

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

January 3, 2023

Present: Commissioner Richard D. Cimino, Commissioner District 1
Commissioner Merrit S. Linke, Commissioner District 2
Commissioner Randal F. George, Commissioner District 3

Also Present: County Clerk and Recorder Sara L. Rosene
County Manager Ed Moyer
Assistant County Manager Micah Benson
County Attorney Maxine LaBarre-Krostue

Those present recited the Pledge of Allegiance.

General Public Comments

Commissioner George moved to approve Resolution No. 2023-1-1, "ACTIONS NECESSARY TO BEGIN THE WORK FOR GRAND COUNTY, FOR THE YEAR 2023"

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-2, "APPOINTING THE COUNTY MANAGER TO SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO"

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-3, "SETTING FORTH CERTAIN STATUTORY REQUIREMENTS BY THE BOARD, TO-WIT, ACTIONS CONCERNING MEETING DATES; BUILDING CLOSURE AND MEETING SCHEDULES FOR THE YEAR OF 2023, LEGAL NEWSPAPER AND PLACE OF POSTING MEETING NOTICES"

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-4, "AUTHORIZING THE COUNTY ASSESSOR REVIEW FOR ABATEMENT OR REFUND AND TO SETTLE BY WRITTEN MUTUAL AGREEMENT ANY SUCH PETITION FOR ABATEMENT OR REFUND IN AN AMOUNT OF FIVE THOUSAND DOLLARS OR LESS PER TRACT, PARCEL OR LOT OF LAND OR PER SCHEDULE OF PERSONAL PROPERTY"

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-5, "APPROVING THE STANDARD MILEAGE RATE OF REIMBURSEMENT FOR 2023, SETTING THE MAXIMUM EMPLOYEE DAILY ALLOWANCE FOR MEALS AND INCIDENTAL EXPENSES FOR 2023, AND SETTING THE MONTHLY REIMBURSEMENT AMOUNT FOR USE OF PERSONAL CELL PHONES FOR 2023.

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-6, "CONTINUING THE POSITION OF COUNTY ATTORNEY TO SERVE AT THE PLEASURE OF THE BOARD"

The motion passed unanimously.

Commissioner George moved to approve Resolution No. 2023-1-7, "APPROVING THE SUBMITTAL OF THE 2022 HIGHWAY USER TAX FUND REPORT TO THE STATE DEPARTMENT OF HIGHWAYS"

The motion passed unanimously.

Commissioner Linke moved to approve the minutes of the Regular Board of Commissioner's meeting of December 6, 2022 as presented.

The motion passed unanimously.

Commissioner Linke moved to approve the minutes of the Regular Board of Commissioner's meeting of December 12, 2022 as presented.

The motion passed unanimously.

Public Comments

Daniella Gosselova provided comments on immigration.

Finance

Commissioner George moved to approve Resolution No. 2023-1-8, “A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO PROVIDING FOR A SUPPLEMENTAL BUDGET APPROPRIATION FOR THE GRAND COUNTY HOUSING AUTHORITY FUND OF GRAND COUNTY FOR FISCAL YEAR 2022 AND AMENDING RESOLUTION 2022HA 12-12 TO CORRECTLY REFERENCE RESOLUTION 2021 HA-12-2, NOT RESOLUTION 2022HA 12-2”

The motion passed unanimously.

Commissioner George moved to approve the Chair to sign the Tax Exemption Certificate Multi-Jurisdiction for 2023.

The motion passed unanimously.

Commissioner Linke moved to authorize the Chair to sign the Request for Taxpayer Identification Number and Certification.

The motion passed unanimously.

Finance Director Curtis Lange presented the Warrant Register and Expenditure List to be paid on January 4, 2023, for vendor payments. The list for this period was verified for the Board’s approval.

Commissioner George moved to approve the checks presented on January 3, 2023, for payment on January 4, 2023, for the Grand County Housing Authority.

The motion passed unanimously.

Commissioner George moved to approve the vouchers presented on January 3, 2023, for payment on January 4, 2023, for the Grand County Department of Human Services.

The motion passed unanimously.

Commissioner George moved to approve wire payment and vouchers presented on January 3, 2023 for payment on January 4, 2023.

The motion passed unanimously.

Departmental Contracts, Comments, Issues

Commissioner Linke moved to approve the software grant agreement for the Coroner.

The motion passed unanimously.

Commissioner Linke moved to authorize the Board to sign the Colorado Department of Transportation HUFT Report for 2023 as presented.

The motion passed unanimously.

Grand County ordered diesel on December 21, 2022. There is a shortage.

Commissioner Linke moved to approve the renewal of the Hotel and Restaurant Liquor License for Latigo Corporation doing business as Latigo Ranch as presented.

Commissioner Linke aye

Commissioner George recused

Commissioner Cimino aye

The motion passed.

Commissioner Linke moved to waive Requirements of Section 4.04: “Elected Employment After Terms” of the Grand County Personnel Manual with regard to Sara Rosene.

The motion passed unanimously.

Commissioner George moved to approve the Lead Testing in Schools and Child Care Facilities: Phase 2 – School Sampling and Testing Statement of Work.

The motion passed unanimously.

Commissioner Linke moved to approve out-of-state travel for Robert Good and Austin Wingate February 4-11 and April 1 – 8, 2023 for the Ambulance Service Manager Program as presented.

The motion passed unanimously.

EMS Chief Good stated that from December 30 to December 31, 2022 (48 hours), the Grand County EMS responded to 31 calls.

Commissioner Linke moved to approve out-of-state travel for multiple trips for the Sheriff Schroetlin for the first half of 2023 (in amount of approximately \$4,000) with regard to the Sheriff's participation in the Western States Sheriffs Association.

The motion passed unanimously.

Commissioner Linke moved to approve out-of-state travel for employees in the Sheriff's Office: Kelly Oxley and Erin Opsahl from March 4 to March 10, 2023 with regard to the Sheriff's participation in the Western States Sheriffs Association.

The motion passed unanimously.

Commissioner Linke moved to approve Amendment #1 to Services Contract dated April 5, 2022 between Grand County Board of County Commissioners and Corvinus Group, LLC as presented.

The motion passed unanimously.

Commissioner George moved to approve the Grand County-OovOS-STR-PI Work Order to allow payment through the Statewide Internet Portal Authority.

The motion passed unanimously.

Manager and Attorney Items

Mr. Moyer stated that with regard to the secure transportation services from House Bill 21-1085, staff met and that is an agenda item today at 10:00 a.m.

Mr. Moyer reported that Freeport McMoRan has been working with staff over the last year to submit a 1041 Permit as part of their post closure. Freeport intends to construct a water treatment facility on site which will be required as part of its closure.

With regard to County Road 522, Mr. Moyer stated there was a delay due to work on the legal descriptions.

Mr. Moyer report that the property owner for the Department of Human Services Building reached out to Mr. Moyer requesting that the County close early on the purchase of building. In the current lease agreement, the closing date is by July 1, 2023. The money was budgeted to be paid at the end of June. The property owner agreed to discount the purchase price based on the potential interest.

Consent Agenda

Resolution No. 2022-12-16, "APPROVING APPOINTMENTS TO THE GRAND COUNTY TOURISM BOARD"

Resolution No. 2022-12-17, "DESIGNATING PROXIES TO THE 2023 COLORADO COUNTIES, INC. STEERING COMMITTEES"

Resolution No. 2022-12-18, "APPROVING APPOINTMENTS TO THE NORTHWEST COLORADO COUNCIL OF GOVERNMENTS ECONOMIC DEVELOPMENT DISTRICT BOARD"

Resolution No. 2022-12-19, "APPROVING APPOINTMENTS TO THE GRAND COUNTY PLANNING COMMISSION"

Resolution No. 2022-12-20, "AMENDING RESOLUTION NO. 2022-4-4 APPROVING A RETAIL MARIJUANA CULTIVATION FACILITY LICENSE TO GREAT DIVIDE LETTUCE COLONY, INC. LOCATED AT 1851 COUNTY RD 60, UNIT C, GRANBY WITH CONDITIONS"

Resolution No. 2022-12-21, "APPROVING AN AMENDMENT TO THE MIDDLE PARK FAIR AND RODEO BOARD BYLAWS AND RE-ADOPTING SAID BYLAWS"

Resolution No. 2022-12-22, "APPROVING REAPPOINTMENTS TO THE GRAND COUNTY AIRPORT ADVISORY BOARD"

Resolution No. 2022-12-23, "APPROVING APPOINTMENTS TO THE MIDDLE PARK FAIR AND RODEO BOARD RESOLUTION NO. 2022-12-24 - APPROVING APPOINTMENTS TO THE GRAND COUNTY BOARD OF ADJUSTMENT"

Commissioner Linke moved to approve the Consent Agenda.
The motion passed unanimously.

Board Business / Correspondence / Calendar

Jan 2 Winter Park Transit Advisory Committee Meeting at Winter Park Town Hall, 4 to 5 pm
Jan 4 Rural Health Network Board meeting
Jan 4 Tour at Freeport McMoRan
Jan 5 CCI meeting regarding Right-of-First refusal Board meeting at 4:00 pm
Jan 6 Colorado Counties, Inc. (CCI) Human Services Legislative Lunch at History Colorado Center in Denver, starting at 12:30 pm
Jan 9 Mayors / Managers / Commissioners Meeting with Town of Fraser as Host, 10 am to noon.
Lunch between the three board members director after the meeting
Jan 9 NACO Ag meeting on Monday at noon
Jan 11 Department Head Meeting in the Grand County Boardroom, Top Floor, Administrative Building, Hot Sulphur Springs, starting at 8 am
Jan 11 Tour at Freeport McMoRan
Jan 12 Utility Coordinating Committee Meeting (TENTATIVE) at Java Lava Café, in Granby, starting at 7:30 am
Jan 16 County Offices CLOSED for Martin Luther King Birthday
Jan 18 GC BOCC Bi-Annual Update to the Town of Kremmling, at Kremmling Town Hall, starting at 6 pm
Jan 19 National Association of Counties (NACo) West Region Regular Conference Call, starting at 2 pm
Jan 19 Peak Health Alliance Executive Meeting via Zoom, starting at 2 pm
Jan 20 Health Insurance Affordability Enterprise Board Meeting via Zoom, 8 to 10 am
Jan 25 Legislator Monthly Breakfast Meeting via Zoom, starting at 8 am
Jan 25 Peak Health Alliance Board Meeting via Zoom, 2 to 3 pm
Jan 26-27 Colorado Counties, Inc. (CCI) Steering Committee Meetings, Virtual and in Denver, 9 am to 3:30 pm
Jan 26 GC Wildfire Council Quarterly Stakeholder Meeting at Grand Fire in Granby, Starting at Noon
Jan 27 CCI Legislative Breakfast at the Colorado Capitol Building, starting at 7:30 am
Jan 31 Fifth Tuesday – No Regular Meeting of the Grand County Board of Commissioners per January Resolution and Notice

Secure Transport Policy Discussion and Adoption

County Manager Ed Moyer stated as directed, Sheriff Schroetlin, County Attorney LaBarre-Krostue, Human Services Director Deb Ruttenberg, Public Health Directory Abbie Baker and Mr. Moyer met with regard to Secure Transportation Policy.

There are two parts on this are

1. Administrative. Making sure there is a complete applications, forms and documents are submitted, and vehicle inspections complete.
2. Licensure and permits issued.

Commissioner Linke moved to approve Resolution No. 2023-1-9, “ADOPTING A GRAND COUNTY POLICY AND PROCEDURES REGARDING SECURE TRANSPORTATION SERVICES”

The cost of the license is \$25

The cost per vehicle is \$10

The motion passed unanimously.

Colorado General Assembly

Commissioner Linke moved to approve the letters to the Colorado General Assembly to Representative Julie McCluskie and Senator Dylan Roberts with regard to the 2023 legislative priorities and issues from departments: County Assessor, County Clerk and Recorder, Memo from Adams County regarding proposed changes to CRS 30-10-709, Grand County Department of Human Services, and Grand County Emergency Medical Services.

The motion passed unanimously.

The Board presented Grand County’s interest in this legislative session and future legislative sessions. The Board letter to Senator Dylan Roberts and Representative Julie McCluskie follows:

State Highways in Grand County need help! Please consider improvements for CDOT. We understand ballot initiatives have been tried and failed in recent years, and that SB21-260 was passed and signed into law to try to improve CDOT funding. CDOT likely needs significant leeway and funding assistance to improve staffing. In Grand County, US40 over Berthoud Pass is a constant struggle to maintain and keep snow plowed. Snowplows from Region 1 Berthoud Falls tum-around at the top of Berthoud Pass, leaving the west side of the pass unplowed due to staffing shortages in Region 3 Winter Park. The potholes reached a critically bad level in the spring and summer of 2022. US40 between Kremmling and Steamboat is extremely dangerous in the winter, with frequent closures. US40 over Red Dirt Hill between Tabernash and Granby experienced a particularly deadly year in 2019. Grand County has invested \$400,000 from our general fund in design work to widen US40 over Red Dirt Hill, reduce ingress points, and improve lane design to make that section of road safer. We are working with CDOT to construct these shovel-ready improvements in the next few years. US34 to Grand Lake is a problematic road with extremely high summer traffic. SH125 to Walden has experienced two summers of post-fire flooding, significant debris flows and road closures following the East Troublesome Fire in 2020. SH9 is probably our best State road, following the work done in 2016 to widen it and install wildlife barriers and transition points. And, this may be the heaviest lift of all, but County Road 1, called the Trough Road, really needs to become a State Highway again. We know CDOT is strongly opposed to any new State Highways, however, CRI experiences heavy traffic year-round. And when I-70 closes, that county road gets slammed with traffic. Many sections of the road have zero cell phone coverage, yet the Trough Road is a major regional artery. We installed new guard rails in 2019 and we installed drainage systems over the years to try to keep CRI safe. But someday that road needs to, once again, become a State highway.

Please no new unfunded mandates. We know Counties are an arm of the State, and we execute state mandates to the best of our abilities. We even perform some functions for other Counties like Human Services support to Jackson County, and Affordable Housing and Veteran Services support to Summit County, which we charge a very fair low fee. We take state mandates seriously, and we only ask that any new mandates come with sufficient funding.

Protect our water. More water is diverted out of Grand County on a percentage basis than anywhere in Colorado, and probably the country. We recognize water law, and we know our streams will forever be damaged by this greatly reduced water flow. The solution is to narrow and deepen our streams. We need significant investment to fix our streams and make them healthy again. *One community's sustainability (the Front Range) should not cause environmental damage to another community*, but that is exactly what has happened. Please help us repair our streams with significant investment to narrow and deepen our streams, including support for low-tech, process-based restoration where applicable, as well as support of any 2023 enabling legislation that does not require a water right or augmentation, but respects Colorado Water Law and supports the State Water Plan. Please also help protect water rights in the Colorado River Basin and promote a sustainable economy with recreation and agriculture on the West Slope as the State works on tough decisions and policy to address water shortages and the Colorado River Compact issues with the Lower Basin.

Protect agriculture. We are supportive of programs to protect the environment. Our tourism industry is dependent on slowing and stopping climate change. Grand County cooperated in building the largest solar farm in Grand County in 2019 with our local electrical cooperative Mountain Parks Electric. However, climate policy that harms cattle ranching and agriculture is misguided. Please ensure the Ag committee is hearing from and collaborating with Ag Producers when formulating policy, not simply telling them how to deal with issues and policies that are thrown at them.

Please protect County freedom and flexibility when it comes to the new *Statewide Land-Use Directives, including County 1041 Powers*. We recognize new Land-Use directives are a priority for the Governor and the legislature in the 2023 session. The goals are improvements in the three areas of affordable housing, the environment (including fire protection), and transportation. Grand County is active in CCI, CCAT, Club 20 and AGNC and we hope you will be open to the voice of these associations as these new land use policies are developed. Please preserve County flexibility and local control as much as possible. Further, please consider the pro-business solution to affordable housing, which is a *sensible change to construction defect laws, especially regarding condos*. You are aware condos aren't being built in Colorado; the high insurance costs because of Colorado's construction defect laws are a primary reason why, and condos would surely improve home ownership opportunities particularly in ski towns in SD8 but condos are also

an excellent route to first-time home ownership and wealth building in all of Colorado. *By the way, we have agreement from the county commissioners of Summit, Eagle and Routt that they support reasonable fixes to Colorado's construction defect laws!*

Help the Peak Health Alliance. Grand County had the most expensive health insurance rates in the State in 2017, and because of the State Re-insurance program and the Peak Health Alliance, Grand County had the lowest health insurance rates in the state in 2021 and 2022. Peak Health Alliance, through no fault of their own, lost their partner carrier when Bright Health left Colorado. 2023 will see increased rates in Grand County. As Peak Health Alliance finds a new carrier partner for 2024, we may seek your help if needed. We stand by to assist you with new ideas you have regarding health care in Colorado. We also ask your continued support of rural hospitals, especially Middle Park Health, our local rural hospital in Grand County.

Let Counties maintain local control regarding Short Term Rentals (STRs). Grand County supports improved transparency of the STR market. However, we are opposed to any new state-wide directives or policy changes regarding STRs. Our tourism economy is dependent on STRs. Counties currently have the power to control STRs as they wish. For example, Routt County prohibits STRs in unincorporated territory. Counties can implement fee-based programs that generate sufficient revenue to mitigate the effects of STRs. No new statewide solution is necessary. Protection and even expansion of County tools to control STRs tailored to each County's needs is the best policy regarding STRs.

Please consider how to fix the **lack of Insurance Industry products** equal to the **Colorado Governmental Immunity Act** amount, which is currently about \$1.2 Million. Our County Airport hangar owners, and all contractors doing work for the County are required to get insurance equal to the Colorado Governmental Immunity Act amount, \$1.2 Million. However, the insurance industry seems to offer policies at the \$1 Million level and the \$2 Million level, but nothing in between. This is very frustrating to small businesses and we get multiple complaints every year and requests to waive \$200K of coverage, putting taxpayer dollars at risk. Perhaps a legislative fix or a solution from the insurance commissioner might solve this problem and it would be very pro small business!

Support K-12 over Higher Education. The Budget Stabilization factor needs to go. Please work to continue to close the gap of what Amendment 23 was supposed to do: *keep K-12 funding equal to inflation*. Over the last 15 years, HE funding has grown twice as fast as K-12. K-12 needs to catch up.

Invest in Broadband and Cyber Security for Rural Colorado, especially in SD8. Improve network redundancy, a cut internet cable should not shut down point of sale (credit card) capability at all stores in an entire town. Overall bandwidth needs to improve, tourist communities notice slowdowns over heavy tourism weekends. Help with the last mile, many

rural residents have one or zero options of companies that offer internet service. We also need to improve cell phone coverage in dead zones, it is a public safety issue on many of our roads. We also have the following three recommendations:

Colorado Cyber Civics (Digital Citizenship)

- State Board of Education should recommend courses which cover appropriate topics to help ensure our residents are prepared to participate and defend themselves in the digital world.

Expand Colorado Cybersecurity

- Expand cybersecurity recourses and enhance local governments' cybersecurity posture.
- Legislation that funds and the goals of the Colorado HSAC Cybersecurity Advisory Committee would protect Colorado Counties.

General Concerns about H.B. 21-1110 (Law for Persons with Disabilities)

- Grand County has a plan to obtain compliance by July 1, 2024.
- Worried about the risk to other small counties and/or local entities in achieving compliance, especially those with limited or no staff (i.e. outsourced).

In conclusion, we respect the vote of the people and we look forward to working with you for the next four years. We see Grand County as the most unique of the 10 Counties in SD8. We are a huge ski county, and a huge agriculture county, and a heavily damaged county when it comes

to our environment because of water diversions and wildfires. We are also close to Denver and the Capitol Building.

Please reach out to us when you need information or perspective or testimony on bills. We will reach out to you when we seek your support. Good luck to you and your family in the 2023 session; we know it is a rough 120 days. We respect the hard work you and all Legislators put forth for Colorado.

The Board asked for consideration on legislation that create unfunded mandates.

Commissioner Linke stated that with regard to water, Grand County is the most diverted in the state and more than likely the most diverted in the country.

Commissioner Linke stated that the agriculture producers feel like they are being attacked.

Commissioner Cimino stated there will be issues with regard to 1041 powers. Commissioner Cimino noted that collective bargaining was passed and is a detriment to counties.

Clerk and Recorder Sara Rosene expressed issues with regard to driver's license changes causing issues in voter registration records.

Ingrid Karlstrom is a member of the Upper Colorado Watershed Group. Ms. Karlstrom stated that the answer to the source of the problems is hold back the water. A lot of the streams and rivers have become channelized. The water bodies are no longer flooding the ground. Beavers used to do the necessary work.

Ms. Karlstrom stated that beaver need to be relocated to do the necessary work.

Retired CPW employee Rob Firth stated that he would like to speak about wolves. Mr. Firth stated that Proposition 114 West Slope Delivery of Wolves, wolves are not an endangered species worldwide as much as they are a state specific issue.

Mr. Firth stated that the Proposition requires a West Slope reintroduction for an area south of Wyoming and east of Utah on the West Slope only. Grand and Summit County do not need to be part of the release effort as both counties have wolf packs.

The agriculture impacts from wolves is quite high. The CPW FTEs is greatly impacted with regard to the wolf reintroduction program. There is a huge budgetary issue for CPW that is not being addressed.

Citizen Daniela Gosselova stated that she has worked through the immigration system.

Ms. Gosselova expressed concerns with regard to health insurance. People who are undocumented are able to get insurance at a low cost when she is not able to get inexpensive insurance.

Representative McCluskie expressed appreciation to hear the issues raised today. The legislature will be working to address the issues that were expressed today. The focus will continue to be on the housing, healthcare, child care three legged stool. Without a doubt, water will be the centerpiece policy of the work this year.

Representative McCluskie stated that more work is needed on suppression, response and recovery with regard to wildfires. Representative McCluskie will continue to keep wildfire issues on the forefront.

Senator Roberts sees the legislator's job to work collaboratively with the county commissioners. Senator Roberts agrees with the issues expressed by Representative McCluskie. Affordable housing funding continues to be an issue that needs to be addressed. Wildfire and water are both priorities for Senator Roberts.

Senator Roberts agreed that Colorado needs to do more to protect the agriculture producers in Colorado. It is a huge part of the economy.

Senator Roberts agreed that additional funding with regard to the reintroduction of wolves is very important.

Transportation issues are a concern. Senator Roberts will advocate for transportation needs in Grand County.

Senator Roberts stated that there may be more issues with regard to criminal justice reform. Senator Roberts will be a member of the Senate Judiciary Committee and will be made aware of legislation.

Public Hearing – Dewey Special Use Permit

The public hearing continued from December 6, 2022, scheduled to begin at 1:00 p.m. was called to order by Chair Cimino at 1:02 p.m. County Attorney Maxine LaBarre-Krostue supplemented the record with the following:

- O Public Notice in the Middle Park Times dated December 7, 2022
- P Proof of Publication dated December 15, 2022
- Q Emails from staff and Heidi Shakirov dated December 14, 2022
- R Packet from Steven A. Gall dated December 22, 2022
- S Updated storage area site plan
- T Certificate of Recommendation dated January 3, 2023

PROJECT NAME: Dewey-Special Use Permit
APPLICANT: David L. & Mary T. Dewey
LOCATION: 9405 US Highway 34 | Far View Subdivision Lot 3 | PIN: 119126326004
REGULATIONS: Zoning Regulations – Section XI, Uses Permitted by Special Review...
STAFF PLANNER: Taylor Schlueter
ATTACHMENTS: Vicinity & Detail Map Site Plan CDOT Access Permit 320066
REQUEST: Approval of a Special Use Permit for the storage of boats and other marina related infrastructure

I. INTRODUCTION

David and Mary Dewey, herein referred to as the Applicant, have submitted a Special Use Permit application for the storage of boats and marina related equipment on Lot 3, Far View Subdivision. The Applicants have owned the property since 2019, via Warranty Deed recorded at Reception No. 2019006504. The proposed site for outdoor storage is located directly off US Highway 34 within approximately six miles from at least seven marinas in the Three Lakes area, making it an ideal location for the storage of boats and trailers.

A Special Use Permit requires a recommendation by the Planning Commission (“PC”) and approval by the Board of County Commissioners (“BOCC”) at a public hearing. Community Development did a courtesy notification to property owners within 500’ of the project area prior to the Planning Commission hearing on October 12, 2022. For this Board of County Commissioners public hearing, Community Development notified property owners within 500’ by certified mail, owners within 501’ to 1000’ via first class mail, and published the details of the hearing in the Middle Park Times on November 10, 2022.

This proposal is located on land within the Tourist District, and this permit is being processed under the Use Permitted by Special Review of “Commercial outdoor recreational areas and accessory facilities”, per Section VIII of the Grand County Zoning Regulations.

II. HISTORY

In 2019, a Temporary Use Permit (TUP) was requested by the owners of Beacon Landing Marina, Jim and Lisa Debevec, through a lease with the Deweys for use of this property. This Temporary Use Permit only required a hearing before the BOCC, and no hearing before the PC, because the proposal did not request any new permanent structures or improvements and was operated on only a seasonal basis.

This TUP proposal was approved by the BOCC at a hearing on September 10, 2019, with two conditions to be met prior to recording:

1. The Applicant consult with the Colorado Department of Transportation (CDOT) to address access concerns.
2. The Applicant must provide a site plan showing circulation and organization of the boat storage on the subject property.

The Applicants provided a site plan showing circulation, and as a result of the Deweys consulting with CDOT, Highway Access Permit 320066 was issued to the Deweys in June 2020.

The BOCC signed Resolution 2019-9-20, approving this TUP, and it was recorded July 23, 2020 (Reception No. 2020005894).

A September 15, 2020 BOCC hearing for a second Temporary Use Permit for the winter storage of boats, applied for by Jim Debevec on the same property, owned by the Deweys (9405 US Highway 34) was pulled from the agenda due to a concern from the owners of 9485 US Highway 34, Bryce and Patty McCallum (“the McCallums”), over the compliance status of Access Permit 320066.

The McCallums had previously used an easement (Recorded May 23, 1961 at Book 136, Page 434 of the Grand County Records) across the Dewey property to access US Highway 34. The McCallums complained that their driveway access had been blocked with a jersey barrier. Staff reviewed the conditions of Access Permit 320066, which required closing off the old driveway access, restoring the drainage ditch, removing the existing culvert, and aligning a new driveway access with one directly across the street. The new driveway access had been built (to the south of the old driveway access), however, the old access had not been removed.

The Deweys provided a new access easement to the McCallums on May 29, 2020 (Reception No. 2020003996) to allow the McCallums to access their property through the new driveway access point. This new easement failed to extend far enough to meet the location of the new driveway access point, so a second easement was filed by the Deweys on June 8, 2020 (Reception No. 2020004216), to further extend the easement that was filed on May 29 an additional 20 feet to the south.

II. STAFF ANALYSIS

CDOT Access Permit 320066 is permitted to the owners of Lot 3, Far View Subdivision, David L. and Mary T. Dewey. The Permit has received final acceptance from CDOT.

III. Staff's review of Section 11.2 (Uses Permitted by Special Review - Conditions and Guarantees) of the Grand County Zoning Regulations:

Prior to issuance of a Special Use Permit, the Planning Commission and Board of County Commissioners shall consider the following:

1. The visual, environmental, physiographic and socioeconomic characteristics of the land to be used; This land is almost entirely flat, and located on the west side of US Highway 34, approximately 0.15 miles west of Cutthroat Bay, Lake Granby. This is an ideal location for boat storage, given that the property will not impede views from US Highway 34, is flat, and situated squarely within the Three Lakes area.
2. Evaluation of the broad ecosystems, topography, soils, hydrology, geology, vegetation, wildlife, climate and unique fractures so that approved special use shall result in the least possible adverse impacts within any zoning district; This location is again very flat; it has no ditches running through, nor ponds or other water bodies. It is also relatively free of any vegetation.
3. Such uses shall serve an obvious public need; The use of boat storage serves an obvious public need in the Three Lakes area. Lake Granby is the third largest body of water contained wholly within the state of Colorado, following Blue Mesa Reservoir near Gunnison and John Martin Reservoir in Bent County. There is only one other boat storage area located around Lake Granby that has been permitted as a Use By Special Review, which is much smaller (Beacon Landing). This use will provide opportunity for boaters using Lake Granby, Shadow Mountain Reservoir, and Grand Lake to store their boats off shore.
4. Satisfactory proof shall be given that areas will be properly maintained. A condition of this Special Use Permit will be that the storage area allowed for this use shall be confined to the area depicted in the map below, and although the Applicants do not anticipate filling this area, no boat storage shall be allowed within 50 feet of any adjacent residential use.

In Staff's review of the proposed commercial outdoor storage, the following conditions shall be included:

A. Traffic and Parking Control: the site plan illustrates the storage area located along the embankment at the western edge of the property. If overflow is needed, storage shall not be closer than 50 feet to any adjacent residential uses, over 100 feet from the east property line adjacent to US 34, and at least 40 feet from the west property line adjacent to GCR 424. The site plan illustrates the approximate dimensions of the perimeter of the proposed storage area within the lot, which are:

- 100' wide on the south side
- 225' tall on the east side
- 250' wide on the north side
- 175' long on the west side

B. Public safety: The Applicants have received final acceptance from CDOT for Access Permit 320066 to access this property from US Highway 34. Permit 320066 is permitted to the owners of Lot 3, Far View Subdivision, David L. and Mary T. Dewey. Any movement of boats or trailers in and out of the site shall be done consistent with requirements provided by CDOT.

Staff has expressed concern about the length of the driveway off the highway in conjunction with the 90 degree angle turn required to get through a gate into the proposed storage area.

Trucks carrying boat trailers may have difficulty making this turn without pausing in an area where CDOT right of way could be impacted for any amount of time. ✓ A condition to be met prior to the issuance of this SUP is that the Applicants must move the location of the existing gate to a location directly across the driveway from Highway 34, approximately a minimum of 70 feet from the edge of the US Highway 34 shoulder on the west side, in order to eliminate any potential issues with safety.

1. Visual Quality: US Highway 34 is a designated National Scenic Byway. The question of requiring screening has been contemplated by Staff, and discussed with the Planning Commission. The Zoning Regulations do not

detail requirements for a special use under “Commercial outdoor recreational areas and accessory facilities”. ✓
The Permittee shall maintain the property in an orderly fashion and not allow the property to become a visual eyesore. If the storage area creates a negative visual impact, this Special Use Permit may require review by Staff and/or the Board of County Commissioners to consider requiring screening.

V. PLANNING COMMISSION RECOMMENDATION

On October 12, 2022, the Planning Commission recommended approval of this Special Use Permit, with the removal of Staff’s condition for hours of operation, and the addition of a condition that the Special Use Permit shall be valid for a period of five years after the date of approval, as opposed to Staff’s recommendation that the Special Use Permit be valid for an initial period of one year.

The concept of a screening requirement was discussed at this meeting, with Planning Commission deciding it was not necessary, based on the site plan to locate the storage area against the west side of the property, away from Highway 34, and under the sightlines of GCR 424.

IV. BOARD OF COUNTY COMMISSIONERS MEETING, DECEMBER 6, 2022 (CONTINUED)

At the Grand County Board of County Commissioners meeting on December 6, 2022, a public hearing was held on the issue of this Special Use Permit. The public hearing was continued until January 3, 2023, primarily out of legal concern that the public notice, published in the Middle Park Times on November 10, 2022, incorrectly labeled the lot subject to this SUP as Lot 4, Far View Subdivision. This proposal is for Lot 3, Far View Subdivision.

Issue was also raised over reference to Design Hourly Volume (DHV) made in the approved Access Permit 320066. When the Deweys had applied for an Access Permit from CDOT, they had originally requested in their application a Design Hour Volume (DHV) of 12. The issued Access Permit allowed for a total of six (6) DHV, five (5) of which were for a Boat/Recreational Vehicle Storage, and one (1) of which was for a Single-Family Detached Housing use (For use by the McCallums)

Staff reached out to CDOT Region 3 Access Program Manager Brian Killian and CDOT Access Program Manager Dan Roussin to learn more about what DHV means. DHV is used to design high-volume rural arterials, in this case, US Highway 34. CDOT defines DHV as The 30th highest annual traffic hourly volume reported as a percentage of AADT (Average Annual Daily Traffic).

AADT is the total volume of vehicle travel on a road for an entire year, divided by 365. This formula is used to determine required dimensions in any new construction of a permitted access point. The Dewey’s new access point was required to be built to the standards of an access point of 6 DHV. DHV does not mean that the permitted driveway access on to US Highway 34 is limited to 6 vehicles per hour.

V. STAFF RECOMMENDATION

Staff recommends approval of Dewey Special Use Permit with the following condition to be met prior to issuance of the permit:

1. The Applicants shall be required to move the existing gate a minimum of 70 feet away from the west shoulder of US Highway 34, straight across from the CDOT permitted highway access.

The following shall be made conditions within the Special Use Permit:

2. The Applicants shall comply with a site plan that will be on file with the Department of Community Development. If overflow is needed, storage shall not be closer than fifty feet (50’) to any adjacent residential uses.

3. The Permittee shall maintain the property in an orderly fashion and not allow the property to become a visual eyesore. If the storage area creates a negative visual impact, this Special Use Permit may require review by Staff and/or the Board of County Commissioners to consider requiring screening.

4. This permit shall be valid for a period of five (5) years from the time of the recording of a resolution by the BOCC approving this Special Use Permit.

5. This permit shall comply with all Three Lakes Design Review Area regulations.

6. All other standard conditions of any Special Use Permit shall apply, including, but not limited to:

- Offsite Impacts
- Compliance with County, State and Federal Regulations
- Limitation of Liability
- Site Maintenance
- Alteration of Terms and Conditions
- Storage of Junk and Abandoned Property
- Binding Contract
- Right to Enter Site

- Violations of Terms and Conditions
- Termination

Commissioner Cimino stated that this is a continuance of a public hearing. The ground that was covered on December 6, 2022 was lengthy. Commissioner Cimino asked that people follow good decorum.

Each speaker will be given three minutes to speak. Commissioner Cimino will not allow any testimony that does not apply to this special use permit. Commissioner Cimino will not allow outside matters.

Heidi Shakirov stated that she resides next to the property. Ms. Shakirov stated that no one has developed the property is because of the existing easement. Commissioner Cimino stated that the easement being addressed does not pertain to the application for the special use permit.

Ms. Shakirov stated that there is no history of the property from 2019 to now. Commissioner Cimino stated that the testimony is out of order and Commissioner Cimino stopped the time for the speaker and asked that she leave.

Steven Gall on behalf of the McCallums to list the objections and the reasons the permit should not be granted. Mr. Gall stated that this is not a lawful meeting because 20 days have not passed between publication on December 15, 2022 and today's date.

The McCallums have an ownership interest in Lot 3. The BOCC is on notice of the litigation concerning the McCallums and because of Lis Pendens and due to a case in Washington that said that if the owners of the property do not consent, the zoning should not move forward. There is a case pending in District Court that is a private lawsuit between the Deweys and McCallums resulting from Deweys wrongful use of the easement and that was set for jury trial on May 8, 2022, but Deweys filed for a delay.

With regard to Paragraph 11.4 of the Zoning Ordinance, there is supposed to be a certification by the applicant regarding notification to mineral owners. Mr. Gall does not see that.

Staff is basically the one that is preparing and wrote this application.

There is a false statement on the bottom of page 3. The statement says that access has not been removed. McCallums exhibits 19 and 19a show the destruction and the condition prior to the destruction.

The DHV is not correct information. Mr. Gall put his information into the record.

The following exhibited was supplemented to the record

U McCallums objections to grant of Dewey SUP dated January 3, 2023

Bryce McCallum stated that he would like attorney Steven Gall to speak for him for three minutes.

Mr. Gall continued. There are a number of practical problems listed in the exhibits prepared. DHV does not mean six hours per vehicle per hour. It means six vehicles per day through May and November and then one per day through the rest of the year. It is set forth on page 4 of the memorandum. Those are the conditions under which Beacon Landing was grant the DHV and those are the conditions that have not been retracted by CDOT.

The litigation is with regard to unlawful easements. The easements are too narrow, only a 10-foot wide driving surface because of the barrow ditch.

The litigation will end by fall. There is no need to take action at this time. This is a private land dispute.

This area is a recreational area. Boat storage is not recreation. The applicant is trying to slide this alleged use under category that does not allow that use.

Patty McCallum stated that she has ownership rights into Lot 3, which is in question and she asked the attorney to speak on her behalf.

Under Three Lakes Design requires a storage plan to be provided. There is no storage plan presented. All general storage areas must be aesthetically screened from public view yet staff says no screening.

All parking facilities are to be landscaped. There is no landscaping plan.

There is an easement from which Three Lakes Water and Sanitation District accesses its pipes right along the north side of the property. Three Lakes has to have access to the pipes and cannot get to the pipes. There is no question as to the legitimacy of the historical access. That was created in 1961. It is a question as to the use of the access. That is what is pending in the courts. That is the issue that will be litigated and resolved. Once that is decided the rights of the property owner will become clear.

The Planning Commission was supposed to review. The Planning Commission was presented a statement that there is no use. Their recommendation was to create a new use.

Stan Spencer thanked for clarification from the Community Development Director. Mr. Spencer noted that this is only for the storage of trailers and boats. No related equipment.

Mr. Spencer stated that condition stated that this creates a negative visual impact and the special use permit may require review by staff and / or the Board of Commissioners to consider screening. The word "may" will be replaced with "shall."

Condition number 4 states that this is a permit for five years. Mr. Spencer asked that the permit be for only one year.

Staff made a recommendation of one year. The Planning Commission saw that this was permitted under a temporary use permit and changed the time to five years. The temporary use permit was a different applicant.

Dave Dewey stated that he will comply with the County's recommendations.

With regard to the term of the permit, staff is following recommendation of the Planning Commission.

Does not see a significant concern for a longer approval. It come back to the bocc if there are any concerns that can be substantiated.

Commissioner Cimino announced that public comment is closed at 1:36 p.m.

Commissioner Cimino sees this as a similar type of permit that exists along Highway 34.

Commissioner Linke asked about screening fits in with the Three Lakes Design Review. Mr. Schlueter stated that screening is not encouraged within the Three Lakes Design Review Area regarding effects it has on visual impact and effects it has on the migration of wildlife. It is not prohibited but is not recommended.

Commissioner Linke moved to approve the Dewey-Special Use Permit as presented with the amendments presented.

The motion passed unanimously.

Commissioner Linke moved to close the public hearing.

The motion passed unanimously.

Discussion and proposed approval of the first

Commissioner Cimino announced the Board is sitting as the Grand County Housing Authority Board.

Housing Authority Director Sheena Darland presented the First Amendment to the First Amended and Restated Agreement of Limited Liability Limited Partnership of the Mill Apartments, LLLP.

Ms. Darland stated that this is extending the time for the development to happen. There have been conversations around issues that are outside the developer's realm.

Commissioner Cimino wants this to be affordable housing under government control as long as possible.

Commissioner Cimino stated that once this property becomes operational, it will remain government controlled affordable housing for 40 years. It may stay affordable after that time.

Commissioner Cimino stated that the County would like the general partner to pay all of the legal fees for the County's attorney for the Housing Authority and the County wants to stipulate that the agreement to this amendment be held in escrow by attorney Jeremy Syz under the legal fees are paid. All documents that have ever been signed by the Grand County Housing Authority are recorded individually.

Jeremy Syz stated that the Housing Authority received the recorded Memorandum of Right of First Refusal Agreement. That was the only agreement that was to have been recorded.

Jon Peterson represents the Mill Apartments. The client is fine with paying the legal fees. Normally a Memorandum of Agreement is recorded. Mr. Peterson asked that the only recording be the Memorandum of Agreement that has already been recorded.

The Right-of-First Refusal will be recorded as is at a future date.

Commissioner George moved to approve the First Amendment to the First Amended and Restated Agreement of Limited Liability Limited Partnership of the Mill Apartments, LLLP as presented with the stipulations as presented being the recording of documents and the payment of the attorney fees being paid by the general partner. Attorneys will use best effort to record the Right-of-First Refusal. The motion passed unanimously.

Commissioner Cimino announced the Board is sitting as the Grand County Board of Commissioners.

There being no further business to come before the Board, the meeting was adjourned at 2:26 p.m. The minutes were prepared by Clerk and Recorder Sara L. Rosene. Approved this 10th day of January 2023.

Richard D. Cimino, Chair

Attest:

Jolene S. Linke, Clerk and Recorder