Present: Commissioner James Newberry, Commissioner District 1  
Commissioner Merrit Linke, Commissioner District 2  
Commissioner Gary Bumgarner, Commissioner District 3 - Chair

Also Present:  
County Manager Lurline Underbrink Curran  
County Attorney Jack DiCola  
County Clerk and Recorder Sara Rosene  
Assistant County Attorney Bob Franek  
Finance Director Scott Berger  
Road and Bridge Supervisor Ken Haynes  
County Planner Kris Manguso  
Housing Authority Director Jim Sheehan  
County Engineer Tim Gagnon

Those present recited the Pledge of Allegiance.

Minutes

Commissioner Linke moved to approve the minutes of the Regular Board of Commissioners meeting of September 9, 2014

The motion passed unanimously.

Finance Director

Scott Berger, Finance Director, presented the Warrant Register and Expenditure List to be paid on September 17, 2014, for vendor payments. The list for this period was verified for the Board’s approval.

Commissioner Newberry moved to approve and sign the warrants to be paid on September 17, 2014.

The motion passed unanimously.

Commissioner Newberry asked Mr. Berger about information the Board received regarding the Sheriff’s credit card and fraudulent charges. Mr. Berger does not know where the information came from, but he will look into it and report back to the Board.

Mr. Berger reported that there was a large payment for asphalt for County Road 83 and to Armstrong for the Granby Airport runway.

Housing Authority

The Board convened a Special meeting of the Grand County Housing Authority.

General Public Comments/Issues by any member of the public wishing to address the Board

Chairman Bumgarner noted that there was no one from the public present at the meeting.

Departmental Contracts, Comments/Issues

County Clerk and Recorder Sara Rosene presented the following:

Kenneth A. Bombace, Owner/Manager of Four Seasons Liquor Store located at 10118 Highway 34 in Granby, Colorado is requesting renewal of his Retail Liquor Store 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 Mr. Bombace’s renewal request for his Retail Liquor License.

[End of memo]
Commissioner Linke moved to approve renewal of the Retail Liquor Store License for Kenneth A. Bombace, Owner/Manager of Four Seasons Liquor Store located at 10118 Highway 34, Granby.

The motion passed unanimously.

Planner Marcus Davis presented Resolution No. 2014-9-11, “A RESOLUTION DIRECTING THE GRAND COUNTY TREASURER TO RELEASE FUNDS IN THE AMOUNT OF SIXTY FIVE THOUSAND EIGHT HUNDRED SIXTY EIGHT AND 00/100 DOLLARS ($65,868.00) BEING HELD AS WARRANTY SECURITY FOR PHASE 1 – COYOTE CREEK AT WINTER PARK SUBDIVISION”

Commissioner Newberry moved to approve Resolution No. 2014-9-11 as presented.

The motion passed unanimously.

There was a discussion on the meeting with property owners on County Road 5. The whole idea was to sort out who owned what. The consensus was that the people in question all agreed to clean up the property. The property owner has agreed to let the person in question to enter his property and remove the “marital junk.” Both of the people in question have incentive to do this. If the property owner does not get the property cleaned up, he will be served with a junk violation and the person that owns the personal property is court ordered to clean up the junk. The Board directed staff to find a dumpster. The dumpster has restrictions on what can be put into it.

Commissioner Newberry said that he is willing to go help clean up until the County files a violation.

The Board agreed to move forward with the dumpster. Commissioner Linke stated that there is a restriction on some items that can be put in the dumpster.

The neighbors agreed to pay for the dumpster and Teri Mordick will contact the neighbors and a company to obtain a dumpster.

Colleen Regehr lives right across the street at 5947 County Road 5. Ms. Regehr is concerned is that things have started showing up behind their home. There was consideration for junk in that entire area. Commissioner Linke toured the property with Mr. Bergquist. Ms. Regehr stated that her husband Wayne is willing to help in any way.

Pat Haggy lives in Fairways neighborhood and he is certain that the offer to pay for a dumpster is still there.

The dumpster should be in the name of Dennis Johnson and Wes Tindle.

County Manager Underbrink Curran stated that even though the dumpster is in their names, the County needs to make sure that it is very full.

Ed Moyer will check on the lead-time for the dumpster. They will tentatively shoot for work to be done on Friday.

Marcus Davis stated that he understands that things will be cleaned up to October 4th and 5th. Planning and Zoning will do an inspection on October 6 and if things are not cleaned up by that time, staff will issue a violation. Mr. Davis will provide a report to the Board on October 7, 2014.

DiAnn Butler is working with Onshore Outsourcing to meet with them for a Ready grant.

The towns can work together to apply for a Ready grant. A Ready grant is based on primary industry that could close and could jeopardize the rest of the community.

Ms. Butler stated that Winter Park resort could apply for the grant. She added the Climax did not qualify. Ms. Butler stated that the County is affected by Winter Park resort and Climax.

Ms. Butler stated that she is working on the early childcare center that closed in Granby. Ms. Butler stated that she met with Climax and there is a real concern for their employees because they have to start work so early in the morning. Climax may be interested in working on a public/private partnership in opening a daycare.
Megan Ledin from Grand Beginnings will meet with her Advisory Committee on Thursday.

Gore Range will be presenting at the next “Last Tuesday” at the Grand Creatives meeting.

Road and Bridge Update

Ken Haynes reported that they finished two of the Magnesium Chloride railroad cars on County Road 1. Application of Magnesium Chloride is complete at the east end of the County.

Mr. Haynes stated that he would be replacing some signs with “icy conditions may exist” on County Road 1.

They are almost done with the footings at Meadow Creek crossing of the pipes that washed out earlier in the spring.

Mr. Haynes stated that they have a few road cuts on County Road 48 that will probably take a few days.

Mr. Fanch called to say how pleased he is with the work on County Road 83 and he appreciated the partnership.

Commissioner Linke and Commissioner Newberry met with the crew in District 1 and discussed snow removal and how to be more effective. They felt that the workshop was very constructive and the crew had some good ideas.

Commissioner Newberry asked if someone is on call, does the County pay a stipend. There were other questions about “comp time” for overtime hours worked.

Mr. Haynes stated that staff does get a stipend for people on call and if they go into work, they are paid their normal salary. Ms. Underbrink Curran stated that it is up to the department head whether they allow comp time or not. Any comp time used must be paid out at the end of the year.

Mr. Haynes stated that he is against comp time. If people get additional time (because of comp time), they could be getting two weeks of comp time.

Ms. Underbrink Curran stated that if the Road and Bridge gets seasonal employees, it might help with some of the overtime.

Commissioner Linke thought it was a great idea to rearrange the routes from seven into six so that there would only have to be one on-call person.

Board Business

The Board received correspondence from Warren Ward to County Attorney DiCola asking for a $1,360 payment for work regarding County Road 8 and the Vandas property. Mr. DiCola has a meeting with Tim Shenk and Mr. Vandas this week. Mr. DiCola, Mr. Shenk, and Mr. Vandas are just trying to work through it the property line discrepancies.

Mr. DiCola stated that the State Board had no interest in it at all. The Board read in the statute that the County Surveyor is the final say in a boundary dispute. County Attorney DiCola does not agree with that assessment. The County Surveyor is saying that because of this dispute he has been forced to prepare a report to the Colorado State Board of Licensure for Architects, Engineers and Land Surveyors. It took Mr. Ward eight hours to prepare the report at $170 per hour. Mr. Ward is billing the Board for $1360. Mr. Ward stated that the reason he had to do this was lack of belief has emboldened the local surveyor to pursue invalid rationale. The Board wants to know what comes out of County Attorney’s meeting and then wants to know the legal mechanism for taking care of this.

The duties of the County Surveyor are to represent the County in boundary disputes and to notify the county attorney of any unsettled boundary disputes that come to his attention. He may, when authorized by the board, conduct surveys to establish the boundaries of County property. Whenever the proper location of any section corner or quarter section corner is in dispute, a corner monument shall be established by the County Surveyor.

Mr. DiCola stated that the County Surveyor has many duties but he is not the end all, be all with regard to any issue with regard to boundary.
The State Board of Licensure is under the Department of Regulatory Agencies.

The Board will consider the Surveyor’s bill next week.

The County received a Federal Communications Commission Notice of Fraudulent Use of System regarding new tower that is being considered in Kremmling. This has to do with the Town, not the County.

There was correspondence from Melanie Zwick that she had a hard time hearing during the Road Hearings. The Board will consider moving staff in such a way that when they speak both the Board and the audience can hear. County Manager Underbrink Curran will have IT look at the speaker system to see if it can be improved. Commissioner Newberry would like the staff to work with the County Clerk on improving the system.

Commissioner Linke said he has had several people tell him that they do not like the arrangement of the Boardroom. He believes the Board should have a discussion about rearranging the Board table. There was a conscious effort to use a table to make people comfortable, but people have expressed concern over the layout. County Manager Underbrink Curran will work on it.

Commissioner Linke has a request from a teacher at Middle Park High School that wants his Civic students to get involved in county government and possibly have some commissioners attend class and tell the students what they can get involved in and what they can advocate for in government.

Calendar

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<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>September 17</td>
<td>JSPC meeting</td>
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<td>Council on Aging fund raiser at Betty’s in Grand Lake</td>
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<td>Legislative breakfast</td>
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<td>Grand Enterprises meeting at 6:30 p.m. at the Granby Town Hall</td>
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<tr>
<td>September 18</td>
<td>River District meeting in Montrose at 9:00 a.m.</td>
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<tr>
<td>September 19</td>
<td>River District Annual Seminar in Grand Junction at 9:00 a.m.</td>
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<td>Marital Junk – removal at 8:00 a.m.</td>
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<td>September 20</td>
<td>Grand County Historical Association membership picnic from noon to 3:00 p.m.</td>
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<td>September 24</td>
<td>Rollins Pass meeting</td>
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<tr>
<td>September 29</td>
<td>1177 meeting</td>
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<tr>
<td>November 6</td>
<td>Court Security meeting at 10:00 a.m.</td>
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Board Business

Finance Director Scott Berger presented responses to the RFP for the audit. Mr. Berger received responses from several firms. Mr. Berger has gone through an evaluation process to choose an auditor.

The County paid $54,000 for 2012 audit and have paid $35,000 so far on the 2013 audit that the auditor is still working on and Mr. Berger is holding another bill for $30,000. Mr. Berger wants the auditor to explain the additional fees to the Board at a Board meeting.

Mr. Berger recommends awarding the 2015-2018 audits to McMahon and Associates. McMahon and Associates already does the Housing Authority and have other counties on the Western slope. McMahon is very aware of the differences between East and West slopes.

Commissioner Linke moved to accept the recommendation of the Finance Director in regard to hiring an auditor for 2014-2018. The contract will be with McMahon and Associates LLC.

Discussion: Commissioner Linke stated that he liked how the report was put together because it was an objective rubric-style evaluation scoring system.

The motion passed unanimously.

Manager Items

Treasurer Christina Whitmer came before the Board to ask for a printer. They have been having a lot of problems with their printers. Ms. Whitmer reported that IT has been desperately trying to fix the printer for about a year. The IT director is aware of the issue. The money would have to come out of capital. The current printer can still be used for things other than printing checks so it may be able to be used elsewhere.
There is no service contract on it and a service call is a minimum of $500.

Commissioner Newberry moved to authorize a capital expenditure for a printer as outlined in the memo from the Grand County Treasurer in an amount not to exceed $1,200.

The motion passed unanimously.

Ms. Whitmer gave the Board an update on possessory interest. Ms. Whitmer stated that she is very grateful for the County Manager’s help on this issue. Out of the list, Ms. Whitmer stated that five paid and six are uncollectable. Ms. Whitmer would not recommend going to court on any of those that are uncollectable. Ms. Whitmer stated that she would like to follow the process every year.

Commissioner Linke moved to allow Grand County’s water counsel White & Jankowski to sign the stipulation with the City of Aurora.

The motion passed unanimously.

County Manager Underbrink Curran gave a recap on the Building permit collection. The calculated misappropriation was $565,323, of which $280,000 was in 2013. Staff has collected $190,500 leaving $374,823. There is still $69,405 to be collected leaving a misappropriation of $305,418 over a period of 13 years.

Commissioner Newberry asked if there is a way to know who is still in business in Grand County and who still owes money.

County Attorney DiCola has drafted various letters and he is not sure the approach the Board wants to use. County Attorney DiCola would like some time to think about it. He is not sure how the Board wants to proceed. County Attorney DiCola suggests a workshop next week to go through and decide how to proceed.

County Treasurer Whitmer stated that there are so many different angles to each situation. It seems like the BOCC has done the best they can and the bottom line is that this is the County’s mistake. Ms. Whitmer stated that it does not seem right to blow it up in the public’s face.

Commissioner Linke thinks they need to be treated all the same but talking about suing is going too far. We had fairly good success with a friendly letter.

County Manager Underbrink Curran stated that she is working on getting the fair board budget in.

The County received a request for disbursement of some of the CRCA money from Intrawest. Ms. Underbrink Curran stated that she needs lien waiver verification before asking the Treasurer to release the first request for money.

The County Manager received an email from Caitlyn Taussig who is asking for Commissioners to be judges at the Outstanding Member 4H interviews on October 1. Commissioner Bumgarner will do it and Commissioner Linke will participate in the categories that his kid is not in.

The County received notification for the HUTF award and Grand County is getting $2.5 million.

County Manager Underbrink Curran will be heading to Denver to try to wrap up Grand County and West Slope partners concerns with some of the verbiage in the Carriage contract. It is extremely important to get this done before Secretary Castle leaves. The most important thing that the group has to hold onto is that there is no charge. The County got to insert ourselves in this because of Senate Document 80 but we are not a party to the contract. The storage fee is not in question but the language needs to be finalized.

Ms. Underbrink Curran objected to water coming out of Willow Creek instead of Granby. It should go through Learning by Doing.

**Attorney Items**
County Attorney DiCola asked County Assessor Tom Weydert and appraiser Fred Sidell to come and explain their recommendations for settling the current Granby Ranch Board of Assessment Appeals cases. The question is whether the property is classified as Forest Ag.

County Assessor Weydert explained that Granby ranch is about 5,000 acres. They did initially have a forest management plan in the early 2000’s. They came in 2009 saying that they wanted all of their property to be Forest Ag. Mr. Weydert stated that they were dealing with a magnitude of going from $15 or $16 million down to about $200,000, which the Assessor could not accept. The Board of Assessment Appeals ruled in Grand County’s favor at the first hearing and Granby Ranch appealed. The Court of Appeals upheld the Board of Assessment Appeals on a lot of the issues and sent it back to the Board of Assessment Appeals to relook at some things. The final decision was that a plat in and of itself does not rule out Forest Ag. The moment that you start putting in infrastructure then it is no longer Forest Ag.

Mr. Sidell stated the Assessor’s office based their decisions on if it was a plat and within that plat if they had begun putting in infrastructure, then it was out as Forest Ag.

For tax year 2011, the total original value was just under $15 million. Applying all of the BAA decisions the total new value is just under $7 million. There would be $253,000 due back for 2011, $252,000 for 2012 and $154,000 for 2013.

The Assessor would like the Commissioners to stipulate to the settlement at which point it has to go to the BAA. The County has followed through on everything that the court and BAA has directed. We essentially ended up exactly where we should have. The resolution will be for BAA docket numbers 62106, 58067, 61013 and 61012.

Commissioner Linke moved to authorize the County Attorney to exercise the stipulations for Granby Realty Holdings LLC for Stipulation Nos. 62106, 58067, 61013, and 61012 for years 2011, 2012, and 2013 as presented by the County Assessor.

The motion passed unanimously.

Mr. Weydert stated that they will also have 2014. County Attorney DiCola wanted to discuss unemployment compensation hearings. Mr. DiCola had an executive session with the Board a couple of weeks ago to discuss a case that was pending. Mr. DiCola stated that the County has since won that hearing. In the last year, there have been eight unemployment compensation hearings. An employee leaves, for whatever reason, and then applies for unemployment compensation. The County Attorney, Assistant County Attorney, Human Resources Director, the County Manager and the Department Head or Elected Official review and determine whether to fight the application for unemployment compensation or not. If there is a decision to fight the application, a response is filed with the Division of Labor. There will be an initial referee’s decision determining if the employee gets compensation or not. The County or the former employee can then ask for a hearing where evidence is presented.

Mr. DiCola stated that, at the last hearing, Grand County had $14,000 at stake.

Mr. DiCola stated that this year there were eight appeals and the County has won five and lost three.

County Attorney DiCola reported that the YMCA appeal was filed with Larimer County last week. One of the things that they appealed was that the Board of Assessment Appeals did not rule on the charitable exemption even though they were ordered to do so by the State Board of Appeals.

Nick Teverbaugh is available through tomorrow to discuss increases on the remodel for the Housing Authority unit.

Safeway has appealed all personal property taxes throughout the state. Mr. DiCola stated that Grand County is lumped in with Lake County and Clear Creek County. Safeway wants to use the income approach to value its personal property.

Grand Community Profile Update, Jeremy Kennell

Jeremy Kennell presented the Grand Community Profile update. The Grand profile is still moving along, the guest survey and profile are coming together.
The resident survey and business survey will be going out in the next two months. It will be going out via email and mail. There will also be some press releases as well as some articles in the newspaper. Prepaid Visa cards will be made available to entice people to fill out those surveys.

Some of the questions that came out of the discussion of the steering committee were insight into transportation.

The group can do additional surveys. The challenge with the resident and business surveys is they are trying to encompass a lot of things so the more questions, the fewer people will respond.

The Board would like to see early childhood education in the survey.

The Board would like transportation questions in the survey.

Grand Facts will come out before the end of the month.

The guest survey and profile will also go out in the winter to capture the winter guest. The bulk of the work will be done this fall however the project will go through April of 2015.

Public Hearing – C.R. 46 Vacation West of Intersection 464

The public hearing scheduled to begin at 11:30 a.m. was called to order by Chairman Bumgarner at 11:30 a.m. County Attorney DiCola set the record.

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 September 16, 2014.

A. Letter of Application dated July 24, 2014
B. Public Notice – Middle Park Times, August 21, 2014
C. Proof of Publication – Middle Park Times, August 21, 2014
D. Vicinity Map as established by the Grand County GIS System
E. Certified Mailings to all property owners within the 500’ notification buffer, as established by the Grand County GIS System, including Town of Granby, Val Moritz HOA and all Utility Companies
F. Public Review Sheets (no names)
G. Letter of Application, Vicinity Map, Letter from Grand County Road & Bridge
H. Grand County Planning Commission Resolution No. 2014-8-2
I. Certificate of Recommendation dated September 16, 2014

RE: County Road 46 Vacation
APPLICANT: Ashby Family Partnership, LTD represented by Mary Jane Ashby
LOCATION: Northeast ¼, Section 14, Township 3 North, Range 76 West of the 6th P.M., County of Grand, State of Colorado
ZONING: F – Forestry/Open
APPLICABLE REGULATIONS: Colorado Revised Statutes §43-2-303 and §43-2-302
EXHIBITS: Letter of Application, Vicinity Map, Letter from Grand County Road & Bridge
STAFF CONTACT: Marcus P. Davis
REQUEST: The Applicant is requesting vacation of the approximately 800 foot end portion of County Road 46, west of its intersection with County Road 464. This section of County Road 46 is surrounded entirely by, and dead ends into, the Applicant’s property.

DISCUSSION

Ashby Family Partnership, LTD, represented by Mary Jane Ashby (hereinafter referred to as “the Applicant”) are the owners of all lands adjacent to County Road 46 located west of its intersection with County Road 464, located in the Northeast ¼, Section 14, Township 3 North, Range 76 West of the 6th P.M., County of Grand, State of Colorado. Ownership of all adjacent land owned by the Applicant is recorded in the Grand County Real Property records as follows:

Ashby Family Partnership, LTD – Quitclaim Deed at Reception No. 2014004285
Ashby Family Partnership, LTD – Quitclaim Deed at Reception No. 96005023
Ashby Family Partnership, LTD – General Warranty Deed at Reception No. 96005022

The Applicant is requesting vacation of approximately 800 feet of County Road 46, west of its intersection with County Road 464 to its termination point within the Applicant’s property. This section is surrounded entirely by their property and dead ends into their 730 acre parcel. Staff can find no evidence that there are any easements or assumed usages, beyond what currently exists, in conjunction with County Road 46 west of County Road 464.

No adjacent property owners will be left without utility access as a result of this request. Additionally, staff has a letter of support from Road and Bridge stating that they have no issues with this proposed vacation as this portion of County Road 46 serves no public interest.

COMPLIANCE WITH COLORADO REVISED STATUTES §43-2-303 AND §43-2-302:

Grand County applies the following methods of vacations to all vacation requests under C.R.S. §43-2-303. A vacation can only be authorized by the County if it meets one or more of the criteria that is outlined below:

1. All right, title, or interest of a county, of an incorporated town or city, or of the state or of any of its political subdivisions in and to any roadway shall be divested upon vacation of such roadway by any of the following methods:

   (a) The city council or similar authority of a city or town by ordinance may vacate any roadway or part thereof located within the corporate limits of said city or town, subject to the provisions of the charter of such municipal corporation and the constitution and statutes of the state of Colorado.

   (b) The board of county commissioners of any county may vacate any roadway or any part thereof located entirely within said county if such roadway is not within the limits of any city or town.

   (c) If such roadway constitutes the boundary line between two counties, such roadway or any part thereof may be vacated only by the joint action of the boards of county commissioners of both counties

   (d) If said roadway constitutes the boundary line of a city or town, it may be vacated only by joint action of the board of county commissioners of the county and the duly constituted authority of the city or town.

2. (a) No platted or deeded roadway or part thereof or unplatted or undefined roadway which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road

   (b) If any roadway has been established as a county road at any time, such roadway shall not be vacated by any method other than a resolution approved by the board of county commissioners of the county. No later than ten days prior to any county commissioner meeting at which a resolution to vacate a county roadway is to be presented, the county commissioners shall mail a notice by first-class mail to the last-known address of each landowner who owns one acre or more of land adjacent to the roadway. Such notice shall indicate the time and place of the county commissioner meeting and shall indicate that a resolution to vacate the county roadway will be presented at the meeting.

   (c) If any roadway had been established as a municipal street at any time, such street shall not be vacated by any method other than an ordinance approved by the governing body of the municipality

   (d) If any roadway has been established as a state highway, such roadway shall not be vacated or abandoned by any method other than the resolution approved by the transportation commission pursuant to Section §43-1-106(11).

   (e) Paragraphs (b), (c) and (d) of this subsection (2) shall not apply to any roadway that had been established but has not been used as a roadway after such establishment.

   (f) If any roadway is vacated or abandoned, the documents, vacating or abandoning such roadway shall be recorded pursuant to the requirements of Section §43-1-202.7
C.R.S. §43-1-202.7 Recording of documents vacating or abandoning a roadway.

“If any roadway is vacated or abandoned by the state, by the county, or by a municipally, the documents vacating or abandoning such roadway, including but not necessarily limited to any resolution, ordinance, deed, conveyance document, plat or survey, shall be recorded in the office of the clerk and recorder of the county in which such roadway is located.”

3. In the event of vacation under subsection (1) of this section, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.

4. Any written instrument of vacation or a resubdivision plat purporting to vacate or relocate roadways or portions thereof which remains on record in the counties where the roadways affected are situated for a period of seven years shall be prima facie evidence of an effective vacation of such former roadways. This subsection (4) shall not apply during the pendency of any action commenced prior to the expiration of said seven-year period to set aside, modify, or annul the vacation or when the vacation has been set aside, modified, or annulled by proper order or degree of a competent court and such notice of pendency of action or a certified copy of such decree has been recorded in the recorder's office of the county where the property is located.

C.R.S. §43-2-302 Vesting of Title Upon Vacation

1. Subject to the requirements set forth in Sections §43-1-210 (5) and §43-2-106 governing the disposition of certain property by the department of transportation, whenever any roadway has been designated on the plat of any tract of land or has been conveyed to or acquired by a county or incorporated town or city or by the state or by any of its political subdivisions for use as a roadway, and thereafter is vacated, title to the lands included within such roadway or so much thereof as may be vacated shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

(a) In the event that a roadway which constitutes the exterior boundary of a subdivision or other tract of land is vacated, title to said roadway shall vest in the owners of the land abutting the vacated roadway to the same extent that the land included within the roadway, at the time the roadway was acquired for public use, was a part of the subdivided land or was a part of the adjacent land.

(b) In the event that less than the entire width of a roadway is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.

(c) In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway, except as provided in paragraphs (a) and (b) of this subsection (1). In the event that the boundary lines of abutting lands do not intersect said roadway at a right angle, the land included within such roadway shall vest as provided in paragraph (d) of this subsection (1).

(d) In all instances not specifically provided for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his land, or any part thereof, is nearest in proximity.

(e) No portion of a roadway upon vacation shall accrue to an abutting roadway.

(f) Notwithstanding any other provision of this subsection (1), a board of county commissioners may provide that title to the vacated roadway shall vest, subject to a public-access easement or private-access easement to benefit designated properties, in the owner of the land abutting the vacated roadway, in other owners of land who use the vacated roadway as access to the owners' land, or in a legal entity that represents any owners of land who use the vacated roadway as access to the owners’ land. Title shall vest to the owner of the land abutting the vacated roadway as otherwise required by paragraphs (a) to (d) of this subsection (1), unless the board expressly requires the title to vest pursuant to the authority set forth in this paragraph (f) in the resolution to vacate the roadway that is approved by the board.
The method of vacation for this request is in compliance under subsection (1)(b) and subsection (2)(f) of C.R.S. §43-2-303 and title shall be vested in accordance with C.R.S. §43-2-302. The referenced subsections are highlighted in italics above.

STAFF COMMENTS

Public notice was placed in the Middle Park Times on August 21, 2014, as required. Property owners within 500 feet of this request and all interested parties including utility companies, Three Lakes Water & Sanitation District, and Grand County Road & Bridge, were notified by certified mail.

Staff has received two calls from neighbors and a letter from Road and Bridge, both in support of the proposed vacation.

The Applicant was required to provide proof of easement for the MPEI power line running alongside the proposed vacated portion of County Road 46. In response, the Applicant has provided a Right-of-Way Easement between Ashby Family Partnership, LTD and MPEI dated August 14, 2014 and recorded at Reception No. 2014005088. Staff also has a letter from MPEI stating the above mentioned easement dated August 14, 2014 is satisfactory.

It is staff’s opinion that this vacation request is in compliance with the above statutes. Further, no adjacent property owners will be left without access as a result of this request.

GRAND COUNTY PLANNING COMMISSION

The Grand County Planning Commission asked if the road was being maintained. The response was that it has not been maintained, and in fact this portion has been gated off, for approximately the past 20 years.

The Grand County Planning Commission recommended approval of this utility easement vacation request with Resolution 2014-8-2.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approval the vacation of approximately 800 feet of County Road 46, west of its intersection with County Road 464, with the following condition:

1. That the applicant provides any additional fees required in conjunction with the public notification of this request.

[End of Staff’s memo]

Jane Ashby is the president of the Ashby Family Partnership. Her only comment is that in the 18 years that they have owned the property there was some objection to the vacation. Ms. Ashby purchased the property from the people who were objecting. There has been no maintenance on the road. The property owner has kept up the maintenance themselves.

Commissioner Linke moved to accept the recommendation of the Community Development Department with regard to the vacation of 800 feet of County Road 46 west of the intersection with County Road 464 as presented.

The motion passed unanimously.

Commissioner Newberry moved to close the public hearing.

The motion passed unanimously.

Grand Community Profile Update, Jeremy Kennell continued

Mr. Kennel reported that the Grand Facts publication will be distributed via email.

DiAnn Butler will be doing a lot of PR on the John Schallert presentation that is coming up.

Attorney Items
Mr. DiCola has a phone conference with John Paul Anderson of Alvarez & Marsal tomorrow at 10:00 a.m. with regard to the insurance claim for the Building Department. He is sending the backup information on the insurance claim. Mr. Anderson was going to come up with a 2012 report.

Commissioner Newberry wants the attorneys to contact the director of Council on Aging and lay out HIPPA compliance laws. The board is fine with that.

Public Hearing – Alpine Acres Subdivision Lots 10 & 47 Utility Easement Vacation

The public hearing scheduled to begin at 11:45 a.m. was called to order by Chairman Bumgarner at 11:45 a.m. County Attorney DiCola set the record.

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 September 16, 2014.

A. Letter of Application dated July 23, 2014
B. Public Notice – Middle Park Times, August 21, 2014
C. Proof of Publication – Middle Park Times, August 21, 2014
D. Vicinity Map as established by the Grand County GIS System
E. List of property owners within the 500’ notification buffer, as established by the Grand County GIS System
F. List of Interested Parties that received courtesy notification
G. Certified Mailings to all property owners within 500’ as established by the Grand County GIS System, including Town of Granby, Val Moritz HOA and all Utility Companies
H. Public Review Sheets (no names)
I. Email from Jean Johnston of Mountain Parks Electric dated August 7, 2014
J. Email from Jean Johnston of Mountain Parks Electric dated August 14, 2014
K. Grand County Planning Commission Resolution No. 2014-8-1
L. Certificate of Recommendation dated September 16, 2014

RE: Utility Easement Vacation
APPLICANT: Lynette Becksmith, represented by John Becksmith
LOCATION: Lots 10 & 47, Block 2, Alpine Acres Subdivision
Located in the Southeast ¼, Southwest ¼, Section 33, Township 1 North, Range 76 West of the 6th P.M., County of Grand, State of Colorado
ZONING: F – Forestry/Open
APPLICABLE REGULATIONS: Colorado Revised Statutes §43-2-303
EXHIBITS: Letter of Application, Vicinity Map
STAFF CONTACT: Marcus P. Davis
REQUEST: The Applicant is requesting vacation of the sixteen (16) foot utility easement between Lots 10 and 47 and the east eight (8) foot utility easement for both Lots 10 and 47, Block 2, Alpine Acres Subdivision.

DISCUSSION

Lynette Becksmith, represented by John Becksmith (hereinafter referred to as “the Applicant”) is the owner of Lots 10 & 47, Block 2, Alpine Acres Subdivision, located in the Southeast ¼, Southwest ¼, Section 33, Township 1 North, Range 76 West of the 6th P.M., County of Grand, State of Colorado. Ownership is recorded by Warranty Deed at Reception No. 2014004453 of the Grand County Real Property records.

The Applicant is requesting vacation of the sixteen (16) foot utility easement between Lots 10 and 47 and the east eight (8) foot utility easement for both Lots 10 and 47 in order to provide adequate space for a new single family dwelling to be constructed across the property line between Lots 10 & 47. The applicant will be required to combine Lots 10 and 47, by deed, prior to approval by Grand County Planning & Zoning for any building permit application to build a structure across this property line.

Sufficient utility easement access for these lots will not be compromised as Lot 10 is adjacent to utility easements located in County Road 521 to the north, Lot 47 is adjacent to utility easements located in County Road 5212 to the south, and the sixteen (16) foot utility easements between the adjacent lots to the east and west
will remain. Additionally, the proposed vacations will not leave any surrounding property without access to adjacent utility easements.

**COMPLIANCE WITH COLORADO REVISED STATUTES §43-2-303:**

Grand County applies the following methods of vacations to all vacation requests under C.R.S. §43-2-303. A vacation can only be authorized by the County if it meets one or more of the criteria that is outlined below:

1. All right, title, or interest of a county, of an incorporated town or city, or of the state or of any of its political subdivisions in and to any roadway shall be divested upon vacation of such roadway by any of the following methods:

   (a) The city council or similar authority of a city or town by ordinance may vacate any roadway or part thereof located within the corporate limits of said city or town, subject to the provisions of the charter of such municipal corporation and the constitution and statutes of the state of Colorado.

   (b) The board of county commissioners of any county may vacate any roadway or any part thereof located entirely within said county if such roadway is not within the limits of any city or town.

   (c) If such roadway constitutes the boundary line between two counties, such roadway or any part thereof may be vacated only by the joint action of the boards of county commissioners of both counties.

   (d) If said roadway constitutes the boundary line of a city or town, it may be vacated only by joint action of the board of county commissioners of the county and the duly constituted authority of the city or town.

2. (a) No platted or deeded roadway or part thereof or unplatted or undefined roadway which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road.

   (b) If any roadway has been established as a county road at any time, such roadway shall not be vacated by any method other than a resolution approved by the board of county commissioners of the county.

   No later than ten days prior to any county commissioner meeting at which a resolution to vacate a county roadway is to be presented, the county commissioners shall mail a notice by first-class mail to the last-known address of each landowner who owns one acre or more of land adjacent to the roadway. Such notice shall indicate the time and place of the county commissioner meeting and shall indicate that a resolution to vacate the county roadway will be presented at the meeting.

   (c) If any roadway had been established as a municipal street at any time, such street shall not be vacated by any method other than an ordinance approved by the governing body of the municipality.

   (d) If any roadway has been established as a state highway, such roadway shall not be vacated or abandoned by any method other than the resolution approved by the transportation commission pursuant to Section §43-1-106(11).

   (e) Paragraphs (b), (c) and (d) of this subsection (2) shall not apply to any roadway that had been established but has not been used as a roadway after such establishment.

   (f) If any roadway is vacated or abandoned, the documents, vacating or abandoning such roadway shall be recorded pursuant to the requirements of Section §43-1-202.7

C.R.S. §43-1-202.7 Recording of documents vacating or abandoning a roadway.

“If any roadway is vacated or abandoned by the state, by the county, or by a municipally, the documents vacating or abandoning such roadway, including but not necessarily limited to any resolution, ordinance, deed, conveyance document, plat or survey, shall be recorded in the office of the clerk and recorder of the county in which such roadway is located.”

3. In the event of vacation under subsection (1) of this section, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances.
4. Any written instrument of vacation or a resubdivision plat purporting to vacate or relocate roadways or portions thereof which remains on record in the counties where the roadways affected are situated for a period of seven years shall be prima facie evidence of an effective vacation of such former roadways. This subsection (4) shall not apply during the pendency of any action commenced prior to the expiration of said seven-year period to set aside, modify, or annul the vacation or when the vacation has been set aside, modified, or annulled by proper order or degree of a competent court and such notice of pendency of action or a certified copy of such decree has been recorded in the recorder's office of the county where the property is located.

It is staff's opinion that this vacation request is in compliance with the above statutes. Further, no adjacent property owners will be left without utility access as a result of this request.

STAFF COMMENTS

Public notice was placed in the Middle Park Times on August 21, 2014, as required, and property owners within 500 feet of this request and all interested parties including utility companies were notified by certified mail.

Staff has received calls from a several neighbors in support of the proposed vacation.

GRAND COUNTY PLANNING COMMISSION

The Planning Commissioner's wanted to be sure that there would be no property left without utility easement access as a result of vacating these utility easements. As stated above, there are adequate remaining utility easements in the adjacent roads and from the sixteen (16) foot utility easements located in the properties to the east and west.

The Grand County Planning Commission recommended approval of this utility easement vacation request with Resolution 2014-8-1.

STAFF RECOMMENDATION

Staff recommends the Board of County Commissioners approval the vacation of the sixteen (16) foot utility easement between Lots 10 and 47 and the east eight (8) foot utility easement for both Lots 10 and 47, Block 2, Alpine Acres Subdivision, with the following conditions:

That the applicant provides any additional fees required in conjunction with the public notification of this request.

1. The applicant shall combine Lots 10 and 47, by deed, prior to approval by Grand County Planning & Zoning for any building permit application to build a structure across this property line

[End of Staff’s Certificate]

Mr. Becksmith stated that they want to do this for future build. The current building permit is registered to County Road 5212 and they want the address to County Road 521.

Commissioner Bumgarner asked for and received no public comments.

Commissioner Newberry moved to approve the Alpine Acres Subdivision lots 10 and 47 utility easement vacation as presented by staff with conditions.

The motion passed unanimously.

Commissioner Newberry moved to close the public hearing.

The motion passed unanimously.

Attorney Items

Ed Moyer reported that he received the check for the dumpster for County Road 5. Dennis Johnson will order the dumpster.
County Attorney DiCola presented Resolutions:

Resolution No. 2014-9-12, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO DIRECTING THAT THE DEBT INCURRED FROM THE DEFAULT AND FORECLOSURE OF FOX RUN APARTMENTS, LLLP BE REMOVED AS AN ACCOUNT RECEIVABLE FROM THE BOOKS OF GRAND COUNTY AND THE GRAND COUNTY HOUSING AUTHORITY BUT CONTINUE TO BE RECOGNIZED AND UTILIZED AS GRAND COUNTY HOUSING AUTHORITY’S BASIS IN FOX RUN APARTMENTS”


Resolution No. 2014-9-20, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO APPROVING AND ADOPTING AN AMENDMENT TO THE GRAND COUNTY BUILDING DEPARTMENT FEE SCHEDULE, THEREBY ELIMINATING BUILDING PERMIT DEPOSITS, EFFECTIVE SEPTEMBER 9, 2014 AT 12:00 P.M.”


The motion passed unanimously.

**Brett Barkey, D.A. – Budget Discussion**

Mr. Barkey stated that the Grand Jury reviewed its first case in July. There were eight indictments presented July 25, 2014 from the first case out of Kremmling. The Grand Jury is from all three Counties in the District. The District and the Judge selects the Grand Jury. Both the District Attorney and the Jury members ask questions. The Grand Jury is the investigators in the cases.

If the Grand Jury finds probable cause, the case goes to the DA. If the Grand Jury indicts and the DA refuses to sign on to the case, then things get tough. The DA has to be able to prove charges beyond a reasonable doubt. The Grand Jury is nine of twelve that make the decisions.

The future trainings for the District Attorney will include grand jury procedures.

The District Attorney’s Offices have had some resiliency training.

The District Attorney is responsible for all mental health prosecutions. The District Attorney received a lead from the Larimer County Sheriff’s office that there was a threat made regarding a school and the individual was found in Routt County. They took the individual into custody and had a local mental health expert evaluate. They went ahead, filed the involuntary hospitalization, and got the court to confirm the evaluation. It was determined he was not a threat to himself or others.

Mental health resources in Grand County and the District are a significant concern. Aurora has had an upsurge in mental health needs because of the theatre shooting. Aurora spent $20 million in the last couple of years on mental health.

The District Attorney has done a lot of good training this year to help de-escalate issues. The people in the office work to get a good resolution.

The District Attorney is trying to find a way to negotiate the Irish case in a manner to help get the County’s money repaid.

A Grand Jury has been called on the Irish case. Mr. Barkey stated that he cannot discuss the case. If the Grand Jury returns an indictment, a report will be completed. A Chief Judge can release a Grand Jury report.

Mr. Barkey stated that they have lost their administrative assistant in Grand County. He has decided to use that money to hire a 20 per hour week investigator for Grand County.

Mr. Barkey stated that Routt County had funded a juvenile diversion officer. That work has dropped off and Mr. Barkey is recommended that the job be moved to part time.

Mr. Barkey stated that he has an operational budget increase request because IT let him know that he needs to purchase a server.

Mr. Barkey stated that currently there is a charge for copies and that has been a source of revenue for his office. The law has changed and the revenue has been eliminated.

Mr. Barkey stated that he will not be asking for pay raises this year.

Mr. Barkey stated that he may ask the Board in the future to be allowed to keep excess revenues from year to year.

**Byers Peak Ranch Subdivision Sketch Plan Extension**

The following is all or part of staff’s Memorandum to the Board as it was provided by staff for inclusion in the minutes of the meeting held on September 16, 2014.

**SUBJECT:** Request for Extension – Byers Peak Ranch Subdivision, Sketch Plan
LOCATION: 295 acres of land in the South ½ and the Southeast ¼ of Section 19 and the NE ¼ of Section 30, Township 1 South, Range 75 West of the 6th P.M. County of Grand, State of Colorado

Mr. Clark Lipscomb, representing the property owners Byers Peak Properties, LLC and Byers Peak Downhill Properties, LLC, is requesting the Board of County Commissioners approve a one year extension to the Byers Peak Ranch Subdivision Sketch Plan. The proposed 295 acre Byers Peak Ranch Subdivision is located just outside of Fraser to the west and directly south of County Road 73.

On November 12, 2013, the Board of County Commissioners approved a sketch plan to allow for 21 two (2) acre lots on 53.1 acres, 1087 multi-family units and two (2) lodge buildings containing 125 rooms.

Mr. Lipscomb has stated they are making good progress on a number of engineering fronts required to move the project forward. The following are specifics as outlined in an e-mail from Mr. Lipscomb dated September 11, 2014:

1. A domestic water augmentation plan has been completed and ready to file with the State Engineer – he expects it will be filed this week.
2. Wastewater Treatment – A development permit for the construction of a wastewater treatment plant to serve the property was submitted to the Town of Fraser last week. The plant is designed and located on land in the Town of Fraser adjacent to Elk Creek.
3. Wastewater Treatment Alternative – A proposal has been made to the Consolidated District (the Fraser, Winter Park Ranch, and Grand County One Wastewater Treatment Plant) for the project to utilize that plant. The first meeting with the District regarding this proposal was on September 11, 2014 at 3 p.m.

Section 4.1 (2)(b) of the Grand County Subdivision Regulations reads as follows:
“Approval or conditional approval of its sketch plan shall be valid for one (1) year and if no preliminary plat in conformance with the sketch plan is submitted to the secretary of the Planning Commission, with all required accompanying material, within one (1) year, a new sketch plan shall be submitted. Extensions of the approval must be requested in writing prior to the one (1) year expiration date when good cause is shown”.

Mr. Lipscomb has been made aware that future Byers Peak Ranch Subdivision submissions (i.e. Preliminary and Final Plat) shall comply with all amendments and revisions to all applicable county regulations in place at the time of submittal, including but not limited to, the Subdivision Regulations, Zoning Regulations, Road & Bridge Standards, and Stormwater Drainage Design and Criteria Manual.

Staff recommends that the Board accept this request and extend the Sketch Plan approval through November 12, 2015.

[End of Staff’s memo]

The applicant has been working on the conditions of the original Certificate.

Commissioner Newberry moved to approve the Sketch Plan Extension to November 12, 2015 as presented.

The motion passed unanimously.

Board Business

Mr. Davis stated that he has been in contact with the Trash Company regarding the junk on County Road 5. An account has been set up in the name of Wes Tindle and Dennis Johnson. The check has been delivered to the Trash Company. The dumpster will be delivered on Friday morning.

County Attorney DiCola stated that he spoke with Assessor Weydert on the Safeway case. Mr. DiCola stated that the Safeway case has to do with the value of personal property at the Safeway store. They have filed against every county in the state with regard to the value of their personal property. Grand County has been lumped with Clear Creek and Lake Counties.

Mr. Weydert has various issues legal and appraisal issues with regard to the presentation of Grand County’s case. The taxes amount to approximately $25,000 per year. Mr. DiCola stated that the County may to bring in an outside appraiser to testify the County. Grand County does not have a personal property appraiser on board.
County Attorney DiCola will work with Lake and Clear Creek Counties to see what they want to do.

Mr. DiCola stated that he received a letter from the District Attorney’s Office asking for a Victim’s Impact Statement with regard to the Brigit Irish matter. Mr. DiCola will work on the statement.

Commissioner Newberry stated that the impact on the County is the amount of money spent on internal controls, investigations, time, decimating morale, etc.

There being no further business to come before the Board, the Regular meeting was adjourned at 2:51 p.m. The minutes were taken by Clerk and Recorder Sara L. Rosene. Approved this _______ day of September 2014.

______________________________
Gary Bumgarner, Chair

Attest:

______________________________
Sara L. Rosene, Grand County Clerk and Recorder