

MINUTES OF A REGULAR
BOARD OF COMMISSIONERS MEETING

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

February 3, 2004

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

Board Business/Correspondence/Calendar

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

Those present recited the Pledge of Allegiance.

Commissioner Newberry moved to approve the minutes of the regular Board of Commissioners meeting of August 19, 2003.

The motion passed unanimously.

Commissioner Anderson moved to appoint Jeanne L. Campbell (to replace Verona Schmidt) and John S. Kacik (as member at-large) to the Library Board.

The motion passed unanimously.

Commissioner Anderson noted that the Board received notification that the County's Mountain Parks Electric bill will be going up.

Commissioner Anderson stated that the Council on Aging asked that the Board remember the Council's need for space as the Board moves offices around.

Commissioner Anderson moved to authorize the Board to sign the letter to Nancy Stahoviac, Routt County Commissioner, wishing her well on her recovery.

The motion passed unanimously.

Commissioner Anderson stated that there will be a breakfast with the Gilpin County Commissioners on February 18, 2004.

Chairman Dailey reviewed a letter from the Moffat County Commissioners to Congressman Scott McInnis thanking him for his House bill titled "Geographically Isolated Rural Veterans Act of 2003." Chairman Dailey

would like to send a similar letter of support identifying similar concerns as those addressed by Moffat County.

Chairman Dailey stated that legislation is being proposed regarding utility updates. CCI has asked a commissioner to testify on the bill. The County will not be sending someone.

Chairman Dailey stated that he has received letters regarding County Road 53. County Manager Underbrink Curran will have the Road and Bridge Supervisor review the comments with the Chairman.

The Board reviewed a request from County Clerk and Recorder, Sara Rosene, for a supplemental to her 2004 budget for restoration of the 1953 County Road map. The Commissioners would like to have the map filmed, but they may not want to put the money toward restoration.

Commissioner Newberry stated that he spoke with former County Surveyor, Skip McClelland. Mr. McClelland told Commissioner Newberry that he drove and surveyed all of the roads in the County in 1972. His notes and maps should be in the courthouse. The Board would like an effort made to find those maps.

Both Ms. Rosene and Ms. Underbrink Curran stated that they do not believe the maps are in the building. Staff will be directed to locate the maps.

The Board agreed that there may be a need to drive the roads and determine the placement of the roads instead of restoring the current map.

Chairman Dailey stated that Brenda Noakes is the new CSU Extension Agent.

February 4 Commissioner Anderson will attend the Grand Beginnings meeting at 8:30 a.m.

Commissioner Anderson and Chairman Dailey will attend the Rural Health Network meeting at the EMS building

February 5 The Board will attend the Road and Bridge follow-up workshop at the courthouse at 9:00 a.m. with regard to the road formula

Commissioner Newberry and Chairman Dailey will attend a Denver Water Board workshop at 11:00 a.m. at the courthouse with the Water Board's staff

Commissioner Newberry will participate in a conference call with the River District at 12:00 p.m.

Commissioner Newberry will participate in a local radio talk show at 12:20 p.m.

Commissioner Anderson and Chairman Dailey will attend the Tourism Board meeting

Chairman Dailey will attend the CCOERA meeting at 10:00 a.m. at the courthouse

Chairman Dailey will attend the Kremmling Memorial Hospital District Planning Subcommittee meeting

February 6 Commissioner Newberry and Chairman Dailey will attend CCI meetings in Denver

February 7 Chairman Dailey will attend the Ididirace near Kremmling

February 9 The Board will attend the Mayor, Managers, and Commissioners meeting at 9:00 a.m. at the courthouse

Commissioner Anderson will attend the meeting with the Forest Service at El Rancho at 6:00 p.m. regarding the building on Berthoud Pass

Chairman Dailey will attend the Fair Board meeting in Kremmling

February 11 Chairman Dailey will attend the Fraser Valley Leadership forum

Chairman Dailey will attend the Emergency Planning meeting at 10:00 a.m. at the EMS building

March 9 Chairman Dailey will attend a workshop at 6:00 p.m. with the West Grand School District Board

regarding Forest Reserve allocation

Road and Bridge Update

Road and Bridge Supervisor, Clark Branstetter, stated that the crews are taking care of the door problem at the Fraser facility.

Mr. Holley stated that crews are:

- plowing and sanding as needed
- working on equipment
- moving recycling
- working on ditches
- repairing some chains
- working on the fairgrounds cleanup
- servicing equipment

The overtime for last week was:

- 21.5 hours in District 1
- 4 hours in District 2
- 8.5 hours in District 3
- 14 hours in District 4

Mr. Branstetter stated that the crews have dug into utility easements and cut lines. More often than not, the lines have been improperly buried.

Natural Resources Update

Billy Sumerlin, Natural Resources Director, and Jennifer Murray appeared before the Board to present an update.

The following is all or part of staff's report to the Board of County Commissioners as presented at the meeting on February 3, 2004.

1. Forest Health/Wildland Fire

(Three Lakes Area and Fraser Valley - Project Area 1)

30 Wildland Fire Mitigation Projects on larger tracts of land including; subdivisions, municipalities, golf courses, and larger tracts of private land. Many have received federal grant money working with Colorado State Forest Service, Grand County, or private consultants. Several hundred individual small property owners working on their own via the Colorado State Forest Service "Firewide Program".

USFS: ANRA Environmental Assessment should be completed this winter. Identifying WUI mitigation sites on Forest in Fraser Valley in consultation with county and municipalities.

BLM: Developing proposal for mitigation project in the Strawberry area.

(West Grand County - Project Area 2)

Mitigation projects by individual property owners in Bighorn, Old Park, Aspen Canyon, Copper subdivisions, and Williams Peak Ranch.

USFS: Sulphur RD - Completed Crimson Project Environmental Assessment. (Williams Fork) Parks RD - Gore Pass joint mitigation project (phase II) with BLM. Troublesome Area Beetle Kill???

BLM: Trough Road prescribed burn on schedule for spring. (Conditions permitting)

Other: Co-operating with BLM/USFS in designating the fairgrounds as an IC/Camp with BOCC approval.

Continue to facilitate the grant process for mitigation and beetle kill removal with CSFS staff on behalf of private property owners. Continue site visits for "Firewise" implementation.

Developing public meetings with USFS, BLM, and CSFS.

Biomass: Begin 04 grant cycle for feasibility study with direction from BOCC.

2. Open Burning

246 permits issued to date for winter 2003/2004 burning season. Estimate this would encompass 1800-2000 slash piles of various sizes.

Public compliance continues to increase. There will always be some that do not.

Have been successful with larger burns to date as it pertains to public complaints or health calls (Only 2 or 3 complaints to date). This could change with any sizable burn that goes south.

The New Regulation 9 from the Department of Health and Environment, Air Pollution Control Division has not affected our burn program to date. FYI, the DHE is using the Grand County program as a template for other counties wishing to create a program.

3. Noxious Weeds

2003: Completed all service contracts with private and government entities.

2004:

Tamarisk (Wolford Reservoir)

Oxeye Daisy Project (3rd year of a 5 year plan)

Leafy Spurge Project (4th year of a 5 year plan)

Increase lane miles treated with Tractor/mower with emphasis in the Three Lakes and FV New Colorado Weed Law in effect.

Northwestern Colorado Noxious Weed Coalition group forming.

CWMA Washington Trip (February 04)

Term over as CWMA President, now serving last year as ex-officio.

Seasonal Employees: New law in effect for more stringent training etc.

DNR has lost Dick Broady to a full-time higher paying job.

New IGA

Historic contracts, grants, and cooperative funding are in place. Federal \$ could change.

4. Emergency Management

Large field exercise planned for August 2004 with all disciplines and the Air National Guard.

Local Emergency Planning Commission (LEPC) meetings on track. Complicated to keep all participants involved and engaged.

Local assessments completed.

Communicating with East Grand Fire District Board (Bob Dart) per concerns of conflict.

Grants: Dept. Homeland Security (2003) Awarded \$156,000 for equipment. Funds not received to date.
Dept of Homeland Security (2004) applied for \$370,000 for communications and training.
Colorado Office of Emergency Management (2004) applied for \$37,000 for administrative and salary cost.
Colorado Dept. of Public Safety (2004) Awarded \$15,800 for cost of NW Regional Planning Region.
Colorado Office of Emergency Management (2004) Awarded \$8,000 for 04 field exercise.

Mr. Sumerlin presented the Board with a copy of the letter he sent to Bill Wyatt, of the Bureau of Land Management, identifying the approximate locations of wildland fire mitigation and beetle kill removal operations in the east end of Grand County (identified as Project Area 1 in the Grand County Fire Plan).

Manager and Attorney Items

Commissioner Anderson moved to authorize the Board to sign the letter to the Church of the Eternal Hills congratulating the Church for its preschool.

The motion passed unanimously.

Ms. Underbrink Curran presented the Board with a draft letter to Ann Stricklin.

Commissioner Anderson moved to allow a supplement to the Clerk and Recorder's budget in the amount of \$32,000 for back scanning. The funds were approved for the 2003 budget and were not spent. They are to be moved to the 2004 budget.

The motion passed unanimously.

Ms. Underbrink Curran stated that she received a request from the Fair Board for the County to renew its advertisement in the Fair book.

County Attorney DiCola stated that he is working on the snowplow case. The County will pay Ms. Babcock 50 percent of the cost of repairing her vehicle.

Mr. DiCola stated that State Farm is handling the case with regard to Chris Mullinex.

Mr. DiCola received a call from Verizon regarding its Special Use Permit.

Mr. DiCola stated that the Schmaltzes filed an Answer last Wednesday.

CSBG Application

The public hearing scheduled to begin at 9:55 a.m. was called to order by Chairman Dailey at 9:55 a.m.

Public Health Nurse, Brene Belew-Ladue, stated that Grand County will be the administrator for the CSBG FY

2004 - 2005 block grant.

Grand County will receive \$11,290 from the grant, which will be distributed:

\$3,668 New program will provide interpreter services for WIC and prenatal
\$1,942 Exercise program for seniors (Grand County Council on Aging)
\$1,465 Home delivered meals (Grand County Council on Aging)
\$3,000 Mountain Family Center (emergency food supplies)
\$1,215 Exercise program for seniors (Cliffview Assisted Living Center)

The Health Advisory Committee supports the split of the funds.

Commissioner Newberry moved to approve the CSBG FY 2004 - 2005 and authorize the Chairman to sign.

The motion passed unanimously.

Commissioner Newberry moved to close the public hearing.

The motion passed unanimously.

Finance Director

Finance Director, Denise Harvey, presented the Warrant Register and Expenditure List to be paid on February 4, 2004, for vendor payments. The list for this period was verified by the Finance Director for the Board's approval.

Commissioner Newberry moved to approve and sign the warrants to be paid on February 4, 2004.

The motion passed unanimously.

Ms. Harvey presented the Board with the most recent Highway Users Tax report through November 2003.

Ms. Harvey stated that, in the last report, the EMS revenue was overstated by \$1,000. It has since been corrected.

Waterside West - Approved As-Built Plat, Lot E

The following is all or part of staff's Certificate of Recommendation to the Board of County Commissioners as presented at the meeting on February 3, 2004

APPLICANT: Cygnet Land Group, LLC, represented by Lisa Ashbach

RE: Waterside West – Approved As Built, Bldg. E (Lot 5)

LOCATION: Bldg. E (Lot 5), a tract of land being a part of W1/2 NW1/4 of Section 20, Township 1 South, Range 75 West of the 6th P.M., Grand County, Colorado

STAFF CONTACT: Debra Campbell

REQUEST: The Applicant is requesting approval of an 'as-built' plat of Bldg. E, (Lot 5) Lakeview at Waterside West Condominiums. This parcel, a 26,123 sf. Ft (0.599 acre), contains 23 condominiums. Both covered parking (12 spaces) and surface parking (26 spaces) are provided.

Cygnat Land Group, LLC (the "Applicant") has been involved with development of the Waterside Subdivision since the late 1990's. They have been excellent developer, providing a professional approach to land development, quality submittals as part of the approval process, and construction of a high quality development product. The Waterside development is located east of Wapiti Road Meadows, west of Winter Park Ranch and south of Ptarmigan Subdivision. It is immediately adjacent to the Town of Fraser and across County Road 804 from the Safeway Center. The main access for Waterside West will be South Wapiti Drive in the Town of Fraser.

The overall development was sequenced through two plat approvals. First, the Grand County Board of County Commissioners approved the Waterside Final plat (recorded # 99009726, September 14, 1999). This plat identified two project components to be constructed on two blocks. Block 1, The Ridge at Waterside, consists of a 5.025 acre parcel and contains 28 townhomes. Lot 2, an 11.605 acre parcel, was to be developed at a future date as a condominium project. The Ridge at Waterside is complete; all units have been sold, and are under private ownership.

Development of Block 2, the Waterside West condominium project, was approval by the Grand County Board of County Commissioners in July 3, 2000 (Resolution 2000-7-2). As approved, it was to complete, at build out, 128 condominiums on six Lots (Nos.1-6). The Final Plat (recording # 2000-006135) was approved based on the recommendations of the Grand County Planning Director, and the submittals he provided. Concurrent to approval of the final plat, the Applicant entered into a Subdivision Improvement Agreement for \$665,170 and a water quality agreement for the Waterside West subdivision.

In January 2004, the Applicant approach Staff to initiate the approval for the 'as built Lot E'. Bldg E is also referred to as Lot 5 on the Waterside West Final Plat. According to the Applicant, the process requested was the third request to approve an 'as built plat' at the Waterside West development. Upon review of the request, it was evident that there had been departure from the normal Grand County Subdivision process. It also was evident, that this was not the first 'as built plat' that Staff had recommended to the Grand County Board of County Commissioners for approval. This was the third 'as built' of a Waterside West Lot to be reviewed and approved; the following lots had been approved:

As Built Bldg. A: Renamed from Final Plat 2000-006135, Lot 1: 21 units (#2002-12-10)

Built Bldg. C: Renamed from Final Plat 2000-006135, Lot 3), 20 units (#2002-8-8)

It is important to note, that an as-built plat is not a final plat under the county's subdivision regulations. An as-built is merely a reflection of 'what was built' in support of a final plat, where a building footprint, and supporting details, typically depicts the interior design (bedrooms, bathrooms), and site amenities (drainage, parking, etc.). In the case of Waterside West, was no 'building footprint on the Final Plat.

COMPLIANCE WITH GRAND COUNTY SUBDIVISION REGULATIONS

Upon review of the Waterside West Final Plat (Recording 2000-006135) staff has determined that in actuality, the Applicant represented the six building 'Lots' as single, or linear lots for multi-family use. The linear lot development process is covered under Chapter 4 of the Grand County Subdivision Regulations.

Normally, after approval of the linear lots, the subdivider further subdivides each lot, would follow Grand County Subdivision Regulations in Chapter 7. Compliance with these regulations includes a process for approval of a sketch, preliminary plat and final plat for the single lots prior to construction. This allows review of the proposed design for each lot, to ensure its integration with the remainder of the site, and to confirm that all specific requirements (e.g. open space, parking, etc.) are met. This approach was a significant deviation of the current subdivision regulations. It is important to note that the Applicant was merely following the Waterside West Final Plat requirements recommended by Grand County Planning (#2000-006135). The Applicant, through Final Plat Note 4, believed that they were in compliance with Grand County regulations.

Note 4: Waterside West has been platted into six (6) separate lots. Each lot may be further subdivision and re-subdivided to reflect as-built conditions of improved construed thereon in accordance with applicable Grand Count Subdivision Regulations. Upon any such subdivision or re-subdivision of a Lot to reflect as- built conditions, and so long as such as-built conditions are in "substantial compliance" with the design concept reflected on the accompanying plat, the Owner of a Lot shall only be required to prepare and submit for approval an as-built plat for the Lot, but shall not otherwise be required to satisfy the other subdivision platting requirements set forth in Grand Count Subdivision Regulations Sections 7.1, 7.2 or 7.3. If, however as built conditions reflect significant noncompliance with the design concept reflected on the accompanying plat, the Owner of a Lot shall be required to process an Amended Final Plat for that Lot in accompanied with all applicable Grand County Subdivision Regulations. For purposes of this Plat Note, as-built conditions on a particular lot shall be deemed to be "in substantial compliance "with the design concept reflected on the accompanying plat if either the as-built foundation footprint of the constructed building is located at or within the Maximum Building Foundation Boundary of that Lot as depicted on Sheet 3 of the accompanying plat and the as-built number of units constructed on that Lot are equal to or less than the number of units permitted to be constructed on the lot as specified on the accompanying plat, or (b) no portion of the as-built foundation footprint of the constructed building is located more than five (5) feet outside of the Maximum Building Foundation Boundary for that Lot, but is still located within the exterior boundaries of the Lot, and the as-built number of units constructed on the Lot are equal to or less than the number of units permitted to be constructed on the Lot as specified on the accompanying plat.

The Applicant's initiated construction of the first unit, Lot C, and upon completion requested approval of the as built plat for Lot C (Resolution 2001-8-8). The same process was used for the approval of the as built plat A (Resolution 2002-12-10). The Applicant has paid water quality fees on all units constructed on Lots A and C. A comparison of the approved plat and as built conditions reflects a slight variation in numbers.

Lot #/Alpha # Units

Final Plat

Units

As Built Total Parking

Final Plat Total Parking

As Built

1 / A 24 21 36 40

2 / B Has not been constructed 22 Has not been constructed

3 / C 24 20 33 38

4 / D Has not been started 22 Has not been constructed

5 / E 22 23 28 38

6 / F Has not been constructed 36 Has not been constructed

Several other items have been discovered as a result of review of the application to approve the 'as built' for Lot E.

* The Amended Subdivision Improvements Agreement (SIA), signed July 12, 2001 is incomplete, and does not conform to Grand County standard SIA standards. In particular, it does not contain the normal elements related to services to each building. Also, it has expired.

* The Original Letter of Credit has been reduced without the appropriate inspections (e.g. East Grand Fire District). It also has allowed for partial releases for completed work; this procedure is not in compliance with Grand County regulations.

* One more unit was constructed on Lot E than was approved. The Waterside West Final Plat approved 22 units; the as built submitted by the Applicant confirms that 23 units were construct.

The Applicant immediately met with Staff, when these inconsistencies were first identified. They assisted staff in understanding the project's background, and provided details on the actions and sequence of events related to the approval process. The applicant has made every effort to resubmit the corrected documents knowing that an expired Subdivision Improvements Agreement and Letter of Credit violated Grand County Subdivision regulations,

The Applicant has been informed that development of the remaining lots must follow the requirements of Chapter 7, Grand County Subdivision Regulations. If acceptable to the Grand County Board of County Commissioners, Staff believes that processing a preliminary and final plat simultaneously would be appropriate due to the work completed on the site, as well as the Grand County Planning Commission understanding and approving the density.

RECOMMENDATIONS:

Staff recommends to the Grand County Board of County Commissioners that they approve 'as-built' plat of Lot E, Lakeview at Waterside West Condominiums based on the following conditions:

1. A second amended Subdivision Improvements Agreement be presented at the February 3, 2004 BOCC meeting that would identify that all subdivision improvements identified under the original agreement be completed and accepted by July 21, 2004.
2. The Applicant and Grand County will enter into a new subdivision improvements agreement and water quality agreement to cover the remaining multi family development on lots B, D and F.

3. That the Applicant arrange to meet with Grand County Planning staff to establish a plan to proceed with the development of the three remaining lots, in compliance with Grand County Subdivisions regulations. This will include resubmitted to both the Planning Commission and the Board of county Commissioners, following requirements of Chapter 7.

County Attorney DiCola stated that the Board of Commissioners approved a linear plat. Ms. Ashbach worked out something with the prior Planning staff which allowed her to bring in only as-builts for the condominiums when they were built and not go through the planning process with regard to those condominiums.

Mr. DiCola stated that now Ms. Ashbach is bringing in an as-built that has greater density. The County could require her to follow all of the Subdivision Regulations with this as-built plat. The quid pro quo is that the staff recommends approving the as-built and recommends that the Board direct the staff to apply the Subdivision Regulations to the remaining plats through the stream-lined process. The developer will only have to go to the Planning Commission and to the Board for the preliminary and final plat processes. Staff recommends that a new Subdivision Improvements Agreement be entered into.

Ms. Ashbach stated that she believes she has the authority to act on behalf of the owner.

Ms. Ashbach stated that she has been working on this subdivision for a long time. For the past 4 ½ years, Cygnet Land Group has done exactly what it said it would do at the Waterside Subdivision. The developer has endeavored to work with County officials and staff in a positive environment and with mutual respect at all times. Following another meeting this morning, Ms. Ashbach stated that she welcomes the opportunity to review the documentation once again with the County's staff and looks forward to seeing the Board again in the near future.

Ms. Ashbach stated that there are factual misrepresentations in staff's Certificate of Recommendation.

Ms. Ashbach stated that Waterside was approved with plat note 4 as the original concept for the development of the subdivision. The developer was to be given some flexibility by platting in the manner it was. Ms. Ashbach stated that she does not understand why the developer is being asked to come back in, and she does not understand what the error is that has been identified. The project has been successful because of the flexibility the developer had.

Ms. Ashbach stated that she is willing to move forward with staff's recommendations. She noted that she is not happy, but she will accept what has been proposed.

Ms. Ashbach stated that she has closings starting Friday. Jerry Ashbach stated that the developer is ready to accept what has been given to them by County staff.

Ms. Underbrink Curran stated that the developer was informed that staff only makes recommendations. The Board makes the final decision.

Commissioner Anderson stated that, because the developer is willing to accept the recommendations, the Board should accept staff's recommendations.

Commissioner Newberry asked if there was a way the County could have caught this. Mr. DiCola stated that there should have been a plat. The Board is not seeing a design. The Board approved a plat of lots. A plat of a condominium project has not been approved by the Board. The condominium portions of these projects have not been approved by a resolution of the Board.

Generally, the Board would approve the condominium plat, and then the Board would approve the as-builts.

Mr. DiCola stated that the Board is meeting the developer more than halfway. The Board will see a preliminary and a final plat in one stage.

Ms. Underbrink Curran stated that the releases were inappropriate based on the County's rules. The developer did nothing inappropriate or wrong. It was incorrectly done by the County's staff.

Commissioner Newberry moved to approve the as-built of Lakeview at Waterside West Condominiums, Building E, Lot 5 with staff's recommendations and authorize the Chairman to sign the final plat Mylar which is not to be recorded by the County Attorney until all the other supporting documents have been signed and a resolution has been enacted.

The motion passed unanimously.

Grand County Surveying (Wetlands and Biodiversity)

The public hearing scheduled to begin at 10:30 a.m. was called to order by Chairman Dailey at 10:45 a.m.

Denise Culver and Lee Grunau, of the Colorado Natural Heritage Program, appeared before the Board.

Ms. Culver stated that her organization considers biological assets as the plants, animals, and natural plant communities found in the County. The mission of the Colorado Natural Heritage Program (CNHP) is to contribute to the scientific foundation in Colorado and its biological wealth.

Who is CNHP:

- Non-profit organization

- Not political

- Scientific advisory program

- Affiliated with the College of Natural Resources at Colorado State University

- Speciality is tracking the location and status of rare, imperiled, and sensitive plants, animals, and plant communities

- Organization of ecologists, botanists, zoologists, planners, and computer experts who use a science-based approach to assess the quality and quantity of the assets throughout Colorado.

In the past, the organization has assisted federal, state, land governments, land managers, non-profit organizations, and landowners in meeting the goals of protecting and preserving communities within one's jurisdiction.

The CNHP is part of an international network of biological diversity data centers.

CNHP can offer:

- Primary data base of over 12,000 occurrences of rare and imperiled plants, animals, and plant communities
- Over 500 mapped potential conservation areas
- Staff with biological expertise
- On the ground biological assessments
- Monitoring and research

Ms. Culver stated that the Board may wonder why the County should have this survey. She identified the reasons as:

- Preserve the landowners' choices
- Be a proactive guide toward decisions on developments away from less biologically sensitive areas
- Assist landowners with tax-saving choices
- Open up opportunities for funding
- Enhance human quality of life by conserving local natural treasures and extraordinary places
- Maintain the natural character of the community
- Preserve beauty
- Cause areas to prosper by increasing land values of properties adjacent to natural opens spaces
- Identify land use patterns compatible with protecting sensitive habitats

To assist in biological diversity conservation efforts, CNHP scientists strive to answer questions such as:

1. What species and ecological communities exist in the area of interest?
2. Which are at greatest risk of extinction or are otherwise significant from a conservation perspective?
3. What are their biological and ecological characteristics, and where precisely are these priority species or communities found?
4. What is their condition at these locations, and what processes or activities are sustaining or threatening them?
5. Where are the most important sites to protect?
6. Who owns or manages those places deemed most important to protect, and what is threatening those places?
7. What actions are needed for the protection of those sites and the significant elements of biological diversity they contain?
8. How can we measure our progress toward conservation goals?

It is the policy of CNHP and CSU to get written permission to access any property. Before a foot is set on anyone's property, the organization has a form that must be completed by the landowner.

The two biggest federal regulatory acts are the Endangered Species Act and the Clean Water Act.

CNHP will form an advisory council in the County. The point data will be given to landowners and land managers who have property management responsibilities.

What the County will get from the program:

Prioritized list of biodiversity areas
Digitized layer of biodiversity areas
Data that will assist in planning efforts

Ms. Culver identified:

Birds of concern in Colorado:

Bald Eagle
Boreal Owl
Sandhill Crane
Columbian Sharp-Tailed Grouse

Fish of concern in Colorado:

Roundtail Chub
Colorado River Cutthroat Trout

Amphibians of concern in Colorado:

Boreal Toad
Wood Frog

Plants of concern in Colorado:

Osterhout Milkvetch
Penland Beardtongue
Weber's Monkey Flower
Clawless Whitlow
Grays Peak Widow
Rocky Mountain Columbine

Ms. Culver needs approval from County officials for the program. CNHP will write a grant to Great Outdoors Colorado with comments from the County and will seek support from other agencies. The application is due July 2004, and the County will need to provide \$5,000 cash to receive the grant.

Commissioner Newberry asked if the presence or absence of biodiversity could be used to determine water quality. Ms. Culver replied that it can't specifically.

Mr. Sumerlin asked if the work that is done would help the County with arguments to protect minimum stream flows.

He wondered if the information would help the County prove its case that the County needs a minimum stream flow.

Ms. Culver stated that the survey may be able to support an argument with regard to specific biodiversity communities and how they are affected by minimum stream flows.

The survey will take approximately one year. The field season would be 2005, and the report would be in the end of 2005 or the start of 2006. The survey would require that the County identify the species that need to be surveyed.

Mike Crosby, of the Division of Wildlife, stated that he feels that this survey would be extremely helpful.

Ms. Underbrink Curran stated that sometimes there is a concern from landowners with regard to inventories on their land. The County tried to invite all of the federal and state land managers as well as the stockgrowers and people that may have a concern with regard to the survey.

Jim Liewer, of the Division of Wildlife, stated that, in the past, the Planning Department asked for help with the systematic approach for reviewing plats. He feels that the survey would provide good information for land management in the future.

Erich Bower, of Climax Molybdenum, stated that he came to the meeting to understand the process. His company is not opposed to better understanding what it has on its property. Mr. Bower stated that they are working to protect what is on the land. There is a hesitation in looking at the issues. He asked if there was any confidentiality with regard to the information.

Ms. Culver stated that the information is confidential. After the survey is done, the owner of the property can see the notes. The information can be marked sensitive, or the notes can be destroyed.

Those who were invited to the meeting were:

- U. S. Forest Service
- Bureau of Land Management
- Park Service
- Division of Wildlife
- Colorado State Forest Service
- All municipalities in the County
- Winter Park Ski Area
- YMCA
- Young Life
- Sol Vista
- Middle Park Stockgrowers
- Middle Park Soil Conservation District
- Board of Realtors
- Homebuilders
- CSU Cooperative Extension
- Grand Elk
- Grand County Water Quality Monitoring Network
- Winter Park West Water and Sanitation District

Denver Water Board
Headwaters Trail Alliance
NRCS

Commissioner Newberry moved that Grand County enter into an agreement with the Colorado Natural Heritage Program based on the outcome of the Great Outdoors Colorado Grant and that the County be authorized to spend an amount not to exceed \$6,500 as a matching grant.

The motion passed unanimously.

Commissioner Newberry moved to close the public hearing.

The motion passed unanimously.

Henderson Mill Quarterly Update

Kurt Keskimaki stated that 2003 was a good year for them. There were good molybdenum prices going out of the year. The molybdenum prices are the highest they have been for several years. They have not increased production since demand is not that strong.

Mr. Keskimaki stated that the organization is paying for work as it goes.

The current ore body is good for about 16 years. Last year, the company mined out about half of the total tons at the mine. They have been mining since 1976 and have spent around \$15 million for the work.

Dave Wernke stated that the crews came off 90 days without accidents or injuries. They have been able to celebrate with a safety breakfast for the last couple of months. The west side operations have gone 491 days without an injury.

The company is performing a Hazard Evaluation and Risk Assessment Program. The crews start every morning talking about safety. This helps avoid problems.

There is a procedure that is a stand down for safety. The crews stop work and look at a job. This helps particularly when there is a new task.

The company takes every job and breaks it down into the individual tasks. The tasks are then evaluated for what risk they pose.

Mr. Keskimaki stated that they are developing downstream molybdenum uses. They just built a plant south of Tucson, Arizona and are making metal powders.

Dick Propernick stated that they have been closed to anything other than mining. Recently they have had other opportunities. They have allowed use of their land for a crusher for highway work. They have also allowed for a lease of their property to explosive companies.

Mr. Keskimaki stated that Climax has been approached by the UNO group. UNO is a neutrino study group looking to put a neutrino studying facility deep within the Henderson operation. Neutrinos are massless, chargeless particles that nuclear physicists are trying to study.

Mr. Keskimaki stated that they have been approached by another group that would like to do an underground study.

UNO is trying to get enough money together to get an exploration core hole out. This would mean additional mine material.

Erich Bower stated that 65 percent of their 8,000 acres of forested land is either heavily infested or next to land that is heavily invested. Climax has logged 1,500 acres along the County Road. They are following their approved Forest Agriculture Plan with the State Forest Service. There are provisions in their Plan to increase logging activities if necessary. They will probably log 800 to 1,000 acres per year.

The Agriculture Plan calls for an agricultural-based forest from which they can harvest materials. This year, Climax will start planting trees.

Phelps Dodge has finally turned a profit on a global basis. Cooper prices have gone up substantially since September. The prices have gone from \$.80 to around \$1.15.

There will be a pipeline project to replace the mill water return line at the mill site. They will be replacing a steel 36-inch line with a plastic HDPE 26-inch diameter line and will cross County Road 3 at an alternative location. Mr. Keskimaki stated that he understands that Ms. Underbrink Curran believes that Climax will need a 1041 Permit.

Ms. Underbrink Curran asked if Climax was involved in the County's Emergency Management Planning. Mr. Bower stated that he has been involved with the EMS Director. Ms. Underbrink Curran stated that Climax may want to be involved more directly.

Ms. Underbrink Curran stated that the County is hosting a multigenerational training for supervisors in March. She will make sure that Climax gets the information.

Chairman Dailey stated that he recently attended a meeting with regard to biomass. There is an individual that would like to look into a biomass plant. Chairman Dailey would like to work something out with Henderson regarding a biomass plant.

The Sheriff has provided some review of security at the mine and mill. There are no ambulances at the site.

Commissioner Newberry asked if there was a way to work with Climax with regard to water storage. Mr. Keskimaki stated that the mines are usually caved in. Underground storage may be a good use of the mines.

Temporary Liquor License Permit for a License Transfer from Silvertips Chophouse LLC to J.R.'s Chophouse

Steve Marquez and Georgia Noriyuki appeared before the Board with regard to a transfer of ownership of the

liquor license from Silvertips Chophouse to J.R.'s Chophouse.

County Clerk and Recorder, Sara Rosene, stated that generally the ownership of a liquor license is transferred when there is a valid license in place. Before the transfer process is complete, the County can issue a temporary permit.

The current owner of the license is Silvertips Chophouse LLC, which is Steve Marquez. Ms. Rosene stated that she is concerned about issuing a temporary license to someone when the current license is not valid. The current owner does not have a valid lease on the property.

Mr. Marquez's license expires on February 5, 2004.

Ms. Noriyuki stated that Mr. Waller, J.R.'s Chophouse LLC, contracted with Mr. Marquez to buy the business. They entered into that agreement last fall. Since that time, they have been in transition. Procedurally they are not getting the transfer correct. Eventually one LLC will sell to the other. There will be a transfer application made. Ms. Noriyuki stated that there is no reason for Mr. Waller and Mr. Marquez to do this anyway but the right way. They simply have not done the processes properly.

Commissioner Anderson asked why Mr. Marquez does not have control of the premises. Ms. Rosene stated that Mr. Waller has a current lease on the property. Because Mr. Marquez's license expires on Thursday, February 5, 2004, there is a concern for getting this done in a timely manner.

Mr. DiCola stated that Ms. Noriyuki needs to get the paperwork in order with the County Clerk and Recorder.

Ms. Rosene stated that it appears that transactions have taken place on this license in violation of the law.

State Liquor Investigator, Leo Bellio, stated that he spoke with Steve Marquez yesterday. Mr. Marquez informed Mr. Bellio that he has no intention of renewing the license. The Department of Revenue sends out renewal applications 90 days before the license expires. There has to be a valid license in order to transfer the ownership and issue a temporary license. Mr. Bellio stated that Mr. Marquez does not have control of the premises.

Ms. Noriyuki stated that Mr. Waller, the applicant, would like to have the opportunity to get the paperwork in order and have the Board look at it.

Mr. Bellio stated that he received information from a distributor stating that they believed Mr. Marquez did not have control of the premises. On December 19, 2003, Mr. Bellio went to the establishment to find out who was operating the business. The business was turned over by Contract on November 21, 2003, to Mr. Waller.

Tickets were written to Mr. Marquez and Mr. Waller because the applicant was selling liquor without a license. A case is pending in Grand County District Court.

Mr. Bellio stated that the State Liquor Enforcement Office has a policy that a liquor license will not be renewed for anyone owing over \$1,000 in taxes. Mr. Marquez owes more than \$1,000 in taxes.

Mr. Bellio stated that it appears that Mr. Waller is operating the establishment without a license.

County Clerk and Recorder Rosene recommended that the Board refuse to issue the temporary license to J.R.'s Chophouse.

Mr. DiCola stated that the Board may want to let Ms. Noriyuki get the paperwork in order and then hear the temporary license request before the existing license expires.

Ms. Underbrink Curran asked if the Clerk and Recorder would accept the paperwork if it was reworked. Ms. Rosene stated that, based on what she knows now, she would not.

Undersheriff Trainor stated that he spoke with Mr. Waller approximately a week before the ticket was issued and told him what he needed to do to be in compliance with the law. At that time, the agreement to transfer the property had taken place, but Mr. Waller did not volunteer that information. Mr. Trainor stated that the Sheriff's Office went back to the property a week later, and Mr. Waller identified himself as the owner of the property. Since that time, Mr. Waller continued to keep up the sign identifying the establishment as J.R.'s Chophouse and continued to operate the establishment as J. R.'s Chophouse. Undersheriff Trainor stated that it appeared that Mr. Waller did not care about what needed to be done.

Undersheriff Trainor stated that he will not make a recommendation, but he would urge caution to the Board since Mr. Waller has so little regard for authority.

Ms. Noriyuki stated that the advertisement for J.R.'s Chophouse was run in the newspaper in error. Mr. Waller stated that the sign is coming down today.

Mr. Bellio stated that there was a time when temporary licenses were not allowed. Temporaries were allowed in order to accommodate applicants that were trying to comply with the laws.

Mr. Marquez stated that he purchased the license from Ray Flores, and he operated under Mr. Flores's license. He did not know that he was doing anything wrong with this transfer to Mr. Waller.

Sally Scott stated that she works part-time for Mr. Marquez. She stated that Mr. Marquez provides employee housing. If the bar is closed, people will lose their jobs and their housing.

Commissioner Newberry stated that he would be willing to review the license during a special Board meeting. He stated that, if there is not a valid license at this time, the County cannot go against the law and issue a temporary license.

The Board will hold a special meeting on Thursday, February 5, 2004, at 1:45 p.m. in the Board's meeting room.

Board Business

Commissioner Newberry moved to authorize the Chairman to sign the final plat Mylar for the vacation of a portion of County Road 5, known as Murphy Curve, and allows for the existing utility easements to be retained.

The motion passed unanimously.

Commissioner Anderson moved to approve Resolution No. 2004-2-1, A Resolution rescinding a Combination Deed recorded at Reception No. 2000-011226 of the Grand County records that combined Lots 6 and 7, Block 2, Villa Harbor Subdivision, located in a portion of Section 6, Township 3 North, Range 75 West of the 6th P.M., County of Grand, State of Colorado.

The motion passed unanimously.

Commissioner Newberry moved to approve Resolution No. 2004-2-2, A Resolution approving an as-built plat of Lakeview at Waterside West Condominiums Building E As-Built Plat, Residential Units 101, 102, 103, 104, 105, 106, 108, 109, 110, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 301, 302, 303, and 304 Building E and Garage Units A, B, C, D, E, F, G, H, I, J, K, and L Building E, all located within Lot 5, Waterside West, Supplement No. 3 to Final Plat of Waterside West, a replat of Waterside Subdivision, Block 2, Recorded at Reception No. 2000-006135, located in Section 20, Township 1 South, Range 75 West of the 6th P.M., County of Grand, State of Colorado and authorize to the Chairman to sign the Subdivision Improvements Agreement.

The motion passed unanimously.

Commissioner Newberry moved to authorize the Chairman to sign the Cafeteria Plan and Cafeteria Plan Services Agreement with Employee Benefit Specialists.

The motion passed unanimously.

Commissioner Newberry moved to authorize the Chairman to sign the Participating Agreement between Grand County and various agencies for Noxious Weed Control.

The motion passed unanimously.

There being no further business to come before the Board, the regular meeting was adjourned at 2:25 p.m. Minutes were taken and prepared by Sara L. Rosene, County Clerk and Recorder. Approved this _____ day of March 2004.

Duane E. Dailey, Chairman

ATTEST:

Sara L. Rosene
Grand County Clerk and Recorder