

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
May 1, 2012**

The May 1, 2012 meeting was held in the Commissioners' boardroom in the Courthouse located at 200 E. Virginia, Gunnison, Colorado. Present were:

Hap Channell, Chairperson (ABSENT)
Paula Swenson, Vice-Chairperson
Phil Chamberland, Commissioner
Art Trezise, Deputy County Attorney

Matthew Birnie, County Manager
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Vice-Chairperson Swenson called the meeting to order at 8:32 am.

AGENDA REVIEW: There were no changes made to the agenda.

CONSENT AGENDA: Moved by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the Consent Agenda as presented. Motion carried.

1. Acknowledgment of County Manager Signature; Temple Hoyne Buell Foundation Grant Application; Early Childhood Council; \$10,000
2. Acknowledgment of County Manager Signature; Temple Hoyne Buell Foundation Grant Application; Nurturing Parenting Program; \$8,000
3. Consulting Agreement; Dr. Marie Matthews, MD; Professional Services Regarding Medical Consultation for the Gunnison County Public Health Family Planning Program; 1/1/12 thru 12/31/12; \$1,200
4. Acknowledgment of Finance Director's Signature; Department of Treasury Internal Revenue Service Form 8038-CP, Return for Credit Payments to Issuers of Qualified Bonds; \$163,967.13
5. Acknowledgment of Assistant County Manager Signature; Professional Services Agreement; Walsh Environmental Scientists and Engineers, LLC; Mold Testing at the Mountain View Apartment Complex; \$2,215
6. Draft Special Meeting Minutes; 4/24/12
7. Base Contract; Jviation, Inc.; Engineering Services for the Fog Seal Remarking Project at the Gunnison-Crested Butte Regional Airport; \$99,613
8. Grant Application; Community Foundation of the Gunnison Valley; Multicultural Resource Office; \$5,000
9. Ratification of Correspondence; Letter of Support for HB 12-1331; Name Change for Western State College of Colorado to be Renamed Western State Colorado University
10. Approved Task Order Contract; Department of Public Health and Environment, Routing No. 12 FLA 43171; Gunnison County Women's Wellness Connection; 6/30/12 thru 6/29/13; \$9,000
11. Acknowledgment of County Manager Signature; Payment Agreement; Distinguished Wood Supply, Inc.; 4/1/12 thru 9/1/13; \$17,098.43 Principal Plus Interest
12. Bid Award; AEX, Inc., d/b/a Alpine Express; Gunnison-Crested Butte Regional Airport PUC Passenger Carrier Concessions
13. Bid Award; Hertz Corporation; Gunnison-Crested Butte Regional Airport Rental Car Concessions
14. Bid Award; Avis Rent-A-Car System; Gunnison-Crested Butte Regional Airport Rental Car Concessions
15. Bid Award; MICAR, Inc., d/b/a Budget Rent-A-Car; Gunnison-Crested Butte Regional Airport Rental Car Concessions
16. Grant Agreement between State of Colorado Department of Local Affairs and Gunnison County; Contract Encumbrance #L12CSBG19; 3/1/12 thru 2/28/13; \$26,423; and Grant of Signatory Authority for Quarterly Reports and/or Reimbursement Requests to Health and Human Services Director Renee Brown
17. Draft Regular Meeting Minutes; 4/17/12

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

COUNTY MANAGERS REPORT: County Manager Birnie was present for discussion.

1. Housing Authority Update. County Manager Birnie informed the Board that he met during the previous week with the local managers to discuss the draft agreement for the Multijurisdictional Housing Authority. The re-draft will be distributed, and a work session will be scheduled. He does not foresee any contentious issues. Generally speaking, each of the three local governments will likely contribute \$30,000 per year for next three years, while the County will contribute \$90,000 per year. He noted that the County contributed about this same amount to the Housing Authority in 2011, and more than this in years prior to 2011. The Housing Authority, as a legal entity, has existed since 1978. It will remain a legal entity due to some legal obligations with grants, assets and liabilities currently in the Housing Authority's name. The board will be comprised of two appointees from each jurisdiction, with at least one being an elected official.

2. Oil and Gas Inspections Update. County Manager Birnie informed the board that the State has signed the agreement, and that it will appear on the next agenda for Board execution. He will meet with Community Development Director Joanne Williams to determine who will be performing the inspections.
3. Senate Bill 180. County Manager Birnie explained that Chairperson Channell had asked that this bill involving biomass' assistance to help create a market and manage fire hazards and beetle kill in the forest be researched and discussed. He opined that it appears to be a bill that the Board may want to support. He noted, however, that transferring \$500,000 from the Agriculture Value Added Cash Fund (severance tax dollars) to another fund is not something that he is familiar enough with to make a recommendation. The Board asked him to draft a support letter, which would be due by 5/9. He will get feedback from Senator Schwartz prior to drafting the letter.

BREAK: The meeting recessed from 8:56 until 9:01 am.

TAX ABATEMENT HEARING FOR TAX YEARS 2009 AND 2010; KATHY SUE BEATTIE AND PEGGY SUE FOSTER, TRUSTEE OF THE PEGGY SUE FOSTER TRUST; PARCEL NO. 35170000042; 8355 HIGHWAY 135, GUNNISON, COLORADO; REPRESENTED BY MICHAEL P. O'LOUGHLIN OF SCHUMACHER & O'LOUGHLIN, LLC: Deputy County Attorney Art Trezise, Attorney Michael P. O'Loughlin, Assessment Analyst William Spicer and surveyor Don Maimone were present for discussion.

Mr. O'Loughlin explained that, prior to 2011, the parcel in question had never been properly surveyed. When Mr. Maimone completed the survey in 2011, inconsistencies were found. As a result of the difference in land size, 21.793 acres being reduced to 14.337 acres, the property owners decided to appeal the 2009 and 2010 property taxes paid. 14.337 acres to 21.793 they had been paying on. A subsequent boundary line adjustment was completed in July 2011, which further reduced the acreage to 13.12 acres.

Deputy County Attorney Trezise explained that the County would not be allowed to abate the taxes unless the issue stemmed from a clerical error made by the County. Since the County relied on the legal description of the property, which is the proper thing to do, it cannot and is further not permitted to abate the taxes, per State statute. Assessment Analyst Spicer provided the Assessor's regulations, which also denied the abatement because the documentation that the Assessor relied on was incorrect to begin with.

Mr. O'Loughlin agreed with Deputy County Attorney Trezise's argument, but further explained that he brought this request forward, not because of a clerical error, but under the belief that the assessment was erroneous. An erroneous assessment is defined as an assessment that, for any reason, is invalid. He stated his belief that this issue falls within this overarching prong of the statute and that the taxes could be refunded to a proper amount. Deputy County Attorney Trezise disagreed because there was nothing wrong with the actual assessment or the assessment process. He explained that this was not an analytical error made by the County as it was simply a clerical error that triggered it. Mr. O'Loughlin provided case law and urged the Board to rule in favor of the property owners.

Commissioner Chamberland asked about the remainder of the property and Assessment Analyst Spicer explained that the Bureau of Land Management is the beneficiary in this issue.

Commissioner Chamberland noted that the County values building lots, not acreage, and he asked for an explanation of the value difference. Assessment Analyst Spicer explained that the site value, based on an acreage range of between 10 to 14 acres, is \$430,000. Using the previous acreage range extending to 15 acres, the value was \$461,100.

Commissioner Chamberland asked for confirmation that this error was due to the original recording of the deed, and not with any mistake that may have been made by the Assessor's Office. Deputy County Attorney Trezise confirmed that the issue is based on an initial error by the tax payer. Since the County does not perform surveys and is not in position to be able to survey every newly created parcel, he suggested that the better recourse may be for the property owner to pursue a case with the title insurer.

Moved by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to deny the petition before them. Motion carried. Assessment Analyst Spicer noted that the Assessor's Office utilized the record as of January 1st, so the 2011 paid taxes may not be abatable.

BOUNDARY LINE ADJUSTMENT; SECTION 31, TOWNSHIP 47 NORTH, RANGE 2 WEST, NMPM; SECTIONS 26 AND 36, TOWNSHIP 47 NORTH, RANGE 3 WEST, NMPM; MICHAEL MORRIS: Planner Cathie Pagano and property owner Michael Morris were present for discussion.

Planner Pagano presented Mr. Morris' application to adjust the boundary lines between two separate parcels that he owns, along with a draft agreement for consideration. Staff recommended approval of the application. The small portion of the parcel does have a mortgage, so she worked with Mr. Morris and the County Attorney's Office on this issue. If ever foreclosed on, the draft agreement would address

the issue. **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the boundary line adjustment and authorize signatures. Motion carried.

CORRESPONDENCE:

1. Letter of Support; Colorado Roadless Rule. High Country Citizens' Alliance (HCCA) Public Land Director Matt Reed stated HCCA's belief that this is much more than just the North Fork coal issue since the Rule, as proposed, is significantly weaker than the national rule on many issues. He continued by saying that, for Gunnison County, this is especially problematic for oil and gas leases executed after 2001 since, should the Rule go forward, the gap leases will be found legal. The finalized Rule is expected within the next few weeks, and he urged the Board to suspend any formal support until that time.

Citizen Warren Wilcox stated that the efficient handling of energy is important, and that he has issues with how this is being handled locally.

Commissioner Chamberland expressed an understanding of Mr. Reed's comments, but stated that he would still vote in support because of the issues within the North Fork that many agree would benefit from this support.

Citizen Richard Karas stated support of HCCA's beliefs, but noted that these letters (referring to this item as well as the following agenda item) contradict the County's adopted carbon emissions goals. He also stated that methane is 18 times as potent as CO₂ and, for that reason, he urged the Board not to submit the letters. He clarified that he was not asking the Board to oppose the Rule and that he was only asking that a position not be taken since the track record of the industry is poor with regard to rehabilitation of the affected areas.

Vice-Chairperson Swenson explained that the areas are bonded for rehabilitation. She noted that she understands all of the concerns, but that the concerns must be balanced with the fact that Gunnison County has natural resources, including some of the cleanest coal in the world that helps meet emissions across the country, and the need for continued work on responsible development.

Mr. Reed stated that a CB News article referenced times and amounts of coal, and he asked for an explanation of the difference. Mountain Coal Company, LLC Environmental Engineer Kathy Welt explained that the larger number refers to the whole mining area, not just the lease modification area.

Moved by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the letter, sign and send it. Motion carried.

2. Letter of Support; Mountain Coal Company Coal Lease Modifications. **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the letter for the federal lease modifications for the West Elk Coal Mine. Motion carried.

MEMORANDUM OF UNDERSTANDING; GUNNISON, PITKIN AND EAGLE COUNTIES; ENABLE THE ESTABLISHMENT AND ADMINISTRATION OF A REVOLVING LOAN FUND TO PROVIDE FINANCING FOR ENERGY EFFICIENT HOME IMPROVEMENTS FOR COUNTY RESIDENTS: Office for Resource Efficiency (ORE) Home Energy Advisor Bart Laemmel and ORE Community Energy Coordinator Maya Silver were present for discussion.

County Manager Birnie explained that this agreement would create formal relationships with which to handle this fund. Pitkin County has signed the document, and Eagle County is expected to sign it very soon. **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the Memorandum of Understanding for the revolving loan between Gunnison, Pitkin and Eagle Counties and authorize signatures. Motion carried.

BREAK: The meeting recessed from 9:51 until 10:10 am.

INTERGOVERNMENTAL AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY AND THE COLORADO OIL AND GAS CONSERVATION COMMISSION (COGCC): County Manager Birnie stated that the Board had seen this agreement a few times and, while the language has been approved, it had not yet been approved for signature. The agreement was positively supported by the COGCC. The County will work toward implementation by determining a scope of work and services, going through the Request for Proposals process, and contracting with a firm that meets with COGCC standards. Simultaneously, the County will work with the inspection division of the COGCC on training schedules to ensure that the inspection and reporting procedures remain the same. The County would like to select a firm within the next month or so, while the training process could take quite a bit of time after that. Mr. Karas congratulated the Board on achieving this agreement. Mr. Reed thanked the County for all efforts as he believes this agreement will yield significant benefits for the citizens. He also noted that areas around the country are looking to this agreement as an example.

Moved by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the Intergovernmental Agreement between the Board of County Commissioners of Gunnison County and the Colorado Oil and Gas Conservation Commission, and authorize signatures. Motion carried.

BREAK: The meeting recessed from 10:21 until 10:45 am for a short break and then from 10:45 until 11:07 am in order to call to order as the Gunnison River Valley Local Marketing District (see minutes below).

GUNNISON RIVER VALLEY LOCAL MARKETING DISTRICT: Gunnison-Crested Butte Tourism Association (TA) Executive Director Jane Chaney and representative Stephen Pierotti were present for discussion.

CALL TO ORDER: Vice-Chairperson Swenson called the Gunnison River Valley Local Marketing District (LMD) meeting to order at 10:45 am.

GUNNISON-CRESTED BUTTE TOURISM ASSOCIATION FUNDING REQUEST FOR WEBSITE REDESIGN: Ms. Chaney informed the Board that website redesign pricing had decreased to a reasonable amount of approximately \$20,000 to \$35,000, which includes the cost of photography. In the redesign process, she will be looking at the behavioral expectations of the website users, the utilization of extensive Content Management System technology, and the development for viewing on technology such as iPads. Mr. Pierotti explained that his intent is to see this project through the transition and then train the new webmaster.

County Manager Birnie noted that the LMD has approximately \$300,000 in fund reserves.

Commissioner Chamberland asked for an explanation of how this website redesign will affect the ongoing conversations with the Economic Development group regarding branding. Vice-Chairperson Swenson stated that the ED group does not want to suspend the progress of moving this website toward what it should be. Ms. Chaney confirmed that other entities could tie into the website's infrastructure in the future. **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the request from the Tourism Association for funding for a website redesign up to \$40,000. Motion carried.

ADJOURN: **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to adjourn the meeting. Motion carried. The Gunnison River Valley Local Marketing District meeting adjourned at 11:07 am. Vice-Chairperson Swenson then immediately reconvened the Gunnison County Board of County Commissioners meeting.

VISITORS; HABITAT FOR HUMANITY (HH); DEVELOPMENT PROPOSAL: HH President Jerry Kowal, Vice-President Fred McCaleb, Secretary Bonnie Baril, Administrative Director Julie Robinson and board member Ronda Connaway were present for discussion.

County Manager Birnie informed the Board that the County has a payment due on 7/10/12 for this property and that, after payment is made, the County will owe approximately \$125,000. If this offer is accepted, the balance of \$25,000 would still be due, and County Manager Birnie suggested that it be paid with linkage fees. The legal description for the property is Lots 32-49, Block 120, Guerrieri Addition to the Town of West Gunnison, State of Colorado, which is located at 6th and New York.

Mr. Kowal informed the Board that, after a year of fundraising, HH has \$75,000 available. HH will fundraise or finance the remaining \$25,000 necessary, and HH would like to close on the property by 7/16/12 or sooner. He has received preliminary feedback indicating that a loan will be approved, if HH decides to take that option.

Ms. Connaway acknowledged that her board has been discussing the 35-foot easement on which they cannot build, essentially removing one of the building sites. HH believes that it can find agreement with the City of Gunnison relative to sewer, water and how the land will be utilized

Mr. Wilcox asked how much the County paid for this property. County Manager Birnie indicated that the property was purchased for approximately \$452,000, and that the County has paid interest on the loan. He explained that the current value is less than when it was purchased in 2006 and that the transaction would not be considered as a sale as much as it would be making a donation to HH. The property was originally purchased to provide affordable housing options.

The Board expressed confidence in HH. **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to approve the development proposal for the sale of the property for \$100,000 and use the linkage fee money to pay off the balance of the loan once that agreement is signed and executed. Motion carried. County Manager Birnie will work with the County Attorney's Office to develop a contract for review and approval by both the Board and HH.

BREAK: The meeting recessed from 11:22 until 11:34 am

TREE SCULPTURE BID AWARD: Finance Director Linda Nienhueser was present for discussion.

County Manager Birnie confirmed that this project was discussed during the budget and that the costs have been allocated in the budget. He asked the Board to confirm whether or not it would like to pursue this project and, if so, to select the artist and the design. Three proposals were available for review. Finance Director Nienhueser noted that these types of carvings are said to last up to 15 years, though Commissioner Chamberland felt that time could be extended as long as the carving is maintained. **Moved** by Vice-Chairperson Swenson, seconded by Commissioner Chamberland to award the bid to Sheldon Roberts in the total amount of \$3,000 to cover his bid and room and board. Motion carried.

UNSCHEDULED CITIZENS: There were no Unscheduled Citizens present for discussion.

COMMISSIONER ITEMS:

Commissioner Chamberland:

- 1. Broadband Meeting in Ridgeway. During the meeting, Commissioner Chamberland made contact with Eaglenet, the firm that will be connecting 178 schools in Colorado with high-speed internet by 2013. The group may evaluate the possibility of leasing space within the Courthouse for high-speed infrastructure needs. The group will continue to meet to determine the structure of the organization. The eventual structure will be private/public partnership of some type.

Vice-Chairperson Swenson:

- 1. Economic Development Council. Commissioner Swenson informed the Board that the EDC is moving forward. It is now working on regulations and discussing air travel issues.
- 2. Region 10 Retreat. Commissioner Swenson missed the retreat, though it reportedly went well. She will obtain the draft minutes this week.

ADJOURN: **Moved** by Commissioner Chamberland, seconded by Vice-Chairperson Swenson to adjourn the meeting. Motion carried. The meeting adjourned at 11:56 am.

(Absent from meeting – no signature)

Hap Channell, Chairperson

Paula Swenson, Vice-Chairperson

Phil Chamberland, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk