

**STATE OF COLORADO
COUNTY OF ROUTT**

**OFFICE OF THE CLERK
February 14, 2017**

County Commissioner Douglas B. Monger, Chair Pro Tem called the regular meeting of the Routt County Board of County Commissioners to order. Commissioner Cari Hermacinski, County Manager Tom Sullivan, and Deputy County Manager Dan Weinheimer were also present. Those present recited the Pledge of Allegiance. Tegan Anderson recorded the meeting and prepared the minutes. Commissioner Timothy V. Corrigan was absent.

EN RE: WARRANTS

MOTION

Commissioner Hermacinski moved to approve and authorize the Commissioners to sign the Warrants Sheets that included:

Accounts Payable Check- Cycle Date:	2/6-2/10	\$0.00
Accounts Payable Check: Manuals	2/6-2/10	\$29,341.16
Accounts Payable Wires:	2/6-2/10	\$208,915.03
Total:		\$238,256.19
Payroll Checks- Cycle Date:	2/6-2/10	\$454,985.28
Payroll Checks- Manuals	2/6-2/10	\$0.00
Total:		\$454,985.28
Total Disbursements Approved:	2/6-2/10	<u>\$693,241.47</u>

Commissioner Monger seconded.

Mr. Sullivan advised that there were no noteworthy Accounts Payable items.

The motion carried 2-0.

**EN RE: ITEMS OF NOTE FROM THE PREVIOUS DAY'S WORK
SESSIONS**

Commissioner Monger stated that the Board did not meet the previous day due to lack of quorum.

EN RE: CONSENT AGENDA

The following items were presented for consideration, approval, and signing on the consent agenda:

- A. Approval of County Commissioners Minutes: Regular Meeting of January 10, 2017;
- B. Approval of and authorization for the Chair to sign a Permit Application and Report of Changes for a Modification of Premises for Hahn's Peak Roadhouse LLC Tavern License.
- C. Approval of and authorization for the Chair to sign a Liquor License Renewal for Hahn's Peak Roadhouse LLC for a Tavern Liquor License.
- D. Approval of and authorization for the Chair to sign a Liquor License Renewal for Hahn's Peak Roadhouse LLC for a 3.2% beer on/off premises.
- E. Approval of and authorization to appoint Lynn Powell to a three-year term representing an at-large position on the Routt County Fair Advisory Board expiring December 31, 2019.
- F. Approval of and authorization to appoint Bethany Aurin to a three-year term representing District #3 on the Routt County Fair Advisory Board expiring December 31, 2019.
- G. Approval of and authorization for the Chair to sign Master Contracts with the Colorado Department of Public Health and Environment beginning on July 1, 2017 through June 30, 2020.
- H. Approval of and authorization to ratify the Chair's signature on Jviation's contract amendment #5 for Services Support of AIP 43-44.
- I. Approval of and authorization for the Chair to sign the Susla/Goldner Final Plat and Utility and Drainage Easement Vacation Resolution; PL-16-72 and PL-16-73.
- J. Approval of and authorization to adjust the 2016 carryover and payout of comp time previously approved on January 31, 2017.
- K. Approval of and authorization for the Chair to sign the Release of the Windwalker Cash Collateral Agreement; PP2015-006.

MOTION

Commissioner Monger moved to approve items A, B, C, D, E, F, G, H, I, J, and K on the consent agenda and authorize the Chair Pro Tem to sign the related documents. Consent Agenda item I will be Resolution 2017-005.

Commissioner Hermacinski seconded; the motion carried 2-0.

EN RE: PUBLIC COMMENT

John Troka, citizen; and Scott Ford, Pinnacle Economic Research Group; were present.

Mr. Troka stated that he is a Stagecoach Lot Owner and a taxpaying elector of the Morrison Creek Metropolitan Water and Sanitation District and is the current President of the Stagecoach Property Owners Association, and has served on its Board for the past 4 1/2 years. He is present to request the Board's assistance, as has been provided in the past, with an issue involving the Morrison Creek Metropolitan Water and Sanitation District. Specifically, as the County is the approving authority for the District, he is requesting that it take a leadership role in pulling together a working group of key stakeholders of the district to determine exactly what property owners within the district can expect in terms of services to be provided by and the general operation of the district - in essence - identifying Morrison Creek's current service plan. Almost two years ago Mr. Troka began the process of trying to seek an answer to one of the most often asked questions from Stagecoach property owners - when is Morrison Creek going to provide water and sewer infrastructure throughout the community? The answer most often received from this District always seemed rooted in economics - i.e., when the owners pay for it and/or the economics to support the bonding requirements can be met and the owners support a tax increase as required by TABOR. But what exactly do these "economics" look like - what are the key metrics being monitored by the district that will signal to them that it makes economic sense and where do property owners find this information? This led to a lot of research into special districts and their service plans which is where this information is supposed to be found. Mr. Troka has not identified or located any modifications to the current plan, approved in 1972, which have been submitted to and approved by the County. The service plan identifies the boundaries of the district to encompass over 11,500 acres both north and south of the Stagecoach reservoir. 4,000 of these acres were to be subdivided and developed. The purpose of the district as outlined in its formation documents was shown to be the providing of complete water and sewer systems for the "district and the inhabitants thereof". The water and sewer systems as proposed were to be designed to support the projected equivalent of 12,000 single family homes. Research also led Mr. Troka to a compliance and enforcement provision within the Title 32 Special District Act which gives County Commissioners the right to request the district prepare an annual report which "...shall include, but not be limited to, information on the progress of the special district in the implementation of the service plan." Mr. Troka thought that if the request for the annual report were made, the district would provide the answer to the original question - when will the services be expanded - as well as the rationale for it.

Mr. Troka has worked with the Planning department to include an action item in the Stagecoach Community Plan which "encouraged" the Metro district to prepare an infrastructure development plan for the next 20-30 years that outlined how the district would fulfill the requirements of its service plan. This action item was subsequently removed from the plan at the District's request. Then Mr. Troka went to the District's board to request they provide an update to their members on how they will meet the requirements of their service plan. It is at this point the conversation regarding the District's service plan took a significant turn and which brings Mr. Troka to the Board today. Mr. Troka was informed by the attorney for the District that it no longer had to conform to the original service plan and was no longer obligated to expand water and sewer services to the rest of the district as a result of its Chapter 9 bankruptcy plan confirmed by the US District Court in 1978 and their attorney shared a copy of that approved

plan with him and directed him to the specific provision providing this relief. So what many owners understood to be merely a timing issue based on demand growth and economics has quickly become an issue as to the legal obligation of the district to offer any water and sewer services to areas outside of the original 4 subdivisions being served in 1978.

This discovery lead Mr. Troka to a series of questions.

- What truly is Morrison Creek's commitment and obligation to serve all members of the district? Can they deny service regardless of who pays for the infrastructure?
- While the current Board indicates a willingness to serve all district members as long as they pay for the infrastructure - what about the board 5, 10, 20 years from now.
- If Morrison Creek chooses not to serve the entire district who will? When the district's service plan was approved, they were effectively given an exclusive franchise to serve the area within the district's boundaries.
- What about the water rights - the water rights to serve the entire district were obtained by and provided by Woodmoor. If truly the District is only required to now serve 4 subdivisions, are they at liberty to sell or transfer excess rights to others?
- What impacts are there to the statutory rights and duties of the County relative to the District service plan?
- There is supposed to be a degree of accountability between special districts and the County. Documents prepared by the State and available to the public on their website go so far as to state "Service plans and statements of purposes in effect create binding agreements between the special districts and the approval authority".
- Material modifications to a service plan are to be submitted and approved by the County. At this point, how will the County determine if a plan modification is material? Is materiality based on the original plan or some "modified" version of the plan which is not yet clearly understood?
- It raises questions about land use planning and property owner rights
- Current zoning is based on the assumption that a water and sanitation district would be in place to provide services to the entire community. If that no longer exists, how might that land use planning and zoning need to change? It gets back to the concept of exclusive franchise - if the land is already in a water and sanitation district, how do you bring in another so that property owners can satisfy the zoning requirements?
- Then there is the question of taxation
- How do you reconcile this logic – As a taxpayer of the district you are obligated to pay Morrison Creek's mil levy for water and sewer services which you do not receive today and for which they are not obligated to provide now or anytime in the future.
- Finally what happens to the financial health and stability of the district?
- How does the district ever successfully pass a mil levy increase given a majority of land owners are from the areas they have publicly stated they have no obligation or liability to serve?
- In the absence of mil levy increases, what happens to the fee and rate structure for those members currently on the system and what impact does that have on the potential for growth in our community.
- Likewise, what happens if large numbers of owners pursue exclusion from the district based on its public statement of "no obligation to serve"?

Mr. Troka stated that he has spent too many hours searching dusty files and reading 30-40 year old documents. If the Stagecoach community is an integral part of the County's master plan for dealing with future population growth and development, then resolving the issues with Morrison Creek are essential, as without a healthy and viable water and sanitation district the next 45 years at Stagecoach may look a lot like the past 45. He believes a critical first step in this process is establishing a common understanding between the county, the district and the property owners about the District's current service plan and its obligations to serve all members of the district. As such, Mr. Troka respectfully requests again that the County bring these stakeholders together in a working group for the purpose of identifying and documenting this common understanding. Mr. Troka provided the Board with copies of his supporting documents.

Commissioner Monger responded that there have been problems with special districts all over the state. The County Commissioners have tried to get legislation to provide more accountability after the initial set up of a special district but they have been unsuccessful.

Mr. Ford stated that he is present to share some economic data with the Board. The Steamboat Springs Economic Development Council has identified how to measure economic development. Defining economic development consists of three different elements being economic diversity, workforce efficiency, and per capita income. Regarding economic diversity, if the diversity in the top three industries income represents less than 50% of the private sector income it is considered reasonably diverse. Routt County is at 48% in that top three industry income which is a good indicator of moving in the correct direction. Regarding workforce efficiency, it looks at people living in the County but working outside of the County and therefore are moving money back and forth. Routt County has most of its workers living in the County therefore most of that money stays put. Per capita income is also factored in, which is taking household income from all sources and dividing it by the population. In adjusting for inflation, Routt County comes out rather flat which is an indication that recovery does not occur evenly in all sectors. Sources of household income have been declining and that's usually an indication that people are retiring. Additionally, Routt County is not a rural economy since it crossed over the population threshold of 20,000 people. Instead we are now a micropolitan based upon the sharing of workforce with Moffat County. Our labor force participation rates are rather high. Because there is access to this data the community does not have to guess when it comes to measuring economic development.

EN RE: CLERK AND RECORDER / KIM BONNER

Barbara Houston, Recorder, was present.

PARTNERS IN ROUTT COUNTY SPECIAL EVENT LIQUOR LICENSE

Ms. Houston stated that this license is for an event at a personal home and will only span a few hours. Everyone necessary has signed off on this permit.

MOTION

Commissioner Hermacinski moved to approve and authorize the Chair to sign a special event liquor license for Partners In Routt County for an event to be held at The Hennessy

residence at 35060 Priest Creek Rd Steamboat Springs on February 22, 2017 from 5:30 pm to 9:00 pm.

Commissioner Monger seconded; the motion carried 2-0.

EN RE: WORKFORCE BOARD

Jessica Valand, Director of Northwest Colorado and Rural Resort Sub-areas Workforce Center.

ANNUAL ACTIVITY UPDATE

Ms. Valand stated that she has been with the Department of Labor for about 6 months and she is attempting to meet with all of the Commissioner Boards in the ten counties that she works with.

Commissioner Monger asked what the Workforce Boards actually do. Ms. Valand stated that the Workforce Board sets the strategic direction for the workforce system and identify what resources are needed to address issues that may exist. In an ideal scenario housing, child care, and low wage job issues can be addressed with the Board.

Ms. Valand discussed the federal funding for worker retraining and Routt County's barriers to retraining such as rural areas lacking training providers. Further, in the current climate there are a lot of jobs available and generally the population that is struggling is dealing with barriers outside of training such as compounding issues like homelessness, childcare or substance abuse/metal health.

Ms. Valand also discussed how low unemployment is in Routt County at only 2.1%, which can prevent businesses from growing because they cannot find workers. One additional challenge for business attracting workers in this area is a lack of affordable housing stock. In January there were 1,200 open jobs and only 380 unemployed people in Routt County. The 2.1% unemployment represents only those individuals that are actively job searching but does not represent those who have dropped out of the workforce. Routt County also has an average hourly wage just under 20 dollars an hour compared to the states average of 26 dollars an hour.

EN RE: LOCAL MARKETING DISTRICT

Jane Blackstone and Bill Stewart, Local Marketing District Board Members; and Janet Fischer, Steamboat Ski & Resort Corp.; were present.

ANNUAL PRESENTATION

Ms. Blackstone stated she is present to represent the Local Marketing District (LMD) to discuss what the LMD is and the importance of the Air Program for our local economy.

Ms. Blackstone discussed some highlights which include the addition of a fourth west coast destination with Alaska Air becoming an airline partner and more summer flights have been added as well. The fees coming in from the direct flights have helped with airport operations and the LMD is very happy to have YVRA Director Kevin Booth involved and attending all their meetings.

Commissioner Hermacinski asked what will happen with the two board terms that are expiring. Ms. Blackstone responded that there will be two open seats but there has already been some interest and the applicant area has been expanded to attract more people.

Ms. Blackstone continued one of the partners of the LMD is Steamboat Ski and Resort Corp. The role of Ski Corp was discussed and were acknowledged for their large contributions to the LMD through funding, staffing and marketing. Ms. Blackstone discussed their funding sources of Ski Corp, the sales and use tax, lodging tax and reserves. The LMD and Ski Corp contract will expire this year so there may be changes when it is renewed.

Ms. Fischer discussed changes in the airline climate and how it is more challenging to contract for flights now. When fuel was very costly in 2008 it changed how the airlines did business. During that time every flight had to be full and every additional service was charged for in order to make fuel the airlines highest expense. When fuel prices fell the airlines began to see huge profits because they had cut back their services and there were a lot of mergers. Airlines are not interested in reverting back to some of their previous operating practices. This is all especially difficult because the flight traffic is very seasonal and directional.

Ms. Blackstone added that some LMD revenues are used for marketing and she distributed some examples of their marketing materials. The nonstop markets for key destinations have marketing materials directed towards them.

Ms. Fischer believes this season the seat numbers will be pretty flat which may be attributed to some weather related issues. The San Diego direct flight was added through Alaska Airlines and that makes twelve nonstop flights. There were also some larger aircrafts using the airport and there was some increased traffic over the holidays.

EN RE: LEGAL / ERICK KNAUS

Lynaia South, Assistant County Attorney, and Sue Zulevich, Paralegal were present.

BUTLER CREEK BRIDGE CLOSING DOCUMENTS

Mr. Knaus stated that the County is going through the acquisition phase and purchases related to the Butler Creek Bridge Project. Two parcels are being bought, one from the Wyman Trust and one from the Camilletti family. Mr. Knaus added that he is present to formally request the ratification of authorization to sign closing documents for that project.

Commissioner Monger questioned why the closing agent negotiating this cannot sign the documents. As far as he is aware there is an agent that was supposed to sign for the County. Mr. Knaus responded that a representative of the purchaser needs to sign this and he is acting

as the representative. Commissioner Monger asked if this is coming out of County funds and will be reimbursed by the grant. Mr. Knaus responded he believes this is how it works and the check was drawn from the Routt County Road and Bridge fund.

MOTION

Commissioner Hermacinski moved to approve and ratify the authorization given to the County Attorney to sign closing documents for property acquisitions required for the Butler Creek Bridge Project with proposed expenditures of \$1,267.00 plus \$982.00 in closing costs for the Camilletti property and \$2,928.00, plus \$982.00 in closing costs for the Wyman property.

Commissioner Monger seconded; the motion carried 2-0.

EN RE: PURCHASING / TIM WINTER

Marti Hamilton, Purchasing was present.

RFP 546 WEED SPRAYER

Ms. Hamilton stated that she is present to request the approval of the waiver of the formal purchasing process and authorize the Chair to sign a purchase order for one new skid mounted truck sprayer for the weed program for the Road and Bridge Department and deferred deletion of the existing sprayer. The reason for the waiver is because this is the same model as was purchased in 2015 from the same distributor. The distributor, B&J Trading, has quoted the same price that the County purchased the weed sprayer for in 2015. Further, Mr. Brown would like deferred deletion of the existing weed sprayer in order to rent it out to property owners. Commissioner Monger responded that the renting out of County equipment needs to be discussed with Mr. Brown and the Board will address that with him.

MOTION

Commissioner Hermacinski moved to approve the waiver of the formal purchasing process and authorize the Chair Pro Tem to sign a purchase order to B&J Trading in the amount of \$11,245.00 for one new skid mounted truck sprayer for the weed program for the Road and Bridge Department and deferred deletion of existing sprayer.

Commissioner Hermacinski seconded; the motion carried 2-0.

EN RE: TREASURER / BRITA HORN

Genny Lynkiewicz and Scott Prickett; Chandler Asset Management; and Patrick Karschner, Deputy Treasurer; were also present.

CHANDLER ASSET MANAGEMENT PRESENTATION

Ms. Lynkiewicz gave the Board a brief economic update, including their projections that they expect a minimum of two Federal Reserve interest rate hikes in 2017 of about 25 basis points each time. Mr. Prickett gave an overview of Routt County's account profile was discussed as well as the portfolio holdings and transaction.

EN RE: PLANNING / CHAD PHILLIPS

Alan Goldich and Kristy Winser, Planning; Steve Elkins, Don McLean, Mike Roach, Bryan Ayer, Harry Thompson, Mark Stepp, Tom Watts, Adam Fernley, citizens; Steve Colby, Morrison Creek Water and Sanitation District; Peter Patten, Patten and Associates, Inc.; Bob Weiss, Weiss and Van Scoyk, LLP; Jeff Lake, Civil Design Consultants; were present. Bill Friesell, citizen, was present via conference phone.

PL-16-36; RCR 18C VACATION – TO BE TABLED TO MAY 23, 2017

Commissioner Monger stated that the County attorneys are still working on this issue therefore it is necessary to table the item in order to allow them more time.

MOTION

Commissioner Monger moved to table PL-16-36, the vacation of RCR 18C, to May 23, 2017.

Commissioner Hermacinski seconded; the motion carried 2-0.

PL-16-65; FRIESELL (FOX GROVE) PRELIMINARY SUBDIVISION – TABLED FROM JANUARY 31, 2017

Commissioner Monger stated that we have an approved subdivision that's gone through the preliminary and sketch phases but the only question that remains is the application of condition #10.

Mr. Goldich stated everyone is present to discuss the fee in lieu proposal that the applicant has submitted. It is staffs opinion that, because this is under the heading of land for public sites, it is for land for public sites and not the actual infrastructure used to service the development. The fee in lieu is also under the public sites heading therefore the fee in lieu is for the actual site and not the facility that would be used to satisfy that requirement. Commissioner Monger added that it is not an impact fee. Mr. Knaus agreed that this is not an impact fee.

Mr. Goldich continued that the applicant has said other necessary public facilities are meant to include the water pipes that they want to satisfy their fee in lieu but it is staffs opinion that other necessary public facilities refers to sites to be used to be for other necessary public facilities other than schools or fire stations that are specifically mentioned in the subdivision regulations. Some of the County services that this money can be used to support aside from school or fire stations are County offices, the Justice Center, Sheriff's Office, Road and Bridge

Shops and parks. Prior to 2006 the subdivision regulations did have a flat \$1,400 fee in lieu per potential dwelling unit but in 2006 when the subdivision regulations were updated that specific number was taken out and replaced with a 5% maximum based on the fair market value of the land so it could better reflect what impact to county services the subdivision would be. The fair market value of the land of the entire site is calculated with the infrastructure included as to capture the actual value of the land.

Commissioner Monger addressed Mr. Weiss and stated that he is not going to be very congenial because this needs to move along and he feels that the Board has made their point. The letter provided by the applicant is totally unreasonable. Mr. Knaus stated that it appears that there is some confusion based upon the letter Mr. Friesell submitted to the Board. There are a few different statutes in play. Mr. Knaus agrees with Mr. Friesell from that standpoint that an impact fee cannot be implemented because an impact fee analysis has not been completed but what is being discussed is a fee in lieu of a land dedication pursuant to title 30 which is a different statute all together.

Mr. Weiss stated that what is being discussed is the fee in lieu of the land dedication for two purposes based upon the Routt County code and the state law that Mr. Knaus is referencing. The statute states the fees are for schools and parks. The County does not have any schools and parks. Commissioner Monger added that you cannot say that those new units won't have an impact on schools and parks therefore those funds can be transferred to those entities. Mr. Weiss stated that there is not an intergovernmental agreement in place to transfer those funds currently. Commissioner Monger asked if Mr. Weiss wants this tabled again or suggested having the City deal with it. Mr. Weiss stated that the fees in lieu that have been collected in the past were relatively small but now what is being discussed is closer to \$150,000. Further, Mr. Weiss added that the fee in lieu is intended to go towards schools and parks even though the City of Steamboat Springs doesn't collect a fee to go towards schools and parks. Commissioner Monger responded that the City collects an excise tax at the building permit level. Mr. Weiss believes that this is not being applied uniformly as it only applies to the very limited situation of subdivision approvals in the County. It doesn't apply to LPS, 35 acre subdivision parcels, existing Stagecoach or Steamboat lake lots. Mr. Weiss stated that he has a problem with the fee in lieu of 5% being applied to such a narrow range of properties in the County. Commissioner Monger added that he has a problem with the subdivision because it is known that subdivisions don't pay their own way. The letter from Mr. Friesell stating that we will have a windfall County property tax base when in reality there will be six houses that the County will be providing services to.

Mr. Weiss continued that the Planning Department is using a land price of \$860,000 an acre. Mr. Lake stated that the school district had the overlook parcel under contract in 2015 for 58.9 acres for \$3.6 million which equates to \$61,000 an acre. The school district also has a 9.2 acre parcel in Whistler that was recently appraised from \$100,000 to \$120,000 an acre and a 35 acre parcel in Steamboat II appraised at \$25,000 per acre. The average per acre value of these parcels is \$52,000. Mr. Weiss stated that he is concerned about the assertion that the value is \$860,000 per acre and this is where the extraordinarily high costs are coming from.

Commissioner Monger stated that the Board is going to need further clarification on the regulation regarding what the fee in lieu can be used for because it seems like Mr. Weiss is saying that the regulations are not in compliance with the statute. Mr. Weiss added that if the County will do a proper impact study then the applicant will pay for the study.

Commissioner Hermacinski stated that the one page report dated 2/7/17 it appears that number 9 appears to be an alternate calculation and questioned how \$500,000 per lot was calculated. Mr. Phillips responded that he put the document together. Numbers 1 to 7 are a ballpark feasibility study to juxtapose what the impacts could be on the community. The \$500,000 was an estimated guess after talking to the Routt County Assessor's Office and determining the range of sale prices for this location and lot size.

Commissioner Hermacinski asked about deducting one lot because one lot exists. Mr. Phillips responded that method might come into play in numbers 1 through 7 but based upon the regulation the application of number 9 is the appraised value of the whole project with infrastructure.

Mr. Knaus stated that there is some history that should to be addressed. The regulations changed in 2006 to include the fee in lieu regulation pursuant to the statute. Mr. Knaus interprets the statute to focus on schools and parks only. From a process standpoint the County regulation states it shall be 5% land dedication. The County hired a consultant prior to the adoption of the new regulations in 2006, Jerry Dahl. Mr. Dahl conducted a study and landed on the 5% figure. If the land dedication is not feasible then that is where the fee in lieu comes in and if the applicant is not satisfied with the County's calculation then they can conduct their own study and can present an argument as to why it should be less than 5%. The 5% was not pulled out of thin air and instead it was based on the consultants work and relevant cases.

Commissioner Hermacinski asked if the Board or the applicant has seen the study supporting the 5% land dedication. Mr. Knaus responded that he hasn't seen it because it was conducted prior to his employment with the County but this was adopted in the regulations. Commissioner Hermacinski responded that this should be in the Commissioners Packet. Mr. Phillips replied that this was the background to the regulation being adopted in 2006 and the Board in 2005 saw the report. He will look up the report for the Board.

Commissioner Monger added that last year, statewide, the fire districts wanted to collect their own fee in lieu but the counties fought against that because of the fee in lieu that the County collects already goes towards the fire districts. Commissioner Hermacinski commented that the County has not done enough of these that they seem to be on thin ice and she is sympathetic for the applicant feeling like these numbers are coming out of thin air. Commissioner Monger responded that the applicant's number at zero are ludicrous. What is the incentive to do this in the County, the city has already chastised the County for moving forward with this. He wants to do what is fair and right.

Mr. Weiss stated these impact fees should apply to building permits and every sort of residential development in the County and the City. Otherwise the people in the County are subsidizing the City. He will sign an agreement and if the County does an impact study then the applicant will pay it. Commissioner Monger questioned if Mr. Friesell has another year to spend on this issue.

Commissioner Monger commented that the \$55,000 credit of the cost of upsizing the water system won't fit in this either. Mr. Weiss added that he understands that those costs don't fit precisely within the statute.

Mr. Phillips read from the regulations under 3.5.3 conveyance of open space and public sites and alternatives section C it states "In the case that the subdivider disagrees with the County's determination of required dedication, the subdivider may prepare a study evaluating the demand for public lands and improvements made necessary or generated by the proposed subdivision." Mr. Knaus added that in his mind this goes back to the process in these regulations. The County went through what Mr. Weiss is suggesting and has done one subdivision since that time. He doesn't know if the County can justify going back to the drawing board and pay \$50,000 to a consultant again. Mr. Weiss stated that Mr. Dahl is a lawyer not an impact analysis consultant.

Commissioner Monger stated that he wants to table this and Mr. Weiss can work with Mr. Knaus on this. Commissioner Monger would like to have a discussion in the near future about how to get the fee in lieu back to the affected entities.

Commissioner Hermacinski added that she questions why this isn't applied to 35 acre subdivisions, LPS and everything that is built in the County. Mr. Phillips responded that 35 acres, LPS and a handful of other things are subdivision exemptions so they don't need to comply with the subdivision standards. Mr. Weiss replied that it could be charged at the building permit phase. Mr. Knaus added that he does not tend to agree with that. Commissioner Monger responded that it is a use by right.

Mr. Friesell stated that if Mr. Lakes calculation were correct at about \$50,000 an acre and if that same analysis is used then the cost would be about \$5,000 an acre for the fee in lieu therefore equating to \$30,000 for the entire subdivision. If the point is accepted that a community benefit is being created by upsizing the water system then it seems like that cost is quite a bit more than the possible fee in lieu of \$30,000. Commissioner Monger stated that this needs to be tabled and staff need to work with the applicant on this as he feels that the \$30,000 fee in lieu is not appropriate.

Commissioner Hermacinski asked how many other applications have been through this process since 2006. Mr. Goldich responded that one, for the Ghost Creek property in South Routt. Commissioner Monger added that the applicant brought in an appraisal for the two lots. Mr. Phillips responded that the alternative to this regulation was that applicants have been allowed to pay a flat fee of \$1,400 on lot consolidations as an incentive to consolidate and those were replats of existing lots that may or may not have paid fee in lieu or land dedication.

Mr. Weiss stated that this should not be an ad hoc discussion and he believes an applicant should know the fee upfront and he doesn't believe it should be tied to the value of the land. Mr. Knaus replied that there are some applicants that believe that the 5% is a hard and fast known number and most applicants know the value of their land. This offers some assurance of what the fee is and then they can make an argument if they feel like it should be less. Mr. Weiss feels that the land value of the lot is irrelevant and this should be based on the human impact of 2.5 people per household.

Mr. Weiss stated that they will do a land dedication and he has a proposal with him. He distributed a map with the outlined land dedication. Mr. Lake described that land dedication that expands the buffer along Huckleberry Lane and Fish Creek Falls Road. It is 0.29 acres which is 5% of the parcel as well as some expanded area that create the 10% open space required by

the subdivision regulations. A public trail would be created on the space and Mr. Friesell would propose to the home owners association that they would be responsible for maintaining it.

Commissioner Monger stated that he would entertain this proposal. Mr. Weiss asked if this is something that the applicant should pursue. Both Commissioners responded yes.

MOTION

Commissioner Hermacinski moved to table PL-16-65, Friesell Subdivision, until March 14, 2017 to allow the applicant to work with staff on a land dedication to satisfy condition 10.

Commissioner Monger seconded; the motion carried 2-0.

PI2014-003; STAGECOACH COMMUNITY PLAN UPDATE – TABLED FROM JANUARY 10, 2017

Ms. Winser stated that the packet does a good job of describing how everything got to this point in the Stagecoach Community Plan. Each section of the plan has been sent to the applicable agency or department for comments and those comments were incorporated into this plan update. The overall goal of this update process was to modernize the 1999 plan and to provide clarity of regulations and review processes. Most of all it was an opportunity to create allowances for the development of residential and commercial use which was limited in the 1999 plan. Specifically, in the 1999 plan the only opportunity for commercial use was located at the bottom of the ski area in the hands of a single property owner. Staff created standards that are outlined in 5.2.1 of the plan which made allowances for a neighborhood node concept having supportive commercial type uses. In addition to the standards that were created a revised future land use map (FLUM) was developed. A new land use zoning designation was created called recreation oriented development (ROD) which allows for the central feature of the development to have a recreational component with supportive type uses such as residential and commercial use. The neighborhood node must meet specific standards outlined in the plan update that include required access to a county road, the ability to tie into water and sewer and onsite parking. In the packet there are comments received from Peter Patton and he wanted to make sure that review processes aren't changing. His concerns were addressed by staff.

Commissioner Monger added that per the minutes Ms. Winser stated that changes can be made to the plan although it was already adopted by Planning Commission. Ms. Winser responded Planning Commission adopted with allowances to make clarifying sentences, text and corrections of typos. Planning Commission were supportive to changes being made as long as they aren't content based. They stated that they do not need to see the final edited document. These changes are not considered changes to content but instead grammatical and word usage changes.

Ms. Winser continued that she received a concerned comment from Mike Browning, the attorney to the Stahl family, regarding action item 5.3.2.2 D under recreation and development. The item states "In the event a development is proposed for this parcel, consider working with the landowner of the property at the edge of the reservoir to obtain a conservation easement on a limited area to protect the views to and from the reservoir as much as possible". This would be

interpreted as the Stahls are required to get a conservation easement but that is not the intent and this is for the County to work with Upper Yampa Water Conservation District (UYWCD). Mr. Browning would like this item revised to say the County will work with the land owner and he wanted it to say specifically adjacent to the Stahl property. Ms. Winser found mentioning the landowners by name would be inappropriate because the Stahls may or may not be the landowners in the future. Ms. Winser revised the item to state "In the event a development is proposed for the property currently designated on the FLUM as ROD consider working with the landowner of the adjacent property which would be Upper Yampa to obtain a conservation easement on a limited area". Commissioner Monger responded that he does not believe this amendment is appropriate either. Any adjustment of anything around the outside of the reservoir would need to go through a FERC application. Ms. Winser asked if the Board would like to remove item 5.3.2.2 D all together. Commissioners Monger and Hermacinski responded yes, they would like to see it gone. Ms. Winser added that this will need to go back to Planning Commission with this change being made.

Ms. Winser continued that Janet Hruby, the Director of Road and Bridge made some clarifying changes to the road capacity section 2.6. One change was to create more clarity with the statement "At this time, funding has not been identified to complete the rest of Phase 4 reconstruction without completing the improvements, the geometry and lack of shoulders may reduce the capacity." In another area she wrote the word "fire code" into the driveway standards section to provide more clarity. Finally, Ms. Hruby added the statement "note that not all of County maintained roads are constructed to current standards and developers may be responsible for upgrades."

Commissioners Monger and Hermacinski agreed that they approve of Ms. Hruby's edits.

Commissioner Monger stated that he is comfortable with ratifying the updated Stagecoach Community Plan with the conditions that action item 5.3.2.2 D is removed and Ms. Hruby's changes are added.

Commissioner Monger added, in regards to 5.3.2.2 D, it is going to be the intent of the landowner to preserve all of the reservoir. Ms. Winser responded that if a development did come in on the Stahl property, which is ROD on the future land use map, it could be part of the review process and a consideration when a proposal is being reviewed. Commissioner Monger replied that it would need to go through the FERC Board process by the UYWCD and that is almost a de facto conservation easement at this point. Commissioner Monger noted as a disclosure that he sits on the Upper Yampa Water Conservancy District Board.

PUBLIC COMMENT

Mr. Troka read a written statement:

"I am a lot owner at Stagecoach and currently serve as president of the Stagecoach Property Owners Association and have served on its board for the past 4 1/2 years. Let me start by thanking the Board for investing the County's resources including the time and energies of the planning department staff in preparing this update. I want to commend Kristy and Chad for all their efforts. While it has been a somewhat protracted effort, I believe the "extra time" has resulted in a better end product. As an Association, I want to express our support for the updated Stagecoach community plan and the goals and actions contained therein. We appreciate the changes around providing more flexibility to the potential areas for commercial

development and for the concise documentation of the lot consolidation process. Both of these items were a priority for our members. While we would like to have seen additional action items focused on the significant infrastructure issues, after 45 years we understand there are no quick fixes to these problems. As indicated in the implementation item 6.3.15 of the plan, we hope the County and the metro district continue to work cooperatively with the Stagecoach property owners to find solutions to the significant financial obstacles to infrastructure expansion in our community. Finally, one of the "keys to success" identified in the plan (item 6.1.4) is providing property owners with more information and choices. As stated in the plan "property owners make better decisions when they have current and accurate information on which to base these decisions. I believe the updated plan does provide a tremendous amount of good, current information. But as also stated in the plan, the quality of this information must be kept high, since a large number of property owners and investors are affected. To this end I would ask the County to continually push all stakeholders of the district, including the special districts and home and property owner associations which serve the community, to also provide current and accurate information so as to avoid causing confusion and uncertainty. Again, thank you for updating our community's plan and thank you for your time this afternoon."

Mr. Patten stated that he supports the plan and appreciates all the work Ms. Winser and Mr. Phillips put into this. He thinks it's a great plan and urges the Board to adopt it. Mr. Patten added that he had a good conversation with Ms. Winser the previous day where they were able to work through most of his concerns. The one issue that he would like to flag for the Board has to do with view protection in 5.5.1 and 5.5.2. One of the most controversial aspects of land use planning is view protection. One concern is 5.5.1 D that states "Site grading and driveway cuts should be located to minimize visibility from CRs 16, 18A, and 212, and from as many neighboring building sites as possible." This infers that you are providing view protection for existing residents and he would highly recommend removing that statement. Commissioner Monger replied that the word minimize is used, not eliminate. In 5.5.2 B it states "Ensure that new development does not detract from the rural character and scenic vistas in Stagecoach." The word "ensure" is a strong word and if you are going to protect views then you need to define the specific view and the viewpoint. Views are very subjective and instead skyline regulations can be leaned on instead of mucking up the master plan.

Mr. Fernley stated that he has been in Stagecoach since 1998. He is in full support of the ski hill and he hopes it can be a catalyst for a village and commercial center. He also hopes to see these changes create jobs for South Routt as well as affordable skiing. He puts his full support behind it.

ROUND TABLE

Commissioner Monger stated that Mr. Patten's comments are concerning. Ms. Winser stated that there is the skyline regulations and this is meant to be a guiding document. Commissioner Hermacinski commented that "ensure" is too strong and maybe "attempt" would be a better fit. Ms. Winser added that this is an action item instead of a policy item. Commissioner Hermacinski would also like to see "and from as many building sites as possible" removed from 5.5.1 D. Ms. Winser responded that she will make those changes.

MOTION

Commissioner Hermacinski moved to ratify the Planning Commission's adoption of the Stagecoach Community plan with the removal of action item D from 5.3.2.2, include the three changes to 2.6 that Ms. Hruby identified, remove the words "as from as many building sites as possible" under 5.5.1 D and to rewrite 5.5.2 B to say "New development should attempt to minimize detracting from the rural character and scenic vistas in Stagecoach."

Commissioner Monger seconded; the motion carried 2-0.

EN RE: ENVIRONMENTAL HEALTH / SCOTT COWMAN

Reno Ager, property owner; Erick Knaus and Lynaia South, County Attorney's Office; were also present.

ROYAL HOTEL ASBESTOS ABATEMENT FACILITATION

Commissioner Monger stated that the Board of County Commissioners has convened as the Board of Health for this item to authorize the County Attorney, on behalf of the Board of Health, to commence legal action against Reno Ager to facilitate asbestos abatement at the site of the Royal Hotel Property in Yampa, Colorado.

Mr. Cowman stated that the Royal Hotel was destroyed in a fire in January 2015 and to date the debris from the fire has not been cleaned up. The Colorado Department of Public Health and Environment (CDPHE) has determined that the debris contains asbestos in amounts that trigger certain statutes and regulations governing the abatement of asbestos that constitutes a major spill under Regulation 8 Part B. In March 2015 the CDPHE notified Mr. Ager with a violation and gave him 30 days to fence the property, post warning signs, and hire a certified general abatement contractor to stabilize the debris and prevent disturbance until the abatement could commence. In June 2015, Mr. Ager installed a fence around the property. The fence was initially rented by the Town of Yampa and paid for by Routt County. The County subsequently purchased the fence in January 2016. At a hearing held on July 7, 2015, the Routt County Board of Health (BOH) determined that the property poses a nuisance, is a source of filth, and a cause of sickness. The BOH ordered Mr. Ager to submit a plan to mitigate the conditions in conformance with the CDPHE by August 1, 2015. No acceptable plan was submitted. In April 2016, CDPHE issued a Cease and Desist Order that included a timeline for completion of the abatement. The Order was not contested and was apparently ignored. In an effort to facilitate cleanup of the property, the County researched potential sources of funding and applied for a grant from the State Brownfields Program established by HB1306. HB13066 provides for the cleanup of contaminated sites and is administered by the Hazardous Materials and Waste Management Division of CDPHE. However, in order to be considered for the grant, the County must provide CDPHE with assurance that the County is or will become the owner of the property.

Ms. South stated that, upon approval by the Commissioners, once the state approves the grant the formal legal action would take the form of filing a legal complaint to the Routt County District Court. Commissioner Monger questioned at that point the courts would determine if the complaint is valid. Ms. South stated that is correct. Mr. Knaus added that what they would like is for the court to order a cleanup of the property. He understands that Mr. Ager

has been working with the state to some degree to become certified to perform the asbestos removal. It is his business to do that and if he gets the property cleaned up that's great but this has been the status quo for two years and there is an opportunity now to get the grant funding to complete this process.

Mr. Ager stated that he wasn't aware that there was a timeline to some of these things and getting the certifications doesn't happen overnight. This has been two years of his life and \$4,000-5,000 in taxes every year on something that doesn't exist. If the County wants to take his life's work then fine but he wants his sewer taps paid for. Mr. Ager added that he has all of the certification except for asbestos and he has experience cleaning up other hazardous materials. The asbestos tests are coming up.

Commissioner Monger stated that this is another step in pushing Mr. Ager to get this completed. It has been going on for two years and everyone owes it to the town of Yampa. It's also not the County's intention to take Mr. Ager's property but they also cannot get this federal money, clean up the lot then give it back to Mr. Ager. Commissioner Monger added that he also wants to get this moved along to help the prosperity of the Town of Yampa.

Mr. Ager stated that he might do the quit claim deed so it doesn't take all the additional work to go to court because he also wants to have the cleanup process done. Part of the delay has been the availability of the asbestos courses and testing. Mr. Ager added that he is not willing to give away the sewer and water taps.

Commissioner Monger questioned what the cost of the tap fees would be and if they are transferable. The County would like to work with Mr. Ager on the quit claim deed. Mr. Knaus added that he would like the Commissioners to make the same motion but also allow the County attorney to work with Mr. Ager on the quit claim deed.

MOTION

Commissioner Hermacinski moved that the Board of County Commissioners, sitting as the Board of Health, authorize the County Attorney to commence legal action, on behalf of the Board of Health, against Reno Ager to facilitate asbestos abatement at the site of the Royal Hotel property in Yampa, Colorado, this authorization is on the condition of approval of state funding, noting for the record that the administrative process has been exhausted, and authorize County staff to work with Mr. Ager to wrap this up with the quit claim deed and address the tap fees.

Under discussion, Mr. Ager responded that, in regards to the quick claim deed, the mortgage company has been very difficult to work with and get in contact with.

Commissioner Monger seconded; the motion carried 2-0.

EN RE: COUNTY MANAGER / TOM SULLIVAN

EMERGENCY OPERATIONS DIRECTOR PAY SCALE

Mr. Sullivan stated that Mr. DeMorat, with his education of two master's degrees and experience with 23 years in the military and 6 years with FEMA, qualifies for being hired at higher than a Step 5. Mr. Sullivan continued that he is requesting Mr. DeMorat be hired at a Step 5 of the Emergency Operations Director pay scale and authorization increase his salary to a Step 6 following a satisfactory completion of a six month performance review based upon established performance goals. Step 5 of the 2017 Emergency Operations Director pay scale is an annual salary of \$104,749 and Step 6 adds 3% to that salary. Mr. Sullivan added that he is very excited to work with Mr. DeMorat and utilize his abilities and experience to work with all of the agencies within our community and create relationships.

MOTION

Commissioner Monger moved to approve the starting salary for David V. DeMorat at Step 5 of the Emergency Operations Director Pay Scale and increase to Step 6 at completion of performance goals and a satisfactory performance review.

Commissioner Hermacinski seconded; the motion carried 2-0.

No further business coming before the Board, same adjourned sine die.

Kim Bonner, Clerk and Recorder

Timothy V. Corrigan, Chair

Date