GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, October 19, 2012

Draft Minutes

8:45 a.m.

- **Call to order; determine quorum**
- **Approval of Minutes**
- **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.

9:00 a.m. **SG Interests I, Ltd.**, continued public hearing/no action, request for the Federal 11-90-9 gas well project, including five gas wells, located in northwest Gunnison County, in Section 9, Township 11 South, Range 90 West, 6th P.M., west of Highway 133

9:15 a.m. **SG Interests I, Ltd.**, work session/possible action, request for the Sperry/Clinger 11-90-1 gas well project, including five gas wells, located in northwest Gunnison County, legally described as HES 68 in Sections 11, 12 and HES 137 & lots 5, 6, 7 in Section 11, all in Township 11 South, Range 90 West, 6th P.M., west of Highway 133

10:00 a.m. **Gunnison Valley Properties, LLC**, work session/no action, Sketch Plan, request for a year-round sand and gravel operation on 109-acres of a 220-acre parcel; 62-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½ mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, legally described as a being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
Regular Meeting
October 19, 2012
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The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Ramon Reed
Vice- Chairman-Jim Seitz
Commissioner-Susan Eskew
Commissioner-Warren Wilcox
Commissioner-Kent Fulton
Alternate Commissioner- Jeremy Rubingh
Alternate Commissioner- A. J. Cattles

Assistant Director of Community Development- Neal Starkebaum
Community Development Department Services Manager-Beth Baker

Others present as listed in text

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With a quorum present Chairman Ramon Reed opened the regular meeting of the Commission.

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MOVED; by Commissioner Seitz seconded by Commissioner Wilcox to approve the minutes of September 7, 2012 as amended. The motion passed unanimously.
MOVED; by Commissioner Wilcox seconded by Commmissioner Fulton to approve the minutes of September 21, 2012 as amended. The motion passed unanimously.

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SG INTERESTS/ FEDERAL 11-90-9; The Gunnison County Planning Commission (Commission) conducted a continued public hearing. They reviewed the request for the Federal 11-90-9 gas well project, including five gas wells, located in northwest Gunnison County, in Section 9, Township 11 South, Range 90 West, 6th P.M., west of Highway 133.

Chairman Ramon Reed has recused himself from this review.

SG Interests (SG) representative Eric Sanford was present to discuss the application; SG Interests (SG) representative Catherine Dickert participated by phone.

With a quorum present Vice-Chairman Jim Sietz opened the Commission's continued public hearing.

Assistant Director of Community Development Neal Starkebaum said Forest Service representative Ryan Taylor informed him the Categorical Exclusion (CE) will not be acted upon until late November. SG representative Sanford said he had also spoken to Ryan Taylor and had been told it could be mid November. He added SG had filed a motion to dismiss and the hearing will be conducted October 24, 2012, in Denver.

Starkebaum recommended continuing the Public Hearing.

The public hearing was continued December 7, 2012, at 9:00 A.M.

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SG INTERESTS/ SPERRY-CLINGER 11-90-1; The Gunnison County Planning Commission (Commission) conducted a work session, to discuss the request for the Sperry/Clinger 11-90-1 gas well project, including five gas wells, located in northwest Gunnison County, legally described as HES 68 in Sections 11, 12 and HES 137 & lots 5, 6, 7 in Section 11, all in Township 11 South, Range 90 West, 6th P.M., west of Highway 133.

SG Interests (SG) representative Eric Sanford was present to discuss the application; SG Interests (SG) representative Catherine Dickert participated by phone.

With a quorum present Chairman Ramon Reed opened the Commission's work session.

Chairman Reed noted the public hearing had been conducted; prior to this work session, and the public hearing had been closed. The Commission is now in the deliberation and the discussion phase of the proceedings.

Commissioner Rubingh said he had missed the public hearing. He added there seems to be some disagreement on how the water flows; if it actually flows towards the water body or not. Chairman Reed acknowledged there had been discussions both ways; he recommended going through the draft recommendation and reviewing it at that time.

Commissioner Seitz commented in a prior Commission meeting he had misspoken. He thought several prior Commission decisions had been based upon a land owner's request regarding the location of the well. He has since then reviewed some of the applications and has concluded he had been confused. He does contend the landowner's wishes have been considered, but he acknowledged the Commission's decisions were not based upon the landowner's request for the location of the pads.

The Commission reviewed the draft decision of approval. The Commission had directed staff to prepare the draft approval Decision document at the September 21, 2012 Planning Commission meeting, by motion and on a vote of 3-2.

MOVED; by Commissioner Fulton seconded by Commissioner Wilcox to approve OG-12-00009 as amended. – (No vote was taken following the first and second to approve OG-12-0009 as amended.

MOVED; by Chairman Reed and seconded by Commissioner Eskew to review an amendment, written by Reed, which reverses the original intent and changes the motion to a denial.

Chairman Reed noted he had deleted some language and he added some of his own language. He was concerned the Gunnison County Oil and Gas regulations were not being followed. He pointed out the requirements for a Technical Infeasibility waiver could not be met with this application. He said the Commission is required to follow the County Oil and Gas regulations. He clarified the 500 ft. setback requirement has not been met. He added the draft approval says two contradictory things; either the setback is met or it is not met, and a Technical Infeasibility waiver is needed. He said the draft approval says both. He clarified he had no changes to the draft approval prior to the findings in the draft approval. He said he recommends several changes starting with number two in the findings. Assistant Director of Community Development Neal Starkebaum said in the past when the Commission has reviewed the location of a well pad as an element of an oil and gas operation which is hydro-logically separated and applicability of the finding, however the road and the pipelines do not share that same element, so they would qualify for a Technical Infeasibility waiver for those elements of the operation.

Chairman Reed pointed out just because the land owner wants the pad located in this area, it does not qualify for a Technical Infeasibility waiver.

Chairman Reed said in a previous Commission meeting he had suggested locating the pad on the opposite side of the creek. SG Interests (SG) representative Sanford had said they could not reach the intended well pad site from the area that had been suggested by Reed. Reed said he felt SG could reach the pad, because of the availability of advanced technology; the wells can be drilled at an angle, at an angle and deviate, and drill vertically or horizontally. He asked where the engineering is to prove this pad cannot be located outside the water body setbacks.

Chairman Reed said there was no evidence on the Commission record, either written and oral, proving there was no other feasible location for this well pad; only that the land owner does not want it anywhere else.

Commissioner Rubingh requested the Commission talk with the County Attorney to clarify and get instructions concerning the possibility of a Technical Infeasibility wavier granted for this application, based upon only the owner's desired location. Rubingh was not convinced there is evidence to warrant granting a Technical Infeasibility waiver. Although, he said Reed's proposed amended may be going too far; there are technical aspects of drilling which need clarification.

Chairman Reed said it is a legal question which could be discussed with the County Attorney. He reiterated it is the job of the Commission to work with the evidence presented, if the evidence does not meet the standard, the Commission does not have any choice but to deny the request.

Commissioner Fulton said it is has been his assumption the applicants are using the best technology/ engineering available to them. He added the applicants had used engineering and technology to determine the requested pad location. Commissioner Fulton said there have been talks concerning this location. He remembered SG Interests (SG) representative Sanford had said the reason, above and beyond the owners request for location, included the large area it takes to make turns below the surface in order to get to the location. Commissioner Fulton said from a site visit viewpoint, if the pad site was moved in any direction you are actually, potentially, placing the pad site closer to Spring Creek. He added it would be potentially more likely to have water runoff down towards Spring Creek. He pointed out moving the pad location could possibly be detrimental.

Chairman Reed said there are approximately 400 acres to the North West of this location which are in this mineral lease. The Commission was not given any evidence one way, or the other, that there are or aren't any more suitable well pad locations. Reed said, "This is one small corner of the mineral lease, if getting to the entire thing is a problem why isn't it up in the middle of the mineral lease." The evidence was not presented that this is the only location.

Commissioner Fulton said there had been discussions concerning why this site is not proposed on the other side of the creek. Reed said the answers where that moving the pad would have the pad in the land owners prime hay meadow.

Commissioner Wilcox recalled in order to make the turn to be in the production zone of the lease, it would make a difference to the owner of the site of the pad whether he was paid not just for the site, but also for the production, because part of that well would be in the production zone. Chairman Reed asked how that was relevant to the Gunnison County Oil and Gas regulations.

Assistant Director of Community Development Neal Starkebaum pointed out within the context of the infeasibility waiver language; granting a waiver states it will not cause substantial injury to the owner or occupant of the adjacent lands. The waiver will not cause substantial injury to the environment. He said part of the testimony which had been presented had to do with the location of the well pad being where it is located because the closest distance to the existing collection system as well as the existing access is on the Falcon Seaboard property which is to the south, and on the east side of the Spring Creek drainage. It would eliminate any additional substantial Injury to the environment by having to place the well pad on the Sperry property which is to the west and you would have to cross Spring Creek.

Chairman Reed said there is no evidence any other location would have to cross anything, or that it would be environmentally worse. Assistant Director Starkebaum said because this is the closest location; that in itself minimizes the amount of disturbance needed to connect. On the Sperry property this corner is the only location on the east side of Spring Creek. Reed did not see the relevance of east side or west side of Spring Creek. Starkebaum noted it has to do with the nearest distance to the closest water and gas collection system. Reed said it is only the distance, and it is a big assumption the shortest distance is always the least damaging. Starkebaum said Sperry is the surface owner; the only other portion of the property is on the west side of the drainage. Reed again did not see it was relevant.

Commissioner Rubingh said the Commission is not being asked to look at where SG should site their well pad. We are being asked to look at this particular application; he is not convinced there should be a Technical Infeasibility waiver, but he also was not comfortable with Chairman Reed's proposed amendment. He would feel more comfortable getting more information on this particular site. He would like to meet with the County Attorney to discuss the Technical Infeasibility based upon what we have in public testimony. He would like to take the time and not rush through this issue either way.

Chairman Reed said there is always the opportunity for other Commission members to table or postpone motions. Commissioner Seitz recalled a comment made by SG Interests (SG) representative Sanford; Sanford would have preferred the Commission would have had walked on the other side of the drainage, to illustrate why this is an appropriate location, because everything to the west side of Spring Creek drained into Spring Creek, and could cause more problems than the site which was specified. Reed said the Commission's job is to deal with what is on the record, and it is not time to introduce new evidence. Seitz said it is on the record as comments on the site visit. Reed said the record will not be opened for new evidence. Seitz noted his site visit comments are that the drainage is from the south east and away from the drainage.

Assistant Director Starkebaum said all the points under number nine of the draft decision document, from the direction of the Commission, were from the testimony at the public hearing. Chairman Reed said he did not take out things that were in testimony. Starkebaum disagreed; Reed noted there is nothing stating the well pad location and Spring Creek drainage are hydro-logically separated. Starkebaum disagreed noting as part of the discussion at the public hearing, the members of the Commission directed staff to prepare a draft decision of approval. It had been noted there was a topographic relief at the edge of where the pad site was located and Spring Creek drainage, and the contour lines show the general direction the drainage is away from Spring Creek.

Commissioner Eskew said she had difficulty discerning the direction of the flow. Chairman Reed agreed noting without evidence one way or the other; each commissioner will have to make up their own mind.

Chairman Reed said there was no evidence to justify what is being asked for.

MOVED; by Commissioner Fulton to have an executive session with the County Attorney to discuss the legality of what goes into this. Chairman Reed clarified the motion is out of order because of the motion which is currently on the floor, but there could be a motion to table the motion so we can have a discussion with the County Attorney on the legal issues.

MOVED; by Commissioner Fulton and seconded by Commissioner Eskew to table the motion that is on the floor, pending an executive session with the County Attorney on legal issues. The motion carried unanimously.

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GUNNISON VALLEY PROPERTIES/ TOMICHI GRAVEL PIT; The Gunnison County Planning Commission (Commission) conducted a work session, to discuss the request for a year-round sand and gravel operation on 109-acres of a 220-acre parcel; 62-acres of which will be excavated. The operation will include the extraction, crushing, screening, washing and stockpiling of approximately 200,000 tons of sand and gravel per year. Asphalt and concrete batching is also proposed to be conducted at the facility. The property is located approximately ½ mile east of the City of Gunnison, south of Highway 50 to Tomichi Creek, legally described as a being located in the NE/4 SE/4 NW/4 Section 4 and the NE/4NE/4 Section 5, Township 49 North, Range 1 East, N.M.P.M., 43188 Highway 50.

Commissioner Wilcox has recused himself from this review.

With a quorum present Chairman Ramon Reed opened the Commission's work session.

Consulting Engineer with Greg Lewicki and Associates Ben Langenfeld was present to represent Gunnison Valley Properties.

Chairman Reed explained the work session was being conducted to bring up questions or issues of the Commission.

Chairman Reed noted there had been additional information submitted by the applicant; an amendment to the original plan.

Engineer Langenfeld said there were concerns expressed about the processing plant being placed close to Highway 50. The concerns were primarily about the visual impacts; they have now submitted an alternative plan. The bulk of the pit plan has not changed. The processing equipment has been moved to the south east corner of the site and they will construct a 30 ft berm, for visibility mitigation. The plant will remain in the south east corner through phases one and two; the operator then has the option to move it at the end of mine life. Changing the location of the processing equipment will result in less required dewatering year round. They will be able to stop pumping water and do not have to deal with the potential impacts of winter dewatering.

Chairman Reed asked if the sale of the material would be at the northern end of the site; Langenfeld said it would. Reed asked what the access point would be; Langenfeld said they will have a road where the pit crest goes down to the processing area. He added different operators could change and they want to leave the access options open to operators. It will most likely run along the edge because of the convenience.

Commissioner Rubingh agreed moving the processing away from Highway 50 addresses visibility, but he pointed out now it is right next to a State wildlife area. He asked what the hours of operation would be; Langenfeld said the hours would be from 6 A.M. to 7 P.M. .

Chairman Reed asked about the ground water, because this will be a very large and deep pit. He noted there are several domestic water wells that are less than 50 ft. from the pit. He asked about the potential to change the water table for the domestic wells. Engineer Langenfeld said due to the strong water flows and because the pit is downstream, it will not negatively affect the adjacent wells. The State requires a demonstration when applying for a gravel pit- well permit. The State requires checking wells within 600ft.

Chairman Reed noted because this will be such a large operation the applicant will need to provide some information concerning the potential impacts to the surrounding properties from this operation. He added the Commission needs to be comfortable this operation would not dewater the surrounding areas. Langenfeld agreed to provide information on a conceptual level.

Chairman Reed submitted an article from the Gunnison County Times from July, 2012. The article discussed the fishery on Tomichi Creek, the low water levels and the temperature of the water going up. He asked if the water from the pit would increase the temperature of the water in Tomichi Creek, and if it has been considered. Langenfeld said because they will be discharging when the water flow is high the water will become closer to the stream temperature, but maybe not the same.

Commissioner Rubingh suggested because of the new siting of the processing area it would be advantageous to seek comments from Colorado Parks and Wildlife. He said Trout Unlimited could also be a good resource of information.

Commissioner Fulton expressed his concern with the possibility of the water in the Tomichi Creek becoming warmer because of the water from the pit. He asked if this is truly a concern, how it could be addressed.

Commissioner Cattles expressed his concern with the potential negative visual impacts to the entry corridor to the City. He noted even the proposed 30 ft. visual mitigation berm could cause visual impacts. He suggested looking at a different location on the parcel which would be less detrimental to the view corridor. Langenfeld said the location is driven by the land owner. He said in the beginning of the operation the visibility will be much less, but as the pit grows it will get closer to Highway 50, and visual impacts will have to be mitigated with a berm that will move with the pit. Cattles reiterated his concern with the visual impacts of a very large mining hole. Commissioner Fulton agreed and added the entire County will be impacted by those visual impacts.

Chairman Reed said although a landscaping plan is not required at sketch plan review, more details are needed concerning the proposed 30 ft. berm. Commissioner Fulton agreed noting this could have a large visual impact on the entire County. The permanent berm can be landscaped well, but a moving berm is a practical problem. Commissioner Seitz added the permanent berm will only mitigate visual impacts from the north. The west and east are not shielded. Visual impacts are a primary concern. Langenfeld said berming the east and west sides would result in too limited of an area to work in.

Commissioner Eskew pointed out there has been no need for extra mining material recently. Langenfeld said the applicant does not think the economics of the issue should be addressed. In terms of operations like this; there is always a need for competition. Chairman Reed disagreed noting if the demand is not present for the material from the pit, than the life of the pit is greatly extended. He did agree competition in the market place was beneficial. He added understanding the volumes of material needed historically could help the Commission with their determination.

Engineer Langenfeld said the traffic generated from the pit will flow through Gunnison; they have attempted to mitigate the impacts as much as possible.

Chairman Reed stated the City's Three Mile Plan and the Intergovernmental Government Agreement (IGA) should be considered in this review, as noted in the Gunnison County Land Use Resolution (LUR). He noted it will have to be addressed in the Preliminary Plan.

Assistant Director of Community Development Neal Starkebaum will provide copies of the IGA and the relevant sections of the City's Three Mile Plan to the Commission.

Engineer Langenfeld said they have amended their application to delete the section referring to this area eventually becoming a public recreational area. They do not know what the reclaimed area will be in 20 yrs., at this time.

Chairman Reed referred to the Vista Business Park application and the communication from County legal counsel regarding City retail sales tax.

Chairman Reed wanted the applicant to clarify the Phases referred to in the application, were not phases within the LUR regulations; Engineer Langenfeld confirmed they were not. He explained they are not proposing the application as a multi phased project, it is a total project.

Chairman Reed asked about water rights; Engineer Langenfeld said augmentation plans have been filed, and in progress with the State Water Court.

Chairman Reed asked for explanation of the traffic study. Engineer Langenfeld explained the ratio used to measure the traffic going east and west came under the CDOT requirements for an acceleration or deceleration lane. CDOT has now approved the applicant's request.

The Commission requested information;

- Ground water
- Tomichi Creek fishery
- Visual impacts and reclamation
- Three Mile Plan and IGA
- Water rights
- Market and time lines

- Traffic
- CPAW and the new proposal/ Tomichi Creek fishery

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Reed adjourned the meeting at 11:40 A.M.

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/S/ Beth Baker
Community Development Department Services Manager
Gunnison County Community Development Department