

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS  
REGULAR MEETING MINUTES  
May 21, 2019**

The May 21, 2019 meeting was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present were:

Jonathan Houck, Chairperson  
John Messner, Vice-Chairperson (ABSENT)  
Roland Mason, Commissioner

Matthew Birnie, County Manager (ABSENT)  
Elizabeth Mense, Deputy County Clerk  
Others Present as Listed in Text

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:**

**CALL TO ORDER:** Chairperson Houck called the meeting to order at 8:31 am.

He noted for the record that Commissioner Messner may or may not call into the meeting. He is in Denver attending a meeting. He was appointed to the Colorado Oil & Gas Conservation Commission (COGCC) by Governor Polis.

**AGENDA REVIEW:** There were no changes to the agenda

**CONSENT AGENDA:** **Moved** by Commissioner Houck, seconded by Commissioner Mason to approve the Consent Agenda as presented with the exception of Consent Agenda Item No. 7. Motion carried.

1. Contract Amendment #2; Colorado Department of Public Health & Environment; Immunization Funding; \$25,063
2. Contract Amendment #2; Colorado Department of Public Health & Environment; Core Public Health Services; \$75,151
3. Agreement Amendment; Triad Employee Assistance Program
4. Grant Application; Energy Outreach Colorado; Bill Payment Assistance; \$21,000
5. Grant Application; Rotary Club of Crested Butte; Suicide Prevention; \$2,000
6. Grant Application; CompreCare Fund; Aging Mastery Program; \$16,057
7. Service Agreement; 10<sup>th</sup> Amendment; CoreSource, Inc.; Effective January 1, 2019
8. Consulting Agreement; MJM Consulting, LLC; Gunnison County Library Project
9. Contract; Colorado Department of Public Health & Environment; 2019-2020 Annual Emergency Preparedness & Response; \$23,152
10. Liquor License Renewals; John Ferro LLC dba Ferros Liquors 4/30/19-4/30/20 & Irwin Backcountry Guides LLC dba Taylor River Lodge 7/6/19-7/6/20
11. Liquor License Renewal; Three Rivers Resort dba Three Rivers Resort; 6/21/19-6/21/20
12. Ratification of County Manager's Signature; Letter of Support; Community Foundation of the Gunnison Valley Re: Health & Human Services Nurturing Parenting Program
13. Modification of Premises; Kebler Corner Liquors, LLC

**Consent Agenda Item No. 7; Service Agreement; 10<sup>th</sup> Amendment; CoreSource, Inc.; Effective 1. 2019:**

Consent agenda item No. 7 was pulled from the agenda at the request of Cheryl Seling, Gunnison County Human Services Director. This item will appear on a future agenda.

**SCHEDULING:**

- The June 4, 2019 BOCC Regular Meeting is cancelled. The commissioners will be attending the Colorado Counties, Inc. (CCI) Summer Conference in Keystone, CO.
- Commissioner Houck will be out of the office 6/12/19-6/21/19. Commissioner Messner will call into the 6/18/19 meeting.
- The Joint Meeting with Gunnison City Council is scheduled for Tuesday, 5/28/19 at 5:00 pm.
- The Elected Officials dinner that Gunnison County is hosting is scheduled for 5/29/19.

**DEPUTY COUNTY MANAGER'S REPORT:** Deputy County Manager Marlene Crosby was present for the discussion. The Board thanked DCM Crosby for her efforts in putting the Employee Benefit dinner together.

**1. Construction Agreement; Multi-Agency Paving & Street Rehabilitation Project:**

The County received two bids for the multi-agency paving and street rehabilitation project. Initially the project included three projects—one joint project with Gunnison Valley Health and the Gunnison Home Association, paving of the new parking area at the fairgrounds multi-purpose building and paving on Antelope. The Antelope paving was pulled for now. DCM Crosby is requesting that the Board award the bid to United Companies for the two projects and authorize County Manager Birnie or DCM Crosby's signature on the agreement. DCM Crosby will issue the Notice of Award.

**Moved** by Commissioner Mason, seconded by Commissioner Houck to approve the Construction Agreement for the two locations mentioned above and authorize County Manager Birnie or

Deputy County Manager Crosby's signature. Motion carried.

2. **Temporary Road Use Agreement; Kebler Pass – Annual Chainless Bike Race 6/28/19:**  
**Moved** by Commissioner Houck, seconded by Commissioner Mason to approve the Temporary Road Use Agreement on Kebler Pass for the Chainless Bike Race on 6/28/19 from 3:00 – 6:00 PM and authorize Deputy County Manager Crosby's signature on the agreement. Motion carried.

- The county received \$22,542 additional dollars of funding from the U.S. Forest Service for the Willow Creek Bridge project on Cumberland Pass. DCM Crosby signed the modification.
- DCM Crosby provided an update on Cottonwood Pass and requested a delay in the opening due to high snow pack. This item will be placed on a Special Meeting agenda on 5/28/19 for further discussion and decision.
- DCM Crosby provided an update on Kebler Pass. Public Works hopes to open the Pass within the next few weeks.

**Land Use Change Application; Morrissette Ridgeline Residence:**

Rachel Sabbato, Planner II from Community Development was present for the discussion. The applicants' Attorney, David Leinsdorf was also present. She explained the Land Use Change Application that was submitted by Amy & Leo Morrissette. The application is requesting approval of construction of a single-family residence with an attached garage. The application was approved by the Planning Commission on April 19, 2019. It is now pending BOCC approval.

**Moved** by Commissioner Houck, seconded by Commissioner Mason to approve Resolution 2019-12; A Resolution Approving the Land Use Change Permit No. 2019-00003 A Land Use Change Permit for Amy and Leo Morrissette. Construction of a Single-Family Residence Located at Lot 25, Trapper's Crossing at Wildcat. Motion carried.

**VOUCHERS AND TRANSFERS:**

Finance Director Linda Nienhueser presented the voucher approval report dated May 21, 2019 and the cash transfer authorization report dated April 2019 for discussion and approval.

**Moved** by Commissioner Houck, seconded by Commissioner Mason to approve the cash transfers in the amount of \$2,612,054.20. Motion carried.

**Moved** by Commissioner Houck, seconded by Commissioner Mason to amend the previous motion to say vouchers instead of cash transfers. Motion carried.

**Moved** by Commissioner Houck, seconded by Commissioner Mason to authorize the cash transfers in the amount of \$2,657,439.24 Motion carried.

**Sales Tax, Local Marketing District & Purchasing Card Reports:**

FD Nienhueser presented the March 2019 Sales Tax and Local Marketing District reports. The January and February 2019 purchase card reports were also presented.

**TREASURER'S REPORT:**

Treasurer Debbie Dunbar was present for the discussion. The April 2019 Treasurer's report, Investment report dated April 30, 2019 were presented for Board review.

**Moved** by Commissioner Messner, seconded by Commissioner Mason to approve acceptance of the Treasurer's reports as presented. Motion carried.

**BREAK:** The Board took a break at 9:06 am. The meeting resumed at 9:11 am.

**John Biro, Lake Irwin Coalition v. JW Smith, et al.; 2017CV030060; Joinder of the Board of County Commissioners of the County of Gunnison, Colorado; Possible Executive Session Pursuant to Colo. Rev. Stat. §24-6-402(4)(b) Conference with the County Attorney and Deputy County Attorney to receive legal advice; and Colo. Rev. Stat. §24-6-402(4)(e)(I) determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators:**

Deputy County Attorney Matt Hoyt provided an update on the lawsuit. The case is now in Federal court. It is not set for trial yet. The pre-trial date is scheduled for June 11<sup>th</sup>.

**Moved** by Commissioner Houck, seconded by Commissioner Mason to enter an executive session Pursuant to C.R.S. 24-6-402 (4)(b), Conference with the County Attorney and Deputy County Attorney to receive legal advice; and C.R.S. 24-6-402 (4)(e)(I) determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators. In attendance would be Commissioner Jonathan Houck, Commissioner Roland Mason, Deputy County Attorney Matthew Hoyt, County Attorney David Baumgarten and Deputy County Manager Marlene Crosby. Motion carried.

The Board went into executive session at 9:22 am. *Executive sessions of the Board of County Commissioners are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b) and C.R.S. 24-6-402 (4)(e)(I).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B) and C.R.S. 24-6-402(4), I attest that I am the Gunnison County Attorney, that I represent the Gunnison County Board of County Commissioners, that I attended all of the above referenced executive session, that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4)(b) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: \_\_\_\_\_

\_\_\_\_\_  
David Baumgarten  
Gunnison County Attorney

Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4), I attest that I am the Chairperson of the Gunnison County Board of Commissioners, that I attended all of the above referenced executive session, and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4)(b).

Date: \_\_\_\_\_

\_\_\_\_\_  
Jonathan Houck, Chairperson  
Gunnison County Board of Commissioners

**Moved** by Commissioner Houck, seconded by Commissioner Mason to come out of executive session. Motion carried. The Board came out of executive session at 9:55 am. Commissioner Houck confirmed that the discussion remained on-topic, that all parties stated to be in attendance were, in fact, in attendance and that no decisions were made.

**UNSCHEDULED CITIZENS:** There were no Unscheduled Citizens present

**COMMISSIONER ITEMS:**

Roland Mason-

- 1. Commissioner Mason discussed a recent Sage Grouse meeting he attended.
- 2. Commissioner Mason discussed the 3-day Colorado Water Conservation Conference he attended.
- 3. Commissioner Mason discussed the Region 10 meeting in Montrose that he attended. He briefly discussed the Colorado Department of Transportation 2045 year plan. Commissioner Mason was elected to the Region 10 Executive Committee.

Jonathan Houck-

- 1. Commissioner Houck discussed the Basin Roundtable meeting he attended.
  - 2. Commissioner Houck attended a Special Meeting for the Colorado River District for the State for the State of the River Address.
  - 3. Commissioner Houck will discuss the National Association of Counties conference he attended in Spokane, WA during an upcoming Work Session.
- There will be a Work Session with Somerset residents on June 5<sup>th</sup>, 2019.

**ADJOURN:** **Moved** by Commissioner Mason, seconded by Commissioner Messner to adjourn the meeting. The meeting adjourned at 10:13 am.

\_\_\_\_\_  
Jonathan Houck, Chairperson

\_\_\_\_\_  
John Messner, Vice-Chairperson

\_\_\_\_\_  
Roland Mason, Commissioner

Minutes Prepared By:

\_\_\_\_\_  
Elizabeth Mense, Deputy County Clerk

Attest:

Gunnison County Board of Commissioners  
Minutes of May 21, 2019 Regular Meeting  
Approved by BOCC June 18, 2019

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Kathy Simillion, County Clerk

**GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES**

**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY  
RESOLUTION NO. 2019- 12**

**A RESOLUTION APPROVING LAND USE CHANGE PERMIT NO. 2019-00003  
A LAND USE CHANGE PERMIT FOR AMY AND LEO MORRISSETTE.  
CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE ON A RIDGELINE  
LOCATED AT LOT 25, TRAPPER'S CROSSING AT WILDCAT.**

**WHEREAS**, Amy and Leo Morrisette, represented by David Leinsdorf, have submitted a Land Use Change application for the construction of a single-family residence with an attached garage, in compliance with *Section 11-108: Standards for Development on Ridgelines, Gunnison County Land Use Resolution.*

The applicants provided a detailed ridgeline analysis, including detailed architectural drawings of the site profile, prepared by NCW & Associates, Inc. titled, "Lot 25, Trapper's Crossing At Wildcat", dated January 8, 2019. The drawings and site plans, as noted above, depict the location, form and scale of the proposed structures in relation to the existing trees on the parcel and the ridgeline vantage locations on State Highway 135.

A restrictive covenant, attached as "Exhibit A," will ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant's property used for screening. The residence will not be visually obtrusive, and shall be significantly screened through the use of dark siding and exterior colors that blend with surrounding natural terrain. The residence is not visible from a municipal ridgeline vantage and minimally visible from State Highway 135.

The distance between the subject parcel and the closest point on the ridgeline vantage is significant, 2.5 miles, and the duration of the visibility is of so short a period of time that those factors will limit the visibility of the proposed residence from the ridgeline vantage, pursuant to Section 11-108: Standards for Development on Ridgelines C. Ridgeline Visibility.

The site is located on Lot 25, Trapper's Crossing at Wildcat, approximately 2.5 miles from CR 12 on Wildcat Trail, southwest of Crested Butte; and

**WHEREAS**, after a review of the visual analysis, all information, documentation and related to it, and an on-site visit, the Gunnison County Planning Commission did, after a public hearing on April 5, 2019 forward a Recommendation of approval of that application to the BOCC with certain Findings and Conditions:

**FINDINGS:**

1. The Commission has classified the application as a Minor Impact Project, based upon the impact classification found in *Section 6-102: Projects Classified as Minor Impact Projects F. Development Requiring Detailed Ridgeline Vantage Visibility Analysis.*
2. A detailed visual ridgeline analysis titled "Lot 25, Trapper's Crossing At Wildcat", prepared by NCW & Associates, Inc., dated January 8, 2019 was submitted with the application.
3. The information and analysis indicate that the proposed structure, under the definition of "ridgeline vantage," may be visible from State Highway 135 only when traveling north.
4. Pursuant to *Section 11-108: Standards for Development on Ridgelines, I. Exceptions* the Planning Commission finds by clear and convincing evidence that significant screening exists and that the building site meets or exceeds the following standard:

*d. If Significant Screening Exists and is Protected, Decision Shall Be Made by Board.* If the Planning Commission finds that the project does not meet the first three requirements of this section, but that any building on the ridgeline shall be significantly screened by existing (as opposed to new) natural vegetation on the applicant's property, of such volume, density and species of tree cover, after provision of defensible space for wildfire hazard, so that no part of the building that is partially visible shall be visibly obtrusive from any ridgeline vantage, at any time of year, the Commission shall so note

in a recommendation to the Board, and the Board shall be the decision making body. If approved, the approval shall include:

1. *Recorded Covenant, Easement or Agreement.* A recorded mechanism (e.g. protective covenant, conservation easement, bonding agreement) acceptable to the County must be provided to ensure, in perpetuity, the existence and replacement of the natural vegetation on the applicant's property used for screening; and
  2. *Minimal Visual Impact.* When significant screening exists and is protected, the building on the ridgeline shall have minimal visual impact and:
    - (a.) *Is Not Obtrusive or Visible From A Municipal Ridgeline Vantage.* Must comply with both of the following standards:
      - (1.) *Obtrusiveness.* The building will blend in with its surroundings and will not stand out in the context of its surroundings nor draw attention to itself; and
      - (2.) *Municipal Ridgeline Vantage.* The building will not be visible with the naked eye from a municipal ridgeline vantage; and
    - (b.) *Must Not be Visible from Ridgeline Vantage or Visibility is Only Momentary.* Must comply with and with one of the following standards:
      - (1.) *Distance from Ridgeline Vantage(s).* The building will not be visible with the naked eye from near or distant ridgeline vantages; or
      - (2.) *Number and Length or Duration of Ridgeline Vantages.* The number and length or duration of public road ridgeline vantages from which the building will be visible are so small that the building will be visible only momentarily to passersby.
5. A restrictive covenant was submitted, ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A".
  6. The Planning Commission conducted a site visit on March 15, 2019. The Commission members visited the building site and viewed the site from the ridgeline vantage location on State Highway 135. The Commission members noted that the site seemed to be below the main ridge and was intentionally moved to create more of a tree buffer. From the vantage points, nothing at the building site was visible. The site will not be easily visible or obtrusive due to the earth tone color scheme and there is a significant distance from any of the vantage points on State Highway 135.
  7. The Commission finds that there is significant vegetative screening existing on the property located behind the proposed residence and will not be visually obtrusive.
  8. The elevation difference between the building site and the ridgeline vantage on State Highway 135 is greater than 150 feet.
  9. The proposed structures on the ridgeline shall have minimal visual impact. The residence will not stand out among its surroundings, nor draw attention to itself, through the use of dark siding and exterior colors that blend with surrounding natural terrain. Additionally, rusted metal or another comparably unobtrusive material shall be used for the roof material. The residence will not be visible from a municipal ridgeline vantage and may be minimally visible from State Highway 135. No shiny metal roof shall be allowed, as identified in the restrictive covenant.
  10. All exterior lighting shall be directed downward, as identified in the restrictive covenant.
  11. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all comments at the public hearing, exhibits, references and documents as included therein.
  12. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
  13. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
  14. Approval of this use is based upon the facts presented and implies no approval of similar use in a different location and with different impacts on the environment and community. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

**CONDITIONS:**

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the Site Plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution*.
2. A restrictive covenant ensuring, in perpetuity, the existence and replacement of the natural vegetation on the subject property, attached as "Exhibit A," shall be executed prior to approval by the Board. The restrictive covenant shall be recorded contemporaneously with the Board Resolution, within the Office of the Gunnison County Clerk and Recorder.
3. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
4. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.
5. Approval of this use implies no approval of any such similar use on any other parcel. Review of this application has considered the impact of this proposed use in the context of cumulative impacts to the environment and the community in the context of its compliance with County land use standards.
6. Approval of this use is based upon the facts presented and implies no approval of a similar use in a different location and with different impacts on the environment and community. Each such future application shall be required to be reviewed and evaluated on its own facts, subject to its compliance with current regulations, and its impact to the County.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change Permit No. 2019-00003, for Amy and Leo Morrissette is approved as a Minor Impact, subject to each and all conditions of the decision document, as identified above, and;

**THIS APPROVAL** is effected noting that decision documentation includes, but is not limited to, the application and the entire Community and Economic Development Department Land Use Change Permit application file relative to this application. This approval is founded on each individual finding and requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.

**THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY** shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

**INTRODUCED** by Commissioner Houck, seconded by Commissioner Mason and passed on this 21<sup>st</sup> day of May, 2019.

BOARD OF COUNTY COMMISSIONERS

Houck – yes; Messner – Absent; Mason – yes.