

# MINUTES OF A REGULAR BOARD OF COMMISSIONERS MEETING GRAND COUNTY, COLORADO

Present: Duane E. Dailey, Chairman – Commissioner District 3; James L. Newberry, Commissioner District 1; Robert F. Anderson, Commissioner District 2; Lurline Underbrink Curran, County Manager; Anthony J. DiCola, County Attorney; Sara L. Rosene, County Clerk and Recorder

December 21, 2004

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Chairman Dailey called the regular Board of Commissioners meeting to order at 8:30 a.m.

## Board Business/Correspondence/Calendar

- Department heads present for the Board's business portion of the meeting were Scott Penson, Billy Sumerlin, Stu Findley, Deb Campbell, Tina Whitmer, and Sara Rosene.

Those present recited the Pledge of Allegiance.

Commissioner Anderson stated that the Board reviewed:

A letter to Planning Director Deb Campbell from Ann Closser of Closser Consulting Limited Liability Company. Ms. Closser confirmed that all contractors have been notified that they are not to access the Verizon Wireless facility from County Road 57.

Commissioner Newberry stated that the Board reviewed:

A letter to L. L. Kourse, of Tabernash Meadows Water and Sanitation District, regarding the deeding of the property containing the plant.

Commissioner Newberry moved to authorize the Board to sign the letter to all County hangar owners stating that Grand County has recently increased its land lease charges for hangars to be built to \$.10 per square foot which will be adjusted annually based on the Boulder/Denver consumer price index. All land leases that were in effect prior to this change, December 14, 2004, will not be affected.

The motion passed unanimously.

Commissioner Newberry moved to authorize the Chairman to sign the letters to the Grand Events Center Board members and the Grand Foundation Board members stating that the State of Colorado has tightened the requirements for the awarding of lottery funds. This has eliminated many requests that the County had previously funded. Due to the redefinition of approved uses of the County's conservation Trust Fund money, the requests made by those Boards do not qualify for funding.

The motion passed unanimously.

Chairman Dailey:

Stated that he is sending a letter to Colorado Counties, Inc., verifying his interest in being appointed to the State Emergency Fire Fund Board.

Reviewed the memo from the County Manager regarding the problems with the walls at the jail. The Board will look into the problem further. Commissioner Newberry noted that the County has not budgeted funds to make the repairs. (A copy of the memo was not provided for the meeting file.)

Commissioner Newberry moved to authorize the Chairman to sign the letter to Charles Gallagher, of Grand River Ranch, stating that Mr. Gallagher committed to placing 2,000 acres of the Grand River Ranch into a conservation easement. The letter expressed the commitment and the priceless gift it will be to the citizens of Grand County.

The motion passed unanimously.

Commissioner Newberry noted a memo from the County Manager regarding water and Mike Saylor. Ms. Underbrink Curran has been given permission to use Mr. Saylor's services for water issues. (A copy of the memo was not provided for the meeting file.)

Chairman Dailey stated:

The Library District would like to change the title of Mary Anne Wilcox from the Director of the District to Executive Director. The District asked that the County Attorney look into the matter and determine if a title change is allowed in statute. County Attorney DiCola reviewed the statute and found that the District can appoint "Librarian". There is nothing in statute that allows the title of Director of the District or Executive Director.

The Board reviewed a memo from Natural Resources Director, Billy Sumerlin, stating that there have been several blatant cases of disregard and non-compliance concerning State statute and regulations set forth by the Colorado Department of Health and Environment, Air Pollution Control

Division, and the Grand County Open Burning Management Plan.

Mr. Sumerlin recommended that the County impose the necessary fines on those violating State and County requirements.

The Board members had no calendar items to report.

### Road and Bridge Update

Road and Bridge foremen, Gary Morrow and Gary Bailey, appeared before the Board.

The crews are:

- a performing general maintenance
- a performing winter maintenance
- a working on light repairs at the airports
- a moving the crusher into the facility in Fraser and performing repairs
- a working on the Happy Paws shed
- a laying magnesium chloride for de-icing

The staff has been trying to isolate the number of hours spent on the airports. Mr. Bailey broke out the time by monthly inspection, maintenance, fuel, and other. They are averaging 8.5 hours per week at the Kremmling Airport and 4 hours per week at the Granby Airport. Neither of those figures includes snow and weed removal. Mr. Bailey stated that he does not believe those hours completely reflect the number of hours of maintenance and support being provided to both airports.

Mr. Bailey stated that snow removal at the airports is part of a route. The airports may need to be isolated and not part of a route.

Maintenance at the airports includes changing lights, hangar maintenance, fixing the tie downs, and other items as necessary.

Some of the fuel work at the airports includes testing the fuel, checking levels weekly, and replacing filters.

Kathy Etler and Colleen Reynolds have also performed work for the airports.

The County Manager has spoken with the Road and Bridge Supervisor about sending Gary and Matt Beres to an FBO school. She stated that there are a lot of things the County needs to know about the requirements of Homeland Security.

Manager and Attorney Items

Commissioner Newberry moved to authorize the Chairman to sign the Designation of CCI 2005 Steering Committee Proxy for the Board of County Commissioners:

**Name and Title**

**Steering Committee**

Billy Sumerlin, Director of Natural Resources  
Agriculture, Wildlife & Rural Affairs

Public Lands

Lurline Underbrink Curran, County Manager  
General Government

Lynn Dill, Director of Home  
Health

Health and

Human Services

Phil Maes, Social Services  
Director

Health and

Human Services

Deb Campbell, Director of  
Planning

Land Use

and Natural Resources

Martin Woros, IT  
Director

Transportation and Telecommunications

Donette Schmiedbauer, Finance  
Director

Taxation and Finance

The motion passed unanimously.

Commissioner Anderson moved to authorize the Chairman to execute the Intergovernmental Agreement for the Establishment of an Interstate 70 Central Mountain Transportation Corridor Coalition.

The motion passed unanimously.

Commissioner Newberry moved to authorize the Chairman to sign the Certification of Match for the GRAMNET Project in the amount of \$1,016 and \$4,064.

The motion passed unanimously.

Ms. Underbrink Curran stated that she has a sub-grant application for the Sheriff's Office for tactical equipment procedure. The award is in the amount of \$3,000. The form presented is to accept the award. Commissioner Newberry stated that he would like more information before approving the request.

Commissioner Newberry moved to authorize the Chairman to sign the Agreement between Grand County Roofing and Sheet Metal, Inc., d/b/a The Roofing Company, and Grand County to provide labor and materials to repair a leak in the roof of the Grand County jail.

The motion passed unanimously.

The Board reviewed a court Order for Case Number 04CV112. The Sheriff is responsible for destroying Marvin Heemeyer's 1978 Komatsu tractor and other items used in the commission of acts of Criminal Mischief over \$15,000. The Board has asked that a memo be sent to the Sheriff asking how and when he will be destroying the 1978 Komatsu and related equipment. Commissioner Newberry also asked that the Sheriff provide the Board with the cost of executing the court Order.

County Attorney DiCola stated that Mountain Park Concrete, Inc., is claiming a lien on various hangars. If Mountain Park Concrete has a lien against the hangars, it constitutes a violation of the County's Lease with the hangar owners. The Lease provides that the owner shall not allow a lien to be placed on the property.

Commissioner Newberry moved to approve Resolution No. 2004-12-18, A Resolution authorizing the Chairman of the Board of County Commissioners of the County of Grand, State of Colorado, to execute a Real Estate Listing Contract with Omni Real Estate to sell Lot 35, Gorewood Subdivision.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-19, A Resolution approving a Memorandum of Understanding between the Colorado Department of Revenue, Motor Vehicle Business Group, and the Grand County Clerk and Recorder to allow the Grand County Clerk and Recorder to conduct DLS services in Grand County.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-20, A Resolution approving a Services Contract between J & M Unlimited, Inc. and the Board of County Commissioners, County of Grand.

The motion passed unanimously.

Commissioner Anderson moved to approve Resolution No. 2004-12-21, A Resolution approving a Joint Funding Agreement for Water Resources Investigation for the Three Lakes Work Plan between the United States Department of the Interior and the Board of County Commissioners of the County of Grand, State of Colorado.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-11-29, A Resolution executing the Contract Change Order No. 2 for McElroy Airfield due to the change of insulation to meet 2000 International Building Code standards.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-22, A Resolution approving the appointment of Kathy Lewis as representative to the Grand County Housing Authority Board.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-23, A Resolution approving the Grant Agreement between Grand County and the State Board of the Great Outdoors Colorado Trust Fund.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-24, A Resolution approving the Request for Reimbursement for the Down Payment Assistance Program (CDBG Program) from the Colorado Division of Housing.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-25, A Resolution approving a Consulting Agency Agreement between the U.S. Army Corps of Engineers, Omaha District, and the Board of County Commissioners in the County of Grand, State of Colorado, to prepare draft and final Environmental Impact Statements for the Moffat Collection System Project.

The motion passed unanimously.

#### Finance Director

Finance Director, Donette Schmiedbauer, presented the Warrant Register and Expenditure List to be

paid on December 22, 2004, for vendor payments. The list for this period was verified by the Finance Director for the Board's approval.

Commissioner Newberry moved to approve and sign the warrants to be paid on December 22, 2004.

The motion passed unanimously.

The Board reviewed the sales tax collection report. The revenue was 4.01 percent over last year's collection.

### Planning and Zoning Matters

Commissioner Newberry moved to approve Resolution No. 2004-12-26, A Resolution denying the Special Use Permit for Tract M, Blue Valley Acres Subdivision Unit 2, located adjacent to U.S. Highway 9, in the NE ¼ NW ¼ Section 34, Township 1 South, Range 80 West of the 6<sup>th</sup> P.M., Grand County, Colorado.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-12-27, A Resolution approving the final plat of the Cabins at Porcupine Ridge Subdivision, accepting a Subdivision Improvements Agreement, granting preliminary acceptance of certain improvements, establishing an escrow account in the amount of \$633,898.50 without interest, and accepting a Water Quality/Wastewater Agreement, for the 32-unit subdivision located in Section 20, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M., Grand County, Colorado and authorize the Chairman to sign the Water Quality Agreement, Subdivision Improvements Agreement, and the plat.

The motion passed unanimously.

Commissioner Anderson moved to approve Resolution No. 2004-12-28, A Resolution for the renewal of the Thompson Properties Special Use Permit located in a portion of the N1/4 of Section 31, Township 2 North, Range 76 West; adjacent to the town of Granby.

The motion passed unanimously.

Senior Planner Irene Cooke stated that Chairman Dailey and Commissioner Newberry attended a meeting regarding the Grand Fire #1 Fire Protection District's new station. CDOT is putting the District's Access Permit on hold until it has a traffic count from the County. The County has placed the counter, but the Road and Bridge Department is not sure how long it can stay due to weather conditions. Ms. Cooke stated that the Planning Commission wants the Access Permit before the hearing on January 4, 2005.

The Board will not hold up the process. The applicant can move forward, and the County will restrict recording of the final documents until the Access Permit has been granted.

Planning Director Campbell stated that there is going to be an erosion control seminar. She asked that the Commissioners promote the seminar as they are out in the community.

Ms. Campbell provided the Board with a copy of an article from the Rocky Mountain News from December 20, 2004, regarding RS 2477.

### Board Business

Commissioner Newberry moved to approve Resolution No. 2004-12-29, A Resolution providing for the distribution of the National Forest Reserve Apportionment in the amount of:

Grand County Road and Bridge Fund \$447,550.97

West Grand School District

\$ 84,795.99

East Grand School District

\$213,571.33

Total \$745,918.29

Discussion: Chairman Dailey stated that Grand County provides the largest percentage of funds (in the State of Colorado) to the school districts.

The motion passed unanimously.

County Treasurer Whitmer presented the Board with the monthly Treasurer's Report.

### Certification of Levy 2005 Taxes

Finance Director, Donette Schmiedbauer, presented the Certification of Levy 2005 Taxes.

Commissioner Anderson moved to approve Resolution No. 2004-12-30, A Resolution approving and adopting the levying of taxes by the Grand County Board of Commissioners for the County of Grand; the schools; the towns; and the special districts within the County of Grand, and certifying said levies to the Division of Local Government.

The motion passed unanimously.

## Abatement – Henri Fournet

Tom Weydert, for the Grand County Assessor, and Petitioner, Herni Fournet, were present for the hearing.

The following is all or part of staff's Memo to the Board of County Commissioners as presented at the meeting on December 21, 2004.

To: Grand County Board of Commissioners  
From: Tom Weydert, Assessor's Office

It has been brought to our attention of an error in the land identification on a parcel of land in the Gould/Gish/Trail Outright Exemption which was created in 1999.

The property is physically divided by US Highway 40 but is actually only 1 parcel. For GIS and mapping identification purposes, the Assessor's office had assigned separate schedule numbers for the portions on either side of the highway even though it is legally only one parcel. The property cannot be further subdivided, nor may the northern portion be sold separately.

From discussions with the planning department and inspection of the property, I agree that portions of the property should be reclassified.

### Recommendation:

Change the classification of the northern portion of the property (R#121472) from vacant land to essential land to the southern portion (R#121473).

Commissioner Anderson moved to change the classification of the northern portion of the property (R121472) from vacant land to essential land to the southern portion (R121473).

The motion passed unanimously.

## Board Business

County Attorney DiCola will meet with Charlie Greenhouse on December 24, 2004, at 8:00 a.m., to discuss ACC issues.

County Manager Underbrink Curran stated that the grant for the tactical equipment is for a ballistics blanket.

Commissioner Newberry moved to authorize the Chairman to sign the Letter of Acceptance for a \$3,000 matching grant for the Grand County Sheriff for tactical equipment procurement (a/k/a ballistics blanket).

The motion passed unanimously.

Planning Director, Deb Campbell, stated that there has been a meeting to talk about scoping for the infrastructure regarding the Berthoud Pass Building. The planning process for the site is moving forward. The building will be demolished.

### ACC/Valley at Winter Park Agreement

The following is all or part of staff's Certificate of Recommendation to the Board of County Commissioners as presented at the meeting on December 21, 2004.

TO: BOARD OF COUNTY COMMISSIONERS  
FROM: DIRECTOR, PLANNING AND ZONING

The County Attorney and I met with representatives from American Civil Contractors (ACC), their attorney, Charlie Greenhouse, and several members of both the Homeowner's Association and the Water District on November 30, 2004. The objective of the meeting was to discuss the status of completion of several items, and to develop a strategy to release the Subdivision Improvements Bond. The issues included:

1. Water System

- a. Installation of Second Well: Only one (1) well was constructed. The Augmentation Plan requires two wells. The members present representing the Valley at Winter Park Water District stated that they were satisfied with the existing well capacity, and have no need for the second well.
- b. Water Pressure: The existing water system has a pressure of 20 psi. there is no required minimum operating pressure according to the Colorado Department of Public Health and the Environment. The District would like to increase the system pressure to 50 +/- psi. they expressed concern whether the pipe and the pipe installation could withstand this pressure.
- c. Water Tank: The District expressed concern regarding the type of lid and its attachment. ACC has agreed to repair this deficiency.

2. Telephone System: The system was installed and approved by QWEST. Grand County has a copy of the as-builts. The Homeowner's Association indicate that the splicing at each individual lot has not been completed. ACC has agreed to complete this work.

3. Golf Course: The Homeowner's Association has concern that ACC has not fulfilled their maintenance agreement with regards to the golf course. The Developer did

not allow ACC on the golf course; therefore, ACC was unable to access the property to fulfill its obligation. The HOA agrees that operating a golf course is probably not in their best interest. The HOA has asked the County Attorney if they could subdivide a portion of the golf course into residential lots, for sale to support other subdivision improvements not covered in the original construction (i.e. asphalt paving of the roads).

A recommendation on the amount to release will be presented by the County Attorney at the December 21, 2004, meeting.

County Attorney DiCola stated that he believes everyone is "on the same page".

Ms. Campbell stated that she is providing follow-up as requested on the Valley at Winter Park – Release of Subdivision Improvement Bond.

Mr. DiCola stated that Chuck Anema's attorney wrote a letter letting the County know that the case against the County has been dismissed with prejudice.

Mr. DiCola stated that he understood that Mr. Anema had an independent contractor from Qwest installing lines. Mr. DiCola stated that he understood that Mr. Anema still owed the contractor \$24,000. The splicing was not done because the money was not paid.

Mr. DiCola reminded the Board that the bond secures both Anema's completion of the subdivision improvements as well as ACC's.

Amy Durfee West, attorney for the Homeowners Association, stated that the Association is being kept in the loop. The concern of some of the homeowners is the deposit that Mr. Anema took for the clubhouse and other things that are not going to happen. Those owners would like to get their money back from the bond. The Homeowners do not want the money to go back to Chuck Anema.

Mr. DiCola stated that he does not believe the money will go back to Mr. Anema. He believes the money will go to Jerrie Eckelberger.

Ms. Durfee West stated that the Homeowners Association had the right to declare a default and to obtain title to the golf course property. The Association is working on getting the appropriate number of votes. After that work is done, the Association would like to reconfigure to find a couple more lots to generate some revenue to pave roads and take care of some things to convert the land to natural open space. Mr. Anema is the only owner who wants to keep the golf course.

Chairman Dailey stated that the Homeowners Association may want to look at the County's requirements before the roads are paved.

County Attorney DiCola stated that the amount he drew on the bond is the amount that he will wrap into a Subdivision Improvements Agreement taking off the money for the additional water well.

### Board Business

Chairman Dailey stated that he received a copy of the Sheriff Department/Police Department study. Ms. Underbrink Curran stated that she has reviewed several of the studies. She stated that if the County needs the information, it should contract with a professional firm. The graduate students have not been able to complete work on the study.

The Board suggested that the County step away from the study.

### Town of Grand Lake Building IGA Discussion

Chief Building Official, Scott Penson, presented the Intergovernmental Agreement between the County and the town of Grand Lake regarding the administration and enforcement of the town's building codes.

Commissioner Newberry moved to approve and authorize the Chairman to sign the Intergovernmental Agreement between the town of Grand Lake and Grand County concerning building inspections.

The motion passed unanimously.

### Waterside West Building Permit Discussion – Anthony J. DiCola

County Attorney DiCola stated that the County discovered that Waterside West had a note on the plat which the developers believed relieved them from coming to the Board for future plat approvals. The developer came before the Board and agreed that they would apply to the County for future plat approvals. They now claim that they were being bribed, extorted, or some such thing in connection with that.

Since the developer was here this summer, they have now applied for a building permit for a series of townhomes at Waterside West. Mr. DiCola stated that the County Manager and he reluctantly agreed that the developer had the right to build condominiums without future replatting. Under the notes on the plat, the developer could not build townhomes without review and process of a townhome plat.

Mr. DiCola stated that notes 4 and 6 describe the need for replatting for townhomes.

Planning Director, Deb Campbell, stated that she brought this to the County Manager's attention a

year ago. She stated that she asked for direction because it was not consistent with the County's regulations.

The attorney for the developer stated that the County Attorney and the County Manager approved the notes on the plat. Mr. DiCola and Ms. Underbrink Curran denied knowledge of the note. Ms. Campbell stated that the note was discussed at preliminary plat when the County Attorney said that the County could not approve that note.

The developer wanted to visit with the Board without the Board's attorney present.

This is the first attempt to build a townhome. The rest of the buildings are condominiums.

The building permit requires a sign off by the Planning Department. Ms. Campbell stated that she cannot sign off on the building permit. The Board of Commissioners needs to take no action on this at this time.

Ms. Underbrink Curran stated that Mr. DiCola is the attorney for the County. He met with the developers and took the position to protect the County. Ms. Underbrink Curran stated that it was not an attempt to extort money from the developer.

The Chief Building Official will deny the building permit because the Planning Department will not approve the permit. Once this happens, Mr. DiCola expects the developer to file a mandamus action against the County.

### Board Business

Commissioner Newberry moved to convene an executive session on the Branstetter matter declaring conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions.

The motion passed unanimously.

Commissioner Anderson left the meeting during the executive session.

Commissioner Newberry moved to reconvene the regular meeting.

The motion passed unanimously.

I, Anthony J. DiCola, hereby attest that the portion of the executive session during which the recorder was directed to take no minutes constituted a privileged attorney-client communication.

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I, Duane E. Dailey, hereby attest that the portion of the executive session during which no minutes were taken was confirmed to a topic authorized for discussion in an executive session.

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There being no further business to come before the Board, the regular meeting was adjourned at 12:10 p.m. Minutes were taken and prepared by Sara L. Rosene, County Clerk and Recorder. Approved this \_\_\_\_\_ day of January 2005.

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Duane E. Dailey, Chairman

ATTEST:

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Sara L. Rosene  
Grand County Clerk and Recorder