

MEETING MINUTES
GRAND COUNTY BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY DEPARTMENT OF SOCIAL SERVICES
GRAND COUNTY HOUSING AUTHORITY

April 19, 2016

Present: Commissioner E. Jane Tollett, Commissioner District 1 – Chair
Commissioner Merrit Linke, Commissioner District 2
Commissioner Kristen Manguso, Commissioner District 3
Clerk and Recorder Sara L. Rosene
County Attorney Alan Hassler
Interim County Manager Ed Moyer
County Assessor Tom Weydert
Finance Director Curtis Lange
Juvenile Services Director Kelly Friesen

Those present recited the Pledge of Allegiance.

Minutes

The Board convened a Special meeting of the Grand County Housing Authority for the purpose of approving minutes.

Commissioner Linke moved to approve the minutes of the Special Meeting of the Grand County Housing Authority of January 26, 2016.

The motion passed unanimously.

The Board convened a meeting of the Board of Commissioners for the purpose of approving minutes.

Commissioner Linke moved to approve the minutes of the Regular Meeting of the Grand County Board of Commissioners of January 26, 2016, with a correction.

The motion passed unanimously.

Finance Director

The Board convened a Special meeting of the Grand County Board of Social Services for the purpose of approving warrants.

Finance Director Curtis Lange presented the Warrant Register and Expenditure List to be paid on April 20, 2016 for vendor payments. The list for this period was verified for the Board's approval.

Commissioner Linke moved to approve vouchers presented on April 19, 2016 for payment on April 20, 2016, for Grand County Department of Social Services as presented.

The motion passed unanimously.

The Board convened the Regular meeting of the Grand County Board of Commissioners.

Finance Director Curtis Lange presented the Warrant Register and Expenditure List to be paid on April 20, 2016 for vendor payments. The list for this period was verified for the Board's approval.

Commissioner Linke moved to approve vouchers and wire payments presented on April 19, 2016 for payment on April 20, 2016, for Grand County as presented.

The motion passed unanimously.

Road and Bridge Update

The following was read into the record by Commissioner Tollett:

Hello to all, road update for the week of April 18th 2016, unfortunately our road conditions have taken a step backwards this weekend with the amount of moisture we received. Roads that we had spent time trying to smooth have gone to muddy wet and even some rutting and hard for travel. As weather starts to improve road crews will be back out starting over with improving road conditions. Snow removal over the weekend was slow due to conditions and we had one piece of equipment brake down in Homestead Hills. Water ways have started to increase some and we will be monitoring our culverts and bridges. If you have any questions don't hesitate to call.

Chris Baer

Thank You, smile and have a great day.

Grand County Road & Bridge Superintendent

General Public Comments

There has been a change of protocol where each individual be allowed a three minute period of time in which to address the Board on topics which are not on the consent agenda or on the regular agenda. Any public comments expected to be more than three minutes should schedule as an agenda item. Commissioners may refer items to Staff for resolution or for further workshops.

Andy Miller of Fraser requested that live stream occur for meetings held at the courthouse.

Nathan Newkirk and Tommy Tindle came before the Board because Mr. Tindle would like to get his medical records. Mr. Tindle has been getting the run around from the Veterans Service Officer.

Commissioner Manguso wants this to be done immediately. Interim County Manager Moyer will speak with VSO Dailey and make sure that any and all protocols are followed by the State Veterans Office.

Eden Recor said he is upset about the change in the agenda without any public discussion. He is upset with the search of the county manager and the amount of time it is taking to hire one. There are many issues that have been put on hold waiting for a new manager and he does not believe that should happen. He believes that many people do not trust the county government. He is upset with the Board and believes that an Interim County Manager would help solve some problems.

Richard Cimino brought up the subject of noxious weeds in Grand County. He believes the County is doing a good job in controlling noxious weeks but he believes the Board should ask people to remove weeds on their own property before the County starts spraying. He does not believe there is proof that there are side effects from using the chemicals. He brought forth the idea of using community service hours to help remove weeds so maybe there could be less spraying required. There may be a potential to use a work release program from the jail.

Commissioner Manguso said that there are people who do pull weeds but it is state statute that requires the County to control weeds. The County does spot spraying, not blanket spraying. The County has used prisoners before in Hot Sulphur Springs. She thinks all of Mr. Cimino's ideas are good and maybe the County could put something out on web page.

Interim County Manager Moyer wanted to make clear for the record if they were discussing private property or County rights-of-way. Commissioner Manguso said they were discussing private property but the County has to take care of County rights-of-ways but there are people who do pull weeds on County property.

Mr. Cimino said there was a perception that the County will spray private property. He was informed that the County does not spray private property and individuals must hire private contractors.

Commissioner Manguso said they County does give away a weed herbicide every Friday at the Department of Natural Resources. An individual can get up to four gallons of premixed herbicide for free. The Department of Natural Resources is at the Road and Bridge Shop in Granby.

Commissioner Tollett responded to Mr. Recor stating that the general public comments of three minutes has been on the agenda at least since she has been a commissioner. She also stated there would be an update on the search for the new county manager later in the meeting.

Departmental Contracts, Comments, Issues

Grand County Assessor Tom Weydert provided an update on the first quarter report of abatements.

Under Sheriff Wayne Schafer provided an Amendment to the Telephone System/Service Agreement with Legacy Inmate Communications. Federal Communications via Order 15-136 instituted a new regulation that disallows a connect charge being applied on telephone calls being place by incarcerated individuals.

Commissioner Linke moved to enter into a contract between Grand County and Legacy Inmate Communications. This is an amendment to the Telephone System Agreement.

The motion passed unanimously.

Under Sheriff Schafer requested a release from capital in the amount of \$4,539.07 for the purchase of a walk through metal detector at the Court House and a couple of hand held metal detectors. This is a grant that will be reimbursed by the Court Security Grant.

Commissioner Manguso moved to release capital in the amount of \$4,539.07 for the purchase of court security equipment. This is a grant and will be reimbursed.

The motion passed unanimously.

Under Sheriff Schafer requested release of capital to buy a jail refrigerator \$3,514.03. The Board had already approved this expenditure and is fine with it.

Under Sheriff Schafer was approached by Yvonne Knox asking to place a dumpster on the property at the Sheriff Office garage for Hot Sulphur Springs cleanup days. The dumpster would be there from May 6th to May 9th with cleanup day on May 7th.

The Board was fine with that.

Juvenile Services Director Kelly Friesen presented a contract between Grand County and the Division of Youth Corrections for Senate Bill 94 and the marijuana tax revenue funds.

Commissioner Linke moved to enter into a contract between Grand County and the State of Colorado for the use and benefit of the Department of Human Services regarding the marijuana tax revenue and Senate Bill 94.

Discussion: Interim County Manager reiterated that this was for entire 14th Judicial District.

The motion passed unanimously.

Human Services Coordinator Colleen Reynolds stated that Kimberly Lund of the Grand Foundation would like to attend the employee's open enrollment to present the organization's program that allows employees to take a payroll deduction to be donated to Grand Foundation.

The Board agreed that information about non-profit organizations can be made available to employees by email. The Board will allow the current payroll deductions go to Grand Foundation but if it becomes unwieldly will likely not allow additional payroll deductions.

County Attorney Hassler stated that an email from Human Resources to county employees could be sent regarding contributions to an organization. The employee could do a direct withdrawal program from their financial accounts to the organization and the County would not be involved.

Economic Development Coordinator DiAnn Butler presented the Board with a contract with Americorps for a Vista Volunteer for Economic Development. The cost of the Vista Volunteer is \$10,500 for a one year full time Vista Americorps student who is a graduate of higher education. From the total amount, \$10,000 is funded by a grant from Freeport McMoRan with \$500 funded by Grand County. The Vista volunteer will receive a stipend of \$166 per month for housing. The Vista volunteer is an employee of Downtown Colorado, Inc.

Vista has an agreement with DOLA to help with community and economic development throughout the state. Ms. Butler sits on the Downtown Colorado Inc. board and helps guide this process. There are thirteen Vistas being placed throughout the state. There is a second opportunity in Grand County for a placement at the Middle Park Medical Center that will work for the health industry.

The Americorps Vista are interns that are paid a stipend. They work full time and get diverse experience with training programs through various programs such as DCI. They are working with the Orton Foundation to do a Heart and Soul training in the fall.

Sandy Doudna suggested that the fire departments, EMS, and the County may have some housing available.

Commissioner Linke moved to enter into a Memorandum of Understanding between Grand County and Downtown Colorado Inc. which is part of the Colorado Community Revitalization Association regarding the Vista program as described by Ms. Butler.

Discussion: County Attorney Hassler said there are a lot of things in the agreement that are not ideal such as Vista can pull out of the program at any time which would leave DCI and the Vista volunteers high and dry. That is not likely to happen but there is a clause that the County may have to release the Vista volunteer to work at disaster recovery projects that may occur. He did say that legal was good with the contract.

The motion passed unanimously.

Ms. Butler received notice that the Disney Way edition will be in print this spring. There will be a book signing in Grand Lake on the 19th.

Community Development Director Bill Gray presented Resolution No. 2016-2-39, "A RESOLUTION AMENDING AND ADOPTING THE 2016 GRAND COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT FEE SCHEDULE, EFFECTIVE JUNE 1, 2016"

Commissioner Manguso moved to approve Resolution 2016-2-39 as presented with an effective date of May 1, 2016.

The motion passed unanimously.

Grand County Clerk and Recorder Sara Rosene presented:

Albert Sapien, President/Manager of Tabernash Food and Beverage Company dba Tabernash Tavern is requesting renewal of a Hotel and Restaurant Liquor License.

All fees have been paid to the State and to Grand County. The Sheriff's letter reflects no adverse actions.

I would like to recommend approval of the renewal request for a Hotel and Restaurant Liquor License.

Commissioner Manguso moved to approve the renewal of a Hotel and Restaurant Liquor License for Tabernash Food and Beverage Company doing business as Tabernash Tavern as presented.

The motion passed unanimously.

Commissioner Linke moved to convene a meeting of the Grand County Housing Authority.

The motion passed unanimously.

Housing Authority Coordinator Sheena Darland presented the Board with the final report to Grand Foundation in the amount of \$6,000. The Housing Authority received the grant for activities at Cliffview Assisted Living Center.

Commissioner Linked moved to approve the Chair and Interim County Manager to sign the grant final report to Grand Foundation as presented.

The motion passed unanimously.

Ms. Darland stated that she would like to have the Grand County Housing Authority Board remove a down payment assistance loan from the books. In 2012, this loan was sent to the Grand County Housing Authority but it was never assigned to the Housing Authority. In 2013 the loan was sent to collections. The owner has

been through bankruptcy and the property has been through foreclosure. Grand County has received \$368.54 for this loan and there will be no additional funds.

Commissioner Linke moved to close Loan CMHC80421 in the amount of \$11,006.10 as presented by Sheena Darland, Grand County Housing Authority Coordinator.

The motion passed unanimously.

Finance Director Curtis Lange stated that he received the annual financial audit for the Grand County Housing Authority dated March 16, 2016. The auditor provided an opinion with no exceptions. The audit is considered clean. The net position increased \$166,000 but still have negative net position of just over \$20,000 which is mainly from the past problems with Fox Run.

Commissioner Linke moved to come out of the Housing Authority Board and convene as the Regular meeting of the Board of County Commissioners.

The motion passed unanimously.

Manager and Attorney Items

Interim County Manager Ed Moyer provided a track agreement for Magnesium Chloride in Kremmling with Envirotech from April 13, 2016 through August 31, 2016.

Commissioner Manguso moved to approve and authorize the Chair to sign the Track Agreement between Grand County and Envirotech in the amount of \$0.

The motion passed unanimously.

Interim County Manager Moyer presented the Board with a Track Agreement running from April 1, 2016 through December 31, 2016 to allow Bob Wheeler to get magnesium chloride through GMCO. If Mr. Wheeler should utilize this track agreement he would owe Grand County \$250.

Commissioner Manguso moved to authorize the Chair to sign and approve the Track Agreement between GMCO aka Bob Wheeler. This is a sublease where Grand County subleases to Bob Wheeler for his magnesium chloride car because he applies magnesium chloride to County Road 14.

Discussion: Grand County budgets \$4,800 for track agreements and have a track agreement with the railroad. We are subleasing our use of the tracks. This allows for control over the use and liability of the tracks. The County is billed by the railroad and will bill Mr. Wheeler if he uses it.

The motion passed unanimously.

Interim County Manager Moyer presented a Construction Contract between the commissioners and Granby Heating and Sheet Metal Inc. to supply an air conditioning unit in the Clerk and Recorders closet that houses the state servers and routers. This was put out to bid and due to the timing we are ready for the work to commence. This is for a period of May 1, 2016 through May 31, 2016 and in an amount not to exceed \$7,766.

Commissioner Manguso moved to approve the Construction Contract between the Board and Granby Heating & Sheet Metal to install air conditioning for the servers for the Clerk and Recorder in the amount not to exceed \$7,766.

The motion passed unanimously.

Interim County Manager Moyer presented a request from Tory Jarvis with Northwest COG QQ regarding water efficiencies in relation to the Federal Drought Action Plan. This is to protect the Northwest COG QQ region and they are asking help to urge the Department of Interior and USDA to focus on the Colorado River. They are asking that the Board sign onto the letter as support.

Commissioner Linke summarized by saying that the letters are asking Senator Bennet and Governor Hickenlooper to recognize how important the Colorado River Drainage Watershed is. Keeping this information in the forefront could help with funding for the Windy Gap Bypass Project.

Commissioner Linke moved to authorize the Board's signatures to sign onto letters to Senator Bennet and Governor Hickenlooper regarding QQ's request for support.

Public Comment: Eden Recor stated that he sees this as the same situation as the BLM moving local issues out of the county. He found it interesting that they were only sending the letters to a Democratic senator and not to the Republican senator or the House of Representatives. He said believes it could be dangerous to approve what the Federal government is doing when it might affect local control.

Commissioner Manguso said the reason the letter is going to Senator Bennet is that he is the leader on the Senate Agricultural Committee and on Farm Bill Conservation programs.

Community Development Bill Gray spoke about Planning 2.1 and that the BLM is trying to make changes to the planning rules to make them less cumbersome. He does not believe they are trying to take local control away but the local governments are making sure that the changes adopted are in the best interests of local processes.

The motion passed unanimously.

Interim County Manager Moyer presented a request from the Middle Park Fair and Rodeo to release the \$20,000 that was budgeted and will be vouchered.

Commissioner Manguso presented a Conservation Trust Fund application for Bits and Spurs Gymkhana.

Conservation Trust Fund is lottery money and each commissioner district gets money allocated every year. This money has to be used for public purposes and it cannot go to the general fund.

For the Bits and Spurs Gymkhana in Kremmling, the fund request is for cleaning up before and after each event at the Middle Park Fairgrounds and Flying Heels Arena.

Commission Manguso moved to approve the Conservation Trust Fund for the Bits and Spurs Gymkhana for the amount of \$1,000. Limited to uses of cleaning up before and after events as described in Assistant County Attorney Franek's approval. The Board agreed to split the \$1,000 between the three Commissioner districts.

The motion passed unanimously.

Commissioner Linke presented a Conservation Trust fund application for the Granby Elementary School through the East Grand School District for removing/replacing playground equipment in the amount of \$10,000. They have matching funds and some private donations.

Commissioner Linke moved to approve \$10,000 for East Grand School District/Granby Elementary School for playground equipment. Commissioner Manguso agreed to allocate \$2,500 and Districts 1 and 2 will split the balance.

The motion passed unanimously.

County Attorney Hassler presented the Consent Agenda:

Resolution No. 2016BH-4-6, "A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO, ACTING IN THE CAPACITY AS THE GRAND COUNTY BOARD OF HEALTH, TO EXECUTE A REGULATION 22 APPLICATION FORM FOR THE BEACH LIFT STATION RENOVATION PROJECT"

Resolution No. 2016-4-7, "A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO TO EXECUTE A CONSTRUCTION CONTRACT BY AND BETWEEN IDEAL FENCING CORP. AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO FOR THE CONSTRUCTION OF REPAIRS TO A SECTION OF GUARDRAIL ALONG A PORTION OF COUNTY ROAD 804"

Resolution No. 2016-4-8, "A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO

TO EXECUTE A MAINTENANCE AGREEMENT CONTRACT BETWEEN PEAK PERFORMANCE COPIER & SUPPLY, INC. D/B/A PEAK PERFORMANCE IMAGING SOLUTIONS AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO FOR THE LASERFICHE DOCUMENT MANAGEMENT SYSTEM”

Resolution No. 2016-4-9, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO APPROVING 2016 GRAND COUNTY OFF HIGHWAY VEHICLE ROUTES”

Resolution No. 2016-4-10, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO APPROVING THE PUBLICATION OF A PROPOSED ORDINANCE FOR THE REGULATION OF TRAFFIC, INCLUDING THE ADOPTION BY REFERENCE OF THE MODEL TRAFFIC CODE AS AMENDED BY THE PROPOSED ORDINANCE, THE ADOPTION OF A PENALTY ASSESSMENT PROCEDURE, PENALTIES, FINES AND SURCHARGES, THE ESTABLISHMENT OF A SCHEDULE OF PLEA OFFERS, THE ESTABLISHMENT OF A LAW ENFORCEMENT TRAINING AND EQUIPMENT FUND, AND DIRECTING THAT THE PROPOSED ORDINANCE BE SET FOR A PUBLIC HEARING”

Resolution No. 2016-4-11, “A RESOLUTION APPROVING AND AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO TO EXECUTE A FACILITIES LEASE BY AND BETWEEN THE STILLWATER COMMUNITY CHAPEL AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO”

Resolution No. 2016-4-12, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO DENYING THE APPLICATION FOR THE ISSUANCE OF A RETAIL MARIJUANA STORE LICENSE TO MMK LIMITED DBA GRAND LIFE SOLUTIONS, LOCATED AT 10863 U.S. HIGHWAY 34, COUNTY OF GRAND, STATE OF COLORADO

Commissioner Manguso moved to approve the consent agenda.

Discussion: Eden Recor commented on Resolution No. 2016-4-9 as it related to County Road 451 and that there were comments that it was the access to County Road 4 but County Road 4 is not designated as an OHV. He believes signage should be used accordingly.

The motion passed unanimously.

[10:22:23 AM](#)

Interim County Manager Moyer presented a resolution claiming the year of 2016 as the commemoration of the 50th anniversary of the Vietnam War.

Commissioner Manguso had questions about the recognition of only one person.

The Board decided to do further research before signing the resolution.

Commissioner Manguso moved to approve the letter to Peter Fleming regarding the consolidated ditches and Denver Water litigation. This allows Grand County to agree with the River District but Grand County is not going to file its own amicus brief because that will save the County money

The motion passed unanimously.

County Attorney Hassler reported that his office is working on revising the county investment policies and clarifying the process for liquidation and sales and other disposition of securities as they come up. Mr. Hassler and the Treasurer have come up with a plan that they believe is workable and meets statutory requirements.

[10:24:30 AM](#)

Interim County Manager Moyer stated there was a letter from the insurance company to the person responsible for the damage to the guardrail on County Road 804.

Interim County Manager Moyer is working with the Tabernash Meadows Water and Sanitation District. He believes that all parties are now in agreement and he will present the final draft of the IGA in the next few days.

Interim County Manager Moyer requested permission to have Human Resources present information on candidates for the Election of the Personnel Committee such as date of hire and department worked in.

The Board was ok with that request.

Interim County Manager Moyer will be providing additional information on the GCWIN Watershed Planning Grant.

There is a scheduled budget workshop with staff and commissioners on April 27, 2016 at 1:30 p.m.

Board Business

Commissioner Tollett gave an update concerning the meeting with Greg Winkler regarding the hiring of a county manager. She stated that all players are still involved and DOLA is still going through the applicants. If and when the Board aligns they will continue the process of interviewing and hiring a county manager. The Board is working on setting an appropriate agenda for items to discuss during board meetings, staff meetings and workshops.

The county manager search is still on the same time line. The Board wants to insure that they can set the manager up for success. DOLA is still going through their normal process and the Board believes that a manager can be hired by June 1, 2016.

Secure Rural Schools regarding Forest Reserve Allocation.

Out of \$1,000,000 25 percent would typically go to road and bridge, 25 percent to schools and 50 percent allocated at the County's discretion. Last year the County gave 100 percent to the schools and this year the Board could give 100 percent. The Board believes that PILT will backfill 100 percent in 2017 what the Board gave last year. It is understood that if the County gives 100 percent this year that PILT would backfill that amount in 2018. Commissioner Manguso is in favor of funding 100 percent with the Secure Rural Funding. If the County does 50/50, the County will not get the backfill.

If for some reason PILT should not come forward, the schools need to know that the County would go back to 25 percent until the County is whole in regard to budget.

PILT is always a bit of a gamble but it always ends up coming through. By giving money away, the County could hurt itself but by giving that money to the schools it comes back to the community. In the long term this is in the best interest for Grand County.

Commissioner Linke moved to authorize the Board's authority as directed by the SRS Program to give 100 percent of the money to the schools with it being split between East Grand School and West Grand School based on population as described by legislation.

Discussion: The funds have not been wired to the Treasurer yet. In the past, the Treasurer has drafted a resolution based on the percentages of the school districts based on per pupil which is roughly 75/25. The County has not yet received the money.

The motion passed unanimously.

Correspondence

The County received a letter from Department of Energy Western Area Power Administration saying that it went through the EIS (Environmental Impact Statement) and a record of decision was issued on the power line project from Windy Gap to Farr Pumping Station at Lake Granby. It will be built even though the County tried to stop it.

Calendar

- April 20 Legislative Breakfast at Carvers at 8:00 a.m.
Grand Enterprise Committee at 6:30 p.m. at the Granby Town Hall
- April 21 IOG meeting at Brown Palace from noon to 2:00 p.m.
Learning by Doing Governance Committee at the Blue River Room at the Silverthorne Library at 10:00 a.m. to noon
Grand Futures Harlem Ambassadors Player Fundraiser

April 27 Department Heads meeting at 8:30 a.m. at the Board room
April 28 Workforce Board at 10:00 a.m. in Steamboat Springs
Veterans Dinner at the Extension Hall in Kremmling 5:00 p.m.

Commissioner Tollett attended the Northern Colorado Water Conservancy District Spring water users meeting. Some of the highlights included reservoir storage is good, the 2016 forecast is good, and Snowtel statewide is 89 percent. The whole southwest area is dry but North of I-70 is good. Stream flow is average, melt will depend on temperature. Granby has a 50/50 chance of spilling and Windy Gap may pump out as late as June.

The most interesting talk was on endangered fish species. Rainbow Trout is not endangered. Flow management and stocking is important. The goal is that by 2023 is to have four species off the endangered list. They are working against time but are on the cusp to having them de-listed. There will not be funds available after 2023 with having spent a half billion already to get this done.

The Northern Integrated Supply Program is where Northern is putting two reservoirs on the Front Range. They feel they are on track with this project keeping more water on the Front Range and should help with increasing river flows.

Commissioner Linke attended the Mountain Parks Electric Board meeting with the Grand Enterprise Resource Team meeting asking for additional money.

There was a Fair Board workshop and there are a lot of good things going on with the 100th Anniversary of the fair. There was some resolution on how money and contracts are administered for the Fair.

The commissioners attended the Children's Fair and read the Proclamation that this is the month of the young child. The fair had double the number of vendors from last year.

The commissioners attended the Mayor, Managers, and Commissioners meeting. The main topic was on attainable housing. The Town of Winter Park has a new attainable housing person and the town is planning to build 42 units.

Health Care House Bill 16-1336

Economic Development Coordinator DiAnn Butler introduced Francie DeVos and Sally Ryman to discuss House Bill 16-1336.

The legislation is to form a study to find a single geographic area health plan for the entire state because the highest rate for insurance is in the mountains. A medical bill for Grand County residents will be higher when using health care in Denver because of where Grand County citizens reside. This is an economic concern for businesses trying to hire and provide insurance to employees, and also people leaving the area for jobs where insurance is more affordable.

Francie DeVos said House Bill 1336 is for a study to re-evaluate whether Colorado could go to a single geographic rating area for health insurance premiums. In 2014, Grand County was changed to a geographic rating area number 9. Ms. DeVos said she received notice from her insurance company saying they will not provide coverage in the mountains and she had to go to the exchange site. There were two providers that offered coverage. Her coverage went from \$559 to over \$1,100. This bill is asking for a study for a single geographic rating. She said the bill would be read today and she urged people to contact Senator Randy Baumgardner asking him to support the bill. The Division of Insurance testified that they have the staffing to perform the study and the financial impact would be minimal.

Ms. Ryman said there is no appropriations clause on the bill because they see it has as a minimal increase in the work load. From the Rural Health Network's perspective, it is a major health equality issue because we pay more in premiums and the health care costs are higher. Grand County is the fifth highest cost in the state. Rates are higher even when people go to Denver for specialty care. Equity is an issue for rural Colorado. Even with tax credits it is not affordable so people are opting out and are agreeing to pay the penalty. The penalty for 2015 is \$325 a person or two percent of income but in 2016 it will be \$695 per person and then will increase with inflation.

Grand County Rural Health Network Executive Director Jen Fanning communicated with executive committee that if the County sent a letter to the state legislature the Rural Health Network would like to participate in a letter to support of the bill.

The commissioners agreed that a letter should be sent and maybe also send a letter to the Division of Insurance.

There are people on the Front Range concerned that the premiums will go up for the Front Range.

Ms. DeVos stated that there were representatives from the insurance industry who testified claiming to be neutral but seeming to be against the bill.

Ms. DeVos stated that Senator Lundberg voted against the bill encouraging his constituents to go with a faith based insurance plan.

Eden Recor said this may help people who can get insurance but there are many people do not have insurance so unless costs can be equalized those people are paying a huge premium over what people pay who can get insurance. He would like to see something that equalizes the cost of medical care.

Colorado Care, a single payer insurance, is going to be on the fall ballot as an initiative as another potential solution. This one does have serious issues involved such as the fiscal impact on the state; and the issue of the Federal Government not permitting the state to use Medicare and Medicaid funds within Colorado Care which is how it is devised. There is not a good fiscal note attached to this initiative.

Nelson Outright Exemption, approval extension

The following is all or part of staff's Certificate of Recommendation to the Board as it was provided by staff for inclusion in the minutes of the meeting held on April 19, 2016.

PROJECT NAME: Extension of the Approved Nelson Outright Exemption
APPLICANT: Melinda M. Everhart
LOCATION: Tract III, JP River Ranch Subdivision Exemption (aka 1398 County Road 466 – on the west side of Hwy. 34)
APPLICABLE REGULATIONS: Outright Exemption Regulations / Recording Date Requirement
EXHIBITS: NO EXHIBITS
STAFF PLANNER: Bill Gray
REQUEST: One Year Extension of Outright Exemption

I. DISCUSSION

Melinda M. Everhart is requesting a one year extension for the Nelson Outright Exemption. This outright exemption divides a 2.27 acre parcel from an existing 24.13 acre parcel known as Tract III of the JP River Ranch Subdivision Exemption. This outright exemption also adjusts the front building setback line of both the outright exemption parcel and the subdivision exemption parcel from 200 feet to 50 feet. The Nelson Outright Exemption was approved by the Board of County Commissioners on May 6, 2014. The Applicant has yet to meet certain conditions of approval due to a variety of issues addressed below and therefore the final plat has not been recorded. According to the Outright Exemption Regulations, Section 3.2.3(e), the approval of any final plat shall expire after one year if not recorded in the Office of the Grand County Clerk and Recorder. Therefore, the Nelson Outright Exemption approval is set to expire on May 6, 2015 if an extension is not granted. The Applicant has provided documentation outlining the reasons why the conditions of approval have not been met within the year and the Applicant's letter requesting an extension has reinforced her intentions of meeting all requirements within the upcoming year.

The conditions of the Nelson Outright Exemption approval included, but were not limited to, an approved water augmentation plan, the installation of a sewer tap, a modified deed of trust and a lienholder's signature. The Applicant's water augmentation plan was approved by the Water Court on October 19, 2014. This plan is based on a contract with Middle Park Water Conservancy District. Winter weather has prevented the installation of a sewer tap, but this condition of approval is now being pursued. A bank merger has prevented the Applicant from acquiring a modified deed of trust and a lienholder's signature, but the Applicant has now confirmed a new contact person at MB Financial Bank, and will now pursue a modified deed of trust and a lienholder's signature for the plat.

II. BACKGROUND

On February 10, 2012, Melinda M. Everhart purchased Tract III of the JP River Ranch Subdivision Exemption. Since that time, staff has met with Ms. Everhart and her attorney regarding the legalization of a residence above

a garage on the property. Subdivision exemptions restrict all parcels to a single residence and therefore the residence above the garage is not currently permitted.

Dividing land through a subdivision exemption would not normally be allowed in this situation because two subdivision exemptions are not allowed within 20 years. However, staff has discussed this situation with the County Manager, and it was agreed that since all impacts on the property already exist, an outright exemption could be considered if the Applicant paid all the typical fees associated with a full subdivision, such as water quality fees and school fees. Further, water augmentation for the second residence is required, as well as an additional sewer tap from Three Lakes Water and Sanitation District. The Applicant has agreed to these terms, and therefore the land division is being processed as an outright exemption instead of a full subdivision.

For recollection purposes, a copy of the final plat and the minutes from the May 6, 2014 BOCC meeting have been provided along with the letter of request from the applicant.

III. RECOMMEDATION

Staff recommends approval of the one year extension request for the Nelson Outright Exemption.

[End of Staff's Certificate]

Commissioner Manguso moved to approve the extension for the Nelson Outright Exemption.

The motion passed unanimously.

Mr. Gray presented a Correction Plat for the Araphoe Ridge Condominiums. When the Plat was approved and recorded the word Arapahoe was spelled Arapaho. This Plat is correcting the title so it has the proper spelling of Arapahoe.

Commissioner Manguso moved to approve Resolution No. 2016-4-14, "A RESOLUTION APPROVING A CORRECTION PLAT FOR SECOND AMENDED FINAL PLAT, ARAPAHOE RIDGE CONDOMINIUMS"

The motion passed unanimously.

Clerk and Recorder Monthly Report

Sara Rosene, Grand County Clerk, presented her monthly collections which are up 10.4 percent over last year.

Engineering Bids

The County sent out RFP for bids to provide general engineering services to Grand County. Five engineers submitted proposals and Interim County Manager Moyer requested that the Board of County Commissioners identify their top two or three which they have done. Mr. Moyer asked direction from the Board.

Mr. Moyer was asked by the Board what his recommendation would be. Mr. Moyer said they have been able to identify cost savings in Bowman's proposal and there is a long history with Bowman.

Commissioner Manguso believes that some larger, stand-alone projects, should be put out for bid to spread the work around.

When accepting the bid for the general engineering services, County is designating the primary general services contract which locks in the rates but not the work.

Andy Miller explained that the Town of Fraser widened US 40 and they had three engineers on that project. He believes the County made the right decisions to have one engineer on County Road 804.

Commissioner Tollett said she was good with Bowman for small projects and bidding out bigger projects.

The Board does not wish to interview the top two and wants to identify Bowman as primary contract engineering with JVA as secondary.

Commissioner Linke moved to designate Bowman as the primary engineer and JVA as the secondary engineer for County operations which exclude major projects that will be opened up for bids, and direct staff to draft a general services contract with the two engineering firms.

The motion passed unanimously.

Amended Final Plat – Elk Park, Winter Park Highlands, Unit 2

The following is all or part of staff's Certificate of Recommendation to the Board as it was provided by staff for inclusion in the minutes of the meeting held on April 19, 2016.

PROJECT NAME: Amended Final Plat for Elk Park, Winter Park Highlands Unit 2
APPLICANT: Winter Park Highlands Homeowners' Association
LOCATION: Elk Park, Winter Park Highlands Unit 2
ZONING: "R" – Residential District
APPLICABLE REGULATIONS: Grand County Zoning Regulations, Subdivision Regulations
EXHIBITS: Letter of Request, Amended Final Plat, Vicinity Map, Site Photos, Enclosure Examples, WPHOA Enclosure Design, Application Comments (Pro & Con), GC Planning Commission Resolution 2016-2-3, Emails from Georgia Noriyuki and WPHOA President – Bill Tetlow, New Covenants and Original Unit #2 Covenants and Valuation Report from Thomson Valuation Service
STAFF PLANNER: Brett Hanlon & Bill Gray
REQUEST: The applicant is requesting the approval of an Amended Final Plat to dedicate Elk Park as a General Common Element to Winter Park Highlands Association to facilitate the use of a portion of the parcel for a neighborhood (or community) trash and recycling collection service; and determine that the use and character of the proposal is community focused and is in comparable character with a residential development.

I. DISCUSSION

The Winter Park Highlands Association (Applicant) is proposing an Amended Final Plat to dedicate Elk Park as a General Common Element ("Common Element") so that a portion of this parcel may have a common trash/recycling service that is available to members of the Winter Park Highlands Homeowners' Association. Included with this amended final plat is a determination that the lot is appropriate for common uses to ensure that community facilities are available to properly serve the community; and to ensure that the character of the area is protected. The primary character in this case is a residential development consisting of approximately 420 lots that range in size from near 1 acre to over 5 acres.

Winter Park Highlands, consisting of Units 1-5 and Greenridge, was established and developed as a residential subdivision between the years 1968 and 1974. Elk Park, the lot that is the main subject of this application is part of Unit #2, which became a subdivision in September of 1970. Unique to this era of development and to Winter Park Highlands is that no homeowners association was established and there were no dedications of open space, parks, play areas or other common areas reserved or dedicated with the Winter Park Highland subdivisions. By example, Elk Park has been held in private ownership since 1970. However, because of its lot designation it has been viewed and used more as a park than another use over its history. Winter Park Highlands Homeowners' Association (WPHOA) became the owner of Elk Park in 2002. WPHOA has been an association since 1994.

The outcome desired by the Applicant is to dedicate Elk Park as a General Common Element to allow the lot to be used by WPHOA members in whole or in part as a park and other accessory uses, such as, for a common trash and recycling service. Further, that the county through this process determine compliance with the zoning and subdivision regulations.

Trash and recycling collection facilities are not a permitted use in the Residential Zone District. Through the Spring of 2015 Staff received multiple complaints regarding the operation of this trash collection site. In June of 2015, in response to the complaints, staff contacted the Winter Park Highlands Homeowners' Association to notify them of the complaints and to notify them that the uses on the site were a violation of the Zoning Regulations. Since then, staff has met with the WPHOA multiple times to discuss the process that could allow for the HOA's trash/recycling use.

The county and Applicant agreed that an amended final plat to formally dedicate Elk Park as a common element to the Winter Park Highlands Association; to define that a portion of the park could be used for a neighborhood trash and recycling collection site; that said use is a community facility that is necessary to serve the needs of the development; and ensure that this incidental use within the subdivision protects and maintains the character of the area.

Elk Park was originally platted in 1970 with Winter Park Highland Unit No. 2 as a 3.15 acre parcel. Its parcel designation was Elk Park. Elk Park was not dedicated at the time the subdivision was recorded. In fact, it remained in private ownership. Covenants were established with the subdivision but provided no definition or other meaning or uses for a parcel designated as a lot or a park. The notion or fact that Elk Park is like dedicated open space is just not the case in this matter. It is a lot held in private ownership by the Winter Park Highlands Association.

The challenge in dealing with this application lies with the word park and the image that it connotes as a natural area with grass, water, trees, trails, playfields, picnic areas and other similar recreational elements. Grand County zoning or subdivision regulations do not define park. It is fair to say that a park would not commonly or in general have a neighborhood trash/recycling collection site. All parks are not the same, and needs of a community and neighborhoods differ so it is not entirely inconceivable that one might find such a use within a community park.

A common trash and recycling collection site can be viewed as a community facility that would serve the residential development of Winter Park Highlands. The Residential Zone District's Declaration of Intent states that a purpose of the Residential Zone District is to ensure community facilities are available to properly serve residential developments. Based on this Declaration of Intent, common trash collection sites have been established in residential subdivisions in Grand County; although in every case that staff is aware of, they have been put in place during the original platting of the subdivision or prior to the adoption of subdivision and zoning regulations. This distinction is important as all homeowners have been aware of any common use sites and locations when they purchase their land and build their homes. The establishment of a common trash collection facility is supported by the Declaration of Intent of the Zoning Regulations.

A park is a permitted use by zoning.

Zoning does provide for accessory uses to the primary land uses provided they are incidental to the use, customarily associated with use or ordinarily located on the same lot as the use. The current use does not constitute an accessory use as it is the primary use of the property.

WPHOA, which was formed in 1995 as a voluntary HOA to serve the best interests of the property owners/residents of Winter Park Highlands (Units 1-5 and Greenridge). By example, the Association has made Winter Park Highlands a Firewise Community. From a legal and functional stand point they are serving a community purpose. There plans for the trash/recycling is a demonstrated need for the subdivision. They have also clearly indicated through this process that they desire to have this parcel look and function like a neighborhood park.

Winter Park Highlands as mentioned above was created in the 1970's and at the time there was no requirement to establish a mandatory association. Winter Park Highland Association was formed in 1995 for the purpose of making the neighborhood better for all. It is, however, a voluntary organization and has no authority to force membership. It must gain membership through building meaningful, constituent relationships. At this time there are approximately 175 members of the association which is equal to about 40% of all lot owners. The Association does have as one of its goals is to continue to build the membership. All this aside, the Park is owned by the Association and should only be dedicated to the Association and its membership. The same that we would require for any common area, like open space, under current standards. The difference being is that in a new subdivision the association is mandatory and not voluntary like it is for Winter Park Highlands.

II. BACKGROUND

The Winter Park Highlands Homeowners' Association (HOA) is a voluntary association that provides services for the residences of the Winter Park Highlands Subdivision. In 2002, the HOA bought the Elk Park parcel and in 2011 they began providing a centralized trash/recycling collection operation at the site. This service provides numerous benefits to the paying members of the HOA. It eliminates the need for property owners to drag their trash cans down their driveways for curbside pickup service; it reduces the trash truck stops and traffic on the narrow, steep, winding roads in the Winter Park Highlands; it gives second homeowners a place to dispose of their trash without having to enter into collection contracts with waste haulers; and it reduces the threat of animals getting into trash cans.

PROS:

- Provides a trash service option for the neighborhood – practical for second home residents.
- Reduces truck traffic on an inadequately designed road system. The road system is circuitous, steep
- Economical alternative to curb side trash service
- Convenient and vital service according to those that support the service

The HOA currently maintains two dumpsters for trash and two dumpsters for recycling on the parcel. An earthen berm has been created and vegetation has been planted to help screen the dumpsters. The dumpsters have also been painted a tan color so that they blend in with the surrounding environment.

Although there are numerous benefits to having this common trash collection service, this service can also create problems—particularly for nearby residents. A main concern is that the trash collection site will devalue surrounding properties as a result of negative visual impacts and increased traffic. Another concern revolves around frequent, unauthorized trash drop-offs. Residents have reported that bags are often left outside the dumpsters by those who do not have the combination to the dumpster locks. There have also been reports that contractors have dumped construction debris at the site. If this facility is not properly monitored and maintained there is the risk that the operation could alter the serene, rural mountain setting in this area.

CONS:

- Location near to adjacent residences
- An increase of traffic on GCR 8564
- Not in character with the setting
- It is an attractive nuisance

III. REGULATIONS

A. ZONING REGULATIONS

The zoning of the Elk Park parcel is Residential.

(a) This zone allows for community facilities that will serve residential developments. The Amended Final Plat dedicates the parcel as a General Common Element. The plat states that a portion of the General Common Element will be used for centralized trash and recycling collection at the discretion of the Board of Directors. This operation will be considered a Community Facility that will serve a residential development.

(b) This zone requires 30' minimum front yard setbacks, 5' minimum side yard setbacks and 20' minimum rear yard setbacks. The location of the facility meets setback standards, including the water quality setback.

(c) The Elk Park parcel is 3.15 acres in size and meets the minimum lot size requirement in the Residential Zone District.

B. SUBDIVISION REGULATIONS – 4.3 Final Plat

The amended final plat shall contain or be accompanied by the following information:

(a) Title (which shall include the phrase “Amended Final Plat”), bar scale, North arrow and date).

The title of the amended final plat shall be amended to read:

AMENDED FINAL PLAT

WPHA COMMONS, WINTER PARK HIGHLANDS UNIT 2

A REPLAT OF ELK PARK, WINTER PARK HIGHLANDS UNIT 2

PART OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 76 WEST OF THE 6TH P.M.

COUNTY OF GRAND, STATE OF COLORADO

CONVEYANCE TO OWNERS RECORDED AT RECEPTION #: 2002-004150

(b) Legal description of property, together with a complete reference to the book and page of records of the County Clerk and Recorder where the conveyance to the applicant is recorded.

This requirement has been met.

(c) Primary control points, or descriptions, and ties to such control points, to which dimensions, angles, bearings, and similar data on the plat shall be referred.

This requirement has been met.

(d) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves with long chord bearings and distances.

This requirement has been met.

(e) Names and right-of-way width of each street or other right-of-way.

Change label of County Road 8564 to "GCR 8564".

(f) Location, dimensions and purpose of any easement, including reference by book and page to any pre-existing recorded easements.

Label and dimension the platted 10' utility easement and reception #115416.

(g) Number to identify each lot or site and acreage of each site to nearest 1/100th of an acre, and a statement that all lots shall be used for single-family residences only.

The lot is labeled as WPHA Commons, General Comment Element – 3.15 acres as required. The lots physical address is required to be added to the amended final plat. It's physical address is 70 GCR 8564 (aka Elk Park Trail).

(h) Purpose for which sites, other than residential lots, are dedicated or reserved.

This requirement has been met.

(i) Location and description of monuments.

This requirement has been met.

(j) Current title commitment.

This requirement has been met.

(k) Statement by owner platting the property and dedicating the streets, rights-of-way, easements and any sites for public uses, to be in substantially the following form:

The dedication statement shall be amended to read:

...to be laid out and surveyed as Amended Final Plat, WPHA Commons, Winter Park Highlands Unit 2 and does hereby dedicate....

The dedication statement shall also make it clear that Elk Park (General Common Element) is being dedicated to the Winter Park Highlands Association.

(l) Certification by a surveyor insuring the accuracy of the survey and plat and certifying that he has complied with the requirements of Colorado Revised Statutes, 1973, Title 38, Article 51, and the requirements of these Regulations in the preparation of the final plat, to be in substantially the following form.

The Surveyor's Certificate shall be amended to read:

...do hereby certify that this plat of Amended Final Plat, WPHA Commons, Winter Park Highlands, Unit 2 truly and correctly....

(m) Certificates for approval by the Planning Commission and the Board of County Commissioners.

Include a correct Board of County Commissioners Certificate on the plat.

(n) Certification by a qualified professional engineering, designing or planning firm, insuring compliance with the design standards and all other requirements of the Grand County Subdivision Regulations, as follows:

Not applicable

(o) A two and one-half by three inch (2 2" x 3") vertical box in the lower right hand corner shall be provided for use by the County Clerk and Recorder.

This requirement has been met.

(p) Documented proof of legal access.

Not applicable

(q) A vicinity map.

This requirement has been met.

(r) The subdivider shall provide storm drainage plans, property survey, proof of ownership, sanitary sewer plans.

Not applicable

(s) The subdivider shall provide sites and land areas for schools and parks when such are reasonably necessary to serve the proposed subdivision and the future residents thereof.

This requirement was met with the approval of the Winter Park Highlands Unit 2 Subdivision

(t) No subdivision shall be approved until such data, surveys, analyses, studies, plans and designs as may be required by this section and by the County Planning Commission or the Board of County Commissioners have been submitted.

This requirement was met with the approval of the Winter Park Highlands Unit 2 Subdivision

(u) Major Activity Notice

Not applicable

(v) Each month the Board of County Commissioners shall submit copies of the notice of filing.

Not applicable

(w) An 11" x 17" plat with approved addresses and road number as required.

N/A

(x) Statement of taxes due showing current taxes paid

A statement of taxes showing that all current taxes have been paid shall be submitted prior to the recording of this Amended Final Plat.

(y) An electronic copy of the Final Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to any recording of any Final Plat. The drawing shall be based or transformed to a known coordinate system, not an assumed local coordinate system. If GPS Lat/Long is not used for this reference, the Geographic Coordinate Data Base should be used to obtain relative coordinates available from the BLM at www.blm.gov/gcdb. The drawing shall include either a data dictionary to explain the layers, or a self-explanatory layering system.

This is required to be provided prior to the recording of this Amended Final Plat.

IV. STAFF COMMENTS

It is staff's opinion that this common trash collection site is of value to the Winter Park Highlands Subdivision overall. Although the operation does not provide an essential service and it disproportionately impacts the residents immediately surrounding the Elk Park parcel, the proposal does comply with the County's land use regulations and it has been conditioned to minimize impacts to an acceptable level. With the conditions of approval in place, the site can become aesthetically pleasing and it can benefit all involved parties. Although staff is supporting this proposal, staff recommends the Planning Commission thoroughly discusses the advantages and disadvantages of recommending approval of this Amended Final Plat. Based on complaints received from nearby residents, staff has concerns with the monitoring and maintenance of this site. There are no easy ways to monitor the site and there are few ways in which unauthorized trash drop-offs can be discouraged or prevented. Staff is concerned that this site may be prone to blight violations. Appropriate signage—perhaps including "No Trespassing" signs—may be one way to address this. These signs have been posted but should be made more visible. Right now the signs are located behind the dumpsters.

Staff has created a condition of approval that will limit the use of the General Common Element to residents of the Winter Park Highlands Subdivision and Greenridge. In the past, it was possible for residents who lived outside of the Winter Park Highlands to become Honorary Associate Members of the HOA and pay to use the common trash collection site. It is staff's determination that allowing anyone who is willing to pay to use this service creates a situation where this operation is more like a business than a facility meant to serve the residents of Winter Park Highlands. The WPHOA has stopped permitting outside owners to use the site. The words "without limitation" appear in plat note #5 and #6. The term "without limitation" will not apply to County regulations. It will simply allow the HOA to change the use of the land in the future in a way that complies with the Grand County Zoning Regulations and also allow the Applicant to further develop and improve the parcel as a Park.

Staff has included a plat note that will limit the site to four dumpsters. In meetings with the HOA they explained they would be fine with this limit. If demand increases, they can simply increase the number of pickups at the site.

It is staff's opinion that in order to mitigate the visual impacts on the site to an acceptable level, a structure shall be constructed that will enclose the four dumpsters. Staff feels that this structure should have a roof and be aesthetically pleasing.

The Applicant has provided a plan for constructing an enclosure. The character of the structure is suited for the environment where proposed. The structure is a shed style made of cedar and a metal roof. In order to fully address visual impact the design should be required to include access doors.

Lastly, County Staff is committed to revising the County Standards to develop better procedures and standards that address when, where and how trash enclosures may be built and used. Furthermore, County Staff will continue to work with the Town of Fraser on its Regional Solid Waste Handling Project and Plan on better ways to address waste and recycling in Grand County.

V. STAFF RECOMMENDATION

Staff recommends approval of the Amended Final Plat Elk Park Winter Park Highlands Unit 2 with the following conditions to be met:

1. A plat note shall specify that the use of WPHOA Commons is for the Winter Park Highlands Association and its members within Winter Park Highlands, Unit 1, 2, 3, 4, 5 and Greenridge.
2. A plat note shall restrict the site to only four dumpsters.
3. The Applicant work with Staff to create an on-site signage plan to identify the facility, its purpose, no trespassing and best practice rules and regulation for its use. The sign program will have to meet the County Sign Code.
4. The title of the Amended Final Plat shall be amended (see (a) above).
5. The label for County Road 8564 shall be changed to GCR 8564.
6. The 10' platted utility easement is recorded to labeled and include the Reception # 115416
7. The dedication statement shall be amended (see (k) above).
8. The surveyor's certificate shall be amended (see (l) above).
9. The commissioner's certificate shall be amended to meet adopted subdivision regulations.
10. The lots physical address is required to be included on the final plat – 70 GCR 8564 (aka Elk Park Trail.
11. An electronic copy of the plat shall be submitted (see (y) above).
12. All recording fees shall be paid by the applicant.
13. A Sign Plan and Best Practices Program is developed with County Staff prior to presenting the amended final plat to the BOCC.

By the beginning of the summer 2016, WPHOA shall:

1. Paint the trash and recycling dumpsters Shale Green, BLM Standard Environmental Color Chart or similar.
2. The dumpsters are placed within the bermed area so that the berm screens the dumpsters as designed.
3. The WPHOA perform maintenance on the berm to restore the placement of the erosion blanket, irrigation and replace any shrubs and trees that did not survive the winter.

Within two-years of the recording of the Amended Final Plat

1. The enclosure structure for which architectural designs have been provided is constructed.

[End of Staff's Certificate]

William L. Tetlow Jr. President of the Winter Park Highlands Association, presented additional information.

It is unlike other HOAs as this is a voluntary HOA. They cannot compel people to clean lots but they do have to provide services to members.

It was platted in the 1960s with a total of six filings that were done over time. There were many deficiencies they have been dealing with such as the single means of egress, hairpin turns, guard rails, steep topography and 25 miles of gravel road.

The association was created in 1995 and they have purchased lots, parks and green belts, recognized the need for water rights, and built a pond. They have water rights in 9.75 acre feet but it currently developed is one acre foot. They have built two 30,000 gallon cisterns with two more planned. They have received over \$250,000 in grant money, and thousands of dollars in donations and dues.

They are the second community in Grand County to be recognized as a fire wise community by the National Fire Protection Association. In 2009, Winter Park Highlands was rated as Extreme but have been downgraded to Serious because of the efforts of the Homeowners Association.

The Trash Company approached the HOA about this proposal because of trash cans being left on the curb on Sunday nights and animals knocking the cans over before trash pickup. This proposal will put everything in bear proof facilities.

Mrs. Bertolli was on the board for two years while discussing the options available. Her husband filed a complaint at the annual meeting of the board after he filed the complaint with the Planning Commission.

Lots 33 and 34 are owned by directors of the association who have a direct frontal view and have no objection. These owners have also stated that their property values have risen in the last couple of years. The owners of Lot 57 are participants in the program.

In regard to diminished values properties around the area, it is proven that the values have increased evaluation from Public Records. Some of the property owners have said it is an asset to the community.

Trash is picked up twice per week. The HOA owns the property and have owned it and to-date have met all the requirements placed on them. They plan to call the unit WPHA Commons to get Park removed.

Bennet Bertolli owns a cabin at 539 Elkdale about 500 feet north of Elk Park and in clear view of the parcel in question. The following points provide the basis for which the Board should not approve the Amended Plat:

1. The Winter Park Highlands Association Bylaws specifically state that the purpose of the Association shall be to serve the best interest of the property owners, residents of Winter Park Highlands.
2. Enhance the quality of life in Winter Park Highlands and to preserve and protect property values
3. Two adjacent property owners to the park had property values and quality of life most affected by the dumpsters. The HOA has violated its' own Bylaws if the Amended Plat is approved.
4. The Winter Park Highlands Association Board moved forward with its' Amended Plat and designation of the parcel as a common element without securing authority from its members to do so.

In the draft minutes of 2015 at its annual meeting the motion was to move forward with bringing Elk Park in conformance with the residential area zoning regulations. That motion cannot be used as the basis for moving forward to have Elk Park designated as a common element. There was no discussion of common elements, no discussion of the HOA's increased ongoing obligations and costs. There was no discussion of possible legal costs in connection to damages to owners of adjacent properties.

The Association placed the dumpsters in Elk Park in 2011 without County approval and knew they could not. The HOA created a berm and landscaping without County approval.

The HOA is trying to raise \$30,000 to pay debts for services they already received for a cistern. It incurred expenses for other projects knowing it did not have the financial resources to construct the dumpster enclosure. It then asked the Planning Commission for a grace period for building the enclosure pleading lack of funds.

The building of an enclosure will help but will not prevent illegal dumping, bad odors and increased traffic. This dumpster service is not an essential service but a convenience. The trash service has brought in new users because it is less expensive than curbside service. Popularity of a program does not justify County approval.

On the web page it shows Mr. Bertolli to be the only objector but that is not true because there are other objectors.

There will be problems with decreased values and the lower prices of property being sold will affect all property values. The question to ask a potential buyer is, "would they prefer to live by four dumpsters or would you prefer not to do so."

The Planning and Zoning Board has said they were reviewing an overall plan for the County so within a year or two this action may not even be required.

The HOA needs to acquire property that is suitable for a trash site. Mr. Bertolli asked if the HOA conducted a study to find an appropriate parcel or have they asked Winter Park residents if they own a suitable site.

Many cities, including Denver, are going to only curbside pickup which has solved their problems of illegal dumping.

The Trash Company has said that with or without enclosures there will be illegal dumping.

If the HOA wants to provide dumpster service it should secure a suitable parcel, which is not Elk Park. Mr. Bertolli would have no objections if the County would allow the dumpster to remain in place temporarily until the HOA secures a more suitable site for dumpsters and a common element.

Georgia Noriyuki, General Counsel for the Winter Park Highlands Association

1. This program was approved by vote within the Home Owners Association by a vote of 59 to one. It was agreed that the association did not have to get a more formal approval of membership until after the Board of County Commissioners approved it. If it is approved they will go through the formal process of getting the necessary membership approval.
2. The other project the Association has been involved with is fire mitigation. It is to protect all the properties in the Highlands from a potential fire. All the homes will get the benefit of the association's fire mitigation program. The HOA wants to put money forward on the program.

The Association cannot go out and buy another property because they do not have the money and they are a voluntary association. The creation of the association was after the fact.

Tyson Dearduff, owner of Lot 38 which is the lot that is most directly affected by the dumpsters has had numerous conversations with Mr. Bertolli and Mr. Bertolli is not the only person against this.

The pond was there when Mr. Dearduff built his house in 1993. The pond was not created by the Homeowners Association.

The four properties to the east are above the pond and dumpsters which are screened by trees. Those people are not opposed to the dumpsters because they cannot see, hear or smell them.

He and his wife have cleaned up trash that was illegally dumped.

He and his wife were never contacted to see what they thought about having dumpsters placed directly in their front yard. They are extremely opposed and hopes the committee recognizes the impact the dumpsters have had on them, their home values, and their life style.

Scott Ledin, Vice President of the Winter Park Highlands Homeowners Association. Illegal dumping is a problem countywide. As a homeowner's association they will work to make sure that the area is cleaned up. They have discussed issues with the Dearduffs.

As a board member he is trying to serve the best interests of the members. More than half of the members of the Highlands participate in the program, many of whom are retired. Mr. Ledin has curbside service, but the Trash Company or Waste Management will not come up his road and not everyone can take trash containers down their driveways.

If there was a countywide system in the future the Homeowners Association of the Highlands would be happy to do away with this program.

Greg Coutts owns property at 81 Blue Jay. He and his wife bought property in 2014 but have been residents of Grand County since 1995. For twenty years they have been dragging trash to their residence in Arvada. When they found this was an option, they joined the association and the trash program. He can appreciate what the

objectors are saying. At one time he would not have supported a building but now believes they should support a building to make it look decent. Things are changing in the Highlands.

Mr. Coutts spoke to Mike Periolat, a Winter Park City Council member, who said that cities do not know how to manage this. Mr. Periolat said that municipalities have a better handle even though they experience some of the same problems.

Mr. Coutts has seen a problem but knows there needs to be a compromise for all parties.

Joslin Ranch is doing this for their people as is Fairways. They may have done it on the front end but that is ok, at least they are doing something for the people.

Mr. Coutts asked the Board to take into consideration what the majority of the people in the area want this in Winter Park Highlands.

Lowell Davis has lived in the Highlands for forty years and believes this is the best solution they have seen for their trash removal since they first moved there. They are saving money every year plus the aspect of not dragging trash out to the driveway. As a whole it serves the community and encouraged the Board for approval.

Andy Miller, member of Fraser Town Board, said illegal dumping is a huge problem. It costs \$110 per ton to get rid of trash in Grand County. The County needs to address the problem of trash removal by re-opening the Kremmling landfill, or some other solution.

Mr. Miller thinks it should be considered to redesign the trash enclosure to face way from the house above it. Maybe instead of a roof, the berm could grow into a concrete structure with a landscaped roof. Mr. Miller believes that it can be redone to be less intrusive.

Mr. Miller believes it is the County's responsibility to move quickly toward getting the trash fees down where people can afford to dump again.

Mr. Bertolli said that the vote at the annual meeting was not a 59 to one vote. It was overwhelming, but there were at least two negative with many abstentions. There were no discussions of any of the issues talked about here today.

Mr. Tetlow stated that he ran the annual meeting and Mr. Bertolli did speak at the meeting. The vote was yes to proceed to try to come into compliance with the residential building code.

Mr. Bertolli and his wife were the only vocalized dissents. Mr. Bertolli did not have the legal proxy form to speak on anyone's behalf.

County Attorney Hassler said when the County learned of this trash disposal system, the County said that this has to be permitted under a Certificate of Designation for solid waste as it was being run at the time. The problem was that they had non-owners placing trash on the property of another. What came out of this was an attempt to establish a situation where owners are disposing of trash on their own property. The owners of the association were the owners of the real property which was to avoid the county and state level processes.

Some of the comments heard today has to do with the internal governance of the voluntary HOA. Mr. Hassler does not believe this is for the Board of County Commissioners to resolve. The question is whether or not the application for the Amended Plat can go through. Staff and the counsel for the HOA have worked on various title theories, looked hard at statutes, and came up with this proposal.

Commissioner Linke moved to accept the recommendation of the Planning Department and approve the Amended Final Plat.

Discussion: Commissioner Tollett sees an organization trying to do right thing for their members. There are not a lot of great solutions for trash removal in Grand County. Here is an HOA that is trying to do the right thing but it is important for the second homes. The County has to find ways to provide services and this meets a need. She believes there needs to be work done to come up with a better design. She applauds the effort to create a safe trash situation, but also a convenient one that is less expensive.

Commissioner Manguso stated this has been issue since 2011. Old Joslin does have a dumpster next to a home. She herself has a dumpster next to her home that gets dumped once a month.

With this being enclosed, it should be better. Cathy Henderson picks up trash so there is a means for the HOA to keep the area clean. This is a good community service.

Commissioner Linke said this is not a perfect situation but the HOA should be encouraged to address some of the concerns heard from the Bertollis. He questioned what the alternatives would be if the County said no. One alternative would be curbside pickup but that does not solve the problem.

Another alternative is for everyone to take the trash offsite. That is not a feasible alternative for people who do not have a second home. He believes this central location is the best solution at this time.

Interim County Manager Moyer said there were comments on the design of the enclosure and asked if it was the Board's intent to include a revised condition. The Board replied that they do not want that.

Mr. Gray asked if the Board needs to tie the recording of final plat to evidence of the membership's formal approval to change of Elk Park to a Common Element.

County Attorney Hassler said they received representation that the approval was taken to this level and the record of the final vote needs to be submitted to the County before the Final Plat is recorded.

Commissioner Linke accepted that amendment as described by Mr. Gray as part of the original motion.

The motion passed unanimously.

Freeport McMoRan Tax Code, Next Steps

Peter Ralph, Williams Fork Reservoir resident, presented summary of issues.

Three letters were sent to the Board by Mr. Ralph that included information he did not want rehash but gave a quick background. After the background he made a procedural request to the Board.

Mr. Ralph lives near the Henderson Mine on William Fork Reservoir and he confirmed that they are good neighbors. They have been supportive of the schools and their maintenance on County Road 3 is superb.

When Freeport acquired Henderson, in addition to taking on the assets, they also assumed liabilities. One of the liabilities was with regard to accrued taxes which Henderson owed but did not pay under the income averaging agreement. Under Generally Accepted Accounting Principles, that liability should have been disclosed in the financials. They underpaid taxes every year that production was rising in return for an agreement to pay additional taxes when the mine played out.

The legislation was not introduced for tax avoidance, but for the failure in Leadville where the tax revenue dried up the day the mine closed. In fall of 2015, Freeport reneged on this agreement. They took on Grand County and Clear Creek County. The cream of the crop Freeport attorneys' are in its property tax division.

This one decision could have cost them tens of millions of dollars. One of the first things undertaken was advisory research which is when you research the people on the other side of the table. There are things that are obvious to anyone:

1. Grand County is in financial crises mode – bankruptcy and misery
2. Disinterested public body unless affected directly. Sometimes people do show up and the Board listens and often accedes to the request.
3. The Board is in a state of complete disarray. Commissioner Linke has described the Board as floundering. Commissioner Tollett has complained about Commissioners slitting each other's throats. Commissioner Manguso has talked about an ongoing blood bath.

Staff comes forward to announce receiving grant money. When this happens the Board congratulates themselves that an outside party has validated the Board's agenda and mission.

Freeport has come up with a strategy:

1. Isolate the Board and insure that under no circumstance would the public be involved.
2. Keep pressure on the Board to insure that the Board had no time to think.
3. Provide recompense for the dollars they are taking away.

With this strategy the attorneys would have developed a game plan which was to concoct a confidentiality issue. With this issue they persuaded the Board of Commissioners to go into executive session. The exemption provided under the Open Meetings Law Section 4.1(g) allows only for the presentation of confidential information but excludes deliberative process. All of the discussion was held in secret, not just the presentation of confidential information.

Freeport also took the decision right down to the wire with the decision needing to be made that day. The reason they did this is because failure of the Board of County Commissioners to approve or deny the request within the thirty days would have been deemed an approval of that request.

In November, Freeport asked to go to three year averaging. The legislation required that they submit their request 45 days before the due date which was April 15, 2016. On February 26, 2016, two or three days before the deadline Freeport changed its request from a three year averaging to a one year averaging which is in fact single year payments.

With the approval, they are talking between \$7,000,000 and \$15,000,000.

On the agenda for April 16, 2016 the Board published that a vote would occur switching to a one year average. The legislation prevents a change in averaging unless both Grand and Clear Creek Counties agree on it. Minutes before the decision was made, Freeport made a change request from one-year averaging to a three-year averaging. Also Freeport offered grant dollars in exchange for approval of their request.

Mr. Ralph suggested that one should show a certain amount of admiration for the sheer audacity to ask for financial concessions from a County who is already having financial problems.

To solve the problem it only requires an attorney certification which verified that matters discussed in that executive session were properly exempted under Section 4.1(g). Mr. Ralph at this time asked the Board of County Commissioners to invite Mr. Hassler to give an Attorney Certification with regard to that meeting on April 15, 2016.

After the certification is presented, then Mr. Ralph asked that each Board member explain where they were at on this.

Mr. Ralph suggested that when County Commissioners act in disregard of Colorado law they are acting outside the scope of their authority, and their actions are not covered by their liability in Errors and Admission Insurance. At that point they are personally liable for any lawsuit that would arise over this issue.

Mr. Ralph stated that this is not for any partisan process but solely for the good of Grand County. His intention is not to initiate any course of action that would in any way harm this County.

County Attorney Hassler stated that he did not understand why the Attorney Certification was a prerequisite before the Board continue on with their process on this matter. He would need to listen to the executive session tape to find out if the Statute has been complied with. By statute, the certification can be part of the tape itself.

County Attorney Hassler believes that Mr. Ralph's concern is that there was a procedural error and he wants to demonstrate that there was a procedural error.

Mr. Ralph said the point is, that if Mr. Hassler gives certification, he will take that as gospel. If Mr. Hassler does provide certification then any citizen has the right to ask for judicial review of the audio.

There is also a problem with a meeting that was held on March 29, 2016 where they did not give a full description of why they went into executive session. If it is for legal issues, you have to state as much information of what the legal issues are without disclosing the actual information.

Transparency laws are written to protect the Board and make it more confident in the way it makes decisions. Mr. Ralph does have problems with people that are always trying to find minor infractions of transparency laws in order to increase their standings among their associates.

Commissioner Tollett stated that there are a lot of unanswered questions. There is a claim that Freeport McMoRan has consistently been underpaying taxes every year.

Mr. Ralph said they have not been underpaying but the averaging option decreases the tax bill for any mine that is increasing its production. Clear Creek County estimate that as of today Freeport, under the averaging option, has paid \$40,000,000 less in tax than they would have done under the single year process.

Commissioner Tollett stated that Mr. Ralph's email made requests and claims with regard to the Board and Freeport:

1. Claim that Freeport analyzed and threw a bone to the County
2. Claim that the Board kept the decision out of the public eye
3. Claim that Grand County could not change their request because Clear Creek did not change its request.
4. Request to certify executive session

Mr. Ralph read the law:

Once an owner or operator has made the initial election allowed by this subsection, the owner or operator shall file all subsequent annual statements pursuant to subsection 1 of this section using the same reporting method. The owner or operator shall not alter the reporting method until the Board of County Commissioners for every county in which the mine is located authorizes the use of alternate method.

County Attorney Hassler wondered if this a problem that originated when the averaging first started. He would have said that Grand County cannot be out of sync with Clear Creek County.

Mr. Ralph said that within the act, it falls into reporting method and alternate method. There are four reporting methods – single year, three year, five year or ten year. You could argue that there is only one alternate method which is averaging.

Attorney Hassler said that sixteen years ago it was possible that the logic was that alternate method simply meant averaging.

Mr. Ralph said the phrase “alternate method” is only used once and is used in the quote he presented earlier.

Commissioner Tollett stated that she believed the Board needed time to formulate answers to Mr. Ralph's concerns.

Mr. Ralph presented two requests:

1. His request for an Attorney certification was answered in that the attorney needs to review the audio tape first.
2. He asked where the Board stands with regard to the concerns he presented. Does the Board believe it needs to revisit this decision? Have you contacted Freeport in regard to his concerns on this decision?

Mr. Ralph believes that Freeport messed up and they may back off. They will not fight this because they can come again next year. If the Board says yes it goes from five years to three years in perpetuity. If the Board says no, they will come next year with a new request.

Mr. Ralph noted that Freeport rescinded the single year request because that request was not received 45 days before April 15th. Therefore there was not a valid application to vote on. He was hoping the Board would take his letter to Freeport and let them know they messed up. You cannot make changes unless Clear Creek County goes along with it.

Commissioner Linke said that Mr. Ralph did a lot of research and has what appears to be compelling arguments but he is not confident they are 100 percent accurate. He asked Mr. Ralph if he would be willing to work with Mr. Hassler to draft a response to Freeport. Mr. Ralph responded that he would.

John Dickenson stated that the County was first informed of a request in November to change to a three-year average. His question was “when did you first have the conversation and was anybody asked to look into quantifying what the change would do to their tax base instead of waiting until a late date?”

Commissioner Tollett said her understanding was that it came in November and it was around January that there was an exchange of information about the confidentiality request. That went back and forth for a number of weeks. Around the middle of February, the Board heard that the discussion had to occur. By the time, the Board got the information from Freeport it got into the timing. It was also in February that the Board stopped having staff meetings and the communication stopped.

Commissioner Manguso stated that the County never notified the special districts.

Mr. Ralph said the notice requirement applies to the Board and to Mr. Weydert.

Grand County Assessor Tom Weydert stated that the commissioners, the Assessors' office, and staff met on Tuesday the 15th and representatives from Henderson were in that meeting. Henderson was to get back to the County by Wednesday which they did by letter.

Mr. Ralph stated that on March 15, 2016 at 3:30 p.m., Mr. Hassler posted an agenda item for the following day meeting the twenty four hour requirement. That agenda item referred to one-year averaging, but the Commissioners were not informed of the change to three-year averaging until a few minutes before it made that vote. The commissioners took a vote on something that was not on the agenda.

Eden Recor said that the Board was given a Non-Disclosure Agreement (NDA) that was not signed so he believes there was a lot of back and forth about the NDA. The Board's time to discuss the issue real numbers could not happen because the Board did not have a NDA that would allow Henderson to give the Board numbers and to allow the Assessor to give actual real numbers.

County Attorney Hassler said AMAX circulated one version of a NDA that had signature date by AMAX of November 16, 2015. Every document after that was sent said the effective "as of" November 16, 2015. AMAX followed up with a second one that appears it arrived February 12, 2016 but it was unacceptable because it was more of a trade secret and processes NDA. The County offered AMAX back a draft NDA on February 23, 2016 and a complete proposed agreement on March 3, 2016. The signed NDA was complete by March 8, 2016.

Mr. Weydert said his office received the financial numbers on November 3, 2015 when AMAX initially sent their request to change to the three-year averaging. The Assessor's office did receive the financial numbers. He could not disclose them to the Board until it signed the confidentiality agreement. The final numbers of May 1st is when the Assessor does the Notice of Values for all property changes for everything. The final numbers are not public at this point and time. Those numbers have been available to the Board since November if it had signed the non-disclosure agreement.

Commissioner Manguso thinks that what needs to be done today is, "does the Board agree with Mr. Ralph and is the Board going to try to contact Freeport McMoRan and tell Freeport the County wants to change the three year back to five."

Commissioner Tollett said the Boards' concern is ending up in court because they have an arsenal of lawyers with much deeper pockets.

Commissioner Linke gave his individual position which is changing the averaging does not eliminate the tax liability. He believes it is worth looking into and would love to work together on this to figure out a response.

Mr. Ralph said the only thing that needs to be presented is that Freeport did not file on time.

Commissioner Tollett said the Board would look at this.

Commissioner Linke said Mr. Hassler and Mr. Ralph needed to draft the letter as soon as possible.

There being no further business to come before the Board, the Regular meeting was adjourned at 4:35 p.m. The minutes were prepared by Clerk and Recorder Sara L. Rosene. Approved this _____ day of June 2016.

E. Jane Tollett, Chair

Attest:

Sara L. Rosene, Clerk and Recorder