement it. The project budget as previously stated for 2007 is \$600,000.

Kristin explained how important it was to have Garfield County's participation highlighting significant commuting, housing prices pushing workers further from jobs, western end of the County's projected growth, need for expanded transit systems and how the County's participation will help leverage additional resources for transit and trails.

She explained that 50% of all the vehicles will be hybrid models. She also noted that the RFTA Hogback route has increased in ridership.

Commissioner Houpt stated they talked about transportation in Washington and believes there is a need for commitment and Garfield County needs to be at the table. She understands all the true memberships and commitments from the municipalities are also needed and stated she does support this and we do have funds in the budget to assist.

Ed clarified that we have a healthy fund budget but no funds committed per se for transportation.

Commissioner Houpt said there are programs that will enhance and put a motion to support RFTA in this effort of \$200,000. This was seconded by Commissioner McCown.

Chairman Martin – suggested revenue sharing for transportation; this was put into place in 1997. The federal government is in dire straits. He feels we are looking too small and should have a system that addressed Mesa, Pitkin, and Eagle County and use the mass transportation. We should put into place a COG system and not individual systems and if it is that, he would support it. We can't build another lane strictly for busses.

Dorothea – this is a conversation with RFTA and on the state, regional and national level.

Kristin added they are defining goals regional.

Jason – with this team they are bringing it to work with Denver FTA and are becoming aware of using the resources.

There is a parallel effort to get a large vision on the table.

Chairman Martin – we have a lot of expertise and we have to be a group to move this forward. Revenue Sharing – Russell George and Jack Taylor were heading this up and we haven't done this; he suggested we need to think outside the box.

Jason – mentioned a lot of different entities are looking for RFTA to be a multi-jurisdictional group and this organization is in the right position to take care of the transportation issues.

Chairman Martin – we need a scope of services.

Kristin said they are in the process of writing the scope of services.

Commissioner McCown – a study by August and cost of implementation this as there are critical deadlines to get into the regional grant.

Kristin said there was \$120 million.

Commissioner McCown – implementing the BRT – it will be implemented in the upper end.

Kristin stated it will be in both ends of the County.

Chairman Martin wants to see it in the entire I-70 corridor – Mesa County to Eagle.

Dorothea – the more money in the planning, the more they can do.

Jason – they have had a meeting with health and human services and all voices were heard; they are compiling the concerns and will give feedback to the state regarding disabled and elderly services.

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

Dave and Dorothea were recognized for their service in Pitkin County for moving along the effort on trails.

- ***D. Request for assistance on Legacy Grant for Crystal River Trail – Dave Will***

Dave Will, Jeff Jackel, Martha Cochran and Dorothea Farris submitted a memorandum to the commissioner explaining the request of financial support in a collaborative partnership with the Town of Carbondale, Pitkin County Trails and Open Space, the Division of Wildlife, the Roaring Fork Conservancy, the Aspen Valley Land Trust and Trout Unlimited submittal of a Great Outdoors Colorado (GOCO) Large Scale Grant “concept paper” that will address funding needs of several important recreational projects along the Crystal River and Roaring Fork River watershed, including the Crystal Trail. The concept paper is due March 23rd and at the end of June is when notice will be given as to whether or not a formal “Legacy” grant application is to be submitted.

Dave asked that each local funding match a contribution to help GOCO assess the level of interest and commitment to the project at the concept stage. Therefore he is requesting the Commissioners consideration to provide an additional contribution beyond the Crystal Trail commitment in order to strengthen the GOCO “concept paper” project. The following are to be included in the “concept paper”:

Crystal Trail – work is proceeding on the design and permitting. Pitkin County has entered into an IGA with Gunnison County pledging mutual support for the Carbondale Crested Butte trail and Garfield County’s 2006 support of \$15,000 went toward the design costs.

Carbondale Gateway River Park – the 600-acre Cold Mountain Ranch of which 30 acres lie in Garfield County is included in the effort to conserve open lands along the Crystal. No request is being made to the County for land conservation projects. It is important that GOCO has historically favored Legacy Projects that include a strong land conservation element and this Crystal Watershed Legacy proposal is designed to meet the expectations.

The request today is for the Board to endorse the Crystal Watershed Legacy concept paper with a letter of support and any financial commitment made towards the project.

Discussion:

Dave Will – the Town of Carbondale, Pitkin County and the Aspen Valley Land Trust are proposing a Crystal Watershed Legacy concept and we’re here today to seek moral support for that, the concept would have several components, one of which is a project has agreed to extend their part of the trail for another mile and adds an additional cost of the trail.

We have 60% of the plans that have been engineered to a level where we think they are close to submission to CDOT and we’re working with ranchers up valley on some details having to do with culverts, etc. We hope the plans can be sent to CDOT within the next couple of weeks.

In doing the plans, we’ve also asked our engineer to give us a construction estimated based on present prices and just as with other capital projects, this one has gone up significantly since we started. The good news is with the GOCO Legacy grant funding potential we could cover a good deal of the cost of the trail if we can get this concept paper in and make it attractive. This is consistent with what we have talked about and lines up down the east side of Hwy 133; it will be a beautiful trail. We’ve received permission from one of the ranchers, Cold Mountain Ranch to deviate slightly from the edge of the right of way in order to enhance the trail. Pitkin County has agreed to extend their portion of the trail another mile though the first phase. It would terminate at Thompson Creek so that it would be an out and back trail from Carbondale out to this open space, but when the engineers looked at the right of way in that reach and they concluded that the nature of the trail and the ease of constructing continues in the same way as far as the RVR, a small subdivision at the mouth of the Crystal Canyon. They suggested that we extend this Phase I to the BRB to connect to a population center in Carbondale with another smaller residential area up there. We’ve decided to do this and it adds about another mile to the trail and adds a significant cost to Pitkin County but in a way it helps us with the grant because we’re now looking at a total estimated cost of about \$3.4 million of that and approximately \$2 million are in Pitkin. They have the capacity through the open space and trails fund to cover that trail and leaves a shortfall both in the Town of Carbondale and also in the ¾ mile section between Prince Creek Road and the County line. GOCO requires a 25% match and this grant will have several pieces but I’m assuming they aren’t going to require 25% of each piece of it. So with the present funding commitment from Garfield County and from Carbondale I think that we can satisfy the 25% requirement with the Pitkin County Open Space funds providing the big portion of the match and I’m assuming GOCO will allow them to categorize it as one project through the three jurisdictions. The grant request would be stronger and more likely to be funded if there are additional funds that could be pledged to that project or to another project which is part of our Crystal Watershed Legacy idea.

Dave added the other part of this project and bigger financial piece of it doesn’t involve Garfield County but wanted the Commissioners to know that there are three significant land conservations projects - one is to place a conservation easement on Cold Mountain Ranch which is Bill and Marge Perry’s Ranch and we are very close to a deal. This has about 50 acres in Garfield County but we’re not here today to ask for financial contributions on this but wanted to let the Commissioners know they want to protect this as a ranch. Secondly there’s a parcel up near Redstone, a 35-acre parcel, a famous ice climbing route that’s call the Deuel and that will be part of this package. And finally the Ute Meadows in Gunnison County that was sold by the Osgood’s to the Darien’s and has been the Darien’s property all this time. They have an agreement with the Aspen Valley Land Trust to place a conservation easement on the big meadow that up there behind their bed and breakfast providing we can raise the funds. So by supporting the Legacy concept for the Crystal Watershed, to some extent you would be giving your support for all of these conservation projects as well as the trail and the Carbondale Gateway Park.

Jeff Jackel – the Carbondale Gateway Park, that’s the RV park that currently exists at the intersection of Hwy 82 and Hwy 133. DOW has an easement with the property owner that expires in April 2008 and it’s the governmental leaders desire within the Town of Carbondale to try and acquire that parcel including the boat ramp so we can keep that boat ramp as a permanent access on the Roaring Fork River. That access point is one of the most popular access points between Carbondale and Glenwood for river access for the commercial and private fishing industry. Carbondale sees that as a very important piece of economic development and the entrance into Carbondale. The Town of Carbondale has committed to applying \$500,000 worth of Carbondale funds towards the acquisition of the property and we’ve had discussions with the DOW, the Trout Unlimited, and the Roaring Fork Conservancy not as financial partners but as partners in principles behind the project. The DOW, we’re hoping that with their quandary of monies they have available through GOCO, they will throw money towards

the acquisition of this parcel. We think it is an important and critical piece to this overall Crystal Watershed Legacy project. With the commitment that the Garfield County Commissioner made towards the Glenwood Springs Whitewater Park and I think that's the thing that brought us here to find out if there's interest in helping out financially towards either the trail project and committing funds toward the Crystal River Trail Project or towards the acquisition of this riverboat launch area.

Commissioner Houpt – putting together a Crystal Watershed plan, do you need to breakdown where the funds would need to be identified.

Dave – GOCO provides a budget sheet that breaks down each component of the grant and you have to show who the partners are and what level they support the project.

Commissioner Houpt didn't see a proposed amount needed.

Dale Will – GOCO could look at the Garfield County section of the Crystal trail separately and say where the 25% match on its own. If we could go into this grant with a better answer to that question it would be stronger. We presently have the Garco \$50,000 budgeted for this year and there's been a suggestion this could be continued in subsequent years. This construction project looks like a 2008 project anyway so if we picked up another \$50,000 it would help. I also have a \$50,000 private contribution in the bank that came from Richard Jonick to allocate to this so if we were going to have a 25% match on this one, in rough terms it's a million dollar section according to our most recent estimates and part of the reason that number is where it is, is because of a bridge over the Crystal River near the Fish Hatchery. If they had another \$100,000 on this in that line item, I would be in a stronger position.

Jeff – regarding the river access on Hwy 82 and Hwy 133, there's been two appraisals on that property - the \$500,000 from the Town of Carbondale is more than the 25% required match that GOCO requires and anytime you see a collaboration of partners where they are actually coming to the table with some monies that you can outline as Dale mentioned as a contribution, it really weighs heavily on the grant reviewers that are looking at those requests and it communicates to them a much more than just a letter of support; it says there is truly a financial commitment from a governmental agency and that they are behind this project and to be quite frank I was hoping the County Commissioners would consider \$100,000 toward the access of this property.

Chairman Martin – we started with an idea from the DOW trying to go ahead and extend this easement and keep it in permanent access and we were also looking for federal funds etc trying to come up with some kind funding mechanism under a partnership. Then the Carbondale folks wanted to make it even bigger and bigger and I think we need to secure that particular property and then decide what to do. This was our number one plan and then work on a collaborative partnership. In getting back to Dale in reference to the commitment of funds, talked to him earlier about the 2007 funds and they come from conservation trust funds and we allocated those and it does not come out of the general fund. We're not using taxpayer dollars per se to do that and if we are able to have him hold those and then in 2008 subject to appropriation that would give him his \$100,000 and he could leverage that and at least say he would have that money to do so. I don't know about the water park; I think the acquisition of the property is what we really need to look at – are we going to be able to do it. The Kozios are the ones who own the property. We've had numerous conversations.

Jeff – that's the intent, the request for GOCO is to acquire the property.

Chairman Martin – and the DOW has to be involved as well, because they bring together not only state but federal dollars and also specialized funds that they have for access to the river – they would be a very important partner. If we were just doing it as Carbondale and Garfield County we'd never get there – your park and access would not make it. That Division has to be there too.

Jeff – sent a letter to Ed Green and also Jim Gunther with the DOW in Denver and we've talked to the local DOW people as well and it is a very important project for them to preserve this so we will get the support of DOW.

Chairman Martin – we've discussed this for 3 years now trying to secure that property and that's why the different appraisals have been there.

Commissioner Houpt – in your discussions and the Crystal River also, so the County's been involved but we've never really looked at the level of commitment financial that we should reasonably be looking at since we're in the discussion.

Chairman Martin – we've talked about \$2.5 million and it depends upon which appraisal and who you're talking to about this particular piece of property. And in reference to the trails we approached the major trail groups and said come together, sit down at the same table, we're limited in our funds, come forward with a recommendation as a group to say okay we have \$150,000 each year from Conservation Trust funds, where do these funds need to go and give us a recommendation. The LoVa trail is short \$600,000 short and where we'll find that is unknown.

Commissioner Houpt – we've put more money in the LoVa trail than the Conservation Trust fund money.

Ed – about ¼ million. Ed reported on the position of the Conservation Trust funds saying that the Water Park wiped it out. We have a fund balance of about \$15,000 left this year. We committed \$50,000 to the Crystal River Trails for 2007.

Commissioner McCown – the Satank Bridge commitment is a part of this picture, does it fit into any trail system or is it just hanging out there – it's on hold but the commitment is still there.

Chairman Martin – I would like to give at least a hopeful commitment that in 2008 when we do the conservation trust funds that we're allocating that same formula to LoVa, Crystal River Trails and the RFTA trail.

Commissioner Houpt – they need something more than that. This is something more tangible they need to put into their grant proposal and they need a real commitment.

Ed – general funds were used for the LoVa Trail and the promise there was basically it would take about \$250,000 to escape from this situation and pay the design fees or we could pay the \$250,000 and proceed.

Chairman Martin – it opened up the deficit we have of that \$600,000 plus that we'll either have to say you have a pioneer trail and you can't complete the overall trail for the next so many years or

Commissioner Houpt – I really support putting money toward recreation, open space and trails and we need to move for a designated fund – this is something that our County really needs to do as we continue to grow. We need to look at these projects individually and what I'm trying to understand now, in this one proposal, are you competing for funds from us or do you have priorities – hearing two very different requests.

Dale – our overarching request and the thing we really need today is a letter of support for this Grant. That's number one. We're not competing at all. We came here today not having knowledge of your capacity in a

collaborative effort to say that we're going to try and bring in \$5 million dollars into our community through this overall grant request. If there is capacity to add to the strength of our budgets for either of the project, you chose or whatever, then that will increase the likelihood that we'll bring home the bacon.

Commissioner Houpt – you are designing this proposal and you know what will make it a stronger proposal so if we don't have the ability today to fund both of the requests fully, what is it going to take to bring your proposal forward and make it more successful in GOCO's eyes?

Dale – if there's one item in our project that doesn't have a Garfield County commitment, that would be where you would start and that is the Gateway Park.

Chairman Martin – we're going to be in the property acquisition and that will be a different discussion. In reference to the property acquisition putting funds in and the ins and outs of that acquisition and what we're getting for the taxpayers dollars. We would have to look at this legally because if we then donate that is that going to again cause eyebrows to raise and in different auditing areas.

Don – we'll have to be a partner in some fashion – whether we take actually take title to the property is a different question. No discussion has occurred about this.

Chairman Martin – wants to talk to the DOW and where their commitment is as well and that's a group that has to be at the table and make some hard decisions and some recommendations and say it is or is not going to go.

Jeff – we sent a letter off to Denver on Friday of last week but anticipating they will be a partner in this project. Perry Will has stated this is a big priority for them to acquire this.

Chairman Martin – they also had a timeline in reference to their availability of funds and they need to be a partner in this as this may have run out or they needed to renew something. That came from another enterprise fund – “fishing is for fun” and is that still available.

Jeff – they've encouraged the Town of Carbondale to seek upwards of \$100,000 to “fishing is for fun” grant which is using DOW funding. That in itself would help us in acquiring the property but we'll going to have to have grants to acquire the property. The Town's \$500,000 will still go towards assisting but we're hoping DOW with their quadrant of money from GOCO will be the big player in getting some of the GOCO large scale grant money available for it. The cost was \$975,000 and the appraisal by the property owner is \$1.4 million. These are two year old proposals. The lease expires April 30, 2008.

Commissioner Houpt – these are projects that we've been talking about for 3 years and saying we were going to be partners.

Chairman Martin wants to do more research legal wise and also commitment wise before a motion is put on the table. It is an issue and we've been trying to put it on the front burner and have discussed it but need to make sure we have solid ground before we make a commitment.

Don – in terms of the property what is the anticipation of ownership and operation of the site?

Jeff – DOW indicated to the Town of Carbondale that they would like to see the Town maintain and manage the site as a recreation area.

Don – is the Town willing to include it as a Town Park.

Jeff – yes, it would be a Town of Carbondale Park.

Don – is the anticipation that it be annexed into the Town.

Jeff – discussions have taken place along those lines.

Chairman Martin – what about the residential units still on the property – do they go away? 30 something units?

Jeff – yes, in time they would go away.

Chairman Martin – those are affordable housing units that have been used for a long time. The ISDS systems should be hooked again to the Town of Carbondale across the river but these are some concerns as well as the displacement of those folks. What are the circumstances surrounding this? The agreement of the owners to sell the land and there are a lot of questions.

Commissioner Houpt – are you making decisions at the table with the Town of Carbondale and DOW? Would that be through an IGA?

Don – these are the types of issues we need to address and specifically what is the future use, the removal of the existing facilities and there's a significant ISDS system that has to be addressed. What would the future use of the facility be by residents and non-County residents; would there be a fee structure put in place, that type of thing needs to be addressed.

Chairman Martin – another very important issue is the change of access in reference to that property coming off of Hwy 82 with CDOT. it's turning it into a recreational activity again, a change of access, what is the anticipated traffic counts, etc. What it is today, how that will affect us from physical access from Hwy 82 on and off and those are some of the discussions that we need to continue to have. If we just go into it blindly and say we're going to solve it, that access issue may be a tremendous amount of money above and beyond what the park itself is going to be.

Commissioner Houpt – it may be but it's not a huge change in use.

Chairman Martin – it would if it's open to the public and if it goes that way.

Jeff – I've created some controversy in the overall concept behind this project in terms of why we're here originally. Dale mentioned asking for a letter of support for the grant itself and John I appreciate that there is a reluctance until these issues are more fully considered. However, because time of the essence with the concept paper due on March 23, 2007 we hope that you may could look at a contribution as Dale mentioned towards the trail project which would go a long way towards the grant.

Chairman Martin – that's what I suggested earlier; I can't commit those funds until they're available and that's 2008. I would say theoretically I would commit those funds through the Conservation Trust and he can take that money and put it in a trust account. He could then say that he's got his \$100,000 etc. and that would go forth. That is what I'm suggesting that he do.

Dorothea Farris – regarding the project for the land, what comes to mind is that the longer we wait for the site the higher the price goes. That's the reason for including all of this in the Legacy Grant so you can get ownership of the land. Then all the questions that you mentioned and we have the list and the others that Don mentioned have to be answered. Once you have the property you say we're all going to sit down and these issues must be addressed. There has to be a management plan – this is who's going to enforce it and this is what 's going to happen. I think until you have the land as owned the way you want it, and it has to be purchased. For GOCO to

be able to say that yes, all of these groups have agreed this is a primary interest to have that in public ownership is important and we hope that Garfield County can contribute.

Commissioner Houpt – agrees with Dorothea and thinks all of these questions come up in drafting an IGA and if the monies are contingent upon a successful IGA, I have no problem putting forth a motion to support this. The problem is the time frame because that is a short window. She asked Don if this was a realistic window to work through an IGA.

Dale – a technical clarification that might help is that for this concept paper what we're really needing to show GOCO are essentially pledges and if they like the concept paper they'll ask us for a full blown grant that will be due at the end of the summer. That would be where we would want hardened commitments and we're most likely looking at 2008 budget cycle for those commitments.

Don – is it enough at this point that if the Board wanted to move forward to do as Tresi has suggested, that the County would commit x number of dollars subject to reaching an IGA that would address joint ownership and operation of the property?

Chairman Martin – and a willing seller because I know that they have waned, they've agreed then disagreed. There's a 3rd party that wanted to buy it and back and forth and they're going to wait until the government offers and then the private property owner will offer more and they've been leveraging that up so again it's subject to a willing buyer.

Dale – agreed, this is one of the only GOCO grants that you can seek funds for acquisition that you don't have under a contract. GOCO's philosophy with Legacy Grants is that they feel if they put some money on the table they will enable the local government to get the contract signed. So to some extent this is a venture for GOCO to try to help us to get the Kosis or whoever else to agree.

Commissioner McCown – is there any way to buy a portion of the land or by an easement that we're currently using now that would guarantee the use of this boat ramp? If in fact the boat ramp and access to the river is what the true goal is or are we looking for a recreational facility that's going to displace 30 so called affordable housing units? Not you but your predecessors. We're asking for x number of dollars for mass transit to get people to where they live to where they work and we've got people that are trying to live relatively close to where they work. Now we're going to tear their houses down for a recreational facility; I don't think that's in our best interest. Can we buy an access, can we buy a permanent easement that would guarantee access to the river and let the on-going functions continue. I'm hearing two different things – our primary interest is not access to the river, it is creating a recreational facility on the river. These are two different things.

Chairman Martin – the property was split into two different parcels, this is where we started and that's where the negotiations with the Kosios started. First they were going to allow the DOW to access permanently and to buy the lower part with a partnership; then they said no we're not going to do that, you have to buy all of it and I'm not sure where that is. That was another issue that I wanted to discuss. But again, getting our foundation firm so we know exactly what we're getting into so we can support this one way or the other – the whole parcel or just the access and half of it.

Jeff - I think it is the river access like Larry alluded to is the critical piece. That's the most important and serves the broader good. Sure the Town of Carbondale would love to see a gateway park there but what's more critical to the fishing, commercial and private needs of the regional area and the state is that access area.

Commissioner McCown – and what I was hearing with developing was two different things – and I think we need to stay focused on the river access for the purpose of fishing.

Jeff – the river access is the most critical. Carbondale would love to see a gateway park there but the fishing access is the prime focus.

Commissioner McCown – we need to stay focused on the river access.

Jeff said it will include the upper and lower bench if our concept paper is approved.

A motion was made by Commissioner Houpt to put a motion on the table that is contingent upon working on an IGA that covers all of these questions because I think, and I would like us to use the minutes from this meeting and cover the question of vision and affordable housing and changing use and access to the river and make sure we can come to a solid understand with our partners on what the goal is for this project and if that's accomplished, I'm going to make a motion that we commit \$100,000 to the purchase of this property.

Commissioner McCown seconded for discussion. This is a heavy weight fight here and we are leading with our chin, I want to see those plans in place before I could feel comfortable committing any money, the contingency may sound fine, I can certainly lend my support to a letter for the Legacy Grant at this time but I don't feel comfortable supporting that with a \$100,000 until I know what the plans going to be and when its going to happen because in effect, the Town of Carbondale may prefer a park and an entrance to Carbondale and if that happens then I'm definitely against it so right now I'm not in favor of leading with any money.

Chairman Martin – we have a motion and a second and that is contingent upon all of these issues being resolved.

Commissioner Houpt – we need to sit down with all of the parties and make sure that everyone's on the same page.

Chairman Martin – and again working with the Division of Wildlife and the access to the river was the most important issue and this was public access, not a private access. It was to be open to the public and if we did that we couldn't really be charging a whole bunch of dollars to anyone for putting in and taking out there. That was what the whole idea as well as making a fishing area on the lower bench and if we can come to agreements on those and work out our other details with the CDOT folks etc, a \$100,000 is cheap for that piece of property that Garfield County would be putting in. However, that's a lot of mountain to cover before we commit. I still like my other idea in reference to saving the conservation trust funds for two years and you'd have your match.

Jeff – the GoCo funds will not be ready until 2008 or very late in 2007.

Commissioner Houpt – my motion is 2007 and we'll just work out the logistics of it.

Chairman Martin – 2007 dollars is what you're saying?

Commissioner Houpt – we can adjust that if the monies aren't needed until 2008 but we can't commit 2008 budget.

Don asked if we were looking at a budget supplement or alteration for 2007 and a commitment to consider budgeting for 2008.

Chairman Martin – if not achieved in 2007. Perry Will and Mr. Tucker are very interested in this project and he did bring a lot of federal dollars or state dollars to the issue and hopefully those commitments are still there. But if they're not, it's going to go away because we can't afford it by ourselves; we have too many other obligations.

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

Dale asked if he was correct in supposing that the \$50,000 in the Crystal budget for this year could be renewed for next year and if that supposition is pretty good could I represent it that way in the budget sheet on this grant.

I'm not asking for any formal action but permission to put that number down.

Chairman Martin – I was implying that was what I wanted you to do but I can't commit those 2008 dollars to that, all I can say is you've got \$50,000 and what you do with it....

Commissioner Houpt – not only that but we had talked about in terms of the trails is that you – the three trail systems, have the ability to sit down together and make a recommendation back to us.

Ed – absent any agreement they make, we split it 3-ways basically.

Dale asked for permission to put it on the grant.

Commissioner McCown – it's non committal funds so you can put whatever you want to put on your budget sheet.

Don DeFord – the only thing the Commissioners can do for 2008 is consider it as part of their budget. .

Dale –will submit a letter for John's signature.

• ***E. Service Plan modification for Burning Mountain Fire District – Brit McLin***

Brit McLin, Fire Chief for Burning Mountain Fire District, and CJ Greddy and Adrian Millin Boher board members were present.

Brit submitted Resolution 2006-12-03, as adopted by the Board of Directors of the Burning Mountain Fire Protection District on the 19th of December 2006. He stated that the governing body initially approved the District's service plan and the County Commissioners are the governing body that must approve the changes to that plan. He requested approval of the changes.

Brit added the modification is to reflect what we do. They want direction from the BOCC on what you would like us to do. He has approached law firms in special districts and the statute does say the BOCC has the right to determine if it represents a material deviation as to what they do. Operating ambulances is allowed statutorily and all they want to do is avoid expensive legal involvement. The Purpose for doing this is to merge ambulances into the service plan and if they did not have the authority to do emergency medical services he wouldn't be doing his job.

Discussion:

Carolyn – referenced section 31-2-07 and said her questions had not been answered. This section relates to the modification of plans and the statute says "such approval of modification shall be required only with regard to changes of a basic or essential nature including by not limited to the following "any addition to the types of services provided by the special district" and not sure how Brit's lawyers were getting around that. All the Clerk and Recorder's communications with DOLA assume that the special district will use the statutory process which requires starting with the Clerk and Recorder's office, the Clerk and Recorder notifies DOLA, Clerk and Recorder helps Brit set a public hearing before the BOCC at which time there is a public hearing and everybody gets to come and participate. Today's conversation is not about whether Burning Mountain should or shouldn't, is or isn't doing anything, it is a process question. The statutes are straight forward, there needs to be a hearing set and the fact that the current statute allows a fire protection district to have ambulances doesn't mean you don't have to follow the statutory process in order to add the service. The lawyer that Brit talked to and Mr. DeFord disagree. It is important here because the underlying documents as Brit said limit the organization and I would think he would want that protection of having an updated service plan approved by the Board.

Commissioner Houpt said she was not sure why it would be so onerous to go through the process.

Brit – counsel doesn't come cheap and it's dollars and if you determine that because statutorily we're allowed to, it does not represent a material deviation – we can draft a simple document for the Board's consideration and state statute and do it fairly inexpensively. If we want to have a very strong position to come in and cover everybody completely, it cost more dollars. Brit wants authority to spend those dollars on providing service and not on process.

Commissioner Houpt – if you don't have it in your plan, the next time you have to go for a new tax increase, your taxpayers may say, well its not even in your plan to provide that service.

Carolyn Dahlgren – Brit's organization will have to determine what's the risk to him.

Chairman Martin – that risk is that somebody in your taxing district will challenge your ability to go ahead and use those tax dollars for the service and that will be on your head and then they'll come back to us.

Don – the point is that it doesn't come to the County Commissioners other than through the statutory process. So to informally approve it is something that you don't have the ability to do.

Commissioner McCown – it would have to come in the form of a public hearing to ask for the amendment to the plan.

Don – or it's not needed at all.

Carolyn read the statute into the record "such approval of modification shall be required only with regard to changes of a basic or essential nature including but not limited to the following: any addition to the type of services, etc.", otherwise you don't get involved at all and cautioned the board not to make that definition of material change.

Chairman Martin – and we certify those ambulances that come under the Burning Mountain folks.

Commissioner Houpt – what I'm hearing today is that we don't make that call – you make that call and if you want to take the risk of not going through the process that will be up to your organization.

Carolyn – when Brit goes to get his ambulance re-licensed, one of the questions is going to be, show us your authority to operate an ambulance.

Brit – it's actually in statute. The reality of this entire matter is what's happened is special districts are court duck in the state of Colorado and Colorado is the only state that does not have a state fire marshal that handles so many of these issues for us. We have fallen into doing the things that fire departments do. We will bring a service plan modification to you because I don't think it is reasonable to put these people at risk while they are helping complete strangers on I-70 but I didn't want to walk in here and give you with a service plan that you didn't know was coming. This has been our plan and we have been working on this since December and one of the things we are doing as far as the establishing process is to establish it within the County.

Carolyn – a lot of the forms used through the Clerk and Recorder are forms that DOLA requires and the statute lays out what the modified service plan has to have in it.

Brit mentioned he submitted the modification plan to the Building and Planning office.

Don – the submittal has been to the Clerk and Recorder’s office for at least 20-years but this one was never submitted to the Clerk.

REGULAR AGENDA

PUBLIC HEARINGS:

ABATEMENTS:

LAKOTA CANYON RANCH DEVELOPMENT, LLC AND NEW CASTLE HOUSING CORPORATION

Lisa Warder withdrew the requests after noticing errors made by the Assessor’s office.

Notification was given to the property owners.

DISCUSSION OF THE 2ND SUPPLEMENT TO THE 2007 APPROVED BUDGET AND THE 2ND AMENDED APPROPRIATION OF FUNDS – PATSY HERNANDEZ

Don was provided with the notification and it was adequate and timely and advised the Board they were entitled to continue.

Pasty submitted the Resolution concerned with the 2ND supplement to the 2007 budget and the 2007 the 2nd amended appropriation of funds. She submitted Exhibit A – comments and Transfer Requests.

Chairman Martin swore in the speakers.

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

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

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the 2nd supplement to the 2007 approved budget and the 2nd amended appropriation of funds.

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

Continued Executive Session – aforementioned items –legal advice – interpretation of zoning code and contract negotiations – BLM MOU

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

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

Action Taken:

None

PUBLIC MEETINGS:

BUILDING AND PLANNING:

CONSIDER PLAT AMENDMENT TRACT 10 ANTLER ORCHARD DEVELOPMENT. APPLICANTS: MR. AND MRS. RUBIN – MARV RAY

Marv Ray, Mrs. Sherry Rubin and Carolyn Dahlgren were present.

The request is to approve a reconfiguration of the previously approved building envelope from 16,424 sq. ft. to a proposed envelope to a proposed envelope of 16,460 sq ft. The building envelope reconfiguration would be located in an area where the lay of the land is more conducive for a residential structure with a walkout basement design.

Staff Recommendation:

The applicant has provided all required documentation and has satisfied the applicable standards for a plat amendment. The Planning Staff recommends the Board approve this amended plat request with the following conditions:

- 1) That all representations of the applicant, either within the application or stated at the meeting before the Board, shall be considered conditions of approval.
- 2) Within 90 days of approval, the amended final plat shall be reviewed (paper copy), then signed and dated (Mylar copy) by the County Surveyor, then signed and dated by Garfield County. The amended final plat shall meet the minimum CRS standards for land survey plans, as required by Colorado State Law, and approved by the County Surveyor and shall include, at a minimum, the information outlined in Section 5.22 of the Garfield County Subdivision Regulations.

The applicant coordinated this with their surrounding neighbors – there is no HOA however there will be in the future.

A motion was made by Commissioner McCown and seconded by Commissioner Houpt to approve the plat amendment to tract 10 Antler Orchard Development with the 2 conditions of staff.

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

CONTINUED BUILDING AND ZONING VIOLATION – WILLIAM AND KIMBERLY VEZZOSO – RON VAN METER

Deputy County Attorney Carolyn Dahlgren, Code Enforcement Officer Ron Van Meter, Attorney Mike Sawyer for the applicant from Leavenworth & Karp, property owners Bill and Kim Vezzoso were present.

Ron Van Meter submitted his updated report. He continued in his report stating that additional photos were taken of the two Willow Lane ditch inlets that have been built to accommodate ditch water irrigation onto the Vezzoso property.

Another photo was taken showing a NO TRESSPASSING sign that has been posted in the County right-of-way in front of the Vezzoso property at 0111 Willow Lane. In a meeting held on March 1, 2007 with Attorney for Vezzoso, Mike Sawyer, Ron advised Mike that his client was in violation because the sign is in the County right-of-way and this would need to have authorization from the R & B Department. Mike said he would advise his client to move the sign; however as of Tuesday, March 6, the No Trespassing sign is still in violation.

Ron submitted correspondence he has received from Dan Baxter relating his experience with the current code violations and eventually leaving the area because of the situation; Jody Mack referencing the numerous violations and suggesting a Special Use Permit should not be granted to continue the operation that permits commercial/industrial use; Charles Cady referencing violations and requests that the commissioner not consider issuing a Special Use Permit and enforce codes; Carter and Sophie Schlumberger encouraging the Commissioners to not ignore the violations on this property; Susan Kennedy-Cady referencing the zoning and building code violations that were documented and addressed at the February 5, 2007 BOCC meeting and encouraging the Commissioners to enforce the rules and regulations for all individuals living in this County; a letter from an unsigned neighbor

requesting the County to take the zoning violations of the Vezzoso seriously and not even consider issuing a Special Use Permit; Julie Kennedy, a neighbor since 1982 having lived in several locations within view of the Vezzoso property and stated that since this is out in the open she wanted to comment regarding concerns of the illegal business being operated – she asked the commissioners put a stop to the industrial use in a residential neighborhood; Mike Kennedy summarizing all the violations and how these have only increased over the years and noting that during the last 30-days the operations have slowed considerably giving the neighbors a chance to see how nice it is to live in a rural area of the County and requesting no special use permit be issued just to take care of the problem (he also submitted a map of the properties in the area; and a new letter from Chris Beebe outlining the testimony at the February 5th hearing and contradictions to what is actually going on in his opinion. Chris asks that the Commissioner use their professionalism in this case and return the area to one of agricultural rural density and not allow an industrial use.

Mike Sawyer of Leavenworth and Karp, P.C. submitted a letter in response to the Commissioners request for staff to conduct an additional inquiry on the matter. The purpose of his letter is to summarize the appropriate legal standards governing the alleged zoning and building code violations and to set forth the critical facts previously presented to the Board. In the end, the Vezzoso's are acting within their property rights and the Board should direct staff to take no further action on this matter. He summarized the testimony at the February 5th hearing and stated that the Vezzoso's land use activities are within the scope of their vested property rights and uses permitted in the ARRD zone district. The Vezzoso's request that the Board acknowledge the Vezzoso's' property rights and direct staff to not pursue any abatement actions against the Vezzoso's.

Carolyn reminded everyone once again that this is not a public hearing, it is a public meeting.

Carolyn passed out the record of actions from the 1990 court case. The strengths and weaknesses of this document are known both to Carolyn and Mike Sawyer

Ron Van Meter provided the Board with a summary of how this violation began. Kim and William Vezzoso live at 0111 Willow Lane outside of Carbondale, Colorado. It is zoned Agricultural Residential Rural Density. The Board of County Commissioners and our department received an anonymous complaint; allegations were that the property was being operated as a gravel pit business. Other allegations referred to a business - Independent Trucking that also was at that location on Willow Lane, as well as lack of enforcement by the County. I first sent a letter based on the initial allegations to Mr. Vezzoso on December 3, 2006. We had three separate telephone conversations and then on December 26, 2006 I did have a site visit that lasted about 45 minutes with Mr. Vezzoso. We walked the property, made observations that are noted, the two categories of allegations are first the 2003 International Building Code, which is inclusive of four building code violations – the front property fence in relationship to its height, the inner property retaining wall, the two-bay garage and shop that was built as represented as in agricultural building and grading and excavation without a permit. This property is taxed residential therefore it is required that a grading permit, an excavation permit is required. Secondly, the Zoning Resolution of 1978 as amended, the storage of heavy equipment, which we've discussed before, you have photographs. This would require a Special Use Permit. Another allegation is the site is being used for processing, storage or material handling of natural resources. This also would require a Special Use Permit. And then the existence of a contractor's yard. It is not allowed in the Ag residential rural density zone district at all. You have another attachment that addressing the advertisement in DEX paper in the white pages and yellow pages for Independent Trucking corresponding with 0111 Willow Lane and the address as such. Supplemental investigation - I will go forward now unless you have any questions.

Chairman Martin – questions on that information?

Commissioner McCown and Commissioner Houpt – none

Chairman Martin – go ahead Ron and continue.

Ron Van Meter – follow up investigation was first a meeting with Ken Gardner who is a representative of the Garfield County Road and Bridge Department, I met with him in front of the Vezzoso property on February 15, 2007. I met with him because he had worked on all three of the road upgrades to Willow Lane since beginning in 1985 and then mid-1990's was his second recollection and then in approximately 2001 or the year 2002 and the resolve was a chip seal process. He described it as we looked at the front of the property from Willow Lane; he pointed to the property of the slope in an area between the Vezzoso property and County Road 100. He said that standing water occasionally occurs at that location because of, in his words, the "lay of the land." He believes that the situation is the logical cause if any for any ground water issues of the Vezzoso property not the road work. I further stated that his department had not received any other complaints from residents in that area.

The second item is an additional violation, which you may have noted in the zoning section of the four, there were three zoning allegations before and now the fourth is the fence again in the front of the property built in the setback; so a letter was sent on February 27, 2007 to Mr. Vezzoso. I have not received a copy back from the post office of the certified return but I did give that letter to Mike Sawyer, his counsel on March 1, 2007.

The third item in addition to synopsis of letters in opposition, which I'll conclude with is a memorandum from Mark Bean, former Director of the Garfield County Building and Planning Department. I asked Mr. Bean to describe in his own words as best as he could his recollection of any past involvement with the Vezzoso property. He noted that "in 1991 that that occurred in 1991, then Code Enforcement Officer, Michael Watts initially cited Mr. Vezzoso. It was agreed that Mr. Vezzoso could have his dump truck with a trailer and a back hoe on the property. A second employee in that capacity in Code Enforcement Steve Hackett a few years later cited Mr. Vezzoso and Mr. Hackett's allegation was cited for heavy equipment and other construction related material on his property. In Marks recollection, he recalled that Mr. Hackett and Mr. Vezzoso resolved the issue on Mr. Vezzoso's assurance that the equipment was being used for agricultural purposes only on the property. And finally, Mr. Bean says, these are his words:

"As to the allegation that Don DeFord, Buckey Arbaney or I stated that it was all right to have no more than 10 pieces of heavy equipment on a piece of property and not be considered a contractor's yard. I have no recollection of any such statement and would say that none of us individually or as a group had the authority to make that type of interpretation. This would have to be a decision of the Board of County Commissioners as a group and in a public meeting or an interpretation by the Board of Adjustment in a public meeting."

Ron - I have ten letters mostly from neighbors that are in your packet, some were emailed to you, if time allows I can read a brief synopsis or answer any questions you may have regarding those letters.

Chairman Martin – I think we've all read them. Anything further. Questions of Ron then?

Commissioner Houpt – not at this point.

Chairman Martin – Ms. Dahlgren, anything further, I didn't mean to cut you off earlier.

Carolyn – no, no, no. You all did get copies in your packet of the letter from Mike Sawyer, the response letter.

Chairman Martin – yes, we do have that. Speaking of that, anything to add?

Applicant response:

Mike Sawyer – with the Board's permission there are a few items we'd like to bring before the Board. At the time that I drafted the letter that's included in your packet, I had not had an opportunity to review the materials that were the additional supplemental information that Mr. Van Meter included in your packet. And so based on that additional evidence, I would like to take a very reasonable amount of time.

Carolyn – brief, brief.

Mike Sawyer – because I recognize you have a long agenda today.

Chairman Martin – we do.

Mike Sawyer – okay. So with your permission.

Chairman Martin – go ahead.

Mike Sawyer – I have a few questions from Bill. Bill, in Mr. Bean's memo he states that he does not remember any representations made to you at, during the 1991 court proceedings. Could you just very briefly restate what was said and who said it?

Bill Vezzoso – the only thing Mark Bean said to me was that I should paint my equipment green.

Mike Sawyer – and who else when you were in the court hearing, where were you at, at the time?

Bill Vezzoso – I was in the hall waiting for them to come up with a decision.

Mike Sawyer – okay, and so who approached you in the hall?

Bill Vezzoso – Buckey Arbaney.

Mike Sawyer – and who was he with?

Bill Vezzoso – he was with I believe the County Attorney, Mark Bean, my friend Bruce Hammer was with me and there were a couple other people that I didn't recognize.

Mike Sawyer – and what did Buckey tell you?

Bill Vezzoso – Buckey told me when he got down there, that since I had five acres of property that I'll be allowed to store ten pieces of equipment and I could continue on with what I was doing and that the ticket was dropped.

Mike Sawyer – okay, did you own five acres of property?

Bill Vezzoso – yes I do.

Mike Sawyer – okay. At the time did the County tell you that you needed to limit the use of your property in conjunction with your excavation equipment in any other way?

Bill Vezzoso – No.

Mike Sawyer – okay, were you told that you couldn't work on your equipment on your property at that time?

Bill Vezzoso – No.

Mike Sawyer – okay, did you work on your equipment on your property at that time?

Bill Vezzoso – yes I did.

Mike Sawyer – okay, were you told that your employees couldn't come to the property to either pick up stored equipment or to car pool to job sites?

Bill Vezzoso – No I wasn't.

Mike Sawyer – at the time did your employees come onto your property to pick up equipment and car pool to job sites?

Bill Vezzoso – yes they did.

Mike Sawyer – okay, did Mr. Bean or Mr. DeFord tell Mr. Arbaney that he could not make those representations to you in that court proceeding?

Bill Vezzoso – No.

Mike Sawyer – and you indicated that Mr. Bean made one other comment to you about painting your equipment.

Bill Vezzoso – he said I should probably paint my equipment green. I just took it with a grain of salt; I didn't know what it meant.

Mike Sawyer – but neither Mr. Bean nor DeFord told you that you could not rely on Mr. Albany's statements.

Bill Vezzoso – No, they were beside him.

Mike Sawyer – okay, and neither Mr. Bean nor Mr. Arbaney told you that you could not continue to use your property in its historical manner?

Bill Vezzoso – No sir, carry on as I was.

Mike Sawyer – and you had spoken to other excavators who were present at that hearing in 1991 who had been cited by the County?

Bill Vezzoso – yes sir.

Mike Sawyer – and that includes Joe Zamora and there was a statement from him that was distributed to the County and was his recollection consistent with your recollection?

Bill Vezzoso – yes sir.

Mike Sawyer – okay, have you since spoken to an additional excavator who was part of those proceedings?

Bill Vezzoso – yes I have.

Mike Sawyer – who was that?

Bill Vezzoso – his name is Jerry, owner of Frog Excavation.

Mike Sawyer – okay, and what happened to, I believe his name is Jerry DesJarlais, what happened to Mr. DesJarlais as a result of the County's interpretation of the storage of heavy equipment on property in that 1991 proceedings.

Bill Vezzoso – from my phone conversation he said he had a letter in his safe that states he has six months to evacuate his equipment off his property or face daily fines.

Mike Sawyer – okay and we have a letter signed by Mr. DesJarlais that you received.

Bill Vezzoso – yes.

Mike Sawyer – okay, (passed it out for the Board) and so it's your understanding based on your conversation with Mr. DesJarlais, because of the 1991 court proceeding that he was required to discontinue his operations.

Bill Vezzoso – he said three acres because he didn't have three. I wasn't in the hearing to decide on how exactly how many acres it was necessary to have; I was told because I had five acres I could keep ten pieces of equipment. He told me on the phone his letter states that because he had less than three acres that he was going to have to evacuate his equipment from his property and they gave him six months to do so.

Mike Sawyer – okay, at the end of the hearing, when Mr. Arbaney was done, it's your understanding that the citation against you was dismissed, is that correct?

Bill Vezzoso – it was very correct.

Mike Sawyer – okay, were you required to fulfill any terms or conditions or probation?

Bill Vezzoso – no sir.

Mike Sawyer – okay, I would note and I'm not going to belabor the point we believe there are some infirmities to the register of actions due to the fact that it was created three years after the fact and that it has other internal inconsistencies and frankly we think it is wrong that the register of actions indicates that the matter actually went to a plea with some type of condition afterwards. Bill, in your recollection did the County take any subsequent enforcement action against you after the 1991 proceedings?

Bill Vezzoso – No sir.

Mike Sawyer – okay, so you do not recall this second citation that's referenced in Mr. Bean's –

Bill Vezzoso – there was no second citation or they should have it.

Mike Sawyer – okay, do you recall ever representing to Mr. Bean that your equipment stored on your site was used exclusively for agricultural purposes.

Bill Vezzoso – no it was used for both.

Mike Sawyer - are your operations substantially the same today as they were in 1991?

Bill Vezzoso – yes sir, very much family oriented.

Mike Sawyer – do you store more than ten pieces of equipment on your property?

Bill Vezzoso – no sir.

Mike Sawyer – do you screen earth or fill on your property for sale offsite?

Bill Vezzoso – no sir.

Mike Sawyer – to the decree you have provided fill to neighbors or friends in the past, are you willing to discontinue that?

Bill Vezzoso – I will discontinue being nice to my neighbors.

Mike Sawyer – okay. Mr. Vezzoso, have you relied on the County's representations made to you in the 1991 proceedings.

Bill Vezzoso – very much so.

Mike Sawyer - How?

Bill Vezzoso – I structured my whole life and my family, my business and my property based on this decision.

Mike Sawyer – have you expended money as a result of the representation made to you by the County in 1991?

Bill Vezzoso – a lot of my – a lot of top notch equipment.

Mike Sawyer – would you have purchased that equipment if you didn't believe you had the ability to store it on your property?

Bill Vezzoso – couldn't afford to store nowhere else then nor could I now.

Mike Sawyer – in my letter to the Board, I cite to a court of appeals case named Eason and I suspect that the County attorney is or has provided you with some understanding of this case. It is my read of that case that an official undertaking their official actions in interpreting land use rights on specific property and subsequent reliance thereon by the property owner creates what is called a common law vested property right. And as the Eason case states, a subsequent change or denial of a common law property right constitutes a taking of private property, a potential violation of due process and compensatory damages for the party whose property has been taken. I believe that the representations of the County in 1991 in a public court proceeding constitute statements by the County and subsequent reliance by Mr. Vezzoso that have vested a property right to use his property in conformance with those representations. And we would ask that based on this common law property right that the County recognize that and not proceed further with actions related to the storage of heavy equipment, or use of the property in conjunction with Mr. Vezzoso's business. There is one other brief point that I want to raise because Mr. Van Meter did raise a new alleged violation involving a front yard setback. I presume again that Ms. Dahlgren and Mr. Van Meter have briefed you on the code for front yard setbacks in the Ag district. A couple more questions for Bill. Bill, what year was your front yard fence constructed?

Bill Vezzoso – 1997.

Mike Sawyer – at the time your fence was constructed did you use your property for agricultural purposes.

Mike Sawyer – what were those purposes, what do you do?

Bill Vezzoso – I had several horses, we bred cows, we didn't have our pigs at the time, corn, gardening and pasture.

Mike Sawyer – did you sell any of the garden or any of the livestock for a profit?

Bill Vezzoso – the livestock we did.

Mike Sawyer – and as you testified in the February 5th hearing, you continue to use your property for agricultural purposes.

Bill Vezzoso – yes.

Mike Sawyer – okay. Do you own any water rights decreed for use on your property for agricultural or irrigation purposes?

Bill Vezzoso – yes I have a ten foot ditch easement in front of my property.

Mike Sawyer – and do you own a portion of the Union Ditch.

Bill Vezzoso – yes sir – it's dedicated to my land.

Mike Sawyer – and in 1997 did you use the water from the Union Ditch for agricultural and irrigation purposes?

Bill Vezzoso – every year.

Mike Sawyer – okay. There are references in some of the letters included in the packet that at one time your fence fell over. Can you explain the circumstances under which this occurred?

Bill Vezzoso – it was during construction of the fence. When you do cinder block, you do the base and you stick rebar up so far, when you do the top part of the base, you lay it with what they call a channel wire that goes in between each layer of the block. The channel wire was in place but the vertical rebar wasn't in yet so without the rebar being in the fence, yes it blew in and I had to reconstruct it.

Mike Sawyer – and as a result of it blowing in have you taken measures to remediate that?

Bill Vezzoso – normally they put the rebar every sixteen inches, I decided to put the rebar every eight inches and fill every hole full of four thousand pound construction concrete so I would never have this problem again.

Mike Sawyer – and since you completed that work on the fence has the fence every moved or blown over?

Bill Vezzoso – it's the same place it's always been.

Mike Sawyer – okay. At the last hearing, evidence was presented about the height of the road, Mr. Van Meter presented some evidence from his measurements, you presented some measurements yourself, have you made any improvements around the fence since that time.

Bill Vezzoso – I'm finally finishing my fence, I've cleaned the ditch; it hadn't been cleaned since 2001 or 2002 depending on when they raised the road two feet deep in front of my property.

Mike Sawyer – and what did you do with some of that fill or material.

Bill Vezzoso – what I've always done, I put it beside the ditch.

Mike Sawyer – and is some of that located next to the fence.

Bill Vezzoso – that's why I left the fence low so I have room for my material to be plucked up as in normal ditch cleaning operations.

Mike Sawyer – okay, can that material constitute backfill material?

Bill Vezzoso – yes, that's why I left the fence unbackfilled because I knew I had a lot of ditch cleaning to do.

Mike Sawyer – and as a result of backfilling the fence, did you take subsequent measurements of the height of the fence?

Bill Vezzoso – yes.

Mike Sawyer – okay, do and I believe we have some photos for the Commissioners.

Chairman Martin – okay, we need you to conclude.

Mike Sawyer – we will conclude.

Chairman Martin – okay, explain what you're exhibit's are here.

Mike Sawyer – Mr. Vezzoso, based on your measurements of the fence, how high is the fence?

Bill Vezzoso – less than six feet.

Mike Sawyer – and the pictures that you've taken do they represent a representative cross section of heights along the fence line?

Bill Vezzoso – yes.

Mike Sawyer – now, in the prior hearing Mr. Van Meter presented evidence that he measured the fence height to be eighty-three inches. Do you know approximately where his measurement might have been taken?

Bill Vezzoso – the spot with the least amount of backfill was in.

Mike Sawyer – and at that location, was the fence property backfilled to actually

Bill Vezzoso – it's never been backfilled until this weekend – until today.

Mike Sawyer – and did you go and take a subsequent measurement at that approximate location?

Bill Vezzoso – yes I've got a measurement of the fence every 30 feet – there's no question about how high the fence was.

Mike Sawyer – and again you're, based on your measurements, how high is the fence.

Bill Vezzoso – less than six feet.

Mike Sawyer – okay. Now Mr. Vezzoso, if the County should determine that you need to obtain a building permit for the fence, are you willing to obtain one?

Bill Vezzoso – never turned them down yet.

Mike Sawyer – and I would conclude this by reminding the, or stating that the County code when it, with regard to agricultural structures, in the front yard setback states that fences under eight feet in height on agricultural property and the definition of agricultural property is the use for farm or ranch purposes, and the ownership of a water right decreed for use in agricultural or for irrigation permits under the zoning code the location of a fence is the front yard setback and with that I believe that the other points have been adequately covered in our prior hearing, or are summarized in my letter that was submitted to the Board – thank you for your time.

Chairman Martin thanked Michael for being brief. Anything further Ms. Dahlgren?

Carolyn Dahlgren – not unless you want any response from the staff.

Chairman Martin – Ron

Ron Van Meter – I have response to the latest matter regarding the front fence property wall. I measured it, it was ninety-eight inches, not eighty-three inches and I measured it from the proper measuring perspective and that is the natural grade, not backfill.

Chairman Martin – all right, any questions from the Board, anything in the audience that we need to consider. All right, one person.

Public Comments:

Mike Kennedy – 45 Willow Lane, I own two properties out there, both of those are south of the Vezzoso property. My current residence is immediately south of the Vezzoso property and I have a rental property which is immediately south of that property. If you received my letter then you've seen my map that outlines that. A couple of things, first thing, they keep bringing up the fact that the County raised the road, that's true, they did. Since 1982 when I first moved out to that neighborhood, I've lived in four different properties out there all of these around the Vezzoso property, the other one is to the north of the Vezzoso property where Chris Bebee lives now and the other one is directly across the street – I've irrigated all of those properties. It's my belief, I still irrigate two of them because I still own two of them, that nothing changed when the County came in and fixed the road. I'm glad they came in and fixed it – there's no changes to the irrigation out there that was caused by that road. Second thing, the contention that the operation is the same as 1991 I have to disagree with that because as I said, I've lived there since 1982 and I think the Vezzoso's moved there in 1987, but I had a complaint about their operation. Until now, I'm complaining because now all of a sudden it's changed into a totally different operation over the last couple of years, it's no longer a mom and pop excavation operation, it's a big huge pile of dirt in the back of their property and it's been that way for two years, the trucks come and go, the trucks come and go, back up alarms on Saturday night, back up alarms on Sunday morning at seven o'clock, dump trucks with the tail gates slamming, rock dropping in to the back of trucks, that's not ARRD zoning. It's not. And I don't believe any contention that is the same operation as in 1991 because if it was, I would have been complaining in 1991. The second thing, or the other thing is I don't have any problem with Bill being nice to any of the neighbors and giving them top soil or whatever he does on the

equipment or whatever, what I have a problem with his a constant whatever you want to call it going on back there with piles of dirt, a screener, and all of that stuff and I don't believe that's been going on for two years just to re-grade a pasture, I just don't believe that. If it is that's a pretty slow operation.

Chairman Martin – all right. Questions of Mr. Kennedy. Want to make sure to get all the testimony in.

Chris Bebee – 0167 Willow Lane - I take exception to Mr. Sawyer's notion that whatever happened in 1991 was a court proceeding. I've never heard of a court proceeding where the defendants weren't allowed to attend. And maybe that's the way it happened back then but I don't see any legal basis for any of the claims if it's not recorded anywhere, it no body was allowed to have their input, either the defendants or the neighbors, anybody that was allowed to participate in that except for people that we don't know even know who. So, that's all I have. I've stated my case I think pretty well in my letters to the three of you.

Chairman Martin – thank you Mr. Bebee, I can tell you that I appeared in federal court and I wasn't allowed to testify and I was the one accused, so it does happen, unfortunately that's some of our court proceedings that certain things do happen. Has nothing to do with this one, but I'm just letting you know that is in the system. All right.

Charles Cady – 0081 Cottonwood Lane – I'm also a neighbor over there and to me it's more of big picture thing, ARRD is huge in this County and there's this underlying notion that you can do whatever you want and really we need clarification on that because I don't believe that's true because what they are doing is full blown excavation company; I really don't see his place fitting in this zone district.

Jody Mack – you have a copy of a letter I wrote to Ron Van Meter and I just wanted to state that I'm the one who witnessed from last April to the end of August of last summer, the Vezzoso's activity. It was a huge disturbance to any one in the neighborhood of the Beebe's. I had the privilege of having some horses boarded there; I was paying for the right to use that property for my horses. There were times when I had to relocate my horses in order to get them out of harms way from the dust caused by the screening of the natural resources. The smoke that was caused by the numerous bon fires that they left unattended. The smoke and the dust at times were so dense that I literally could not see my horses from where I was standing from end of the pasture to the next. I witnessed also that their child at times would have to be removed from the yard to be taken indoors to preserve the child's well being. I just, it's unbelievable. Thank you.

Chairman Martin – did we miss anyone?

Julie Kennedy – I live right next door to Kim and Bill and I stay at home all day long so I'm there constantly. In the morning, in the summer when he runs his trucks we can't open the windows, out house fills with diesel fumes, we hear the trucks coming and going all day long on the road, we hear them in the backfills, dropping rocks, dropping the beds, the whole, the dust, you know it used to be so calm and quiet out there and it's all gone now, there's none of that left. And everyone's been quiet for a long time and we can't take it anymore, it's getting to big, it's getting bigger and bigger and bigger and it's got to be an end somewhere.

Chairman Martin – any question of Ms. Kennedy or anyone else. All right. Mr. Sawyer, anything you'd like to say in closing.

Mike Sawyer, just briefly, Bill when you burn on your property, do you follow the County/fire district protocol and call the fire district before burning?

Bill Vezzoso – yes I do.

Mike Sawyer – do you burn things that are not allowed under the fire code or County code?

Bill Vezzoso – no just brush and wood.

Mike Sawyer – and nothing else?

Bill Vezzoso – no.

Chairman Martin – anything questions from the Board. All right. Do we have enough to make a decision?

Decision:

Commissioner Houpt – I'll make a stab at it but Carolyn I'm going to need your assistance, there are certain things that need to be accomplished at this point and I'm going down the list given to us by staff so I'll start with the front privacy fence, I'd like to and actually the privacy fence and the inner property retaining wall, I'd like those to be brought into compliance with the County permit and if not brought into compliance taken down; on the 2-bay garage shop, I think historically that is Ag use and at this point and time I'm not going to put anything in my motion for action on the shop; the grading and excavation needs to cease and so I want, if this excavation and grading is taking place to fix the Ag issue in the field, then a permit can be taken out with a limited scope of work and a limited amount of time to accomplish that job then but then the general grading and excavation needs to cease; storage of heavy equipment I would refer back to Mark Bean's letter and the understanding at the time of one dump truck with a trailer and a back hoe is different from the type of storage of heavy equipment that we have right now, the storage needs to cease and I'll come up with some days on all of this, but the only way you would be able to accomplish that in a later date is though the Special Use Permit option that we give, but it has got to cease, there's not any indication that I have from staff previously or currently that that's appropriate for your land; site for processing, storage or material handling of natural resources, again that goes along with the grading and excavation and that's got to cease; the contractor's yard except for a Special Use Permit if you want to come back but it has to cease before it, I mean the process is, it's a two-prong process as far as I can tell, I don't think this is the kind of activity that needs to be occurring without a great deal of analysis; contractor's yard – it doesn't belong in this zone district and it's got to cease; and correct the front property setback issue through the permit system; this obviously can not happen overnight, we need to give a period of time, 60-days, we're doing typically allowing, do I need to do, there's been recommendation of injunctive action, what do I do at this point?

Carolyn Dahlgren - in general this BOCC has said that if people are trying to bring their property into compliance with the zoning code you generally don't tell the County Attorney's office to enforce through litigation – there have been situations where there are huge public safety problems where you don't allow that and you do tell us to go get an injunction. But if you're asking factually how long would it take to come into compliance, is that what you're asking?

Commissioner Houpt – no we usually give a period of time and I don't remember what that typical time is.

Carolyn – it depends upon how long it takes to process applications or in this case building codes, special use permits.

Commissioner Houpt – but I'm not willing to keep this going while they're –

Chairman Maritn – then you go ahead and establish what you're time period would be.

Commissioner Houpt – then I’m going to say a 60-day time period to give the Vezzoso’s ample time to find a new location for this activity. But I view this as inconsistent with the character of the neighborhood.

Carolyn – Ms. Houpt – just to clarify – I think at one point you said a contractor’s yard needed an SUP and then in another point you said it’s not allowed in the zone district.

Commissioner Houpt – well no, it was the site for processing, storage or material handling of natural resources according to the staff report that needs a Special Use Permit. The contractor’s yard is not legal. And that would be my motion.

Carolyn Dahlgren – so you’re saying that within 60-days all of these activities must be ceased or permitted.

Commissioner Houpt - ceased or permitted. But if they require a Special Use Permit they need to cease because that’s the heavy activities occurring.

Commissioner McCown – second.

Chairman Martin – motion and a second, any discussion? Hearing no discussion, we’ll call the question. All those in favor?

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

Chairman Martin – I think that is too stringent, we are looking at a vested property right even though it may be questionable in reference to the way it came about, I still think that a property right needs to be preserved – if it went through court, there was no corrective action that was handed down in written form, it would be allowed as a vested property right and I didn’t see that, so.

Commissioner Houpt – there was nothing in writing to indicate this.

Chairman Martin – I realize that but there is nothing to say that it didn’t happen.

Mike Sawyer for the applicant said we will be in contract with the County Attorney’s office as to how we chose to proceed.

CONSIDER THE CITY OF RIFLE AIRPORT MASTER PLAN. APPLICANT: CITY OF RIFLE – FRED JARMAN

Fred Jarman, Carolyn Dahlgren, Jim Neu from Leavenworth and Karp as the attorney for the City of Rifle and Bob Howard property owner was present.

This is a Referral of the proposed “Rifle Airpark Master Plan”

General Description

Airport Land Partners has proposed the “Rifle Airpark Master Plan” to the City of Rifle (the City) that is intended to be the overall guiding document for a 25 year phased annexation and development plan with specific uses that will diversify Rifle’s long-term economic goals. The City referred the master plan to the County for review as well as so that the document may also serve as a general Annexation Impact Report required by Statute.

The Rifle Airpark Master Plan property (the Property) in question is a 731 acre property having six owners with Airport Land Partners owning the lion’s share of land that surrounds the County Regional Airport southeast of Rifle proper. The County is one of the six owners with the Rifle Road and Bridge Maintenance Shop property consisting of 46.4 acres. The County Airport is not a part of the Property or the PUD but is directly affected by the development of the Rifle Airpark.

Note, the Tri-State Cogeneration Station and Western Trends properties comprising approximately 40 acres and are two of the six properties in the Rifle Airpark Area have already been annexed and are served with City water and sewer. This was accomplished when Rifle annexed a 10-foot strip of land along the Airport Road as it leaves Rifle up to the two properties.

More recently, the City annexed the 14-acre property owned by CMC for a future tech campus. All of the rest of the proposed Airpark property is in the County. The ownership is presented in the frame above.

Background

In 1981, the Board of County Commissioners approved the creation of the Airport Industrial Park Planned Unit Development (PUD) proposed by Rifle Land Associates which is memorialized in Resolution 81-56. This PUD has been modified several times where most recently, the PUD was amended to accommodate the uses for the County parcel which was donated by Airport Land Partners to the County for the Road and Bridge Shop.

Originally, to begin the development of the PUD, Rifle Land Associates also submitted a Preliminary Plan, which was approved but was never realized for failure of submitting a Final Plat. As a result, that Preliminary Plan application became invalid. No other plan has been approved to date. Therefore, today, only the PUD remains in place. The Board will recall the most recent action to occur within the PUD, which was the recent annexation action requested by the City of Rifle for the 14-acre parcel to be donated to CMC.

Potential Areas of Concern

It would appear on initial review that there are several areas of concern regarding land use processes and specific Garfield County interests, which include the Garfield County Regional Airport, the Garfield County parcel containing the Road and Bridge Shop, and the County roads that are located within the PUD. These issues are discussed below:

A. Existing PUD & Process

The proposed Rifle Airpark Master Plan area represented in the submitted documents appears to only include the northern portion of the original PUD. The Airport Industrial Park PUD currently in place contains a significant area directly to the south of what is depicted in the proposed plan. The PUD in place today is shown here for your review.

This PUD was approved with areas devoted to industrial and commercial uses as well as a substantial portion devoted to a variety of residential uses including Single-Family Residential, Urban Density Residential, Camper Park, and Mobile Home Park. These residential uses were contemplated to serve the housing needs of the employees need for the industrial and commercial uses that were envisioned to support the airport as well as the greater needs of the City of Rifle. The proposed master plan 1) does not include the portions of the existing PUD to the south and

2) virtually eliminates all residential uses. (Those areas are noted by the hashed areas in the map on the previous page.)

It appears that the main difference between the existing Airport PUD and the proposed Airpark Plan is that a large portion of the original PUD includes significant acreage devoted to a variety of housing uses including single family units, residential urban densities, recreational camper park, and mobile home parks whereas the proposed Airpark contains virtually no housing accommodation.

The Board should consider the following points:

- 1) It appears the proposed master plan does not include the entire PUD as originally zoned. If portions of the existing PUD are annexed into the City in phases, the remainder of the PUD in the County becomes invalid. Because the Property was approved as one PUD, phased annexation will not work. The entire PUD should be annexed at one time;
- 2) Because the Preliminary Plan has been voided years ago, Section 4.09.02 of the Garfield County Zoning Resolution requires the Board of County Commissioners to take the following action that would actually alleviate the invalidation of the PUD by partial annexations and revert the zoning to ARR:
 - *Revoke approval for the uncompleted portion of the PUD, or*
 - *Require that the PUD be amended, or*
 - *Extend the time for completion of the PUD one (1) time, for a period not to exceed one (1) year from the expiration of the original time limit.*
- 3) The master plan ought to be modified to add a significant housing designation to alleviate housing pressure in other areas of the City and provide a live / work community rather than place those commuter work trips on road networks further exacerbating road and traffic challenges. Staff notes that the other commercial district allows for a variety of “community-like services” in further support of residential in the area;
- 4) The original PUD was approved to function as one project / property. The entire PUD (including the residential uses to the south) should also be included into the proposed master plan;
- 5) The proposal does not appear to annex the County owned parcel containing the Road and Bridge shop. Again, this parcel is part of the Airport Industrial Park PUD. Should the Board be amenable to this property being annexed into the City, Staff is concerned as to what zoning would be applied to it so that the County retains the flexibility it currently enjoys in the PUD; and
- 6) Staff suggests the parcels that Airport Land Partners intends to donate to the County should not be annexed with the rest of the area.

B. Garfield County Airport

The County Regional Airport (the Airport) has a master plan in place that has a 20 year horizon focused on serving the aviation needs of the County. As the Board is aware, the plan calls for acquiring additional land for runway and road realignments and on site structure and service improvements. Staff understands that Airport Land Partners has agreed to donate the adjacent land required for the realignment of the Airport Road and for a parcel at the eastern end of the airport.

The proposed plan shows the airport is bordered entirely to the south by the Airport Support District (A-S) Land Use Designations (refer to the map) that allow a variety of uses that are intended to support the functioning of the airport which is consistent with the existing PUD. Staff raises the zoning overlay issue with respect to structure heights in that district so that flight paths are not impacted. See page 50 of the Master Plan for reference.

The Board should consider the following points:

- 1) The County should require that an aviation easement be put in place prior to annexation of those lands surrounding the airport to protect the airport operations;
- 2) Staff suggests that Airport Land Partners should establish and provide an Airport Road Realignment Easement for the proposed road relocation of Airport Road and that the section to be realigned as well as the easement not be annexed so that the improvement can occur in the County so that FAA dollars can be used prior to annexation. Additionally, Staff suggests the Board enter into some agreement as to how that section of Airport Road is to be improved; and
- 3) Airport Land Partners should donate the land east of the County Airport and for the road realignment prior to annexation.

C. The Garfield County Road and Bridge Parcel

The Master Plan designates the Garfield County Road and Bridge Shop Parcel (the R&B Shop Parcel) in a designation named “A-PD Public Institutional.” The only other properties in the Airpark area with the same designations include the future CMC campus property and the jointly developed Fire Station property, which were both donated from Airport Partners. The plan does acknowledge the County’s possible future plans of development for that property within their plan designation (see pages 2 & 8). Interestingly, the phasing plan (shown on page 75) does not include the R&B Shop Parcel in the annexation plan.

Airport Land Partners donated that parcel to the County. Staff is concerned as to the status of the access road into the parcel off of Airport Road that serves the County’s operations. The ownership, management, and future alignment and connectivity of this road need to be clarified.

D. County Roads that are located within the Airpark Area

The Airpark Area is presently served by the County’s road system which is owned and maintained by Garfield County (the County). More specifically, these roads are CR 319, CR 315, CR 333, CR 333(A), CR 352, and CR 352(A). Recall, when the City annexed the co-gen property, it did not annex Airport Road.

The development of the Airpark will primarily impact the County’s road system within the area. Staff recommends that all annexations be required to also annex the adjacent County road so that ownership and maintenance are assigned to the City as they should become City streets.

As with any development that occurs within a City, the Board should be concerned with this magnitude of development as to the impacts to Airport Road as it goes east from the Property towards the Airport Interchange at I-70. Is that road section physically capable of handling the traffic generated from this development?

The master plan contains a second binder, which includes a Traffic Impact Study prepared by Kimley-Horn & Associates. This study contains an analysis of traffic generated from a 15-year interim build-out at 2022 and at half build-out at 2030. Specific recommendations are as follows:

In summary, as mentioned at the beginning of this memorandum, the City of Rifle is requesting comments from the Board regarding the Rifle Airpark Master Plan. Staff has outlined several issues that require the Board's attention primarily surrounding the following:

- E. Existing PUD & Annexation Process (Validity of Existing PUD with partial annexation);
- F. Impacts to County Airport (Airport Road and Runway Alignment & aviation easement);
- G. Impacts to County Road and Bridge Parcel (status of zoning and internal access road); and
- H. Status of the County Roads that are located within the Airpark Area that should be annexed

Bob Howard – presented an 8 minute video of the plan.

As to residential – Bob said he is open to that but they have been discouraged due to some entitlement battles and he doesn't want to get caught in the battle.

Jim Neu – if we allow development now it will drive services; it may be fine once other developments are completed.

Bob responded to Commissioner Houpt's concern regarding residential and the oil and gas development saying there are only three pads on this property. It is appropriate to have a higher density affordable housing but which comes first is the issue we are addressing.

Jim – sees an amendment to the plan once development comes in and it may be 10 years out.

Bob – they would impose restrictive and design standards and it would not be like what has occurred in the business park; there will be a lot of screening and it could be compatible. No piece meal planning.

Commissioner McCown – a county or city issue, he would like to know what will occur on the County PUD.

Bob said they would let the annexation occur and then vacate the old PUD.

Fred – from a zoning perspective he agrees. A later phase for housing makes sense. What is the trigger?

Commissioner McCown – by not allowing the housing in the PUD we're doing away with free enterprise. We talk about the affordable housing every day.

Fred – we did some master planning which included the housing and then the oil and gas showed up.

Commissioner McCown – the topography allows areas to be secluded – housing units would never be seen from the industrial park.

Bob – trying to develop a plan that Rifle wants; services are a huge expense.

Jim – this is the jewel of land.

Bob – proposes a 15-year build out.

Jim said he will take the housing concern to the City.

Commissioner Houpt – hearing that this is not for the needs we're seeing today but in the future.

Bob – regional and national industrial uses are proposed and they won't come here without housing.

Rifle will not start building housing yet. Subdivisions are not approved.

Bob – the old PUD goes away, the one from 1999 where we gave you the 46 acre parcel we had a tri-party agreement with the city, county and Bob and you are obligated in return for getting water and sewer to annex into the City.

Jim – we have put that off, these are all the agreements we will deal with through the annexation process. This is the master plan and Bob will petition to annex his land, we'll deal with Don and Carolyn to get the County piece in and we are all on the same page.

Carolyn said the pre-annexation agreement did have some specific clauses about what happens if Rifle won't zone it the way we want it zoned.

Jim Neu said we will zone it the way you want it zoned.

Commissioner McCown – other than just a few concerns aired here today I have no problems and have some concerns on the housing development but you've been a good neighbor to Garfield County and we appreciate what has been done.

Chairman Martin – as to the college, do you not allow dorms there?

Jim – no.

Bob – the whole new theory of CMC is to have urban campuses and they are moving away from student housing right now.

Jim – we will continue the dialogue about housing and recognized the message heard today.

Fred – we'll come back to the Board with negotiations and agreements with the City.

CONSIDER A REFERRAL TO THE PLANNING COMMISSION FOR “MATERIAL HANDLING OF NATURAL RESOURCES” FOR AN EXPANSION TO AN EXISTING COMPRESSOR STATION LOCATED 10 MILES NORTH OF THE TOWN OF PARACHUTE OFF COUNTY ROAD 215 AND WITHIN THE NORTH PARACHUTE RANCH – DAVID PESNICHAK

David Pesnichak and Carolyn Dahlgren were present.

The Applicant requests a SUP for a “Material Handling of Natural Resources” in the RL zone District

BACKGROUND

The Building and Planning Department received a Special Use Permit (SUP) application for “Processing and Material Handling of Natural Resource” for expansion of an existing natural gas compressor station on a 27,000-acre property owned by Encana Oil & Gas USA, Inc. The site is located at the end of County Road 215, approximately 10 miles north of Parachute and is also formerly known as the old UNOCAL property where oil shale processing once occurred. The location of the 9-acre compressor facility is just beyond the private gate at the end of CR 215.

More specifically, the Applicant requests approval from the Board for expansion of an existing natural gas compressor station. This compressor station currently serves as a collector point where gathered natural gas is sent for dehydration and compression of gas collected in the North Parachute Ranch. The request is to expand the existing facility by adding four electric-driven compressors (three electric compressors and six natural gas compressors currently exist on the site), one slug catcher, and one JTZ skid (liquids condenser and separator).

The current facility is permitted under Resolution 2005-85 (See Exhibit A). This Resolution identifies the compressor station facility to be a 3-acre tract. The Applicant is requesting that the permitted facility area be increased to 9-acres in order bring the current facilities into conformance. It is the Applicant's opinion that the 3-acre identification was an error within the approved Resolution 2005-85. The requested expansion is not expected to increase the impact area beyond the 9-acres currently impacted.

REQUEST

The application is for expansion of an existing compressor facility ("Processing and Material Handling of Natural Resource"), which is a special use in the RL zoning district.

STAFF RECOMMENDATION

Staff finds that due to 1) the limited nature of potential impacts to surrounding properties, 2) the remote location of the property such that it is situated at the end of a dead-end county road which is used primarily for industrial traffic serving the existing industrial uses in the area with very limited general population traffic, 3) the fact that the site itself will be situated in an industrial area already characterized by intense industrial activity from the oil shale exploration / gas processing activities, and 4) the site has previously been permitted for use as a compressor facility and the area of impact will not increase above the current 9-acres, Staff recommends the Board direct Staff to schedule a public hearing for the Board and not refer the matter to the Planning Commission.

Commissioner Houpt – this site is growing substantially, new compressors added last year and when these sites grow the impacts may not be in the immediate area but where you access the property. How do we gauge or measure that impact beyond borders? We look at sound and impacts on wildlife and those are put in place so granted his is in an area that has been industrial, but are we also looking at and should there be a broader discussion on impacts to intersections, the growth of industry for the public good?

A motion was made by Commissioner McCown to not refer this to the Planning Commission and to set this as a public hearing to be heard directly by the Board.

Commissioner Houpt seconded and asked staff to take a close look at the other aspect of going through the Planning Commission.

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

PUBLIC HEARING:

CONSIDER A SPECIAL USE PERMIT ALLOWING RESORT AND RECREATIONAL SUPPORT FACILITIES. APPLICANT: ORCHARD LAKE LODGE, LLC. – CRAIG RICHARDSON

Carolyn Dahlgren, Craig Richardson, Mark Kessler and Tim Thulson and Dave Massey, Ranch manager were present.

Carolyn reviewed the noticing requirements for the public hearing and the posting was on CR 209; she determined they were timely and accurate. She advised the Board they were entitled to proceed.

Chairman Martin swore in the speakers.

Craig submitted the following exhibits: Exhibit A –Mail Receipts; Exhibit B - Proof of Publication; Exhibit C – Garfield County Zoning Regulations of 1978 as amended; Exhibit D -Application materials; Exhibit E – Staff Report; Exhibit F – Memo from Jake Mall, Road and Bridge Department dated 2-15-2007; Exhibit G – Memo from Steve Anthony, Vegetation Management dated 2-23-2007; Exhibit H – Memo from Jim Rada, Environmental Health Department Manager, dated 3-5-2007 and Exhibit I – Letter from Dean Riggs, Area Wildlife Manager, Colorado DOW, dated 3-5-2007.

Chairman Martin entered Exhibits A – I into the record.

DESCRIPTION OF THE PROPOSAL

The applicant is requesting approval of a special use permit to allow a resort on the subject property located northwest of DeBeque on County Road 209. The proposed resort would include a ranch house, lodge, spa and fitness center, museum, and up to six cabins.

The subject property consists of 40.196 acres and is located northwest of DeBeque, Colorado on County Road 209, surrounded primarily by a 3,198-acre parcel owned by Colorado Nature Ranch, LP. The proposed resort facilities will be located on the subject parcel. Resort guest will have access to approximately 23,000 acres of land in the surrounding area.

The resort will offer hunting and fishing activities to guests that will occur on the subject property and other land accessible by the Applicant. Resort activities will accommodate up to 48 overnight guests. The Applicant is proposing the following improvements.

The proposed resort will operate on a year-round basis. As represented in the application the Applicant expects to operate by the following estimated business cycle.

Definition of a Resort

The Zoning Resolution defines a Resort as a "Dude ranch or guest ranch; hunting or fishing camp, cross-country or trail skiing lodge (any of which shall not exceed twelve (12) dwelling units or forty-eight (48) beds or visitor capacity), land used for the purpose of recreation, which provides lodging, recreational activities, dining facilities, commissary and other needs operated on the site for guests or members."

The proposed resort will provide lodging, hunting and fishing activities. A maximum of 48 overnight guests will be accommodated. As proposed, the application meets the criteria for a resort defined in Section 2.02.448 of the Garfield County Zoning Resolution, as amended.

Cabins – single or two story structures of 500 sq feet each.

An application for a Resort must address the following standards and criteria in order to be approved by the Board. The requirements / standards are listed below in bold italics followed by a Staff response:

The Applicant has provided a copy of Water Division No. 5 decree of Augmentation Case No. 01CW373, which provides augmentation for the existing Colorado Nature Ranch Lodge Well that will be utilized by the proposed use. The augmentation plan provides 0.250 cfs conditional for domestic and commercial purposes. The Applicant's consulting engineer, Colorado River Engineering, Inc. has estimated the approximate daily use for guests to be 100 gallons per day each. The application represents that the current well yield is sufficient for the proposed use.

Because the well will serve more than 25 people, it is considered a transient non-community public water system. The Applicant is seeking approval for this system from the Colorado Department of Public Health and Environment (CDPHE). Once approved, the water system will be reclassified as a public water system if occupancy exceeds 25 people for at least 60 days out of the year. As a condition of approval, Staff recommends that the Board require the Applicant to provide documentation of approval by the CDPHE prior to the issuance of this SUP.

The application identifies the location of four Individual Sewage Systems. Spacing requirements for multiple systems on a single parcel are identified in CDPHE Water Quality Control Division's guidelines on Individual Sewage Disposal Systems. Garfield County Environmental Health Department would like to review the design of the proposed Individual Sewage Disposal Systems, in order to ensure these standards are met. Staff recommends that as a condition of approval the Board require that any improvements requiring a Building Permit utilizing an ISDS, obtain an approved ISDS permit prior to the issuance of the Building Permit.

The subject property is accessed by an existing driveway off of County Road 209. A copy of the application was forwarded to the Garfield County Road and Bridge Department. They have no objections to this application with the following comments.

- 1) The driveway access to the lodge at the entrance to Cr. 209 (Brush Creek Road) will be rebuilt to meet the driveway access standards and a driveway access permit will be issued with conditions specific to the driveway upon approval of this application.
- 2) A stop sign will be required at the driveway access entrance to Cr. 209 (Brush Creek Road). The stop sign and installation shall be as required by the MUTCD (Manual on Uniform Traffic Control Devices).
- 3) The gates across Cr. 209 at the entrance to Cr. 204 (Main Roan Creek Road) will be removed and a cattle guard will be installed if needed for livestock containment.
- 4) The cattle guard can be the width of the opening where the existing gates are installed. If a cattle guard is not needed for livestock containment the gates will be removed from CR 209 as this is a public road. A utility permit will be issued for the installation of the cattle guard, if one is needed with conditions specific to the cattle guard installation.

It is represented on page 5 of the application that the maximum ADT for the proposed use will be 90 vehicular trips. This total will only be reached if the resort is operating at 100% capacity and sees a 100% turnover. A typical peak day during the high season will have an ADT of 48 vehicles and an ADT of 19 during the low season impacting County Road 204. County Road 209 will see a possible increase of 16 daily trips due to the utilizing of neighboring properties. This increase will have a minimal impact on County Road 209.

Staff finds that the current improvements are sufficient for the proposed use. It is recommended that as a condition of approval the Board require the Applicant to comply with all the requirements provided by Garfield County Road and Bridge Department.

The proposed resort is located in a primarily undeveloped area in a very remote portion of the County. The subject parcel is bordered by BLM and 23,000 acres of Colorado Nature Ranch property. The adjacent uses will not be affected by the proposed use and Staff finds that no screening or landscaping is necessary to minimize the impact on adjacent properties.

STAFF RECOMMENDATION

Staff finds that the proposal is in compliance with the Garfield County Zoning Resolution of 1978, as amended. Staff recommends that the Board of County Commissioners approve a Special Use Permit to allow "Resort and Recreational Activities" on a 40.196 acre parcel owned by Orchard Lake Lodge, LLC. (Parcel Number 21650340030) with the following conditions.

- 1) The maximum number of overnight guests staying at the resort shall be 48;
- 2) Any lighting installed at the resort shall be directed downward and inward;
- 3) The driveway access to the lodge at the entrance to CR 209 shall be rebuilt to meet the driveway access standards;
- 4) A stop sign shall be required at the driveway access entrance to CR 209. The stop sign and installation shall be as required by the MUTCD, (Manual on Uniform Traffic Control Devices);
- 5) The gates across CR 209 at the entrance of CR 204 shall be removed. If required a cattle guard may be installed for livestock containment once the Applicant has obtained a utility permit from Garfield County Road and Bridge Department;
- 7) The Applicant shall provide Garfield County with approval from Colorado Department of Health and Environment for the proposed public water system design prior to the issuance of this Special Use Permit;
- 8) The Applicant shall provide an approved water well permit from the Colorado Division of Water Resources, allowing the proposed uses prior to the issuance of this Special Use Permit;
- 9) In the event any representations made in the application for which this permit is granted change and are no longer consistent with the representations in this application, ~~including without limitation the ISDS master plan~~, the Applicant shall be required to submit a new permit application to the County addressing the changes;
- 10) Prior to issuance of building permits, the Applicant shall obtain an approved Individual Sewage Disposal System permit to be utilized by the proposed improvement;
- 11) The proposed improvements shall comply with all requirements of section 3.10.04 of the Garfield County Zoning Resolution of 1978, as amended;
- 12) The Applicant shall inventory and map the property for County Listed Noxious Weeds prior to the issuance of the Special Use Permit;

- 13) The Applicant shall provide a weed management plan for the inventoried noxious weeds approved by the Garfield County Vegetation Management Department prior to issuance of this permit;
- 14) Any straw bales that are used as sediment barriers or as mulch shall be certified as weed-free;
- 15) All food waste shall be contained within a bear-proof garbage receptacle and disposed of accordingly;

Craig added Conditions:

No. 16 – scratch the language in No. 9 and “the applicant shall comply with Colorado Water Quality Control Division Policy Number WQSA-6 regarding multiple individual sewage disposal systems” and the purpose of that policy determines whether or not you can have multiple systems and the spacing required for them.

No. 17 – All construction equipment shall be washed and visually inspected for seeds, soil and other debris prior to leaving the site, this was a condition that Steve Anthony recommended due to the number of County listed noxious weeds on site.

No. 18 – follow the recommendations as submitted by the DOW.

Tim Thulson - Two points to make, one is on the map showing the boundaries, the most obvious aspect of this project is that it is highly isolated, they are surrounded by a ranch of 23,000 acres and this is right in the middle of it. A reference to the 3,198 acre parcel in the staff report is only one of the parcels purchased and CNR also owns another 23,000 acres and will not be impacting other people. With regards to the Department of Health public water permitting system, we're done and have received notice and we also have our well permit in hand and we have an active weed management plan for the Nature Ranch as a whole and we are refining that and it should be done this week along with the mapping. One question to clarify, Craig was going to amend No. 9 to require compliance with ISDS regulations.

Craig recommended this be stricken and added Condition No. 16.

Carolyn noted that this will replace being “without limitation the ISDS master plan” and as I understand the new 16 will replace this.

Tim – with regard to this, the applicant shall be required to submit a new permit application with the County addressing the changes; we want some flexibility in there for slight changes without having to come back.

Craig – to the ISDS?

Tim – yes, as long as we're in compliance to the regulations.

Craig – as long as what you represent, the numbers changing doesn't alter what you represent.

Tim – okay we can live with that.

Commissioner Houpt – so do we need to specify that in here?

Tim is comfortable with the wording. In closing we are here to take any questions but we are acceptable with all of the conditions as set forth in the staff report.

Commissioner McCown – it's only appropriate to sideway into the question, do you own the mineral rights?

Tim – on this 40 acre parcel we do.

Commissioner McCown – and the 23,000 acres surrounding it? You have about a 123,000 acres belonging to a neighbor adjacent to you that is going to be in the process of ramping up their drilling activity. Are you guys and them going to be able to co-exist in basically the same valley with one little drainage separating you and part of the lease, the nature of the lease operates on is Chevron. Are you okay with that, they are coming, they have the mineral rights and will start a drilling program in the valley and they may own the mineral rights under the property that you're sitting on. This is fair warning that these are two totally separate entities that will need to operate in this valley and I just want to make sure that you at the table are okay and not come back screaming and gnashing in two years of this drill rig scaring our birds away.

The Applicant stated yes they are okay with it.

Carolyn back to No. 9 – referencing the 4 systems, the concern is that you would end up with 8 leach fields.

Tim – this would be fine, if we come to a boulder somewhere and need to change.

Carolyn - this issue is that it would radically change the number of ISDS and the number of people served.

Tim – we will deal with this in our permit.

Commissioner McCown – questions about that and didn't know if there is a maximum of ISDS that you can keep adding or what point do you have to apply for a treatment facility – I thought it was 2,000 gallons a day.

Jim Rada – 6,000 gallons per day is a point or the accumulation of systems has to go to review of the State Health Department and they are at about 5300 gallons with the current design.

Applicant's representative Sam – the 2000 gallons per day is still applicable but the health department developed a policy that they recognize in rural areas where you have stuff like this happening and one owner does have the right to do multiple systems and their policy basically states and they came up with a 6000 gallon per day limit as a policy but it is still the 2,000 gallons per day per system. What they also did in that policy is actually increase some setback requirements so basically it says we'll let one owner do multiple systems but we're also going to limit you to 6000 and we're give you a higher standards on spacing. The number of systems isn't as critical as what we're perfectly comfortable with is that we're staying within their policy and once we go to the final design on these systems depending on architectural and how we split them up, we need some flexibility as to where they go but we will stay within 2000 gallons per day for that limit and 6000 as a whole.

Carolyn – the application for the well permit was not in the name of the current owner, and also knows you have a quit claim deed and all water rights from the Nature Ranch to the Orchard Lake Lodge LLC, does the State require you to actually amend the well permit to put it in the name of Orchard Lake Lodge LLC? She requested that we have this as well as the well permit if the well permit was issued in the other name.

Tim - the well sharing agreement and deeds, so we wouldn't need to change the name of the well due to a well sharing agreement.

Carolyn asked the applicant to provide an approved water well permit and execute a copy of the well sharing agreement.

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

A motion was made by Commissioner McCown we approve the Special Use Permit for a resort and recreational support facility with conditions of staff amending No. 8 to include the ownership of the well permit and a well sharing agreement be included; striking in no. 9 ~~including without limitation the ISDS master plan~~, adding No. 16 the verbiage about the Colorado Water Control Division, water quality, the testimony by Craig, No. 17 to include the recommendation by the Division of Wildlife as conditions of approval and No. 18, this is an unenforceable regulation of washing every vehicle and it is an unreasonable requirement and he didn't add a No. 18.

Chairman Martin – motion to approve with Conditions 1 – 17.

Commissioner Houpt seconded.

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

Executive Session – one pending case – Gypsum Ranch – CDOT and the position to take in this case.

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

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

Action:

Statement from Executive Session – Bond to authorize file of disclaimer for Gypsum Ranch.

ADJOURNMENT

ATTEST:

CHAIRMAN OF THE BOARD
