AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
08/06/2013 BOCC Meeting Minutes for review & approval.

Fiscal Impact: n/a

Submitted by: B. Lucero **Submitter's Email Address:** blucero@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:

Reviewed by: MBirnie Discharge Date: 8/14/2013

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 8/20/2013 Follow Up Agenda Date: N/A

Revised April 2013

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
August 06, 2013

The August 06, 2013 meeting was held in the Commissioners' boardroom in the Courthouse located at 200 E. Virginia, Gunnison, Colorado. Present were:

Paula Swenson, Chairperson
Phil Chamberland, Vice-Chairperson
Jonathan Houck, Commissioner
Others Present as Listed in Text

Matthew Birnie, County Manager
Bobbie Lucero, Deputy Clerk to the Board

GUNNISON COUNTY BOARD OF EQUALIZATION:

CALL TO ORDER: Chairperson Swenson called the Gunnison County Board of Equalization meeting to order at 11:33 am.

Moved by Commissioner Chamberland and seconded by Commissioner Houck to approve the July 08, 2013 CBOE minutes as presented. Motion carried unanimously.

ADJOURN: Moved by Commissioner Houck and seconded by Commissioner Chamberland to adjourn the August 06, 2013 Board of Equalization meeting. Motion carried unanimously. The meeting adjourned at 11:33 am.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS:

CALL TO ORDER: Chairperson Swenson called the Gunnison County Board of County Commissioners meeting to order at 11:33 am.

AGENDA REVIEW: There were no changes to the agenda.

CONSENT AGENDA: Moved by Commissioner Chamberland and seconded by Commissioner Houck to approve the Consent Agenda as presented. Motion carried unanimously.

1. Colorado Division of Criminal Justice; DCJ Form 4-B, Change in Signing Authority; Gunnison County Substance Abuse Prevention Project; 1/7/13
2. Acknowledgment of County Manager Signature; Colorado Department of Public Health and Environment; Additional Funding for Amendment 35 Immunizations; Purchase Order #OE FHA EPI13000(070); 7/1/13 thru 12/31/13; $5,264
3. Application for Gunnison Sage Grouse Conservation Trust Funds; Raven Study at the Gunnison County Landfill; Dr. Patrick Magee; $4,500
4. Memorandum of Understanding; Western Local Workforce Investment Board and the Western Chief Local Elected Official Representing the Boards of County Commissioners of Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel Counties, and the State of Colorado, Acting by and through the Department of Labor and Employment, for the Benefit of the Colorado Rural Workforce Consortium, Division of Employment and Training, 633 17th Street, 12th Floor, Denver, Colorado 80202; Term 6/30/2018
5. Quit Claim Deed and Statement of Authority; Gunnison Heights Subdivision Association; Approximately 0.191 Acres Identified as the "Common Area" on the Plat Titled "Plat of Gunnison Heights Subdivision W1/2NE1/4 Sec 3, T49N, R1W, NMPM, Gunnison County, Colorado" Recorded in the Records of the Office of Clerk and Recorder of Gunnison County, Colorado on June 14, 1984, Bearing Reception No: 381601
6. Agreement for Genetic Testing Services; DNA Diagnostics Center; Paternity Testing; 7/22/13 thru 6/30/14
7. Professional Service Agreement; Monica Bilow; Provide Services to the Office of Juvenile Services Regarding Assessment, Service Planning, Case Management and Clinical Services to Promote Health and Wellness to Individuals and Families Referred from Gunnison County Family Advocacy and Support Team through the Office of Juvenile Services; 8/6/13 thru 6/30/14
8. Software Sales Order; Peak Performance Imaging Solutions; Laserfiche Document Management System; $35,287
9. Ratification of Submission; State of Colorado – Department of Local Affairs, Energy and Mineral Impact Assistance Program Application, Tier II; Gunnison County Courthouse Project; $1,000,000
10. Memorandum of Understanding; Mesa County Health Department and Gunnison County Health and Human Services; Emergency Preparedness Response; $19,003
11. Fourth Addendum to the Development Improvements Agreement for Skyland Filing III, Phase II; N.D. Enterprises, LLC; Extension of Work Completion Date to 11/30/16
12. Colorado Department of Public Health and Environment, PSD-WIC, FLA, Contract Routing #14-58765; Amendment for Task Orders #1; Women and Infant Children Program; 7/11/13 thru 9/30/14; $55,836
13. 2014-2018 Gunnison County Capital Improvement Plan

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

UNSCHEDULED CITIZENS: There were no unscheduled citizens present for the discussion.

BREAK: The meeting recessed from 11:48 am until 1:03 pm.

COUNTY MANAGER'S REPORT: County Manager Birnie was present for discussion.

1. Gunnison Valley Animal Welfare League (GVAWL) Shelter Loan Guarantee. County Manager Birnie informed the board that this item is on the agenda as a follow up, regarding a meeting with the City of Gunnison earlier about creating a shelter with GVAWL. He suggested that if the board wants him to proceed with the loan, the board will need to direct him to proceed with the loan for the shelter and work out the contractual agreements with GVAWL. **Moved** by Commissioner Chamberland and seconded by Houck to authorize the County Manager to proceed with the loan agreement and begin executing on all contractual agreements with GVAWL.
2. Courthouse Renovation Project. County Manager Birnie informed the board the architect is working on the details for the Courthouse Renovation Project. He informed that the architects met with all of the different user groups to try and accommodate their needs.
3. Construction Manager Position. County Manager Birnie informed the board that he has received a lot of interest in the Construction Manager position. He reported the position will have a maximum set price, and the Construction Manager will agree to work on the project for a set amount. The Request for Proposals required the applicants to present a plan for local substitutes and material suppliers. He informed that the new building will separate county and state services, depending on the requirement and level for security. He also reported that the next public meeting will be at the County Fairgrounds on 8/28/2013 at 5:30 pm.

DEPUTY COUNTY MANAGER'S REPORTS AND PROJECT UPDATES: Deputy County Manager Marlene Crosby was present for discussion.

1. Update from 7/26/13 Meeting in Tin Cup. Deputy County Manager Crosby informed the board she needs staff direction and has received calls after the meeting on 7/26 in Tin Cup. Commissioner Houck informed that he will take the lead for the Commissioners on this topic. He will contact United States Forest Service (USFS) District Manager John Murphy about the USFS portion of this topic. Commissioner Houck will meet with Deputy County Manager Crosby, and direct her how to move forward.

   Deputy County Manager Crosby reported to the board that she received several calls after the meeting about the following:
   1. The reduced speed has helped.
   2. The local ATV Traffic Only signs were not a decision of the board and they should be taken down.
   3. This is not a matter of blocking ATV use, it is more about controlling speed around the trading post and in Tin Cup.

   Deputy County Manager Crosby informed the board that since the local ATV Traffic Only signs are not legal, and are not supported or approved, she approves asking them to be removed. She confirmed that she is okay with leaving the local speed sign of 15 MPH, even though it cannot be enforced. The board agreed that the ATV Traffic Only signs need to be removed.

   Chairperson Swenson informed that Sheriff Besecker would like to be a part of the discussion. There were a few concerns about the trail closures with the USFS. Trail Closures will be a discussion next year after the NEPA process on the Pitkin side. Commissioner Houck has a contact list of people who would like to be involved in this discussion. He will contact them and set up a meeting.

4. Riverwalk Estates Bank Stabilization. Deputy County Manager Crosby informed the board to refer to the map provided. She reported that the riverbank had eroded enough that it is near the property. She reported the bank needs to be repaired and also the sand bar, because it collects debris. She suggested that Public Works haul some rock from the Taylor Project or the Landfill, which can be used to repair the bank, which will last many years. The Riverwalk HOA will need to hire a private contractor to place the rock.

   Deputy County Manager Crosby informed the board that she will need authorization before she moves further with the HOA. She reported she told the HOA that they will need to:
   1. Designate a spot alongside the road that the trucks could drop off the rocks
   2. Take care of permitting
   3. Create an agreement with the County Attorney's Office

   The board agreed to authorize Deputy County Manager Crosby to pursue this topic and come up with costs and a recommendation for the board to approve.

5. ATV Variance Request; Portion of County Road 76; Quartz Creek Property Owners Association. Terry Davis, Rick Coffman & Bruce Councilman were present for the discussion. Deputy County Manager Crosby informed the board that the three gentleman are proposing a solution to the Quart Creeks property owner's access of the Town of Pitkin. There was discussion that the current speed limit is posted at 35 MPH and says no ATVs allowed. Deputy County Manager Crosby informed the board that they could pass an annual resolution that designate a specific road and the usage and traffic allowed. Her concern is it will create a precedent for other areas in Gunnison County.

   Chamberland commented that he would like to pursue the off road trail for ATV users. Commissioner Houck informed he is working with Pelletier to find out who has owners ship and discuss other alternatives. The ATV users use to have access from another road, but that road has been blocked off. Deputy County Manager Crosby will look into what it will take to create a trail next to the road. There was discussion that a meeting with the Pitkin Town Council will need to be scheduled once there is a decision.

6. Taylor Road Closures and Traffic Control Zones. William J. Lacy, Jr., Mark Schumacher and Federal Highway Administration Administrator Eric Zeller were present for the discussion. Deputy County Manager Crosby informed the board that the original plan presented by Mr. Lacy was there wouldn't be traffic stops between Jacks Cabin and the Harmels Resort. She informed that due to the heavy rain and night work there are some obstacles, and Mr. Lacy is wondering if they can work on the road during the day.

   Mr. Lacy informed the board that his crew has been working nights to avoid holding up traffic during the day. They are at a point where it is not safe to be doing the work at night because they will have to perform cuts and fills. Mr. Lacy confirmed that his crew can work on the shoulder, but will only have one lane open. Mr. Lacy reported that he discussed with Mr. Shumaker his concerns about the traffic delays, which will be about 15-20 minutes. Mr. Lacy would like the option to work during the day and continue night work. He informed the board that they will not work every day during the day time, it will just be when they need to perform work that cannot be done safely at night. He will provide Mr. Shumacker the delay schedule so that he can get his rafting vans through the construction area in a timely manner.

   Mr. Shumaker opined that the Jacks Cabin cut off is in the worse shape than it has ever been. He commented that the road was promised to be kept in great shape. He opined that there is a long list of promises the County made that have not happened. He informed the board that there is still rafting after August 15th, but the volume of rafters dramatically decreases.

   Mr. Zeller advised the board that if they allow day work, they will avoid delaying the project into colder weather, and the possibility of delaying it until next spring. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the road closures on the Taylor Park Project as presented today. Motion carried unanimously.

7. Region 10 Transportation Planning Meeting Update. Deputy County Manager Crosby informed the board that the first round of the meeting was prioritizing funding for repairing roads. She reported that Highway 50, the Little Blue Canyon, is the number one priority for repair.

8. County Road #25. Deputy County Manager Crosby informed the board that there are two cutoffs between Highway 149 and Highway 50. One cutoff is Country Road (CR) 26 (the Lake City Bridge Cutoff) and the other is CR 25 (the Red Bridge Cutoff). She informed the board that the two roads get less than 100 cars a day. She informed that Public Works maintains CR 25, and majority of the maintenance is from Highway 50 up to the Ute Mountain Tribe property, due to wash boards in the canyon. She reported that Public Works applies magnesium chloride and blades CR 25 due to maintenance and curve issues, and the steep grade towards the water.

   She reported she cannot afford to haul gravel from Gunnison to this location. It would have to be hauled from Hinsdale County. Hinsdale County doesn't have any suitable areas for gravel. She reported that they need 6 inches of gravel across the middle of the road. She reported that because the road is in such bad shape, she suggested drivers use the Lake City cutoff or drive to Highway 149 on the road with magnesium chloride and go around. She will continue to look for a source of gravel.

9. Gunnison Heights Subdivision Water. Deputy County Manager Crosby informed the board that while serving water to the Antelope Hills Subdivision they went into a few property owner's wells. She reported that while speaking with the property owners, she mentioned Gunnison County will provide the meter. There was a miscommunication of the interpretation of what "providing a meter" would be. She recommended that the board allow her to waive the charge on those meters because she was not clear on the discussion with the property owners. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck waive the meter fee to the Gunnison Heights

Subdivision, based on the information represented today. The board agreed to treat the other two lots in Gunnison Heights equally. Motion carried unanimously.

RESOLUTION; ADJUSTING GROUND RENT FOR USE OF PREMISES AT THE GOLD BASIN INDUSTRIAL PARK: Deputy County Manager Marlene Crosby and Assistant Finance Director Ben Cowan were present for the discussion. Assistant Finance Director Cowan informed the board that these leases were negotiated and created individually as lot were created, and for some various reasons some lots have been subdivided. He reported that some leases require the Finance Department to bill them annually, yet they have been allowing them to pay monthly. Assistant Finance Director Cowan explained it will be easier to control the billing by resolution and release the rate when the CPI adjusts every April. Assistant Finance Director Cowan explained the differential will be a loss to the County of $2,200. Deputy County Manager Crosby confirmed that the lease holders all agree to this proposal. **Moved** by Commissioner Houck and seconded by Commissioner Chamberland to pass Resolution 2013-19: A Resolution Adjusting Ground Rent for Use of Premises at the Gold Basin Industrial Park. Motion carried unanimously. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the Second Amendment to Ground Lease Agreement for Lot 3B, Gold Basin Industrial Park; the First Amendment to Ground Lease Agreement for Lot 5, Gold Basin Industrial Park, and the First Amendment to Ground Lease Agreement for Lot 6, Gold Basin Industrial Park. Motion carried unanimously.

CONSERVATION EASEMENT AMENDMENT CONCURRENCE; VIKING VALLEY; RAZOR CREEK RANCH, LLC; GREG PETERSON: Moved by Commissioner Chamberland and seconded by Commissioner Houck to send a support letter concurring the amendment of the conservation easement for the Viking Valley Razor Creek Ranch Easement. Motion carried unanimously.

2013 COLORADO COUNTIES, INC. (CCI) LEGISLATIVE COMMITTEE MEMBER APPOINTMENT; RSVP FOR LEGISLATIVE COMMITTEE MEETING OCTOBER 4, 2013: Moved by Commissioner Chamberland and seconded by Commissioner Houck to make Chairperson Paula Swenson the CCI representative.

REQUESTS FOR LETTERS OF SUPPORT: Moved by Commissioner Chamberland and seconded by Commissioner Houck to approve a letter of support to the Great Outdoors Colorado Grant Application for the Little Cimarron Farm; and also approve a letter of support for the Gunnison Arts Center application to El Pomar Foundation. Motion carried unanimously.

LOT CLUSTER APPLICATION; LOTS S-15 AND S-16, LARKSPUR SUBDIVISION; ROBERT AND EMILY PANNIER: Community Development Director Russ Forrest and Community Development Planner Cathie Pagano were present for the discussion. Community Development Planner Pagano informed the board that the applicant purchased the lots out of foreclosure and now they would like to cluster the lots. She reported that one of the requirements for the property owner to purchase the lots out of foreclosure was he had to purchase both lots. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to approve the lot cluster for Larkspur Lots S-15 and S-16. Motion carried unanimously.

FOSSIL RIDGE SUBDIVISION EXEMPTION: Attorney Jim Starr, Gunnison County Paralegal Rachel Magruder and County Attorney David Baumgarten were present for the discussion. Attorney Starr provided a map for the BOCC to review. Attorney Starr explained that they are subdividing the cabin piece out and requesting the subdivision exemption on the 15 acre parcel; and the rest of the property will be exchanged to the USFS. There was discussion on the subdivision of the property. Gunnison Valley Housing Foundation Members Ellen Harriman and Butch Clarke were present for the discussion. Attorney Starr explained that if the board adopts the resolution they will ask the board to execute an upcoming agreement creating restrictive covenants on the use of the parcel. **Moved** by Commissioner Chamberland and seconded by Commissioner Houck to adopt Resolution 2013-20: A Resolution Granting An Exemption For A Division Of Land From The Definition Of The Terms “Subdivision” And “Subdivided Land” For A Parcel Of Land Located Within Sections 2, 3, 4, 10 And 11, Township 50 North, Range 2 East, N.M.P.M., County Of Gunnison, State Of Colorado; and authorize commissioner’s signatures on the plat. Motion carried unanimously. County Attorney Baumgarten and all the other attendees in the room thanked Butch and Judy Clarke for their generosity.

BREAK: The meeting recessed from 2:07 pm until 2:10 pm.

ADOPTION, ORDER TO PUBLISH AND SECOND READING OF ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES OR RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF GUNNISON COUNTY, STATE OF COLORADO: County Attorney David Baumgarten was present for the discussion. Chairperson Swenson informed that the first reading was read and adopted on 6/18/2013. County Attorney Baumgarten informed that Amendment 64 can be divided into many different siloes, and they are not discussing possession or use of individuals, they are discussing the opportunity for local government to regulate grow operations, product manufacturing facilities, testing facilities and retails stores. He explained if the County choose not to act, all four types of these facilities would be allowed in Gunnison and would be regulated by the State. He explained if Gunnison County chooses to act, they can approve or prohibit these facilities and they can

regulate these four types of facilities; and in the future possibly change your mind to approve or deny these facilities. He informed that the County is choosing to not be silent. He expressed that he County can choose to prohibit now, and in the future decide to allow certain facilities. He informed if the county does not act, then these facilities are allowed and will be regulated by the state. Chairperson Swenson clarified if they choose to act and create our own regulations and fees, Gunnison County must do one of these options:

a) Have our own regulations in place by October;
b) Have a ban in place by October and start working on regulations; or
c) Put ban in place and not do anything further at that point.

There was a long discussion that if Gunnison County does not do anything by October, they will not have the ability to control facility regulations. County Attorney Baumgarten explained the County has to act in an ordinance and there is no moratorium opportunity.

County Attorney Baumgarten explained that there is an opportunity to tell the State that we do not have regulations in place now, but we will have them in place by a specific date. He explained that the Commissioners would have taken an action by October and say they are not accepting obligations until our other regulations are in place. County Attorney Baumgarten informed the board he would really like to think that option through. He suggested that the board have their information and regulations in place before they agree to anything because they would not like to cue up expectations that they cannot fulfill.

Commissioner Houck informed that his position has moved since the first reading. He has had several discussion with the community and there is a general misunderstanding between county relationships regarding if the county does pass an ordinance it trumps everything. He opined that the growth and manufacturing of this product are potential opportunities. He is concerned about the possible violation of federal law when we receive a lot of federal money, and if it will jeopardize future funding. He would like to see the County continue this discussion, and give staff time to research all avenues. He expressed if the reading is made, he wonders what we need to do to respond to the will of the people and what they want. County Attorney Baumgarten confirmed that hemp is not marijuana.

Commissioner Chamberland informed he agrees with Commissioner Houck. He commented if they don't make any stance on hemp it can become a legal crop after the first of the year. He is in support of hemp because it is a very useful product. He opined that he doesn't think it will be a big job producing industry here in Gunnison. His perception is that there were a lot of people who voted to get it off of the class one narcotic list. He opined that use and abuse is the same level as alcohol. He opined that Gunnison County should say something so that we can control our regulations. Commissioner Chamberland voted to read the ordinance, pass it and set up a task force to see what the rules and regulations will be, then set up a symposium the week of September 16th. He reported that Jason from Hemp Cleans, Ron from the Colorado Department of Agriculture and Shawn from Sensible Actions will have a presentation regarding marijuana/hemp at WSCU the week of September 16th.

Swenson opined that all of the Commissioners are basically on the same page about cautiously moving forward. There was discussion that doing the ordinance today will allow the County to not go under the State regulations, they can take a step back and figure out what it is Gunnison County wants to do, also see what is coming out at the State level, gather more information on this topic, have the symposium in September, and figure out there appropriate place to have any type of commercial activity due to the short growing seasons in Gunnison. There was discussion of potentially creating a task force to gather all the information regarding this topic.

County Attorney Baumgarten suggested to the board that they include an additional paragraph in the ordinance. The last "Where As" paragraph in the document, carry it into a paragraph that says "Now Therefore" activities prohibited the operation of specific activates. He advised that the "Where As" and "Now Therefore" will be tied together and will make the Commissioner's intent clear. Or, create a paragraph that is titled "Revisit": The Commissioners will revisit the issue of Amendment 64 no later than a specific date.

County Attorney Baumgarten confirmed that the Commissioners can repeal at any time. He advised the board to include this additional paragraph the board will need to make a motion to approve the additional paragraph at the second reading, with the addition.

Attorney Starr opined that this is a tough issue. He appreciates the fact that 68% of the county approved this, and they are discussing the possibility of grow operations in Gunnison. He is assuming 50% of the 68% who voted for it will take advantage of the grow operations, and 40% of that 50% will purchase the products as opposed to growing the product. He commented that it is important that we reserve the opportunity to be in control of our regulations. He opined that it is important to keep these activities in the county especially if Crested Butte has the possibility of allowing retail. He expressed that it is very important to have control over the regulations.

Steve Sheckter commented that there is an underground economy and criminals supplying this product, and they are bringing it illegally into the country. He opined that it would be nice to bring it out in the open, regulate it, and control it. He commented that he would like to see retail in Gunnison, and not just Crested

Butte so that customers don't have to drive all the way to Crested Butte to purchase their marijuana. He commented that 68% of the voters want to pursue retail sale in Gunnison County. He opined that we should find a rational way to have this is our society without incarceration.

Greg Winslow informed that he is retired and was an EMT for 20+ years. He opined that marijuana is a drug that is considerably less dangerous that alcohol. He commented that 68% of local county voters say let's move forward with this topic. He opined that the Commissioners need to act on what the community wants because the community is the ones that pay their salaries. He informed that he is ready to move to Breckenridge where there is a community that is embracing this, and their ski community is booming, whereas Crested Butte is dying.

Mark Reman commented that he appreciated that the commissioners have shifted their opinions since the first reading. He suggests that the commissioner review this at a later date after the symposium when they have more information. County Attorney Baumgarten informed that he has not heard a definite answer if the County can write their own regulations after the State takes control over their regulations.

There was discussion that County Attorney Baumgarten has attended several meeting regarding marijuana in Denver. The board discussed that the community has been heard and the commissioners are trying to figure out a path that reflects the public's desires and the needs of the community. The board discussed delaying this discussion to the Work Session and Special Meeting on 9/24/2013. County Attorney Baumgarten will provide the board a synopsis of the State regulations and a copy of the regulations. He will also provide the board a synopsis of discussions in other communities, and will get details on whether the board can create regulations after the State enforces regulations.

Moved by Commissioner Chamberland and seconded by Commissioner Houck to continue this decision and second reading of Ordinance #17 to 9/24/2013 at a Special Meeting. Motion carried unanimously.

ADJOURN: Moved by Commissioner Houck and seconded by Commissioner Chamberland to adjourn the August 06, 2013 meeting. Motion carried unanimously. The meeting adjourned at 3:08 pm.

_____
Paula Swenson, Chairperson

_____
Phil Chamberland, Vice-Chairperson

_____
Jonathan Houck, Commissioner

Minutes Prepared By:

_____
Bobbie Lucero, Deputy County Clerk

Attest:

_____
Stella Dominguez, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES