GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, APRIL 5, 2013

Draft- For Review

12:45 p.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.

1:00 p.m. **O.A. Pesnell, Monson Creek Outfitters**, work session/possible action, request for the use of two cabins for year-round guest lodging and sleigh and hay rides. Seasonal use (May – October) as a staging area for guided horseback tours onto adjacent BLM lands, and as a waypoint for jeep tours on adjacent BLM lands; with jeep rentals originating in the City of Gunnison; 59005 Highway 50, north of Highway 50, Doyleville, legally described as being located in the NW/4NE/4, NW/4 Section 1, N/2SW/4, the SE/4SW/4, part of SW/4 Section 1 and NE/4, NE/4SE/4 lying north of Highway 50 Section 2, Township 48 North, Range 3 East, N.M.P.M., 465-acres

2:00 p.m. **Board of County Commissioners/Planning Commission Joint Meeting:**
Items to be discussed by the Board and Planning Commission:

A. Gunnison Sage-grouse – Status update from Jim Cochran
B. Towers – Telecommunication & Wind Turbine
C. Carbon Policy Taskforce Discussion
D. County Attorney Comments
E. Other Topics

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
April 5, 2013
****

The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center. **Present were:**

Chairman- Kent Fulton
Vice-Chairman-Jim Seitz
Commissioner-Warren Wilcox
Commissioner-Susan Eskew
Commissioner-AJ Cattles
Alternate Commissioner- Jeremy Rubingh
Alternate Commissioner- Tom Venard
County Attorney-David Baumgarten
Assistant Director of Community Development- Neal Starkebaum
Planner- Cathie Pagano
Community Development Services Manager- Beth Baker
BOCC- Paula Swenson
BOCC- Phil Chamberland
BOCC- Jonathan Houck
County Manager-Matthew Birnie
Others present as listed in text

****

With a quorum present Chairman Kent Fulton opened the regular meeting of the Planning Commission.

****

Moved by Seitz seconded by Wilcox to approve February 1, 2013 PC minutes as amended. The motion passed unanimously.

Moved by Cattles seconded by Wilcox to approve February 15, 2013 PC minutes as amended. The motion passed unanimously.

Moved by Seitz seconded by Wilcox to approve March 1, 2013 PC minutes as amended. The motion passed unanimously.

****

O.A. Pesnell, Monson Creek Outfitters: The Gunnison County Planning Commission (Commission) conducted a work session. They reviewed the request for the use of two cabins for year-round guest lodging and sleigh and hay rides. Seasonal use (May – October) as a staging area for guided horseback tours onto adjacent BLM lands, and as a waypoint for jeep tours on adjacent BLM lands; with jeep rentals originating in the City of Gunnison; 59005 Highway 50, north of Highway 50, Doyleville, legally described as being located in the NW/4NE/4, NW/4 Section 1, N/2SW/4, the SE/4SW/4, part of SW/4 Section 1 and NE/4, NE/4SE/4 lying north of Highway 50 Section 2, Township 48 North, Range 3 East, N.M.P.M., 465-acres.

With a quorum present Chairman Kent Fulton opened the work session.

The commissioners reviewed the draft decision of approval.

Seitz noted his concern with the conservation easement and the perceived lack of oversight by Colorado Open Lands; he would like to have the County do the monitoring of this conservation easement. Starkebaum sympathized with Seitz concerns but noted the County was not part of agreement/contract between Colorado Open Lands and the landowner. Starkebaum said Colorado Open Lands hired consultant, Susan Lohr, to review the agreement and the site; placing requirements on the landowner. Seitz was disappointed there were not more comments on the fencing placed by the landowner, from Colorado Open Lands.

Rubingh said the verbiage "existing agricultural roads shall be maintained to the lowest level required to provide safe passage," could be more specific. Pesnell said there has to be an opportunity for him to maintain the roads. Starkebaum explained we don't have qualitative standards for agricultural roads. Rubingh suggested adding, "Graded roads shall be allowed to revert back to two track roads where possible."

County Attorney David Baumgarten said County staff has worked diligently on attempting to prevent the potential listing of the Gunnison Sage grouse, by the Federal government. If the Gunnison Sage grouse is listed there will be multiple challenges for landowners, builders, ranchers and developers. He noted Pesnell's ranch is in prime Sage grouse habitat. He explained the primary complaint/rational behind the potential listing is fragmentation of habitat. Following the fragmentation is the perceived lack of County regulation. He noted the Federal government has said Gunnison County does not regulate development in Sage grouse habitat and if there is regulation it is often ignored, and the regulations do not have longevity. Baumgarten said he has explained Gunnison County does have and enforce the regulations.

Baumgarten emphasized Gunnison is under the utmost scrutiny of the Federal government. He added every project involving the Gunnison Sage grouse will be reviewed by the County. He said the Federal government will ask what is the last project reviewed, what were the regulations, and how were they enforced.

Baumgarten requested any project involving the Gunnison Sage grouse be reviewed explicitly, quantitatively, and qualitatively; specifically how will the regulations be enforced.

Baumgarten pointed out headway is being made but it can be easily lost. He added this application is an opportunity for the County to be diligent in its review; this one must be done correctly. He warned everything done today will be reviewed under a "microscope" by the Federal government. He encouraged the commissioners to not include linguistic opportunities, delete all mention of items without specific explanations. He reiterated the commissioners should stop, observe, and strategize, when reviewing applications involving the Gunnison Sage grouse.

Pesnell expressed concern with the last minute nature of the County Attorney's advice. He said his application has been in review for ten months. He noted both Susan Lohr and the County Wildlife Coordinator have reviewed the application and the site; they have both provided comments and recommendations for mitigation.

Pesnell said they are asking for permission for a benign use of the ranch, to do what the public has the right to do anyway. He added they have done their due diligence as an applicant; for the County Attorney to come in at the last moment is unfair to him as an applicant. Seitz noted the potential listing of the Gunnison Sage grouse is an eleventh hour issue.

Moved; by Fulton, seconded by Seitz for the Commission to go into executive session with the County Attorney David Baumgarten, and Assistant Director of Community Development Neal Starkebaum for the purpose of discussing the legalities of this application. The motion passed unanimously.

The Commission went into executive session at 1:45 P.M. *Executive sessions of the Gunnison County Planning Commission 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).*

****

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; 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) 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)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; 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).

Date: _____ _____

Kent Fulton, Chairperson Gunnison County Planning Commission

The Commission came out of executive session at 2:15 P.M. Chairperson Fulton stated the discussion had remained on the topic.

*****

Baumgarten explained the staff will be reviewing the land use decision in the next work session with the applicant. The Wildlife Coordinator will be reviewing the proposed site again, prior to the Commission's work session with the applicant.

Starkebaum said the Commission could meet again on this application on May 3, 2013. Pesnell replied he would not be in town and would prefer to meet another date.

The Commission will conduct an additional work session to review this application and draft decision, May 17, 2013.

****

Board of County Commissioners/Planning Commission Joint Meeting: The Gunnison County Planning Commission (Commission) and Board of County Commissioners (Board), conducted a joint meeting. BOCC/ Board members Paula Swenson, Phil Chamberland and Jonathon Houck, County Attorney David Baumgarten, and County Manager Matthew Bernie attended the joint meeting.

Items to be discussed by the Board and Planning Commission:

- **Towers** – Telecommunication & Wind Turbine
- **Carbon Policy Taskforce** -Discussion
- **County Attorney**- Comments
- **Gunnison Sage grouse**-Status update from Gunnison County Wildlife Coordinator Jim Cochran
- **Other Topics**

Gunnison Sage Grouse status update: Gunnison County Wildlife Coordinator Jim Cochran said the Department of Fish and Wildlife will meet January 11,2014, to consider listing the Gunnison Sage grouse. The critical habitat being considered is roughly 30,000 acres. There are regions directly to the east of near the Town of Sargents. The majority of the habitat is west of the Town of Gunnison.

Cochran said Colorado Parks and Wildlife submitted comments on the rules of science. Gunnison County argued the listing is not warranted based upon the science. Gunnison County has been working with 10 Colorado counties and one Utah county; they have all signed a MOU and agreed to start discussing how the Sage grouse can be managed and saved, other than by regulation of the Federal government.

Cochran said the Gunnison basin is way ahead of the process in everything from Land Use to the science. Senator Bennett's office has worked with Gunnison County. Four senators and three congressmen have signed a request, asking that this issue stay locally regulated. He noted local actions are the most effective.

BOCC- Paula Swenson said she and County Attorney Baumgarten are going to Washington DC to continue to carry the message of local control to the meetings. She added most of the communities have not begun working on this issue. Gunnison County is sharing the information on regulations, etc.

Cochran added he has been working with Colorado Parks and Wildlife using the mapping tools developed by GIS Director Mike Pelletier. The mapping uses a habitat prioritization tool with approximately 10,000 data points. Gunnison County has the Sage grouse habitat mapped in the county. The tool can make our efforts better and more effective. It includes an outside boundary, excluding the majority of the city.

Towers- Telecommunication & Wind Turbine: BOCC**-** Phil Chamberland said he would like telecommunication towers and wind turbines on the Commission's radar. The County is in need of better broad band access. He added there could be some collocation on existing towers. He has had discussions with AT&T, and would like to see if the Planning Commission process is conducive to quick approvals where appropriate. He said we may consider different height towers be reviewed differently. He sees these as being on the docket soon and on a regular basis. The towers will be both on private and public land.

Assistant Director of Community Development Neal Starkebaum said a new telecommunication tower request would be reviewed as a minor impact project and could take approximately six to eight weeks to get through a Land Use Change review.

Starkebaum had surveyed ten counties across the western slope. San Miguel County has a moratorium on telecommunication tower reviews. Several of the counties use a special review process for sitting and the governing body is the BOCC. Delta County only requires a building permit for a tower less than 40 ft. in height. Route County requires a building permit for towers less than 35 ft in height. Starkebaum added seven out of ten counties require special use permits for wind turbines.

Richard Karas said Sage grouse habitat has been an issue in prior telecommunication tower reviews. He noted the access to a tower through Sage grouse habitat can prove to be problematic.

Carbon Policy Taskforce Discussion: Rubingh said the Commission's comments submitted to the BOCC for their retreat were limited because of the short timeframe. Fulton added the Commission would like to finish their review.

BOCC-Swenson said some of the things recommended had previously implemented. The BOCC will respond to the suggestions point by point.

Swenson added the BOCC will review the Commission's suggestions made again, and come back and with more specific direction.

Wilcox said he had questions on how the City of Gunnison, ORE, and GCEA all fit together; he was concerned not to establish more bureaucracy.

Rubingh noted the Commission had recommended the BOCC continue to fund ORE and their Energy Smart program.

BOCC-Houck said they would work to find a good revenue stream. Rubingh said this only addresses what we are doing now not increasing it.

County Manager Matthew Birnie noted the County has been working on this is several ways. He said the County is doing a number or things: working with the ranching community in an effort to conserve 8,500 acres, County facilities to become top energy performing buildings, reduced our carbon footprint by 14% in all County buildings, converting County vehicle fleet to natural gas, and the County to implement transportation building impact fee for new permits in the future, etc.

BOCC- Chamberland pointed out energy efficiency lowers the carbon footprint, and it reduces money spent on energy, this could result in a public buy in. He suggested approaching this with a benefit and incentive driven method.

Wilcox suggested creating energy ratings which could be advertised in the open market. He pointed out we need the City to be on board with the County to get an energy rating system.

Houck said the BOCC will be meeting with the new City officials on this matter.

Swenson said the Board will submit a formal written statement, which notes what has been accomplished, and the further steps needed by the Commission.

County Attorney Comments: BOCC- Swenson discussed County Attorney David Baumgarten's role with the Commission. She described the process and protocol. She explained Baumgarten works for the BOCC and the County Manager. When there is a Land Use application requiring his expertise, Starkebaum will contact the County Manager to schedule a meeting with Baumgarten. If there is a question of conflict of interest Baumgarten will speak with a Commissioner.

Other- Wilcox mentioned mining projects, the regulations that deal with levels of mining, anything to do with disturbance over the life of the project there is a fee. It seems excessive; to pay it all upfront, it can be brutal. It seems that the fees could be looked at.

****

Fulton adjourned the meeting at 4:00 P.M.

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