

SAN MIGUEL COUNTY BOARD OF COMMISSIONERS
MINUTES
WEDNESDAY, JUNE 4, 2008
REGULAR MEETING
Second Floor, Miramonte Building
Telluride, Colorado

Present: Chair Joan May
Commissioner Elaine R.C. Fischer
Present by Phone: Commissioner Art Goodtimes

Staff Present: County Administrator Lynn Black
County Attorney Steve Zwick
Chief Deputy Clerk John Huebner

1. Call to order.
9:40 a.m.
2. Review of Agenda.
3. CONSENT AGENDA:
 - a. Approval of Chair's signature on request by the Assessor to approve Petition #2008-10, Schedule #1010000061, for Abatement or Refund of Taxes for 2007 in the amount of \$1,658.64 to Daniel and Maxine Oehler due to clerical error in ownership percentage for 2007. (ATTACHMENT I – Petition)
 - b. Approval of County Grant Award Contract with Deep Creek Ranches HOA for Funding to Stabilize the Historic Collins Barn.
 - c. Approval of Intergovernmental Memorandum of Understanding with the Board of Trustees of the Town of Norwood, Norwood Sanitation District, and Norwood Water Commission to provide certain weed control services.
 - d. Approval of letter in support of Telluride Airport grant application to Department of Transportation.

MOTION by Fischer to approve as presented. **SECONDED** by Goodtimes.
PASSED 3-0.

4. ADMINISTRATIVE MATTERS:
 - a. Consideration of Bid Award and Contract for County CR 63L (Illium) /State HWY 145 Intersection Improvements and of Chair's signature on a Temporary Construction Agreement with landowner.

Present: Mike Horner, County Road and Bridge Superintendent; Steve Zwick, County Attorney

MOTION by Fischer to approve the contract as presented [to issue the Notice of Award to Telluride Gravel Inc. for Phase I of the project in the amount of \$263,224.70 and to authorize the Chair to sign the contract documents once Telluride Gravel, Inc. provides the necessary construction bonds and certificate of insurance]. **SECONDED** by Goodtimes. **PASSED 3-0.**

7. ADMINISTRATOR'S REPORT:
 - a. Update of Healthy Landscapes Partnership funds. **Board Consensus** to direct staff to transfer remaining Healthy Landscapes Partnership funds to Public Lands Partnership.
 - b. Discussion of participating in studies being conducted by Montrose County.
 - c. Discuss of letter from CDOT regarding Intersection Prioritization and local matches.

Present: Lynn Black, County Administrator; Mike Horner, County Road and Bridge Superintendent

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9:58 a.m. Recessed.
10:00 a.m. Reconvened.

5. PLANNING MATTERS:

- a. **10:00 a.m. PUBLIC HEARING:** Consideration of an application by Cyprus Amax Mineral Company seeking Board of County Commissioners approval for a Floodplain Development Permit, together with a Development Permit, and a Wetland Buffer Zone Special Use Permit for environmental remediation of the Newmire Vanadium Site just north of the San Miguel River and west of Silver Pick Road.

10:00 a.m. Chair opened the Public Hearing.

Mike Rozycki, County Planning Director entered certain documents into the record. (ATTACHMENT II – List) (EXHIBIT A – Documents)

Presented to the Board:

Mike Rozycki, County Planning Director
Mike Horner, County Road and Bridge Superintendent
Steve Zwick, County Attorney
Barbara Nielsen, Project Manager Cyprus Amax
Moe Pasha, EMC Squared
Jim Noles, Clean Harbors Environmental Services
Scott Zoeller, Clean Harbors Environmental Services
Phil Rutallich, Clean Harbors Environmental Services
Hilary White, Sheep Mountain Alliance
Phil Stoffey, Colorado Dept. of Public Health and Environment
Lynn Black, County Administrator
Dave Schneck, County Environmental Health Director

Others Present: Karen Henderson, Associate County Planner; David Wallis, Gallagher and Kennedy P.A.; Diane White, Clean Harbors Environmental Services; Jim Telle, Cyprus Amax; Christopher Rife, Westland Preserves Inc.

11:07 a.m. Chair closed the Public Hearing.

MOTION by Fischer to approve this plan [Floodplain Development Permit and the Wetland Special Use Permit finding the proposed development meets Land Use Code Section 5-403 and Appendix A for Floodplain Development Permits and Land Use Code Section 5-22 Wetland Special Use Permit and this approval shall be] contingent upon the following:

1. Complying with all conditions of the County Road Superintendent Memorandum to the BOCC dated April 30, 2008 and obtaining a Road and Bridge Special Construction Permit for the cleanup project.
2. Providing an approved CDOT permit and hauling plan, which shall include information regarding the proposed disposal site.
3. Receiving approval for amending the BOCC Ordinance #95-1, regarding closure of CR M59.
4. A three year scan of weed control [from project completion] will be complied with according to this permit, [and contacting County Weed Manager when fill source is identified, and that there be no noxious weeds in] the revegetation materials hauled to the site.

[The BOCC directed staff to not approve] the Development Permit [application to begin remedial work at the Newmire-Vanadium site until all these conditions [of the Floodplain and Wetland Permit approvals] are met.

SECONDED by Goodtimes. **PASSED 3-0.** (ATTACHMENT III – Resolution #2008-17)

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4. ADMINISTRATIVE MATTERS: (Continued)

- b. Second Reading of Proposed Ordinance titled "Amending Ordinance #95-1 that Ordained the Closure of County Road M59 to Motor Vehicles, Installation of Gates and Posting of Signs to Allow the Temporary Operation of Motor Vehicles and Mechanized Equipment Required for the Newmire Vanadium Mill Site Remediation Project and Closing a Section of County Road M59 to Public Access for the Duration of the Remediation Project."

(EXHIBIT B – Documents)

Present: Steve Zwick, County Attorney

MOTION by Fischer to approve [Second Reading of Proposed Ordinance titled "Amending Ordinance #95-1 that Ordained the Closure of County Road M59 to Motor Vehicles, Installation of Gates and Posting of Signs to Allow the Temporary Operation of Motor Vehicles and Mechanized Equipment Required for the Newmire Vanadium Mill Site Remediation Project and Closing a Section of County Road M59 to Public Access for the Duration of the Remediation Project." as presented [published] ~~with the caveat that the hours of operation are from 9:00 a.m. to 4:00 p.m. daily during permitted session.~~ **SECONDED** by Goodtimes. **PASSED 3-0.** (ATTACHMENT IV – Ordinance #2008-1) (ATTACHMENT V – Notice of Adoption)

- c. Consideration of application for Special Construction Permit from Cyprus Amax Minerals Company for purpose of staging and operating on County Road 60M and public ROW M59 during the Newmire mill site cleanup project.

Present: Mike Horner, County Road and Bridge Superintendent; Barbara Nielsen, Project Manager Cyprus Amax

MOTION by Fischer to approve as presented with the hours of operation as indicated [9:00 a.m. to 4:00 p.m. daily regarding county road closures]. **SECONDED** by Goodtimes. **PASSED 3-0.**

11:14 a.m. Recessed.

11:17 a.m. Reconvened.

5. PLANNING MATTERS: (Continued)

- b. Consideration of an application submitted by SPR Ventures, LLC owner of Lots 6 & 7, Block 1, Placerville Townsite and Bud and Leslie Crane, owner of Lot 8, Block 1, Placerville Townsite, requesting a Special Use Permit for motorcycle retail and repair business pursuant to LUC Section 5-311 E. VI.

(EXHIBIT C – Documents)

Present: Karen Henderson, Associate County Planner; Paul Russell, Applicant; Susie Schaefer, Applicant; Mike Horner, County Road and Bridge Superintendent; Mike Rozycki, County Planning Director

MOTION by Fischer to approve the Special Use Permit for the proposed Motorcycle Retail Sales and Repair Business as presented finding the proposed uses meet standards in Land Use Code Sections 5-311 Placerville Commercial, 5-308 B. XII. Gasoline service stations and auto repair shops, and 5-10 Special Uses. This approval is contingent upon the applicant complying with conditions one through seven presented in ~~motion~~ [June 4, 2008 Planning Department memorandum:

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1. Meeting all County Road Superintendent conditions as stated in his March 10, 2008 memorandum, except condition #3. regarding backing onto Second Street.
2. Meeting all County Planning Commission conditions of approval as stated in their recommendation from their April 9, 2008 meeting, and CPC Resolution 2008-4.
3. Meeting all County Board of Adjustment conditions of approval as stated in the setback variance approved April 10, 2008, BOA Resolution 2008-2.
4. Obtaining Septic Permit approval from the County Environmental Health Director.
5. Demonstrating Division of Water Resources well permit approval or demonstrating an approved water supply for all uses prior to issuance of a Development Permit.
6. Providing a building design that meets the historic character of Front Street consistent with the recommendation as specified in the letter dated April 29, 2008 from Felicia Harman. The proposed design shall be approved by the County Planning Department in consultation with Linda Luther, Coordinator, County Historic Commission.
7. The employee housing units shall be constructed simultaneously with the primary development.

In addition the BOCC recognizes and confirms the CPC's approval of the two employee housing units which will be subject to the County R-1 Housing Deed-Restriction rather than limited to persons employed within the PC Zone District].

SECONDED by Goodtimes. **PASSED 3-0.** (ATTACHMENT VI – Resolution #2008-18)

- c. Consideration of request from SMI for Cluster Development rural land use process for property on Turkey Creek Mesa and Gold King Basin near Alta Lakes.

(EXHIBIT D – Documents)

Present: Mike Rozycki, County Planning Director; Patrick Bienvenue, President SMI; Mark Oligschlager, SMI; Tom Kennedy, Attorney for SMI; Judy Schutz, USFS Norwood District Ranger; Mike Horner, County Road and Bridge Superintendent; Doug Tueller, Attorney for Mai/Casale Alta Road property owners; Steve Zwick, County Attorney; Hilary White, Sheep Mountain Alliance; Stephanie Solomon, Attorney for Kittlers Alta Road property owner; David Bulson, Foley and Associates; Brian O'Neill, County resident; Karen Henderson, Associate County Planner; Becky King, Assistant County Attorney

MOTION by Fischer to approve the resolution of the Board of Commissioners of San Miguel County, Colorado authorizing the County Planning Department to process an application for a Cluster Development/Rural Land Use Process for property owned by Silver Mountain Industries, Inc. **SECONDED** by Goodtimes. **PASSED 3-0.** (ATTACHMENT VII – Resolution #2008-19)

- d. Consideration of Reinstatement of Sunnyside Sketch Plan.
(Continued from 5/7/08)

(EXHIBIT E – Documents)

Present: Mike Rozycki, County Planning Director; Mollye Wallahan, Consultant for Sunnyside Affordable Housing Project; Cal Wilbourne, Architect for Sunnyside Affordable Housing Project; Lynn Black, County Administrator

MOTION by Fischer to re-instate the Sketch Plan approval for the Sunnyside Affordable Housing Planned Unit Development. **SECONDED** by Goodtimes. **PASSED 3-0.** (ATTACHMENT VIII – Resolution #2008-20)

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12:48 p.m. Recessed.

1:04 p.m. Reconvened.

4. ADMINISTRATIVE MATTERS: (Continued)

- d. Update of County Technical Services, Inc.(CTSI) County Insurance Pools and Loss Analysis.

Present: John Wagner, CTSI; Ramona Rummel, County Finance Officer; Lynn Black, County Administrator

7. ADMINISTRATOR'S REPORT: (Continued)

- d. Update of Gold Run Placer/Kentucky Placer annexations in Telluride planning process.

Present: Lynn Black, County Administrator

6. COMMISSIONER AND PUBLIC DISCUSSION:

- a. Public Discussion.
- b. Update on Outside Meetings.
- c. Upcoming Conferences/Courses, Calendars.
- d. Website postings and press releases.
- e. Update on Board Direction to staff.

1:40 p.m. Recessed.

1:46 p.m. Reconvened.

8. ATTORNEY MATTERS:

- a. Consideration to authorize commencement of legal proceedings against continued short-term rental of accessory dwelling unit located at Lot 47, TSR, Filing 3.

(EXHIBIT F – Documents)

Present: Steve Zwick, County Attorney; David Highland-Cassirer, Property owner; George Allen, Attorney for Property owner; Gary Hodges, County Building Official; Mike Rozycki, County Planning Director; Don Cowan, Telluride Ski Ranches property owner; Carol Dix, Telluride Ski Ranches HOA; John Sir Jesse, County resident; Karen Henderson, Associate County Planner; Christie Harrison, County resident

Board Consensus to direct staff to review document regarding short term rentals submitted by David Highland-Cassirer and report back to BOCC.

9. SAN MIGUEL COUNTY HOUSING AUTHORITY:

- a. Consideration of a request by Colin and Jennifer Hubbard for a 2 year Leave of Absence (LOA) and an exception to Section 5-1305 G [Rental Regulations] of the San Miguel County R-1 Deed Restriction.

Present: Delanie Young, Housing Authority; Steve Zwick, County Attorney; Colin Hubbard, Applicant

MOTION by Fischer to approve as presented [with the six conditions as stated in Housing Authority Memorandum dated May 29, 2008, and to waive the \$350 Exception Application fee.] **SECONDED** by Goodtimes. **PASSED 3-0.**

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- b. Consideration of the status of Nan Dudek Exception Agreement and Affordable Housing Covenant.

Present: Delanie Young, Housing Authority; Nan Dudek, Applicant; JJ Ossolo, Realtor for Applicant; Lynn Black, County Administrator; Steve Zwick, County Attorney

MOTION by Fischer to extend the current [Exception and Affordable Housing Covenant] Agreement [with Nan Dudek and its Grace Period] until October 31, 2008, and then adding that at that point in time if the free market unit [Viking home] has not sold then both Units have to go on the market, and the Two Rivers unit [deed restricted] has to go on the market for the original purchase price, and that the [amended] Agreement will remain in place until one of the units sell. **SECONDED** by Goodtimes. **PASSED 3-0.**

- c. Consideration of the status of Daniel Curtis Exception Agreement and Affordable Housing Covenant.

Board Consensus to continue item to 6/18/08.

- d. Consideration of the status of Gerald and Carrie Ross' Exemption Agreement and Affordable Housing Covenant.

Note: Commissioner May recused herself from this item since she is homeowner with Ross's in Fairway Four development. Vice-chair Elaine Fischer conducted meeting.

Present: Shirley Greve, Executive Director Housing Authority; Gerald Ross, Applicant; Lynn Black, County Administrator; Steve Zwick, County Attorney; Steve Goldberg, Applicant's realtor

Board Consensus to direct staff to send Notice of Violation to Applicants effective as of today.

Note: Resolution #2008-23 was approved 7/8/08 finding Gerald Ross and Carrie Ross in Violation of the San Miguel County R-1 Deed Restriction.

- 8. ATTORNEY MATTERS: (Continued)
 - b. Consideration of request by Town of Ophir regarding waiver of the annexation impact report for Ferric Oxide Placer Annexation.

Present: Steve Zwick, County Attorney

MOTION by Fischer to waive the annexation impact report [as requested by the Town of Ophir] for the Ferric Oxide Placer Annexation. **SECONDED** by Goodtimes. **PASSED 3-0.**

- c. Discussion of filing a rebuttal statement in pending COGCC rulemaking process, ~~Citation (4)(b)~~.

Present: Steve Zwick, County Attorney

Board Consensus to direct staff to file a rebuttal statement in pending COGCC rulemaking process.

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- d. Discussion of recent BAA decisions, Citation (4)(b).
- e. Update on litigation.

Present: Steve Zwick, County Attorney; Lynn Black, County Administrator

MOTION by Fischer to go into Executive Session to discuss item 8.d. [Discussion of recent BAA decisions,] Citation (4)(b), and [item 8.e. Discussion regarding] potential litigation, Citation (4)(b). **SECONDED** by Goodtimes. **PASSED 3-0.**

Note: The County Attorney requested that items 8.d. and 8.e not have written minutes as it constitutes a privileged attorney-client communication and a statement signed by the attorney and chair is attached. (ATTACHMENT IX)

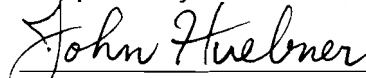
4:23 p.m. Recessed
4:34 p.m. Reconvened.

Board only discussed the two issues it said it would.

- 10. Adjournment.
4:35 p.m.

Audio Tapes #1441A, #1441B, #1442A, #1442B, #1443A, #1443B, #1444A, and #1444B.

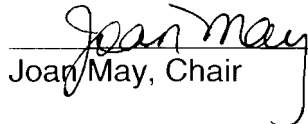
Respectfully submitted,



John Huebner
Chief Deputy Clerk

APPROVED August 6, 2008.

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Joan May, Chair

ATTEST:



Lynn M. Black
County Administrator

**EXHIBITS A, B, C, D, E, AND F FILED IN CABINET DRAWER MARKED
"EXHIBITS" OR STORED IN COUNTY CLERK'S OFFICE.**