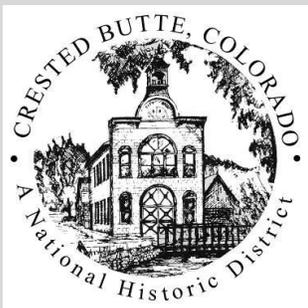


AGENDA
Town of Crested Butte
Regular Town Council Meeting
Monday, October 1, 2018
Council Chambers, Crested Butte Town Hall



Critical to our success is an engaged community and knowledgeable and experienced staff.

Town Council Values

- *Support Crested Butte's quality of life*
- *Promote resource efficiency and environmental stewardship*
- *Encourage a sustainable and healthy business climate*
- *Maintain an authentic and unique community*
- *Remain fiscally responsible*
- *Continue thoughtful management of our historic character*
- *Seek collaborative solutions to regional and local issues*

The times are approximate. The meeting may move faster or slower than expected.

5:00 WORK SESSION

Joint Discussion with the Mt. Crested Butte Town Council on The Corner at Brush Creek Housing Project.

6:45 BREAK

7:00 REGULAR COUNCIL MEETING CALLED TO ORDER BY MAYOR OR MAYOR PRO-TEM

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA

- 1) September 17, 2018 Regular Town Council Meeting Minutes.
- 2) Water Treatment Plant Improvements Construction Manager At-Risk Agreement.
- 3) Appointment of Mallika Magner to BOZAR.

The listing under Consent Agenda is a group of items to be acted on with a single motion. The Consent Agenda is designed to expedite Council business. The Mayor will ask if any citizen or council member wishes to have any specific item discussed. You may request that an item be removed from Consent Agenda at that time, prior to the Council's vote. Items removed from the Consent Agenda will be considered under New Business.

7:06 PUBLIC COMMENT

Citizens may make comments on item not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments may be limited to five minutes.

7:15 STAFF UPDATES

7:25 PUBLIC HEARING

1) Ordinance No. 22, Series 2018 - An Ordinance of the Crested Butte Town Council Approving the Cable Television Franchise Agreement with Time Warner Cable Pacific West LLC, Doing Business as Charter Communications.

7:30 2) Ordinance No. 24, Series 2018 - An Ordinance of the Crested Butte Town Council Approving by Reference Amendments to the Red Lady Estates Condominiums Plat Map and Declaration Text for the Vacation of the Public Access Easement and Relocation of Public Access Onto the Adjoining Town-Bench Property.

7:35 3) Ordinance No. 25, Series 2018 - An Ordinance of the Crested Butte Town Council Declaring a Moratorium on the Issuance of New Business Occupation Licenses Under Chapter 6, Article 2 of the Crested Butte Municipal Code for Formula Restaurant and Retail Businesses in All Business and Commercial Districts.

7:50 4) State Revolving Fund Loan for Water Treatment Plant Improvements.

8:00 OLD BUSINESS

1) Discussion on The Corner at Brush Creek Housing Project.

8:20 NEW BUSINESS

1) Ordinance No. 23, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Chapter 8, Article 1 of the Crested Butte Municipal Code to Include Regulations for Operation of Bicycles and Electrical Assisted Bicycles Approaching Intersections.

8:30 2) Resolution No. 19, Series 2018 - A Resolution of the Crested Butte Town Council Opposing "Amendment 74", an Attempt to Amend the Colorado Constitution to Drastically Limit State and Local Government Services at a High Cost to Taxpayers.

8:40 3) Resolution No. 20, Series 2018 - A Resolution of the Crested Butte Town Council Supporting "Amendment 73", a Statewide School Funding Initiative that Will

Increase Income Taxes for 8% of Tax Filers and for C Corporations, While Decreasing Property Taxes for Business Property Owners, Farmers and Ranchers.

8:50 4) Resolution No. 21, Series 2018 - A Resolution of the Crested Butte Town Council Supporting Ballot Measure “7D” to Debruce the Gunnison Metropolitan Recreation District, and Increase the Mill Assessment Back to the Original Amount of 1 Mil that was Established When the District was Created.

9:00 5) Resolution No. 22, Series 2018 - A Resolution of the Crested Butte Town Council Supporting Ballot Measure “6A” Proposing a Property Tax Increase to Create a Dedicated Source of Funding for Gunnison County Workforce and Senior Housing.

9:10 6) Discussion and Possible Direction on Entering Into Negotiations with the Selected Developer for Affordable Housing Paradise Park Block 76 and Triplex Proposals.

9:40 7) Resolution No. 23, Series 2018 - A Resolution of the Crested Butte Town Council to Enter into a Landscape Maintenance and Easement Agreement with Aperture Homeowners Association, Inc.

9:50 8) Presentation of the 2018 Crested Butte Community Survey.

10:10 9) Presentation of Recommendations on the 2018 Town of Crested Butte Parking Plan.

10:30 **COUNCIL REPORTS AND COMMITTEE UPDATES**

10:45 **OTHER BUSINESS TO COME BEFORE THE COUNCIL**

11:00 **DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, October 15, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, November 5, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, November 19, 2018 - 6:00PM Work Session - 7:00PM Regular Council

11:05 **EXECUTIVE SESSION**

For a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding 2016CV30080, Sopris 715, LLC v. Town of Crested Butte.

11:45 **ADJOURNMENT**



Memorandum

To: Mayor Schmidt and Crested Butte Town Council
Mayor Barnes and Mt. Crested Butte Town Council

From: Dara MacDonald, Town Manager

Subject: Development of the Brush Creek Parcel

Date: October 1, 2018

During their regular meeting on Monday, September 17, 2018 the Town Council for the Town of Crested Butte discussed a number of items that they would like to propose for further discussion with the Mt. Crested Butte Town Council at your joint work session on October 1st. These are potential further conditions of approval or requests for information that the Councils could jointly request be satisfied prior to approving of the project proceeding to preliminary plan. These are meant to be starting points for discussion and should not be taken as the final position of the Crested Butte Town Council.

1. Economic Feasibility

Request that a pro forma for the construction and operation of the development be provided for review by Councils and qualified advisors

2. Site Design

Request the site design be updated to meet the County's conditions of sketch plan approval as well as any additional changes requested jointly by Crested Butte and Mt. Crested Butte. This could be the same level of detail as the Development Layout Plan provided for sketch plan along with estimates of building heights and square footages.

3. Required Parking

2 parking spaces provided per unit to be constructed as the units are constructed

4. Intercept parking or other land uses

Set aside 5 acres for intercept parking or possible other uses (field space or additional future housing). Intercept parking should be placed as close as feasible to SH 135 to facilitate transit.

5. Oversight of Rental Units

The establishment of a body (or the further empowerment of the GVRHA) to protect Brush Creek tenants against the very real possibility of abuse by ANY one landlord for 300-600 people that don't have a local government looking out for them (with the assumption that the BOCC would never wade into and landlord/tenant dispute). Either the GVRHA or something akin to an HOA board for all the residents. The key requirement is an elected body, ideally elected by the residents (or empowered by elected officials ala the GVRHA).

6. Rental vs. For Sale
 - Include an ownership component
7. Density or # of Units
 - After setting aside appropriate amount for intercept parking or other future uses, discuss 15 units per acre
8. Impacts and Independent Review
 - a. Gatesco provide a market study supporting the number, type and AMI mix of units
 - b. Gatesco provide a fiscal and public facilities impact analysis for the proposed project
 - c. Both of these to be reviewed by Councils and qualified advisors

Representatives from both Crested Butte and Mt. Crested Butte attended a meeting on Tuesday, September 26th convened by David Baumgarten to continue discussions he has been hosting regarding The Corner at Brush Creek. During discussions between representatives from the Town including a follow-up it became evident that there might be opportunity to reach consensus between the two Councils fairly quickly on some of the above points.

To that end the Mayors have proposed a meeting format for the work session that will begin with a simple exercise asking each Council member whether or not they agree with each point proposed above to get a sense of where discussions should focus during the meeting.

1. Do you agree that 5 acres should be set aside for intercept parking or other uses? Yes/no
2. Do you agree that the development should include 2 parking spaces per unit? Yes/no
3. What is your preferred unit density on the remaining land after any set aside? 8 units per acre/12 units per acre/15 units per acre/other? (staff will provide examples)
4. Should the project include for-sale units? Yes/no
5. Should there be oversight of rental arrangements by and outside entity such as the GVRHA? Yes/no
6. Should a site plan be required reflecting #1, 2 & 3 prior to agreeing to proceed with preliminary plan? Yes/no
7. Should the applicant be required to provide a pro-forma to be reviewed by experts on behalf of the Towns to determine feasibility of the construction and operation of the project? Yes/no
8. Should a market study supporting the proposed mix of unit types/AMI targets be provided to determine financial feasibility of the proposed number of units of different types and target AMI's? Yes/no
9. Should a fiscal and facilities impact analysis be required to inform the Councils about potential unanticipated impacts on public services in the N. Valley? Yes/no

Seeing the results of this straw poll will hopefully provide good direction on sticking points and points of agreement and facilitate a productive discussion.

Background:

The following are highlights of some basic assumptions about the project as it stands based upon the County's conditions of approval and comments by Mr. Gates and members of his team:

1. The project may include no more than 180 units
2. The AMI ration must remain proportionally the same for the proposed 180 units and with the consideration that the numbers of units at 120% AMI and below remain the same, as economically feasible, and as identified in the Second Sketch Plan Submittal.
3. No underground parking will be included in the project moving forward.
4. All units must have a preference for Gunnison County residents.
5. No leases for less than 6 months.
6. The project must include dedication of an area for an intercept parking lot and transit; this shall be in addition to parking for residents of the project.
7. Applicant must provide an analysis of how the project comports with the 2016 Gunnison Valley Housing Needs Assessment, particularly the identification of numbers of units needed at differing AMI categories in the north end of the Gunnison valley.
8. A third-party oversight agency (such as GVRHA or Gunnison County) shall be the oversight agency responsible for verifying that all tenants and/or buyers meet the deed restriction criteria; the developer may be responsible for paying an administrative fee to that entity for the service.
9. Gunnison County shall maintain the right and authority to enforce deed restrictions placed on the units.
10. The applicant is required to and is intending to submit an application for service to the East River Regional Sanitation District.
11. The maximum height proposed is 32'.
12. With the reduction from 220 units to no more than 180 units, the project will include proportionally fewer three-bedroom units and more efficiency and one-bedroom units.
13. The applicant intends that with a reduction to no more than 180 units, the site plan would remain generally the same but with smaller buildings and possibly combining some units.
14. There were 120 underground parking spaces in the version of the plan with 220 units. With a reduction to 180 units and no underground parking, this would result in an additional 40 surface parking spaces at 2 spaces per unit.

15. The applicant is not planning to include for sale units in a proposal with 180 units or less.
16. Gatesco is asserts that they would build the project at 180 units for a cost of \$225-\$275 per square foot for a total of 140,300 square feet, including site improvements. This equates to \$31,600,000 - \$38,600,000 for the project. Gatesco asserts that of that total, site improvements will comprise \$12,000,000. Cost of the vertical construction of 140,300 square feet is \$19,600,000 - \$26,600,000 or \$139 - \$189 per square foot. Proposals recently received by the Town of Crested Butte for construction of duplex and triplex units range from \$240 - \$321 not including profit.

Gap in Housing Needs by Area, AMI and Own/Rent

Market does not provide	Market partially provides	Market provides			
Owner Units by AMI	Max Affordable Price	North	Mid	South	Total
<50%	\$108,000	12	4	18	34
50% to 80%	\$172,900	25	8	37	69
80.1 to 120%	\$259,300	43	13	63	119
120.1 to 200%	\$432,200	74	23	109	207
Over 200%	>\$432,200	35	11	52	99
Total Ownership Needs		189	60	279	528
Ownership Gap		154	25	54	233
Rental Units by AMI	Max Affordable Rent	North	Mid	South	Total
<50%	\$689	46	10	61	117
50% to 80%	\$1,102	47	10	62	119
80.1 to 120%	\$1,653	46	10	61	117
120.1 to 200%	\$2,755	25	5	33	63
Over 200%	>\$2,755	7	1	9	17
Total Rental Needs		171	36	226	432
Rental Gap		93	29	61	184
Total Gap		247	54	116	417

*Differences are due to rounding. NOTE: Units that are planned for construction have **not** been subtracted from the estimates of needs over the next four years.

While affordable homeownership opportunities for households earning under 80% AMI are undersupplied, producing homes at this price will not occur without substantial subsidies or programs such as Habitat for Humanity. These households also often have trouble qualifying for loans and meeting down payment purchase requirements.

Even the most aggressive strategic planning and policy implementation is unlikely to address 100% of the gap by 2020. Local goals, priorities, and opportunities will be key drivers in where and what type of housing is provided. Looking at the gap in summary, ownership and rental homes needed are broken down by the following incomes Valley-wide:

Corner at Brush Creek at 180 units

Condition #5. "The AMI ratio shall remain proportionally the same for the proposed 180 units with the consideration that the numbers of units at 120% AMI and below remain the same, as economically feasible, and as identified in the Second Sketch Plan Submittal"

RENTAL

	Needed per GVRHA Needs Assessment	Brush Creek proposed rental units	% of needed	% of units at various income targets
low income	93	74	79.6%	41.1%
moderate income	46	23	50.0%	12.8%
121-200%+	32	83	259.4%	46.1%
	<u>171</u>	<u>180</u>	105.3%	<u>100.0%</u>

OWNERSHIP

	Needed per GVRHA Needs Assessment	Brush Creek proposed for sale units	% of needed
low income	37		
moderate income	43		
121-200%	74		0.0%
exceeding 200%	35		

Corner at Brush Creek 4.16.18 - Second Sketch Plan Submittal

RENTAL

	Needed per GVRHA Needs Assessment	Brush Creek proposed rental units	% of needed	% of units at various income targets
low income	93	82	88.2%	41.0%
moderate income	46	26	56.5%	13.0%
121-200%+	32	92	287.5%	46.0%
	<u>171</u>	<u>200</u>	117.0%	<u>100.0%</u>

OWNERSHIP

	Needed per GVRHA Needs Assessment	Brush Creek proposed for sale units	% of needed
low income	37		
moderate income	43		
121-200%	74	20	27.0%
exceeding 200%	35		

Corner at Brush Creek - January 18 proposal

RENTAL

	Needed per GVRHA Needs Assessment	Brush Creek proposed rental units	% of needed
low income	93	100	107.5%
moderate income	46	30	65.2%
121-200%+	32	110	343.8%
	<u>171</u>	<u>240</u>	140.4%

OWNERSHIP

	Needed per GVRHA Needs Assessment	Brush Creek proposed for sale units	% of needed
low income	37		
moderate income	43		
121-200%	74		0.0%
exceeding 200%	35		

Ownership - Built since 2016 Needs Assessment or in pipeline

	Units	Location	
2017	6	Block 79 & 80	lot owner builds
2018	6	Block 79	Town duplexes
2018	2	Block 79	lot owner builds
2018	8	Stallion Park	Gunnison County
2019	22	Block 76 & 80	Town/developer partnership
2019	6	Pitchfork	Gunnison County
2019	20	Homestead	Town/CBMR/developer partnership
	<u>70</u>		

Rental - Built since 2016 Needs Assessment or in pipeline

	Units	Location	
2017	4	ADUs in Crested Butte	
2017	1	Town Rental Build	
2018	2	ADUs in Crested Butte	
2018	3	5th & Belleview	Coburn building
2019	3	Block 78	CB Fire Protection District
2019	2	Town Rental Build	
2019	4	5th & Belleview	Clark's expansion
2019	3	6th & Teocalli	CB Hotel
	<u>22</u>		



**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2018 - 28**

**A RESOLUTION APPROVING THE SKETCH PLAN FOR
LUC-17-00034
APT BRUSH CREEK ROAD, LLC (AKA The Corner at Brush Creek)**

WHEREAS, The applicant proposes the development of 220 units on the subject parcel. 63.6% (140) of the units will be deed restricted to qualifying households earning less than 180% of the Area Median Income. 108 (49%) of the total units are deed restricted for households earning less than 120% of Area Median Income and meet the definition of "workforce" as stated in Section 2-102: *Definitions* of the Gunnison County *Land Use Resolution* and also meet the definition of essential qualified households by the Gunnison Valley Regional Housing Authority. The remainder of the units (80) will be free market rental units. This application will include a subdivision including the townhome units (20 parcels), rental units (1 parcel), and parking lot parcel (1 parcel).

200 of the total units are proposed as rental units and twenty (20) units are proposed as for sale units. The for sale units are proposed to be deed restricted but the AMI criteria have not been proposed by the applicant at this time. The applicant has proposed to offer developer construction and seller financing for buyers of the for sale units; no buyer shall be required to utilize the seller financing. The proposed financing terms are a 3% down payment, 30-year amortization, and a low interest rate. The propose interest rate is fixed, determined as the 30-year Treasury Rate plus 60 basis points at the time of acquisition.

The deed restrictions will include Area Median Income (AMI) limits and other criteria. These restrictions are necessary to ensure that housing remains permanently available for the local workforce. Deed restricted units will each be priced at no more than 30% (including utilities) of an individual's or families' income. The categories and number of units have been modified since the original Sketch Plan application and the revised proposal includes:

Revised Plan: May, 2018			
Unit Type	Incremental Units	Cumulative Units	Cumulative % of Total Units
Restricted: <50% AMI	33	33	16.5%
Restricted: <80%	49	82	41%
Restricted: <120%	26	108	54%
Restricted: <180%	12	120	60%
No Income Restriction	80	200	100%
For Sale Deed Restricted	20/20	20	100%
Total Deed Restricted	140/220	220	63.63%

Deed restrictions are proposed as follows: the Household must have at least one "Resident," which means "a natural person who (i) at the time of rental of a Restricted Unit, earns his or her living from a business operating in and serving Gunnison County, by working at such business an average of at least 30 hours per week on an annual basis, or (ii) is a person who is approved, in writing, by GVRHA or the County which approval shall be based upon criteria including, but not limited to, total income, percent of income earned within Gunnison County, place of voter registration, place of automobile registration, and driver's license address and other qualifications established by the GVRHA or the County from time to time. A person over 65 years of age shall remain a Resident regardless of his or her working status, so long as he or she has occupied the Property for a time period of not



less than seven years. Full time residents of Gunnison County who are persons with disabilities are not required to be employed. The term "business" as used in this definition shall mean an enterprise or organization providing goods and/or services, whether or not for profit, and shall include, but not be limited to, educational, religious, governmental and other similar institutions.

The applicant proposes a minimum lease term of six months and preference for Gunnison County residents for all units (deed restricted and free market) in compliance with federal regulations.

The applicant proposes the following buildings on the subject parcel:

Building Type	Quantity	Estimated Square Footage Per Building	Aggregate Square Footage
Duplex	10	3,200 sq ft	32,000 sq ft
8-plex	6	8,000 sq ft	48,000 sq ft
10-plex	6	9,000 sq ft	54,000 sq ft
16-plex	3	12,800 sq ft	38,400 sq ft
22-plex	2	18,000 sq ft	36,000 sq ft
Transit/Community Center	1	4,500 sq ft	4,500 sq ft
Maintenance and Wastewater	1	3,000 sq ft	3,000 sq ft
Total	29		215,900 sq ft

A community and transit center is proposed on the northeast corner of the parcel. The footprint of the community center will be approximately 4,500 square feet and house space for events, meetings and a communal bike/ski workshop. Post office boxes are to be included in the building and office space for the Gunnison County Sheriff. A convenience store/coffee shop, approximately 1,000 square feet in size, will also be housed in the community center building.

The Brush Creek transit stop for Regional Transportation Authority (RTA) and Mountain Express are proposed to be located at the community center and serve the entire Brush Creek area. Bike racks and restrooms will be available to the general public that may be utilizing the bus stop. The applicant initially proposed the development and paving of a parking lot for the transit center. The applicant now proposes to subdivide that portion of the parcel and deed it to Gunnison County who may determine how to develop the intercept parking lot with other MOU participating parties in the future.

Other amenities included in the proposal include: playing fields, trails, a playground, picnic area, and a dog park. A trail connection to the Deli Trail is proposed that would allow future connection to a possible Crested Butte to Crested Butte South trail. 8.1 acres (50%) of the parcel is proposed as open space.

The project is proposed to be developed in two phases, as shown on Map 13, Phasing Plan, dated April 16, 2018.

Phase 1 includes: Infrastructure (utilities, roads, parking areas serving the units constructed), the transit/community center, the 10-plexes (60 units) along the northwest side of the property, and the 16-plexes near the middle of the property (48 units) and for sale townhomes, along the eastern property line, and the amenities as identified on Map 13, Phasing Plan, dated April 16, 2018.

Phase 1 will include the construction of 108 units; 63.6% (68 units) of the Phase 1 units will be deed restricted while the remaining 40 units will be free market. The majority of the park, trails, and open space amenities are included for development in this phase (see Map 13 for better depiction).

Phase 2 includes: the remaining residential units, based on market demand, remaining infrastructure (for Phase 2 units) and remaining trail and open space amenities. Phase 2 units will be constructed based on market demand



and no timeframe for construction is identified at this time. As units are constructed in Phase 2 the applicant proposes to maintain the restricted/free market ratio, for example, if a building with 24 units is constructed, 63% (15) of those units would be deed restricted while the remaining 37% (9) would be free market. All rental units are proposed to be held under the single ownership and managed by Gatesco. An onsite management office is proposed.

The applicant proposes to supply water to the development via one or more wells which will be augmented by purchase of water from Meridian Lake through a contract with the Upper Gunnison River Water Conservancy District. In an email dated July 19, 2018 attorney Kendall Burgemeister stated, "The Skyland Metro District has made it clear that provision of water to the project is not possible."

Central sewage disposal is proposed. The applicant's preferred option is the construction of central sewage treatment facility on-site. It may also be possible for the development to connect to the East River Regional Sanitation District.

The subject parcel is located on the southeast corner of the intersection of Brush Creek Road and Highway 135, approximately 1.5 miles south of the Town of Crested Butte. The parcel is approximately 14.29 acres and is legally described as all of the land in Section 12, Township 14 South, Range 86 West, 6th p.m., lying south and east of Brush Creek Road, and west of Larkspur Subdivision and Red Feather Subdivision, excepting any portion that may lie south and west of the southwest boundary of Colorado State Highway 135.

Modifications Requested per Section 9-604: Incentives to Provide Essential Housing

The applicant has requested the following modifications as allowed per Section 9-604: *Incentives to Provide Essential Housing*:

- Section 10-103: C. 3.a.1 *Development Served by Public Wastewater Treatment System*: In the Sketch Plan submittal the applicant has identified three options for wastewater treatment: connection to the East River Regional Sanitation District, connection to the Town of Crested Butte wastewater treatment plant, or construction of an on-site wastewater treatment facility. If the applicant pursues the option of construction of an on-site wastewater treatment facility a modification shall be requested to Section 10-103:C.3.a.1. which requires that a "development is or will be served by a public wastewater treatment system." The LUR defines Public Services and Facilities as: "those services and facilities provided by a public entity or public utility (including but not limited to, any municipality, county, or special district) including, but not limited to, roads, trails, schools, wastewater treatment, water treatment...". The proposed on-site wastewater treatment facility does not meet the definition of a public service or facility.
- Section 13-103: H. *Allowed Structure Heights*: The February 7, 2018 Sketch Plan supplemental states that the estimated building heights will be between 26 feet and 35 feet. Andrew Hadley, architect for the applicant, explained that the maximum roof height (as measured per County standards of Section 13-103: H. *Allowed Structure Heights*) is 32 feet for the 10-plexes and flat roof buildings.
- Section 13-104: *Setbacks from Property lines and Road Rights-of-Way*, the applicant proposes an approximate 45-foot setback from the edge of Brush Creek Road. Front, side and rear setbacks are shown on Map 12, "Development Layout Plan," dated April 16, 2018. The Development Layout Plan depicts a 45-foot setback from the edge of the Brush Creek Road for the proposed buildings. Section 13-104 requires a 40-foot setback from the edge of the County road right-of-way.

While this incentive allows an exception to property line setbacks it does not mention setbacks from roads. However, Section 9-604: A.6. does allow the decision making-body to modify standards in Article 13 which includes setbacks from roads.

- Section 13-105: *Residential Building Sizes and Lot Coverages*, the applicant proposes the construction of buildings in excess of the maximum size thresholds identified in this Section. The applicant has proposed buildings that range in size from 3,200 to 18,000 square feet, with a total approximate square footage of 215,900 square feet.



Staff has determined that this issue is not governed by the standards of Section 13-105: G. when reviewing the proposed modification, rather the issue is governed by the standards of Section 9-604: A. 6. *Modified Development Standards* related to energy efficiency, amenities, design, etc.

Changes to Original Sketch Plan Application Submittal

The application has evolved since the original submittal and the applicant has made the following changes including but not limited to:

- Increased setback along Brush Creek Road from 30' to 45'
- Decreased building density along Brush Creek Road
- Reduced bedroom count from 408 to 341 with a projected population reduction from approximately 600 people to approximately mid-500 people.
- Increased residential parking from 361 to 410 spaces, including 31 designated for visitors, with an additional 38 parking spaces available based on future demand (448 spaces total)
- Increased number of covered parking spaces
- Elimination of the transit parking lot (parcel to be conveyed to County for future development)
- Decreased building square footage from approximately 280,000 square feet to 215,900 square feet
- Decreased building count to 29 buildings, including reduction of four buildings along Brush Creek Road in response to public concern about view corridors
- 20 For Sale Units
- Additional units at lower AMI categories

Applicant Proposes Conditions for Sketch Plan Approval

An email from applicant attorney, Kendall Burgemeister, dated July 19, 2018 stated:

"The Applicant is ready, willing, and committed to continue to engage in all productive conversations with the various stakeholder groups that could ultimately result in a project that is still feasible yet more palatable to the objectors (e.g. discussions with ERRSD regarding a pumpback project). First and foremost of these conversations will be discussions with the four MOU partners to obtain a majority vote to allow the applicant to develop the property. The Applicant would accept a condition of sketch plan approval that requires the Applicant to obtain the consent of three of the four partners to the MOU before the Applicant submits an application for preliminary and final plan approval."

WHEREAS, a joint public hearing was conducted February 16, 2018, March 2, May 4, June 1, and July 20, 2018 by the Planning Commission and Board of County Commissioners; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did, at its regular meeting on August 3, 2018 forward to the Board of County Commissioners a Recommendation of approval of that application with certain Findings and Conditions;

NOW, THEREFORE, the Board hereby adopts in full the Planning Commission's Recommendation, with these Findings:

1. Approval of this Sketch Plan application constitutes a final decision of approval for the general development concept only, but shall not constitute approval of any detailed design or engineering submittals or proposed solutions to specific problems revealed during the Sketch Plan review or later in the review process. Sketch Plan approval by the Board shall not constitute approval of the Major Impact project, or permission to proceed with construction of any aspect of the proposed land use change. Approval at this stage only authorizes the applicant to submit a Preliminary Plan application. If, during the Preliminary and Final Plan reviews, the applicant is unable to fulfill all of the requirements of this Resolution or any requirements imposed as part of the Preliminary or Final Plan review, then the application shall be denied at the Preliminary or Final Plan review stage.
2. The applicant stated that they would accept a condition of sketch plan approval that requires the applicant to obtain the consent of at least three of the four parties (Gunnison County, Town of



Crested Butte, Town of Mt. Crested Butte, Crested Butte Mountain Resort) to the Memorandum of Understanding (MOU) before the applicant submits an application for preliminary and final plan approval.

3. This application, by definition, is classified as a Major Impact.
4. Pursuant to Section 7-102:Standards of Approval for Major Impact Projects:
 - a. This Sketch Plan application is generally consistent with the standards and requirements of the *Resolution*, pursuant to Section 7-103, *i.e.*, compliance of the proposed land use change with the standards of the *Resolution* are required to be determined broadly and conceptually during Sketch Plan review. This application has broadly addressed, and the Commission has broadly evaluated this submittal for its integration of the standards of the *Resolution* within its conceptual presentation of the proposed development. The burden in the Preliminary Plan review is on the applicant to provide detailed information and mitigation proposals for evaluation.
 - b. A determination of whether or not the proposed land use change would result in a significant adverse net effect to adjacent land uses can occur only after the applicant has designed mitigations in response to conflicts and general issues raised during this Sketch Plan review process. While the applicant has proffered conceptual mitigations to elements that have been raised as issues by the public and by the Planning Commission, determination of the effectiveness of those proposals requires additional information that engineered solutions might provide.
 - c. Phasing has been proposed by the applicant within this Sketch Plan submittal.
 - d. All uses have been identified on lots within this proposed subdivision.
5. The following have been identified as significant issues related to this application during the Sketch Plan review process:
 - a. Density
 - b. Compatibility
 - c. Intensity of uses
 - d. Amenities
 - e. Buffering the neighbors from impacts
 - f. Building concepts, materials, and design standards
 - g. Sketch elevations
 - h. Maintaining existing trail easements
 - i. Water supply and wastewater treatment
 - j. Review of Town of Crested Butte's Three Mile Plan in the context of the proposed density and impacts to recreation
 - k. Traffic congestion, flow, safety and bus loops
 - l. Bus service
6. For purposes of this Sketch Plan approval, the project is compatible if it has density of no more than 180 units; this finding does not suggest that at Preliminary or Final Plan a lesser number would not be approved.
7. The need for essential housing units whose cost do not exceed 120% AMI is a priority of Gunnison County.
8. The conceptual designs of the proposed buildings are generally compatible with the surrounding neighborhoods including but not limited to the renderings of proposed materials and flat and gabled roof designs.



9. The proposed application includes 49% essential housing as defined by the Gunnison County Land Use Resolution and Gunnison Valley Regional Housing Authority. The proposed project includes 63% of the units will be deed restricted housing with income and residency requirements up to 180% of the Area Median Income.
10. The application meets the criteria set forth in Section 9-604: *Incentives Required to Provide Essential Housing*, and the Planning Commission may determine which incentives are appropriate to grant to this project.
11. The applicant has requested the following incentives (also referred to as modifications) in compliance with Section 9-604 which are hereby approved conceptually as part of the Sketch Plan application; further review and final determination of approval will occur at Preliminary and Final Plan application:
 - a. Section 10-103: C. 3.a.1 Development Served by Public Wastewater Treatment System: In the Sketch Plan submittal the applicant has identified three options for wastewater treatment: connection to the East River Regional Sanitation District, connection to the Town of Crested Butte wastewater treatment plant, or construction of an on-site wastewater treatment facility. If the applicant pursues the option of construction of an on-site wastewater treatment facility a modification shall be requested to Section 10-103:C.3.a.1. which requires that a "development is or will be served by a public wastewater treatment system." The LUR defines Public Services and Facilities as: "those services and facilities provided by a public entity or public utility (including but not limited to, any municipality, county, or special district) including, but not limited to, roads, trails, schools, wastewater treatment, water treatment...". The proposed on-site wastewater treatment facility does not meet the definition of a public service or facility.
 - b. Section 13-103: H. *Allowed Structure Heights*: The February 7, 2018 Sketch Plan supplemental states that the estimated building heights will be between 26 feet and 35 feet. Andrew Hadley, architect for the applicant, explained that the maximum roof height (as measured per County standards of Section 13-103: H. *Allowed Structure Heights*) is 32 feet for the 10-plexes and flat roof buildings.
 - c. Section 13-104: *Setbacks from Property lines and Road Rights-of-Way*, the applicant proposes an approximate 45-foot setback from the edge of Brush Creek Road. Section 13-104 requires a 40-foot setback from the edge of the County road right-of-way.
 - d. Section 13-105: *Residential Building Sizes and Lot Coverages*, the applicant proposes the construction of buildings in excess of the maximum size thresholds identified in this Section. The applicant has proposed buildings that range in size from 3,200 to 18,000 square feet, with a total approximate square footage of 215,900 square feet.
12. There is a proposed commercial use on the subject parcel. While commercial uses have been approved in Buckhorn Ranch and Skyland/the Club at Crested Butte, their existence sets no precedent that additional commercial uses proposed at the Corner at Brush Creek are compatible with established uses in the area. However, the Commission finds, based upon the existence of other subdivisions with commercial recreational amenities in the impact area (particularly Skyland/the Club at Crested Butte) that uses similar to those proposed are established in the area. Therefore, the concept of locating a residential subdivision with similar amenities and similar restrictions regarding hours and types of use in the area is reasonable.
13. There is a proposed community and transit center on the subject parcel. The concept of the transit center would provide an opportunity to create greater connectivity from the Brush Creek area to the Towns of Crested Butte and Mt. Crested Butte and to the City of Gunnison. Thus, the Commission finds that, consistent with the LUR, the proposed center is a benefit to the Brush Creek neighborhood and to the Gunnison Valley as a whole.



14. A requisite component of the proposal at Preliminary Plan shall be dedication of an area for an intercept parking lot and transit; this shall be in addition to parking for the residents of the development. The method of the dedication may include conveyance of land, long-term lease or other alternatives. The applicant shall not be responsible for the cost of construction, maintenance or operation of the intercept parking lot.
15. Gunnison County has not adopted the Crested Butte Three Mile Plan nor has the County entered into an intergovernmental agreement with the Town of Crested Butte. Therefore, the provisions of the Crested Butte Three Mile plan are not mandatory. The County has nonetheless considered the Crested Butte Three Mile Plan in a reasonable attempt to remain attentive to the concerns of the Town, and will continue to consider the Town's Three Mile Plan as this process continues.
16. Neighboring property owners and others in the community have argued that the proposed density is not compatible with the existing Brush Creek neighborhood. For the reasons set forth in this document and consistent with the LUR, the Commission finds that such arguments should not prevent or preclude approval of the sketch plan with the conditions set forth below.
17. A determination of whether or not the proposed land use change has demonstrated that conditions are appropriate for greater density on the subject parcel can occur only after the applicant has designed mitigations in response to conflicts and general issues raised during this Sketch Plan review. While the applicant has proffered conceptual mitigations for possible impacts (connection to services such as GCEA, RTA, and public trails; the development of protective covenants and design standards that will ensure compatibility with the neighborhood; landscaping; limitations on outside storage; preservation of 56% open space; and the establishment of deed restricted essential housing units to elements); determination of the effectiveness of those proposals requires the additional information that engineered solutions might provide.
18. Mapping from the U.S. Fish and Wildlife Service indicates that there may be wetlands on the subject parcel.
19. Traffic flow on Brush Creek Road, intersection with Hwy 135, winter conditions, bus turnaround on subject parcel, and safety of all intersections are some of the concerns that have been expressed by the public.
20. The proposed access from Highway 135 and Brush Creek Road will need to be evaluated by the Colorado Department of Transportation and Gunnison County Public Works at Preliminary Plan.
21. The public trails proposed on the subject parcel are an important amenity to connect the development to multi-modal transportation options and to align with community values.
22. The water supply is proposed to be obtained from a central well or wells.
23. Wastewater treatment is proposed by either a central treatment system onsite; connection to the East River Regional Sanitation District; or the Town of Crested Butte.
24. The site plan has not been fully developed at Sketch Plan and the applicant has not made a final determination of the setbacks at this time.
25. The applicant has proposed 410 parking spaces, with 38 additional spaces identified for future demand.
26. A landscaping plan has been submitted as Map 16 of the Sketch Plan submittal, dated April 16, 2018.
27. The applicant proposes an aggregate square footage of 215,900 square feet on the parcel.
28. Fifty-six percent (56%) of the parcel is proposed as open space.



29. Draft protective covenants are required to be submitted with the Preliminary Plan application.
30. Integration of the standards of Section 13-119: *Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review is required within the Preliminary Plan submittal. Issues that have been identified relative to compatibility include but are not limited to: density, intensity of uses, amenities, buffering the neighbors from impacts, building concepts, materials, and design standards, sketch elevations, maintaining existing trail easements, water supply and wastewater treatment, compliance with Town of Crested Butte's Three Mile Plan in the context of the proposed density and impacts to recreation, traffic congestion, flow, safety and bus loops, and bus service.
31. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that no additional public hearing on the APT Brush Creek Road, LLC Sketch Plan need be conducted by the Board, and further, the Board hereby approves the APT Brush Creek Road, LLC Sketch Plan for LUC No. 2017-00034 as recommended by the Planning Commission, with the following conditions:

1. As proposed by the applicant, and accepted as a finding, prior to submittal of the Preliminary Plan, and prior to submittal of the Final Plan, the applicant shall obtain consent of three of the four parties (Gunnison County; Town of Crested Butte; Town of Mt. Crested Butte; Crested Butte Mountain Resort) to the MOU.
2. Pursuant to Section 7-103: C., in the submittal of Preliminary Plan, the applicant shall formulate detailed, designed/engineered solutions to the issues and concerns identified during this Sketch Plan review, and shall address, in a site-specific manner, all other issues that are relevant to the Preliminary Plan.
3. The Preliminary Plan application shall address how the application and proposed development will address the following issues identified during the Sketch Plan review process:
 - a. Density
 - b. Compatibility
 - c. Intensity of uses
 - d. Amenities
 - e. Buffering the neighbors from impacts
 - f. Building concepts, materials, and design standards
 - g. Sketch elevations
 - h. Maintaining existing trail easements
 - i. Water supply and wastewater treatment
 - j. Compliance with Town of Crested Butte's Three Mile Plan in the context of the proposed density and impacts to recreation
 - k. Traffic congestion, flow, safety and bus loops
 - l. Bus service
4. For purposes of this Sketch Plan approval, the project is compatible if it has density of no more than 180 units; this finding does not suggest that at Preliminary or Final Plan a lesser number would not be approved.
5. The AMI ratio shall remain proportionally the same for the proposed 180 units and with the consideration that the numbers of units at 120% AMI and below remain the same, as economically feasible, and as identified in the Second Sketch Plan Submittal.



6. As part of the Preliminary Plan application, the applicant shall submit a detailed phasing plan for Phase 2.
7. Certain comments submitted by the public, including but not limited to the Town of Crested Butte, are matters appropriately addressed at the Preliminary Plan phase rather than the Sketch Plan phase.
8. The applicant shall submit protective covenants as part of the Preliminary Plan application in compliance with Section 7-301: K. *Protective Covenants or Restrictions*. The protective covenants shall include language that all units on the subject parcel shall have a rental and ownership preference for Gunnison County residents, in compliance with federal laws.
9. The Protective Covenants shall include design standards that are generally compatible with the design standards of other subdivisions (i.e. Skyland and Larkspur) in the Brush Creek corridor including use of similar materials and architectural styles.
10. There shall be no lease terms less than six months on the subject parcel for any of the residential units. Short-term rentals shall be prohibited; for purposes of this condition short-term rental shall mean the rental of any unit for less than a period of six months.
11. The applicant shall submit a list and photograph of proposed building materials, elevations and visual renderings of all proposed buildings as part of the Preliminary Plan application.
 - a. The visual renderings are required to be submitted as part of the Preliminary Plan application and shall include site design impacts demonstrated, at a minimum from the following points: Wright Ranch Road, the intersection of Brush Creek Road and Highway 135; from the intersection of Slate River Road and Fairway Lane; and $\frac{1}{4}$ to $\frac{1}{2}$ mile north and south on Highway 135 from the Brush Creek Road intersection.
 - b. Building materials and building design are a critical component of determining compatibility. The buildings shall be designed in a manner that complements the existing architecture and materials that exist in the Brush Creek corridor. Final proposed building heights shall also be included.
12. The applicant shall submit a site plan in compliance with Section 13-104: *Setbacks from Property Lines and Road Rights-of-Way* as part of the Preliminary Plan. The applicant shall work with the County Public Works Director to identify the road right-of-way width and maintain a setback from that right-of-way of 40 feet to the maximum extent feasible. If a modification to setbacks is proposed, the applicant shall identify the proposed modification in the Preliminary Plan application.
13. A requisite component of the proposal at Preliminary Plan shall be dedication of an area for an intercept parking lot and transit; this shall be in addition to parking for the residents of the development. The method of the dedication may include conveyance of land, long-term lease or other alternatives. The applicant shall not be responsible for the cost of construction, maintenance or operation of the intercept parking lot.
14. The applicant shall identify how the proposed project modifications allowed per Section 9-604: A. 6. *Modified Development Standards*, will result in residences that will be more energy-efficient, will provide more amenities, or improved design, and will not jeopardize public health, safety or welfare than if the modifications are not approved.
15. The applicant shall submit an analysis of how the project comports with the 2016 Gunnison Valley Housing Needs Assessment, particularly the identification of numbers of units needed at differing AMI categories in the north end of the Gunnison valley.



16. The applicant shall submit a detailed outline of what unit types and in which building(s) (including rental and for sale), units will be available at each AMI category as part of the Preliminary Plan application.
17. The applicant shall consult the Gunnison Valley Regional Housing Authority (GVRHA) to develop draft deed restrictions for the applicable rental units and for sale units and submit those as part of the Preliminary Plan application.
18. The applicant shall, to the maximum extent feasible, adopt deed restrictions on the proposed units that shall be maintained in perpetuity. The applicant shall provide a narrative explaining how the deed restrictions for all units will be maintained in perpetuity, even in the case of foreclosure
19. A third-party oversight agency (such as GVRHA or Gunnison County) shall be the oversight agency responsible for verifying that all tenants and/or buyers meet the deed restriction criteria; the developer may be responsible for paying an administrative fee to that entity for the service.
20. Gunnison County shall maintain the right and authority to enforce deed restrictions placed on the units in this application.
21. The uses of the community center shall be outlined in the Preliminary Plan including hours of operation, commercial uses and expected impacts.
22. A wetland delineation shall be completed in compliance with Section 11-107: *Protection of Water Quality*.
23. The proposed trails on the parcel shall be dedicated and open to the public at-large. A trail easement for possible future connection from Crested Butte to Crested Butte South shall be included in the Preliminary Plan submittal.
24. A water supply plan, in compliance with Section 12-105: *Water Supply* shall be submitted as part of the Preliminary Plan application.
25. The water supply plan shall identify a set of best management practices (including measures, methods, and techniques) for water conservation as part of the Preliminary Plan application.
26. In compliance with the recommendations from the applicant's consultant, John Kaminsky, P.G.:
 - a. A pressure transducer shall be installed in the well on the subject parcel (aka Well MH-23084) which will automatically log the groundwater level on a regular basis prior to submittal of the Preliminary Plan application.
 - b. A step rate efficiency test of the same well shall be completed prior to submittal of the Preliminary Plan application.
27. The applicant shall work with a Colorado licensed water engineer or professional geologist to identify the impacts of proposed wells on neighboring and nearby wells. One or more pressure transducers shall be installed on such neighboring and nearby well(s), subject to permission of well and/or property owners.
28. The applicant shall complete a well pump test in January or February to ensure that a year-round consistent supply of water will be available to the proposed development in compliance with Section 12-105: *G. Well Testing*.
29. A plan for wastewater treatment in compliance with Section 12-106: *Sewage Disposal/Wastewater Treatment* shall be submitted as part of the Preliminary Plan application.



30. The applicant shall submit a written application for service to the East River Regional Sanitation District (ERRSD) prior to submittal of the Preliminary Plan application. The applicant shall work to obtain wastewater treatment service from the ERRSD to the maximum extent feasible. If it is determined to not be feasible by the applicant, a financial analysis of connection to ERRSD compared with development of new on-site wastewater treatment facility shall be submitted as part of the Preliminary Plan application.
31. The applicant shall submit a traffic study in compliance with Section 12-106: E. as part of the Preliminary Plan application.
32. The County reserves the right to require a third party review of the traffic study and the impacts of traffic on Brush Creek Road and Highway 135; the applicant shall be responsible for a pro-rata share of that cost.
33. Berms and/or other landscaping that will screen the development from neighboring property owner, particularly along Brush Creek Road and Wright Ranch Road shall be included as an element of the Preliminary Plan submittal, along with visual renderings of how the landscaping will appear in year 1, year 5 and year 10.
34. Integrating the standards of Section 13-119: *Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this Sketch Plan review, is required within the Preliminary Plan submittal. Mitigation must address: density, compatibility, intensity of uses, amenities, buffering the neighbors from impacts, building concepts, materials, and design standards, sketch elevations, maintaining existing trail easements, water supply and wastewater treatment, compliance with Town of Crested Butte's Three Mile Plan in the context of the proposed density and impacts to recreation, traffic congestion, flow, safety and bus loops, and bus service.
35. Preliminary and final plan applications shall not be combined. Each phase shall be submitted separately.
36. Approval of this Sketch Plan application constitutes a final decision of approval for the general development concept only, but shall not constitute approval of any detailed design or engineering submittals or proposed solutions to specific problems revealed during the Sketch Plan review or later in the review process. Sketch Plan approval by the Board shall not constitute approval of the Major Impact project, or permission to proceed with construction of any aspect of the proposed land use change. Approval at this stage only authorizes the applicant to submit a Preliminary Plan application. If, during the Preliminary and Final Plan reviews, the applicants are unable to fulfill all of the requirements of this Resolution or any requirements imposed as part of the Preliminary or Final Plan review, then the application shall be denied at the Preliminary or Final Plan review stage.
37. The applicant shall be required to submit and actively pursue the completion of the Preliminary Plan application within 12 months after the date of approval of the Sketch Plan. Per Section 7-202: Q. *Extension of Submittal Deadline*, the Board may extend the deadline to submit a Preliminary Plan application for no more than 12 months beyond the date of the 12-month expiration, and only one extension may be granted. Failure to submit a complete Preliminary Plan application within this time period shall render the Sketch Plan approval null and void, and require the applicant to begin the Sketch Plan review process again.
38. This approval is founded on each individual requirement. Should the applicant successfully challenge, in a judicial proceeding, any such finding or requirement, this approval is null and void.
39. This Sketch Plan approval may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.



- 40. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change application.
- 41. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

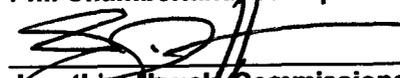
THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner Messner, seconded by Commissioner HOUCK, and adopted on this 7th day of August, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO**



Phil Chamberland, Chairperson

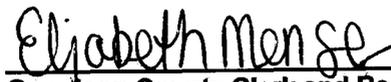


Jonathan Houck, Commissioner



John Messner, Commissioner

ATTEST:



Gunnison County Clerk and Recorder.
DEPUTY



MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, September 17, 2018
Council Chambers, Crested Butte Town Hall

Mayor Schmidt called the meeting to order at 7:41PM.

Council Members Present: Will Dujardin, Chris Haver, Kent Cowherd, Jackson Petito, and Laura Mitchell

Petito departed from the meeting after Old Business.

Staff Present: Town Manager Dara MacDonald, Town Attorney Barbara Green, Town Planner Bob Nevins, and Town Clerk Lynelle Stanford

Chief Marshal Mike Reily, Community Development Director Michael Yerman, and Parks and Recreation Director Janna Hansen (for part of the meeting)

APPROVAL OF AGENDA

Mitchell moved and Haver seconded a motion to approve the agenda. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

CONSENT AGENDA

- 1) September 4, 2018 Regular Town Council Meeting Minutes.**
- 2) Vinotok Special Event Application for September 21 - 23, 2018 and Special Event Liquor Permit for September 21, 2018.**
- 3) Appointment of Creative District Commissioner.**

Dujardin moved and Mitchell seconded a motion to approve the Consent Agenda. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

PUBLIC COMMENT

Sue Navy - 324 Gothic

- Provided updates on events, such as Stand at the Summit from HCCA, and others.
- Mentioned the Paradise Clean-up on October 21st, and she thanked the Town for the funding for the BBQ and dumpsters.

Tricia Kubisiak - 142 Larkspur Loop

- The Center for the Arts didn’t want to provide affordable rent space for the School of Dance.

- The Center was disregarding the locals, and she asked for intervention from the Town.

STAFF UPDATES

MacDonald reviewed decision points for the Council on various ballot measures, as referenced in her staff report. She asked if the Council wanted to include them on a future agenda. The Council agreed all four in the staff report were discussable.

MacDonald reported that Waste Management was asking for a rate increase to bolster recycling programs with the unexpected loss of China as a destination for many recyclable materials. The increase was outside the scope of the current agreement. There were discussions on the rates of contamination and communication to customers. It was decided to bring forth a resolution amending the contract.

MacDonald mentioned the Land Trust would be convening a community forum regarding Peanut Lake Road, and they were asking for a representative from Town. Mitchell volunteered to serve.

Cowherd questioned the outcome of the Jazz Fest. Hansen said there was the same amount of work from her department's standpoint, regardless of attendance. He also asked about the size of the plug at the electrical vehicle charging station, regarding a potential place to charge electric bikes.

Schmidt brought up the location of the basketball courts at The Center. Hansen explained there had been iterations of plans, and they were moving forward with the approved plans from BOZAR. Dujardin asked about usage of the basketball courts at Town Hall and at The Center.

Dujardin pointed out that rocks were being removed from the banks of Coal Creek. Hansen elaborated upon the issue, along with work that was being done. Cowherd asked for communication. Hansen would have a sign installed.

OLD BUSINESS

1) Discussion on The Corner at Brush Creek Housing Project.

MacDonald included a report in the packet, in which she collected comments received from Council members and ordered them topically. Schmidt started the discussion with the topic of economic feasibility. Haver suggested that they hire a consultant, who was knowledgeable, since pro-formas were often proprietary. Petito didn't want a consultant to be at the cost to the Town to help the proponent meet their condition. Green said they could ask for a pro-forma at the next meeting as a part of the County process. She also mentioned an in camera review that would protect certain information. Then, Schmidt focused the discussion on site design. MacDonald pointed out, before they could agree to a preliminary plan, they had to know to what they were agreeing.

Next, Schmidt brought up the required parking of two spaces per unit. MacDonald stated that with the reduction of units, it would impact the underground parking. Green clarified they would ask the County not waive the requirement of two per unit. MacDonald summarized she heard two parking spots per unit to be constructed as the units were constructed.

Intercept parking and ball fields were discussed next. Schmidt identified that parking would become more and more essential. There was discussion on the usage of intercept lots. Schmidt recognized commonality in the comments of dedicating five acres to be retained. Haver saw the importance of having ball fields in order to help foster the sense of community. MacDonald stated that a recreational use would never be changed to parking. Cowherd thought it critical to stand on five acres. Dujardin acknowledged the land had been set aside for parking. Petito stated they were setting aside a certain portion for parking and/or ball fields; it would be what they brought up in the meeting with Mt. Crested Butte. Dujardin wanted to separate the discussion on ball fields from parking. Schmidt said they would set aside five acres. There was not consensus from the Council around parking versus ball fields. The uses would be determined in the future.

Schmidt thought the Housing Authority should manage the development. Petito identified there was the possibility of abuse with one landlord for 600 people with no government looking out for them. No one voiced disagreement with Schmidt's and Petito's comments.

The Council agreed there needed to be enough water, and then the discussion turned to rental versus for sale units. There was analysis on other for sale units becoming available in the area. Cowherd said they needed to focus on the needs assessment. Mitchell thought it would be difficult to obtain lending. Cowherd didn't want to see the ownership element disappear.

The next discussion point was on density and number of units. The density was compared to the density at Pitchfork. There was focus on the number of 15 units per acre. The discussion would be continued with Mt. Crested Butte.

Lastly, the Council discussed impact and independent review. MacDonald said that requiring a market study made sense. Schmidt had concerns of people driving down valley. Haver thought the market study could help to determine the size, and a third-party review would be helpful.

David Leinsdorf - 3 Treasury Hill Road

- They were talking 120 to 125 units with the size of the property after holding out five acres.
- Fifteen units an acre would be very dense.

Jackson Petito departed from the meeting; therefore, he did not vote on any upcoming motions.

NEW BUSINESS

1) Mid-year Report from Chamber Executive Director, Ashley UpChurch.

Ashley UpChurch updated on the first half of the year at the Chamber and Visitor Centers. She pointed out numbers associated with the Visitor Centers. She then reported on business support activities. UpChurch included the financials for the first half of the year in the packet. She reviewed membership numbers. She stated the event, Fat Bike Worlds, was doing well, and Crafted took a hit due to a change in location.

2) Ordinance No. 22, Series 2018 - An Ordinance of the Crested Butte Town Council Approving the Cable Television Franchise Agreement with Time Warner Cable Pacific West LLC, Doing Business as Charter Communications.

MacDonald provided background on franchise agreements in her staff report. She summarized the definition of a franchise agreement. She pointed out that Crested Butte did not use the public access channel, but the agreement reserved the right to have one. They would still clarify roles and responsibilities while Charter did work on Town property, but she didn't expect issues coming to agreement.

Mitchell moved and Haver seconded a motion to set Ordinance No. 22, Series 2018 to a public hearing on October 1st, 2018. A roll call vote was taken with all voting, "Yes."
Motion passed unanimously.

3) Ordinance No. 23, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Chapter 8, Article 1 of the Crested Butte Municipal Code to Include Regulations for Operation of Bicycles and Electrical Assisted Bicycles Approaching Intersections.

Reily did not recommend moving forward with the ordinance. People typically performed the Idaho Stop. Confusion would lie around which places had it and which places did not. He couldn't give his blessing as a chief of public safety in Town. Dujardin suggested they set the ordinance for public hearing to hear input from the public. Mitchell made a motion to not proceed with the ordinance that she withdrew.

Dujardin moved and Mitchell seconded a motion to continue the first reading of the ordinance to the next meeting. A roll call vote was taken with all voting, "Yes," except Schmidt voted, "No."
Motion passed.

4) Ordinance No. 24, Series 2018 - An Ordinance of the Crested Butte Town Council Approving by Reference Amendments to the Red Lady Estates Condominiums Plat Map and Declaration Text for the Vacation of the Public Access Easement and Relocation of Public Access Onto the Adjoining Town-Bench Property.

Schmidt recalled history on the agenda item. He explained they would be vacating the existing easement and creating a new access. Nevins stated the Town was the declarant, and he described the location of the trail.

Dujardin moved and Haver seconded a motion to set Ordinance No. 24, Series 2018 to a public hearing on October 1st, 2018 for the Red Lady Estates Condominiums Map and Text Amendments. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

5) Ordinance No. 25, Series 2018 - An Ordinance of the Crested Butte Town Council Declaring a Moratorium on the Issuance of New Business Occupation Licenses Under Chapter 6, Article 2 of the Crested Butte Municipal Code for Formula Restaurant and Retail Businesses in All Business and Commercial Districts.

MacDonald reminded the Council of their goal to ban formula businesses on Elk Avenue. She explained the purpose of a moratorium. She reviewed the scope of the ordinance and the proposed definition of formula businesses. Several businesses already located in Town would meet the definition. Staff would propose to have public outreach to move the discussion into the BOZAR to have them ultimately make a recommendation to the Council. They had to be working to an end during the moratorium. There were no pending applications. Dujardin identified language to change, in which Town was widely known as the last great Colorado ski town, within the ordinance.

Haver moved and Mitchell seconded a motion to set Ordinance No. 25, Series 2018 to public hearing on October 1st, 2018 with the changes as noted. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

COUNCIL REPORTS AND COMMITTEE UPDATES

Laura Mitchell

- Mountain Express closed on the first lot with RTA.
- The TA was now focusing on horseback riding. They would continue the TGR partnership.

Chris Haver

- Went to a STOR Committee meeting. They talked about issues encountered in other counties. In busy areas, they considered limiting trails to certain days of the week for hikers and certain days of the week for riders. West Maroon would be getting improvements in the next year. They had a conversation on the Razor issue in the valley.

Kent Cowherd

- The Council appointed a new Creative District Commissioner on the Consent Agenda.
- He would observe at the work session in Mt. Crested Butte tomorrow night.

- After seeing a meeting in Durango, he suggested presentations from students to Council, to help students learn about the civic process.

Will Dujardin

- A citizen continued to bring up, bringing the snow banks back.
- He mentioned the idea of high school internships. MacDonald would bring it up to Department Heads again.
- Pointed out there were Vinotok alters on Elk Avenue.

Jim Schmidt

- Went to the Land Trust fundraiser for the Gunsight Bridge.
- Had a Gunnison Valley Housing meeting last week.
- Attended Mayor/Managers meeting.
- Spent time in Estes Park. They built a parking garage, and it was jam-packed.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

- Schmidt brought up electric scooters and that places had banned them. He asked the Council if they needed to get ahead. MacDonald would schedule the topic for discussion.
- Haver mentioned the letter at the end of the packet. MacDonald confirmed it had already been sent.
- The Council conferred about scheduling a discussion for the review of the Town Attorney.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, October 1, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, October 15, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, November 5, 2018 - 6:00PM Work Session - 7:00PM Regular Council

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 10:19PM.

James A. Schmidt, Mayor

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

September 25, 2018

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Shea D Earley, Interim Director of Public Works
Subject: **Water Treatment Plant Improvements Construction Manager At Risk (CMAR) Design Phase Services 2018**

Attachments: 1. Agreement for Professional Services
2. JVA Recommendation Letter

Date: January 19, 2016

Summary: In the September 6th and 13th edition of the Crested Butte News, the Public Works Department published a Request for Proposals (RFP) for Construction Manager At Risk design phase services for the design of the Water Treatment Plant Improvements. The RFP was also posted on the Town of Crested Butte web site. Proposals were received by the Public Works Department until 4:00 p.m. on Thursday, September 20th. There were three (3) proposals received. The proposals were reviewed by the Public Works Department and JVA. The estimate for engineering services for this project was \$8000. The Town received proposals from:

1. Moltz Construction Inc.
2. Velocity Constructors, Inc.
3. Integrated Water Services, Inc.

BACKGROUND: The Construction Manager At Risk design phase services are for the design of the water treatment plant improvements projected in 2018, with construction in 2019. The intention of the CMAR process is to bring a contractor in on the engineering phase of the project to assist with the development of the project, as well as, generate a guaranteed maximum price (GMP). Once a GMP has been established, the contractor is then held to that GMP during the construction phase of the project. The construction phase services will be awarded in spring of 2019.

The Water Treatment Plant Improvements project is intended to maintain CDPHE compliance, increase flow through the plant, which will maintain current and future water demands, and upgrade and/or replace existing infrastructure. The upgrades to the treatment plant are based on a Comprehensive Performance Evaluation completed in November of 2017. The proposed improvements to maintain CDPHE compliance include; the addition of block and bleed valves on the existing skids, turbidimeters, and retrofitting the pretreatment system. The improvements also

intend to address the hydraulic limitations of the facility by adding a fourth skid, which will also facilitate redundancy within the system. Finally, the improvements looks to address aging infrastructure by optimizing components within the existing skids, removing the UV system, replacing the SCADA system, and upgrading the building structure.

The Town has already applied for and received a DOLA grant which it is using for the engineering services performed by JVA for the project. Town funds will be used to pay for the CMAR design phase portion of the project. The Town has a pending DOLA grant application and is in the process of applying for an SRF loan to pay for the cost of the construction phase of the project.

RECOMMENDATION: Staff recommends awarding the Water Treatment Plant Improvements Construction Manager At Risk professional service agreement to Moltz Construction Inc. for an amount not to exceed \$9,000.00.

Proposed Motion: Motion to approve the Water Treatment Plant Improvements Construction Manager At Risk professional service agreement at a cost of \$8,420.00 to Moltz Construction Inc., not to exceed \$9000.00 as part of the Consent Agenda.



September 25, 2018

Mr. Shea Earley, Interim Public Works Director
 Town of Crested Butte
 P.O. Box 39
 Crested Butte, CO 81224

www.jvajva.com

RE: Town of Crested Butte Water Treatment Plant Improvements Project
 Recommendation of Award for CMAR Services
 JVA Job No. 2338.5c

Dear Shea:

Three general contractors submitted proposals to JVA for a Construction Manager at Risk (CMAR) contract with the Town of Crested Butte (Town) for the Crested Butte Water Treatment Plant Improvements Project on September 20, 2018. The three general contractors, Velocity Construction, Integrated Water Services (IWS), and Moltz Construction, are all contractors who have worked with JVA or the Town previously and are understood to be pre-qualified for the Project. This letter provides an overview of the evaluation criteria used to evaluate the proposals received and a recommendation to the Town for selection of a CMAR construction firm.

All proposals generally met the requirements of the September 20, 2018 Request for Proposals (RFP). The cost proposal component of the evaluation, summarized in Table 1 below, compares the proposed fees for 1) design phase services, 2) the construction phase general conditions, 3) construction phase overhead and profit, bond, and insurance percentages, and 4) the estimated construction services total if the project capital construction cost is \$1,900,000. The bid tabulation and scoring tabulation are also enclosed for reference.

Table 1. Cost Proposal Comparison

Firm	Design Services	General Conditions*	OH&P %	OH&P**	Bond %	Bond**	Insurance %	Insurance**	Small Tools	Labor Burden	Estimated Construction Services Total
Moltz	\$8,420	\$181,000	6.5%	\$123,500	1.0%	\$19,000	0.2%	\$3,800	5.0%	35%	\$304,500
Velocity	\$5,270	\$237,414	11.0%	\$209,000	1.9%	\$36,100	0.6%	\$11,400	5.0%	38%	\$446,414
IWS	\$7,036	\$278,000	17.0%	\$323,000	1.0%	\$19,000	0.8%	\$15,200	2.5%	35%	\$601,000

*General Conditions based on a 9-month construction period

**OH&P, Bond, and Insurance costs calculated as a percentage of a \$1,900,000 construction contract

Both cost and non-cost based criteria were used to evaluate the proposals. As shown in Table 1, the lowest overall cost proposal for total estimated construction services is Moltz Construction. The project approach and value engineering ideas proposed by Moltz were also the most project specific and demonstrated the most thorough understanding of the project. The schedule proposed by Moltz accurately described the lead time complexities for equipment and an understanding of the availability for funds due to the grant and loan application processes. The proposed schedule accounted for lead time challenges and scheduling constraints associated due to funding constraints and still demonstrated the ability to meet the proposed project completion date.



Each proposing firm is qualified to perform the work and have ample experience in water treatment plant projects. Moltz Construction provided a more thorough proposal, had the lowest estimated construction costs, provided the most innovative value engineering ideas, and provided a schedule that met the deadlines identified in RFP while understanding the limitations associated with project funding. Velocity Construction provided a thorough proposal and had the lowest total estimated design services cost, but the proposed project schedule shows equipment ordered in November 2018, which is not feasible based on the funding path chosen for this project. IWS did not attend the preproposal meeting and has not shown much interest in this project. Based on the three proposals received, and input from Town staff, JVA recommends that the Town authorize the design phase services proposal from Moltz Construction.

Following a Notice of Award to the selected CMAR firm, JVA will work with the selected general contractor, Town and operations staff to complete a 95 percent design set and establish the guaranteed maximum price (GMP) for the project ahead of the DOLA Energy/Mineral Impact Assistance Fund (EIAF) meeting in early November. This will prepare the Town to be construction ready when the DOLA meeting is held and to prepare the SRF loan application for the November 15 deadline.

After the GMP is established, under the condition that DOLA and SRF funds are authorized, we anticipate issuing Notice to Proceed (NTP) for construction in April 2019. NTP will not be issued until the Energy/Mineral Impact Assistance Fund (EIAF) Grant funds and Drinking Water State Revolving Fund (SRF) Loan have been executed by the Town and funding agency.

As always, feel free to contact me with any questions or concerns at 720-975-1439 or lmiller@jvajva.com.

Sincerely,
JVA, INCORPORATED

By: 

Leanne Miller, P.E.
Project Manager

Enclosure: CMAR Bid Tabulation

CC: David Jelinek – Town of Crested Butte

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES is made this _____ day of _____ 20__ between the TOWN OF CRESTED BUTTE, a Colorado municipal corporation ("Town"), and Moltz Construction, Inc. ("Contractor").

WHEREAS, the Town desires that the Contractor perform the Water Treatment Plant Improvements Construction Manager at Risk (CMAR) design phase services for the Town of Crested Butte; and

WHEREAS, Contractor desires to perform such duties pursuant to the terms and conditions provided for in this Agreement; and

WHEREAS, the parties hereto desire to set forth certain understandings regarding the services in writing.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Scope of Agreement. The Town agrees to retain Contractor to provide the design phase services set forth herein, and as further specified in **Exhibit A and Exhibit B**, attached hereto and incorporated herein by reference ("Services"), and Contractor agrees to so serve. Contractor warrants and represents that it has the requisite authority, capacity, experience, and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws and agrees to perform the Services on the terms and conditions set forth herein.
2. Consideration. The Town agrees to compensate the Contractor for all fees and expenses, in accordance with the Fee Schedule detailed in **Exhibit A**, hereby incorporated by reference. The Town shall make payment within thirty (30) days of receipt and approval of invoices submitted by Contractor, which invoices shall be submitted to the Town not more frequently than monthly and which shall identify the specific Services performed for which payment is requested.
3. Term and Renewal. This Agreement shall be effective as of the date of its execution by both parties and shall extend until the Agreement is terminated pursuant to Section 10 of this Agreement; provided, however, that to the extent that the term of this Agreement exceeds one fiscal year, the obligations described herein shall be subject to annual appropriation by the Town Council, at its sole discretion.
4. Status. The Contractor is an independent contractor and shall not be considered an employee or agent of the Town for any purpose.
5. Outside Support Services and Sub-Contractor. Any sub-Contractors shall be pre-approved by the Town. A rate sheet for such sub-Contractors shall be provided to the Town.

6. Ownership of Instruments of Service. The Town acknowledges the Contractor's work product, including electronic files, are instruments of professional service. Nevertheless, the final work product prepared under this Agreement shall become the property of the Town upon completion of the services.

7. Standard of Care. The standard of care applicable to the Contractor's services will be the same degree of care, skill, and diligence normally employed by professionals performing the same or similar services. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, or opinion produced pursuant to this Agreement. The Contractor does not guaranty that the documents and products are without error; however, the Contractor will re-perform any services not meeting this standard without additional compensation.

8. Indemnity, Insurance and Governmental Immunity Act. To the extent permitted by law, each party to this Agreement shall hold harmless and indemnify the other party, including the other party's employees, officers, agents, and assigns, from award of damages, to the extent such award of damages arises from the action or inaction of that party's own officers, employees and agents.

Nothing herein shall be interpreted as a waiver of governmental immunity, to which the other parties would otherwise be entitled under C.R.S. §24-10-101, et seq. as amended.

Contractor shall provide proof of general liability insurance to the Town upon execution of this Agreement.

9. Work By Illegal Aliens Prohibited. Pursuant to Section 8-17.5-101, C.R.S., *et seq.*, Contractor warrants, represents, acknowledges, and agrees that:

A. Contractor does not knowingly employ or contract with an illegal alien.

B. Contractor shall not knowingly employ or contract with an illegal alien to perform works or enter into a contract with a subcontractor that fails to verify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Contractor has participated in or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the Department of Homeland Security (hereinafter, "E-Verify") in order to verify that Contractor does not employ illegal aliens. If Contractor is not accepted into E-Verify prior to entering into this Agreement, Contractor shall forthwith apply to participate in E-Verify and shall submit to the District written verification of such application within five (5) days of the date of this Agreement. Contractor shall continue to apply to participate in E-Verify, and shall certify such application to the District in writing, every three (3)

months until Contractor is accepted or this Agreement is completed, whichever occurs first. This paragraph shall be null and void if E-Verify is discontinued.

D. Contractor shall not use E-Verify procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

E. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:

(a) notify the subcontractor and the District within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (“Department”) made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.

G. If Contractor violates this paragraph, the District may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the District arising out of said violation.

10. Termination. The Town or the Contractor may terminate this Agreement at any time by providing a minimum fifteen (15) calendar days’ written notice to the other party. If the parties have mutually determined that the work has become infeasible, the parties agree to terminate the Agreement in accordance with this Section. In the event this Agreement is terminated, the Contractor shall be compensated for all work performed to date based on estimate percentage of completion, including the percentage of any and all work items begun but not completed.

11. Agreement Administration and Notice. For purposes of administering this Agreement, the Mayor will represent the Town in carrying out the purposes and intent of this Agreement. Any notices required to be given pursuant to this Agreement shall be delivered as follows:

To the Town: Dara MacDonald, Town Manager
Town of Crested Butte
P.O. Box 39
507 Maroon Ave.
Crested Butte, CO 81224

Copy to: Barbara Green, Town Attorney
Sullivan Green Seavy
3223 Arapahoe Ave, Ste. 300
Denver, CO 80303

To the Contractor: Eric Moltz, Chief Executive Officer
Moltz Construction, Inc.
8807 County Road 175
PO BOX 729
Salida, CO 81201

12. Responsibilities. The Contractor shall be responsible for all damages to persons or property caused by the Contractor, its agents, employees or sub-Contractors, to the extent caused by its negligent acts, errors and omissions hereunder, and shall indemnify and hold harmless the Town from any claims or actions brought against Contractor by reason thereof.

13. Entire Agreement. This Agreement, **along with any addendums and attachments hereto**, constitutes the entire agreement between the parties. The provisions of this Agreement may be amended at any time by the mutual consent of both parties. The parties shall not be bound by any other agreements, either written or oral, except as set forth in this Agreement.

14. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Venue for any action instituted pursuant to this agreement shall lie in Chaffee County, Colorado.

15. Authority. Each person signing this Agreement, **and any addendums or attachments hereto**, represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.

16. Attorneys' Fees. Should this Agreement become the subject of litigation between the Town and Contractor, the prevailing party shall be entitled to recovery of all actual costs in connection therewith, including but not limited to attorneys' fees and expert witness fees. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

Exhibit B: Scope of Work

Description of Work

- A. The Project includes:
 1. The Work of this Contract consists All necessary labor, supervision, equipment, tools, and materials to construct and install improvements to the Town of Crested Butte Water Treatment Plant (WTP) Improvements Project. This includes the purchase and installation of an additional microfiltration membrane skid, modifications to three existing Pall AP-4 microfiltration membrane skids, coordination with Pall Corporation regarding installation and integration of the plant SCADA system and on-skid Pall PLCs, relocation of existing equipment, purchase and installation of chemical dosing pump, modifications to process piping, exterior steel tank rehabilitation and modifications, construction of a building addition, and other structural modifications within the building. Work shall include installation of all electrical wiring, motor control centers, programmable logic controllers, all process piping, and completion of all associated site work relating to the improvements.
- B. The CMAR Bid Set drawings for the Crested Butte Water Treatment Plant Improvements Project are attached as **EXHIBIT A** to this RFP.
- C. Additional modifications to the drawings will be developed as needed during the final design phase of the CMAR contract for the purpose of refining the design, incorporating constructability modifications, and inclusion of value engineered items to arrive at a guaranteed maximum price (GMP) within the stated project budget and construction documents.
- D. For the proposal, the CMAR firm shall complete the proposal form attached as **EXHIBIT B** and list the major subcontractors, suppliers and equipment manufacturers attached as **EXHIBIT C** of this RFP. More than one subcontractor, suppliers, and equipment manufacturers may be listed.
- E. The Owner has requested budgetary and firm pricing and scope of supply from key manufacturers to supply major equipment items including the new microfiltration membrane skid, instrumentation and controls, and modifications to the existing microfiltration membrane skids. The Owner intends to share this information with the selected CMAR during the preparation of the final construction documents and GMP. A list of the equipment manufacturers that have provided budgetary and firm pricing is attached as **EXHIBIT D**.

Design Phase Services

- A. The selected CMAR firm will be provided a contract for design. The design contract will provide for specific services and compensation for project team activities other than onsite construction work. The proposed design phase services and activities are listed below. The selected CMAR firm will participate as a member of the project team in evaluating alternative facility arrangements, construction materials and sequencing of construction which may affect the selection, design, arrangement, and cost of project components.

1. Provide an initial GMP for the project based on the CMAR Bid Set of documents. If all parties are not in agreement on the GMP, the Town is under no obligation to move forward with construction services contract.
2. Assist and participate as a member of the project team through the completion of the Construction Drawings and Specifications.
3. Following completion of the 95 percent design, prepare a final GMP for the project based on constructability reviews and value engineered items.
4. Identify appropriate subcontractors and material suppliers that will be invited to participate/bid in a pricing and/or construction of the project. Suitability will be determined by concurrence of the entire project team.
5. Participate as a member of the project team in the completion and approvals of required permits for design and construction, as needed.
6. Other required services for project completion outlined in the Design CMAR contract and general/supplemental conditions.



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Molly Minneman, Design Review and Historic Preservation Coordinator

Thru: Michael Yerman, Community Development Director

Subject: **Appointment of Board and Architectural Review Commissioner**

Background:

The Board of Zoning and Architectural Review (BOZAR) had a recent vacancy on the seven-member board following the resignation of John Meyer who served two, three year terms.

Mallika Magner contacted staff last fall with an interest in serving as a BOZAR member after seeing vacancies posted in the classified ads and on the Town's website. She submitted an application in September upon her eligibility of residency requirements. Applicants must reside in Town of Crested Butte for at least one year. They are encouraged to have interest or experience in historic preservation, landscape design, architecture, or planning.

Magner lived in Crested Butte from 1995 – 2006. During that time she served on the BOZAR from 1997-1998, later served as the Town's Attorney. Her application conveys an enhanced knowledge and understanding of the Crested Butte's municipal code that includes zoning together with the stewardship of the historical district, and architectural compatibility throughout the Towns zoning districts. Magner is detail oriented with excellent communication skills that will be an asset to the Board.

Recommendation: Staff recommends that the Council makes a motion followed by a second to approve the appointment of Mallika Magner to the Board of Zoning and Architectural Review for three-year term expiring on October 1, 2021, as part of the consent agenda.

APPLICATION
BOARD OF ZONING AND ARCHITECTURAL REVIEW
(BOZAR)
Town of Crested Butte, Colorado

Name: Mallika Magner

Address: 429 Whiterock Avenue 1666
Physical PO Box

Phone: 904-707-7018 970-279-1262
Home Work Cell

E-mail: mallikamagner@mallikamagnerlaw.com

For Office use only
Length of Term _____
Date Appointed _____
Date completed _____

How long have you been a resident of the Town of Crested Butte? I lived in CB from 1995-2006, returned full time 8/17.
(one year is required)

What kind of experience do you have in reading building plans? I was a member of BOZAR from 1997-1998, and while representing the Town, I addressed many BOZAR issues, which also involved reviewing plans.

What kind of experiences do you have that relating to the design or construction fields that will help you in fulfilling the duties as a BOZAR member?
My experience is in reading codes and rules and regulations. As an attorney (former Town Attorney), I spend a great deal of time reading and interpreting codes, rules and regulations, and I will bring a legal perspective to the interpretation of the design guidelines and Town Code.

Why are you interested in being on BOZAR? I would like to volunteer my time and skills as a contributing member of the Town community. I have always appreciated BOZAR for helping our Town remain the charming, welcoming, historic district it is today.
I enjoyed my previous stint on BOZAR.

What do you feel are important issues facing the Town of Crested Butte that can be addressed through the BOZAR process?
Important issues are maintaining a sense and feel of community and community values, retaining our historic continuity in design and use, and affordable housing.

Identify one to two of the most effective projects of the last several years, and why:
I appreciate 310 Whiterock for its simple elegance and the way it gives a nod to historic building styles and materials.
I think its size and scale relate well to the neighborhood.
I like the Public House building for the way they renovated an old building for a new purpose while still fitting in with Elk Avenue.

Identify one or two of the least effective building projects of the last several years, and why:
I find some of the newer houses along 9th Street to be more complicated in their building facades, using a mix of materials that would not have been seen historically elsewhere in Town.


Signature

9/17/18
Date



Memorandum

To: Town Council
From: Dara MacDonald, Town Manager
Subject: Manager's Report
Date: October 1, 2018

Town Manager

- 1) The new GCEA solar arrays are going up at the wastewater plant.
- 2) Town Hall will be closed on October 8th for Indigenous People's Day.

Public Works

- 1) The Standard Mine will begin releasing water that has been impounded behind the bulkhead with a tentative start of October 9th. The release rate will be approximately 40 gallons per minute. Water will be detained onsite for treatment and settling prior to flowing down to Coal Creek. The EPA will conduct weekly metals testing beginning October 2nd to monitor what is coming out of the mine and the efficiency of their metals removal. Town staff are paying close attention, but are not concerned about negative impacts to the Town's drinking water at this time.

Marshals

- 1) Vinotok occurred and everyone survived. All in all the event went normally from a law enforcement perspective.

Parks & Rec

- 1) Installation of bricks between the curb and sidewalks on the 100 block of Elk are completed.
- 2) The basketball court in Town Park will be completed next week and work is beginning on the relocated horseshoe pits.
- 3) Phase II of the bike park includes a beginner trail which CBMBA is beginning work on

Community Development

- 1) The Creative District is hosting a celebration of the inaugural "Arts in Public Places" installation at the Mallardi Theatre on Friday, October 5th from 6 p.m. – 7 p.m. Please join the Creative District to view Ben Eaton's piece, entitled "Jokerville," meet the artist, and enjoy some appetizers. For more information about the event and the installation, please visit:
<https://www.cbcreativedistrict.org/view-and-celebrate-the-inaugural-arts-in-public-places-installation/>.

Town Clerk

- 1) No updates

Finance

- 1) Grant applications are due October 5th, with Council award decisions targeted for early November. These awards will be funded by the 2019 budget. I recommend that we limit fall grants to no more than 60% of the annual budget. This way, we can be a bit more balanced between fall and spring.
- 2) August Sales Tax
 - Overall, sales tax collections decreased 5% versus August of 2017. Year to date, tax collections have increased 5% versus 2017.
 - August was a mixed bag, with some businesses doing very well and some doing poorly. Retail businesses were generally down, particularly the smaller boutique shops, following a robust August 2017. Marijuana collections were well down versus 2017, but on par with 2016.
 - Four of our top ten businesses were down versus last year.
 - Vacation rental sales tax was \$21k with the excise tax providing an additional \$25k. STRs and property management continues to be the top growing sales tax category.
 - The Art Festival was slightly up versus 2017, with collections of \$25k.
 - Collectively, Amazon and Apple submitted \$6k in tax.
 - YTD, our primary business categories have grown 5-6%. Very healthy in spite of the poor winter season. Lodging has grown 12%, driven largely by STRs. We have collected \$170k in STR excise tax.
 - 2017 YTD Aug growth versus 2016 was 5% and 2016 versus 2015 was 17%. 2014 - 2016 represented a significant growth period.

August 2018						
		2018	% [^]	2017	2016	
		% of Total	4.5%	4.5%	4.5%	
Bars & Restaurants		32%	\$149,980	1%	148,773	165,193
Grocery Sales		12%	\$56,152	0%	56,174	51,709
Retail		32%	\$147,565	-3%	151,850	137,721
Marijuana		3%	\$15,018	-46%	28,003	14,894
Lodging		9%	\$43,196	2%	42,280	47,693
Construction, Auto & Hardware		7%	\$32,558	-13%	37,369	31,320
Services	(teleph one, car leases, etc...)	2%	\$9,038	-36%	14,160	11,057
Other	(Gas, Electric, etc...)	3%	\$14,789	18%	12,518	11,235
				-	-	
Total		100%	\$468,296	-5%	491,127	470,822

STR Excise Tax

\$24,970

YTD - August 2018					
		2018	% [^]	2017	2016
	% of Total	4.5%		4.5%	4.5%
Bars & Restaurants	33%	\$946,064	5%	\$897,698	\$868,821
Grocery Sales	12%	\$337,967	5%	\$322,429	\$325,887
Retail	26%	\$747,572	6%	\$706,143	\$656,818
Marijuana	4%	\$100,889	7%	\$94,478	\$81,405
Lodging	10%	\$278,935	12%	\$249,433	\$258,414
Construction, Auto & Hardware	8%	\$216,916	-3%	\$223,952	\$199,869
Services (teleph one, car leases, etc...)	4%	\$112,740	2%	\$110,139	\$113,594
Other (Gas, Electric, etc...)	5%	\$133,257	10%	\$120,633	\$104,739
Total	100%	\$2,874,339	5%	\$2,724,906	\$2,609,547
<i>STR Excise Tax</i>		<i>\$170,700</i>			

Intergovernmental

The next joint meeting with other elected officials in the County will be held on November 8th at the 9380 Restaurant in Mt. Crested Butte. A flyer with more information **is attached**. Please RSVP to Tiffany directly or let Lynelle know you plan to attend.

Upcoming Meetings or Events

October 8th – Town Hall closed for Indigenous People's Day

October 24th – OVPP Tentative Elected Official State of the Valley forum – WSCU University Center Ballroom, 3:30 – 4:30.

October 24th – OVPP State of the Valley public meeting - WSCU University Center Ballroom, 5:30

November 8th – Intergovernmental Elected Officials meeting, 9380 Restaurant, 6:00 – 8:00 p.m.

* As always, please let me know if you have any questions or concerns. You may also directly contact department directors with questions as well.

You are cordially invited to the:

**Gunnison County Joint Elected
Officials Meeting, hosted by the Mt.
Crested Butte Town Council**

Thursday, November 8, 2018

6pm to 8pm

9380 Restaurant, in the Elevation Hotel

Discussion Topics will include:

Affordable Housing

Parking

Sheriff's Contract

Vail

Dinner Options:

1. New York Strip
2. Salmon
3. Stuffed Portobello Mushrooms

Please RSVP to Tiffany O'Connell

(toconnell@mtcrestedbuttecolorado.us or 970-349-6632) by

Monday, October 15th with your dinner option.



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Ordinance 2018-22, An ordinance of the Crested Butte Town Council authorizing execution of the new cable television franchise agreement with Spectrum Pacific West LLC, doing business as Charter Communications

Summary: The Town and Charter Communications are seeking to execute a new franchise agreement under substantially the same terms as the previous agreement.

Previous Council Action: The Town and Charter are operating under an expired franchise agreement. The last agreement had an effective date of March 1, 2004 and a term of eleven (11) years, thus expiring at the end of February 2015. Both the Town and Charter have continued to operate under the terms of the previous agreement since 2015.

Background and Discussion: The Town of Crested Butte has the ability to operate utilities or to choose to enter into franchise agreements that allow other entities to provide utility services within the municipality. Generally franchise agreements allow for a utility such as a cable or electric company to utilize Town rights of way to provide service to customers in exchange for a fee. In this case the fee is 5% of gross revenues as defined in the agreement. There are limitations and expectations in the agreement about how the utility operates with town rights of way. These are spelled out in the agreement.

The proposed agreement is more streamlined than the previous cable franchise agreement. It has been reviewed by staff including public works and the Town Attorney and we are comfortable that the Town is protected under the terms of the draft agreement and that the Town's interests are fulfilled while also allowing the cable company reasonable use of Town rights of way to provide service to customers.

Changes of note:

- 1) Since first reading, the name of the parent company has changed from "Time Warner Pacific West LLC" to "Spectrum Pacific West LLC".
- 2) Section 8. We have had ongoing discussions about this section as Charter had proposed inclusion of only 8.1 and 8.2. Rodney Due felt it was important to include Sections 8.3 to 8.9 to clarify roles and responsibilities while Charter is doing work on Town property.

- 3) Section 13. There is a lot less language about public, education and government (“PEG”) channels in this new agreement. While the Town still has the right to create a PEG channel in the future the burden of the cost of establishing such a channel would be borne entirely by the Town.

Otherwise, Town staff feel that the agreement with functionally work the same as the previous agreement.

Legal Implications: The Town should have a current agreement in place for franchises that are operating within the municipality. The Town Attorney has reviewed the agreement and is comfortable with the terms from a legal perspective.

Financial Implications: The Town collects approximately \$10,500 per year from the cable franchise. We expect this to remain consistent under the new agreement.

Recommendation: Staff recommends that the Town Council approve Ordinance 22, Series 2018.

Proposed Motion: A Council person should make a motion, “to approve Ordinance 22, Series 2018” followed by a second and roll call vote.

ORDINANCE NO. 22

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING EXECUTION OF THE NEW CABLE TELEVISION FRANCHISE AGREEMENT WITH SPECTRUM PACIFIC WEST LLC, DOING BUSINESS AS CHARTER COMMUNICATIONS

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the constitution and laws of the State of Colorado;

WHEREAS, Article 11.4 of the Crested Butte Home Rule Charter and Section 5-1-40 of Crested Butte Municipal Code (the "**Town Code**") provide that "no franchise shall be granted except by ordinance;"

WHEREAS, the prior Franchise Agreement between the Town and Charter Communications has expired and Charter Communications desires to enter into a new Franchise Agreement with the Town in the form attached hereto as **Exhibit A**;

WHEREAS, the Town Council finds that entering into the new Franchise Agreement would be in the best interest of the health, safety, and general welfare of the residents and visitors of Crested Butte.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Authorization for Mayor or Town Manager to Execute New Franchise Agreement. The Town Council hereby authorizes the Mayor or the Town Manager to execute the new Franchise Agreement with Charter Communications subject to approval of its terms by the Town Attorney.

Section 2. Repeal of Sections 5-2-05 through 5-2-890 of Town Code. Upon execution of the new Franchise Agreement by the Town and Charter Communications, Sections 5-2-05 through 5-2-890 of the Town Code concerning the Town's prior cable television franchise agreement are repealed in their entirety.

Section 3. Severability. If any section, sentence, clause, phrase, word, or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words, or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS __ DAY OF _____, 2018.

ADOPTED BY THE TOWN COUNCIL, UPON SECOND READING IN PUBLIC HEARING THIS __ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

FRANCHISE AGREEMENT

This Franchise Agreement (this “Agreement”) is between the Town of Crested Butte, Colorado, hereinafter referred to as the “Grantor” and Spectrum Pacific West LLC, locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the “Grantee.”

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under Applicable Law (as defined below), and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Agreement with the Grantee for the construction and operation of a Cable System (as defined below) on the terms set forth herein; and

WHEREAS, the Grantor and the Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to the renewal of the Franchise granted by this Agreement.

NOW, THEREFORE, the Grantor and the Grantee agree as follows:

SECTION 1 **Definition of Terms**

1.1 **Terms.** For the purpose of this Agreement the following terms, phrases, words and their derivations shall have the following meanings when used herein with initial capital letters. Other defined terms are set forth throughout this Agreement, and shall have the meanings ascribed herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” means mandatory and “may” means permissive. Words not defined shall be given their common and ordinary meaning.

- A. The following terms shall be defined as set forth in the Section 602 of the Cable Act (47 U.S.C. § 522) -- “Affiliate,” “Cable Operator,” “Cable Service,” “Cable System,” “Channel,” “Franchise” and “Person” -- and “Franchise Fee” shall be as defined in Section 622 of the Cable Act (47 U.S.C. § 542).
- B. “Access” shall mean the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community as determined by the Grantor, including the Grantor and its designees, of the Access Channel as set forth in this Agreement, and as permitted under Applicable Law.
- C. “Access Channel” means a downstream signaling path provided by the Cable System to deliver Access programming to all Subscribers in the Service Area.

- D. “Applicable Law” shall mean any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue, provided, however that any statute, ordinance, order or regulation that has been preempted by a higher governmental or legal authority, which prior to preemption had the force and effect of law, shall no longer be considered Applicable Law. This definition shall not be considered a waiver of the right of any party to assert the position that a statute, ordinance, order or regulation has not been preempted.
- E. “Council” shall mean the Crested Butte Town Council, the governing body of the Grantor.
- F. “Cable Act” shall mean the Cable Communications Policy Act of 1984, as amended (47 U.S.C. §§ 521, et seq.).
- G. “Designated Access Provider” shall mean the entity or entities designated now or in the future by the Grantor to manage or co-manage the Access Channel and facilities. The Grantor may be a Designated Access Provider.
- H. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.
- I. “Gross Revenue” means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee (or any Affiliate of the Grantee who is a Cable Operator providing Cable Services over the Cable System in the Service Area) from the operation of the Cable System to provide Cable Services in the Service Area, including but not limited to (1) late fees, (2) installation and reconnection fees, (3) upgrade and downgrade fees, (4) converter and remote control rental fees, (5) parental control device rental fees, (6) advertising revenue (less commissions paid to third party agents, but not internal commissions earned by employees of the Grantee or its Affiliates), (7) home shopping commissions, and (8) interactive guides. Notwithstanding the foregoing, “Gross Revenue” shall not include: (i) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including, without limitation, the FCC user fee, Franchise Fee, the Access Capital Grant, or any sales or utility taxes; (ii) unrecovered bad debt; (iii) credits, refunds and deposits paid to Subscribers; and (iv) any exclusions available under Applicable Law.

The parties acknowledge that the Grantee may need to allocate Gross Revenue between Cable Services (which are subject to the Franchise Fee) and non-Cable Services (which are not subject to the Franchise Fee but may be subject to other fees and/or taxes), when these two types of services are bundled together in a discounted package offered to Subscribers. The Grantee shall make such allocation in accordance with generally accepted accounting principles, but in no event shall the Grantee allocate Gross Revenue between Cable Services and non-Cable

Services where such services are bundled together in a discounted package offered to Subscribers for the purpose of evading its Franchise Fee obligations under this Agreement.

- J. “Service Area” shall mean the geographic boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in Section 6.
- K. “Standard Installation” shall mean any Cable Service installation that measures up to 125 feet from the point of connection to the Grantee’s existing Cable System.
- L. “State” shall mean the State of Colorado.
- M. “Street” shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, transportation and public utility easements, rights of way and similar public ways and extensions and additions thereto, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System, subject to this Agreement and Applicable Law.
- N. “Subscriber” shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2 **Grant of Franchise**

2.1 **Grant.** The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during the term of this Agreement; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. This Agreement shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Agreement. Nothing in this Franchise shall be construed to prohibit or authorize the Grantee from offering any service over its Cable System that is not prohibited by Applicable Law.

2.2 **Term.** This Agreement and the rights, privileges and authority hereby granted shall be for an initial term of ten (10) years, commencing on the Effective Date of this Agreement as set forth in Section 15.11.

2.3 **Police Powers and Conflicts with Agreement.** Notwithstanding any provision to the contrary herein, this Agreement, the Grantor and the Grantee are subject to and shall be governed by Applicable Law, including but not limited to the Cable Act and the Town of Crested Butte Charter and Municipal Code. The Grantee shall at all times during the term of this Agreement be subject to all lawful exercise of the Grantor’s police power, and the Grantor’s right to adopt and enforce generally applicable and non-discriminatory ordinances and regulations necessary to the safety, health, and welfare of the public; provided, however, that such hereinafter enacted

ordinances and regulations shall be reasonable and not materially modify the terms of this Agreement. In the event of a conflict between a provision of this Agreement and a provision of Grantor police power reflected in a generally applicable local ordinance, rule or regulation, local law shall be controlling, provided, however, such local law has not been preempted by any federal or state laws, rules, regulations or orders.

SECTION 3 **Franchise Renewal**

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of this Agreement shall be governed by and comply with the provisions of Section 626 of the Cable Act (47 U.S.C. § 546), or any such successor statute. Notwithstanding anything to the contrary set forth herein, the parties agree that at any time during the term of the then current Agreement, while affording the public adequate notice and opportunity for comment, the parties may agree to undertake and finalize negotiations regarding renewal of the then current Agreement and the Grantor may grant a renewal thereof. The parties consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act (47 U.S.C. § 546).

SECTION 4 **Indemnification and Insurance**

4.1 Indemnification.

A. The Grantee shall indemnify and hold the Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities or judgments for injury to any Person or property to the extent caused by the negligent construction, repair, extension, maintenance, operation or removal of the Grantee's wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System, including any Access Channel. In addition, if the Grantor is named as a defendant in a complaint, demand, claim or action ("Action") that alleges that the Grantee's actions or omissions or the Cable System was a cause of injury identified in the Action, and subject to subsection 4.1C, the Grantor shall, within ten (10) business days of receipt of such Action, give the Grantee written notice of its obligation to defend the Grantor, and tender the defense thereof to the Grantee. The Grantee shall have the right to defend, settle or compromise such Actions and the Grantor shall cooperate fully with the Grantee in such defense. Notwithstanding the foregoing, if the Grantee believes in good faith that a tendered Action has little or no merit with respect to the Grantee's liability, the Grantee may refuse the defense of such Action, in which case the Grantor will in good faith defend the Action and the Grantee shall cooperate fully with the Grantor in such defense and may participate in such defense at the Grantee's option; provided that if the Grantee is determined to be liable in such Action, the Grantee shall be responsible for indemnifying the Grantor as set forth in subsection 4.1A and reimburse the Grantor for the prorata (with respect to any other claims made in the same Action, if any) attorney fees and other costs incurred by the Grantor associated with the defense. If the Grantor believes that any such Action

should be settled or compromised in any manner that will result in liability or other obligation for or restraint on the Grantee under this Agreement or otherwise, such settlement or compromise shall only be done with the prior written consent of the Grantee.

- B. Notwithstanding subsection 4.1B, if the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent the Grantor.
- C. The indemnification obligations of the Grantee set forth in this Agreement are not limited in any way by the amount or type of damages or compensation payable by or for the Grantee under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement or the terms, applicability or limitations of any insurance held by the Grantee, provided, however, that the Grantee's obligations to indemnify pursuant to this section shall be reduced by any amounts paid by any third parties directly or indirectly to the indemnified parties related to the same claims, including insurance proceeds.

4.2 Insurance.

- A. The Grantee shall maintain throughout the term of this Agreement insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence Combined Single Limit (C.S.L.)
Umbrella Liability	\$1,000,000 per occurrence

- B. The Grantor shall be added as an additional insured, arising out of work performed by the Grantee, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverages.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

4.3 Performance Bond. Except as expressly provided herein or as required by a generally Applicable Law, the Grantee shall not be required to obtain or maintain a bond, letter of credit or other surety as a condition of this Agreement. The Grantor acknowledges that the legal, technical and financial qualifications of the Grantee are sufficient as of the Effective Date to afford compliance with the terms of this Agreement and the enforcement thereof. The Grantee and the Grantor recognize that the costs associated with bonds, letters of credit and other surety may ultimately be borne by Subscribers in the form of increased rates for Cable Service. In order to minimize such costs, the Grantor agrees to only require a performance bond if there is a change in the Grantee's legal, financial or technical qualifications that would materially impair or prohibit its ability to comply with the terms of this Agreement. The Grantor further agrees that in no event

shall it require a performance bond in an amount greater than twelve thousand five hundred dollars (\$12,500). In the event that a performance bond is required in the future, the Grantor agrees to give the Grantee at least sixty (60) days' prior written notice thereof stating the exact reason for the requirement. The performance bond may only be drawn upon by the Grantee in the event, following any notice and opportunity to cure periods provided in this Agreement or under Applicable Law:

- A. The Grantee fails to pay the Grantor any amounts due under the terms of this Agreement;
- B. The Grantee fails to reimburse costs borne by the Grantor to correct violations of this Agreement not corrected by the Grantee; or
- C. The Grantee fails to pay any monetary remedies or damages assessed by a court of law against the Grantee and awarded to Grantor for a violation of this Agreement.

The Grantor shall give the Grantee written notice of any withdrawal under this Section 4.3 at the time of such withdrawal.

SECTION 5 **Service Obligations**

5.1 No Discrimination. The Grantee shall not deny Cable Service, deny access to Cable Service, or otherwise discriminate against Subscribers, Access Channel users, or general citizens on the basis of race, color, religion, national origin, age, sex or sexual orientation. The Grantee shall comply at all times with all Applicable Laws relating to nondiscrimination. Subject to Section 6 and the Grantee's rights under Section 625 of the Cable Act (47 U.S.C. § 545), all residential structures in the Service Area shall have the same availability of Cable Services from the Grantee's Cable System under non-discriminatory rates, terms and conditions.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Section 631 of the Cable Act (47 U.S.C. § 551).

SECTION 6 **Service Availability**

6.1 Service Area. The Grantee shall continue to provide Cable Service to all residences within the Service Area where the Grantee offers Cable Service as of the Effective Date. Upon receipt of a request for Cable Service from a potential residential Subscriber(s) in an unserved portion of the Service Area, and a written commitment from such Subscriber(s) (or payment in advance if required by the Grantee) to pay any applicable non-Standard Installation charges associated with providing Cable Service (if applicable), the Grantee shall extend the Cable System to the Street in front of such residence(s), provided that the average density is equal to or greater than thirty (30) residences per linear strand mile of cable as measured from the Grantee's closest technologically feasible tie-in point to its trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for Cable Service.

6.2 Subscriber Charges for Extensions of the Cable System. No potential Subscriber shall

be refused Cable Service arbitrarily. However, if an area does not meet the density requirements of Section 6.1 above, the Grantee shall only be required to extend the Cable System to the Street in that area if the potential Subscribers are willing to pay the capital costs of extending the Cable System and any applicable non-Standard Installation charges associated with providing Cable Service. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard or non-Standard Installation charges to extend the Cable System from the tap to the residence. Such cost estimates shall be submitted to and accepted by the potential Subscriber(s) in writing before any Cable System extension or installation is required. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any annexed area which is not contiguous to the present Service Area of the Grantee, if the Grantee does not, at the time of annexation, have the legal authority to locate its Cable System in the areas necessary to reach such annexed parts of the Service Area. At such time as the Grantee has the legal authority to access the newly annexed areas, Cable Service shall be made available in accordance with the density requirements of this Section 6.2.

6.3 Limitations. Nothing herein shall require the Grantee to provide Cable Service to any Person who fails to abide by the Grantee's terms and conditions of Cable Service. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions where applicable, to the extent permitted under Applicable Law. The Grantor acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a multiple dwelling unit. Cable Service offered to Subscribers pursuant to this Agreement shall be conditioned upon the Grantee having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

6.4 New Development Underground. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner make reasonable efforts to give the Grantee at least thirty (30) but at no time less than five (5), business days, prior written notice of such construction or development, and of the particular dates on which open trenching will be available for the Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the Grantee's expense. The Grantee shall also provide specifications as needed for trenching. Costs of trenching and dedication of Streets required to bring service to the development shall be borne by the developer or property owner; except that if the Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the five (5) day period, the cost of new trenching is to be borne by the Grantee.

6.5 Annexation. The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its Affiliates. Such annexed area will be subject to the provisions of this Agreement upon sixty (60) days' written notice from the Grantor, subject to the conditions set forth below and Sections 6.1 and 6.2 above. The Grantor shall also notify the Grantee in writing of all new street address assignments or changes within the Service Area. The Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor the Franchise Fees on Gross Revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has

provided a written annexation notice that includes the addresses that will be moved into the Service Area in an Excel format or in a format that will allow the Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Service Area, the Grantee shall pay the Franchise Fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 15.5 with a copy to the Director of Government Affairs. In any audit of the Franchise Fees due under this Agreement, the Grantee shall not be liable for the Franchise Fees on annexed areas unless and until the Grantee has received notification and information that meets the standards set forth in this section.

6.6 Cable Service to Schools and Town Facilities. Upon 30 days' written request, Grantee will provide, at its expense, Standard Installation and one outlet and equipment of Basic Cable Service to the Town facilities listed in Exhibit A to the ordinance codified herein which exhibit is incorporated herein by reference, and to not more than three (3) additional locations within the geographical limits of the Town which are owned by the Town and used for a municipal purpose and are accessible by a Standard Installation.

SECTION 7 **Construction and Technical Standards**

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with Applicable Law.

7.2 Construction Standards and Requirements. All portions of the Grantee's Cable System located in the Streets shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 Network Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in Part 76, Subpart K of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

7.5 Performance Monitoring.

- A. The Grantee shall, at the Grantee's sole expense, test the Cable System consistent with the FCC regulations and all other tests, as required by generally Applicable Law, reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this Agreement.
- B. The Grantee shall maintain written records of all results of its Cable System tests, performed by or for the Grantee, for the period required by the FCC. Copies of such test results will be provided to the Grantor upon request.

- C. As of the Effective Date, the FCC semi-annual testing is conducted in January/February and July/August of each year. If the Grantor contacts the Grantee at least sixty (60) days prior to the next FCC semi-annual test period (i.e., before November 1 and May 1 respectively of each year), the Grantee shall provide the Grantor with no less than thirty (30) days prior written notice of the actual date(s) for FCC compliance testing, and representatives of the Grantor may witness such technical performance tests; provided, however, that such representatives shall not interfere with the testing. If the required FCC testing periods are changed during the term of this Agreement, the parties shall negotiate in good faith to amend the dates in this subsection to achieve the same result with respect to the parties' respective notice obligations.
- D. The Grantee will comply with industry standards with respect to testing drops and related passive equipment during installations to assure that the drop and passive equipment can pass the full Cable System capacity.
- E. The results of any tests required to be filed by the Grantee with the FCC shall upon request of the Grantor also be filed with the Grantor within ten (10) days of such request.

7.6 Emergency Use. The Grantee shall comply with the Emergency Alert System ("EAS") requirements of the FCC and State Applicable Law, including all testing requirements. If such requirements include the Grantor's activation of the EAS, then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor's use of the EAS is subject to a heightened standard of care given the purpose of the EAS and as such, the Grantor shall exercise all necessary attention, caution and prudence to ensure that the EAS is only used properly, lawfully and as required to alert citizens of emergencies.

SECTION 8 **Conditions on Street Occupancy**

8.1 General Conditions. The Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible and when granted permission by the owners of such facilities for commercially reasonable rates, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8.2 Underground Construction. The facilities of the Grantee shall be installed underground in those portions of the Service Area where telephone and electric utility services are both already underground or being placed underground at the time of Cable System construction, and in accordance with Applicable Law. All underground transmission lines shall be placed at a minimum of 12 inches in depth. In areas where either telephone or electric utility facilities are installed aerially at the time of Cable System construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are placed underground by the facilities owner, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, the Grantee shall be reimbursed

upon the same terms and conditions as any telephone, electric or other utilities; provided however that nothing herein shall require reimbursement to the Grantee or shall affect the Grantee's undergrounding obligation if the funds which are utilized for the reimbursement of other entities are restricted and preclude reimbursement to the Grantee.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any construction work, including the opening or disturbance of any Street within the Franchise Area, provided that such permit requirements are of general applicability and such permitting requirements are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Franchise Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Work of Contractors or Subcontractors. The Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Town's regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by the Grantee. The Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Agreement and applicable law. It is the Grantee's responsibility to ensure that contractors, subcontractors or other persons performing work on the Grantee's behalf are familiar with the requirements of this Agreement and applicable laws governing the work performed by them.

8.7 Relocation of Grantee Facilities. Grantee shall relocate any facility within the Town that is reasonably necessary in order to facilitate a change in street grade, water main, wastewater, storm water or other Town public works project. Prior to the commencement of work on any such public works project, the Town shall confer with the Grantee in order to design such public work in a manner to, as far as practicable, avoid the necessity for relocation of Grantee's distribution lines and/or equipment. Grantee shall not be responsible for any removal, relaying or relocation costs required solely for aesthetic reasons or which are not supported by reasonable engineering standards and practices. Grantee shall only be required to remove, relay or relocate any specific portion of its underground or overhead distribution lines or equipment, at Grantee's expense, only once. If the Town requests removal, relaying or relocation of the same distribution lines and/or equipment a second time during the term of this franchise, the Town shall bear the entire cost of each removal, relaying or relocation. Relocation of underground facilities shall be underground. Relocation of aboveground facilities shall be above ground

unless the Town agrees to pay the additional cost of undergrounding the facilities and only when such undergoing is supported by engineering standards and practices.

8.6 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance. Grantee shall not be responsible to replace landscaping in Streets.

8.7 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.8 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.9 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is given reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, “reasonable advance written notice” shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

SECTION 9 **Customer Service and Rates**

9.1 Customer Service Standards and Consumer Protection. The Grantee shall comply with the customer service standards promulgated by the FCC, as may be amended from time to time. The Grantee shall furnish such information, as reasonably requested by the Grantor, to enable the Grantor to evaluate compliance with the customer service standards in effect at a given time. Upon request, the Grantee will provide Grantor with a copy (or information necessary to access the document electronically) of the form of Subscriber terms of service then in effect. The Grantor reserves all rights under Applicable Law to adopt additional customer service standards that purport to apply to the Grantee, and the Grantee reserves all rights to challenge any such customer service standard that it believes is inconsistent with its contractual rights under this Agreement or Applicable Law, and all rights pursuant to Applicable Law to pass through the costs of complying with any such customer service standard to Subscribers.

A. **Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

- B. Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. The Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, or changes in programming services or Channel positions provided the change is within the control of the Grantee. Grantee shall endeavor to provide advance written notice to Grantor prior to changes in Channel positions that are not within its control, and in any event, shall provide such written notice to Grantor no later than thirty (30) days after such change in Channel positions have been made effective.
- C. Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to the Grantee's rights under Section 15.1 of this Agreement.

9.2 Rate Regulation. Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC or other Applicable Law.

SECTION 10 **Franchise Fee**

10.1 Amount of Fee. The Grantee shall pay to the Grantor an annual Franchise Fee in an amount equal to five percent (5%) of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fees under federal law. Franchise Fees may but are not required to be passed through to Subscribers as a line item on Subscriber bills or otherwise as the Grantee chooses, consistent with Applicable Law. The Grantee shall not deduct from the Franchise Fee any items listed under Section 622(g)(2) of the Cable Act (47 U.S.C. 542(g)(2)). The Grantee reserves its right to offset from the Franchise Fee any payment made to the Grantor if permitted by Applicable Law and the Grantor reserves its right to challenge the legality of any such offset.

10.2 Payment of Fee. Payment of the Franchise Fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter, and transmitted by electronic funds transfer to a bank account designated by Grantor. The payment period and the collection of the Franchise Fees that are to be paid to the Grantor pursuant to this Agreement shall commence sixty (60) days after the Effective Date of this Agreement as set forth in Section 15.10. If any Franchise Fee payment or recomputed payment is not made on or before the dates specified herein, the Grantee shall pay an interest charge, computed from the last day of the fiscal year in which such payment was due, at the annual rate equal to the lowest of (A) the maximum rate permitted under State Applicable Law, (B) eight percent (8%) or (C) that established by the State Bank Commissioner pursuant to C.R.S. 39-21-110.5 in effect as of the due date (which is the prime rate of interest as reported by the Wall Street Journal on July 1st of the previous calendar year, plus three percent (3%), rounded to the nearest full percent). Upon receipt of a written request from the Grantor, the Grantee shall provide the Grantor a report showing the basis of any such Franchise Fee payment, including the applicable Gross Revenue.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a Franchise Fee under this Agreement.

10.4 Limitation on Recovery. The period of limitation for recovery of any Franchise Fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

10.5 Review. All amounts paid by the Grantee to the Grantor under this Agreement and all records reasonably related to the administration or enforcement of this Agreement shall be subject to review and if justified, re-computation by the Grantor upon thirty (30) days written notice to Grantee. The Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, “relevant data” shall include, at a minimum, Grantee’s records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the review period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this Section 10.5, the “other relevant data” shall generally mean all: (1) billing reports, (2) financial reports (such as general ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenue for the Service Area that would allow the City to re-compute the Gross Revenue determination.

If such review indicates an aggregate, undisputed underpayment of Franchise Fees or Access Capital Fees of five percent (5%) or more, then the Grantee will reimburse the cost of such review up to a maximum of five thousand dollars (\$5,000); provided, however, that such review will be conducted no more frequently than once every three (3) years. If there is a dispute regarding a claimed underpayment, that if accurate, would result in an underpayment of Franchise Fees or Access Capital Fees of five percent (5%) or more, and if the dispute is ultimately resolved in favor of the Grantor, then at the time of such resolution, the Grantee will reimburse the cost of such review up to a maximum of five thousand dollars (\$5,000).

SECTION 11 **Transfer of Franchise**

11.1 Franchise Transfer or Change of Control. This Agreement shall not be assigned, sold, or transferred other than by operation of law or to an Affiliate of the Grantee, nor shall control of the Agreement or of the Grantee be assumed by another party who is not an Affiliate of the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. The word “control” as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Agreement or Cable System to secure indebtedness.

11.2 Notification and Application to Grantor. In accordance with federal law, the Grantee and the transferee shall make a written request of the Grantor for its consent to any actual or proposed (a) assignment, sale or transfer of this Agreement other than by operation of law or to an Affiliate

of the Grantee, or (b) change of control of this Agreement or of the Grantee to another party who is not an Affiliate of the Grantee. Such request shall be accompanied by all information required by federal law. Within thirty (30) days of receiving such a request, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee or any other information permitted by federal law. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given, unless the Grantor and the Grantee have agreed to an extension of time.

SECTION 12 **Records, Reports and Maps**

12.1 Reports Required. The Grantee's schedule of charges for regular Subscriber service, its policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon request.

12.2 Records Required. The Grantee shall at all times maintain:

- A. A record of all written complaints received regarding interruptions or degradation of Cable Service, which record shall be maintained for one (1) year.
- B. A full and complete set of plans, records and strand maps showing the location of the Cable System.
- C. All financial and accounting records necessary to demonstrate compliance with this Agreement, including, without limitation, all records necessary to conduct the Franchise Fee and financial review described in Section 10.5.

12.3 Inspection of Records. The Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any of the Grantee's records maintained by the Grantee as is reasonably necessary to ensure the Grantee's compliance with this Agreement. Such notice shall specifically reference the subsection of the Agreement that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act (47 U.S.C. § 551). The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent the Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Agreement, or for any other reason, it shall advise the Grantee in advance so that the Grantee may take appropriate steps to protect its interests. If the Grantee requests that the Grantor continue to oppose such release, then until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of the Grantee's books and records marked confidential, as set forth above, to any Person, and the Grantee shall reimburse the Grantor for all reasonable costs and attorneys' fees incurred in any legal proceedings related to same. If the

Grantee does not request that the Grantor oppose such release, then the Grantor shall make an independent judgment with respect to such release, and the Grantee shall not be liable for any costs related to same.

SECTION 13

Access

13.1 Access Channel. Upon prior written notice to Grantee, but not less than 180 days, Grantor may request the use of one Channel on the Cable System for use by the Grantor for non-commercial, video programming for public, education and government (“PEG”) access programming. The PEG Channel may be placed on any tier of service available to Subscribers. Grantor, or its designee shall be responsible for providing any necessary production or playback equipment and shall be responsible for securing and supervising any trained/qualified personnel who conduct the operation of the PEG Channel.

13.2 Indemnification and Restrictions. The Grantor shall indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the Grantor’s use of the aforementioned PEG Channel whether Grantor operates the PEG Channel from Grantor’s facilities or a third party’s facilities. Grantee shall not be responsible for operating and managing the PEG Channel including approving any PEG programming. Grantor reserves the right to permit a third party to operate and manage the PEG Channel on the Grantor’s behalf or for obtaining releases from programmers for any PEG programming. The PEG Channel shall not be used for commercial purposes, including but not limited to advertising or leased access. Grantor agrees to notify any Person using PEG Channels of these non-commercial use requirements, but shall not be responsible for any individual’s exercise of free speech.

SECTION 14

Enforcement or Revocation

14.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of this Agreement, the Grantor shall first informally discuss the matter with the Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the “Violation Notice”).

14.2 Grantee’s Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (A) respond to the Grantor, contesting the assertion of noncompliance, (B) to cure such default, or (C) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed. If (i) the Grantee fails to respond to the Violation Notice received from the Grantor, (ii) the Grantee responds to the Grantor, contesting the assertion of the noncompliance, but the Grantor disagrees with the Grantee’s response, or (iii) if the default is not remedied within the thirty (30) day cure period set forth above, the Grantor may pursue any remedies available to it under Applicable Law; provided, that the Grantor shall not conduct an administrative proceeding or hearing. The Grantee reserves all legal and equitable rights under Applicable Law to challenge or appeal any action by the Grantor with respect to an alleged violation of this Agreement.

14.3 Alternative Remedies. No provision of this Agreement shall be deemed to bar the right of the Grantor to seek or obtain judicial relief from a violation of any provision of this Agreement or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Agreement nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages for such violations by the Grantee, or to seek and obtain judicial enforcement of the Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

SECTION 15 **Miscellaneous Provisions**

15.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

15.2 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of this Agreement for violations of this Agreement where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

15.3 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.4 Equal Protection. No Cable Operator shall be permitted to locate a Cable System in the Streets in order to provide Cable Service in the Service Area without a Franchise. The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional Franchises or other similar lawful authorization to utilize the Streets to provide Cable Services within the Service Area. If the Grantor grants such an additional Franchise or other similar lawful authorization containing material terms and conditions that differ from the Grantee's material obligations under this Agreement, then the Grantor agrees that the obligations in this Agreement will, pursuant to the process set forth in this section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: the Franchise Fee; Gross Revenue definition; insurance; Cable System build-out requirements; security instruments; the Access Channel and the Access Capital Grant; customer service standards; required reports and related record keeping; level playing field (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall

not require word for word identical Franchise provisions so long as the regulatory and financial burdens on each entity are materially equivalent.

- A. The modification process of this Agreement as provided for in this section shall only be initiated by written notice by the Grantee to the Grantor regarding specified obligations. The Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive Franchise which are materially different from the Grantee's obligations under this Agreement; (2) identifying the Agreement terms and conditions for which the Grantee is seeking amendments; (3) providing text for any proposed Agreement amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent.
- B. Upon receipt of the Grantee's written notice as provided in subsection 15.4A, the Grantor and the Grantee agree that they will use best efforts in good faith to negotiate the Grantee's proposed Agreement modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and the Grantee reach agreement on the Agreement modifications pursuant to such negotiations, then the Grantor shall amend this Agreement to include the modifications.
- C. If the parties fail to reach agreement in the negotiations as provided for in subsection 15.4B, the Grantee may, at its option, elect to replace this Agreement by opting into the Franchise or other similar lawful authorization to use the Streets in order to provide Cable Service that the Grantor grants to another provider of Cable Services, so as to ensure that the regulatory and financial burdens on each entity are equivalent. If the Grantee so elects, the Grantor shall immediately commence proceedings to replace this Agreement with the Franchise issued to the other Cable Services provider.
- D. Nothing in this section shall be deemed a waiver of any remedies available to the Grantee under Applicable Law, including but not limited to Section 625 of the Cable Act (47 U.S.C. § 545).
- E. Should the Grantee seek an amendment to this Agreement or a replacement Franchise pursuant to this section, while the parties shall pursue the adoption of such amendments or replacement Franchise pursuant to subsections 15.4A through D, any such amendments or replacement Franchise shall not become effective unless and until the new entrant makes Cable Services available for purchase by Subscribers or customers under its agreement with the Grantor.

15.5 Notices. Unless otherwise provided by Applicable Law, all notices, reports or demands pursuant to this Agreement shall be in writing and shall be deemed to be sufficiently given upon delivery to the Persons at the respective addresses set forth below by hand delivery, by U.S. certified mail, return receipt requested, or by nationally or internationally recognized courier service such as Federal Express. The Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or Channel positions using any reasonable written means,

herein. Any changes, modifications or amendments to this Agreement must be made in writing, signed by the Grantor and the Grantee.

15.11 Effective Date. This Agreement will take effect and be in full force from such date of acceptance by the Grantee recorded on the signature page of this Agreement (the “Effective Date”).

15.12 Publication Costs. This Agreement shall be published in accordance with Applicable Law. The Grantee shall reimburse the Grantor for all costs incurred in publishing this Agreement and any notices or ordinances in connection with its adoption if such publication is required by Applicable Law.

15.13 Venue and Jurisdiction. The parties agree that any action arising out of this Agreement will be brought in the district court of Gunnison County or federal courts located in the State of Colorado, irrevocably submit to the exclusive jurisdiction of any such court and waive any objection that such party may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agree not to plead or claim the same.

Considered and approved this ____ day of _____, 2018.

GRANTOR:

Town of Crested Butte, Colorado

Signature: _____

Print Name: _____

Title: _____

Accepted this ____ day of _____, 2018, subject to Applicable Law.

GRANTEE:

Spectrum Pacific West LLC
By: Charter Communications, Inc., its Manager

Signature: _____

Print Name: _____

Title: _____

EXHIBIT A

Town Hall – 507 Maroon Ave.

Town Marshal's Office – 507 Maroon Ave.

308 Building – 308 Third Street

Nordic Center – 620 Second Street



Staff Report
October 1, 2018

To: Mayor Schmidt and Town Council

From: Bob Nevins, Town Planner

Thru: Michael Yerman, Community Development Director

Subject: **Public Hearing-Red Lady Estates Condominiums Map and Text Amendments for the Vacation and Relocation of a 15-Foot Wide Public Access Easement**

1.0 Purpose: A public hearing to consider Map and Text Amendments submitted by the Town of Crested Butte as Declarant of Red Lady Estates Condominiums Homeowners' Association for the purpose of: 1) vacating a fifteen (15) feet wide public access easement as shown the Condominiums Plat and relocating the public access onto the adjoining Town-Bench property; and 2) deleting and restating Section 12.4 Public Access Easement of the Condominiums Declaration.

2.0 Article 23 Amendments: Pursuant to Municipal Code Section 16-23-20, any person or group of persons may initiate an amendment, supplement, change, modification or repeal of Chapter 16 Zoning. Such proposals shall be referred to Town Council for consideration and approval, approval with conditions or denial.

Town of Crested Butte is the Declarant according to the Declaration Establishing Red Lady Estates Condominiums. Pursuant to Section 15.1 Special Declarant Rights, *"The Declarant and specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act (CCIOA) and this Declaration for the maximum time limit allowed by law, or for twenty (20) years following the recording hereof, whichever occurs first, including without limitation, the following:*

(d) The right, without consent of any Owner or mortgagee or lienholder being required at any time and from time to time to amend the Map to: (i) insure that the language and all particulars that are used on the Map and contained in the Declaration are identical; (ii) establish, vacate and relocate utility easements, access easements, and parking spaces; and to exercise any other Declarant Rights or development rights provided for herein."

3.0 Homeowners Association. Red Lady Estates Condominium Homeowners' Association met at a properly noticed special meeting on September 26, 2018 to discuss and consider vacating the 15-foot wide public access easement as recorded on the Condominiums Map and relocating it onto the Town-Bench Property and amending the recorded Condominiums Declaration accordingly. A formal ballot proposal was presented to the Homeowners' Association and the Unit Owners voted unanimously 10 in favor and 0 opposed to approve the proposed Map and Text Amendments as submitted.

4.0 Background: Red Lady Estates Condominiums includes ten (10) detached, single-family mobile homes regulated under the provisions of the Town of Crested Butte Affordable Housing Guidelines, 2003 Edition, Part VII, Red Lady Estates Condominiums and the Colorado Common Interest Ownership Act (CCIOA), Colorado Revised Statutes (CRS) Sections 38-33.3-101, *et. seq.* The Condominiums Plat and Declaration were recorded October 6, 2006 as Reception Nos. 535522 and 535523 respectively, in the office of the Gunnison County Clerk and Recorder.

Red Lady Estates was included with the adjoining land that was sold and conveyed by Trapper's Crossing, Ltd., a Delaware limited partnership, to the Town of Crested Butte on December 21, 1990. The general warranty deed for the entire 5.21 acre parcel is "*subject to the specific covenant and condition that such property shall be used solely for residential housing, a public park, public parking or any other public purposes and that the southerly portion thereof comprising the upper bench shall have no residential housing constructed thereon.*"

These "Public Lands" according to the Trapper's Crossing South Plat were annexed into the Town of Crested Butte via Ordinance No. 20, Series of 1990 and recorded in the office of the Gunnison County Clerk and Recorder as Reception No. 424904 on January 16, 1991. The Ordinance identified the 5.21 acres as the "Town-Bench Property" that included Red Lady Estates, 1.46 acres and a public open land tract containing 3.75 acres.

5.0 Existing Conditions. Red Lady Estates is situated on a level area below a benchland area and pine-covered hillside along the south side of Red Lady Avenue west of its intersection with Highway 135. The residential neighborhood is accessible from Red Lady Avenue: on the west is an access drive to Units 1-2; in the middle portion of the site, there is a shared driveway to Units 3-8 that includes the 15-foot wide public access easement; and to the east is a short access drive to Units 9-10. An established dirt, single-track pedestrian trail begins at the southern edge of the middle driveway and traverses up the wooded slope to an intermediate bench area. Another "bandit trail" has been established to the south of Units 1-2; it intersects the main trail that crosses the bench area and connects to the Ditch Trail which then continues up to the Green Lake Trail. Over the years, pedestrian, mountain biker and dog-walker traffic has steadily increased, creating safety, privacy, noise, litter and other impacts to the residents of Red Lady Estates.

6.0 Proposed Map and Text Amendments. Town of Crested Butte, as Declarant of Red Lady Estates Homeowners' Association, is requesting approval to: 1) vacate the fifteen (15) feet wide public access easement contained within the sixty (60) feet wide driveway/parking/snow storage area that passes through the middle of the residential neighborhood; and 2) relocate the public access easement onto the adjoining Town-Bench Property in consideration of the Red Lady Estates Homeowners' Association being responsible for stocking, maintaining and servicing the "doggie-station" and trash bin at the trailhead area. Declarant's request requires Map and Text Amendments as described below pursuant to Municipal Code Section 16-23-20:

- **Map Amendment.** Red Lady Estates Condominiums Plat recorded October 6, 2003 as Reception No. 535522, per this reference, shall be amended by vacation of the public access easement and deletion of the "15' Public Access Easement" label/plat note on sheet 2 of 2 of the plat; and the "Public Access" shall be relocated onto the adjoining Town-Bench Property to the east. See Exhibit A-Red Lady Estates Condominiums Plat 1ST Amendment.

- **Text Amendment.** The Declaration Establishing Red Lady Estates Condominiums recorded October 6, 2003 as Reception No. 535523, per this reference, shall be amended by the deletion of Section 12.4 Public Access Easement in its entirety and the restatement of said section with new language that reads: “*12.4 Public Access Agreement. Declarant hereby vacates the platted 15-foot wide easement for public access through and across the Common Elements, as depicted upon the Condominium Map, subject to these conditions: 1) Homeowners’ Association agrees and shall be obligated to stock, maintain and service the “doggie-station” and trash bin with supplies provided by the Town at the relocated public access trailhead on the Town-Bench Property in perpetuity or as amended by mutual agreement; 2) Homeowners’ Association shall de-commission the existing trails through Red Lady Estates by re-grading and re-vegetating the disturbed area so that it blends with the natural landscape within twelve (12) months after recordation of this amendment; 3) Homeowners’ Association may post ‘Private Property/No Public Access’ signs at each of the three (3) access driveway entrances to the Units from Red Lady Avenue; and 4) In the event Homeowners’ Association fails to abide by the conditions of this agreement, Declarant may re-establish and re-plat the 15-foot wide easement for public access through and across the Common Elements for the purpose of allowing public access to the public lands located south of the Property.*” See Exhibit B- Declaration Establishing Red Lady Estates Condominiums 1ST Revision, Section 12.4 Public Access Easement.

7.0 Zoning and Density. The proposed Red Lady Estates Condominium Map and Text Amendments do not change the existing M-Mobile Home zoning and/or current density of ten (10) residential mobile homes. Additionally, this proposal does not affect the P-Pubic zoning of the adjoining Town-Bench Property as the relocated public access/non-motorized trail is a public purpose consistent with the specific covenant and condition of the property.

8.0 Application. As presented in the Staff Memo dated 9-17-18, it was demonstrated that the application was submitted in accordance with Municipal Code Section 16-23-30 Application and that the requirements in Section 16-23-30 (a)(1-5) and (b) were satisfied.

9.0 Town Council Actions. At First Reading on September 17, 2018, Town Council reviewed a Staff Memo, heard verbal comments by the Town Planner, discussed the proposal and then made a motion followed by a second with a 5 to 0 vote to schedule a public hearing on October 1, 2018.

At Second Reading of the Ordinance, after public comment is taken and the public hearing is closed, Town Council by a majority vote may: approve, modify or deny the proposed Red Lady Estates Condominiums Map and Text Amendments to vacate the 15-foot wide public access easement on the Plat and relocate the public access onto the Town-Bench Property; and to delete and restate Section 12.4 Public Access Easement in the Declaration. Ordinance No. 24, Series of 2018 is attached.

Staff Recommendation:

Staff recommends that a Council member make a motion followed by a second to approve Ordinance No. 24, Series of 2018, the Red Lady Estates Condominiums Map and Text Amendments.

Exhibits:

A- Red Lady Estates Condominiums Plat 1ST Amendment

B- Declaration Establishing Red Lady Estates Condominiums 1ST Revision, Section 12.4 Public Access Easement

Ordinance:

No. 24, Series of 2018

ORDINANCE NO. 24**SERIES 2018****AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL APPROVING BY REFERENCE AMENDMENTS TO THE RED LADY ESTATES CONDOMINIUMS PLAT MAP AND DECLARATION TEXT FOR THE VACATION OF THE PUBLIC ACCESS EASEMENT AND RELOCATION OF PUBLIC ACCESS ONTO THE ADJOINING TOWN-BENCH PROPERTY.**

WHEREAS, the Town of Crested Butte, Colorado (“Town”) is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Article XX of the Colorado Constitution, as implemented through the Town of Crested Butte Charter, Title 31, Article 23 and Title 20, Article 29, C.R.S., the Local Government Land Use Control Enabling Act of 1974, the Town has the authority to enact and enforce land use regulations; and

WHEREAS, Red Lady Estates Condominiums Plat Map was recorded October 6, 2003 as Reception No. 535522 and the Declaration Establishing the Condominiums was recorded October 6, 2003 as Reception No. 535523 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, the “Town-Bench Property” that includes Red Lady Estates, 1.46 acres, and other public open land tract containing 3.75 acres, is identified as “Public Lands” having a total of 5.21 acres according to the Trapper’s Crossing South Plat and subsequently annexed into the Town of Crested Butte via Ordinance No. 20, Series of 1990, recorded on January 16, 1991 as Reception No. 424904 in the office of the Gunnison County Clerk and Recorder; and

WHEREAS, according to Article 15 of the Declaration establishing the Red Lady Estates Condominiums, Town of Crested Butte as Declarant has the right, without the consent of any Owner or mortgagee or lienholder to amend the Map to insure that the language and all particulars that are used on the Map and contained in the Declaration are identical; to establish, vacate and relocate access easements; and to exercise any other Declarant Rights or development rights provided therein; and

WHEREAS, pursuant to Municipal Code Section 16-23-20, Town of Crested Butte as Declarant submitted Amendments to the Plat Map and Declaration Text for the vacation of the public access easement and relocation of public access onto the adjoining Town-Bench property; and

WHEREAS, Town Council considered the proposed Red Lady Estates Condominiums Map and Text Amendments to vacate the fifteen (15) feet wide public access easement with certain conditions and relocate public access onto the Town-Bench property, took public

comment and following discussion determined that the proposed amendments are in the best interest of the health, safety and welfare of Crested Butte, its property owners, residents and visitors by providing better public access, eliminating vehicular conflicts, minimizing impacts to residents and satisfying the specific covenant and condition for use of the property as a public park or other public purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Map Amendment: Red Lady Estates Condominiums Plat-1ST

Amendment. The Red Lady Estates Condominiums Plat Map recorded on October 6, 2003 as Reception No. 535522 in the office of the Gunnison County Clerk and Recorder is hereby revised and amended by this reference to the following:

On Sheet 2 of 2 of the Condominiums Plat, the “15’ Public Access Easement” delineated between Units 3-8, in a north-south orientation from the Red Lady Avenue public right-of-way to the southern property boundary is hereby vacated and the “15’ Public Access Easement” label/plat note is deleted; and the G.C.E. Snow Storage 1940 SF hatched-area shall remain as originally platted. Public Access is hereby relocated approximately 400 feet to the east onto the adjoining Town-Bench Property.

Exhibit A- Red Lady Estates Condominiums Plat 1ST Amendment.

Section 2. Text Amendment: Declaration Establishing Red Lady Estates Condominiums-1ST Amendment. Section 12.4 Public Access Easement of the Declaration Establishing Red Lady Condominiums recorded on October 6, 2003 as Reception No. 535523 in the office of the Gunnison County Clerk and Recorder, is hereby deleted in its entirety and restated with a new title and language that reads:

“**12.4 Public Access Agreement.** Declarant hereby vacates the platted 15-foot wide easement for public access through and across the Common Elements, as depicted upon the Condominium Map, subject to these conditions: 1) Homeowners’ Association agrees and shall be obligated to stock, maintain and service the “doggie-station” and trash bin with supplies provided by the Town at the relocated public access trailhead on the Town-Bench Property in perpetuity or as amended by mutual agreement; 2) Homeowners’ Association shall de-commission the existing trails through Red Lady Estates by re-grading and re-vegetating the disturbed area so that it blends with the natural landscape within twelve (12) months after recordation of this amendment; 3) Homeowners’ Association may post ‘Private Property/No Public Access’ signs at each of the three (3) access driveway entrances to the Units from Red Lady Avenue; and 4) In the event Homeowners’ Association fails to abide by the conditions of this agreement, Declarant may re-establish and re-plat the 15-foot wide easement for public access through and across the Common Elements for the purpose of allowing public access to the public lands located south of the Property.”

Exhibit B-Declaration Establishing Red Lady Estates Condominiums 1ST Revision, Section 12.4 Public Access Easement.

Section 3. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 4. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code shall remain valid and in full force and effect. Any provision of the Code that is in conflict with this ordinance is hereby repealed as of the effective date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17th DAY OF SEPTEMBER, 2018.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS ___ DAY OF OCTOBER, 2018.

TOWN OF CRESTED BUTTE

James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

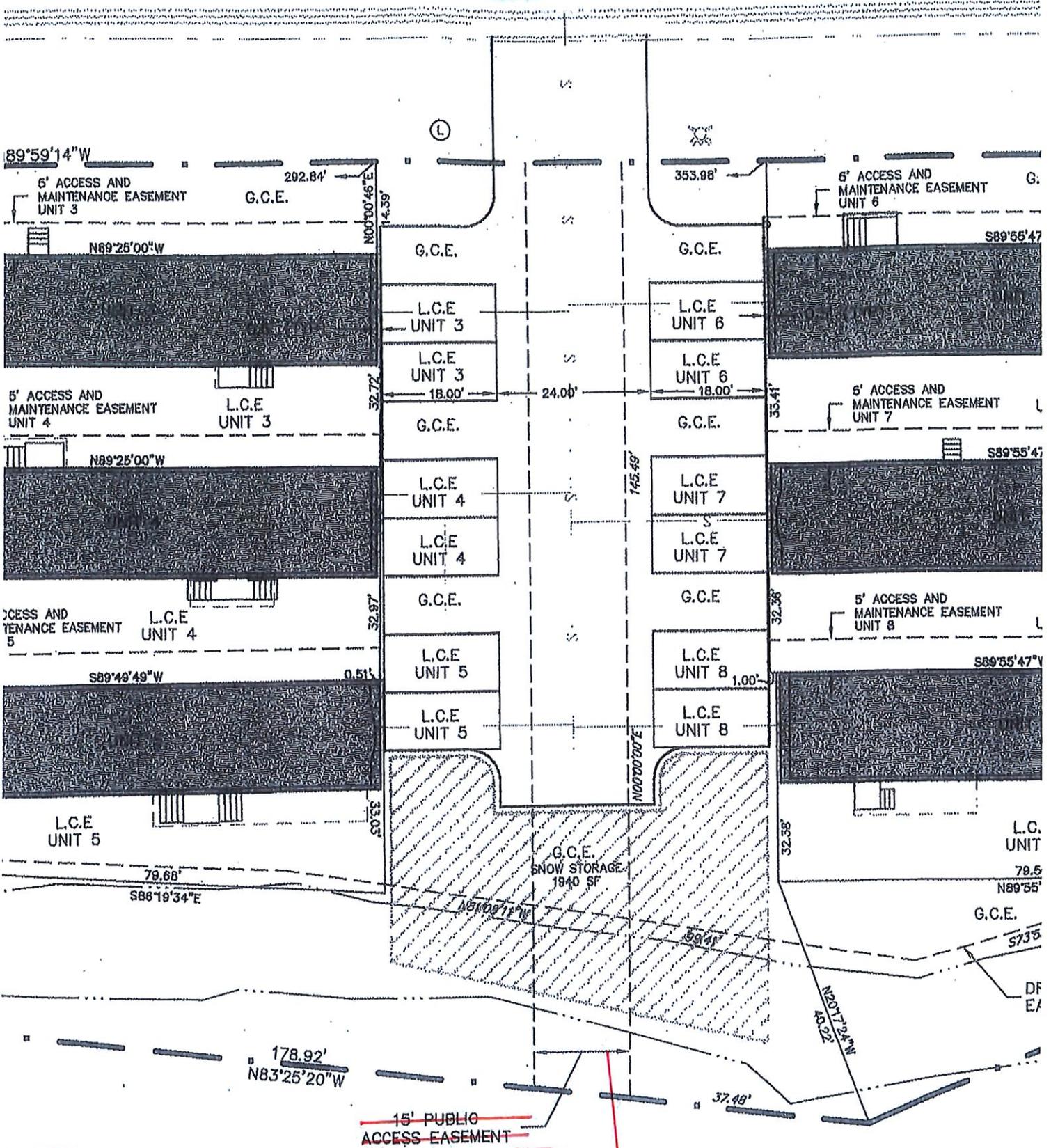
[SEAL]

Exhibit "A"

Red Lady Estates Condominiums Plat 1ST Amendment

Page 2 of 2, Recorded as Reception No. 535522 10/06/2003

RED LADY AVENUE



Vacation of 15' Public Access Easement
 Town of Crested Butte Ordinance No. __, Series of 2018.

Exhibit "B"

Declaration Establishing Red Lady Estates Condominiums 1ST Revision,

Section 12.4 Public Access Easement

Recorded as Reception No. 535523 10/06/2003



535523

Page: 21 of 34

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forth above, the Association shall bear the full responsibility and expense of all damages incurred to the Unit and/or Common Elements because of such forcible entry. All damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the improvements at the instance of the Association, shall be paid for as part of the Annual Assessment by all of the Owners. No Owner shall be entitled to diminution or abatement for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to damage.

Notwithstanding the foregoing, if any such damage is the result of the failure of an Owner to provide the authorized management company with a key to their respective Unit and/or the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs of repairing such damage. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for said damages and charge the Owner responsible as a Default Assessment.

~~12.4 Public Access Easement. There shall be an easement for public access through and across the Common Elements, as depicted upon the Condominium Map, for the purpose of allowing the public access to the public lands located to the south of the Property.~~

12.4 Public Access Agreement. Declarant hereby vacates the platted 15-foot wide easement for public access through and across the Common Elements, as depicted upon the Condominium Map, subject to these conditions: 1) Homeowners' Association agrees and shall be obligated to stock, maintain and service the "doggie-station" and trash bin with supplies provided by the Town at the relocated public access trailhead on the Town-Bench Property in perpetuity or as amended by mutual agreement; 2) Homeowners' Association shall decommission the existing trails through Red Lady Estates by re-grading and re-vegetating the disturbed area so that it blends with the natural landscape within twelve (12) months after recordation of this amendment; 3) Homeowners' Association may post 'Private Property/No Public Access' signs at each of the three (3) access driveway entrances to the Units from Red Lady Avenue; and 4) In the event Homeowners' Association fails to abide by the conditions of this agreement, Declarant may re-establish and re-plate the 15-foot wide easement for public access through and across the Common Elements for the purpose of allowing public access to the public lands located south of the Property."

12.5 Easement on Limited Common Element for Ingress, Egress and Access. A five foot (5') easement running the length of the south side of each Unit, on the Limited Common Element of such Unit, is depicted on the Map. The purpose of such easement is to permit access for the adjoining Unit over, upon and across such Limited Common Element, for the purpose of ingress and egress to the adjoining Unit, and maintenance and repair of the adjoining Unit.

12.6 Drainage Easement. An easement for drainage is shown on the Map. That easement is granted to the Town of Crested Butte, which may utilize such easement, without limitation, as may be necessary and appropriate to accomplish the drainage needs of the Town.



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Ordinance 2018-25, An ordinance declaring a moratorium on the issuance of new business occupation licenses under Chapter 6, Article 2 of the Crested Butte Municipal Code for formula restaurant and retail businesses in all Business and Commercial Districts

Summary: This ordinance would prevent the issuance of any Business Occupation Licenses for new formula restaurants or retail businesses for a 6 month period while the community determines whether or not to enact permanent limitations on these types of businesses in the future.

Previous Council Action: During the Council work session on August 27th the Council identified as one of their 5-year goals and 2019 priorities to “ban all new formula/franchise retail and restaurant businesses on Elk Ave”.

Background and Discussion: Formula businesses (also commonly referred to as chain or franchise businesses) are typically defined as those operating in multiple locations, and with standardized features such as building exteriors, uniforms and product lines. There are at least 30 jurisdictions across the country with some manner of formula business regulations. The specific metrics for defining a formula store vary from one community to the next. For purposes of the moratorium, and as a starting point for discussion, staff has proposed the following definition drawn, in part, from the definition developed in Aspen, CO:

Any restaurant or retail commercial establishment that has ten (10) or more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States and that maintains two (2) or more of the following features: a standardized array of merchandise or menu items, standardized array of services, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark, or service mark.

It is a commonly held misconception that there is already a ban on formula businesses in Crested Butte. This is not the case. Though the design guidelines and sign regulations may discourage these types of businesses from locating in Crested Butte there is concern that with increasing interest in the Crested Butte market that the community may see more of these types of businesses want to locate in Crested Butte in the future.

Enacting a 6-month moratorium on the issuance of new business licenses for formula restaurants and retail businesses will allow time for public input, BOZAR review and Council consideration while there are no pending applications. Existing business licenses for these types of establishments could be renewed under the moratorium as drafted.

As articulated in the Whereas clauses of the ordinance, there are several reasons that the Town should consider limitations on formula restaurant and retail businesses including:

1. To preserve businesses with unique local character, avoiding the standardization associated with chains.
2. Avoiding the “generic” appearance of store fronts or blocks dominated by businesses that are seen everywhere and which may be counter to the historic character that is such an important part of Crested Butte’s charm.
3. Potentially minimize the escalation of rents associated with the demands created by national chains, who are often in a better position than local businesses to compete for limited space.

A moratorium will allow time to discuss these and other considerations while there are no pending applications.

During a moratorium the Town must be able to reasonably demonstrate that they are working towards resolution of the concerns that prompted the moratorium. To that end the ordinance directs that the Town engage in a public process to gain input from property owners, business owners, residents, visitors and other stakeholders on their interests and concerns regarding formula restaurant and retail businesses. Further the ordinance directs that BOZAR consider the potential impacts of these types of businesses on the Town’s historic character, quality of life, economic diversity and needs of the community. BOZAR should then make a recommendation to the Town Council on whether any additional regulations should be included in the Town Code to address such impacts and needs.

One change was made to the ordinance between 1st and 2nd reading. A local business owner pointed out that no allowance was made for the sale of existing formula business or renewal of existing business licenses during the moratorium period. To address that concern the following language was added to the end of Section 1 of the ordinance:

Business occupation licenses for existing formula restaurant or retail businesses in the Town may be renewed and those businesses may be transferred while the moratorium is in effect.

Legal Implications: The Town Attorney has researched the regulating of formula businesses and has advised that the moratorium ordinance as drafted is defensible.

Recommendation: Staff recommends that the Town Council approve Ordinance 25, Series 2018.

Proposed Motion: A Council person should make a motion, “to approve Ordinance 25, Series 2018” followed by a second and roll call vote.

ORDINANCE NO. 25

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL DECLARING A MORATORIUM ON THE ISSUANCE OF NEW BUSINESS OCCUPATION LICENSES UNDER CHAPTER 6, ARTICLE 2 OF THE CRESTED BUTTE MUNICIPAL CODE FOR FORMULA RESTAURANT AND RETAIL BUSINESSES IN ALL BUSINESS AND COMMERCIAL DISTRICTS

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the constitution and laws of the State of Colorado; and

WHEREAS, Chapter 6, Article 2 of the Crested Butte Municipal Code (the "**Town Code**") contains regulations adopted by the Town Council that govern the issuance of business licenses in business and commercial districts in the Town; and

WHEREAS, the Town is a National Historic District and it has adopted Design Guidelines to protect the integrity of the District and to sustain the character of the community that is so appealing to residents and visitors of Crested Butte; and

WHEREAS, the Town is widely known as "the last great Colorado ski town" having an authentic, non-commercialized old mining town atmosphere with charming, desirable and economically viable commercial retail areas comprised primarily of small, independently-owned and unique establishments; and

WHEREAS, the Town desires to study the impacts of new formula businesses upon, among other things, the Town's established historic character, quality of life, economic health and vitality, and the interests and needs of the community; and

WHEREAS, the Town Council finds that declaring a moratorium of six months duration on the issuance of business occupation licenses for formula restaurant and retail businesses will provide the Town with the time and opportunity to analyze these impacts and engage in a public process to determine whether any additional regulations should be included in the Town Code to address such impacts, to preserve and enhance the small mountain town ambience and that would be in the best interest of the health, safety, and general welfare of the residents and visitors of Crested Butte.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Moratorium on the Issuances of New Business Occupation Licenses for Formula Restaurant and Retail businesses under Chapter 6, Article 2. The Town hereby

declares that for a period of six months, there shall be no new business occupation licenses issued for a new Formula Restaurant or Retail Business under Chapter 6, Article 2 of the Town Code in any Tourist, Business or Commercial zone districts in order to allow the Town the time and opportunity to analyze the impacts of new Formula Restaurant and Retail upon, among other things, the Town's established historic character, quality of life, economic health and vitality, and interests and needs of the community; and to determine whether any additional regulations should be included in the Town Code to effectively address such impacts and needs. Business occupation licenses for existing formula restaurant or retail businesses in the Town may be renewed and those businesses may be transferred while the moratorium is in effect.

Section 2. Definition of Formula Restaurant or Retail Business for purposes of this Moratorium. For purposes of this Moratorium a Formula Restaurant or Retail Business shall be defined as: any restaurant or retail commercial establishment that has ten (10) or more other establishments in operation, or with local land use or permit entitlements already approved and effective, located anywhere in the United States and that maintains two (2) or more of the following features: a standardized array of merchandise or menu items, standardized array of services, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark, or service mark.

Section 3. Public Process. During the course of the Moratorium, the Town will engage in a public process including property owners, business owners, residents, visitors and other stakeholders to gain input on their interests and concerns regarding Formula Restaurant and Retail businesses.

Section 4. BOZAR Recommendation. During the course of the Moratorium, the Town Board of Zoning and Architectural Review (BOZAR) shall review the potential impacts of Formula Restaurant or Retail Businesses on the Town's historic character, quality of life, economic diversity, and needs of the community and make a recommendation to the Town Council on whether any additional regulations should be included in the Town Code to address such impacts and needs.

Section 6. Severability. If any section, sentence, clause, phrase, word, or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words, or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 7. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS ___ DAY OF _____, 2018.

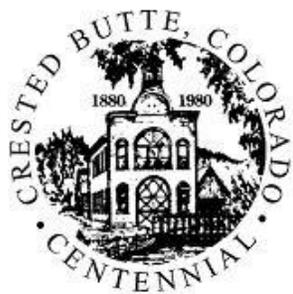
ADOPTED BY THE TOWN COUNCIL, UPON SECOND READING IN PUBLIC
HEARING THIS __ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk



Staff Report

September 25, 2018

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Shea D Earley, Interim Director of Public Works
Subject: **STATE REVOLVING FUND LOAN FOR WATER TREATMENT PLANT IMPROVEMENTS**

Attachments: **Comprehensive Performance Evaluation**

Date: October 3, 2016

Summary: The Town Public Works Department will be applying for funding assistance from the State Revolving Fund through the Colorado Department of Health and Environment (CDPHE). The notice of public hearing was published in the August 30th and September 6th editions of the Crested Butte News. The public hearing is set to inform citizens and solicit public input, regarding the planned improvements to the Crested Butte Water Treatment Plant.

The total projected cost for these improvements is \$2.025 million. The Town will seek to fund 60%, \$1,215,360.00, of the project costs through a 20-year, 2% low-interest loan from the State Revolving Fund through the CDPHE. The remaining project costs will be matched with an Energy Impact Assistance Fund grant of \$810,240.00 through the Colorado Department of Local Affairs (DOLA).

BACKGROUND: The Town received \$86,500 in funding assistance from DOLA for the engineering of the Water Treatment Plant Improvements in 2018. The total cost of design is not to exceed \$155,000. The Town is currently requesting funding for the Construction Manager At Risk (CMAR) design phase of the Water Treatment Plant Improvements in 2018, with construction phase in 2019. The improvements to the treatment plant are based on a design being provided by JVA Engineers, in conjunction with, the CMAR contractor. The project is designed to continue to maintain CDPHE compliance, upgrade infrastructure and maintain current and future water demands. The proposed improvements to maintain CDPHE compliance include; the addition of block and bleed valves on the existing skids, turbidimeters, and retrofitting the existing pretreatment system. The improvements also intend to address the hydraulic limitations of the facility by adding a fourth skid, which will also facilitate redundancy within the system. Finally, the improvements looks to address aging infrastructure by replacing components within the existing skids, removing the UV system, replacing the SCADA system, and upgrading the building structure.

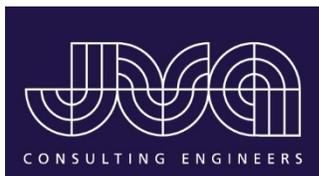
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Pros: Constructing the WTP Improvements will eliminate the possibility of future CDPHE violations, and continue to provide quality drinking water to the public.

Cons: Future CDPHE violations, fines, equipment failure, and possible impacts to human health and the environment.

Council Action:

Council should open the public hearing and consider any comments that are brought forward. No further action is required at this time.



WATER TREATMENT PLANT

COMPREHENSIVE PERFORMANCE EVALUATION

FOR THE

TOWN OF CRESTED BUTTE



NOVEMBER 2017

WATER TREATMENT PLANT
COMPREHENSIVE PERFORMANCE EVALUATION

FOR THE

TOWN OF CRESTED BUTTE

JVA, Inc.
817 Colorado Ave. Ste 301
Glenwood Springs, CO 81652
phone: 303-444-1951
fax: 303-444-1957

JVA Project No. 2338.4c

NOVEMBER 2017

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EXECUTIVE SUMMARY

The purpose of the Town of Crested Butte's (Town) Water Treatment Plant Comprehensive Performance Evaluation (CPE or Evaluation) is to develop a comprehensive planning document that provides the guidance necessary for the Town's capital improvements. The recommended improvements are discussed in detail and prioritized in a capital improvements plan (CIP)

The Town provides drinking water to customers located within the service area. The service area consists of developed and undeveloped properties within Gunnison County. Population projections from the Wright Water Engineers 2015 water supply memorandum (2015 Memo) were used to develop peak day summer and winter water demand projections.

The planning period for this Evaluation is 20 years. However, the current economic climate makes the rate of development and increase in nonresident population in the Town difficult to predict. Predicting capital projects and accurately estimating costs well into the future is not always feasible; therefore, the CIP is limited to 15 years. The Evaluation should be viewed as a dynamic working document, reviewed annually, and updated as conditions in the Town's service area change.

The CIP will assist the Town in prioritizing projects and developing annual budgets to continue to reliably provide water treatment services. Recommendations identified in this Evaluation should be considered as conceptual for planning purposes. Additional details and potential alternatives should be further investigated and analyzed in the preliminary engineering phase of each project.

PLANNING AND WATER DEMAND

The water treatment plant was expanded in 2002 to a capacity of 1.25 MGD and a firm capacity of 0.84 MGD. Firm capacity is defined by the Colorado Department of Public Health and Environment (CDPHE) as the capacity with the largest treatment unit out of service. CDPHE regulations require that the facility's firm capacity meet the peak day demand conditions for the service area.

The historical water production has steadily increased over the past three years with a noticeable increase in the peak demands during the winter and summer tourism seasons. The peak day summer demand in 2017 was 0.89 MGD, which is above the facility's current firm capacity. Future water demand was projected based on the 2015 Memo. The annual average per capita water demand was calculated as 114 gallons per capita per day (gcpd). This value was applied to the projected resident and nonresident populations to determine the average projected flows. A peak day summer and winter peaking factor were calculated, 2.9 and 1.5 respectively. These factors were applied to the projected annual averages to determine the projected peak day demands.

RAW WATER SYSTEM

The Town receives raw water from Coal Creek. The Town owns water rights originating from Coal Creek. The Town has sufficient water rights to meet their current and projected demands.

Raw water is supplied to the Town's Water Treatment Plant (WTP) through 9,000 linear feet of 12-inch PVC supply piping. The Town stores water in the 10-million-gallon raw water reservoir located northwest of the water treatment plant building. A single 12-inch ductile iron pipeline conveys water from the raw water reservoir to the water treatment plant building.

WATER QUALITY

The raw water sent to the WTP is sourced from Coal Creek. Generally, water quality from this source is exceptional. Elevated concentrations of manganese, iron and turbidity are present during spring and early summer. Natural organic matter concentrations increase during the spring and summer months. Additional water quality testing is recommended as part of this Evaluation to better understand the source water conditions and optimize treatment.

WATER TREATMENT PLANT

The past three years of water production data have documented a general increase in water demand due to an increase in nonresident populations during the winter and summer tourism seasons. The potable water demands, resulting from this growth, exceeded the WTP's firm capacity, 0.84 MGD, in the summer of 2017.

In 2002 the Town's conventional water treatment plant was expanded and converted to a microfiltration membrane system with a capacity of 1.25 MGD. JVA engineers performed a comprehensive performance evaluation of the current processes and operations of the water treatment plant. The focus of the evaluation was to identify capacity limitations, condition of equipment, opportunities for process optimization, operational constraints, and assist in identifying opportunities for improving water quality and increasing capacity.

The treatment process consists of 10 million gallons of raw water storage in a raw water reservoir, chemical pretreatment for oxidation of iron and manganese, microfiltration membranes, ultraviolet (UV) disinfection and a calcium hypochlorite tablet disinfection system prior to discharge to the clearwells. Chlorinated water is stored in the clearwells and onsite storage tanks to provide contact time prior to the distribution system. From the clearwell, water flows by gravity to the two water storage tanks and is distributed to the town by gravity.

CAPITAL IMPROVEMENT PLAN

The Capital Improvements Plan (CIP) includes projects related to increasing capacity, regulatory compliance, process optimization, and improved operations and maintenance. An estimated project cost has been developed for each project recommendation. A summary of the projects are provided in Table 1 and expanded in Section 5. Please note, project estimates are conservative, for planning purposes only. Packaging projects together is likely to show cost savings associated with reduced contractor mobilization as well as reduced bidding and construction administration costs.

Table 1. CIP Summary

Project Name	Project Cost
Water Treatment Plant Improvements (Engineering)	\$173,000
Water Treatment Plant Improvements (Construction)	\$1,722,000
Water Quality Testing	\$15,000
Additional Recommended Projects	
Replace Membranes in Skid B and C	\$106,000
Ponds Solids Evaluation – Quality and Volume	\$4,000
Solids Removal from Ponds	\$404,000
Bypass Pipe – Finished Water Meter Vault	\$207,000
Redundant Pipe – Raw Water Reservoir to WTP	\$219,000
Redundant Pipe – To Town Distribution System	\$647,000
Office Space and Laboratory Expansion	\$390,000
Backwash Piping Improvements	\$8,000
Waste and Residuals Management Improvements	\$500,000
WTP Capacity Expansion – Skid 5	\$835,000
Remove Abandoned Clarifier	\$10,000

SECTION 1 – INTRODUCTION

BACKGROUND

The Town of Crested Butte is in Gunnison County, Colorado. The Town owns and operates a water system that serves customers within the service area shown in Figure 1. The Town also provides distribution, collection, and wastewater treatment for the service area.

The existing water treatment plant (WTP) has a treatment capacity of 1.25 million gallons per day (MGD). Raw water is conveyed from Coal Creek to a raw water reservoir and then to the WTP. The water treatment system includes chemical pretreatment, three (3) microfiltration membrane units, ultraviolet (UV) and chlorine disinfection, and finished water storage. Two water storage tanks with volumes of 500,000-gallons and 600,000-gallons are available to store finished water prior to distribution. Finished water flows via gravity to the distribution system.

EXISTING WATER SYSTEM REPORTS

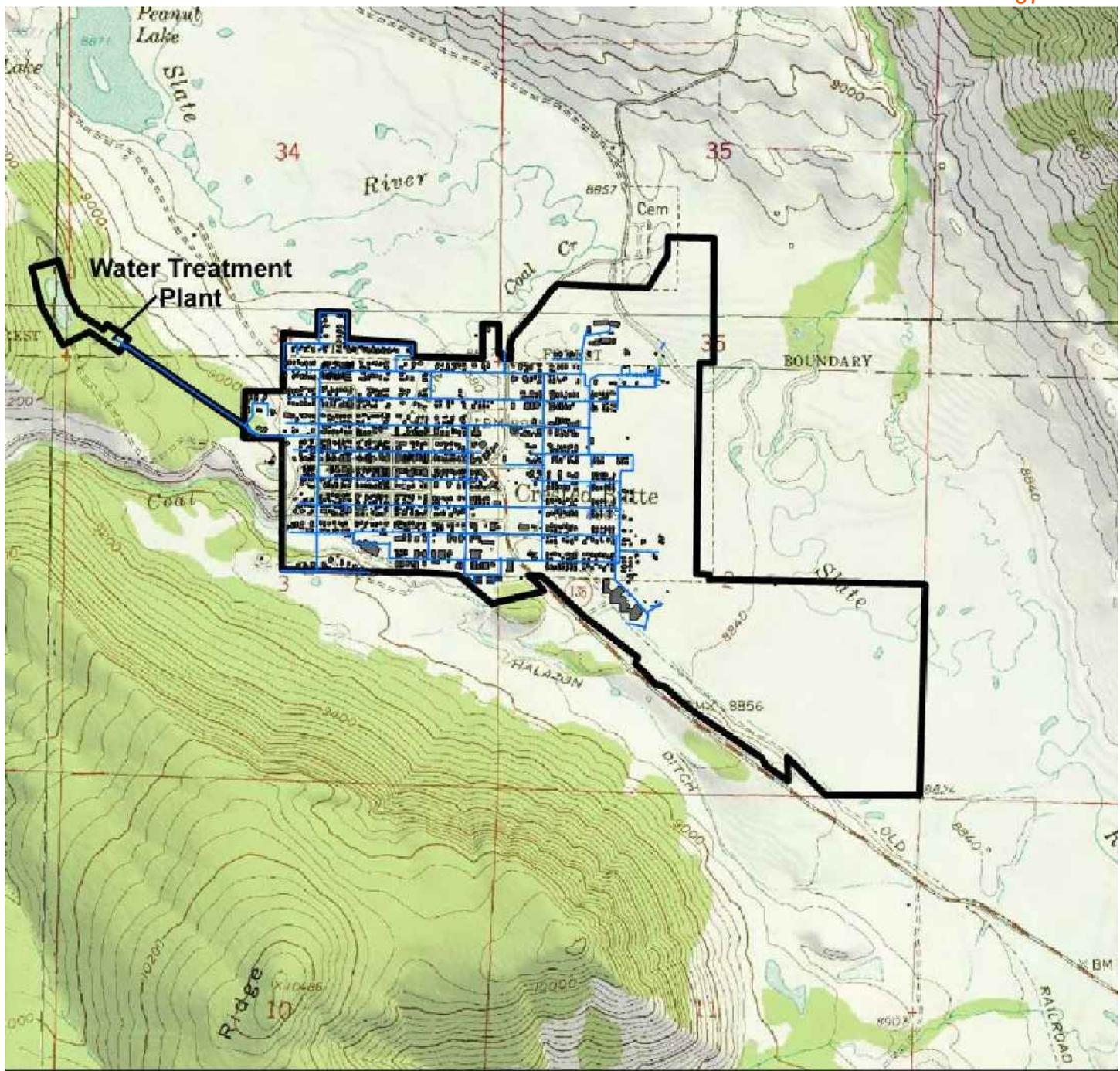
A Comprehensive Performance Evaluation (1999 CPE) was completed for the Town before the facility expansion in 2002. Since 2002, an additional water storage tank was added in 2011. The 1999 CPE was the initial guidance document for the Town's WTP expansion in 2002 and the addition of a second finished water storage tank in 2011.

Wright Water Engineers (WWE) completed an evaluation of the system's water rights in December 2015. The WWE memorandum evaluated the Town's water resources portfolio and current water rights. The memo further evaluated the Town's raw water source versus existing and projected future demands.

PROJECT PURPOSE AND GOALS

The scope of work of this Report includes an evaluation of the potable water usage, preliminary water demand projections, inventory of existing facilities and infrastructure, system performance evaluation, and a capital improvement plan (CIP). A summary of each major task follows.

- **Water Usage Evaluation** – Historical WTP flow data from January 2014 through September 2017 as analyzed. The Town also provided water meter (consumption) data for billed customers, from 2014 to current. Current annual average per capita water demand was estimated for customers in the service area. Peaking factors for peak day summer and winter conditions were also calculated.
- **Water Demand Projections** – Peak water demand projections were developed for the service area through the five-year, ten-year, and twenty-year planning horizon. Projections are based on the population projections developed by Wright Water Engineers in 2015 to maintain consistency with the Town's planning documents. Average and peak winter and summer day demands are estimated for potable water customers.

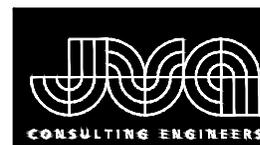


Crested Butte Water Service Areas

-  Water Lines
-  Buildings
-  Crested Butte Water Service Area



FIGURE 1 - SERVICE AREA
 WATER TREATMENT PLANT CPE
 NOVEMBER 2017



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- ***Performance Evaluation*** – An inventory and performance evaluation of the existing water system process and infrastructure was completed. The analysis includes raw water storage, and treatment.
- ***Capital Improvement Plan*** – Conceptual level opinion of probable costs (OPC) are prepared as part of the capital improvement plan (CIP) for recommended projects identified during the planning efforts. Projects are prioritized as short term and long term timeframes and are triggered based on future water demands and infrastructure needs.

SECTION 2 – PLANNING AND WATER DEMANDS

This section summarizes the projected water demands and population growth estimates for the Town of Crested Butte. This evaluation projected five-year (short term), ten-year (long term), and 20-year potable water demands. Projected water demands are used to identify and budget for future water treatment plant (WTP) needs. These projections are preliminary for planning purposes. Revised projections are recommended during the design phase for accurate capacity estimates.

PLANNING AND SERVICE AREA

Crested Butte is in Gunnison County, Colorado. The Town population is approximately 1,541 permanent residents as documented in the 2016 Wastewater Treatment Plant Process Design Report (2016 FEI WW PDR) completed by FEI Engineers. Crested Butte currently serves 1,634 equivalent residential units (EQR) and 1,064 taps. A map of the service area is shown in Figure 1.

EXISTING AND FUTURE POPULATION

The existing conditions and future growth rates presented in this Evaluation correspond to a Memorandum completed by Wright Water Engineers in December 2015 (2015 WWE Memo). The referenced memo describes three population categories within the service area; owner occupied and long term rentals, second home and short term rentals, and hotel and bed and breakfast occupants. The percentage represented by each population category in 2013 were presented in the 2015 WWE Memo and are included in Table 2.

Table 2. 2013 Population Categories*

Population Group	Population Estimate	Percentage of Population
Owner occupied and long term rentals	1,514	56.3%
Second homes and short term rentals	785	29.2%
Hotel and bed & breakfast occupants	390	14.5%
TOTAL	2,689	100%
*Table reproduced from 2015 WWE Memo (page 6)		

For service area growth projections, the 2015 WWE Memo uses 1.6 percent as the anticipated annual growth rate for all population categories. The 2016 FEI WW PDR uses only 1.0 percent growth. For this Evaluation, the annual projected population growth rate is assumed at 1.6 percent for consistency with the Town's planning documents and as a conservative measure. Population projections for 5-year, 10-year, and 20-year planning conditions are summarized in Table 3.

Table 3. Population Projections by Category from 2015 Memo

Year	Total Population	Owner occupied and long term rentals	Second homes and short term rentals	Hotel and bed & breakfast occupants
2017	2,866	1,613	837	415
2022	3,102	1,747	906	449
2027	3,358	1,891	981	486
2032	3,636	2,047	1,062	527
2037	3,936	2,216	1,150	570

WATER DEMAND

The Town serves 1,634 EQRs and 1,064 taps. Peak day demand factors for summer and winter peak conditions were calculated using the 2016 annual average demand divided by the peak day water demand for both the winter and summer conditions. The peaking factor for peak day summer demand is 2.9 and the peaking factor for peak day winter demand is 1.5.

HISTORICAL WATER DEMAND

The Town's total water demand is estimated using the finished water meter data prior to distribution. The WTP meter data represents the total amount of water produced and distributed from the plant to the distribution system. A summary of the WTP water production data from 2014 to 2017 is provided in Table 4.

Table 4. Total WTP Annual Production 2014 to 2017*

Year	Total Production (gal)	Maximum Month Production (gal)	Maximum Month	Maximum Month Average Day Production (gpd)
2014	107,159,663	18,382,826	July	592,994
2015	103,603,886	16,012,818	July	516,543
2016	114,643,744	19,340,243,	July	623,879
2017	114,463,771	21,536,653	July	694,731
Max Month (2014 to 2017)		21,536,653	July 2017	

*2017 is a partially reported year, January – September

The maximum month average day production from January 2014 to September 2017 was 846 gallons per tap, which occurred in July 2017. The volume of water produced in July over the past four years, shows a general increase in production. The peak day production from January 2014 to September 2017 was approximately 899,937 gallons and occurred on June 27, 2017.

Water system demand is determined by analyzing the distributed water volume from the WTP and generally represents a higher value than consumption numbers as it accounts for losses within the distribution system and represents the minimum capacity required for the WTP. The average annual daily water demand in 2016 was 314,344 gpd. A summary of the average demand each month per EQR from 2014 to 2017 is provided in Table 5.

Table 5. Average Day Monthly Water Demand (g/EQR/day)

Year	Summer						Winter					
	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
2014	124	312	368	290	213	108	109	124	128	133	141	106
2015	119	237	316	311	253	125	93	122	126	132	144	115
2016	128	311	382	323	250	147	113	150	124	127	137	99
2017	169	414	425	346	310				149	170	173	149
Monthly Average	135	318	372	318	256	127	105	132	132	140	148	117
Max Month Average Day	372 gal/EQR/day											

PROJECTED WATER DEMAND

To determine the projected water demand for the Town's service area the 2015 WWE Memo used a peak per capita water demand of 475 gallons per capita per day (gpcd) applied to all population categories. This value corresponds to the average daily water production volume during the peak month (July) divided by the number of permanent residents. Although consistent with the July 2017 peak production value, it is conservative as during this month the population in Crested Butte is increased by nonresidents. Applying this value to the total projected population is very conservative, even for planning purposes.

To provide projections more reasonable for plant production and capacity, the annual average daily water demand was used on a per capita basis (114 gpcd, includes nonresidents) and then applied to the total projected population (residents plus nonresidents). The peak day winter and summer peaking factors were applied to develop the peak water demands.

Table 6. Projected Water Demand

Year	Total Population	Peak Demand Winter (MGD)	Peak Demand Summer (MGD)
2017	2,866	0.49	0.95
2022	3,102	0.53	1.03
2027	3,358	0.57	1.11
2032	3,636	0.62	1.20
2037	3,936	0.67	1.30

The peaking factors used include peak conditions from 2014 through 2017. A significant increase in demand was observed in 2017, partially attributed to distribution system leaks. Water demand and production should continue to be evaluated as planning for recommended improvements continues. With continued leak and demand management efforts, peak demand for summer and winter may be reduced in the future.

The existing WTP capacity is 1.25 MGD. The firm capacity is 0.84 MGD. The Colorado Department of Public Health and Environment (CDPHE) defines the firm capacity as the water production rate with the largest microfiltration membrane unit out of service. Based on the current projections, the peak day summer demand for the 5-year planning period is 1.03 MGD and 1.30 MGD for the 20-year planning period. The existing firm capacity of the WTP is 45 percent of the projected peak day summer demand. The existing WTP firm capacity is not sufficient to serve the current and projected water demands. The water demand projections are shown graphically

compared to the existing firm capacity in Figure 2. The existing WTP does not have enough firm capacity to satisfy the current summer peak day demand with the largest membrane filtration unit out of service. The Town will need to prepare for a water treatment plant expansion, the recommended alternative is further discussed in Section 5.

The water treatment plant will require an expansion to meet the current and future water projections. The peak day summer demand projections are anticipated to be conservative for planning purposes and should be further developed during preliminary design of recommended improvements. Under the current peak day summer demand conditions, a capacity expansion is necessary as soon as possible to provide firm capacity. A second expansion is projected for 2034 under the current demand scenario. A continued effort by the Town’s operation staff to develop demand management strategies such as water conservation measures, nonpotable irrigation sources, and leak management could defer future facility expansion.

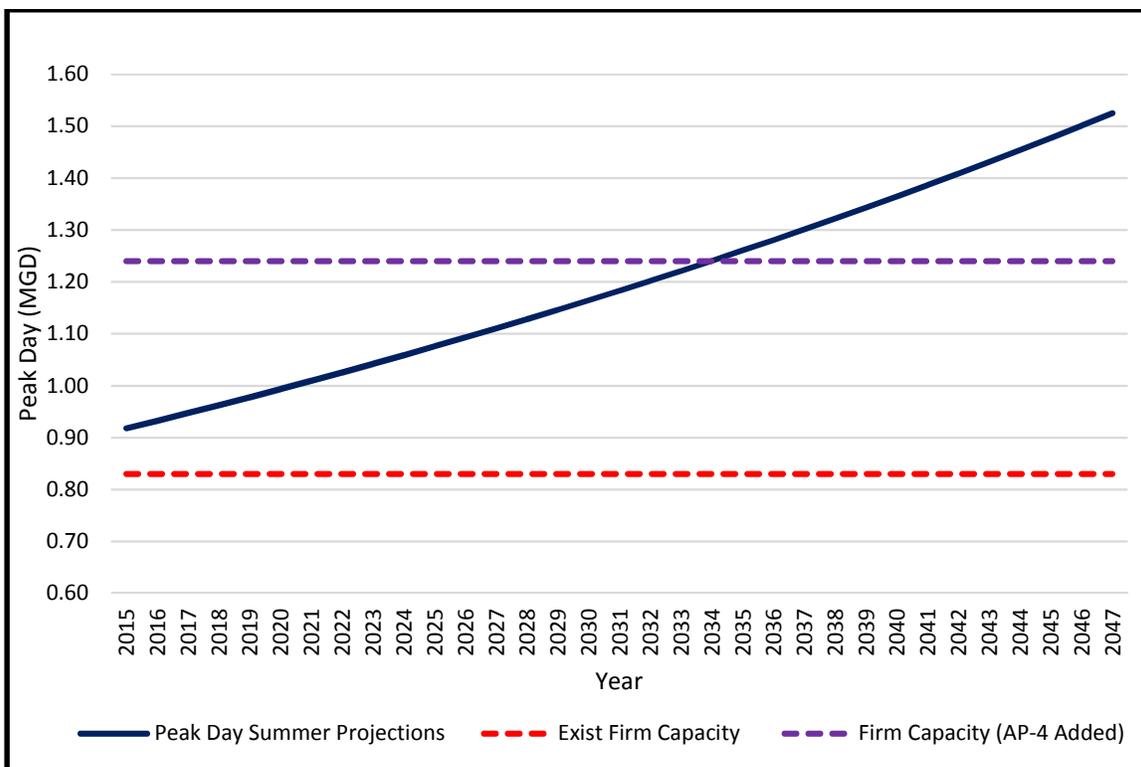


Figure 2. Peak Day Summer Demand Projections and WTP Firm Capacity

SECTION 3 – WATER QUALITY

This section presents water quality results and the status of the Town's compliance with the Colorado Primary Drinking Water Regulations 5 CCR 1002-11 (CPDWR). The raw water and finished water quality and effects on the existing water treatment plant (WTP) and potential expansion and performance upgrades are also included.

WATER QUALITY TESTING

Historical water quality records were reviewed to compile the water quality data reported in the following section. Archived Consumer Confidence Reports (CCRs) provide test results for primary and secondary contaminants, lead and copper, and disinfection byproducts (DBPs).

PRIMARY DRINKING WATER CONTAMINANTS

Primary drinking water standards include enforceable maximum contaminant levels (MCLs) and nonenforceable maximum contaminant level goals (MCLGs). Primary contaminants are defined in the CPDWR along with their respected limits. The Town must meet all MCLs to maintain compliance with the CPDWR.

TURBIDITY

Raw water turbidity levels have historically fluctuated from 0.2 to 17.6 nephelometric turbidity units (NTU) between 2014 and 2017, and are generally higher during spring runoff. Excluding the months of spring runoff average turbidity concentrations are generally less than 2 NTU. During spring runoff, raw water turbidity averages 8.0 NTU. Table 7 provides the monthly raw and finished water averages from 2016.

Figure 3 shows the raw and finished water turbidities from 2016. The removal efficiencies are consistent regardless of the influent concentrations. This indicates efficient removal through the microfiltration membranes. Historically, elevated turbidity is observed during spring runoff as indicated in Figure 4, which shows raw water turbidity from 2014 through 2017.

Table 7. 2016 Average Raw and Finished Water Turbidity

Month	Raw Water (NTU)	Finished Water (NTU)
January	1.16	0.015
February	1.15	0.015
March	1.48	0.015
April	5.21	0.016
May	9.00	0.016
June	3.69	0.015
July	1.32	0.014
August	1.33	0.014
September	0.92	0.014
October	0.97	0.015
November	1.06	0.016
December	1.13	0.017

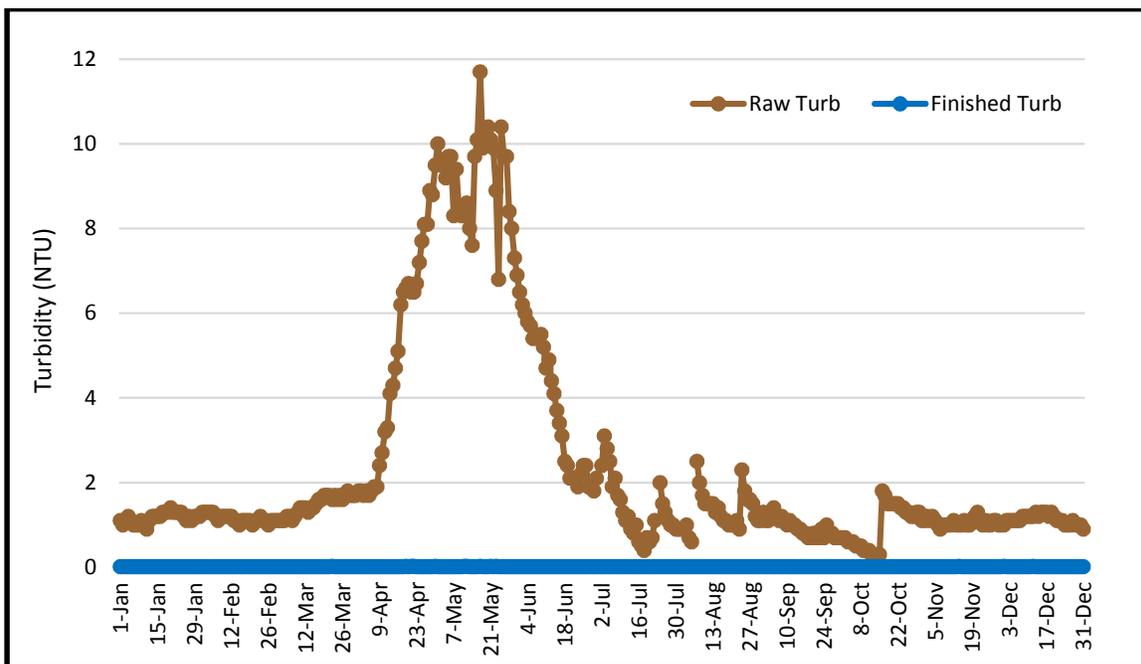


Figure 3. 2016 Raw and Finished Water Turbidity

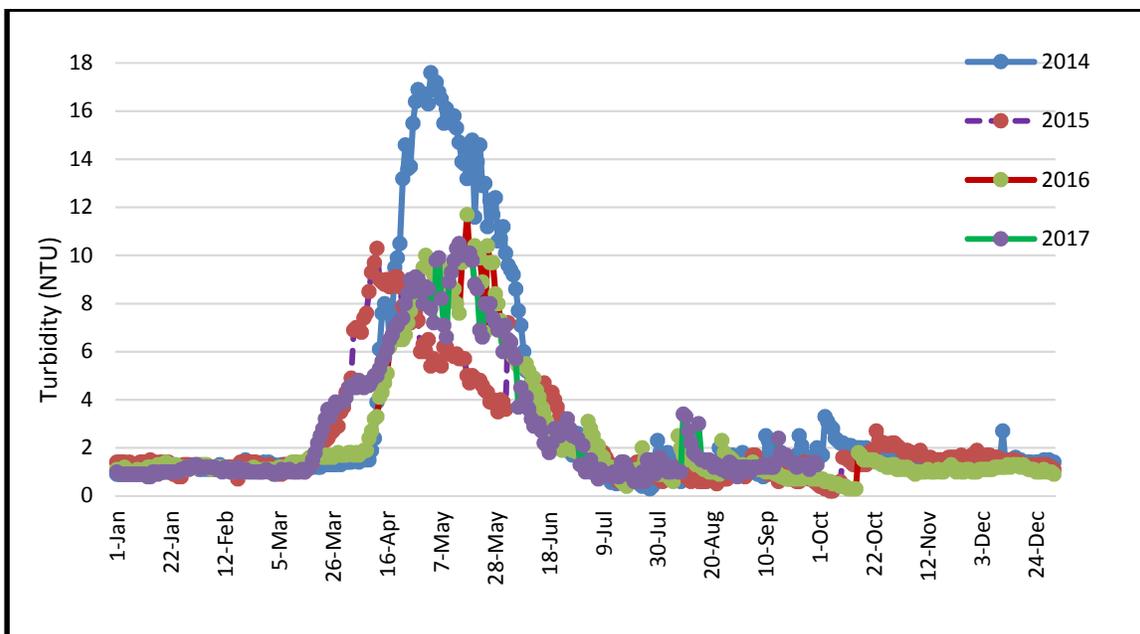


Figure 4. 2014 - 2017 Raw Water Turbidity

MICROBIAL CONTAMINANTS

The first group of primary contaminants includes total coliform (TC) bacteria and fecal coliform bacteria. Because the Town is required to sample the raw water for TC two times per month, no sample collected during a month can be TC positive. After a TC positive test, the Town must conduct a three repeat tests within 24-hours, which must all be negative.

INORGANICS

The inorganics group consists of elemental metals and nitrogen containing compounds. Raw and finished water samples for inorganics indicated low levels or levels below detection limits of inorganics in the source water and finished water. Future testing for inorganics must follow the Town's Monitoring Schedule set by the CDPHE.

VOLATILE ORGANIC COMPOUNDS

Volatile organic compounds (VOCs) are chemicals that readily evaporate at normal temperatures and pressures. The raw water was tested for VOCs in June 2017 and all constituents on the VOC panel were below detection limit. Future testing for VOC's must follow the Town's Monitoring Schedule set by the CDPHE.

SYNTHETIC ORGANIC COMPOUNDS

Synthetic Organic Compounds (SOCs) are manmade chemicals such as pesticides and fuel additives. Testing for SOCs is expensive and time consuming. The raw water was tested for SOCs in June 2017 and all constituents on the SOC panel were below the detection limit, excluding hexachlorocyclopentadiene. The maximum contaminant level (MCL) for this parameter is 50 ug/L

and the raw water concentration was reported at 0.1 ug/L. Future testing for SOC's must follow the Town's Monitoring Schedule set by the CDPHE.

RADIONUCLIDES

Radionuclides are unstable forms of elements that can occur in natural or manmade deposits. The Town tested for gross alpha particles in 2012 and reported the results in the 2013 CCR as an average of 0.4 pCi/L. The MCL for gross alpha particles is 15 pCi/L.

DISINFECTANTS

Disinfection is the final required water treatment step for inactivating viruses, bacteria, and protozoa (pathogens). The Town injects a calcium hypochlorite solution using a tablet feeder into filtered water before the clearwell. The combination of the calcium hypochlorite and the contact time in the clearwell and onsite storage tanks allow the Town to effectively achieve disinfection. Any disinfectant remaining in the water following disinfection is referred to as residual. The CPDWR sets a maximum residual chlorine level of 4.0 mg/L to protect consumers from drinking harmful amounts of disinfectants. Residual chlorine prevents organic and bacteria growth in distribution system pipelines. Historically, the Town has targeted a residual chlorine concentration of 0.7 mg/L at the finished water meter vault and 0.5 mg/L at the furthest point in the distribution system.

DISINFECTION BYPRODUCTS

Residual disinfectants can react with organic compounds remaining in the finished water to form disinfection byproducts (DBPs). The two major groups of DBPs are total trihalomethanes (TTHMs) and haloacetic acids (HAA₅). Table 8 presents DBP results from the Town's quarterly DBP sampling and their MCLs. Finished water is sampled for DBPs at locations in the distribution system where DBP formation is likely to be most prevalent. This location is dependent on DBP type, water age, and other formation potential factors. CCRs from 2011 thru 2014 report similar levels, which indicate that the Town has experienced elevated DBP concentrations in the distribution system, particularly during the summer months.

Table 8. Disinfectant Byproducts MCLs and 2017 Quarterly Test Results

Parameter	Finished Water			
	MIN (mg/L)	MAX (mg/L)	AVG (mg/L)	MCL (mg/L)
TTHM	0.021	0.105	0.064	0.080
HAA ₅	0.024	0.109	0.062	0.060

Elevated DBPs in the distribution system have been observed during the summer months when temperatures and the concentration of total organic carbon are higher. The correlation of total organic carbon in the system and the formation of DBPs is discussed in more detail on page 23 of this report.

LEAD AND COPPER

Instead of MCLs, the CPDWR sets Action Levels for lead and copper concentrations in finished water within the distribution system. If concentrations exceed the 90th percentile Action Level limit, the Town would be required to comply with additional requirements, which may include public education, optimal corrosion control treatment (OCCT), source water treatment, and/or lead service line replacement. Lead and copper Action Levels, MCLG, and test results are presented in Table 9.

Table 9. Lead and Copper Action Levels, MCLGs, and Test Results

Parameter and Date	Lowest Result (mg/L)	Highest Result (mg/L)	90 th Percentile (mg/L)	Action Level (mg/L)	MCLG (mg/L)
Copper (11/2011)	0.037	0.590	0.346	1.3	1.3
Copper (12/2011)	0.020	0.67	0.641	1.3	1.3
Copper (02/2012)	0.021	1.30	1.19	1.3	1.3
Lead (07/2014)	BDL	0.091	0.021	0.015	Zero
Lead (06/2015)	BDL	0.039	0.011	0.015	Zero
Lead (06/2016)	BDL	0.068	0.014	0.015	Zero

BDL = below detection level

* Lead and Copper are sampled at specific points in the distribution system. Lead and copper concentrations can increase during water delivery due to reactions between the water and pipe materials.

The finished water at the sampling locations contains lead and copper concentrations below the 90% Action Levels required by the current regulations. There have been individual exceedances for lead at certain taps sampled. For the ten 2016 sample sites, the reported 90th percentile for Lead was 0.014 mg/L and for Copper was 0.553 mg/L. The sample points for lead and copper compliance are located throughout the distribution system at 30 various residential and public taps. The Town normally samples 10 of these locations per year. The Town has identified Tier 1 (single family home), Tier 2 (multi family home), and Tier 3 (plumbing older than 1983) sampling locations. If corrosive water (nonscaling) contacts lead or copper pipelines or services, lead and copper concentrations increasing beyond the 90th percentile action level will become a compliance concern. Based on 2011 and 2012 water quality data from sampling locations, no samples for copper tested above the Copper Action Level. For 2014 through 2016 sampling location water quality data, there were seven samples for lead that tested above the Lead Action Level. To move towards the MCLG lead goal of zero requires optimization of the corrosion control methods and/or replacement of effected plumbing fixtures.

SECONDARY DRINKING WATER CONTAMINANTS

Secondary drinking water contaminants primarily affect the aesthetic qualities (taste and odor) relating to the public's acceptance of drinking water. The CPDWR defines secondary maximum contaminant levels (SMCLs), but they are not enforceable. They are intended to represent reasonable goals to reduce public health implications and water aesthetic degradation.

MANGANESE

At concentrations exceeding 0.1 mg/L, manganese ions impart an undesirable taste to water and stain plumbing fixtures and laundry. At concentrations as low as 0.02 mg/L, oxidized manganese can form a black coating on distribution pipes which may slough off later into the water. The manganese SMCL is 0.05 mg/L. Raw water manganese (Mn) levels have historically fluctuated from 0.03 to 0.5 mg/L between 2014 and 2017, and are generally higher during the spring months. Raw and finished water manganese concentrations are collected at the WTP approximately one time per week. Table 10 provides the 2016 monthly average raw and finished water concentrations for manganese from the samples collected by operations staff.

Table 10. 2016 Average Raw and Finished Water Manganese Concentration

Month	Raw Water (mg/L)	Finished Water (mg/L)
January	0.102	0.036
February	0.098	0.030
March	0.108	0.060
April	0.136	0.085
May	0.170	0.062
June	0.093	0.010
July	0.066	0.008
August	0.079	0.008
September	0.072	0.015
October	0.061	0.006
November	0.050	0.011
December	0.181	0.028

Potassium permanganate is used at the WTP to oxidize the manganese so that it can be removed by filtration. The operations staff have successfully implemented a raw water manganese monitoring plan and regularly adjust potassium permanganate feed rates to prevent potassium permanganate overdose, which can add more manganese to the water and prematurely foul the membranes. Continuing regular manganese monitoring and potassium permanganate feed adjustments is essential to keeping filtrate manganese concentrations below the SMCL.

Although, potassium permanganate is added to oxidize raw water manganese, the 2001 pilot test report stated that a significant fraction of the source water manganese is present in the dissolved form. To remove dissolved manganese a coagulant or flocculant may be required.

Figure 5 demonstrates the minor inefficiencies of the existing system to remove manganese. From this graph, the elevated concentrations of manganese during spring runoff are indicated. Additionally, removal efficiencies during spring runoff are reduced which indicates a potential increase in the dissolved fraction of manganese during this period. Additional water quality testing in spring of 2018 is recommended to establish a better understanding of the manganese speciation. One possible source for the increased manganese during the spring months is the raw water reservoir which may experience spring turnover, releasing bound manganese during this process.

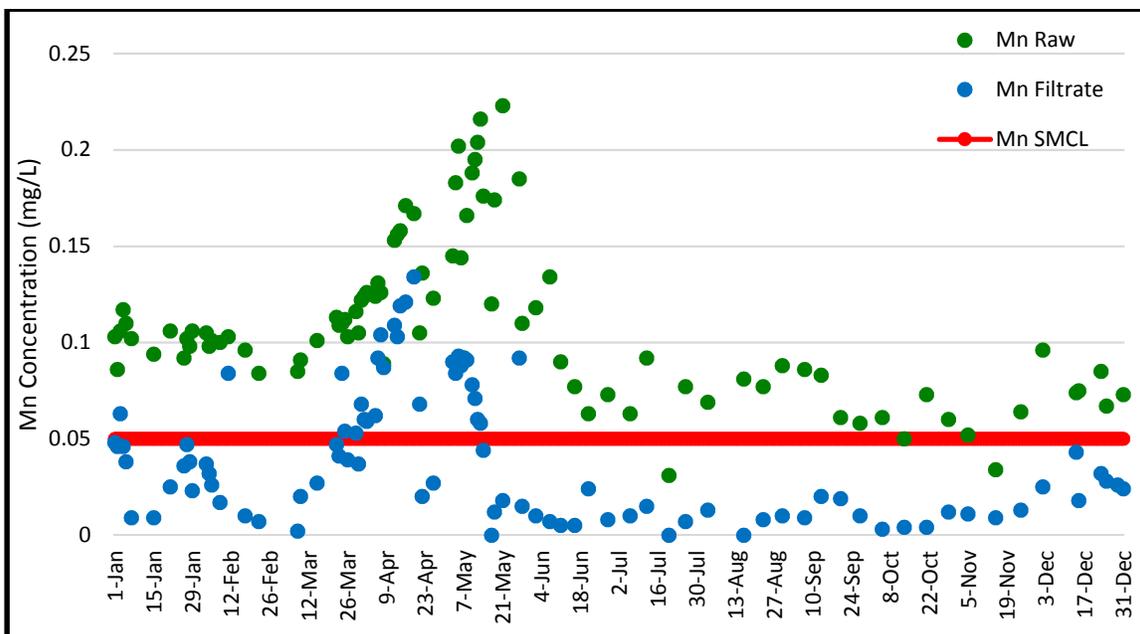


Figure 5. 2016 Raw and Finished Water Manganese Concentrations

It is important to note that the 2017 finished water manganese concentrations to date show improved performance and lower concentrations. The pretreatment strategy appears to be improving and although there were a handful of exceedances in 2017, the process is significantly improved as shown in Figure 6.

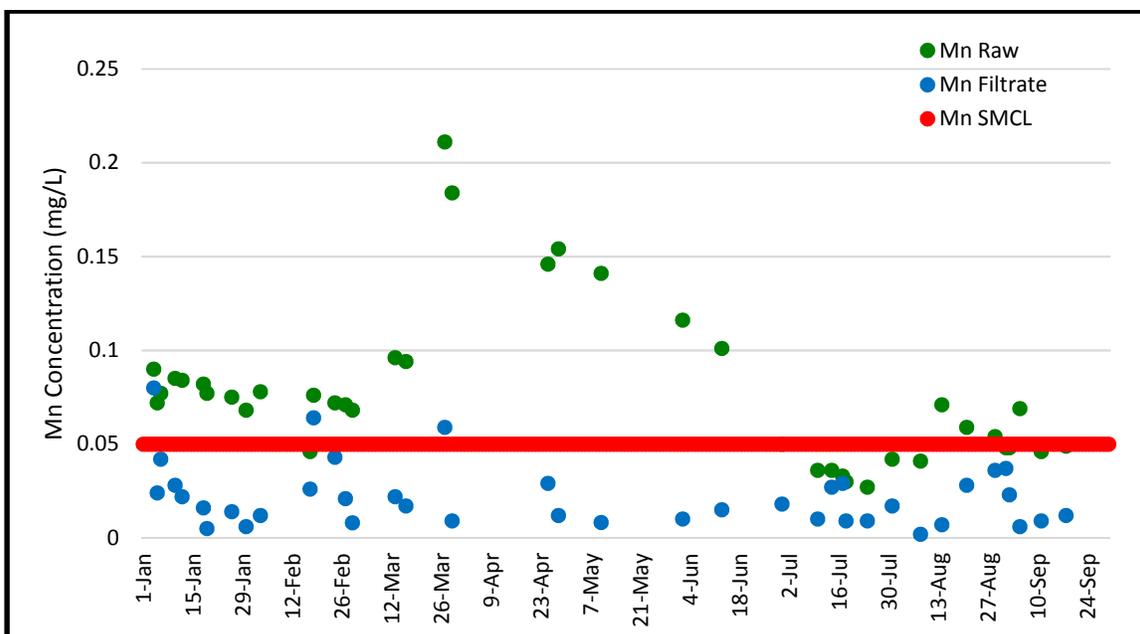


Figure 6. 2017 Raw and Finished Water Manganese Concentrations

IRON

Iron is reported to impart a metallic taste on finished water and can precipitate and stain laundry and household fixtures if not removed. Like manganese, oxidized iron can form a reddish brown

coating on distribution pipes which may slough off later into the water. The iron SMCL is 0.3 mg/L. Raw water iron levels have historically fluctuated from 0.01 during the winter months to 0.67 mg/L during the months of spring runoff, between 2014 and 2017. Raw and finished water iron concentrations are collected at the WTP approximately once per week. Table 11 provides the 2016 monthly average concentrations for iron.

Potassium permanganate is used at the WTP to oxidize iron so it can be removed by filtration. The operations staff have successfully implemented a raw water iron monitoring plan and regularly adjust potassium permanganate feed rates to prevent potassium permanganate overdose.

Figure 7 shows the 2016 iron concentrations in the raw and finished water. The removal efficiencies are consistent regardless of the influent iron concentrations. This indicates efficient removal of iron by using the current pretreatment strategy. Like turbidity and manganese, elevated concentrations of iron are observed during spring runoff.

Table 11. 2016 Average Raw and Finished Water Iron Concentration

Month	Raw Water (mg/L)	Finished Water (mg/L)
January	0.191	0.002
February	0.191	0.001
March	0.16	0.003
April	0.224	0.00
May	0.405	0.018
June	0.25	0.028
July	0.188	0.008
August	0.200	0.003
September	0.183	0.01
October	0.183	0.003
November	0.137	0.01
December	0.146	0.006

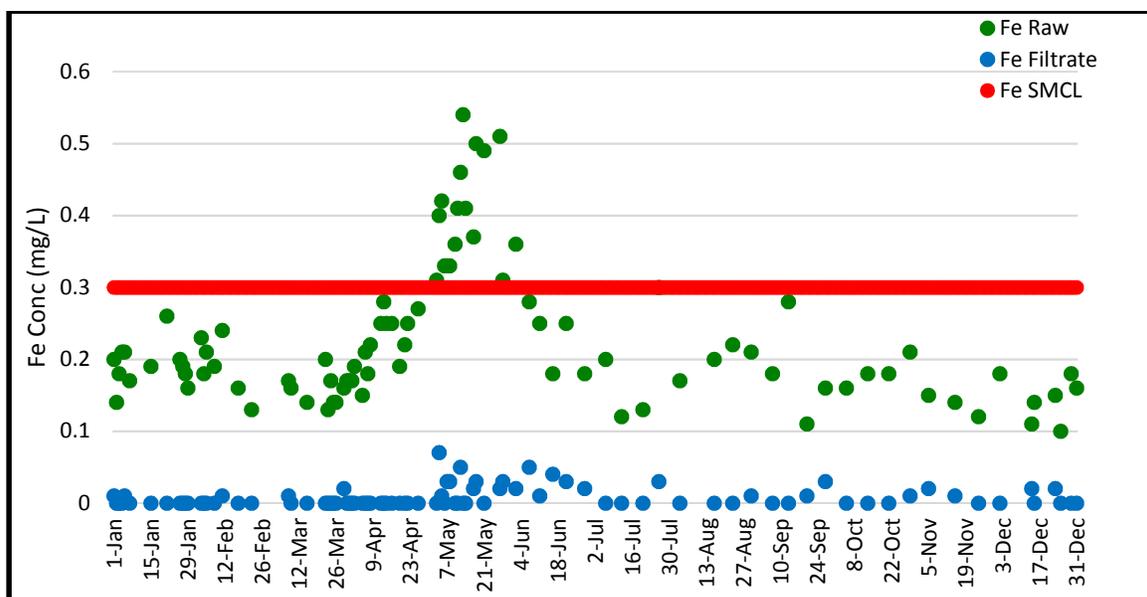


Figure 7. 2016 Raw and Finished Water Iron Concentrations

OTHER WATER QUALITY CONSTITUENTS

Other water constituents not regulated by the CPDWR have also been tested by the Town. The results for total organic carbon and the Langelier Index are additional constituents of concern.

TOTAL ORGANIC CARBON

Total organic carbon (TOC) is a measurement of the total organic content in the water. It is important because organic carbon compounds are precursors for the formation of DBPs. TOC is common in surface waters.

The Coal Creek source water shows elevated organic carbon during spring and summer months. The microfiltration membranes do not demonstrate a high removal efficiency for the organic carbon in the source water. The 2001 pilot test report indicated that a significant portion of the organic carbon is present in the dissolved form (DOC). To remove this material prior to the microfiltration system, a coagulant or flocculant may be required to precipitate the material. Figure 8 shows water quality data from 2015 to 2017 for TOC and DBPs. The pink and green symbols show DBPs and the red and blue symbols show TOC, red for the source water TOC and blue for the finished water TOC. TOC was not sampled for each DBP sample. This graph demonstrates that the DBP concentration increases as the finished water TOC increases. Additionally, the source and finished water TOC differ by less than 0.5 mg/L, indicating that the removal efficiency of the microfiltration membranes is limited with respect to TOC.

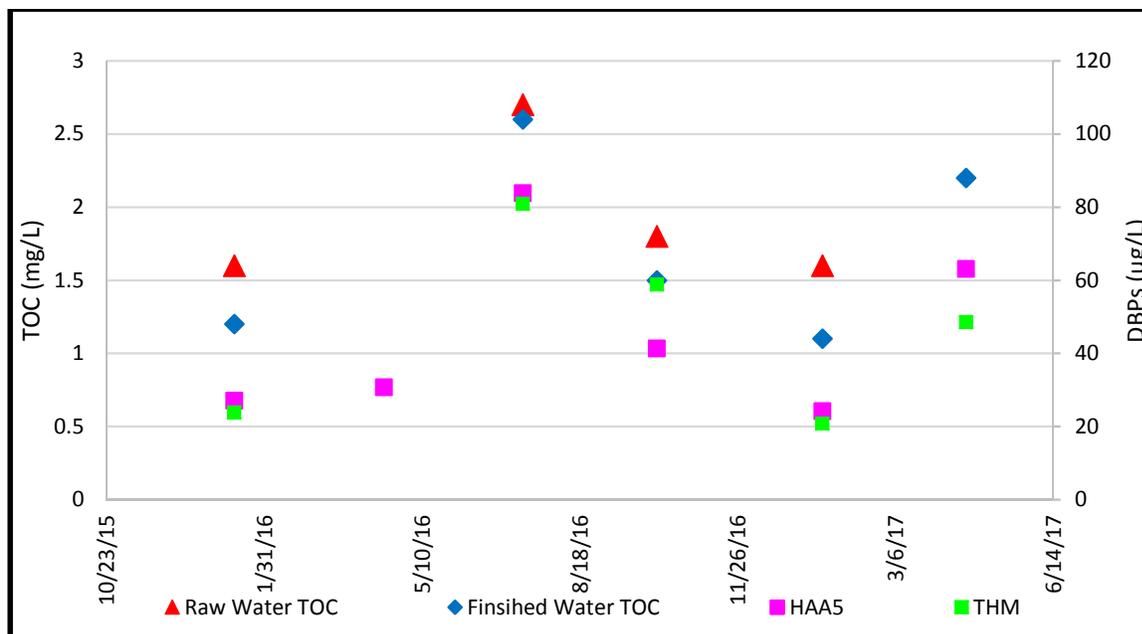


Figure 8. 2014 - 2017 DBPs and TOC

LANGELIER INDEX

The Langelier Index has historically been the most widely used corrosion index. The index is based on the effect of pH on the solubility of calcium carbonate. If the water is saturated with calcium carbonate, then calcium carbonate will precipitate and form a protecting scale on pipes. If the index is greater than zero, then the water is saturated, but if the scale is less than zero then the water is not saturated. Langelier indices for the finished water have not been conducted since 2011. The LSI for Crested Butte in 2011 was -1.2 mg/L. This suggests finished water is slightly corrosive. Additional data on the finished water pH and alkalinity should be collected over the next year to confirm corrosivity conditions of the finished water for future recommendations.

FUTURE CONSIDERATIONS

Based on the water quality test results, the main parameters driving the treatment process are iron, manganese, TOC/DBPs, and possibly corrosivity. The treatment processes to manage these parameters depends on the Town's future treatment goals.

IRON AND MANGANESE

The Town operations staff have been able to regularly produce filtrate with iron and manganese concentrations below the SMCL excluding a few excursions for manganese removal. However, the current pretreatment strategy with respect to iron and manganese appears to be successful.

The current practice converts dissolved iron and manganese into a particulate form through oxidation using potassium permanganate. However due to the history with manganese at the WTP and redesign of the pretreatment process to improve the hydraulics to the microfiltration membrane system, alternative pretreatment strategies should be considered. Standard oxidants for the removal of iron and manganese include aeration (dissolved oxygen), chlorine, potassium permanganate,

sodium permanganate, chlorine dioxide ozone, and ozone. Each of these strategies has advantages and disadvantages that pertain to the cost, ease of operation, effectiveness with the source water quality, and operator safety.

Additional data on the raw water quality, particularly with respect to temperature and pH will further identify which pretreatment strategy may work best for the Town. As an example, chlorine has a short contact time for oxidation of iron and manganese and is most effective for oxidizing iron at pH levels of 6.5 to 7.5. Potassium permanganate has an average contact time for oxidation of 30 minutes and is most effective at pH values above 7.5.

Temperature stratification in the raw water reservoir and elevated concentrations of iron and manganese held in the solids may be contributing to elevated concentrations in the raw water during spring “turnover”. Removal of the pond solids could reduce the raw water concentration and a reservoir management plan may be the best strategy to control iron and manganese while reducing pretreatment costs and requirements.

During design of WTP upgrades, alternative manganese removal processes and potential impacts should be analyzed. Any change to the pretreatment system may also effect TOC, and thus DBP formation. The potassium permanganate dosed to oxidize manganese is oxidizing a portion of the TOC, as well. Employing chlorine as an alternative to potassium permanganate could increase DBP concentrations.

TOC AND DISINFECTION BYPRODUCTS

There is a strong correlation between the formation of disinfection byproducts and natural organic matter/total organic carbon concentrations in the finished water. According to the Town’s quarterly DBP reporting, increased concentrations of DBPs occur consistently during the summer months. The elevated concentrations of DBPs occur during times of increased TOC in the finished water. To reduce DBP formation an increase in removal efficiency of TOC is recommended. The three strategies to control the formation of DBPs include; use of an alternative disinfectant/oxidant, reduce free chlorine contact time, and reduce the concentration of natural organic matter (NOM) before chlorine addition.

The current disinfection process at the Town’s WTP is a calcium hypochlorite tablet feeder. The system operates well for the Town and alternatives to chlorine disinfection are costly for a facility of this size. Residual chlorine concentration could potentially be further optimized to reduce the chlorine dose while still providing necessary contact time for pathogen destruction. During design of WTP upgrades, TOC removal strategies and potential impacts should be analyzed. Enhanced coagulation is the most common strategy for facility’s that are comparable to the Town’s. This can be accomplished with an inorganic coagulant aid. To determine the best approach, jar testing is recommended during the preliminary design phase. It is anticipated that pretreatment for TOC will only be necessary during the late spring and summer months when raw water TOC concentrations are elevated.

CORROSIVITY

Chloride, sulfate, pH, and alkalinity are the major constituents affecting finished water corrosivity. Chloride and sulfate are not present in the source water and are not likely to pose a concern for the WTP.

Source and finished water quality data for pH and alkalinity are unknown at this time. It is recommended that an online pH probe be installed on the raw and finished water to monitor the system pH. Additionally, alkalinity tests are recommended weekly to determine the alkalinity trends for the facility.

Water low in pH and alkalinity is more likely to be corrosive. Depending on the finished water pH, chemical addition may be recommended to reduce the risk of corrosion. The addition of sodium hydroxide, will help to raise the pH but will further consume alkalinity. For this reason, a more detailed analysis should be conducted to determine the best pH and alkalinity adjustment solution, if necessary.

SECTION 4 – EXISTING SYSTEM EVALUATION

This section includes a discussion of the existing WTP facilities and processes, a performance and capacity assessment of each component, and improvement recommendations.

Potable water demand has increased in the Town and summer demands approach the firm capacity of the existing WTP. Based on operational data recorded during the summer of 2017, the maximum water distributed in a day was 899,937 gallons. According to existing equipment specifications, the current WTP operations can produce a maximum of 1.25 MGD. However, the CDPHE Design Criteria requires the WTP to have a firm capacity (with the largest treatment unit out of service) that can meet the peak day water demand. The firm capacity of the Town's WTP is 0.84 MGD, which does not meet this criteria, based on the 2017 peak day condition.

BACKGROUND

The Town's WTP is in Gunnison County, at 800 Reservoir Road, Crested Butte, Colorado. Town staff operate the WTP; with two full time employees for the water treatment plant and distribution system. The WTP is staffed during the day on weekdays, but operates unattended overnight and through the weekend.

The facility was originally constructed in 1967 as a conventional filtration system with one 0.45 MGD treatment train. In 1991 a second treatment train of the same capacity was added. In 2002, three microfiltration membrane skids, each with a capacity of 0.42 MGD were installed. One of the conventional filtration trains was decommissioned during this construction. The second treatment train was left in place to serve as a backup system for the microfiltration process. In 2010 the backup system was also taken offline. As part of the 2002 improvements the flocculation tank (floc tank) for the conventional filtration process was repurposed as a potassium permanganate contact tank. The location of the previous filter was converted during this time to a maintenance area within the WTP process building.

Improvements between 2011 and 2017 include, replacement of one of the three air compressors, a 600,000-gallon finished water storage tank, and a tablet calcium hypochlorite system to replace the system that was installed in 2002. All other equipment from the 2002 expansion has not been upgraded.

The treatment facility consists of a main process building and a small outdoor storage building. A magnetic flow meter measures incoming raw water from the raw water reservoir. The treatment process consists of oxidation, microfiltration, and ultraviolet and chlorine disinfection. Two (2) unbaffled chlorine contact basins operated in series and two (2) onsite storage tanks provide chlorine contact time. From the clearwell, finished water is stored in one of two buried storage tanks, with a combined capacity of 1.1 million gallons. Finished water combines after the storage tanks in a vault with a magnetic flow meter and an online Hach CL-17 chlorine analyzer. Finished water is conveyed to the distribution system through a 12-inch ductile iron pipe leaving the vault, via gravity.

Backwash (or reverse filtration) water from the microfiltration membrane skids is pumped to the backwash settling tank and then to the unlined backwash receiving pond south of the raw water reservoir. Returned water flows over a spillway connecting the two reservoirs and is retreated through the facility. Waste from the microfiltration membrane clean-in-place (CIP) process and strainer backwash process flows from the WTP floor drain via gravity to an unlined waste pond north of the WTP. Water from the waste pond is pumped via a lift station to the backwash settling tank and ultimately to the backwash receiving pond. The existing site plan is shown in Figure 10.

EXISTING FACILITIES AND PROCESSES

The WTP facility is located on a 10.4-acre parcel that also includes the raw water reservoir. Based on the Gunnison County assessors map, the approximate size of the area where the facility is located is 1.51 acres. The main treatment building (excluding the office space and chlorine room) is approximately 1,675 square feet. There is a second, small storage shed south of the main building. Other facilities on the site include two finished water storage tanks, a finished water meter vault, a backwash setting tank, an abandoned clarifier, and a waste pond lift station as shown in Figure 10. A schematic layout of the existing building is provided as Figure 11.

RAW WATER

Raw water is supplied to the facility from Coal Creek. Wildcat Creek, a tributary to Coal Creek, is a supplemental supply that is also available. The Town has 6 cubic feet per second (cfs) (3.87 MGD) water right from Coal Creek. Raw water is conveyed through approximately 9,000 linear feet of 12-inch PVC transmission line to the raw water reservoir. The 1999 CPE conducted by Sears Brown stated that this transmission line can convey 3 cfs (1.93 MGD, approximately 1,346 gallons per minute (gpm)) from coal creek to the 10-million-gallon (MG) raw water reservoir at the WTP site for storage.



Figure 9. Raw Water Reservoir

From the reservoir, raw water enters the WTP through a 12-inch ductile iron pipeline. Available head pressure from the raw water reservoir to the water treatment plant is approximately 30 feet or 13 psi. The intake structure from the reservoir to the WTP has two intake gates, one of the gates at 4 feet below the top of the intake structure and the second gate is approximately 10 feet below the top of the intake structure. Operations staff reported that they use the lower gate exclusively.

TREATMENT PROCESS OVERVIEW

The following sections discuss the WTP treatment process. A process flow schematic of the Crested Butte WTP is provided in Figure 12.

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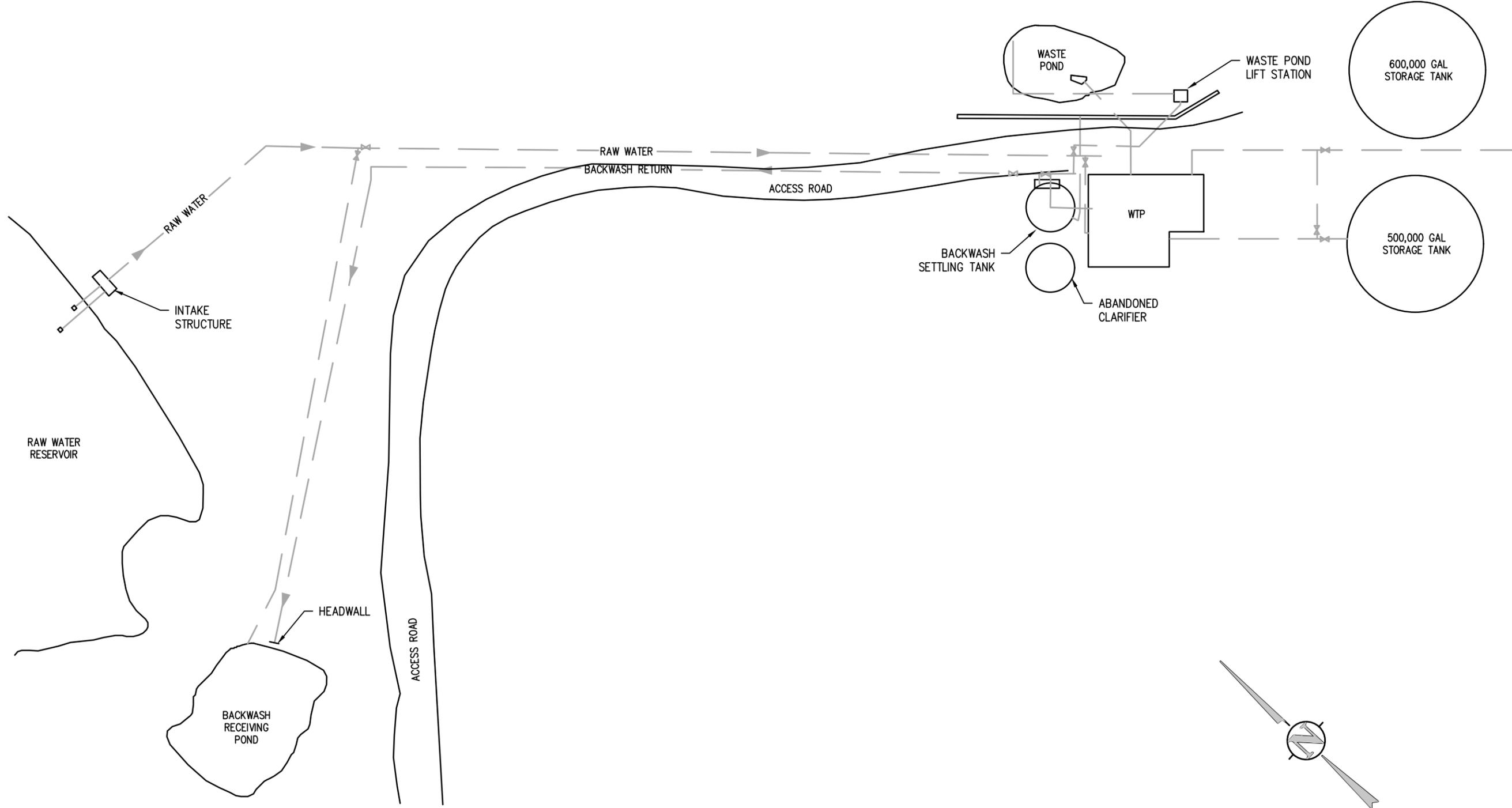


FIGURE 10 - EXIST SITE PLAN
TOWN OF CRESTED BUTTE
WATER TREATMENT PLANT CPE



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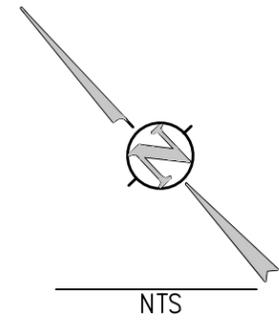
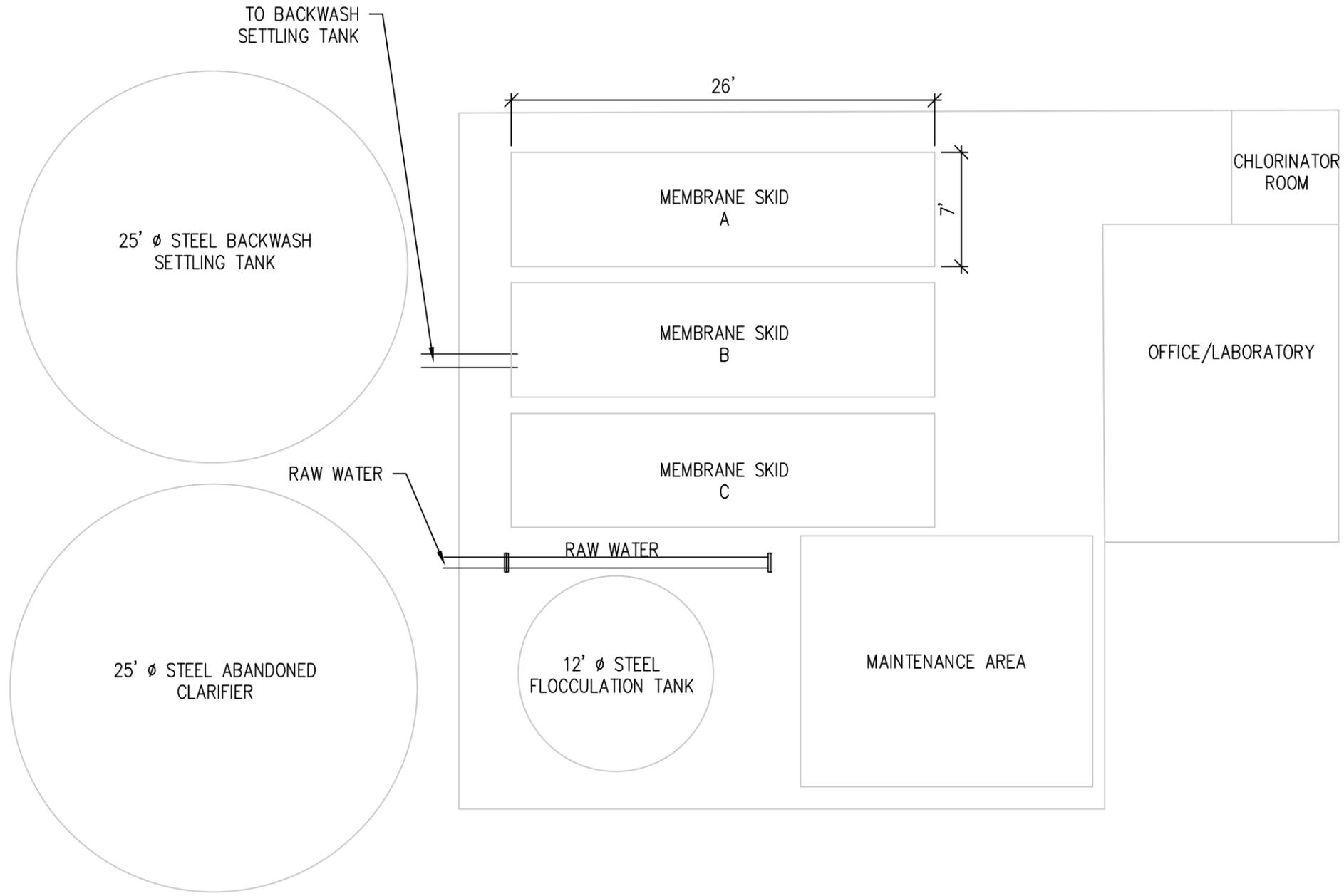


FIGURE 11 - EXIST FACILITY LAYOUT
TOWN OF CRESTED BUTTE
WATER TREATMENT PLANT CPE



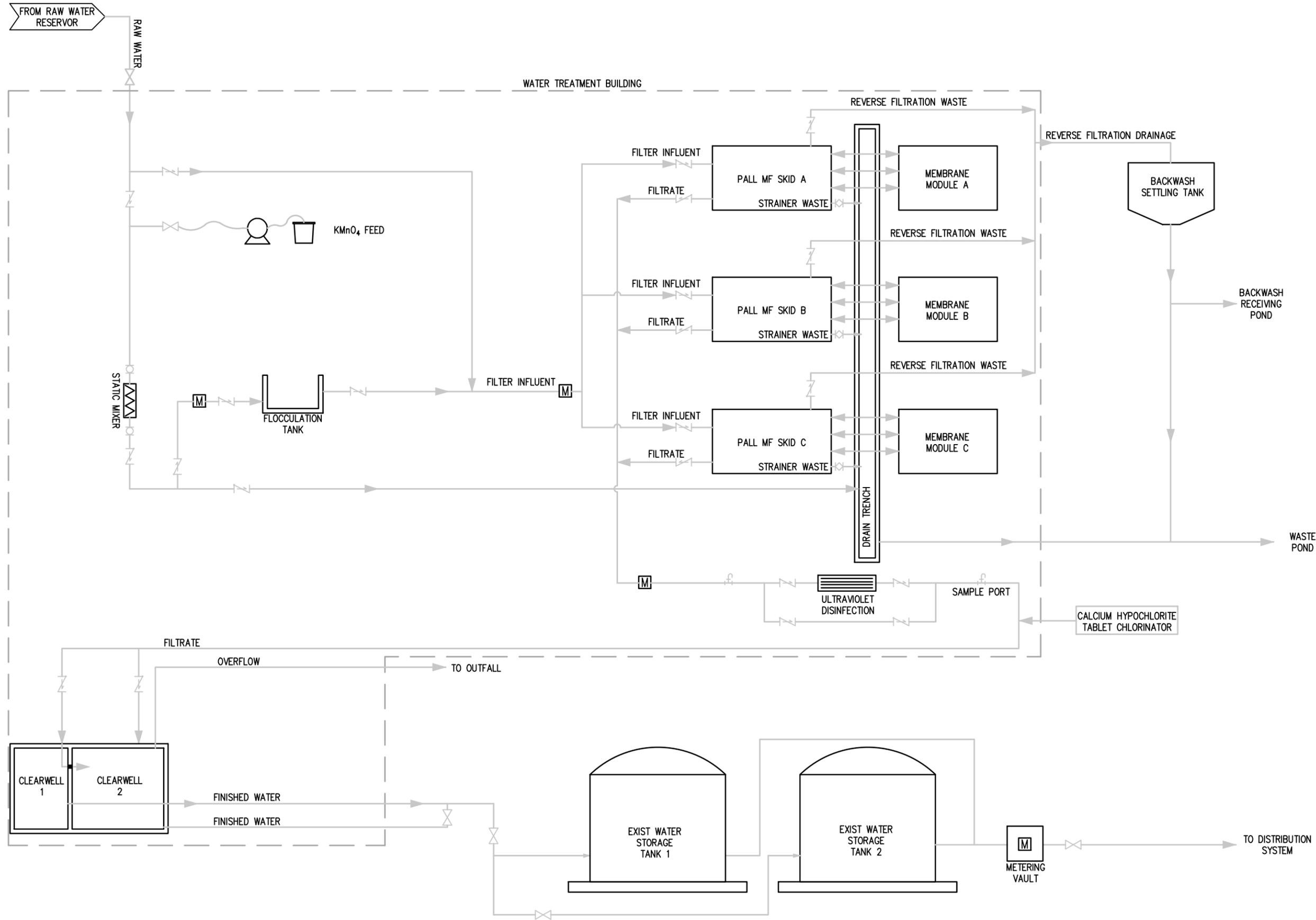


FIGURE 12 - EXIST PROCESS SCHEMATIC
TOWN OF CRESTED BUTTE
WATER TREATMENT PLANT CPE



PRETREATMENT

Pretreatment consists of potassium permanganate (KMnO_4) injection into the raw water pipe as it enters the WTP followed by an inline static mixer and a 10,600-gallon steel flocculation tank. The 2002 Engineering Report completed by Sears Brown Engineers stated that the addition of potassium permanganate is intended to oxidize iron and manganese for removal. The 2001 pilot test further documented that a portion of the manganese and organic carbon is present in the dissolved form. To remove dissolved manganese and organic carbon, a flocculant or coagulant is required. As part of the 2002 improvements, jar testing was conducted on different coagulant aids. Chemical feed systems and provisions were included for these systems. Operations staff have reported that coagulant or flocculant aids have not been used at the facility in the past ten years.



Figure 13. KMnO_4 Chemical Feed System

Potassium permanganate is delivered to the WTP in powdered form. Water is added by operations staff to create a 2 percent solution. There is an air gap provided between the potable water and the solution to prevent cross connection or backflow contamination. An existing mixer on the 300 gallon KMnO_4 solution tank is programmed to mix four times per day for 15 minutes. The tank is refilled approximately one day per week in the summer and one time per month in the winter. Secondary containment is provided for the solution tank as seen in Figure 13. The chemical feed solution tank and equipment is located on the second floor of the facility.

One LMI diaphragm pump feeds the potassium permanganate solution through a polytube for injection into the raw water pipe. Design criteria for the existing pump is provided in Table 12. Operations staff manually set the potassium permanganate pump speed, according to raw water iron and manganese concentrations. Raw water is tested approximately one time per week to determine the correct dosage. The feed concentration is based on the AWWA Manual for Iron and Manganese Removal's recommended stoichiometric equation. The ratio of removal of iron with potassium permanganate is 1 mg/L KMnO_4 to 1 mg/L Fe. The ratio of removal for manganese with potassium permanganate is 2 mg/L KMnO_4 to 1 mg/L Mn. The potassium permanganate dose is calculated using the equation below,

$$[\text{KMnO}_4] = 2 \times \left[\text{Mn} \left(\frac{\text{mg}}{\text{L}} \right) \right] + \left[\text{Fe} \left(\frac{\text{mg}}{\text{L}} \right) \right]$$

Table 12. Potassium Permanganate Chemical Metering Pump

Quantity	1
Manufacturer	LMI
Model Number	B931-368SI
Maximum Flow	4.5 gph
Maximum Pressure	50 psi
Maximum Viscosity	400 cps
Maximum Strokes per Minute	100
Flow Control	4-20 mA
Turn Down Ratio	1000:1
Head/ Fittings:	Molded PVC/ PVC
Valve Balls	0.375 Ceramic
Diaphragm	Fluorofilm
Valve/ Seat/ O-ring	PVDF/ Polyprel
Connections	Tubing PE 0.375" O.D.
Power Supply	115 VAC 50/60 Hz, US Plug

After chemical injection, pretreated water flows through an 8-inch Schedule 80 PVC pipe through an inline static mixer and then to the 10,600-gallon flocculation tank. The static mixer is a Komax System mixer with two mixing elements. Design parameters for this mixer are included in Table 13. The flocculation tank operates more closely as a holding tank as there are no mixing or flocculation elements installed. The flocculation tank is a 12-foot diameter steel tank with an approximately height of 13.3 feet.

At the current annual average daily flow (0.32 MGD, 220 gpm), the flocculation tank provides 49 minutes of contact time. At peak day conditions (0.90 MGD, 625 gpm), 17 minutes of contact time is provided in the flocculation tank.

Iron and Manganese oxidation is limited by water quality parameters such as pH, temperature, dissolved oxygen, bicarbonate, natural organic matter (NOM), sulfate, dissolved silica, and particles. Typical contact time for oxidation of iron and manganese is less than 30 minutes for most water quality conditions.

**Figure 14. Flocculation Tank**

Limitations for oxidation of manganese and iron occur at water temperatures below 35 degrees F and pH values less than 5.5. Under these conditions longer reaction times are required for full oxidation. Raw water temperatures should be monitored to better understand the system's limiting conditions for oxidation. It is assumed that raw water temperatures in winter are lower than 35 degrees F. However, the lower water demands in winter inherently allow for longer contact times.

Table 13. Static Mixer Design Parameters

Quantity	1
Manufacturer	Komax
Model Number	MP – 8 – 2
Material	PVC
Rating	150 psig/ 100 deg F
Number of elements	2

MICROFILTRATION MEMBRANE

Pre-treated water flows by gravity from the flocculation tank to one of three parallel Pall Aria AP-4 microfiltration membrane skids. Each membrane skid includes membrane modules, a feed tank and pump, reverse filtration tank and pump, manual and automatic valves, online membrane integrity test system, flow meters, pressure and temperature sensors, PLC controls, electrical panel and carbon steel frame. In addition, the three skids have a clean-in-place (CIP) system, compressed air equipment, and a human machine interface (HMI). The membrane skids were purchased and installed in 2002. Each skid was designed to produce up to 289 gpm (0.417 MGD) of filtrate. Table 14 provides a summary of the membrane system design information.



Figure 15. Pall Microfiltration Membranes

and pump, reverse filtration tank and pump, manual and automatic valves, online membrane integrity test system, flow meters, pressure and temperature sensors, PLC controls, electrical panel and carbon steel frame. In addition, the three skids have a clean-in-place (CIP) system, compressed air equipment, and a human machine interface (HMI). The membrane skids were purchased and installed in 2002. Each skid was designed to produce up to 289 gpm (0.417 MGD) of filtrate. Table 14 provides a summary of the membrane system design information.

Pretreated water flows from the floc tank to one of the three parallel microfiltration skids into a 390-gallon rectangular raw water feed tank. From the feed tank, water is pumped by a 20 HP Goulds centrifugal pump with a capacity up to 385 gpm at 10 feet of head controlled by a variable frequency drive (VFD) through the membranes. The VFD and feed pump are controlled

by a control loop that adjusts the pump speed to maintain the desired flow rate as the transmembrane pressure increases. The manufacturer's schematic of the raw water feed tank from the O&M manual is provided as Figure 16.

The membrane skids were designed with an option for prechlorination. Operations staff have indicated that prechlorination has not been practiced at the WTP in the past ten years.

Table 14. Microfiltration Membrane Design Information

Pall Aria AP-4	
Quantity	3
Manufactured Date	Before 2002
Nominal Membrane Pore Size	0.1 μm
Design Flow Rate	289 gpm
Pump Manufacturer	Goulds
Feed/Recirculation/CIP Pump	0 – 385 gpm, 10 feet, 20 HP, 3500 rpm
Reverse Filtration Pump	0 – 525 gpm, 60 feet, 20 HP, 3500 rpm
Membrane Material of Construction	Polyvinylidene fluoride (PVDF)
Water flux rate @ 15 psi, 25 deg C	259 gallons/sf/day (gf)
Maximum flux rate	35 gpm/ft ² at 15°C
Module active surface area	538 sf
Recovery Rate	> 93%
Clean-In-Place Interval	> 30 days
Maximum filtered water turbidity	0.1 NTU
Maximum filtered water turbidity (95 th percentile)	< 0.05 NTU
Particle Removal	> 4 log removal
CIP Pump	unk

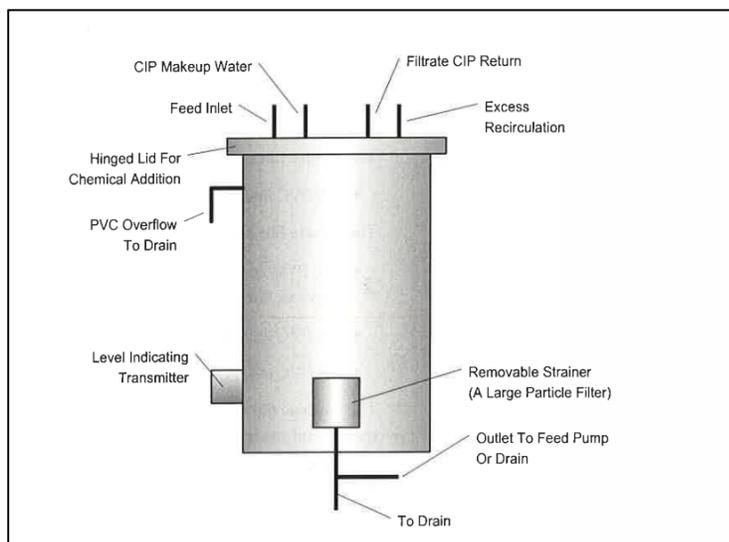


Figure 16. Membrane Skid Feed Tank Schematic (Pall, O&M)

During forward flow, approximately 10 percent of the filtrate exits the top of the membranes and is directed back to the feed tank via the recirculation line.

A portion of the filtered water from the membranes flows to the 500-gallon reverse filtration (RF) tank. RF uses a 20 HP centrifugal Goulds pump with a capacity of 525 gpm at 60 feet of head. The RF cycle occurs automatically every 10,000 gallons of filtrate produced. based on the total flow volume since the last reverse filtration scale. During a RF cycle, filtrate flows in the reverse direction

through the membranes at a 400 gpm for a duration between 15 and 30 seconds. Spent RF water flows through the drain vales to the backwash settling tank. An air scrub is recommended as part of each RF cycle. The first stage of the air cycle introduces air into the feed side of the modules for 15 to 45 seconds. The second stage of the air cycle is concurrent with the RF water cycle and lasts between 30 and 90 seconds.

Operations staff manually perform a CIP as needed to reduce membrane fouling, using citric acid, sodium hypochlorite, and caustic soda. Staff bases the frequency of a CIP on membrane specific flux rate and length of time in operation since last CIP. As a generalization, the manufacturer

recommends performing a CIP at least one time per month on each skid in operation. The CIP waste is discharged to the concrete floor drain and flows via gravity to the waste pond adjacent to the WTP. The CIP feed tank is located on the second floor mezzanine directly above the membrane skids. CIP water is heated via a heating element located in the bottom of the CIP tank and requires an extended period of time to heat the CIP water. This system limits the implementation of the CIP process to one cycle per day.

DISINFECTION

Filtrate from the membrane system flows through a UV disinfection system prior to chlorine injection. The UV system was designed to provide secondary disinfection. The system is designed for continuous operation with four (4) lamps. The design parameters for the UV system are provided in Table 15.

Table 15. UV Disinfection System Design Parameters

Quantity	1
Manufacturer	Trojan Technologies
Design Flow Rate	1.25 MGD
Design Dose	40 mJ/cm ²
UV Transmittance at 254 nm	90% (cm ⁻¹)
UV Power	4 x 2.658 kW
Number of lamps	4

Primary disinfection is provided by a solid calcium hypochlorite tablet disinfection system. The system was installed in October 2017 and replaced a system of the same make and model installed in 2002. The unit includes an integrated solution tank with level control, chlorinator, centrifugal pump with a variable frequency drive, a flow meter, and a control loop to flow pace the chlorine feed. Chlorine feed rate pacing is based on the produced water flow rate and chlorine concentration from the analyzer information from the clearwell. The chlorine feed rate set point averages 1.2 mg/L annually. During months of peak demand, the set point is increased to approximately 1.8 mg/L. Two Hach CL-17 online analyzers monitor chlorine residual one in the clearwell and the second at the meter vault prior to distribution.

Filtered water flows through two clearwells in series. Clearwell 1 and 2 are unbaffled and have respective volumes of 28,500 gallons and 17,750 gallons at the high water level for chlorine contact. The concrete clearwell basins were constructed prior to 1992, and are visually inspected and cleaned every five years. The south basin, clearwell 2, was constructed in 1990 and clearwell 1 was constructed with the original facility, the exact date for that construction is unknown.

The design parameters for the tablet chlorination system are provided in Table 16. The entry point chlorine residual at the meter vault averages 0.7 mg/L based on 2014 to 2017 data.

Table 16. Calcium Hypochlorite Tablet Disinfection System Design Parameters

Quantity	1
Manufacturer	Accutab System
Model	PowerPro 3075
Design Flow Rate	450 gpm
Pump Manufacturer	Grundfos
Pump Model	CR 3-4
Pump Capacity	13.21 gpm at 59 feet
Power	1 phase/ 220 V
Minimum Flow Rate	100 gpm
Maximum Flow Rate	1,050 gpm
Source Water Chlorine Demand (Design)	2.0 mg/L
Source Water Chlorine Demand (Minimum)	1.0 mg/L
Source Water Chlorine Demand (Maximum)	3.0 mg/L
Required Chlorine Residuals	1.0 mg/L
Chlorinator Discharge Injection Pressure (Design)	10 psi
Chlorinator Discharge Injection Pressure (Minimum)	3 psi
Chlorinator Discharge Injection Pressure (Maximum)	25 psi
Chlorinator Inlet Supply Pressure (Design)	45 psi
Chlorinator Inlet Supply Pressure (Minimum)	40 psi
Chlorinator Inlet Supply Pressure (Maximum)	45 psi

RESIDUALS MANAGEMENT

The backwash cycle (or RF cycle) occurs on each microfiltration membrane skid based upon the total flow volume since the last backwash cycle. The first stage of the backwash cycle is an air scrub. The air scrub cycle has two stages. First the pneumatic valve is opened and introduces air to the feed side of modules. Second, water is introduced into the module. Water enters the modules initiating the reverse filtration stage. Filtrate stored in the reverse filtrate tank located on the membrane skid is pumped through the modules in reverse flow mode. Each reverse filtration cycle provides 216 gpm for 60 seconds during the air scrub phase and 400 gpm of filtrate for 20 seconds. The total volume wasted based on these parameters is 349 gallons per cycle. Under

**Figure 17. Backwash Settling Tank**

peak day conditions there are approximately 90 RF cycles, generating 31,410 gallons of waste water.

Water wasted from the RF cycle flows to the backwash settling tank, outside the WTP. The backwash settling tank is a retrofitted 25-foot diameter steel clarifier with a 12-foot high-water level. The approximate capacity of the tank is 44,000 gallons. A second, abandoned clarifier is located south of the backwash settling tank. The backwash settling tank is uncovered with one submersible pump inside the tank. A backup pump is stored inside the water treatment plant process building in the event of a pump failure. The design parameters for the pumps are provided in Table 17.

Table 17. Backwash Settling Tank Submersible Pump Design Parameters

Quantity	2
Manufacturer	Munro
Model	FS Dewatering Pump
Design Capacity	75 gpm at 40 feet
Power	2 HP

From the backwash settling tank, waste water is returned to the front of the treatment process. The submersible pumps transfer waste water approximately 600 linear feet west through a 4-inch pipe to the backwash receiving pond, south of the raw water reservoir. The backwash receiving pond is unlined and the capacity of the pond is unknown. Water from the backwash receiving pond flows by gravity over a spillway into the raw water reservoir. Operations staff reported that solids have not been removed from this pond in the last ten years. The date of the last solids removal is unknown.

A CIP cycle is also included with the operation of the microfiltration membranes to remove deposits from the membranes that cannot be cleaned during the backwash cycle. Typically, a CIP process will be initiated every three weeks to three months. A CIP is initiated based on the specific flux rate and time since the last CIP

The CIP process is a two stage wash process, a hot water base wash, a cold water supply rinse, a hot water acid wash, and a cold water supply rinse. This process requires operator input to measure and transfer the appropriate chemicals at the appropriate time via the skid control screen. Waste from the CIP process is flushed to a concrete floor drain within the WTP and flows via gravity to the waste pond, north of the building. Backwash from the microfiltration basket strainer is also disposed of via the floor drain to the waste pond.



Figure 18. Waste Pond Adjacent WTP

Based on the 1990 drawings and information from the Town's operation's staff, the waste pond is unlined and has an estimated capacity of 19,600 gallons with a five-foot water depth. Operations

staff reported that solids from the waste pond were removed by staff in 2011. Water from the waste pond is pumped to the backwash settling tank via the waste pond lift station. Information on the lift station is limited and pump capacity for this system is unknown.

Operations staff report that the pipe between the lift station and the backwash settling tank freezes during winter months. The pipe from the backwash settling tank to the backwash waste pond adjacent to the raw water reservoir also freezes during winter months. Neither pipe is believed to have adequate cover or insulation to prevent freezing.

WATER TREATMENT PLANT BUILDING

The existing building has limited space for expansion and is not properly designed to facilitate ease of operations and maintenance activities. The existing floc tank occupies approximately 110 square feet of the lower level. Additionally, the location of the maintenance area within the water treatment plant building is not ideal due to the moisture levels within the building.

The second floor of the building houses the UV control panel, compressors, house water equipment, potassium permanganate chemical feed equipment, CIP equipment, and stored parts and equipment. The mezzanine is located directly above the membrane skid equipment constraining operator access and prohibiting the removal of the existing tanks on the skids for replacement or repair.

The building has limited space for office and laboratory activities. The lab and office space is currently shared within less than 280 square feet.

EMERGENCY POWER

The plant has one Cummins Power Generation DG series diesel generator to supply backup power in the event of a loss of power. The generator is tested monthly and there have been no operational issues reported with this equipment. The 80 KW rated power is capable of powering approximately 105 HP of equipment. The generator capacity should be considered in future expansion projects to ensure sufficient capacity is provided for added equipment. Design information is presented in Table 18.

Table 18. Backup Generator Design Information

Make	Cummins
Model	DGDA 60 Hz
Rated Power – Standby	80 kW, 100 kVA
Rated Power – Prime	72 kW, 90 kVA
Rated Frequency	60 Hz

INSTRUMENTATION AND CONTROLS

The WTP's equipment is connected to the Allen Bradley PLC located in the office which uses an Ethernet communication system. The microfiltration membrane skids each have their own PLC that controls microfiltration operations. The Town's system uses Rockwell automation software

associated with the microfiltration membrane units integrated into the Supervisory Control and Data Acquisition (SCADA) system. Staff can monitor operations and control some processes by way of the SCADA system. The software program has reached its maximum I/O capability and needs to be updated as additional equipment is added.

The facility has unused electrical equipment and instrumentation that can be removed and should be disposed of to provide additional space for future capacity improvements.

ANCILLARY EQUIPMENT

AIR COMPRESSOR

There are three rotary lobe air compressors located on the second floor mezzanine of the building. The compressors were installed as part of the 2002 expansion and the third compressor was replaced in 2011. Design information for each compressor is included in Table 19. Each air compressor is equipped with a refrigerated air dryer and either a 10 HP or 15 HP motor to supply air for the microfiltration membrane cleaning cycles and pneumatic valves. Operations staff routinely maintain system components and there have been no operational issues identified.

Table 19. Air Compressor Design Information

	2002	2011
Quantity	2	1
Manufacturer	Atlas Copco	Atlas Copco
Year Manufactured	2002	2011
Type	Rotary Screw	Rotary Screw
Model	GA 7 FF TM	GA 11P
Power	10 HP	15 HP
Capacity @ 125 psi	41 cfm	67.8 cfm
Max Discharge Pressure	153 psig	129 psi

PERFORMANCE AND CAPACITY ASSESSMENT

The performance and capacity of each system component was assessed and major limiting factors have been considered.

RAW WATER SOURCE, RESERVOIR, AND SUPPLY PIPELINES

The 12-inch PVC pipe carrying raw water from Coal Creek to the raw water reservoir is a single conveyance system with a maximum capacity of 3 cfs. The raw water reservoir has a capacity of 10 MG, during peak day projected conditions, the storage for the reservoir is less than 10 days.

There is one 12-inch DIP pipe from the raw water reservoir to the water treatment plant. If this line is damaged, operations will have one day during peak water demand (1.6 MG of storage capacity between the storage tanks and clearwell) to repair the damage. It is recommended that the Town plan to construct a redundant line from the raw water storage reservoir to the facility.

PRETREATMENT

The major objective of the existing pretreatment system is to oxidize raw water iron and manganese that otherwise pass through the microfiltration membrane in their soluble states. Iron and manganese have both been constituents of concerns for the Town. Iron oxidation is occurring consistently regardless of raw water concentrations. From 2014 through 2017, there have been no exceedances of the secondary standard, 0.3 mg/L for iron.

From 2014 through 2016 the total manganese concentration in the finished water exceeded the 0.05 mg/L secondary standard in 22 percent of samples. These occurrences happened most frequently during the spring and early summer months when raw water concentrations of manganese were higher. From January to September 2017, process control improved and the percentage of exceedances decreased to 7 percent. Potassium permanganate appears to be an effective pretreatment chemical for oxidation of iron and manganese. Previous jar tests indicated that chlorine dioxide is a more effective manganese oxidant than potassium permanganate.

Operations staff adjust the potassium permanganate feed rate based on a total manganese and iron tests performed on raw water. Other oxidant consuming constituents and water quality parameters are not sampled and may affect water quality and oxidation rates.

There are no current control strategies to remove the natural organic matter/organic carbon in the raw water. NOM/TOC is a precursor for disinfection byproducts. Particularly during periods of peak water and chlorine demand, summer, when temperatures are elevated the formation potential for DBPs increases because of organic carbon in the finished water. TOC is sampled in the raw and finished water quality. Additional samples are recommended to develop a better understanding of the organic matter's speciation and removal efficiencies for the current process. Based on existing quarterly data, the current process removes approximately 0.6 mg/L of TOC. Removal efficiencies range from approximately 35 percent during the winter months to less than 10 percent during the summer. Jar testing is recommended to determine the most suitable pretreatment strategy for TOC removal to be employed, at a minimum, during the summer months.

The existing chemical pretreatment approach uses potassium permanganate to oxidize iron and manganese prior to the microfiltration system. Evaluation of the historic raw water quality data indicates that constituents of primary concern for the Town are iron, manganese, and total organic carbon.

MICROFILTRATION MEMBRANES

The existing membranes were installed in 2002. The manufacturer recommends replacing the membranes every 10 years. The membranes on Skid A were replaced in 2016 and the membranes for Skids B and C have been contracted for purchase and should be installed in 2018 to provide reliable treatment and water quality. To maintain hydraulic throughput and consistently supply high quality finished water, it is recommended that the new membranes be installed prior to peak demand in 2018.

Operations staff reported that the microfiltration membranes have not historically achieved the hydraulic design capacity specified by the manufacturer. Reports from staff indicate that the raw

water feed tank does not maintain a consistent water level during times of peak demand to provide sufficient raw water level in the skid feed tank. Based on preliminary hydraulic analysis it appears that the flocculation tank limits the capacity of the skids by reducing the flow to the raw water feed tanks on each skid. As part of this project, operations staff ran a test to evaluate the hydraulic throughput from the raw water reservoir bypassing the flocculation tank and through the flocculation tank.

The first test evaluated the hydraulic throughput of only one unit (Skid A) in service. Results of this test are provided in Table 20. As indicated in the results, the skid could maintain full capacity and raw water tank level when bypassing the floc tank.

Table 20. Hydraulic Testing through Membrane Skid A

	Floc. Tank	Bypass
Flow Rate	290 gpm	290 gpm
Pump Percentage	60 – 61%	60 – 61%
LCV1	99% open	80 – 90% open
Raw Water Tank Level	Trending Down	Trending Up

The second test evaluated the hydraulic throughput with two skids in service (Skid A and B). Results were similar to the first test and are shown in and Table 21.

Table 21. Hydraulic Testing through Membrane Skids A and B

	Floc. Tank	Bypass
Max Flow Rate (no drop in raw water tank)	270 gpm	290 gpm
Pump Percentage	60 – 61%	66%

Based on these results, the flocculation tank appears to be a hydraulically limiting factor for the microfiltration system. Future pretreatment strategies need to consider the hydraulics through the microfiltration system. Depending on future pretreatment strategies, pumping to the microfiltration units may be required.

Other factors that a limit the hydraulic throughput include raw water quality parameters, such as temperature. The flux rate of the system decreases with decreasing water temperature as shown in Figure 19. Raw water temperature instrumentation is recommended to further monitor water quality conditions to the microfiltration system.

Water from the raw water feed tank is pumped through a 4-inch basket strainer designed to remove organics and other particles prior to the microfiltration membranes. The strainers backwash when the differential pressure is 4 psi. During periods of spring runoff and summer peak demand, the backwash cycle for the strainers disrupts forward flow and limits production volumes. The strainer capacity should be evaluated and a second strainer should be considered for each skid to provide a bypass unit during times of peak demand.

The microfiltration membranes have a total capacity of 1.25 MGD and firm capacity of 0.84 MGD. The firm capacity is below the maximum produced in a day during 2017. If a membrane skid was out of service for multiple consecutive days during summer peak demand, the system would have difficulty producing enough water to meet peak demand conditions.

The membranes in Skid A were replaced in 2016 and replacement of the membranes in Skid B and C are recommended to be replaced in 2018. The membranes have been contracted for purchase from Pall and can be installed by Town staff within the next four years. Replacement of the membranes is recommended by the manufacturer every ten years. In addition to the WTP Improvements, the membranes should be replaced before peak summer demand in 2018 to ensure treatment objectives can be met.

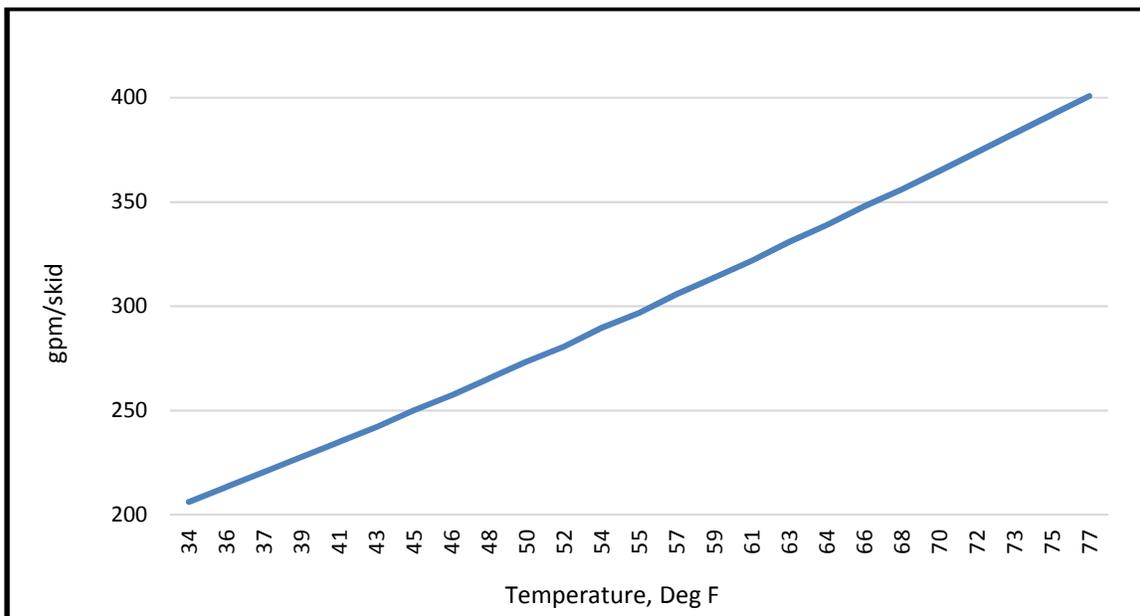


Figure 19. AP-4 Flux Rates Based on Temperature

Other items identified for improvements associated with the microfiltration membranes include the addition of filtered water turbidimeters for each of the individual skids. This is a requirement of the CDPHE and will aid in optimizing the microfiltration system in the future to ensure high quality treatment and indicate potential system deficiencies prior to a system failure. Other instrumentation to be included in the WTP improvements are influent and finished water temperature and pH probes. Water treatment processes including pretreatment chemistry, membrane flux rate, and finished water corrosivity are sensitive to temperature and pH conditions. Understanding these parameters will allow operations staff to further optimize the process and ultimately improve finished water quality while minimizing O&M costs.

The Pall microfiltration system includes two high density polyethylene (HDPE) welded rectangular tanks on each skid. The new microfiltration units are installed with molded tanks as the welded tanks were prone to leaking and failures at the welded joints. The existing tanks have been repaired on numerous occasions, but continue to deteriorate. The second floor of the water treatment plant is directly above these tanks making access for maintenance and repairs challenging. The tanks have reached the end of their useful life and are recommended for replacement with molded tanks.

DISINFECTION

The WTP has a primary and secondary disinfection system. The primary disinfection system is a tablet calcium hypochlorite feed system that was replaced in October 2017. The chlorine calcium

hypochlorite disinfection system has adequate capacity to meet the disinfection requirements for the WTP.

The secondary disinfection system is an inline UV system. The UV system is an additional process that is not necessary to meet disinfection requirements for the WTP. The system was installed in 2002 and replacement parts for this system are becoming increasingly difficult and costly to replace. To maintain the appropriate water level through the unit, operations staff manually adjust the downstream butterfly valve. Additionally, the system uses consistent energy and does not provide a treatment benefit. The Pall membrane unit was approved by the CDPHE as an alternative filtration technology in 2017 and issued log removal value of 3 for cryptosporidium and giardia. The calcium hypochlorite system in conjunction with the clearwells and storage tanks provide 4log removal of viruses. The UV unit was not found to add additional, necessary disinfection benefit.

One chemical metering pumps located on the tablet calcium hypochlorite skid is used to supply calcium hypochlorite to the filtrate pipe before the clearwell. The two WTP clearwells have a combined capacity of 46,250 gallons. The existing clearwells and onsite finished water storage tanks, achieve 4.0 log virus inactivation at flows up to 1.3 MGD (20-year peak day demand condition) with a 0.7 mg/L residual chlorine, a minimum water temperature of 5°C and a baffling factor of 0.1.

The system adjusts to maintain a chlorine setpoint within the clearwell of approximately 1.7 mg/L. The system is not integrated into the WTP SCADA system. The manufacturer for the tablet chlorination system stated that this integration is not compatible with the Town's SCADA.

MAIN BUILDING

The water treatment plant building does not allow for proper access to the microfiltration membrane skids for necessary operation and maintenance activities. The current footprint of the building is insufficient to relocate the second floor equipment to the first floor for ease of operation. Additionally, the building does not have sufficient floor space for a fourth membrane skid.

ELECTRICAL

Modifications during the 2002 WTP expansion did not include removal of unused electrical equipment and instrumentation. These items should be removed during a future project at the WTP. The electrical system is understood to meet the needs of the WTP and future capacity; however, the system needs to be further investigated to verify that the system meets code allowed capacities and whether there is additional capacity to meet future loads.

The existing backup generator meets the current capacity needs of the WTP. During future projects that expand the system capacity, the generator should be evaluated to ensure that the system meets future capacity requirements.

INSTRUMENTATION AND CONTROLS

The WTP PLC system communicates with the microfiltration membrane system. The software has reached it's "tag" limit, if additional units are added, the software package will need to be upgraded to incorporate the new skid and pretreatment facilities.

BACKWASH AND WASTE SYSTEMS

The waste from the RF process is held in the backwash settling tank, which is uncovered and located outside the water treatment plant. One installed submersible pump in the tank pumps water through a 4-inch insulated pipe to the unlined backwash receiving pond adjacent to the raw water reservoir. A backup pump is onsite in the event of a pump failure, but not currently installed. The pump is initiated based on level control within the tank. During the winter months, access to the tank platform to access pump controls is hazardous due to the exposed platform and metal ladder as shown in Figure 20. Operations staff have reported freezing in the discharge pipe to the backwash receiving pond



Figure 20. Backwash Settling Tank

during winter months due to inadequate ground cover to provide appropriate insulation. Reconfiguration of the valving of the backwash piping is recommended in the near term to reduce impacts to infrastructure due to freezing. Additionally, the discharge pipe from the waste pond lift station to the backwash settling tank is reported to experience issues with freezing. This is attributed primarily to the location of the discharge piping check valve and inadequate ground cover. The backwash process should be reevaluated in the long term to meet existing design criteria and reduce operating expenses.

Section 9.1.2 of the Waste Impoundments regulation states, “This Section 9 does not apply to the following: Impoundments that contain water in a treatment process and whose primary function is water treatment, not waste treatment or disposal (exemption includes drinking water treatment backwash ponds that recycle water for further treatment, even if those ponds are periodically taken out of service for solids handling and removal).”

Therefore, proposed ponds dedicated to the storage and management of filter backwash, such as the backwash settling tank are not subject to Section 9 regulations, and must only adhere to the Colorado Potable Water Systems Design Criteria. These criteria include, but are not limited to,

- Redundant waste handling systems (e.g. recirculation pumps, ponds)
- Freeboard of at least two (2) feet from the normal design water surface elevation to the crest of the embankment
- Maximum design recycle rate less than 10% of the instantaneous raw water flow rate entering the water treatment plant

For the Crested Butte WTP, backwash water from the reverse filtration process meets the criteria of the Section 9.1.2 impoundment regulations. However, waste from the clean-in-place process is currently recycled back to the unlined backwash receiving pond. Since this pond is unlined the clean-in-place waste is potentially being discharged to groundwater through the unlined pond and subject to EPA’s Underground Injection Control regulations. It is recommended to separate the

clean-in-place waste stream from the return flows and store it separately in an underground tank for offsite disposal.

If a coagulant or flocculant aid is employed to reduce TOC concentrations, Section 9.1.3 of the Waste Impoundments would apply to the facility. This regulation states, “The following types of impoundments are pre-classified as Type A: (1) coagulant sludge impoundments at surface water treatment plants.” Therefore, proposed ponds dedicated to the storage and management of clarifier sludge are considered Type A Waste Impoundments, and are subject to the regulations of Type A impoundments in Section 9 as well as all Colorado Potable Water Systems Design Criteria. These impoundments must adhere to all criteria previously listed for backwash ponds, as well as Type A Waste Impoundment criteria. These criteria include, but are not limited to,

- Access Control – The owner or operator shall control public access, prevent unauthorized access, provide for site security both during and after business hours, and prevent illegal dumping of wastes. Effective artificial or natural barriers may be used in lieu of fencing.
- Stormwater Control – Waste impoundments must be designed to handle 25-year, 24-hour storm
- Annual Report – The owner or operator shall submit an annual report documenting all impoundment activities for the previous year.
- Closure – A closure plan for the impoundment shall be developed and submitted to the Department for approval. For some Type A impoundments, the scope of the closure plan will be limited to sludge and impacted soil removal, disposal and verification sampling to ensure residual contamination is below acceptable levels in soil and groundwater.

The backwash and waste system at the WTP are complex and may be subject to a thorough review from the CDPHE engineering section during a capacity expansion. Current practice minimizes the amount of waste water that is returned to the front of the treatment process over the spillway between the backwash receiving pond and the raw water reservoir. Section 9 of the CDPHE Hazardous Materials and Waste Management Waste Impoundments states that a “maximum design recycle rate less than 10% of the instantaneous raw water flow rate entering the water treatment”. Although the system is designed to allow backwash waste to return to the raw water reservoir via the overflow spillway between the two ponds, operations staff at the WTP maintain the water levels in the backwash receiving pond to reduce the risk of backwash waste returning to the raw water reservoir.

If flows are returned to the raw water reservoir, this process needs to be metered. Additionally, separation or increased monitoring at a minimum of the reverse filtration waste stream and the CIP waste stream may also be required. Depending on the pretreatment strategies recommended for the facility, various options for residuals management could be explored in the future. Select alternatives include, passive bag filtration of residuals, mechanical dewatering, solids drying beds, blending with wastewater solids, beneficial reuse, etc. Factors to consider during future evaluations include, Crested Butte’s climate, footprint, capital cost, operating and maintenance costs, and disposal options.

SECTION 5 – CAPITAL IMPROVEMENT PLAN

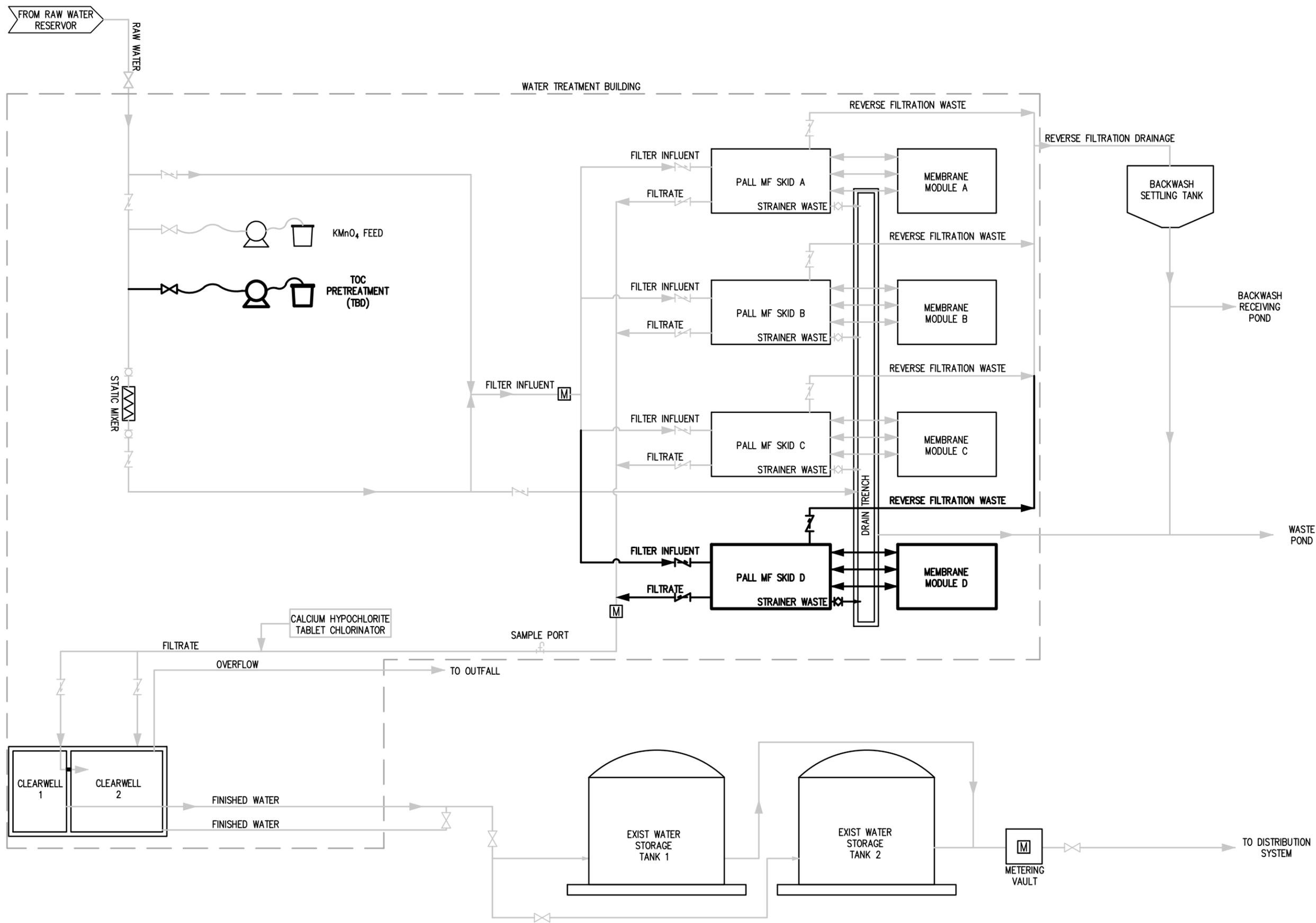
The recommended capital improvement projects are included in this section. The first project scheduled to begin engineering and design in 2018 is packaged to recognize efficiencies associated with economies of scale. All future projects are presented as itemized “line item” projects. Combining these projects in the future will decrease costs associated with mobilization and construction administration. An estimated project cost has been developed for each of the recommended improvement projects. Itemized opinions of probable cost (OPCs) for most of the proposed improvements are included in Appendix C. Although an anticipated project cost was developed for projects recommended to be completed by Town staff, itemized OPCs for these projects were not developed.

OPCs are based upon recent experience with construction costs for similar work in the region and assume improvements will be accomplished by general contractors. Cost estimates represent opinions of costs only, acknowledging that final costs of individual projects will vary depending on actual labor and material costs, site conditions, market conditions for construction, regulatory factors, final project scope, project schedule and other factors. Each opinion of probable cost includes contractors overhead and profit, contingency, permitting, design, and construction administration as appropriate. All project costs are presented in 2017 dollars and do not include inflation. These estimates are conservative for planning purposes and should be adjusted for future budget planning.

WATER TREATMENT PLANT IMPROVEMENT PROJECT

The first phase of the water treatment plant improvement project is to increase the facility’s firm capacity to meet the current and projected peak water demand. While completing the facility expansion, to recognize cost savings associated with economies of scale, the following items are included in the 2019 effort, addition of one (1) Pall microfiltration AP-4 unit; 800 square foot building expansion; replacement of the raw water and reverse filtration tanks on the existing skids (six tanks total); filtrate turbidimeters for each existing skid; redesigned pretreatment chemical feed system; raw and finished water pH and temperature instrumentation; removal of the flocculation tank, UV disinfection system, and unused electrical equipment; relocation of maintenance shop and storage area; and all associated instrumentation and controls associated with the capacity increase. A proposed process schematic and facility layout are provided as Figure 21 and Figure 22, respectively.

Additional costs associated with this project include the complexities to remove and replace the tanks on the existing microfiltration unit skids. The second floor of the WTP is directly above the tanks and blocks access to replace the existing tanks. The equipment on the second floor will be temporarily relocated and the grating will be removed to allow for the removal and replacement of each of the six tanks. This will likely occur sequentially, working on one skid at a time.



J:\2338.4c\Drawings\2338.4c - Schematics.dwg, 11/27/2017 - 4:34 PM, CLF

FIGURE 21 - PROPOSED PROCESS SCHEMATIC
TOWN OF CRESTED BUTTE
WATER TREATMENT PLANT CPE

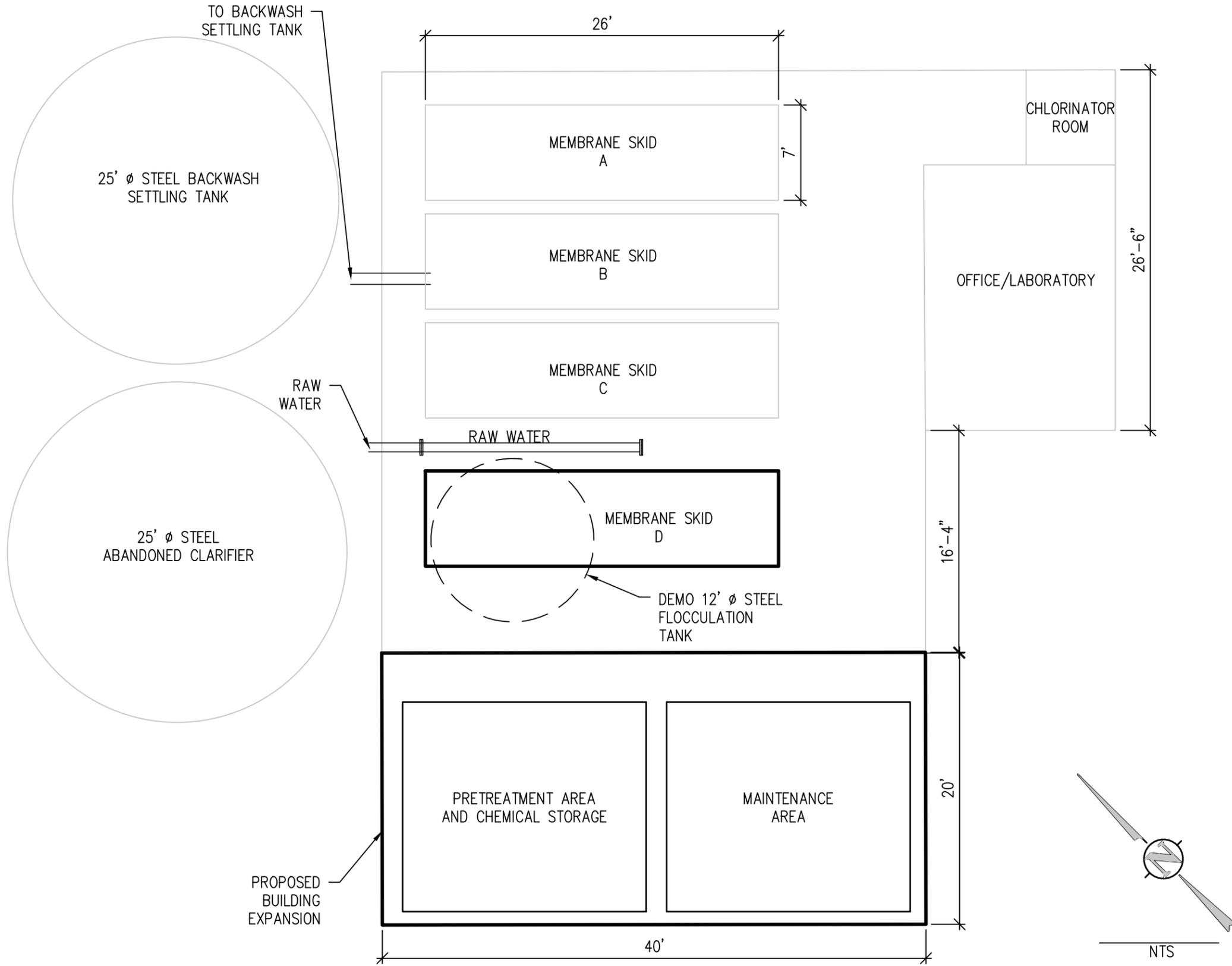


FIGURE 22 - PROPOSED FACILITY LAYOUT
 TOWN OF CRESTED BUTTE
 WATER TREATMENT PLANT CPE

To add capacity to the WTP with a new microfiltration skid, a BDR and Plans and Specifications must be approved by the CDPHE in accordance with Regulation 11 and the Design Criteria for Public Water Systems (DCPWS). CDPHE's review process can last more than three months and an additional few months are required for design and bidding. It is recommended that additional capacity for the WTP be designed and permitted in 2018 and be under construction in 2019. In addition to the permitting associated with this project and the standard design process, additional engineering services included in the project cost are, jar testing for chemical pretreatment, analysis of additional water quality data, development of CAD drawings for the facility and proposed improvements, survey and Geotech, hydraulic profile of existing and proposed improvements, and evaluation of existing membrane skid set points to further optimize capacity.

The Town recently identified and corrected a major leak in the water distribution system. This correction represents a noticeable reduction in water usage and peak demand. The Town is encouraged to continue leak detection programs and water conservation efforts to reduce the peak demands. A delay in the purchase of this equipment will result in increased costs due to inflation over time.

Trigger: 0.84 MGD Demand

Engineering Costs 2018: \$173,000 (Permitting, Engineering, and Bidding)

Engineering Costs 2019: \$87,000 (Construction Services)

Estimated 2019 Construction Costs: \$1,722,000 (including 20% contingency)

RAW WATER

EVALUATION OF SOLIDS IN PONDS

The volume and quality of solids deposited in the raw water reservoir is not well documented. An evaluation of the solids in the raw water reservoir is recommended to better understand the need and timing for solids removal. During the spring when the reservoir experiences turnover it is likely that manganese is being released, increasing raw water manganese concentrations. Reducing the solids in the reservoir may decrease manganese concentrations and reduce pretreatment requirements.

The volume and quality of the two waste ponds is also not well documented. Solids were removed from the waste pond in 2010, however samples were not obtained at that time. While evaluating the solids in the raw water reservoir a solids profile for the backwash receiving pond and waste pond is also recommended. Most of this work is anticipated to be conducted by Town staff. Costs for this project include the cost of solids quality samples for each of the three ponds.

Year to Complete: 2018

Estimated Cost = \$4,000

SOLIDS REMOVAL IN PONDS

Depending on the results from the evaluation described above, removal of the solids in the three ponds may be required. Costs associated with this process are highly dependent on the volume of

solids present in each pond. For planning purposes, conservative cost estimates are provided for solids removal. The prioritization/timing is also dependent on the results of the solids evaluation planned for 2018 and should be re-evaluated once the study is complete.

Year to Complete: 2020
Estimated Cost = \$404,000

REDUNDANT PIPE FROM RAW WATER RESERVOIR TO WATER TREATMENT PLANT

As discussed in Section 4, there is one 12-inch ductile iron pipe from the raw water reservoir to the water treatment plant. In the event of a failure of this pipe during peak day demand conditions, less than two days of storage is available. Adding a redundant pipe from the raw water reservoir is recommended to minimize risks and impact associated with a failure in the existing pipe. The projected costs represent the addition of approximately 800 linear feet of 12-inch pipe and associated valving.

Year to Complete: 2025
Estimated Cost = \$242,000 (Engineering, Bidding, and Construction)

FINISHED WATER METER VAULT AND DISTRIBUTION

FINISHED WATER METER VAULT BYPASS

The finished water meter vault houses an online chlorine analyzer and a magnetic flow meter. There is no bypass currently installed to facilitate operations and maintenance activities associated with the flow meter. To provide Staff an opportunity to maintain the existing flow meter while continuing to distribute water the Town's distribution system, a 12-inch bypass pipe is recommended.

Year to Complete: 2020
Estimated Cost = \$207,000 (Engineering, Bidding, and Construction)

REDUNDANT PIPE FROM WATER TREATMENT PLANT TO TOWN DISTRIBUTION SYSTEM

The 12-inch DIP is the only transmission main from the WTP to the distribution system. In the event of a catastrophic failure in the transmission line leaving the finished water meter vault there is no back up water supply to meet the water demands of the service area. Adding a redundant pipe from the finished water storage tanks to the Town's distribution system is recommended to minimize risks and impact associated with a failure in the existing pipe. The projected costs represent the addition of approximately 2,600 linear feet of 12-inch pipe and associated valving.

Year to Complete: 2022
Estimated Cost = \$711,000 (Engineering, Bidding, and Construction)

WATER TREATMENT PLANT

MICROFILTRATION MEMBRANE REPLACEMENT (SKIDS B AND C)

The Town purchased and installed replacement membranes from Pall in 2016 for Skid A. The manufacturer generally recommends replacing the membranes every 10 years. To ensure maximum capacity through the existing skids it is recommended that the remaining membranes on Skids B and C be replaced in 2018. The cost to replace the membranes on each of the skids is \$53,000 per skid. Installation work will be completed by Town staff.

Year to Complete: 2018

Estimated Cost = \$106,000 (Equipment Costs)

MICROFILTRATION PALL AP-4 SKID 5/E CAPACITY INCREASE

Based on the current 20-year projections a second AP-4 skid will be required to meet the projected summer peak day demand in 2034 (peak day demand projection is 1.24 MGD). After the 2019 improvements with the addition of the fourth microfiltration unit, the firm capacity of the facility will be 1.25 MGD. It is possible that the addition of a fifth skid could be deferred if demand management strategies are implemented. It is recommended that water demand projections be re-evaluated prior to planning and design for a fifth microfiltration unit.

Trigger: 1.20 MGD Demand

Year to Complete: 2033

Estimated Cost = \$835,000 (Engineering, Permitting, Bidding, and Construction)

OFFICE AND LABORATORY EXPANSION

The existing laboratory and office space are constricted to only 280 square feet. The lab and office occupy the same space with no separation. There is limited room for conducting laboratory activities in a clean and safe environment. In addition, storage space for historical records is limited. It is recommended to add additional office and laboratory space. Costs for this project include expanding the water treatment facility building to the south and adding 550 square feet which can then be separated into 415 sf for office space and 415 sf for laboratory space. Furnishings for each of the spaces is also included in the projected costs.

Year to Complete: 2029

Estimated Cost = \$390,000 (Engineering, Design, and Construction)

REMOVE ABANDONED CLARIFIER

The existing 25-foot diameter clarifier located south of the backwash settling tank will need to be removed to allow expansion of the building in the future to meet future capacity and treatment objectives. It is anticipated that this work will be conducted by Town staff. Costs for this project are preliminary and will vary depending on timing and who completes the work. Current costs include costs associated with equipment to demolish the tank and disposal.

Year to Complete: 2021

Estimated Demolition and Disposal Costs = \$10,000

WASTE SYSTEM AND RESIDUALS MANAGEMENT

BACKWASH SYSTEM PIPING

The existing 4-inch ductile iron pipe from the backwash settling tank to the backwash receiving pond adjacent to the raw water reservoir experiences issues related to freezing during the winter. Additionally, the discharge pipe from the waste pond lift station to the backwash settling tank also experiences freezing during the winter months. To remedy this operational challenge a near term improvement project to remove the check valves in the discharge piping and evaluate the duckbill check valve at the backwash receiving pond is recommended. It is anticipated that engineering associated with this process will be minimal and the work can be completed by Town staff. Construction costs represented here are conservative and represent miscellaneous equipment that may be required.

Year to Complete: 2018

Estimated Cost: \$8,000 (including 30% contingency)

WASTE SYSTEM AND RESIDUALS MANAGEMENT IMPROVEMENTS

An evaluation of the system and potential alternatives is recommended after the pond solids evaluation has been completed. Long term planning for residuals management is a consistent theme for system's that are comparable in size and treatment processes to the Town. Preferred alternatives will depend on the chemical pretreatment processes selected during the 2019 improvement project and future capacity requirements.

The current backwash settling tank is located outside. During the winter months, the ladder to access the pump platform on the tank is frozen and is unsafe for operations staff. Regardless of the future direction of the backwash system improvements, it is recommended that the redesigned system be located within a structure to facilitate year round operation and maintenance activities.

Year to Complete: 2027

Estimated Cost: \$500,000 (Engineering, Permitting, Design, and Construction)

SUMMARY OF CAPITAL IMPROVEMENTS

Identified capital improvement projects are associated with treatment capacity, regulatory compliance, operations and maintenance, and optimization of the treatment process. These improvements are recommended for 2018 through 2033. The Town must further prioritize the projects based on available funds and benefit. The implementation schedule, shown in the Capital Improvement Plan (CIP), Table 22, provides recommended prioritization for each project and year for completion. The CIP will assist the Town in prioritizing projects and developing annual budgets to minimize risk and continue to reliably provide water treatment services. Recommendations identified should be considered as conceptual for planning purposes.

Additional details and potential alternatives should be further investigated and analyzed in the preliminary engineering phase of each project.

Table 22. Crested Butte WTP – Capital Improvement Plan

Water Treatment Plant Projects	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Water Treatment Plant Improvements (Engineering)	\$173,000															
Water Treatment Plant Improvements (Construction)		\$1,722,000														
Water Quality Testing (completed by Town)	\$15,000															
Replace Membranes in Skid B and C (completed by Town)	\$106,000															
Ponds Solids Evaluation – Quality and Volume (completed by Town)	\$4,000															
Solids Removal from Ponds			\$404,000													
Bypass Piping – Finished Water Meter Vault (Engineering and Construction)			\$207,000													
Redundant Pipe – Raw Water Reservoir to WTP (Engineering and Construction)								\$242,000								
Redundant Pipe – Storage Tanks to Distribution System (Engineering and Construction)					\$711,000											
Office Space and Laboratory Expansion (Engineering and Construction)												\$390,000				
Remove Abandoned Clarifier				\$10,000												
Backwash Piping Improvements	\$8,000															
Waste and Residuals Management Improvements (Engineering and Construction)										\$500,000						
Water Treatment Plant Expansion – Skid 5 (Engineering)															\$73,000	
Water Treatment Plant Expansion – Skid 5 (Construction)																\$725,000
WATER PROJECTS TOTAL (2017 \$\$\$)	\$306,000	\$1,722,000	\$611,000	\$10,000	\$711,000	\$0	\$0	\$242,000	\$0	\$500,000	\$0	\$390,000	\$0	\$0	\$73,000	\$725,000

APPENDIX A— PROJECTED WATER DEMAND DATA AND CALCULATIONS



JVA, Incorporated
 817 Colorado Ave Ste. 301
 Ph: 970.404.3100

Job Name: Town of Crested Butte WTP CPE
 Job Number: 2338.4
 Date: 11/17/2017
 By: BLM

Per Capita Demand

Annual Average	114 gpcd
Peak Day Factor - Summer	2.9
Peak Day Factor - Winter	1.5

Year	Residents	Non-Residents	Annual Growth Rate	Average Day (gpd)	Peak Day Summer (gpd)	Winter Peak Demand (gpd)	Peak Day Summer (MGD)	Winter Peak Demand (MGD)
2015	1,563	1,213	1.6%	316,464	917,746	474,696	0.918	0.475
2016	1,588	1,232	1.6%	321,527	932,430	482,291	0.932	0.482
2017	1,613	1,252	1.6%	326,672	947,348	490,008	0.947	0.490
2018	1,639	1,272	1.6%	331,899	962,506	497,848	0.963	0.498
2019	1,665	1,293	1.6%	337,209	977,906	505,813	0.978	0.506
2020	1,692	1,313	1.6%	342,604	993,553	513,907	0.994	0.514
2021	1,719	1,334	1.6%	348,086	1,009,449	522,129	1.009	0.522
2022	1,747	1,356	1.6%	353,655	1,025,601	530,483	1.026	0.530
2023	1,775	1,377	1.6%	359,314	1,042,010	538,971	1.042	0.539
2024	1,803	1,399	1.6%	365,063	1,058,682	547,594	1.059	0.548
2025	1,832	1,422	1.6%	370,904	1,075,621	556,356	1.076	0.556
2026	1,861	1,444	1.6%	376,838	1,092,831	565,258	1.093	0.565
2027	1,891	1,468	1.6%	382,868	1,110,317	574,302	1.110	0.574
2028	1,921	1,491	1.6%	388,994	1,128,082	583,490	1.128	0.583
2029	1,952	1,515	1.6%	395,218	1,146,131	592,826	1.146	0.593
2030	1,983	1,539	1.6%	401,541	1,164,469	602,312	1.164	0.602
2031	2,015	1,564	1.6%	407,966	1,183,101	611,949	1.183	0.612
2032	2,047	1,589	1.6%	414,493	1,202,030	621,740	1.202	0.622
2033	2,080	1,614	1.6%	421,125	1,221,263	631,688	1.221	0.632
2034	2,113	1,640	1.6%	427,863	1,240,803	641,795	1.241	0.642
2035	2,147	1,666	1.6%	434,709	1,260,656	652,063	1.261	0.652
2036	2,181	1,693	1.6%	441,664	1,280,826	662,496	1.281	0.662
2037	2,216	1,720	1.6%	448,731	1,301,319	673,096	1.301	0.673
2038	2,252	1,747	1.6%	455,911	1,322,140	683,866	1.322	0.684
2039	2,288	1,775	1.6%	463,205	1,343,295	694,808	1.343	0.695



JVA, Incorporated
 817 Colorado Ave Ste. 301
 Ph: 970.404.3100

Job Name: Town of Crested Butte WTP CPE
 Job Number: 2338.4
 Date: 11/17/2017
 By: BLM

Number of Water Taps = 1,064.00 taps
 CB Residents = 1,563.00 people (WWE 2015)
 Tourists = 1,202.00 people (short term and hotels, WWE 2015)

Winter Travel Season (January - March)

Average 229,179 gpd
 Peak Day 487,162 gpd

Shoulder Season Fall (Oct - Nov)

Average 189,238 gpd
 Peak Day 359,444 gpd

Summer Travel Season (June - August)

Average 549,974 gpd
 Peak Day 899,937 gpd

Shoulder Season Spring (April - May)

Average 206,193 gpd
 Peak Day 395,009 gpd

Gallon Per Tap Per Day	Gallon Per Capita Per Day (Residents Only)	GPCD (Non-Residents)
215 gptd	147 gpcd	26 gpcd
458 gptd	312 gpcd	82 gpcd
178 gptd	121 gpcd	
338 gptd	230 gpcd	
517 gptd	352 gpcd	220 gpcd
846 gptd	576 gpcd	323 gpcd
194 gptd	132 gpcd	
371 gptd	253 gpcd	

*calculated by subtracting the shoulder season resident gpcd and winter

*calculated by subtracting the shoulder season resident gpcd and summer

2016 Annual Average Water Demand

314,344 gpd
 114 gpcd

PEAK DAY - Summer
 899,937 gpd
 2.9 Peak Day Factor

PEAK DAY - Winter
 487,162 gpd
 1.5 Peak Day Factor

APPENDIX B – CDPHE ALTERNATIVE TECHNOLOGY ACCEPTANCE



COLORADO

Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

October 19, 2017

Rick Moro
Pall Water Processing
25 Harbor Park Drive
Port Washington, NY 11050

Subject: Acceptance of the Pall Corporation Microza Membrane Modules an Alternative Filtration Technology to meet the *Colorado Primary Drinking Water Regulations* (CPDWR) requirements for *Giardia lamblia* and *Cryptosporidium* Removal

Dear Mr. Moro;

The Colorado Department of Public Health and Environment's Water Quality Control Division ("the Department") has received and reviewed the information for the Pall Corporation filtration systems utilizing the Microza modules in accordance with Section 11.8(2)(b)(ii) and 11.10(5)(j) of the *Colorado Primary Drinking Water Regulations* (Regulation 11), 5 CCR 1002-11. The Pall Microza module meets or exceeds the requirements of the *State of Colorado Design Criteria for Potable Water Systems* (DCPWS) Sections 1.11, 4.3.8 and Regulation 11. The technology is conditionally accepted for use as an Alternative Filtration Technology and granted the removal credit in Table 4.1, Section 4.3.8.2 of the DCPWS. The technical specifications and conditions of acceptance for the Pall Microza modules and Pall Aria skids are outlined in Tables 1 and 2 as well as Section 4.3.8 of the DCPWS.

This acceptance supersedes all previous acceptance of the Microza modules and associated filtration skids.

This acceptance addresses the following items:

- Pall Corporation Microza microfiltration modules
- Pall Aria filtration skids (AP 1-8)

This acceptance applies only to the Pall Microza modules and does not constitute construction approval for installation at any public water system. Each individual submittal to the Department must demonstrate conformance with Section 4.3.8 of the DCPWS for each installation of the filters and filtration skids. **Review and approval for the design of any public water system proposing to use this technology will be handled on a case-by-case basis by the Department as required by Section 11.4 of Regulation 11.**

As part of this review, the Department has evaluated the following documents:

- Environmental Technology Verification Report - Pall Corporation Microza Module, Feb. 2000, Mar 2002, Sept 2005
- Membrane filtration review document (Jan 2010) - Binder provided to the Division by Pall corporation
 - Supplemental information to the review documents (Sections 1-23) including process schematics for the Aria skids
- <http://www.nsf.org> - Pall corporation materials certification for membrane components



- June 8 and October 13, 2017 Email Submittals - Pall Corporation about direct integrity test failure criteria

Any addenda that will modify the modules must be submitted to the Department for review and acceptance prior to use in Colorado by a regulated public water system. This requirement includes any changes made to the Pall Microza materials of construction and associated interfaces with process piping. The Department will review any additional third party verification reports and issue a revised acceptance letter if appropriate.

Table 1: Microza Technical Specifications and Conditions of Acceptance

Filter Manufacturer	Pall Corporation
Filter Model	Microza
Maximum Flux (gfd -gallons per sq. ft. per day) @ 20 °C	120
Maximum Flux (gfd) @ 1 °C	69
Max Transmembrane Pressure lbs per square inch differential (psid)	43.5
Alarm Transmembrane Pressure (psid)	43.5 (35 triggers Clean in Place - CIP)
Maximum Inlet Pressure - lbs per square inch gauge (psig)	58 psig
Minimum direct integrity test pressure (starting pressure)	17.5 psig
Direct integrity testing failure criteria	>0.3 psig per 5 minute (interval) decay OR calculated log removal value (LRV) less than 3.0 - equation is system specific and reviewed for each submittal
Prefiltration	Not specified
Additional Operations and Maintenance Criteria	
<ol style="list-style-type: none"> 1. If a filter fails an integrity test, the filter must be removed from service immediately and replaced with a functional filter or repaired prior to being returned to operation. 2. The public water system must keep records of the following operational parameters (available for Department review): <ol style="list-style-type: none"> a. Integrity test date, results (pass or fail), and initials of person performing the test b. Clean in place (CIP) dates with clean water permeability and integrity test result. c. Filter maintenance and fiber repair results d. Filter replacement date and reason for replacement. 3. Public water systems must maintain an operation and maintenance manual for the micro/ultrafiltration system. All integrity tests and CIP procedures must follow manufacturer prescribed procedures. 	

Table 2: Pre-Accepted Aria Skids Conditions of Acceptance:

Skid Type	Aria						
Skid Model Number	AP1	AP2	AP3	AP4	AP6	AP6x	AP8
Maximum Daily Production (gallons) Based on max flux (@1 °C)- See Table 1	28	49	174	500	694	867	1388
Bleed Valve for Block and Bleed Assembly	Valve HV4	AP2 to Tank 2	V29 bleed to drain	V29 bleed to drain	V6 to Tank 2	V6 to Tank 2	V29 bleed to drain
Cross connection control (DCPWS 4.3.8.8(b)(vii))	Verified. For AP1 - standard block and bleed assembly - a leak in the valve signifies a cross connection and valves must be replaced or repaired. For other skids - bleed valve feeds Tank 2 - which is monitored with a level sensor. If level changes - leak is occurring and valves must be replaced or repaired. All skids MUST have cross connection control options installed.						
Individual Skid Effluent Turbidity (DCPWS 4.3.8.10(a)and (d))	Verified on P&ID.						
Flow Control (DCPWS 4.3.8.10 (c) and (e))	Verified on P&ID.						

Please be aware that any point source discharges of water from treatment facilities are potentially subject to a discharge permit under Colorado’s State Discharge Permit System. Any point source discharges to state waters without a permit are subject to civil or criminal enforcement action.

Please direct any further correspondence regarding this acceptance to:

Tyson Ingels, P.E.
 Colorado Department of Public Health and Environment
 Water Quality Control Division
 4300 Cherry Creek Drive South
 Denver, CO 80246

If you have any questions or comments, please call Tyson Ingels at 303-692-3002.

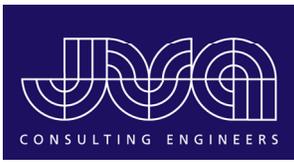
Sincerely,



Digitally signed by Tyson Ingels, P.E.
 DN: cn=Tyson Ingels, P.E., o=Engineering Section, ou=Water Quality Control Division, email=tyson.ingels@state.co.us, c=US
 Date: 2017.10.19 06:22:58 -0600

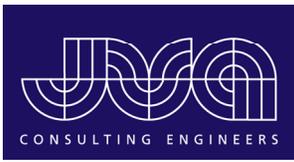
Tyson Ingels, P.E.
 Lead Drinking Water Engineer
 Engineering Section - Water Quality Control Division
 Colorado Department of Public Health and Environment

APPENDIX C – OPINION OF PROBABLE COSTS



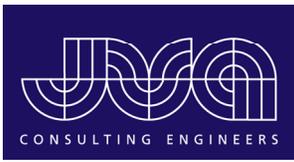
**Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
WTP Improvement Project**

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$70,000	\$70,000
			Subtotal	\$70,000
Division 02 - Sitework				
Excavation	200	CY	\$20	\$4,000
Backfill/Haul	100	CY	\$30	\$3,000
Reseeding	1	LS	\$7,500	\$7,500
Remove and Dispose of Floc Tank	1	LS	\$35,000	\$35,000
Remove and Dispose of UV disinfection	1	LS	\$10,000	\$10,000
Demo abandoned electrical equipment	1	LS	\$10,000	\$10,000
Temporary piping and electrical	1	LS	\$25,000	\$25,000
			Subtotal	\$94,500
Division 03 - Concrete				
Floor Slab	15	CY	\$300	\$4,500
Footings	15	CY	\$500	\$7,500
Exterior concrete flatwork	75	SF	\$16	\$1,200
			Subtotal	\$13,200
Division 05 - Misc. Metals				
Misc. Piping and Supports	1	LS	\$25,000	\$25,000
Misc. Steel and Walkway modifications	1	LS	\$50,000	\$50,000
			Subtotal	\$75,000
Division 09 - Painting				
Pipe Coatings	1	LS	\$5,000	\$5,000
Floor Coatings	800	SF	\$5	\$4,000
			Subtotal	\$9,000
Division 11 - Equipment				
Replace Raw Water and RF tanks on existing skids	1	LS	\$65,000	\$65,000
Turbidimeter	3	EA	\$15,000	\$45,000
AP-4 Skid	1	EA	\$390,000	\$390,000
pH/Temp probe	2	EA	\$15,000	\$30,000
Pre-Treatment Equipment (Chemical Feed)	1	LS	\$150,000	\$150,000
			Subtotal	\$680,000
Division 13 - Special Construction				
Metal Building (framing, siding, painting, etc.)	800	SF	\$175	\$140,000
			Subtotal	\$140,000
Division 15 - Mechanical				
HVAC	1	LS	\$40,000	\$40,000
			Subtotal	\$40,000
Division - 16 Electrical				
Electrical	1	LS	\$50,000	\$50,000
Instrumentation and Controls (PLC and SCADA upgrades)	1	LS	\$75,000	\$75,000
			Subtotal	\$125,000
			Subtotal	\$1,247,000
			Contingency (20%)	\$250,000
			Contractor's OH&P (15%)	\$225,000
			Raw Water Quality Testing	\$15,000
			Design, Permitting, and Bidding (10%)	\$173,000
			Construction Administration (5%)	\$87,000
			Project Total	\$1,997,000



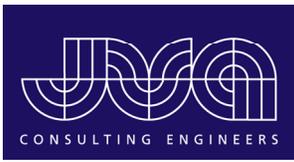
Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Solids Removal - Three Ponds

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$20,000	\$20,000
			Subtotal	\$20,000
Division 02 - Sitework				
Removal of Solids - Raw Water Reservoir, Holding Pond, Waste Pond (solids quantities unknown)	1	LS	\$250,000	\$250,000
			Subtotal	\$250,000
			Subtotal	\$270,000
			Contingency (30%)	\$81,000
			Contractor's OH&P (15%)	\$53,000
			Project Total	\$404,000



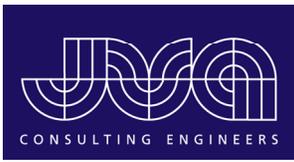
Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Finished Water Meter Vault Bypass

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$20,000	\$20,000
Subtotal				\$20,000
Division 15 - Mechanical				
12-inch DIP Bypass Piping and Valves	1	LS	\$100,000	\$100,000
Subtotal				\$100,000
Subtotal				\$120,000
Contingency (30%)				\$36,000
Contractor's OH&P (15%)				\$24,000
Design and Bidding (10%)				\$18,000
Construction Administration (5%)				\$9,000
Project Total				\$207,000



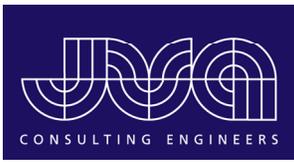
Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Redundant Pipe - To Town Distribution System

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$35,000	\$35,000
Subtotal				\$35,000
Division 15 - Mechanical				
12-inch ductile iron pipe	2600	LF	\$140	\$364,000
12-inch butterfly valves	2	EA	\$7,000	\$14,000
Subtotal				\$378,000
Subtotal				\$413,000
Contingency (30%)				\$124,000
Contractor's OH&P (15%)				\$81,000
Design and Bidding (10%)				\$62,000
Construction Administration (5%)				\$31,000
Project Total				\$711,000



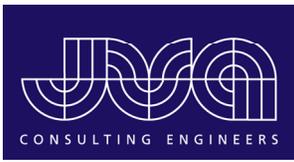
Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Redundant Pipe - Raw Water Reservoir to WTP

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$25,000	\$25,000
			Subtotal	\$25,000
Division 02 - Sitework				
Reseeding	1	LS	\$3,000	\$3,000
			Subtotal	\$3,000
Division 15 - Mechanical				
12-inch DIP	700	LF	\$140	\$98,000
12-inch butterfly valves	2	EA	\$7,000	\$14,000
			Subtotal	\$112,000
			Subtotal	\$140,000
			Contingency (30%)	\$42,000
			Contractor's OH&P (15%)	\$28,000
			Design and Bidding (10%)	\$21,000
			Construction Administration (5%)	\$11,000
			Project Total	\$242,000



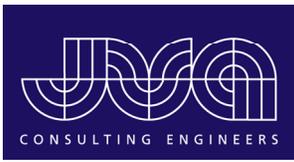
Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Office and Laboratory Expansion

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$25,000	\$25,000
			Subtotal	\$25,000
Division 02 - Sitework				
Excavation	50	CY	\$20	\$1,000
Backfill/Haul	50	CY	\$30	\$1,500
Reseeding	1	LS	\$2,000	\$2,000
			Subtotal	\$4,500
Division 12 - Furnishings				
Lab and Office Furnishings	1	LS	\$75,000	\$75,000
			Subtotal	\$75,000
Division 13 - Special Construction				
Metal Building - Maintenance (framing, siding, painting, etc.)	550	SF	\$200	\$110,000
			Subtotal	\$110,000
Division 15 - Mechanical				
HVAC	1	LS	\$5,000	\$5,000
			Subtotal	\$5,000
Division - 16 Electrical				
Electrical	1	LS	\$10,000	\$10,000
			Subtotal	\$10,000
			Subtotal	\$230,000
			Contingency (30%)	\$69,000
			Contractor's OH&P (15%)	\$45,000
			Design and Bidding (8%)	\$28,000
			Construction Administration (5%)	\$18,000
			Project Total	\$390,000



Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
Backwash System Piping Improvements

Description	Quantity	Units	Unit Cost	Total Cost
Division 15 - Mechanical				
Misc. Piping and Valves	1	LS	\$5,000	\$5,000
			Subtotal	\$5,000
Subtotal				\$5,000
Contingency (30%)				\$2,000
Engineering Assistance (5%)				\$1,000
Project Total				\$8,000



Opinion of Probable Costs
for
Town of Crested Butte Water Treatment Plant
WTP Expansion - Skid Five

Description	Quantity	Units	Unit Cost	Total Cost
Division 00 and 01 - General				
Mobilization/Demobilization	1	LS	\$50,000	\$50,000
			Subtotal	\$50,000
Division 05 - Misc. Metals				
Pipe Supports	1	LS	\$7,000	\$7,000
Misc. Steel and Walkway Modifications	1	LS	\$7,000	\$7,000
			Subtotal	\$14,000
Division 09 - Painting				
Pipe Coatings	1	LS	\$5,000	\$5,000
			Subtotal	\$5,000
Division 11 - Equipment				
AP-4 Skid	1	EA	\$390,000	\$390,000
			Subtotal	\$390,000
Division - 16 Electrical				
Electrical	1	LS	\$10,000	\$10,000
Instrumentation and Controls (PLC and SCADA upgrades)	1	LS	\$15,000	\$15,000
			Subtotal	\$25,000
			Subtotal	\$484,000
			Contingency (30%)	\$146,000
			Contractor's OH&P (15%)	\$95,000
			Design, Permitting and Bidding (10%)	\$73,000
			Construction Administration (5%)	\$37,000
			Project Total	\$835,000



Staff Report

13 September 2018

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Chief Marshal Michael Reily
Subject: Adoption of the “Idaho Stop” to the Model Traffic Code

Summary:

Adoption of an ordinance amending chapter 8, article 1 of the Crested Butte Municipal Code to include Regulations for Operation of bicycles and electrical assisted bicycles approaching intersections; known colloquially as an Idaho Stop.

Background:

On May 3, 2018 Governor Hickenlooper signed SB18-144 concerning the regulation of bicycles approaching intersections. A summary of the law from the legislative website is as follows:

“The law permits a municipality or county to adopt a local ordinance or resolution regulating the operation of bicycles approaching intersections with stop signs or illuminated red traffic control signals. The ordinance shall not, however, apply to any portion of the state highway system. Under a local regulation, a bicyclist approaching a stop sign must slow to a reasonable speed and, when safe to do so, may proceed through the intersection without stopping. A bicyclist approaching an illuminated red traffic control signal must stop at the intersection and, when safe to do so, may proceed through the intersection. The bill sets the reasonable speed limit at 15 miles per hour. However, a municipality or county may lower the reasonable speed to 10 miles per hour or raise the limit to 20 miles per hour at any individual intersection. If the local government sets a lower or higher reasonable speed limit, the local government must post signage indicating that speed limit at the intersection. If the municipality or county adopts an ordinance or resolution pursuant to the act, it must be consistent with the act. An ordinance adopted before the effective date of the act that similarly regulates bicycles remains valid.

Discussion/Recommendation:

The argument can be made that many local cyclists already perform the Idaho Stop at intersections throughout town; and do it many times a day without repercussion. Those cyclists are neither ticketed (probably warned by local law enforcement) nor get into a collision. This argument is probably valid enough times in one day to allow for the adoption of the Idaho Stop provision. However, as you are now considering adopting this ordinance for our municipality other municipalities throughout the area may, or may not, adopt the provision. This uncertainty as

to whether the law is, or is not, in place will add to confusion from local and visitor cyclists and motor vehicles as to whether the exception is in place from town to town.

One key element of the law change that seems to be lost in translation is the requirement for a cyclist who is yielding at a stop sign or stopping at a stoplight to ride reasonably for the conditions and yield right of way. This lesson will be particularly lost on younger riders who have now added yet another option to their decision making process at a stop sign/light. The increased potential for collisions between cyclists and larger motor vehicles who do, or assume they, have right of way is potentially disastrous. As someone who has tended to many injured or deceased cyclists and, as one chief of public safety, I find the confusion this law presents for both cyclists and drivers makes the adoption of this ordinance concerning.

As an old school cyclist and one of the first IPMBA Police Mountain Bike Instructors (#95) I trained all of my officers that *“bicyclists fare best when they act, and are treated in return, as drivers of vehicles, with the same rights and responsibilities that motorists have”* (John Forester’s *Effective Cycling*). The Idaho Stop law and the local habit of running stop signs is contrary to everything I have been taught, and taught others. For the obvious safety implications, I cannot give my full throated endorsement to encouraging cyclists to ride contrary to their interests. My conversations with the Crested Butte EMS/Fire Chief resulted in a similar reluctance to endorse the Idaho Stop option.

ORDINANCE NO. 23

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING CHAPTER 8, ARTICLE 1 OF THE CRESTED BUTTE MUNICIPAL CODE TO INCLUDE REGULATIONS FOR OPERATION OF BICYCLES AND ELECTRICAL ASSISTED BICYCLES APPROACHING INTERSECTIONS

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the constitution and laws of the State of Colorado;

WHEREAS, Chapter 8, Article 1 of the Crested Butte Municipal Code (the "**Town Code**") contains regulations adopted by the Town Council that govern, among other things, the operation of bicycles and electrical assisted bicycles in Town according to the Model Traffic Code;

WHEREAS, Senate Bill 18-144 was enacted by the General Assembly of the State of Colorado and signed by the Governor on May 3, 2018 to allow local governments to adopt alternative regulations of bicycles and electrical assisted bicycles approaching intersections within the Town;

WHEREAS, the Town Council finds that certain amendments to Chapter 8, Article 1 of the Town Code to allow alternative regulations of bicycles and electrical assisted bicycles approaching intersections in Town would be in the best interest of the health, safety, and general welfare of the residents and visitors of Crested Butte and, therefore is appropriate for adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. **Amendment of Chapter 8, Article 1 to add a new Section 8-1-70.** Chapter 8, Article 1 of the Town Code is hereby amended to add a new Section that shall read as follows:

Sec. 8-1-70. Regulation of Bicycles and Electrical Assisted Bicycles Approaching Intersections.

- (a) A person riding a bicycle or electrical assisted bicycle (as defined in C.R.S. Section 42-1-102(28.5) and approaching an intersection of a roadway with a stop sign shall slow down and, if required for safety, stop before entering the intersection. If a stop is not required for safety, the person shall slow to a reasonable speed and yield the right-of-way to any traffic or pedestrian in or approaching the intersection. After the person has slowed to a reasonable speed and yielded the right-of-way required, the person may cautiously make a turn or proceed through the intersection without stopping.
- (b) For purposes of subsection (a), a reasonable speed is fifteen miles per hour or less.

- (c) A person riding a bicycle or electrical assisted bicycle and approaching an intersection of a roadway with an illuminated red traffic signal shall stop before entering the intersection and shall yield to all other traffic and pedestrians. Once that person has yielded, the person may cautiously proceed in the same direction through the intersection or make a right-hand turn. When a red traffic control signal is illuminated, a person shall not proceed through an intersection or turn right if an oncoming vehicle is turning or preparing to turn left in front of the person.
- (d) A person riding a bicycle or electrical assisted bicycle approaching an intersection of a roadway with an illuminated red traffic control may make a left-hand turn only if turning onto a one-way street and only after stopping and yielding to other traffic and pedestrians. However, a person shall not turn left if a vehicle is traveling in the same direction as the person and the vehicle is turning or preparing to turn left. If the person is not turning left onto a one-way street, the person shall not make a left-hand turn at an intersection while a red traffic control signal is illuminated.

Section 2. Severability. If any section, sentence, clause, phrase, word, or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words, or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS __ DAY OF _____, 2018.

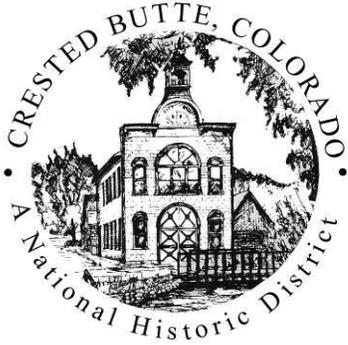
ADOPTED BY THE TOWN COUNCIL, UPON SECOND READING IN PUBLIC HEARING THIS __ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Resolution 19-2018, A resolution opposing “Amendment 74”, an attempt to amend the Colorado Constitution to drastically limit state and local government services at a high cost to taxpayers

Summary: The Colorado Municipal League has requested that the Town Council consider a resolution of opposition to this amendment to the Colorado Constitution that would require just compensation to be paid to any property owner when a government law or regulation reduces the fair market value of private property.

Previous Council Action: At the regular meeting on September 17th the Town Council directed that the resolution of opposition be placed on the agenda for consideration.

Background and Discussion: CML has provided overview information that has been included in the packet. In addition legal staff for QQ also prepared a memo for that group which we have also included in the packet.

Recommendation: Staff recommends the Town Council approve Resolution 19, Series 2018 opposing the statewide initiative known as “Amendment 74”.

Proposed Motion: A Council members should make a motion “to approve Resolution 19, Series 2018 opposing the statewide initiative known as “Amendment 74””

Followed by a second and roll call vote

RESOLUTION NO. 19**SERIES 2018****A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL OPPOSING “AMENDMENT 74”, AN ATTEMPT TO AMEND THE COLORADO CONSTITUTION TO DRASTICALLY LIMIT STATE AND LOCAL GOVERNMENT SERVICES AT A HIGH COST TO TAXPAYERS**

WHEREAS, local government services are essential to the citizens of Town of Crested Butte; and

WHEREAS, Amendment 74 has been written to change the text of the Colorado Constitution, Article II, Section 15 and threatens basic governmental services; and

WHEREAS, Amendment 74 declares that any state or local government law or regulation that “reduces” the “fair market value” of a private parcel is subject to “just compensation;” and

WHEREAS, under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments for the “taking” of private property for public purposes; and

WHEREAS, Amendment 74 would expand this well-established protection from takings by also requiring the government – i.e., the taxpayers – to compensate private property owners for virtually any decrease whatsoever in the fair market value of their property traceable to any government law or regulation; and

WHEREAS, Amendment 74 would create uncertainty because it is not clear what the language actually means or how it can be applied; and

WHEREAS, the uncertainty of Amendment 74 would have the effect of severely limiting the ability of Colorado’s state and local governments to do anything that might indirectly, unintentionally, or minimally affect the fair market value of any private property; and

WHEREAS, Amendment 74 would jeopardize laws, ordinances, and regulations designed to protect public health and safety, the environment, natural resources, public infrastructure, and other public resources; and

WHEREAS, Amendment 74 would directly impact zoning, density limitations, affordable housing requirements and other land use requirements; and

WHEREAS, Amendment 74 would make it prohibitively costly for state and local governments to attempt to limit or regulate, even in the interest of public health, safety, and welfare dangerous or environmentally damaging activities; and

WHEREAS, any arguable impact upon fair market value – however reasonable or justified or minimal or incidental or temporary – resulting from state or local government action could trigger a claim for compensation that taxpayers would have to pay; and

WHEREAS, governments would be vulnerable to lawsuits for almost every decision to regulate or not to regulate, making regular government function prohibitively expensive for the taxpayer; and

WHEREAS, similar efforts have been attempted and defeated in other states, such as the states of Washington and Oregon; and

WHEREAS, the fiscal impact for similar language in Washington was estimated at \$2 billion dollars for state agencies and \$1.5 billion for local governments over the first six years; and

WHEREAS, individuals filed several thousand claims against state and local governments with an estimated value in excess of several billions of dollars in claims in Oregon before the residents repealed the takings initiative three years after its passage.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THAT:

The Town of Crested Butte opposes Amendment 74 and strongly urges a vote of NO this November.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THIS 1st DAY OF OCTOBER, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

MEMORANDUM

TO: QQ Members and partners
 FROM: Torie Jarvis and Barbara Green

DATE: September 18, 2018

RE: Potential impacts from 2018 Amendment 74 (Ballot Initiative 108)

I. Introduction

In November, voters will consider a sweeping statewide ballot measure, Amendment 74 (formerly Initiative 108). This amendment would change the Colorado Constitution to require just compensation to be paid to any property owner when a government law or regulation reduces the fair market value of private property.

At its August meeting, QQ unanimously opposed Amendment 74 because of the potential negative impact to the use of local and state regulations to protect water quality and quantity.

The Colorado Farm Bureau submitted the ballot initiative, collected signatures, and remains a vocal proponent of the amendment. Additionally, Protecting Colorado's Environment, Economy and Energy Independence – or Protect Colorado for short—has raised tens of millions of dollars, with the largest funders being Noble Energy, PDC Energy, and Anadarko Petroleum.¹

Amendment 74 adds the capitalized phrase to Article II, Section 15 of the Colorado Constitution:

Private property shall not be taken or damaged, or REDUCED IN FAIR MARKET VALUE BY GOVERNMENT LAW OR REGULATION for public or private use, without just compensation.²

The title of the ballot measure reads:

An amendment to the Colorado constitution requiring the government to award just compensation to owners of private property when a

¹ Marianne Goodland, *Oil and Gas Industry Picking Up Pace of Campaign Funding*, Durango Herald (September 5, 2018), <https://durangoherald.com/articles/239864>, last accessed September 10, 2018. The initiative apparently was filed in response to Initiative 97 (now called Proposition 112) which would amend the Colorado Oil and Gas Conservation Act to require the new oil and natural gas development, except on federal lands, be sited at least 2,500 feet from occupied structures or defined “vulnerable areas. See Colorado Farm Bureau, *Colorado Farm Bureau Proposes Initiative to Protect Private Property Rights*, The Fence Post (January 11, 2018), available at <https://www.thefencepost.com/news/colorado-farm-bureau-proposes-initiative-to-protect-private-property-rights/>, last accessed September 10, 2018.

² 2017-2018 Initiative #108- Final Draft, Colorado Secretary of State, *2017-2018 Initiative Filings, Agendas & Results*, available at <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/index.html>, last accessed September 10, 2018.

government law or regulation reduces the fair market value of the property.³

At minimum, Amendment 74 would confuse the current state of law and create additional litigation to distinguish which government actions do or don't require compensation. At worst, this amendment would require local and state governments to compensate for *any* loss of property value at all from the implementation of *any* regulation that reduces the value of property. Either one of these results comes at a huge expense for state and local governments— i.e., taxpayers— who would have to foot the bill for the litigation and compensation.

II. Private property is already protected under the U.S. Constitution, the Colorado Constitution, and Colorado statutes.

The U.S. and Colorado Constitution protect property owners from the taking of private property without just compensation. Article II, section 15 of the Colorado Constitution provides that “[p]rivate property shall not be taken or damaged, for public or private use, without just compensation.” The Fifth Amendment to the U.S. Constitution provides “. . . nor shall private property be taken for public use without just compensation.” There are several forms of “taking” that require compensation.⁴ This discussion will focus on a regulatory taking, i.e. a restriction on the uses to which the property can be put or a condition attached to those uses that “goes too far.”⁵

Colorado courts, which generally follow Supreme Court takings precedent, apply a two-tiered regulatory takings inquiry. First, the court will determine if a *per se* taking has occurred because a regulation “does not substantially advance legitimate state interests” or because a regulation results in a total loss of economically viable use of land.⁶

Second, a court may still determine a taking occurred if the landowner “falls into the rare category of a landowner whose land has a value slightly greater than de minimis but, nonetheless, given the totality of the circumstances, has had its land taken by a government regulation.”⁷ This second inquiry is fact-specific and based on “a complex of factors including the regulation’s economic effect on the landowner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of government action.”⁸ Under current law, a “mere decrease in property value” is not a taking requiring compensation because “a landowner is not entitled to the

³*Id.*

⁴ For example, a regulation that results in a physical occupation on one’s property or a requirement that a landowner grant an easement or access to the general public on one’s property without compensation is generally considered a taking. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982); *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *Nollan v. Cal. Coastal Comm’n*, 483 U.S. 825 (1987).

⁵ *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922) (“while property may be regulated to a certain extent, if a regulation goes too far it will be recognized as a taking”).

⁶ *Animas Valley Sand & Gravel*, 38 P.3d 59, 63-64 (Colo. 2001), citing *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 116 (1992).

⁷ *Id.* at 67.

⁸ *Palazzolo v. Rhode Island*, 533 U.S. 606, 617, citing *Penn Cent. Transp. Co. v. New York City*, 438 U.S. 104, 125 (1978); see also *Animas Valley Sand & Gravel*, 38 P.3d at 65.

highest and best use of his property.”⁹ Instead, “the level of interference must be very high”¹⁰ because “[t]akings jurisprudence balances the competing goals of compensating landowners on whom a significant burden of regulation falls and avoiding prohibitory costs to needed government regulation.”¹¹

State statute protects private property from regulatory takings. The Regulatory Impairment of Property Rights Act (RIPRA) requires that dedications or fees imposed by local governments as conditions of development approval have an “essential nexus” between the required dedication or payment and a “legitimate local government interest,” and that the dedication or fee be “roughly proportional” to the actual impact of the development.¹² When a local government imposes an impact fee, it must show that the fee is reasonably related to the overall cost of the service or improvement to be provided.¹³ Finally, Colorado statutes protect vested rights from any zoning or land use action that would “alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay” the development or use of property as approved in a “site specific development plan.”¹⁴

III. Impact of Amendment 74

Amendment 74 would add an entirely new phrase to the Colorado Constitution to require “the government to award just compensation to owners of private property when a government law or regulation reduces the fair market value of the property.” This is not a small update to existing takings law, as proponents suggest; it is a new requirement to provide compensation for government regulations above and beyond a taking. State and local governments would face litigation for challenging the implementation of *any* regulation that has *any* impact on a private property right, including real property interests, mineral rights, or water rights. If every instance of a diminution in property value, even 5% or 1%, required compensation, the cost of regulation to governments would become unbearable. Moreover, the specter of litigation alone to clarify what is meant by the new provision, and what law should apply, could be a deterrent to adopting or enforcing any regulation that could affect private property.

The deceptively simple language of the amendment leaves many unanswered questions. Some specific issues surrounding the amendment include:

- Because this is a constitutional amendment, it would be very difficult to change or amend.
- Because the amendment is “self-implementing,” litigation, not the legislature, would be the avenue for determining how and when the amendment applies.
- There are no exceptions to this amendment. Property owners arguably would be entitled to compensation even if the government regulation was critical to protect public health, safety

⁹ *Animas Valley Sand & Gravel*, 38 P.3d at 65.

¹⁰ *Id.*

¹¹ *Id.* at 63, citing *Krupp v. Breckenridge Sanitation Dist.*, 19 P.3d 687, 695 (Colo. 2001).

¹² C.R.S. § 29-20-203(1).

¹³ C.R.S. § 29-20-104.5.

¹⁴ C.R.S. § 24-68-105.

and welfare, necessary to restrict activities recognized as public nuisance, or required by federal law.

- There is no grandfathering provision to the amendment, so implementation or enforcement of existing laws and regulations could also be subject to a claim for compensation.
- How exactions and impact fees would be effected is unclear; while exactions and impact fees are allowed under Colorado statute, any reduction in property value because of those requirements could be subject to just compensation.
- Both governmental action and inaction could create grounds for claims for just compensation due to decreased property values. For example, a local government may apply use restrictions preventing a commercial business from operating in a residential zone which would give rise to a claim for compensation. But a neighboring property might also have a claim for a reduction in its fair market value if the government allows a commercial activity to locate in a residential district.
- The amendment offers no guidance on how to calculate “fair market value,” so additional litigation would be required.
- There is no outlined process by which property owners might seek relief as an initial claim of loss of fair market value. Similar statutory initiatives in Oregon and Arizona established an initial administrative process for claims.

One very likely result of Amendment 74 would be “regulatory chilling,” where local and state governments do not adopt new regulations or enforce existing regulations that affect property rights in any way, even if there are public health and safety reasons for regulating. The threat of litigation and the potential obligation to provide compensation would be too significant. As Sam Mamet, the executive director of the Colorado Municipal League, said, “My advice to counties and municipalities if this passes, don’t do anything . . . no zoning, no ordinances.”¹⁵

III. Selected water-related state and local regulations that would be affected if Amendment 74 passes

The purpose of this list is to help QQ members visualize the many impacts to water quality in Colorado and to use these examples in messaging around Amendment 74. This list is merely a selection of the many, many regulations that could be affected by the amendment. Because the amendment is so broad and not governed by the existing takings jurisprudence described above, these affects are only *possibilities*.

a. Water Quality Control Commission (WQCC) regulations.

- Amendment 74 would make it almost impossible to strengthen water quality standards, even if required by the U.S. Environmental Protection Agency, because property owners could file claims for compensation if additional treatment expenses to meet those standards reduced the value of their property.

¹⁵ Mark Jaffe, *Initiative 108 could blunt local land-use rules, officials warn*, Colorado Politics (August 1, 2018), <https://coloradopolitics.com/colorado-ballot-initiative-could-blunt-local-land-use-regulation/>, last accessed Sept. 11, 2018.

- Stormwater Construction Permits for stormwater discharged from any construction activity that disturbs at least one acre of land could impact the value of private property by making it more expensive to build, or requiring portions of the site to be left undeveloped, giving rise to claims for compensation.
- Any conditions of a 401 certification required to ensure that a water project achieves water quality standards could be seen as reducing the fair market value of the water rights or the associated real property.

b. Administration of water rights.

- If the implementation of existing laws and regulations were actions and not grandfathered and, instead, are subject to challenge under Amendment 74, then the State Engineer's enforcement of a "call" by a senior could be challenged by junior water rights holders claiming loss of value of their water right.
- As Anne Castle discussed with QQ at its April retreat, any efforts to shepherd water through Colorado to Lake Powell for "insurance" against a Colorado River compact call would require the State Engineer's assistance in shepherding the water. It's possible that, if the State authorized the bypass of water past a junior water right that otherwise would have been able to take water from the river, that water right holder could claim a reduction in the market value of her water right under Amendment 74.
- Similar to concerns around shepherding for Compact compliance, the State Engineer's role in ensuring environmental releases of water that are required to protect endangered species under the Programmatic Biological Opinion could be seen as causing a loss of fair market value of water rights.

c. Local land use regulations. Almost any land use regulation that does not allow the "highest and best use" of property could arguably diminish the value of private property and be subject to claims of loss of fair market value of property, including those regulations for water quality protection and to conserve water. Examples include:

- Development permit conditions to protect water quality
- Low impact development regulations that require clustering or restrict allowable impervious surfaces
- Zoning for open space, conservation, or other restrictions on use of land
- Stormwater runoff and erosion control regulations, especially when requiring additional infrastructure be completed on site at additional expense to the landowner or developer
- Regulations that require buffers, setbacks, open space, or similar development restrictions to protect streams and riparian areas
- Requiring new development to provide water rights
- Infrastructure improvements that create additional traffic, construction, noise, or disturbed views
- Best management practices and other limitations on mining or oil and gas development

- Terms or conditions on “1041” permits for water projects designed to mitigate impacts of reduced flows to the aquatic environment.

d. Colorado Oil and Gas Conservation Commission Rules. COGCC could face compensation claims for any rules that limit the use of mineral rights including those that protect public health and safety or forced pooling to ensure fairness amongst mineral rights owners.

e. Mined Land Reclamation Permits. The Mined Land Reclamation Board could face compensation claims for limitations imposed on the aerial extent of mining, water quantity and quality protections, or requirements that minerals to be left in the ground to prevent subsidence.

IV. Conclusion

The breadth of Amendment 74 is huge and would affect all aspects of state and local regulation. Water quality and planning for Colorado’s future water needs are just some of the ramifications of this amendment. It would negatively affect private property owners as well as all taxpayers who would bear the burden of mounting litigation. As opponents have said, if Amendment 74 were to pass it would make TABOR look like child’s play. QQ opposes Amendment 74 and urges members to help educate the public and other partners on this important issue.



EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO

1144 Sherman Street, Denver, CO 80203 • (p) 303-831-6411 / 866-578-0936 • (f) 303-860-8175 • www.cml.org

To: Interested Municipal Officials
 From: Sam Mamet, Executive Director
 Date: September 2018
 Subject: Amendment 74 Introductory Memo

What follows is a brief summary of a significant statewide ballot measure on the November ballot, Amendment 74, “Just Compensation for Reduction in Fair Market Value by Government Law or Regulation.” Amendment 74 could have dramatic impacts on state and local governments. Your careful analysis of this measure is strongly encouraged, as well as communication with county commissioners, neighboring municipal leaders, business interests like your chamber, neighborhood groups, and the community at large. This packet contains several important documents and we urge careful review. Please go to www.cml.org for more information or contact me directly at smamet@cml.org. **We need your help to defeat Amendment 74.**

PROPOSED AMENDMENT 74

Amendment 74, drafted by out-of-state corporate interests seeks to amend Section 15 of Article II of the Colorado Constitution to require just compensation if private property has “reduced fair market value by government law or regulation”. Shrouded in simple language, Amendment 74 will have far reaching and potentially disastrous consequences.

Key Highlights (Not Comprehensive)

- Under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments. Amendment 74 expands this well-established concept by requiring the government – i.e., the taxpayers – to compensate private property owners for virtually any decrease whatsoever in the fair market value of their property due to any government law or regulation.
- Just about any municipal action could result in a lawsuit. Any inaction could as well, if the effect is even the slightest drop in an individual property’s “fair market value.”
- The obligation to compensate is triggered without regard to how long someone has owned the property or what the intentions or actions of the property owner are.
- There are no exceptions for health, safety, and general welfare regulations or those actions mandated by the federal or state governments.
- Once passed, there is no flexibility granted to the General Assembly to implement this measure; only the Colorado Supreme Court will be left to interpret the Amendment, including what “fair market value” and “reduced” means. This litigation will come at a high cost to state and local governments, paid for by taxpayers. Decisions on key matters will come to a halt while awaiting further clarification from the courts.
- The bottom line: Amendment 74 will require large pay outs from state and local governments, which means higher taxes for citizens and a reduction in essential government services such as parks, police, utilities, etc. We don’t yet know how far reaching this Amendment will be, only that has potential to be disastrous for our state and local governments.

Municipal Impacts

- This measure will cripple local budgets through both increased legal costs and pay outs to individual property owners. Any decision by a government body would be vulnerable to lawsuits, with the cost borne by taxpayers.
- Municipal services under threat of being reduced include:
 - Parks, recreation centers, and neighborhood pools;
 - Police officers and police services;
 - Trash collection;
 - Maintenance of gas and water main lines;
 - Maintenance of streets and sidewalks;
 - Licensure of businesses; and

- Maintenance of land use codes to protect the structure and character of neighborhoods.
- The State of Oregon briefly enacted a similar statute, and in a few short years the measure led to thousands of individual claims, totaling in excess of several billion dollars. Three years after the statute passed, Oregon voters realized the extent of the statute on the economic vitality of the state and effectively repealed the statute. Our communities—and our state—simply cannot afford the impacts of this measure.

Examples of Potential Municipal Impacts

- *Infrastructure Improvements.* Colorado's population is expected to nearly double by 2050. State and local governments will have to expand public roads to accommodate new residents. Under Amendment 74, governments could be sued by nearby property owners affected by any infrastructure improvements due to loss in the fair market value of their homes caused by construction, busier streets, noise, and general changes to the character of neighborhoods. This Amendment will make it extremely difficult for state and local governments to improve or replace all kinds of public improvements such as storm water, electric utilities, sewage, rights of ways, easements, and transportation infrastructure because of potential liability.
- *Regulation of Airbnb.* Airbnb is a way for homeowners to make income on their private property by renting their properties for a per night fee. However, utilizing Airbnb has caused neighboring homeowners to raise concerns about crime and safety; noise levels, especially when the short term rentals are used for large parties; and a general loss of community in their neighborhoods. Under Amendment 74, any action a city council or town board decides to take under this scenario could leave them vulnerable to lawsuits from individual property owners: either lawsuits over the loss in rental income if a municipality forbids short term rentals in a certain area or lawsuits over the loss in fair market value to individual property because of a decrease in the character, safety, and sound quality of a neighborhood.
- *Broadband.* Voters in over 100 counties and municipalities across Colorado have told their local leaders to explore public private partnerships for better broadband access. State law has allowed this process since 2005. An incumbent provider could sue the local government for reducing the business investment previously made, even though the service has been inferior, causing such a vote to occur in the first place. The efforts to improve rural broadband access may be threatened.
- *Adult Entertainment Establishments.* Municipalities use zoning to form the character of neighborhoods and ensure a well-balanced community. As part of this, many municipalities limit the location of adult entertainment establishments. If a municipality regulates where an adult entertainment establishment can be, an owner could sue for loss in fair market value as one particular location may attract more business than another. If the municipality moves to allow adult entertainment establishments to conduct business anywhere, then property owners adjacent to these establishments may sue for loss in fair market value of their property if, for example, the crime rate rises.
- *Economic Development.* Incentives to attract new industry or retain existing businesses are done as a matter of course in many jurisdictions across the state. It is a contributing factor to Colorado's strong economy. If Amendment 74 passes, this practice may be stifled by an individual who sues a local government that is providing incentives, claiming their property's fair market value is reduced. Local governments will have to weigh the benefit of bringing in businesses with the detriment of paying for individual lawsuits. Statewide economic development groups are rightly concerned about this aspect of the proposal. Urban renewal and redevelopment projects may similarly be impacted by the negative effects of Amendment 74.
- *Affordable Housing.* Municipal leaders continue to struggle with how to best address the affordable housing challenges many of our communities face. One way communities address the problem is through a rezoning to allow for affordable housing. However, under Amendment 74, an individual may sue because the policy reduces the fair market value of their neighboring property. Suddenly, a project that has wide support in a community has been thwarted, at the expense of all the taxpayers in that city or town.
- *Land Use.* The decision making around land use and zoning is complicated enough. An already complex process to approve a new development will now take even longer and will be more costly because municipal decision makers will have to ensure their decisions cause the least amount of liability. Every action may have a new consequence and inaction may result in legal exposure under Amendment 74.

Government actions affect every area of a citizen's daily life from collecting trash, to employing police officers, to keeping communities safe. Requiring governments to pay for any reduction in fair market value will **cripple** state and local governments in Colorado, with the burden paid by taxpayers who must also contend with a reduction of government services.

Vote "NO" on Amendment 74. Protect our neighborhoods. Urge your friends and associates to do the same.

Talking Points for Local Elected Officials on Amendment 74

Amendment 74 – “Just Compensation for Reduction in Fair Market Value by Government Law or Regulation”

Amendment 74 seeks to amend Section 15 of Article II of the Colorado Constitution to require just compensation if private property has “reduced fair market value by government law or regulation”. As this Amendment will have negative impacts on local governments if passed, CML encourages local elected officials to speak to their communities. Below are some suggested talking points.

- The ability of elected officials to act on behalf of the collective health, safety, and welfare of their community is a core function of government. Amendment 74 undermines the ability of state and local governments to effectively represent their constituents and protect their interests in vital areas such as clean water and air, zoning enforcement, and infrastructure improvements.
- Under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments. Amendment 74 expands this well-established concept by requiring the government – i.e., the taxpayers – to pay private property owners for virtually any decrease in the “fair market value” of their property due to a government law or regulation.
- No one truly knows how this proposed expansion of Section 15 could impact Colorado or local governments... But adding this language to the Constitution will add new layers of ambiguity to the Constitution and leave local governments and taxpayers with unprecedented levels of legal exposure.
- This ambiguity will result in taxpayer dollars going towards lawsuits, which either means a rise in taxes or a reduction in government services for neighborhoods, including parks, police, and utilities.
- Any change in law or regulation, even those broadly desired by a community or those in the interest of health, safety, and welfare, could be challenged by private land owners. Governments will be reluctant to address important policy issues.
- Amendment 74 will undoubtedly lead to increased legal exposure and costly litigation that will increase costs for government programs and services. These will be paid for at the taxpayers’ expense.
- Municipalities will become collateral damage in private property disputes between owners who feel their property rights have been diminished at the behest of another. Any action by a local government could require that these property owners be compensated.
- In sum, Amendment 74 has unintended consequences which will cost Colorado communities too much money, while at the same time putting Colorado citizens in danger. It is a very risky proposition for our communities, our families, and our Colorado.
- [Cite a positive project in your city or town which could be impacted under Amendment 74.]



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Resolution 20-2018, A resolution supporting “Amendment 73”, a statewide school funding initiative that will increase income taxes for 8% of tax filers and for corporations, while decreasing property taxes for business property owners, farmers and ranchers.

Summary: The Gunnison Watershed School District has requested that the Town Council consider a resolution of support for the statewide school funding initiative known as Amendment 73.

Previous Council Action: At the regular meeting on September 17th the Town Council directed that the resolution of support be placed on the agenda for consideration.

Background and Discussion: The school district has provided overview information that has been included in the packet. Leslie Nichols, Superintendent, will be at the Council meeting to present and answer questions.

Recommendation: Staff recommends the Town Council approve Resolution 20, Series 2018 supporting the statewide school funding initiative known as “Amendment 73”.

Proposed Motion: A Council members should make a motion “to approve Resolution 20, Series 2018 supporting the statewide school funding initiative known as “Amendment 73”

Followed by a second and roll call vote

**RESOLUTION NO. 20
SERIES 2018**

**A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL SUPPORTING
“AMENDMENT 73”, A STATEWIDE SCHOOL FUNDING INITIATIVE THAT WILL
INCREASE INCOME TAXES FOR 8% OF TAX FILERS AND FOR C CORPORATIONS,
WHILE DECREASING PROPERTY TAXES FOR BUSINESS PROPERTY OWNERS,
FARMERS AND RANCHERS**

WHEREAS, the Town of Crested Butte believes that every student should have the opportunity to reach his or her full potential and to participate meaningfully in the civic and economic life of the community; and

WHEREAS, quality public education develops a competitive workforce that will drive a vibrant Colorado economy for decades to come; and

WHEREAS, Colorado is experiencing a teacher shortage crisis and many teachers in rural districts do not make enough salary to meet the cost of living; and

WHEREAS, Colorado's investment in education is lagging behind other states — Colorado ranks 48th nationally in personal income invested in education; and

WHEREAS, Amendment 73 will bring Colorado's investment in public education closer to the national average by raising \$1.6 billion dollars annually; provide sustainable support for schools by stabilizing school property taxes; provide additional funding for all students and address the most pressing needs of Colorado's public schools — specifically, funding for full-day kindergarten and a significant increase in funding for Early Childhood programs, Special Education programs, At-Risk students, English Language Learners and Gifted & Talented students; and

WHEREAS, education funding has not recovered from the recession; in the 2018-19 school year alone, Colorado schools are underfunded by \$672.4 million; and

WHEREAS, the loss due to the negative factor to the Gunnison Watershed School District has been over \$16.1 million since 2009; and

WHEREAS, reduced funding is directly impacting the District's ability to provide meaningful educational opportunities for all students; and

WHEREAS, the reduced funding also limits the Board's ability to respond to parents and community input on the District's programs and services, despite the Board's great desire to engage with and respond to its community; and

WHEREAS, Amendment 73 expands students' educational opportunities to prepare them for success in college, career and life; preparing a qualified workforce for decades to come; and ensuring that Colorado's economic prosperity is shared with every community throughout the

state; and

WHEREAS, Amendment 73 gives local school boards greater ability to respond to parent and community input and provide programs and services to meet the needs of all their students; and

WHEREAS, if Amendment 73 passes, the Gunnison Watershed School District Board has committed to focusing on the following priorities: expand funding for facilities, infrastructure and technology; provide additional staffing and make salaries more competitive; bolster counseling and mental health services; expand preschool funding; expand career and technical education programs; keep curricular materials current; and increase funding for all programs, while acknowledging that priorities will evolve as community engagement is an ongoing process and revenue from Amendment 73 is annual funding; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THAT:

The Town of Crested Butte supports Amendment 73 and strongly urges a vote of YES this November.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THIS 1st DAY OF OCTOBER, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

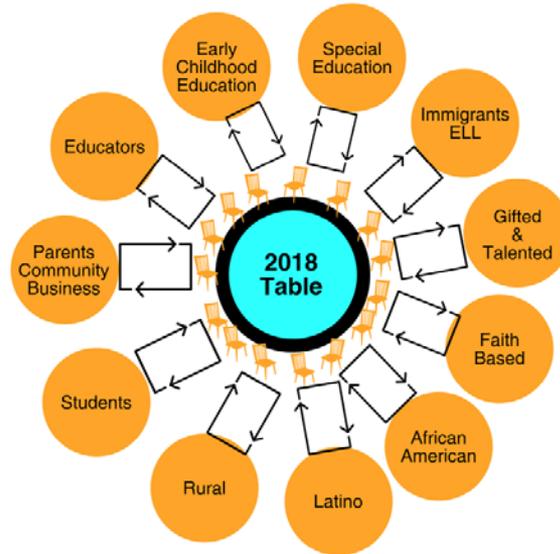
Lynelle Stanford, Town Clerk

Statewide Funding Ballot Initiative



Background

- **Diverse and inclusive coalition** of education-focused organizations began meeting in July 2016 to focus on the Colorado school funding crisis



Goals

- **Raise additional revenue for education**
 - Distribute new revenue adequately and equitably
 - Ensure local benefit and local control over how revenue is spent
- **Provide a structural fix to the declining local revenue source**

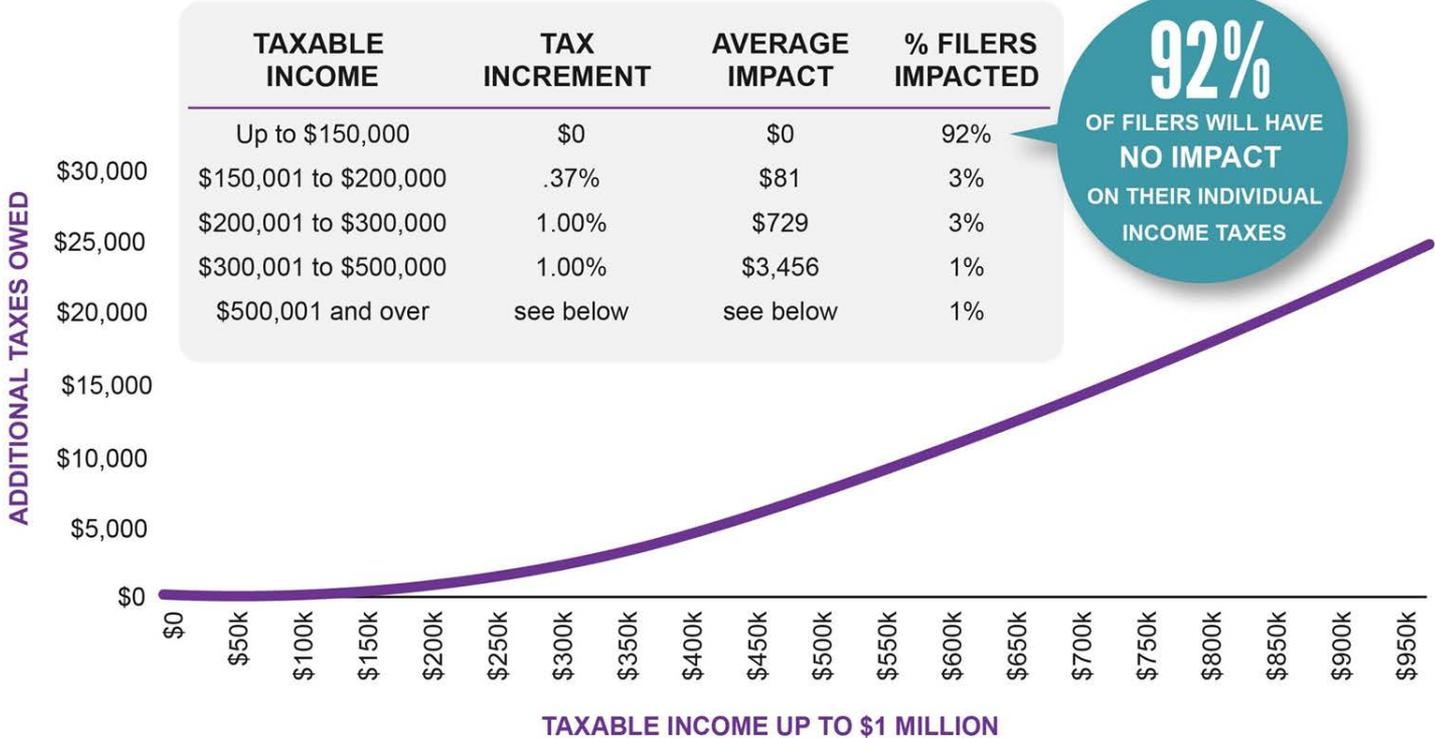


GSTC creates the Quality Public Education Fund

- Supports and enhances the quality of preschool through twelfth grade (P-12) public education beginning in FY 2019-20
- Contains revenue from a proposed income tax increase
- Is exempt from the TABOR revenue limit
- Must be used to supplement General Fund appropriations for P-12 public education
- Adjusted each year for inflation up to 5 percent



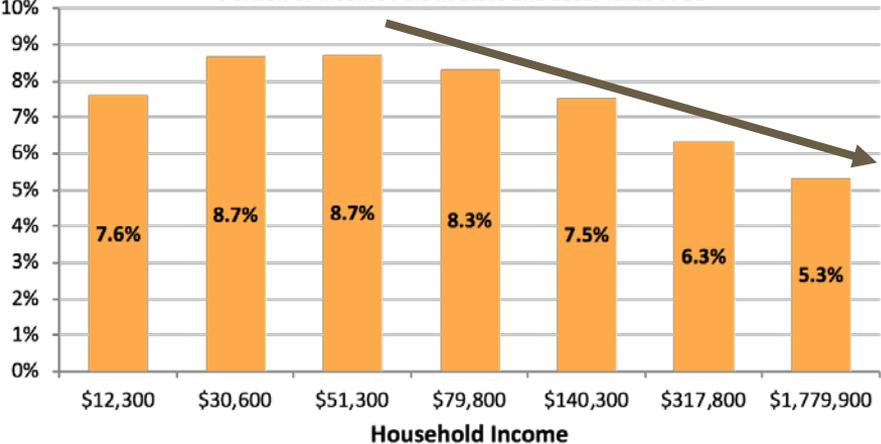
Raises \$1.6 billion through income tax and corporate tax changes



Starts at federal taxable income above \$150,000 ¹⁸⁴

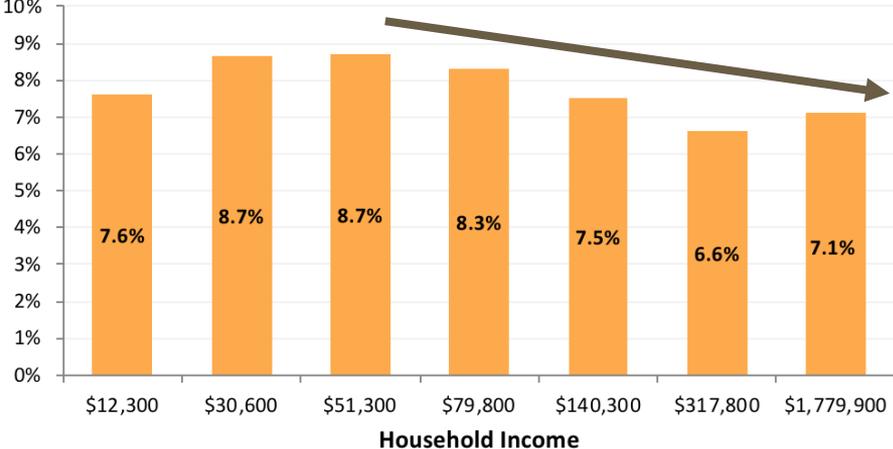
Current

Portion of Income Paid in State and Local Taxes in CO



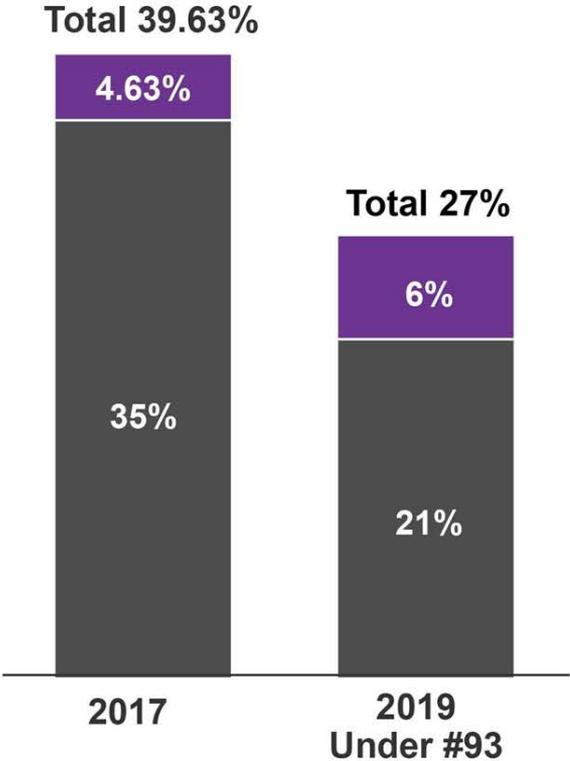
With Initiative #93

Portion of Income Paid in State and Local Taxes in CO with GSTC Initiative



Corporate tax on C Corporations will increase by 1.37% to 6%

185



■ Colorado Corporate Rate

■ Federal Corporate Rate



Addresses the structural problem in the property tax system for education

All property tax revenues remain at the local level and go to pay for schools, roads, fire protection, police and other local services

YEAR	RESIDENTIAL	COMMERCIAL
1982	21%	29%
1995	10.36%	29%
2018	7.2%	29%
2019	7.0%	24%
2019 <i>Projected Drop</i>	6.1%	29%



sets assessment rates permanently for the purpose of education funding



! Colorado property tax rates are the third lowest in the nation and continue to drop, resulting in fewer resources for local services.

- #GSTC2018 INITIATIVE**
- Makes funding more sustainable
 - Provides relief to commercial tax payers
 - Provides relief to state budget that attempts to backfill losses to education

Stabilizes the local share that continues to decrease as a percent of total school funding

The Statewide Average 2018-2019

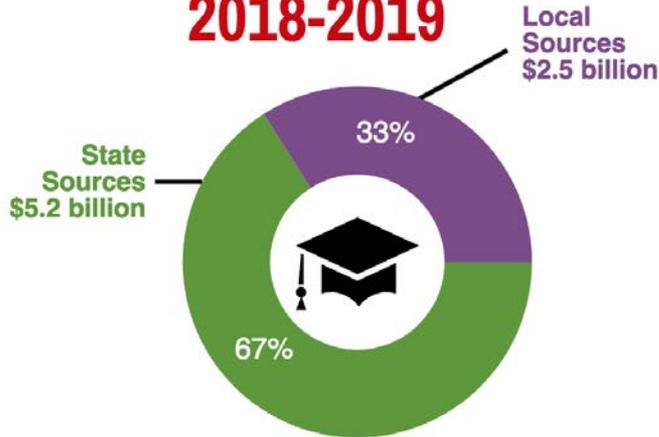
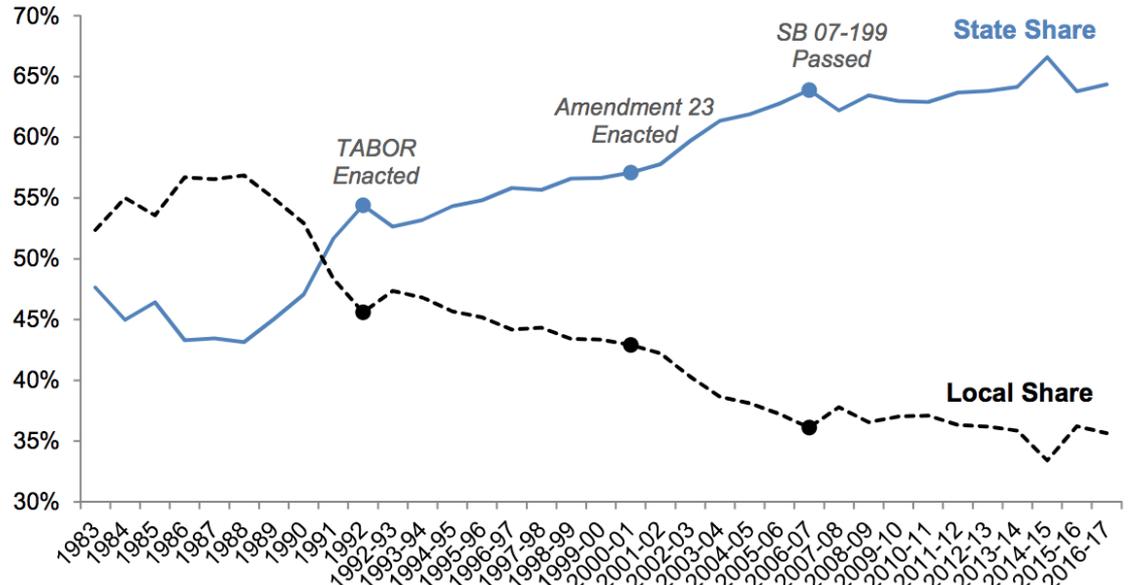


Figure 8
Relative State and Local Shares of School Finance, 1983 to FY 2016-17



Source: Legislative Council Staff.

Note: Prior to 1993, K-12 funding was done on a calendar year basis.



Economic Impact

“Additional spending on public education will increase employment, income and spending in some industries and may increase economic opportunities for students. Households and businesses will pay more in income taxes, reducing investment, spending, or saving elsewhere in the economy.”

*Source: Initiative #93
Fiscal Impact Statement*



Raises \$1.6 billion to address local needs and ensures decisions are made at local level

- Increases **base funding** for all students
- Provides funding for **full-day kindergarten** and increases revenue going to **early childhood education** funding
- Expands the definition of “at-risk” students to count **free and reduced lunch** kids
- Significantly increases the amount of funds passing from the state to local districts for: **Special Education, English Language Learners, and Gifted & Talented** students



Local Impact



School District	Funding Shortfall Since 2009-2010	Funding Shortfall 2018-2019	New Revenue from GSTC ¹⁹¹
Delta County	-\$41.3 million	-\$3.5 million	\$7.8 million
Gunnison Watershed	-\$16.1 million	-\$1.5 million	\$3.2 million
Hinsdale	-\$1.6 million	-\$0.2 million	\$0.4 million
Montrose	-\$51.8 million	-\$4.5 million	\$9.8 million
Norwood	-\$3.4 million	-\$0.3 million	\$0.6 million
Ouray	-\$3.0 million	-\$0.2 million	\$0.5 million
Ridgway	-\$4.0 million	-\$0.4 million	\$0.7 million
Telluride	-\$9.8 million	-\$0.9 million	\$1.9 million
West End	-\$3.8 million	-\$0.3 million	\$0.7 million

School District	Student Count	Funding Shortfall 2018-2019 B.S. Factor	Increase in Per Pupil Revenue through GSTC ¹⁹⁹
Delta County	4,828	-\$726	\$1,622
Gunnison Watershed	2,024	-\$739	\$1,560
Hinsdale	112	-\$1,411	\$3,951
Montrose	6,125	-\$741	\$1,603
Norwood	246	-\$1,181	\$2,318
Ouray	173	-\$1,434	\$2,761
Ridgway	332	-\$1,059	\$1,982
Telluride	926	-\$1,000	\$2,035
West End	286	-\$1,211	\$2,275

School District	Total New Revenue from GSTC	MLOs Required to Raise this Revenue Locally	District Capacity to Raise Per Mill
Delta County	\$7.8 million	22.6	\$346,578
Gunnison Watershed	\$3.2 million	5.9	\$539,471
Hinsdale	\$0.4 million	7.5	\$58,983
Montrose	\$9.8 million	19.9	\$494,302
Norwood	\$0.6 million	13.1	\$43,622
Ouray	\$0.5 million	8.3	\$57,355
Ridgway	\$0.7 million	7.0	\$94,393
Telluride	\$1.9 million	2.4	\$784,328
West End	\$0.7 million	17.7	\$36,774

Average Income and Taxpayers Impacted by GSTC

County	Average Income	% of Taxpayers \$150k-\$200k	% of Taxpayers \$200k or more
Delta	\$59,903	3.3%	3.4%
Gunnison	\$61,646	3.1%	1.6%
Hinsdale	\$64,270	4.0%	2.4%
Ouray	\$75,082	5.4%	4.2%
Montrose	\$55,363	2.4%	1.4%
San Miguel	\$78,816	5.7%	6.5%



Source: US Census Bureau — 2016 data on income



Income: \$61,646

195

Federal Taxable Income: \$43,207

Home Value: \$350,000

State Tax Changes Under Initiative



\$0 additional income tax



\$11 - \$22 property tax savings

**Gunnison Watershed
School District New
Revenue from the Quality
Public Education Fund:**

**\$1,560 per student in
additional dollars**

**\$3,157,985
Total**



Income: \$200,000

196

Federal Taxable Income: \$166,306

Home Value: \$400,000

State Tax Changes Under Initiative



\$60 additional income tax

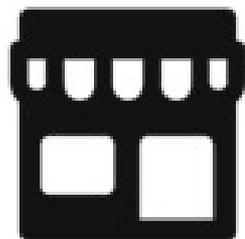


\$12 - \$26 property tax savings

**Gunnison Watershed
School District New
Revenue from the Quality
Public Education Fund:**

**\$1,560 per student in
additional dollars**

**\$3,157,985
Total**



Impact on Non-C Corp Business Owner

Income: \$550,000 (passthrough \$400,000)¹⁹⁷

Federal Taxable Income: \$425,682

Home Value: \$750,000

Business Property: \$1,000,000

State Tax Changes Under Initiative



\$4,534 additional income tax



\$23 - \$48 property tax savings

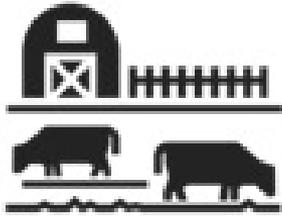


\$775 - \$1,594 property tax savings (non-residential)

**Gunnison Watershed
School District New
Revenue from the Quality
Public Education Fund:**

**\$1,560 per student in
additional dollars**

**\$3,157,985
Total**



Income: \$100,000

198

Federal Taxable Income: \$76,378

Home Value: \$225,000

Other Property Value: \$300,000

State Tax Changes Under Initiative



\$0 additional income tax



\$7 - \$14 property tax savings



\$233 - \$478 property tax savings (non-residential)

**Gunnison Watershed
School District New
Revenue from the Quality
Public Education Fund:**

**\$1,560 per student in
additional dollars**

**\$3,157,985
Total**



Impact on: C-Corporations

Corporate Profits

Federal Tax Change

State Tax Change for Public Schools

\$50,000

\$7,000 savings

\$685 increase

\$500,000

\$70,000 savings

\$6,850 increase

\$2,000,000

\$280,000 savings

\$27,400 increase

Arguments For and Against

200

For

- One of government's most important functions is to provide children with a high-quality education. Colorado's economy is one of the strongest in the nation and now is the best time to invest.
- Addressing the chronic underfunding of our schools and investing in public education support a prepared workforce, safe and healthy communities, a vibrant economy and the next generation of leaders, entrepreneurs and care takers.
- All Colorado students and schools benefit through increases to base funding, full day K, at-risk, ELL, Special Needs and GT. Dollars are under control of your locally elected school board.

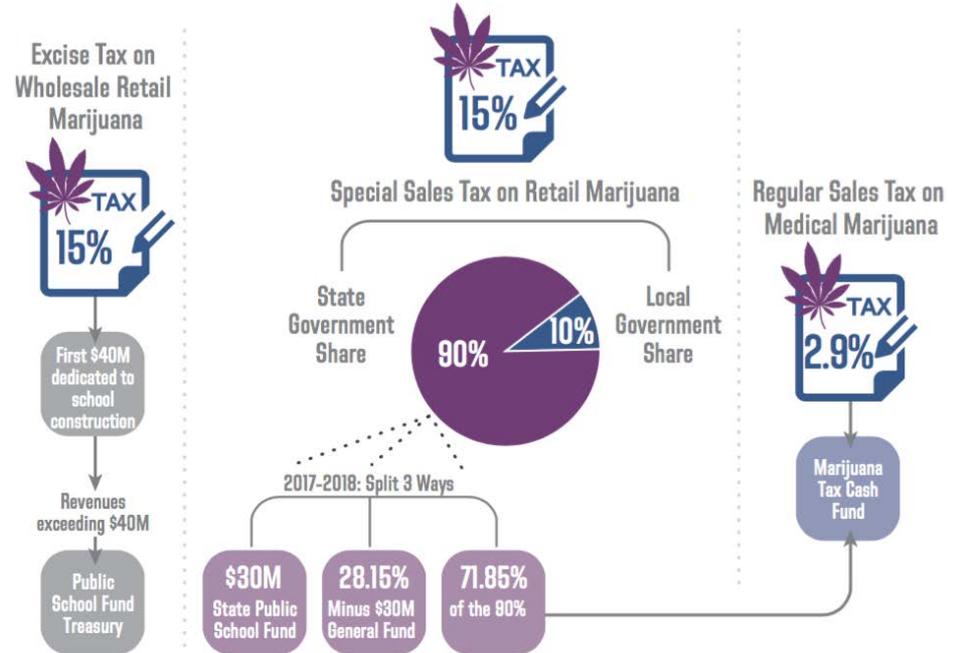
Against

- #93 is a \$1.6 billion tax increase that may impede economic expansion. Increasing state income taxes reduces the money that households have to spend or save. As a result, consumer spending and overall economic activity may also decline.
- This measure imposes an additional tax burden on state taxpayers without any guarantee of increased academic achievement.
- A graduated income tax decreases productivity because as a person's income rises, the percentage of their income that they get to take home decreases because the marginal tax rate increases. It will drive wealth out of the state.

Questions?

What about the Marijuana Tax Money?

It is a misperception that most of the marijuana tax revenue goes to K-12 education. The majority of funds go to the Marijuana Tax Cash Fund for healthcare, health education, substance abuse and treatment programs and law enforcement. Schools are eligible for \$40 million in competitive grants for school construction and about \$30 million was allocated to go to rural schools in 2017-18.



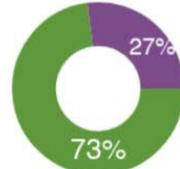
Tax Capacity per Mill Levy Varies Dramatically

Min: \$5,000 per mill

Max: \$16m per mill



The state/local share varies widely by school district: ²⁰³



Aurora
State/Local Ratio



Boulder
State/Local Ratio



Douglas County
State/Local Ratio

Why? Because of factors outside of a district's control—property wealth and commercial/residential mix vary significantly.

- 1 First, the School Finance formula calculates how much local property tax will be collected under the district's mill rate.
- 2 Then the state "backfills" the difference between the state-calculated per pupil—or Total Program calculation (see sidebar)—and local contribution. This equalization allows each district to receive its Total Program amount regardless of the amount of local taxes raised.

Senior Homestead Exemption

The Senior Homestead Exemption acts as a property tax break for seniors who are 65 or older, and who have lived in their home for at least 10 years. Specifically, it exempts 50% of the first \$200,000 of the house's value.

Seniors who qualify would use the property value after the exemption calculation (the example to the right shows a \$250,000 property value).

How it Works



\$350,000

-\$100,000

\$250,000

$$\times 7.2\% = \$25,200 \times 85 \text{ mills} = \$2,142$$

$$\times 7.2\% = \$18,000 \times 85 \text{ mills} = \$1,530$$

State pays and senior saves \$612

Who Benefits

\$580

average savings to
homeowner in
property taxes
through exemption
in 2016

227,611

senior exemptions

5,016

disabled veteran
exemptions

12%

of properties
received homestead
exemption
in 2016



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Resolution 21-2018, a resolution supporting ballot measure “7D” to deBruce the Gunnison Metropolitan Recreation District, and increase the mill assessment back to the original amount of 1 mil that was established when the district was created

Summary: The proponents of ballot measure 7D have requested that the Town Council consider a resolution of support for deBrucing and returning the mil supporting MetRec to the full 1 mil originally approved by the voters.

Previous Council Action: At the regular meeting on September 17th the Town Council directed that the resolution of support be placed on the agenda for consideration.

Background and Discussion: Ian Billick has provided an email summarizing the reasons that MetRec has placed this item on the upcoming ballot. Representatives supporting the ballot measure plan to attend the Council meeting to express their support and answer questions.

Recommendation: Staff recommends the Town Council approve Resolution 21, Series 2018 supporting the ballot initiative known as “7D”.

Proposed Motion: A Council members should make a motion “to approve Resolution 21, Series 2018 supporting the ballot initiative known as “7D”.

Followed by a second and roll call vote

RESOLUTION NO. 21**SERIES 2018****A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL SUPPORTING BALLOT MEASURE “7D” TO DEBRUCE THE GUNNISON METROPOLITAIN RECREATION DISTRICT, AND INCREASE THE MILL ASSESSMENT BACK TO THE ORIGINAL AMOUNT OF 1 MIL THAT WAS ESTABLISHED WHEN THE DISTRICT WAS CREATED**

WHEREAS, the Gunnison Metropolitan Recreation District (“Met Rec”) was formed in 1978, under the provisions of Part 8 of Article 1 of Title 32 C. R. S. 1973, for the purpose of providing television and FM radio translator service within the confines of the District; and

WHEREAS, in 2000, the Met Rec Board of Directors received approval from the Gunnison and Saguache Boards of County Commissioners to expand the mission of the District to include recreation, arts and cultural services; and

WHEREAS, 50% of all Lottery Funds received by Met Rec are shared with other local governments to facilitate park and recreation services. At the end of 2016, \$554,192 has been shared with local governments in the service plan area since 2001 including \$60,507 to the Town of Crested Butte; and

WHEREAS, revenue sharing and grant awards of \$1.45 million have benefited every sector of the local communities positively impacting recreation, parks, trails, theatre, music, education, culture, athletics and historical preservation throughout the Met Rec District; and

WHEREAS, the television translator system, encompassing 12 translator sites strategically located throughout the Met Rec District, broadcasts exceptional quality over-the-air digital television signals. Viewers in most areas can easily receive signals utilizing an outdoor antenna; and

WHEREAS, locally originated Crested Butte TV is broadcast through the translator system. CBTV provides local weather forecasts, avalanche and backcountry conditions and emergency broadcast services as well as a wide range of recreation programming; and

WHEREAS, Met Rec supports KBUT and Colorado Public Radio through in-kind contributions and by making space available at District broadcast communication facilities. The audio signal for KBUT is provided on the on-air channel guide, increasing listener access to KBUT broadcasts; and

WHEREAS, it is unlikely if this measure fails that Met Rec will continue to be able to provide over the air television. They estimate that within two or three years Met Rec will have insufficient funds to keep up with equipment replacement costs; and

WHEREAS, if the Met Rec is de-Bruced, initiatives to support recreation initiatives could be taken to a subdistrict representing the entire north end of the valley. While Met Rec

exists, there cannot be another recreation district that unifies the north end of the valley. Unless the Met Rec can operate on a sustainable basis, a great deal of the burden for recreation for the entire north end of the valley will continue to fall on the residents of Crested Butte; and

WHEREAS, Met Rec's translator sites will be important in the future for telecommunications. Permitting and access will only get harder. It is difficult to know exactly how internet, cell phone service, and television will be distributed throughout the county, including up through the SH 135 corridor. However, if the Met Rec District is not able to maintain over the air television and we lose control of those sites, we may lose a very important tool for ensuring information connectivity

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THAT:

The Town of Crested Butte supports ballot measure 7D and strongly urges a vote of YES this November.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THIS 1st DAY OF OCTOBER, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

Dara MacDonald

From: ibillick@gmail.com
Sent: Friday, September 14, 2018 10:33 AM
To: 'Cassia Cadenhead'; Dara MacDonald; 'Jim Schmidt'; 'Laura Puckett Daniels'; 'derrick nehrenberg'
Subject: Effort to debruce the Gunnison Metropolitan Recreation District/Yes on 7D

Dear CB Town Council Members,

We are requesting support from the Town Council on ballot initiative 7D. This initiative would debruce the Gunnison Metropolitan Recreation District, and increase the mill assessment back to the original amount of 1 mil that was established when the district was created. Here are some relevant things to consider.

1. This is the only tax district in the county that has not debruced.
2. It is unlikely if this measure fails that the district will continue to be able to provide over the air television. We estimate that within two or three years the district will have insufficient funds to keep up with equipment replacement costs. As you know, TABOR restrictions can have very severe consequences for taxing districts. They hit capital intensive districts such as Met Rec particularly hard.
3. Because of how the district was established, it can be the only tax district to support recreation that pulls together the north end of the valley. If the district is debruced, initiatives to support recreation initiatives could be taken to a subdistrict representing the entire north end of the valley. While this district exists, there cannot be another recreation district that unifies the north end of the valley. Unless the met district can operate on a sustainable basis, a great deal of the burden for recreation for the entire north end of the valley will continue to fall on the residents of Crested Butte. So we think it is in the best interest of CB residents to have a viable district representing the entire north end of the valley.
4. There is strong interest within the community to figure out how to support sustainable tourism and recreation. The metropolitan recreation district over the long run could be a key tool.
5. The district's translator sites will be important in the future for telecommunications. Permitting and access will only get harder. It is difficult to know exactly how internet, cell phone service, and television will be distributed throughout the county, including up through the 135 corridor. However, if the district is not able to maintain over the air television and we lose control of those sites, we may lose a very important tool for ensuring information connectivity.

We are happy to provide any additional information the Council is interested in.

Thanks for considering our request!

Ian Billick
Crested Butte, CO 81224
970 349 6669



Staff Report

October 1, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Resolution 22-2018, A resolution supporting ballot measure “6A” proposing a property tax increase to create a dedicated source of funding for Gunnison County workforce and senior housing

Summary: The proponents of ballot measure 6A have requested that the Town Council consider a resolution of support for the property tax initiative to provide a dedicated source of funding for the Gunnison Valley Regional Housing Authority to work on affordable housing solutions.

Previous Council Action: The Town Council previously voted in June to allow the Gunnison Valley Regional Housing Authority to proceed with placing this measure on the ballot. At the regular meeting on September 17th the Town Council directed that the resolution of support be placed on the agenda for consideration.

Background and Discussion: The Gunnison Valley Regional Housing Authority (“GVRHA”) received authorization from all of the authorizing entities in the County to place this tax question on the ballot, including Gunnison County, the City of Gunnison, Mt. Crested Butte and Crested Butte.

In 2017, the GVRHA Board adopted a strategic plan that identified the need for a regional funding source to support the development of work force and affordable housing. The yearly funding need was established at \$1.6 million based upon the housing shortfall identified in the Gunnison Valley Housing Needs Assessment, prepared by Rees Consulting, Inc., November 2016. The strategic plan also identified the role of the GVRHA to primarily establish private/public partnerships for the development of housing in the Gunnison Valley and to administer Housing programs and deed restrictions created by the Authority.

In 2017, polling was conducted to gauge public sentiment on a lodging or property tax. Unfortunately, after polling had commenced, it was discovered pursuant to Colorado Revised Statutes that a lodging tax was not a taxing option available to the Authority. However, it was determined a property or sales tax could be levied by the Authority.

The Board discussed the two taxing options available and determined a sales tax was not a viable option because additional sales tax would push sales tax levels in the municipalities above 10%. Additionally, a sales tax increase can hurt local businesses as higher sales taxes cause people to

shop out of valley and online, thereby negatively impacting our local community. Property taxes are a more reliable/steady source of income, as sales (and therefore sales taxes) can vary wildly from month-to-month and year-to-year, dependent on events (economy, price of gas, hurricanes, etc.) that the Gunnison County community has direct connection with and no control over.

Therefore, on April 18, 2018 the Board voted to pursue a 1.5 mill increase in property tax to raise approximately \$880,000 a year. The Board voted to sunset 1 mill after 10 years of the execution of the tax by the voters of Gunnison County and continue up to .5 mills in perpetuity.

The taxing authority for GVRHA is derived from Section 29-1-204.5(2)(f.2), C.R.S. which provides that the Authority, subject to an election, may levy an ad valorem property tax not exceeding five mills on each dollar of valuation for assessment of the taxable property within the Authority. Each governmental entity that created the GVRHA must consent to the calling of the election. This includes the Towns of Crested Butte and Mt. Crested Butte, City of Gunnison and Gunnison County.

At this time a 1.5 mill property tax will cost residential property owners an additional \$10.80 per assessed \$100,000 while due to the Gallagher Amendment commercial property will be taxed an additional \$43.50 per assessed \$100,000. The proposed tax will fall short of the projected budget need of \$1.6 million over the next ten years, however, the funds generated by this tax could be leveraged by other housing funding generated in each municipality and by state and federal housing funding grants and programs.

There are several immediate needs that will assist in the creation and sustainability of housing for the County's work force. These can be characterized in five categories including:

- (1) the installation of horizontal infrastructure (earthwork, water and sewer service, roads),
- (2) vertical construction (labor, materials, design, permitting required to build housing),
- (3) rehabilitation and energy efficiency of existing housing,
- (4) continued land-banking, and
- (5) the administration of housing programs.

The proposed tax question would allow for funding to be used to address all of these categories.

Regarding (1) - Currently the biggest hurdle to the development of these lands for the County's workforce are the infrastructure and other horizontal costs to allowing development to occur. Horizontal costs are defined as "the costs to make raw land available to builders to begin horizontal construction including the costs for utility extensions, entitlements, roads, intersections improvements, site stabilization, and other services needed for residential development."

Regarding (2) - The average cost to make a block of housing available to begin vertical construction within a housing project has surpassed \$600,000 for a city block. These costs are exacerbated in areas with higher tap fees, for sites with topography, or other geographical limitations. Using proceeds of the ballot initiative to cover these costs would make more homes at lower price points feasible. Any housing produced with support from this tax will have long-term affordability maintained through deed restrictions and voluntary rent limit agreements.

Unfortunately there are significant costs of preparing any of the publicly controlled land to go vertical. This equates to high housing costs which makes housing unattainable for our County's work force. However, if the tax is used to assist with subsidizing the horizontal costs of construction

it will benefit both existing residents and utility user rate payers as well as assist with the development of attainable housing. By lowering or even eliminating horizontal costs, this will allow the GVRHA to then engage the private sector to produce housing that only includes the vertical costs for construction. This should produce both rental and home ownership housing opportunities for the County's work force.

The subsidization of vertical costs can be used to reduce building costs and thus lower the price point per unit for housing projects. It could be a particularly valuable tool to help assist with multi-family rental projects as they break ground. This can help the private sector reduce costs and guarantee lower rental rates. It should be noted, that using tax funding to assist with vertical construction is the most highly visible way to show results and ensure the long-term success of a regional funding source.

Regarding (3) - Existing housing programs and new programs that assist both home owners and renters rehabilitate their units will allow existing housing to function for a longer time, reduce the cost of living, and make households more comfortable and safe in their homes. Much of the existing housing inventory in our valley is in poor condition or is highly energy in-efficient. Some funds for these programs are provided at state and federal levels, but they are not sufficient to meet our local needs. Using the tax to leverage funding for these programs will allow them to serve more people in more phases of life and continues to support our work force once they are successful in securing housing.

Regarding (4) – The opportunities to create public/private partnerships are greatly enhanced by the ability of the public sector to provide land and infrastructure to a project. As the current parcels of land owned by the jurisdictions get built out, it will be prudent to continue to be pro-active in acquiring suitable parcels for development in the long-term.

Regarding (5) – The GVRHA Board recognizes the administration of the housing program is often the most controversial expenditure of the proposed tax. However, it is vital to ensuring that projects move quickly and efficiently as well as ensuring our residents continue to be in successful housing situations well after the project is finished. Home ownership is a major life step in the progression of any of our residents' lifetimes. Having a dedicated staff at the helm to assist buyers in with obtaining good home loans, being ready for the responsibilities of homeownership, or even working through a tough economic period is imperative. Finally, a well-administered housing program ensures fairness and equal opportunities to all of our residents to access the region.

Recommendation: Staff recommends the Town Council approve Resolution 22, Series 2018 supporting the ballot initiative known as “6A”.

Proposed Motion: A Council members should make a motion “to approve Resolution 20, Series 2018 supporting the ballot initiative known as “6A”.

Followed by a second and roll call vote

RESOLUTION NO. 22**SERIES 2018****A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL SUPPORTING BALLOT MEASURE “6A” PROPOSING A PROPERTY TAX INCREASE TO CREATE A DEDICATED SOURCE OF FUNDING FOR GUNNISON COUNTY WORKFORCE AND SENIOR HOUSING**

WHEREAS, the citizens and leaders of Gunnison County have worked together for years to maintain a dynamic and growing economy and take actions necessary to assure the continued strength of our communities; and

WHEREAS, these efforts have now been successful to the point where it is difficult for our workforce and senior citizens to obtain adequate housing for themselves and their families because the wages employers can afford to pay cannot provide enough income for the cost of available and needed rental and for sale housing; and

WHEREAS, large and small employers throughout the county are experiencing substantial difficulty in hiring and retaining employees at all levels of positions because of this housing shortage; and

WHEREAS, efforts to provide workforce and senior housing in other tourism-based communities have successfully bolstered the local economy, increased civic engagement, increased the quality of life, and provided them with year-round vibrancy; and

WHEREAS, a county-wide Housing Needs Assessment was performed in 2016 which concluded that approximately 960 new housing units, including 420 subsidized units, need to be made available in Gunnison County by 2020 in order to catch up with the accrued demand for housing caused by community growth; and

WHEREAS, as of now, half-way through that time period, only 25 of these subsidized units have been constructed of the 247 needed in the North Valley, primarily because there is little public funding available to help construct the needed housing; and

WHEREAS, the only feasible way to help provide the needed housing is to significantly leverage state and federal funding sources by demonstrating a county-wide commitment to this effort by creating a dedicated source of funding for workforce and senior housing; and

WHEREAS, no such source currently exists and the dedicated property tax proposed by ballot measure 6A would provide that critically needed commitment and source of funding.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO THAT:

The Town of Crested Butte supports ballot measure 6A and strongly urges a vote of YES this November.

**INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL OF THE
TOWN OF CRESTED BUTTE, COLORADO THIS 1st DAY OF OCTOBER, 2018.**

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

Lynelle Stanford, Town Clerk



Staff Report October 1, 2018

To: Mayor Schmidt and Town Council
From: Michael Yerman, Community Development Director
Thru: Dara MacDonald, Town Manager
Subject: **Block 76 and Triplex Affordable Housing Design Presentation**
Date: October 1, 2018

Background:

At the Council's September 17 meeting three developer teams presented their proposals for the Paradise Park Workforce Housing project. The teams were Bywater, Coburn Partners, and Morrison Group. Members of the Council and the public had the opportunity to ask questions, and the Council directed the Selection Committee to do further analysis of the three proposals and produce a recommendation. A summary of some of the key metrics of the three proposals is as follows:

Basic Comparison	BYWATER	COBURN	MORRISON
Total units	26	28	27
Total budget - cost to build	\$ 6,234,300	\$ 7,649,901	\$ 9,061,000
Total sales (Budget with profit)	\$ 8,254,814	\$ 8,254,902	\$ 10,191,859
Average price/unit	\$ 317,493	\$ 294,818	\$ 377,476
Cost/sq ft - before profit	\$ 240	\$ 297	\$ 321
Cost/sq ft - with profit	\$ 317	\$ 320	\$ 361
Total sq ft	26,000	25,760	28,266
Profit/Sales Commission	\$ 2,020,514	\$ 627,413	\$ 1,130,859
Profit as %	24%	8%	11%
Bedroom Mix	BYWATER	COBURN	MORRISON
Average price - 1 BR	\$ 221,762	N/a	\$ 283,333
Average price - 2 BR	\$ 326,115	\$ 271,955	\$ 361,910
Average price - 3 BR	\$ 375,873	\$ 404,469	\$ 443,893
Average Sq ft - 1 BR	750	-	594
Average sq ft - 2 BR	1000	870	1055
Average sq ft - 3 BR	1200	1150	1166
1 BR	5	0	3
2 BR	15	23	16
3 BR	6	5	8
Total Number of Bedrooms	53	61	59
AMI Served	BYWATER	COBURN	MORRISON
Average AMI Served	133%	124%	154%
Homes at/below 100% AMI	8	8	3
Homes 100% to 150% AMI	9	15	5
Homes above 150% AMI	9	5	18

Selection Committee Process:

The Selection Committee included Dara MacDonald, Jessie Earley, Kent Coward, Molly Minnerman, Michael Yerman, Will Dujardin, Jennifer Kermode, Darrin Higgs, Rob Zillioux, and Willa Williford. The Committee assessed the three proposals using these criteria:

- Project compatibility with existing neighborhood and overall Historic District.
- Strength of design and compatibility with the existing neighborhood design.
- Responsiveness to charrette feedback.
- Unit Mix and Price Point.
- Schedule.
- References.

All qualifications of the three teams and their ability to complete the project scope had been established earlier in the process. The Committee observed that none of the proposals met the desired distribution of price points based on the information gathered in the Housing Survey 2018 and Housing Needs Assessment 2016 – all of the proposals included too many units above 150% AMI.

The Committee had agreement that the Bywater team presented the strongest proposal with regard to existing neighborhood compatibility and the overall Historic District, while Coburn Partners scored best on price points and ability to serve households with lower incomes. The Morrison Group proposal, while fully responsive to the request, lagged behind Bywater and Coburn on both neighborhood compatibility and average sale price per home.

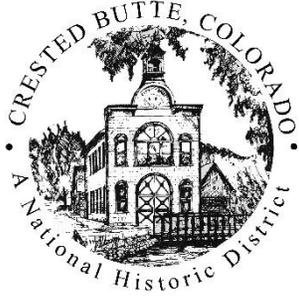
The Committee developed a number of follow-up questions and directed Rob Zillioux and Willa Williford to have meetings with the three teams, with a focus on gathering further information. These meetings covered additional details on design changes, budget, project phasing, team composition and bench strength, ability to lower sale prices, potential for adding one-bedroom units (in Coburn's case), questions arising from financial references, and mitigating risk in the event of a financial downturn.

After conducting the additional meetings the selection committee is recommending moving forward with contract negotiations with Bywater and Coburn. The reasoning for the Selection Committee's recommendation included the following:

- Confidence that both Coburn and Bywater can address the site plan issues identified by the Selection Committee, and be ready for BOZAR submissions in a timely manner.
- Strong preference from all three teams that the project move forward as a single phase to avoid re-mobilizing subcontractors, but flexibility from both teams if the project needed to be slowed or phased for economic reasons.
- Assurance in both teams' capacity to secure financing, assemble subcontractors, and provide the necessary back office administration to complete a project of this size and complexity.
- Both developers are willing to negotiate on price points within their proposals.
- In the case of Coburn, assurance that some one-bedroom units could be substituted for some two bedroom units in the unit mix, and that average size for 2BR units could be somewhat increased if needed.
- GVRHA's 2% commission was included in the proposed sale prices in the case of Coburn, but not in the case of Bywater.
- Need to further explore what would be an acceptable contractual relationship between the Town and the Developer, considering goals such as lowering the price points on homes and having contingency plans in the event the market softens.

Recommendation:

Staff recommends that Council direct staff to enter into negotiations with both Coburn and Bywater, with the intent of finding the lowest possible price points for local buyers, recognizing that the deal must remain profitable for the developer team, and that the Town potentially has a role in helping to mitigate risk. Staff further recommends that outcomes of these negotiations be brought back to Council on October 15, 2018 for a final selection with a possible contract for development services.



Staff Report

October 1, 2018

To: Mayor Schmidt and Town Council
Thru: Dara MacDonald, Town Manager
From: Michael Yerman, Community Development Director
Subject: **Resolution 23, Series 2018- Landscape Maintenance and Easement Agreement**
Date: October 1, 2018

Background:

The Town Council entered into a 2nd Pre-Annexation Agreement with Cypress Equities (Developer) on September 4, 2018. This agreement allows the developer to install landscaping along the new river trail. Since the landscaping will be located on Town property, a landscape maintenance and easement agreement must be granted by the Town to the developer for access for maintenance.

The landscape maintenance and easement agreement obligates the developer or a subsequent HOA to maintain the landscaping that will be located on the Town property along the river trail. The attached landscape and maintenance agreement allows the Aperture HOA or their agents to access Town property to maintain landscaping associated with the river trail and sets terms for irrigation, maintenance, and indemnification.

Staff Recommendation:

A council person should make a motion to approve Resolution 23, Series 2018 for the Landscape Maintenance, License, and Easement Agreement between the Town and Aperture Homeowners Association, Inc.

RESOLUTION NO. 23

SERIES 2018

A RESOLUTION OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING A LANDSCAPE MAINTENANCE AND EASEMENT AGREEMENT BY AND BETWEEN THE APERTURE HOMEOWNERS ASSOCIATION, INC. AND THE TOWN OF CRESTED BUTTE, COLORADO

WHEREAS, the Town of Crested Butte, Colorado (the “Town”) is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Town and Cypress Foothills, L.P. (“Cypress”) have entered into a Pre-Annexation Agreement for the Aperture subdivision; and

WHEREAS, the Second Amendment to the Pre-Annexation Agreement obligates Cypress to install, maintain and repair fence and landscaping along a river trail identified on the Aperture subdivision plat; and

WHEREAS, once Cypress constructs fence, and landscaping, the Aperture Homeowner Association (“Aperture”) will be responsible for maintaining and repairing the fence and landscaping.

WHEREAS, a Landscape Maintenance and Easement Agreement with Aperture is necessary for Cypress to carry out its obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT:

1. **Findings**. The Town Council hereby finds that entering into the Landscape Maintenance and Easement Agreement with Aperture is in the best interest of the Town.
2. **Authorization of Mayor**. Based on the foregoing, the Town Council hereby authorizes the Mayor to execute the “Landscape Maintenance and Easement Agreement” in the same form as attached hereto as **Exhibit “A.”**

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS ____ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE

By: _____
James A. Schmidt, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Landscape Maintenance and Easement Agreement

[attach approved form here]

LANDSCAPE MAINTENANCE, LICENSE, AND EASEMENT AGREEMENT

This Landscape Maintenance, License, and Easement Agreement (this “Agreement”) is entered into this ___ day of _____, 2018 by and between the Aperture Homeowners Association, Inc. (“Aperture”) and the Town of Crested Butte, Colorado, a Colorado home rule municipality (the “Town”). Each of the foregoing is referred to herein as a “Party” and collectively as the “Parties”.

I. Recitals

- A. Cypress recently platted the Aperture subdivision as recorded at reception number 648057¹ (“Aperture Subdivision”). As part of this development, Cypress and the Town entered into a “Pre-Annexation Agreement” recorded at reception number 638399 and two amendments thereto recorded respectively at reception numbers 643828 (the “First Amendment”) and _____ the (“Second Amendment”).
- B. Section 1.6 of the Second Amendment obligates Cypress to construct a River Trail² along the west bank of the Slate River. The location of the proposed River Trail is generally depicted on Exhibit B to the Second Amendment. Pursuant to section 1.6 of the Second Amendment, Cypress will also construct a fence between the River Trail and the Town’s public works yard (the “Fence”). Cypress will also construct berms, retaining walls, buffers, and landscaping associated with the River Trail, all of which will conform to the Fence, Berm, and Trail Plans attached to the Second Amendment as Exhibit D (the “Landscaping”).
- C. The River Trail, Fence, and Landscaping will be located largely on Town property once the boundary line adjustment contemplated by Exhibit B to the Second Amendment has been completed through the Town’s annexation process. Under Section 1.6 of the Second Amendment, Cypress is responsible for the installation of the River Trail, Fence, and Landscaping at its expense.
- D. Once Cypress has installed the River Trail, Fence, and Landscaping, the Town will be responsible for maintaining and repairing the River Trail in accordance with Section 1.6 of the Second Amendment, and Aperture will be responsible for maintaining and repairing the Fence and Landscaping. The purpose of this Agreement is to (a) set forth the terms and conditions pursuant to which Aperture will maintain the Fence and Landscaping once installed by Cypress and (b) set forth the terms pursuant to which Aperture will conduct construction and maintenance activities on Town property.

¹ All references to recorded documents are to documents recorded in the real property records of Gunnison County, Colorado.

² Capitalized terms and phrased used herein and not otherwise defined shall have the same meaning as ascribed to them in the Second Amendment.

- E. Aperture believes that entering into this Agreement is in the best interests of its lot owners and the subdivision because the aesthetic benefits of the Fence and Landscaping are intended to benefit Aperture lot owners as well as the public at large.

II. Agreement

NOW THEREFORE, in consideration of the foregoing recitals, the mutual promises, grants, and other provisions set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. *Interim License.* The Town hereby grants Aperture a license: (a) to access the Town's property for the purpose of, and to the extent necessary for: (a) the construction of the River Trail, Fence, and Landscaping; and (b) allowing Aperture to perform any and all necessary or prudent maintenance or repairs of the Fence and the Landscaping (the "License"). Aperture shall provide the Town with reasonable notice prior to using the License, which notice shall be at least 24-hours in advance of accessing Town property pursuant to the License. Further, Aperture shall coordinate with the Town to ensure that Aperture's use of the License does not unreasonably interfere with operations on the Town's public works yard or cause any safety risks to Aperture's agents, Town employees, or the public. The scope of the License granted herein shall allow the use of heavy equipment where such equipment is necessary to properly perform the work authorized by the License.
2. *Future Easement.* Following the boundary line adjustment between the Town's public works yard and the East Parcel where the Aperture subdivision is located, and the formal annexation by the Town of the West Parcel, the Town agrees to grant and convey an easement to Aperture across, over, and through Town property for the purpose of, and to the extent necessary, to allow Aperture to perform any and all necessary or prudent maintenance or repairs of the Fence and the Landscaping (the "Easement"). Aperture shall provide the Town with reasonable notice prior to using the Easement, which notice shall be at least 24-hours in advance of accessing Town property pursuant to the Easement. Further, Aperture shall coordinate with the Town to ensure that Aperture's use of the Easement does not unreasonably interfere with operations on the Town's public works yard or cause any safety risks to Aperture's agents, Town employees, or the public. The scope of the Easement shall allow the use of heavy equipment where such equipment is necessary to properly maintain or repair of the Fence or Landscaping. The Easement shall be recorded in the Office of the Gunnison County Clerk and Recorder
3. *Limited and Non-Exclusive Easement.* The License and Easement are respectively limited in its scope to what is expressly set forth above in paragraphs one and two above. No expansion of the License or Easement is permitted. The License and Easement are non-exclusive. The Town reserves the right to use the estate servient to the License and Easement for any and all purposes that are not inconsistent with the License and Easement.

4. *Revegetation and Restoration.* Immediately following any surface disturbance caused by, or resulting from, the exercise of the License or the Easement, Aperture shall restore the surface estate to substantially the same condition as it was in prior to the surface disturbance, including revegetating and restoring any disturbed areas as well as ensuring that the surface topography is not altered by the exercise of the License or the Easement. The term “surface disturbance” includes, without limitation, all dirt work and excavation and all other activities that result in the destruction, removal or damage of vegetation in place on Town property at the time of such activity.
5. *Maintenance of Fence.* Aperture shall maintain and repair the Fence in good condition. The Town shall use its best efforts to avoid damaging the Fence.
6. *Maintenance of Landscaping.* Aperture shall be solely responsible for performing such maintenance and making such repairs as are necessary to keep the Landscaping in good condition. Landscaping shall include only native plant species.

6.1 To the extent irrigation of the Landscaping is required, Aperture shall be responsible for such irrigation, provided however, that the Town must supply the water necessary for irrigation. The Town will make water available to Aperture to irrigate the Landscaping in accordance with this Agreement.

6.2 The Town and Aperture agree to use best efforts to use reclaimed water for irrigating the Landscaping. To that end, the Town and Aperture shall jointly submit a Letter of Intent to the Colorado Department of Public Health and Environment (CDPHE) for use of reclaimed water for irrigation for the Landscaping. The Letter of Intent shall include a User Plan to Comply (“Plan”) prepared by Aperture for the use and management of reclaimed water that meets the requirements for Category 1, Restricted Access Landscape Irrigation set forth in Water Quality Control Commission Regulation 84. Upon receipt of a Notice of Authorization from CDPHE, the Town agrees to provide Aperture with reclaimed water, at no cost to Aperture, in compliance with the terms and conditions imposed on treatment by the Notice of Authorization. Aperture shall have sole responsibility for using and metering the reclaimed water, restricting access to irrigated areas, and satisfying any other conditions or requirements on the use of such water imposed by the Notice of Authorization.

6.3 If CDPHE does not authorize the use of reclaimed water for the Landscaping, then the Town will permit Aperture to use potable water to irrigate the Landscaping, and will allow Aperture to tap into the Town’s potable water supply and pay an irrigation tap fee in the amount of \$8,100. Regardless of whether Aperture uses reclaimed or potable water to irrigate the Landscaping, Aperture shall be solely responsible for any and all costs of getting the irrigation water from the Town’s existing distribution system to the location of the Landscaping.

7. *Maintenance of the River Trail.* Maintenance and repair of the River Trail shall be the sole responsibility of the Town. The Town shall maintain and repair the River Trail for the same duration as the remainder of the Rec Path. In the event the Town fails to satisfy its maintenance obligations under this paragraph 6, Aperture may make the required repairs to the River Trail.
8. *Cooperation; Other Documentation; Instruments.* The Parties shall reasonably cooperate with each other in order effect the transactions contemplated in this Agreement. The parties shall give, enter into, execute and approve such additional agreements, corporate approvals, and instruments as are necessary and appropriate to effect such transactions.
9. *Authority.* The person executing this Agreement on behalf of each Party does hereby covenant and warrant that such person is duly authorized and has full right and authority to enter into this Agreement and that the person signing on behalf of each Party is authorized to do so.
10. *Waiver of Defects.* In executing this Agreement, the Parties waive all objections they may have over defects, if any, in the form of this Agreement, the formalities for execution, or over the procedure, substance or form of the resolutions adopting this Agreement.
11. *Entire Agreement.* This Agreement supersedes and controls all prior written and oral agreements and representations of the Parties with respect to the subject matters addressed herein and represents the total integrated agreement between the Parties with respect to such subject matters.
12. *Modification.* This Agreement shall not be amended or modified, except by subsequent written agreement of the Parties approved by resolutions of the Town Council.
13. *No Waiver.* A waiver of any right or remedy on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on any other occasion.
14. *General Release.* It is expressly understood that the Town cannot be legally bound by the representations of any of its elected officials, officers, employees, agents, representatives and attorneys or their designees, except in accordance with Town ordinances, the Code and the laws of the State of Colorado, and that Aperture, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town, its elected officials, officers, employees, agents, representatives, and attorneys or their designees, which is subsequently held unlawful by a court of law; provided, however, this paragraph shall not be construed to limit the rights and remedies of the Parties otherwise provided by law, including under equitable doctrines such as estoppel.

15. *Notices.* Any notice or other information required by this Amendment to be sent to a Party shall be sent by facsimile, e-mail, overnight courier or certified mail to the following:

Aperture
 Attention: Cameron Aderhold, its _____
 8343 Douglas Ave., Suite 200
 Dallas, Texas 75225
 Facsimile: 214-283-1600
cameron.aderhold@cypressecurities.com

with a copy to:

Law of the Rockies
 Attention: Marcus J. Lock
 525 North Main Street
 Gunnison, Colorado 81230
 Facsimile: 970-641-1943
mlock@lawoftherockies.com

Town of Crested Butte
 Attention: Michael Yerman
 507 Maroon Avenue
 P.O. Box 39
 Crested Butte, Colorado 81224
 Facsimile: 970-349-6626
myerman@crestedbutte-co.gov

with a copy to:

Town Attorney
 Sullivan Green Seavy
 Barbara J. B. Green and John Sullivan
 3223 Arapahoe Ave. Suite 300
 Boulder, Colorado 80303

Notice shall be effective when actually received by the Party intended to be notified.

16. *Attorneys' Fees; Costs.* Should this Agreement become the subject of a dispute between the Town and Aperture, the substantially prevailing Party shall be entitled to reasonable attorneys' fees, costs, and expenses incurred in such dispute.
17. *Governing Law; Venue.* This Agreement and all rights conferred and obligations imposed hereunder shall be interpreted and construed in accordance with the laws and

internal judicial decisions of the State of Colorado. The sole venue in any dispute shall be the District Court for Gunnison County, State of Colorado.

18. *Recording; Binding Agreement.* Upon execution, Aperture shall record this Agreement in the Office of the Gunnison County Clerk and Recorder. The benefits and burdens of this Agreement shall run with the Aperture Subdivision and Town property and be binding upon the Parties' successors and assigns.

19. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which, when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

Town of Crested Butte, Colorado,
a Colorado home rule municipality

By: _____

ATTEST:

Lynelle Stanford, Town Clerk

STATE OF COLORADO)
)ss.
COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____ as of the Town of Crested Butte, Colorado.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Aperture Homeowners Association, Inc.,
a Colorado nonprofit corporation

By: _____
_____, President



Information Item
October 1, 2018

To: Mayor Schmidt and Town Council

From: Bob Nevins, Town Planner

Thru: Michael Yerman, Community Development Director

Subject: Crested Butte Community Survey 2018

1.0 Purpose: To review and discuss the results of the Crested Butte Community Survey (Survey). The Survey is an annual questionnaire that provides vital information about our town, its citizens, local neighboring residents and visitors. Information from the survey generates data that assists Town Council and other organizations to more clearly identify critical issues and determine how to effectively allocate staff and funding resources each year to address the various needs and challenges facing the community.

2.0 Public Process: The Survey is the first step in the planning process, it is a Community Inventory, a gathering of information about residents' "feelings, values and perceptions" concerning Crested Butte now and into the future. The Survey was posted on the Town website and linked to SurveyMonkey.com for 3-1/2 months during the busy summer season (June 1-September 16). Public outreach program included:

- Town Website, Town Facebook E-blasts and Survey Drop-box at Town Hall
- Chamber of Commerce E-blasts
- Local Coffee Shop Survey Drop-boxes (Rumors, Camp 4 Coffee, T-Bar and Octopus)
- Display ads in the CB News and flyers at Town Hall

3.0 Background: A total of 1,104 responses were received:

- Town of Crested Butte- 332 (30%)
- North Valley, including Mt. CB and CB South- 427 (39%)
- South Valley, including Gunnison- 152 (14%)
- Colorado outside Gunnison County- 117 (10%)
- Out-of-State- 76 (7%)

4.0 Public Comments: The survey contained nineteen (19) questions with an opportunity for respondents to provide personal comments. There were 332 respondents from the Town of Crested Butte with the following demographics:

- **Age:** 36-55 years (50%/164); 26-35 years (18%/60); 56-65 years (18%/59); 66+ years (12%/39); and Under 25 (2%/6);
- **Residency:** Lived in Town and/or Gunnison County for 11-40 years (54%/174); 5-10 years (21%/68); 4 years or less (20%/63) and 40+ years (5%/17);
- **Employment:** Work and/or own a business in town (70%/231); Work in town sometimes during the year (7%/23) and do not work in town (24%/78);
- **Tenancy:** Homeowner (65%/212); Renter with a year lease (25%/80); Renter with a 6-month lease (7%/22); and Other (3%/10); and
- **Housing:** Reside in single-family home (51%/167); Condo/apartment (22%/70); Duplex (12%/38); Caretaker-employee unit/ADU (6%/21); Staying with family/other (6%/18); and Mobile home (3%/11).

The attached Survey Results are cumulative and include all responses. In Sections 4.1-4.12, each of summary topics is listed with Town resident responses followed by North and South Valley residents and visitors with the totals shown as percentages along with the actual number of responses for each respondent group.

4.1 Kind of community Crested Butte should be in 20 years (top 4).

- **Town residents:** Town can accommodate responsible growth without losing its unique historic character (48%/156); Town has a balanced economy with good jobs and attainable housing (44%/144); Town is a “green community” that is self-reliant and a steward of its environment (27%/90); and Town remains like it is and they are living in town (21%/69).
- **Other Town resident responses:** Town supports a variety of age groups/lifestyles (12%/38); Town does not allow any major new commercial developments or residential subdivisions (10%/34); Town is a thriving artistic/cultural community (9%/31); Town becomes a year-round community rather than a seasonal resort (8%/27); Town is the premiere destination resort in North America (3%/9); and Town remains like it is and they are living elsewhere (1%/3).

North Valley followed by South Valley and visitor rankings of the Town residents’ top 2:

- Town can accommodate responsible growth without losing its unique historic character: North Valley (53%/223), South Valley (41%/60), Colorado visitors (49%/57) and Out-of-state visitors (24%/18).
- Town has a balanced economy with good jobs and attainable housing: North Valley (45%/191), South Valley (54%/80), Colorado visitors (35%/41) and Out-of-state visitors (53%/40).
- *Special note:* Want Town to remain like it is and they are living in town or elsewhere: Town residents (22%/72), Colorado visitors (27%/31) and Out-of-stater visitors (25%/19).

4.2 Type of life-style and aspirations while being in Crested Butte (top 4).

- **Town residents:** Outdoor enthusiast (70%/233); Family-oriented (37%/124); Professional career (34%/114); and (28%/92) Entrepreneur/own a business.
- **Other Town resident responses:** Escape from the Real World (18%/59); Active retiree (16%/53); Creative/artist (14%/46); Ski bum (12%/40); Ready for a change/plan to move (6%/21); Consultant/ telecommuter (5%/16); Philanthropic (5%/15); Second-home owner (2%/6); Student/intern (2%/6); and Sponsored athlete (2%/7).

North Valley followed by South Valley and visitor self-identifications:

- Identified themselves as being Outdoor enthusiasts: North Valley (72%/304), South Valley (69%/103), Colorado visitors (73%/85); and Out-of-state visitors (74%/56).

4.3 Greatest challenges facing Crested Butte now and in the future (top 5).

- **Town residents:** Lack of workforce and/or attainable housing (57%/184); Affordability/cost of living (30%/97); Maintaining quality of life/balance between being a community and a resort (30%/95); Increased traffic and parking problems (26%/83); and Exceeding carrying capacity of Town and North Valley (24%/77).
- **Other Town resident concerns:** Changing demographics and values (20%/65); Providing opportunities for career advancement (20%/64); Preserving historic character (19%/60); Preserving open space (17%/54); Impacts of climate change and other environmental factors (14%/45); Second homes and vacation rentals (12%/40); Increased tourism (10%/31); and Increased development outside of Town (3%/9).

North Valley followed by South Valley and their concerns (top 5):

- North Valley: Lack of workforce/attainable housing (54%/224); Maintaining quality of life/balance between being a community and a resort (29%/121); Increased traffic and parking problems (29%/120); Affordability/cost of living (28%/118); and Exceeding carrying capacity of Town and North Valley (23%/95).
- South Valley: Lack of workforce/attainable housing (63%/93); Affordability/cost of living (42%/61); Providing opportunities for career advancement (27%/40); Increased traffic and parking problems (23%/34); and Maintaining quality of life/balance between being a community and a resort (23%/34).

4.4 Managing new growth.

- **Town residents:** Public review process should be expanded to allow greater public input on new development (37%/118); Town should maintain the same level of regulation that exists today (32%/102); Town should be more involved in regulating new developments (23%/72); and Town should be less involved in regulating new developments (8%/24).

4.5 Town's priorities regarding economic development.

- **Town residents:** Supporting existing businesses (57%/179); Diversifying from a tourist-based economy to a broader year-round mixed economy (43%/133); and Recruit employers that are compatible and/or complementary and offer year-round employment (26%/82).

- **Other Town resident priorities:** Not the role of local government (15%/47); Seek non-profit/research/ educational groups to locate in Town (10%/31); Encourage shoulder and off-season tourism (10%/30); Encourage additional winter tourism (6%/19); and Promote special events oriented for regional/national audiences (4%/13).

4.6 Most effective way for Town to provide affordable housing (top 4).

- **Town residents:** New deed-restricted homes for ownership (31%/94); Encouraging use of second floor space in commercial district for long-term rentals (29%/88); New deed-restricted rentals (28%/84); and Acquiring new land for affordable housing (26%/80).

- **Other resident recommendations:** Administering deed-restrictions and regulations (15%/46); Allowing increased density in town (14%/43); Subsidizing infrastructure costs to keep building prices down (13%/41); and Home ownership education/training (5%/16).

North Valley followed by South Valley and their recommendations (top 5):

- North Valley: Encouraging use of second floor space in commercial district for long-term rentals (35%/134); New deed-restricted rentals (27%/105); Acquiring land for new affordable housing (27%/105); Acquiring existing properties and deed-restricting them for sale or rental (23%/88); and New deed-restricted homes for ownership (21%/81).

- South Valley: Encouraging use of second floor space in commercial district for long-term rentals (30%/40); Acquiring land for new affordable housing (29%/38); Subsidizing infrastructure costs to keep building prices down (24%/32); New deed-restricted rentals (22%/29); and New deed-restricted homes for ownership (21%/28).

4.7 Traffic congestion and parking availability.

- **Town residents:** Problem year-round except during off-seasons (47%/147); Sometimes a problem, mostly summer (38%/120); Not a problem (11%/35); and Sometimes, mostly winter (3%/8).

North Valley followed by South Valley and visitor opinions:

- Problem year-round except off-seasons: North Valley (47%/184); South Valley (58%/78); Colorado visitors (33%/34); and Out-of-state visitors (35%/25).

- Sometimes a problem, mostly summer: North Valley (44%/174); South Valley (31%/41); Colorado visitors (35%/36); and Out-of-state visitors (32%/23).

- Not a problem: North Valley (8%/31); South Valley (7%/9); Colorado visitors (20%/21); and Out-of-state visitors (24%/17).

- Sometimes a problem, mostly winter: North Valley (1%/5); South Valley (4%/6); Colorado visitors (12%/12); and Out-of-state visitors (8%/6).

4.8 Traffic and parking preferred solutions (top 5).

- **Town residents:** Develop an intercept lot near town with transit (32%/97); Change user behavior instead of investing in new capital improvement projects (26%/79); Install additional pedestrian/bicycle infrastructure (26%/78); Implement a parking management program with paid parking downtown and resident/employee permits (17%/53); and Create more public parking lots in town (15%/45).

- **Other Town resident recommendations:** Construct a multi-story parking garage in town (12%/37); Provide in-town shuttle service (12%/36); Complete the street grid with vehicle bridges across Coal Creek to the upper Westside (11%/33); Install bike-share stations and covered bike storage areas (10%/31); Require more on-site parking for new development (10%/30); Expand bus service (7%/22); and Allow electric golf carts on public streets (4%/13).

North Valley (top 5) followed by South Valley and visitor rankings of those solutions:

- Develop intercept parking lot near town with transit: North Valley (29%/110); South Valley (28%/37); Colorado visitors (25%/25); and Out-of-state visitors (33%/22).
- Create more public parking in town: North Valley (25%/96); South Valley (31%/40); Colorado visitors (25%/25); and Out-of-state visitors (33%/22).
- Implement a parking management program with paid parking downtown and resident/employee permits: North Valley (21%/80); South Valley (14%/18); Colorado visitors (16%/16); and Out-of-state visitors (10%/7).
- Install additional pedestrian/bicycle infrastructure: North Valley (20%/78); South Valley (15%/20); Colorado visitors (15%/15); and Out-of-state visitors (13%/9).
- Change user behavior: North Valley (16%/63); South Valley (20%/26); Colorado visitors (22%/22); and Out-of-state visitors (19%/13).

4.9 Primary role of Creative District.

- **Town residents:** Promotes Crested Butte’s unique identity (31%/98); Not sure need more information (26%/80); Develops programs and education for youth (22%/70); Provides grant funding for public art and performances (21%/65); Advocates for public art (21%/64); Promotes and markets local “creatives” (19%/60); Enhances the area as appealing places to live, conduct business and attract visitors (15%/46); Creates hubs and clusters of economic activity (10%/30); and Provides business development and education for “creatives” (9%/27).

4.10 Personal ways of reducing carbon footprint and promoting environmental stewardship.

- **Town residents:** Recycle (90%/278); Shop with re-usable bags (84%/260); Reduce fuel use by taking the bus, walking or biking to work (81%/249); Shop local (69%/213); Install energy efficient appliances and light bulbs (68%/210); Practice water conservation (55%/170); Backyard vegetable gardening (34%/104); Purchase green energy from GCEA (31%/95); Volunteer with local non-profits that promote environmental stewardship (25%/78); Install or purchase solar panels (9%/28); and Not an important issue (3%/10).

4.11 Like most about living or visiting in Crested Butte (top 4).

- **Town residents:** Mountain environment (35%/108); Small town feel (33%/103); Outdoor recreation (30%/94); and Walkable/bikeable community (30%/93).
- **Other Town resident reasons:** Supportive/caring community (16%/51); Funkiness/colorful, crazy people (15%/45); Good place for families (12%/36); Historic character (6%/18) and Friends/social events (4%/11).

North Valley followed by South Valley and visitor rankings of the Town resident reasons:

- Mountain environment: North Valley (47%/186); South Valley (42%/56); Colorado visitors (37%/38); and Out-of-state visitors (32%/23).
- Outdoor recreation: North Valley (44%/172); South Valley (36%/47); Colorado visitors (40%/41); and Out-of-state visitors (39%/28).
- Small town feel: North Valley (34%/134); South Valley (28%/37); Colorado visitors (43%/44); and Out-of-state visitors (44%/31).
- Walkable/bikeable community: North Valley (5%/21); South Valley (8%/10); Colorado visitors (14%/10); and Out-of-state visitors (14%/10).

4.12 Town values and goals moving community in positive direction.

- **Town residents:** Not sure (44%/134); Agree (32%/96); Disagree (21%/65); and Strongly agree (3%/9)

North Valley followed by South Valley and visitor rankings of their opinions:

- Not sure: North Valley (47%/181); South Valley (45%/58); Colorado visitor (63%/63); and Out-of-state visitors (37%/25):
- Agree: North Valley (34%/131); South Valley (22%/42); Colorado visitor (19%/19); and Out-of-state visitors (47%/32):
- Disagree: North Valley (17%/65); South Valley (32%/42); Colorado visitor (14%/14); and Out-of-state visitors (12%/8):
- Strongly agree: North Valley 3%/12); South Valley (2%/2); Colorado visitor (4%/4); and Out-of-state visitors (4%/3):

Summary:

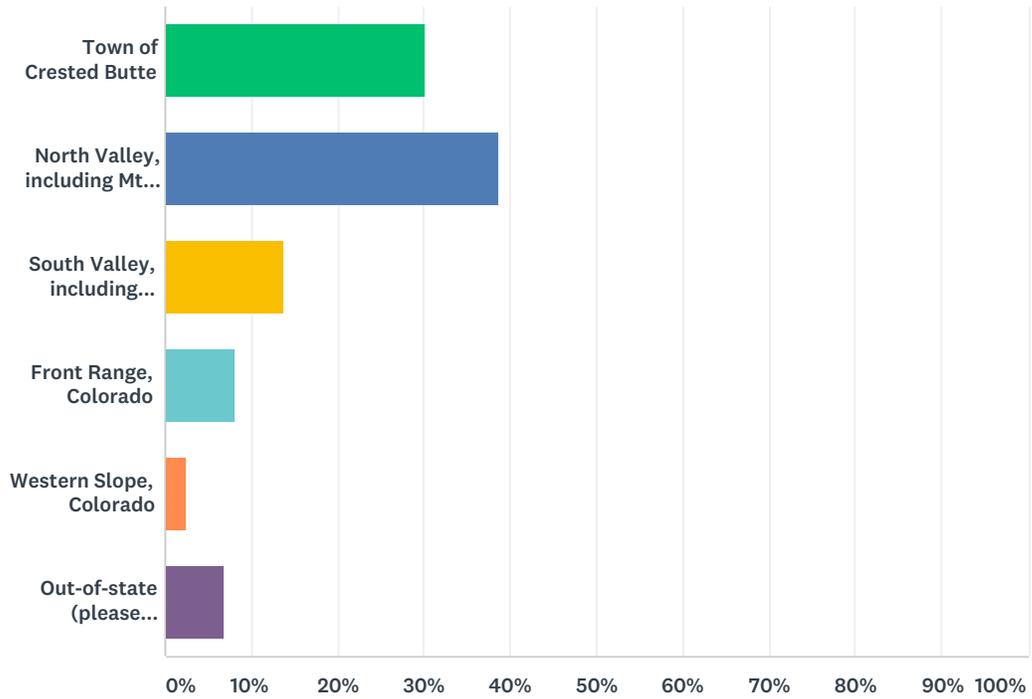
Crested Butte is comprised of long-term residents, 59% of the respondents have lived in Town and/or Gunnison Valley for 11 to 40+ years, and are: between the ages of 36-55 (50%), homeowners (65%), living in single-family homes (65%) and working in town (70%). Residents are largely outdoor enthusiasts who are open to accommodating responsible growth that preserves the Town's unique historical character and developing a balanced economy with good-paying jobs and attainable housing.

Town residents identified three (3) over-arching community issues that need to be addressed: 1) lack of workforce and attainable housing; 2) affordability/cost of living; and 3) maintaining quality of life/sense of community. These three (3) concerns are Valley-wide as indicated by the residents in the North and South Valley. What is also interesting to note, that Crested Butte and its environs seem to attract people with like-minded interests, values and concerns as evidenced by the responses from Colorado and out-of-state visitors.

The 2018 Community Survey is a useful tool in evaluating Crested Butte's values, goals and priorities and will be used as a basis for gaining additional public input and participation as we begin shaping and developing our Crested Butte Community Plan.

Q1 Where do you currently live?

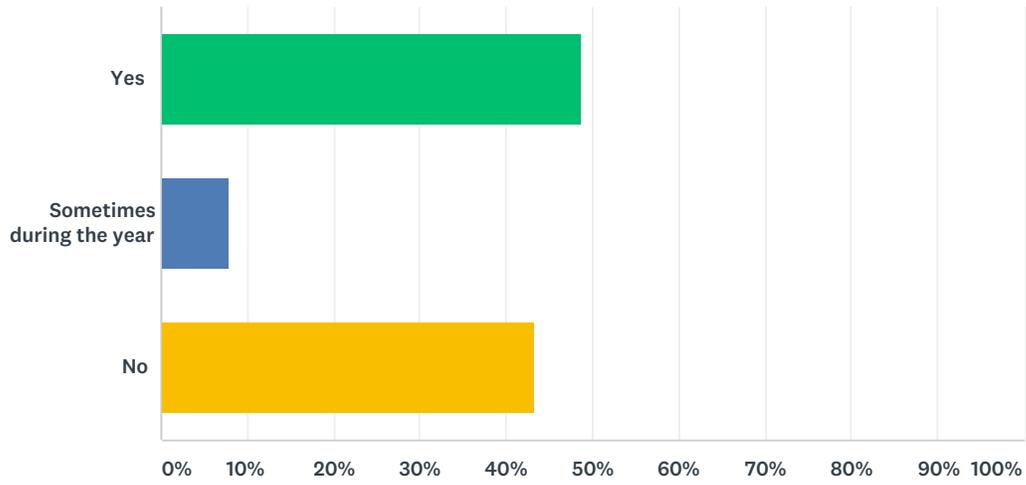
Answered: 1,104 Skipped: 2



ANSWER CHOICES	RESPONSES	
Town of Crested Butte	30.07%	332
North Valley, including Mt. Crested Butte and CB South	38.68%	427
South Valley, including Gunnison	13.77%	152
Front Range, Colorado	8.06%	89
Western Slope, Colorado	2.54%	28
Out-of-state (please identify):	6.88%	76
TOTAL		1,104

Q2 Do you work or own a business in the Town of Crested Butte?

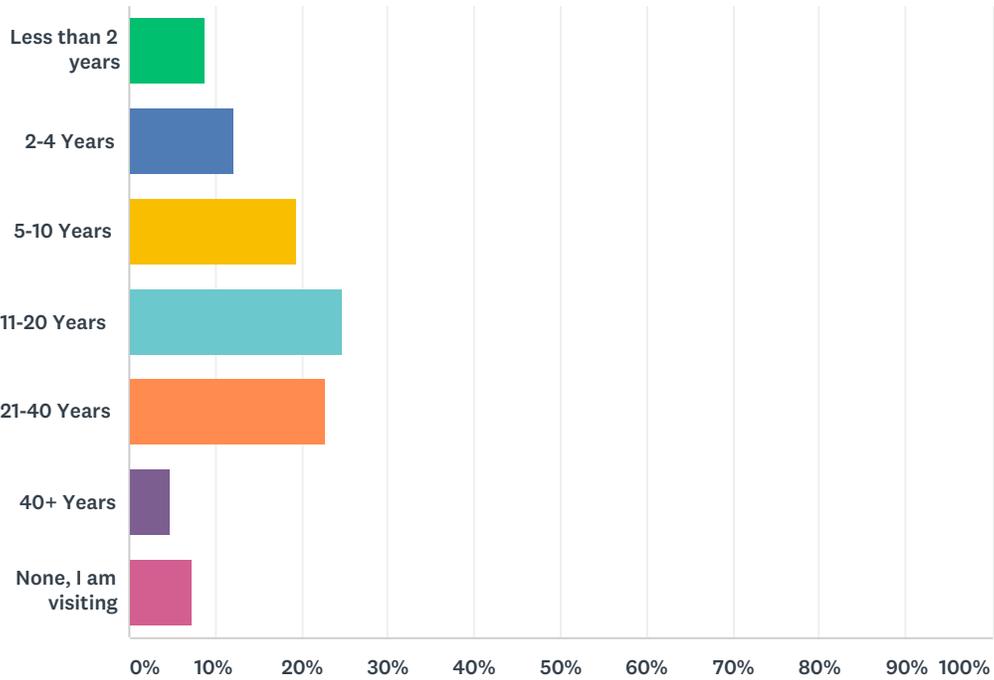
Answered: 1,102 Skipped: 4



ANSWER CHOICES	RESPONSES	
Yes	48.82%	538
Sometimes during the year	7.89%	87
No	43.28%	477
TOTAL		1,102

Q3 How long have you lived or owned a second home in the Town of Crested Butte or Gunnison County?

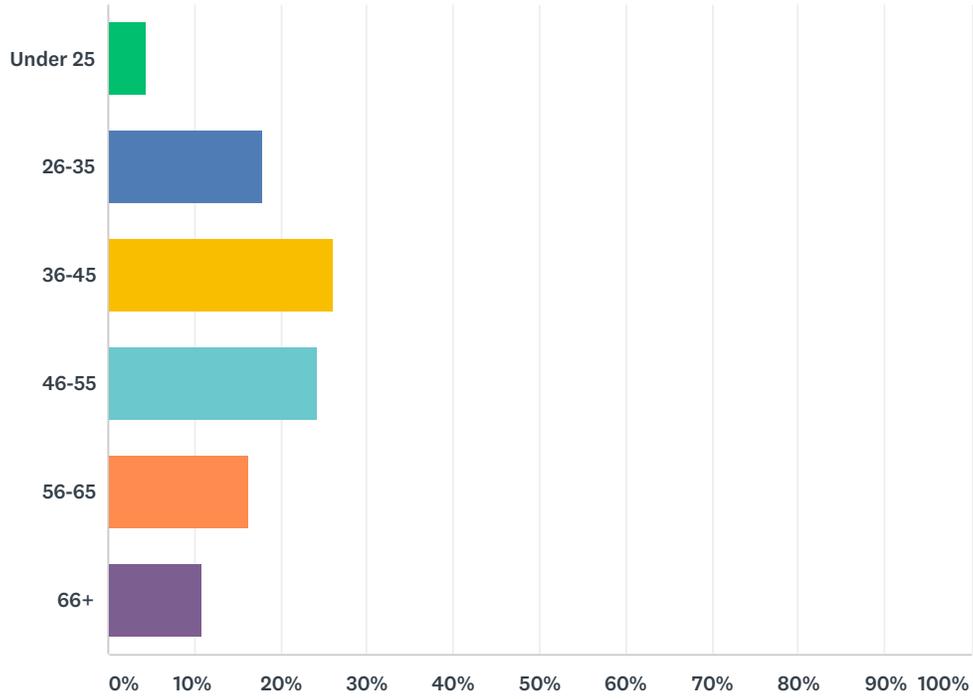
Answered: 1,074 Skipped: 32



ANSWER CHOICES	PERCENTAGE	RESPONSES
Less than 2 years	8.85%	95
2-4 Years	12.10%	130
5-10 Years	19.46%	209
11-20 Years	24.67%	265
21-40 Years	22.91%	246
40+ Years	4.75%	51
None, I am visiting	7.26%	78
TOTAL		1,074

Q4 What is your age?

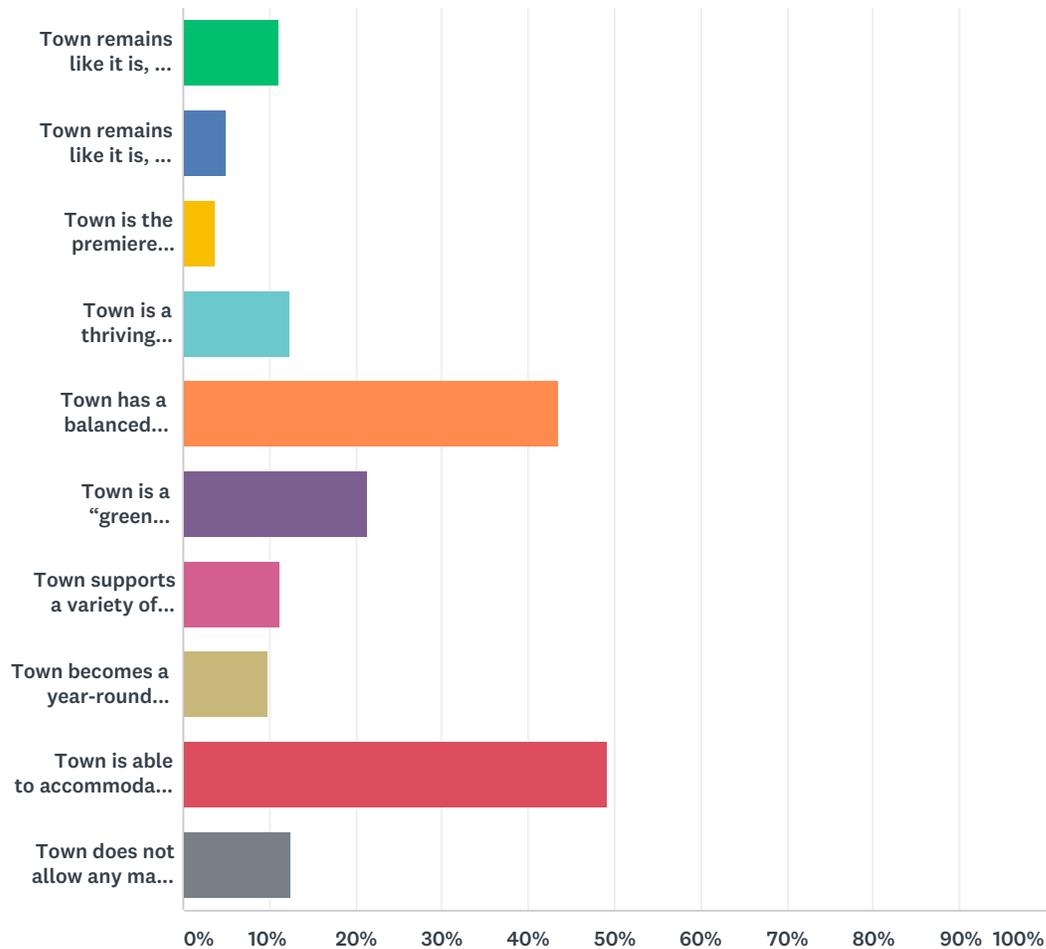
Answered: 1,100 Skipped: 6



ANSWER CHOICES	RESPONSES	
Under 25	4.36%	48
26-35	18.00%	198
36-45	26.09%	287
46-55	24.27%	267
56-65	16.36%	180
66+	10.91%	120
TOTAL		1,100

Q5 What best describes the kind of community you want the Town of Crested Butte to be in 20 years? (please pick your top 2)

Answered: 1,092 Skipped: 14

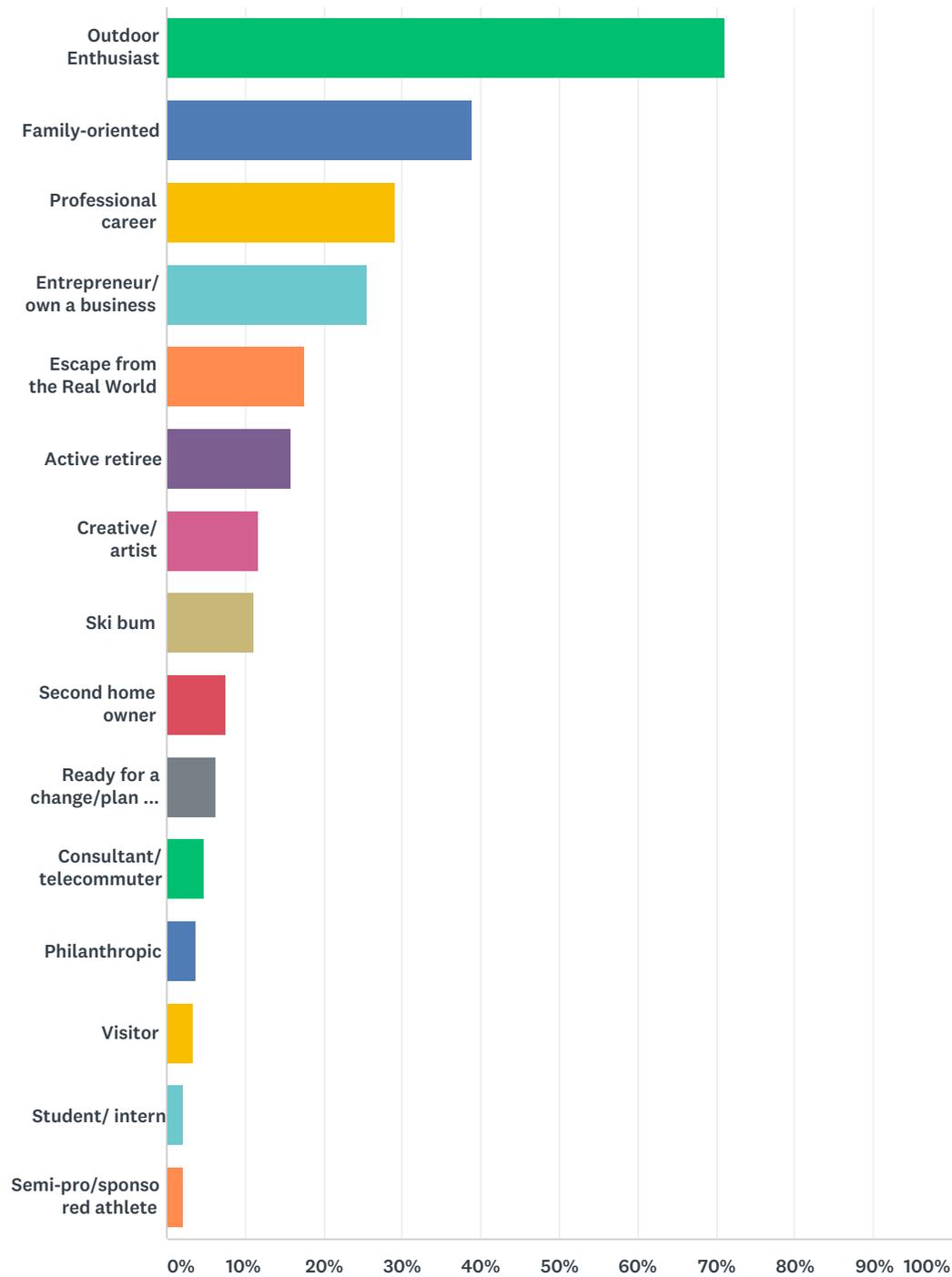


ANSWER CHOICES	RESPONSES	
Town remains like it is, and I live in town.	11.17%	122
Town remains like it is, but I am living elsewhere.	4.95%	54
Town is the premiere destination resort in North America.	3.85%	42
Town is a thriving artistic and cultural community.	12.36%	135
Town has a balanced economy with good jobs and attainable housing.	43.50%	475
Town is a "green community" that is self-reliant and a steward of its environment.	21.34%	233
Town supports a variety of age groups and lifestyles.	11.26%	123
Town becomes a year-round community rather than a seasonal resort.	9.80%	107
Town is able to accommodate responsible growth without losing its unique historic character.	49.27%	538
Town does not allow any major new commercial development or residential subdivisions.	12.55%	137

Total Respondents: 1,092

Q6 What best describes your life-style and aspirations while being here in Crested Butte (please select your top 3)

Answered: 1,101 Skipped: 5

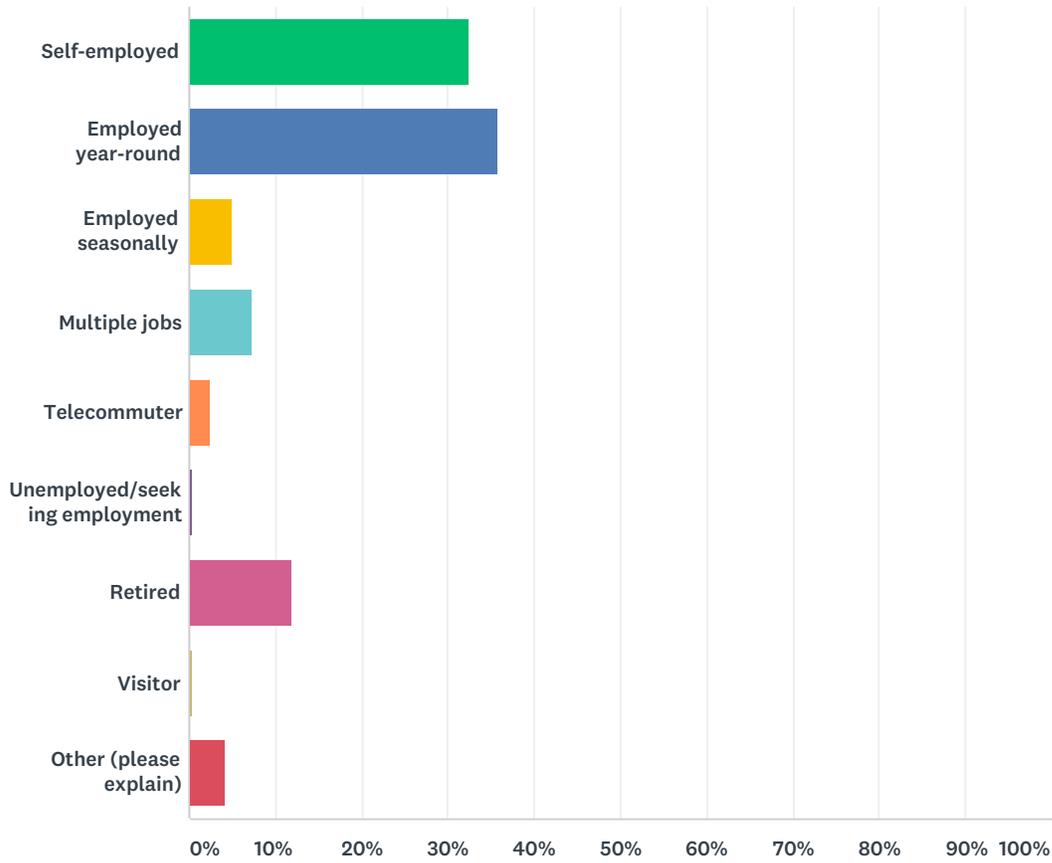


ANSWER CHOICES	RESPONSES	
Outdoor Enthusiast	71.12%	783
Family-oriented	38.96%	429

Professional career	29.16%	321
Entrepreneur/ own a business	25.43%	280
Escape from the Real World	17.62%	194
Active retiree	15.89%	175
Creative/ artist	11.81%	130
Ski bum	10.99%	121
Second home owner	7.63%	84
Ready for a change/plan to move	6.27%	69
Consultant/ telecommuter	4.72%	52
Philanthropic	3.72%	41
Visitor	3.27%	36
Student/ intern	2.18%	24
Semi-pro/sponsored athlete	2.09%	23
Total Respondents: 1,101		

Q7 What best describes your employment status?

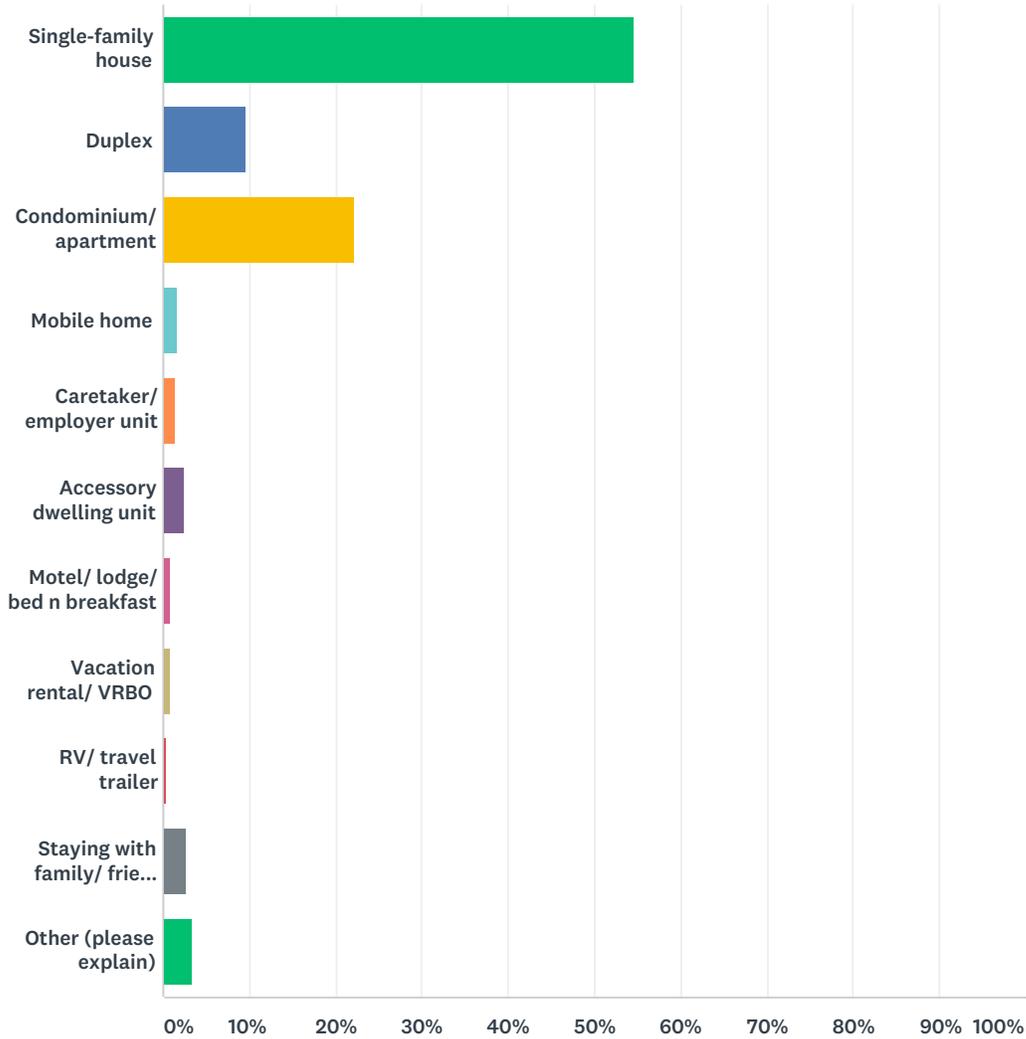
Answered: 1,072 Skipped: 34



ANSWER CHOICES	RESPONSES	
Self-employed	32.46%	348
Employed year-round	35.82%	384
Employed seasonally	4.94%	53
Multiple jobs	7.37%	79
Telecommuter	2.61%	28
Unemployed/seeking employment	0.47%	5
Retired	11.85%	127
Visitor	0.37%	4
Other (please explain)	4.10%	44
TOTAL		1,072

Q8 In what type of housing are you currently staying?

Answered: 1,069 Skipped: 37

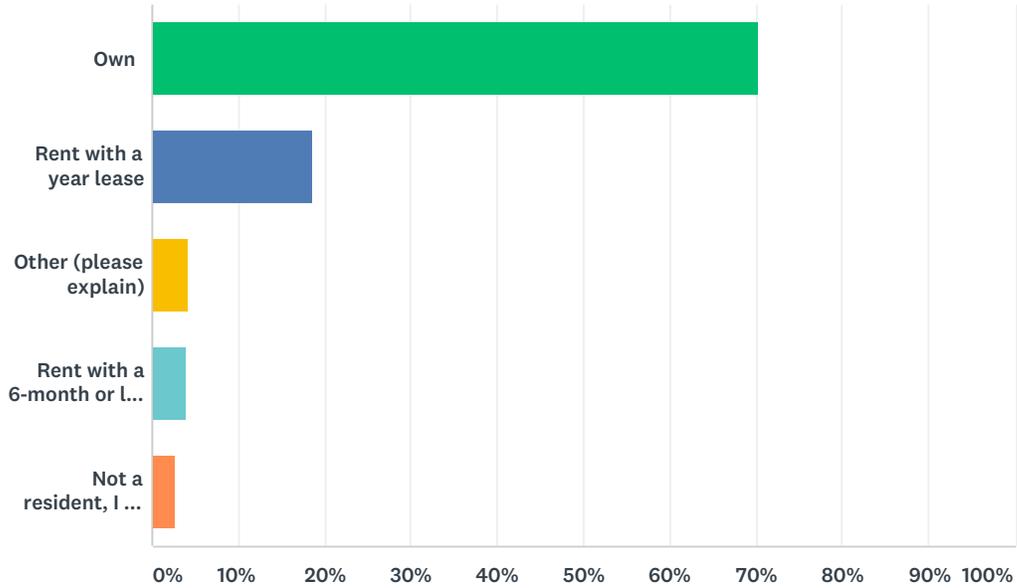


ANSWER CHOICES	RESPONSES	
Single-family house	54.63%	584
Duplex	9.64%	103
Condominium/ apartment	22.17%	237
Mobile home	1.68%	18
Caretaker/ employer unit	1.40%	15
Accessory dwelling unit	2.43%	26
Motel/ lodge/ bed n breakfast	0.94%	10
Vacation rental/ VRBO	0.75%	8
RV/ travel trailer	0.37%	4
Staying with family/ friends	2.71%	29

Other (please explain)	3.27%	35
TOTAL		1,069

Q9 At your current residence, do you:

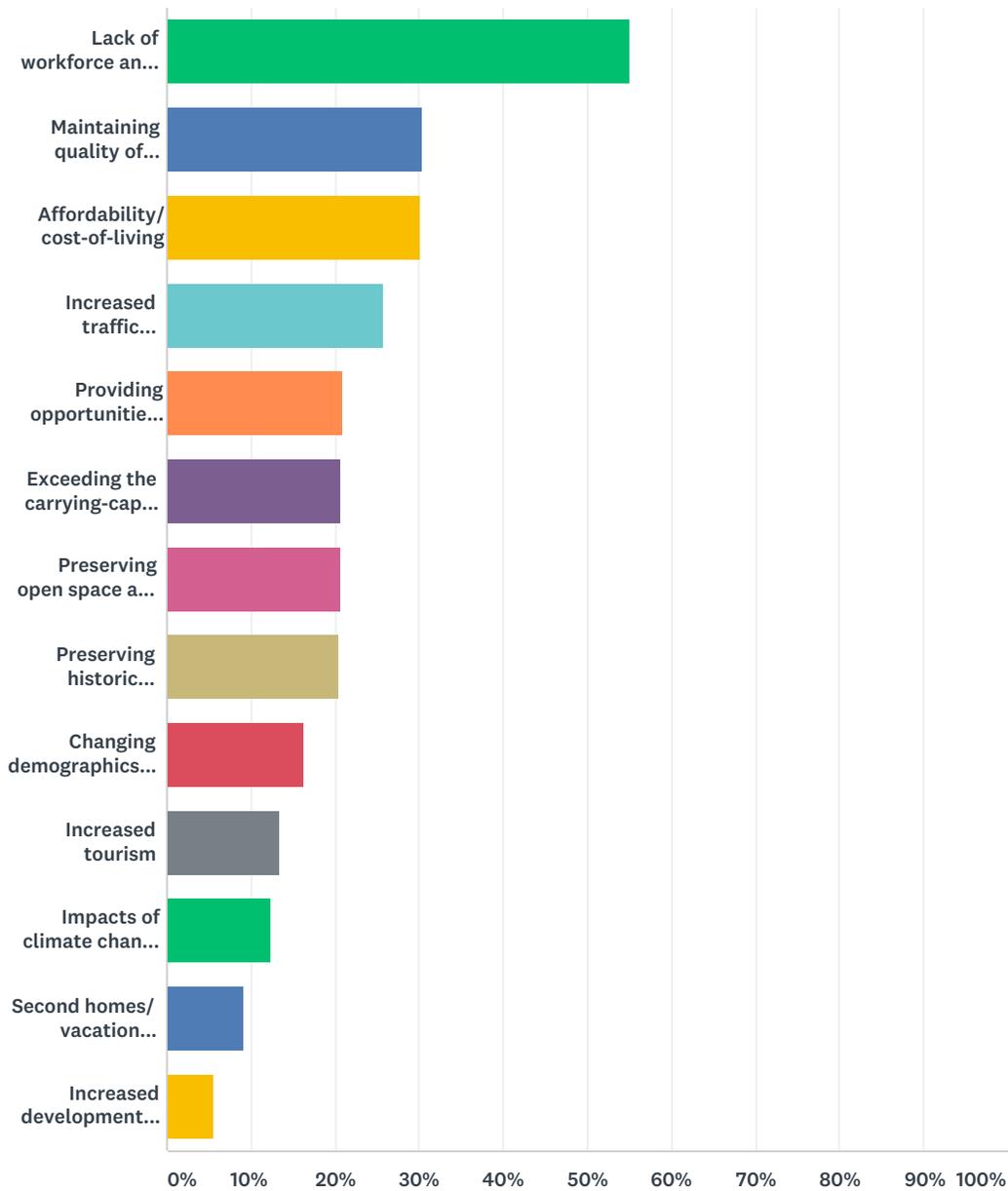
Answered: 1,070 Skipped: 36



ANSWER CHOICES	RESPONSES	
Own	70.37%	753
Rent with a year lease	18.69%	200
Other (please explain)	4.11%	44
Rent with a 6-month or less lease	4.02%	43
Not a resident, I am visiting	2.80%	30
TOTAL		1,070

Q10 What do you think are the greatest local challenges that the Town of Crested Butte is facing now and in the future? (please select your top 3)

Answered: 1,065 Skipped: 41

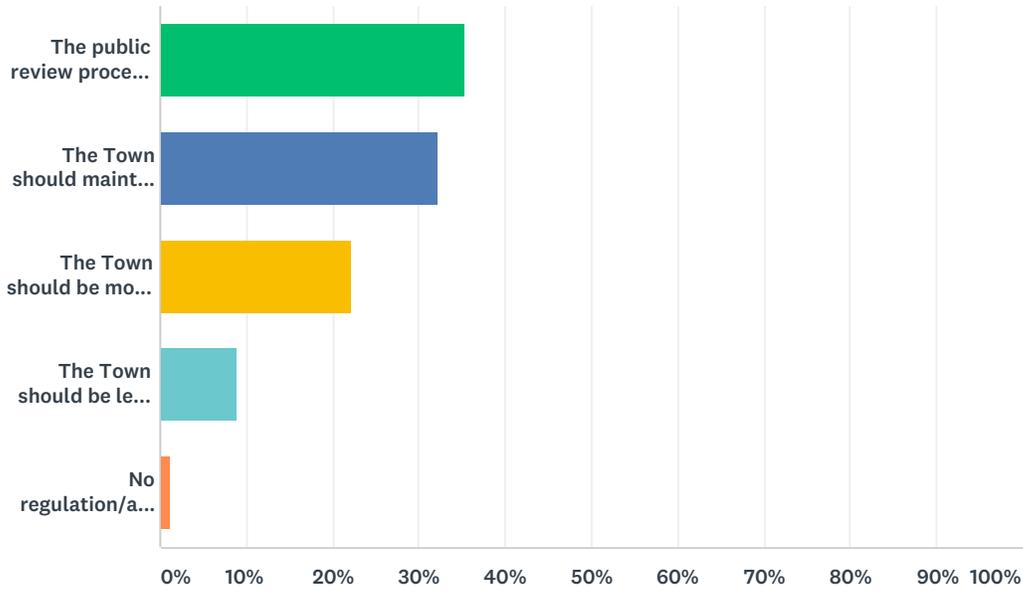


ANSWER CHOICES	RESPONSES	
Lack of workforce and/ or attainable housing	55.02%	586
Maintaining quality of life; balance between being a community and a resort	30.33%	323
Affordability/ cost-of-living	30.14%	321
Increased traffic congestion and parking problems	25.63%	273
Providing opportunities for career advancement and living wages	20.85%	222

Exceeding the carrying-capacity of the Town of Crested Butte and North Valley	20.75%	221
Preserving open space and land conservation	20.66%	220
Preserving historic character of the Town of Crested Butte	20.56%	219
Changing demographics/ values	16.24%	173
Increased tourism	13.43%	143
Impacts of climate change and other environmental factors	12.39%	132
Second homes/ vacation rentals	9.30%	99
Increased development outside of the Town of Crested Butte	5.73%	61
Total Respondents: 1,065		

Q11 Which statement best represents your opinion on managing new development within the Town of Crested Butte?

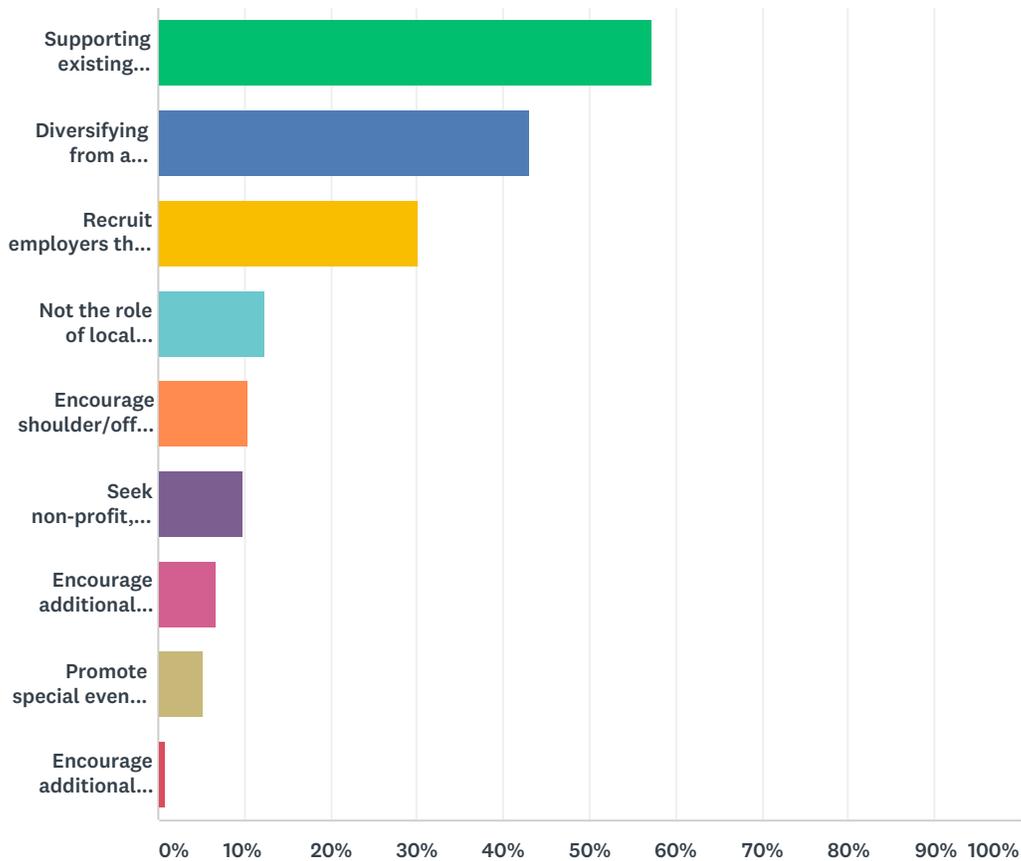
Answered: 1,040 Skipped: 66



ANSWER CHOICES	RESPONSES	
The public review process should be expanded to allow for more public input on new development	35.29%	367
The Town should maintain the same level of regulation that exists today	32.21%	335
The Town should be more involved in regulating new developments	22.21%	231
The Town should be less involved in regulating new developments	8.94%	93
No regulation/allow unregulated development	1.35%	14
TOTAL		1,040

Q12 What should the town's priorities be regarding economic development? (please select your top 2)

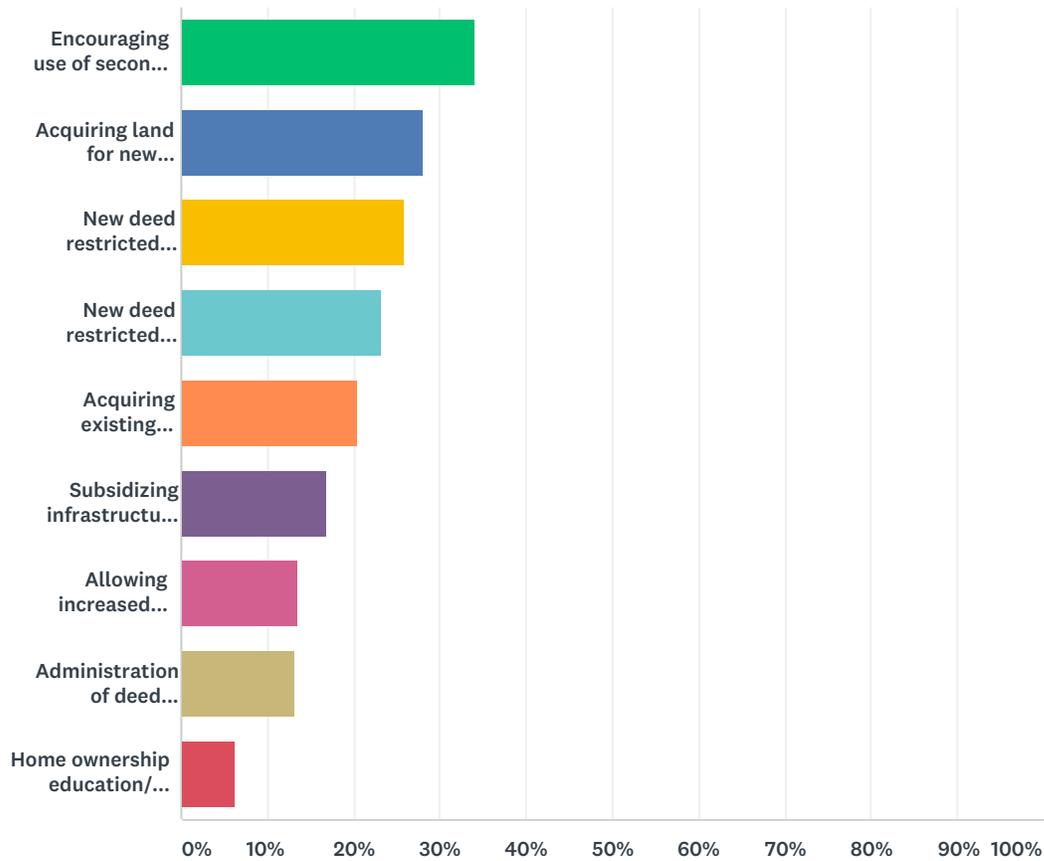
Answered: 1,031 Skipped: 75



ANSWER CHOICES	RESPONSES	
Supporting existing businesses in Town	57.32%	591
Diversifying from a tourist-based economy to a broader year-round mixed economy	43.16%	445
Recruit employers that are compatible and/or complementary and offer year-round employment	30.16%	311
Not the role of local government	12.32%	127
Encourage shoulder/off-season tourism	10.48%	108
Seek non-profit, research and/or educational groups to locate in Town	9.89%	102
Encourage additional winter tourism	6.79%	70
Promote special events that are more oriented towards a regional or national audience	5.24%	54
Encourage additional summer tourism	0.87%	9
Total Respondents: 1,031		

Q13 What do you think would be the most effective way for the Town to focus its limited resources in providing affordable housing? (please select your top 2)

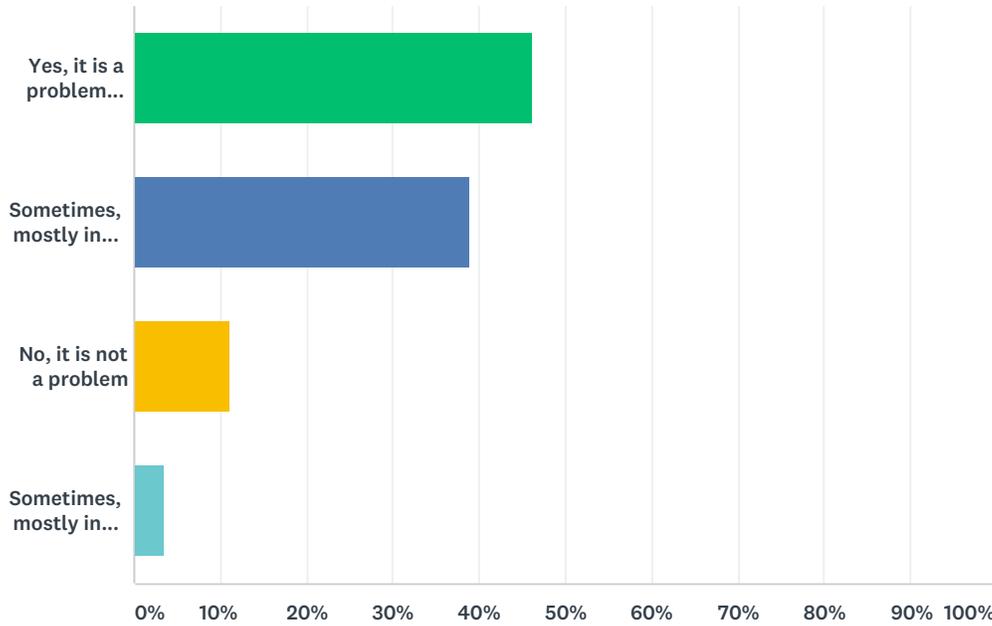
Answered: 983 Skipped: 123



ANSWER CHOICES	RESPONSES	
Encouraging use of second floor space in the Commercial District as long-term rental apartments	34.18%	336
Acquiring land for new affordable housing developments	28.08%	276
New deed restricted Rentals	26.04%	256
New deed restricted homes for Ownership	23.19%	228
Acquiring existing properties and deed restricting them to rentals or for sale	20.55%	202
Subsidizing infrastructure costs to keep building prices down	16.99%	167
Allowing increased density within the Town of Crested Butte	13.63%	134
Administration of deed restrictions and regulations	13.22%	130
Home ownership education/ training	6.31%	62
Total Respondents: 983		

Q14 Do you feel that traffic congestion and parking availability are problems in town?

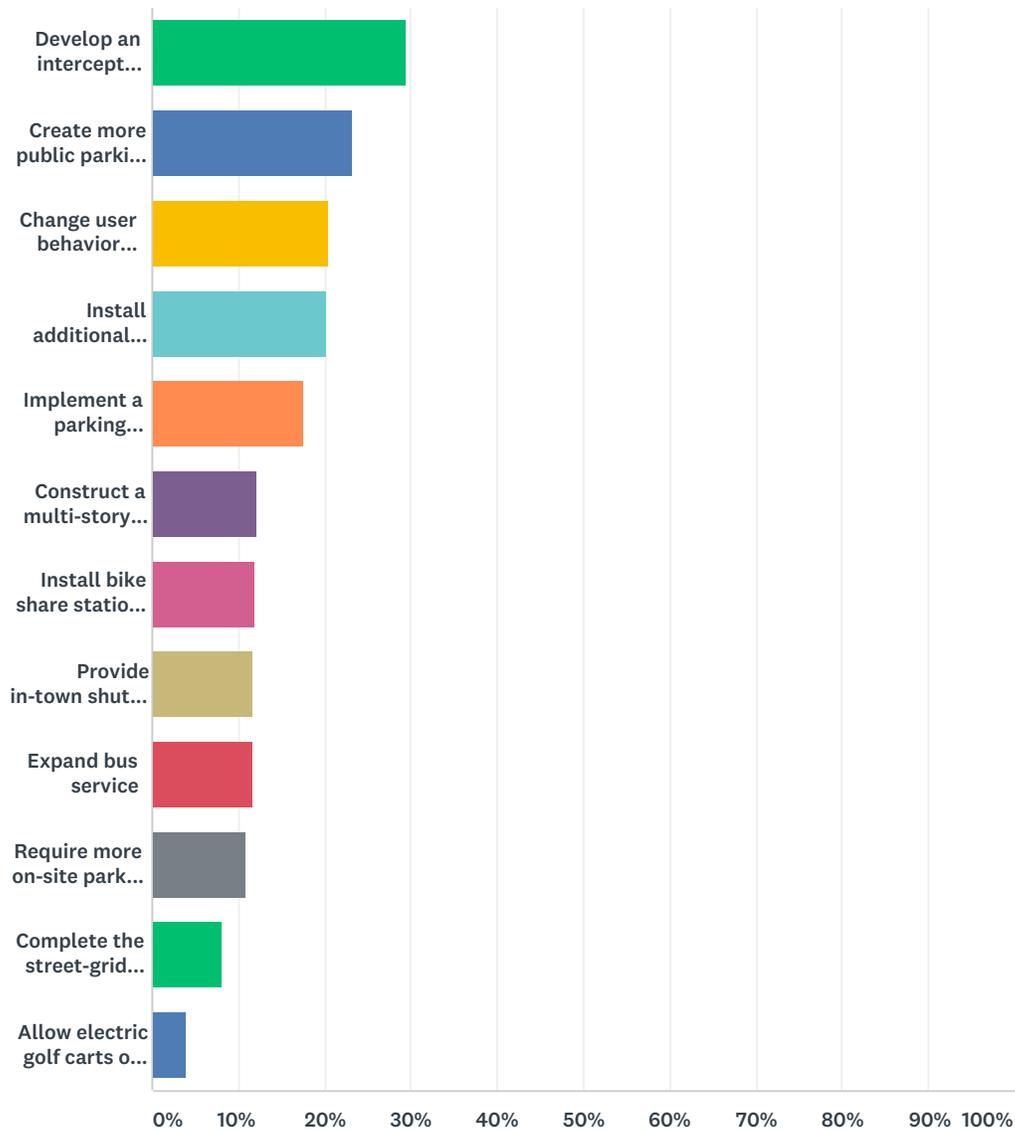
Answered: 1,013 Skipped: 93



ANSWER CHOICES	RESPONSES	
Yes, it is a problem year-round except during the off-seasons	46.30%	469
Sometimes, mostly in summer	38.89%	394
No, it is not a problem	11.15%	113
Sometimes, mostly in winter	3.65%	37
TOTAL		1,013

Q15 If you think traffic and parking are problems, what are your preferred solutions? (please select your top 2)

Answered: 986 Skipped: 120

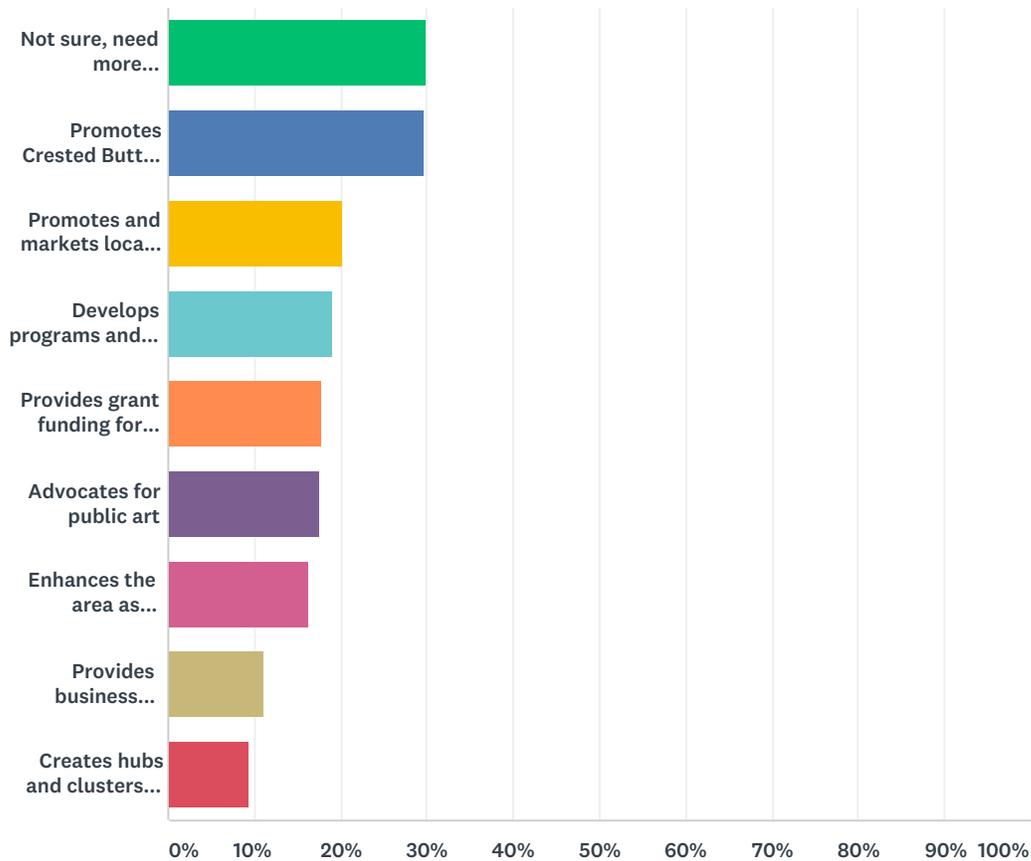


ANSWER CHOICES	RESPONSES	
Develop an intercept parking lot near town with public transit service	29.51%	291
Create more public parking lots in town	23.12%	228
Change user behavior instead of investing in new capital improvement projects	20.59%	203
Install additional pedestrian/bicycle infrastructure	20.28%	200
Implement a parking management program that may include paid parking downtown and employee/resident permits	17.65%	174
Construct a multi-story public parking garage in town	12.17%	120
Install bike share stations and covered bike storage areas in town	11.87%	117

Provide in-town shuttle service	11.76%	116
Expand bus service	11.66%	115
Require more on-site parking for new development	10.95%	108
Complete the street-grid with vehicle bridges across Coal Creek to the Upper Westside of town	8.11%	80
Allow electric golf carts on public streets	4.06%	40
Total Respondents: 986		

Q16 What do you think should be the primary roles of the Creative District in town? (please select your top 2)

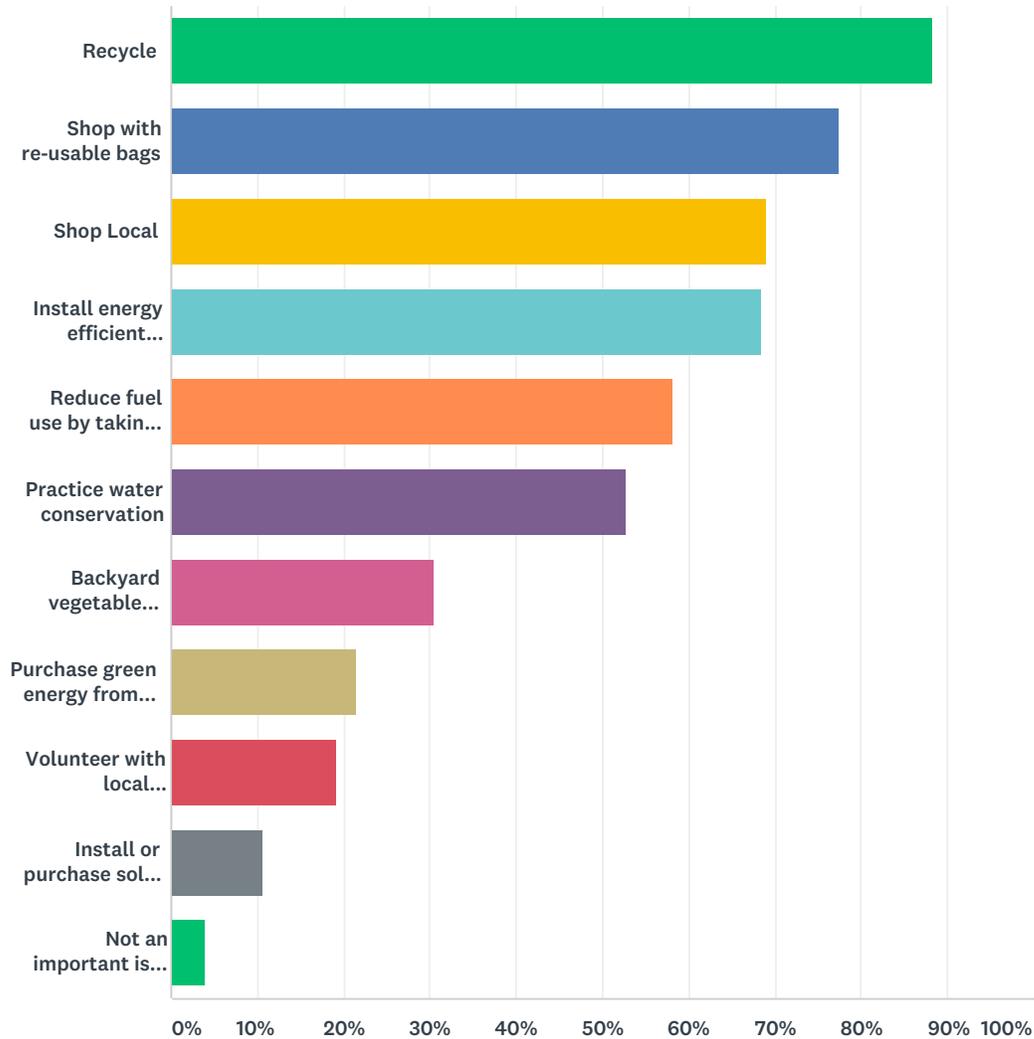
Answered: 1,019 Skipped: 87



ANSWER CHOICES	RESPONSES	
Not sure, need more information	29.93%	305
Promotes Crested Butte's unique identity	29.64%	302
Promotes and markets local "Creatives"	20.31%	207
Develops programs and education for youth	19.04%	194
Provides grant funding for public art projects and performances	17.86%	182
Advocates for public art	17.57%	179
Enhances the area as appealing places to live, conduct business and attract visitors	16.39%	167
Provides business development and education for "Creatives"	10.99%	112
Creates hubs and clusters of economic activity	9.42%	96
Total Respondents: 1,019		

Q17 What actions do you personally take to reduce your carbon footprint and to promote environmental stewardship? (select all that apply)

Answered: 998 Skipped: 108

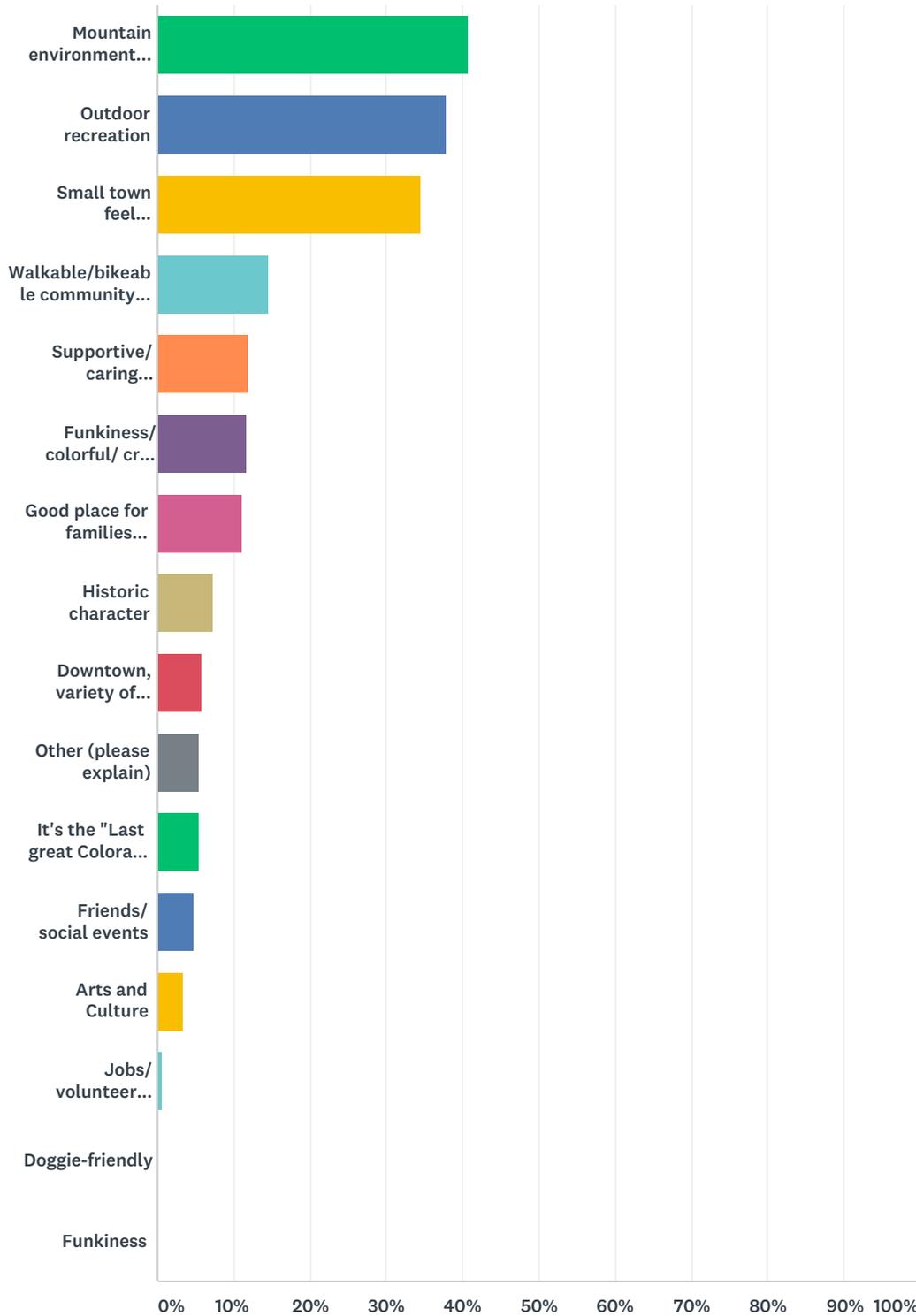


ANSWER CHOICES	RESPONSES	
Recycle	88.38%	882
Shop with re-usable bags	77.45%	773
Shop Local	69.14%	690
Install energy efficient appliances and light bulbs	68.44%	683
Reduce fuel use by taking the bus, walking or biking to work	58.12%	580
Practice water conservation	52.81%	527
Backyard vegetable gardening	30.56%	305
Purchase green energy from GCEA	21.64%	216
Volunteer with local nonprofits that promote environmental stewardship	19.34%	193

Install or purchase solar panels	10.72%	107
Not an important issue for me	4.01%	40
Total Respondents: 998		

Q18 What do you like most about living in or visiting Crested Butte? (please select your top 2)

Answered: 1,011 Skipped: 95

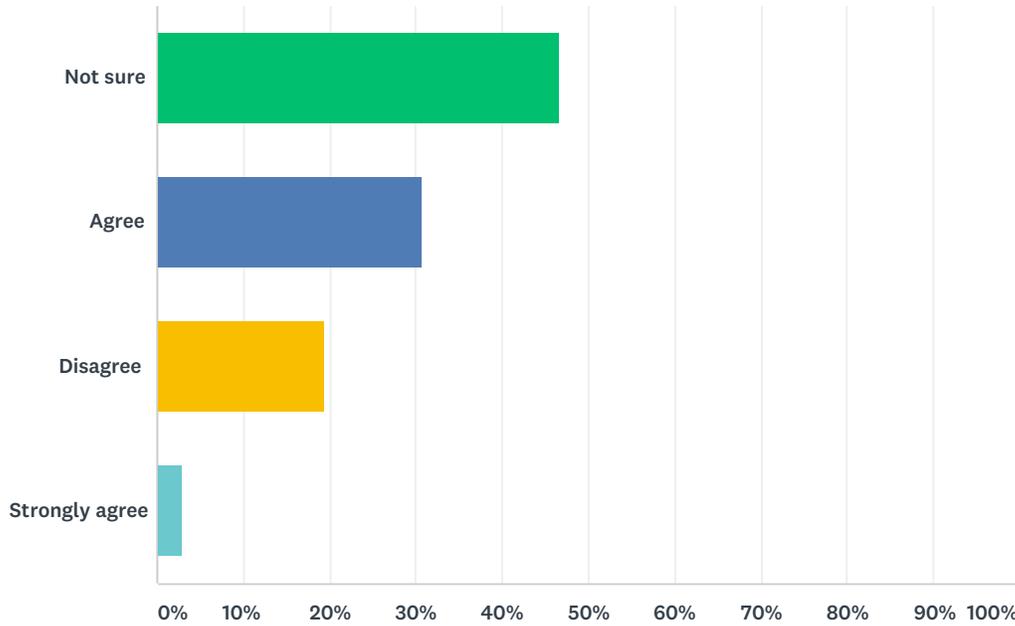


ANSWER CHOICES	RESPONSES
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Mountain environment	40.75%	412
Outdoor recreation	37.88%	383
Small town feel	34.52%	349
Walkable/bikeable community	14.64%	148
Supportive/ caring community	11.87%	120
Funkiness/ colorful/ crazy people	11.77%	119
Good place for families	11.08%	112
Historic character	7.32%	74
Downtown, variety of shops, restaurants/bars	5.93%	60
Other (please explain)	5.54%	56
It's the "Last great Colorado ski town"	5.34%	54
Friends/ social events	4.75%	48
Arts and Culture	3.26%	33
Jobs/ volunteer opportunities	0.59%	6
Doggie-friendly	0.00%	0
Funkiness	0.00%	0
Total Respondents: 1,011		

Q19 Do you believe that the Town of Crested Butte’s values and goals are moving the community in a positive direction?

Answered: 992 Skipped: 114



ANSWER CHOICES	RESPONSES	
Not sure	46.57%	462
Agree	30.85%	306
Disagree	19.56%	194
Strongly agree	3.02%	30
TOTAL		992

Q20 Do you have any other comments that you would like to make concerning how you feel about the Town of Crested Butte?

Answered: 418 Skipped: 688



Staff Report October 1, 2018

To: Mayor Schmidt and Town Council
Thru: Michael Yerman, Community Development Director
From: Bob Nevins, Town Planner
Subject: Phase 1-Parking Management Study
Date: October 1, 2018

1.0 Purpose:

To review and discuss the findings and recommendations of the Phase 1-Parking Management Study prepared by **Interstate Parking Company of Colorado, LLC**. This is an informational presentation and discussion. Town Council will not be making any decisions at this meeting.

2.0 Background:

Interstate Parking Company of Colorado, LLC was selected from a field of five (5) firms that responded to the Town's Request for Proposals (RFP). The selection of Interstate Parking was based on the thoroughness of their proposal; their experience in Breckenridge and with Vail Resorts, their attentiveness to client and customer service; and their overall project budget. Phase 1- Parking Study scope of work was expanded to include: 1) verification of the existing on and off-street parking supply in the downtown area; and 2) collection of data regarding current traffic patterns and usage of the on and off-street parking supply during peak weekdays and weekends in August 2018. The stand-alone Phase 1-Parking Study contract is a fixed-fee of \$12,826.72 including expenses; the Phase 2-Parking Implementation Program is tentative pending the outcome of Phase 1 and Town Council direction to proceed and approval of a detailed Phase 2 Scope of Services Addendum, project schedule and budget.

3.0 Public Parking Goals:

The 2018 Parking Goals are the same as those that were developed in 2014:

- Create a safe pedestrian and bicycle friendly environment for residents, locals and guests.
- Encourage transit ridership and other modes of transportation.
- Decrease traffic congestion and minimize "spill-over" impacts into residential neighborhoods.
- Maximize existing supply of on and off-street parking and create new opportunities.
- Improve winter parking regulations and signage to minimize parking violations.
- Maintain current Town staffing, budgets and service levels.
- Develop community and character-based solutions.

4.0 2014 Crested Butte Parking Demand Summary (refer to attached Summary Map):

The outcomes of the 2014 Elk Avenue Parking Analysis were:

- Based on Existing Land Uses and Peak Demand using Urban Land Institute (ULI) parking ratios, there were parking shortfalls of:
 - -232* parking spaces on Weekdays with 12% reduction due to shared parking.
 - -403* parking spaces on Weekends with
- Consider the impacts of commercial parking overflowing into the residential neighborhoods on Maroon & Sopris Avenues.
- Other Factors*: Locals walking and biking, transit ridership from Mt. CB, and fewer single occupancy ridership because of distance of trips may reduce results in terms of parking need/shortfalls.
- Complete paving of Elk Avenue and Commercial parking areas.

4.0 Public Improvements since 2014:

In the last four (4) years, Town has made the following improvements

- Paving and striping of public 4-Way/Tennis parking lots, increased supply by 70 spaces.
- Paving and striping of Fire Station parking lot.
- Paving and striping of the 3rd and 4th Street on-street parking areas.
- Acquisition of Pita's and Soupcon parking/snow storage areas.
- New Destination and Wayfinding signage to minimize congestion.
- New Winter parking regulations signage to reduce towing of vehicles.
- Removal of snow storage berms along Elk Avenue to increase pedestrian access and safety.

5.0 New Challenges since 2014:

- Summer tourism continues to increase in visitation and the peak season is longer.
- Continued commercial and residential development in town and surrounding areas.
- Paving and re-opening of Cottonwood Pass in 2019 with improved vehicular access.
- Vail Resorts purchase of CBMR and having the EPIC Pass with no blackout dates.
- Decrease in parking supply during winter months (November 1-April 30) due to snow storage areas, winter parking regulations and inefficiencies created by snow and ice.
- New Center for the Arts with expanded programs/events.
- Potential residential development of Brush Creek parcel with a park-n-ride parking area.
- 2018 Community Survey, of the 310 Town responses 89% (275) thought traffic congestion and parking availability are problems in town: 47% checked year-round except in off-seasons, 39% said mostly in summer and 3% marked mostly in winter (3%) while 11% stated that parking is not a problem.

6.0 Public Outreach:

As part of the Phase 1-Parking Management Study, two (2) public Open Houses/Community meeting were scheduled to provide information and to gather community input. The first meeting on September 13 was focused towards business owners and employees; and the second meeting on September 19 was for Town residents and area locals. Display ads were published in the Crested

Butte News on September 6 and 13 and there were e-blasts by the Crested Butte Chamber and Town of Crested Butte. While members of the Parking Committee and Town Council were present, public attendance at both meetings totaled about ten (10) citizens.

7.0 Phase 1-Parking Management Study:

While the Summer-season is well understood in terms of traffic patterns and parking utilization; the 2018-19 Winter-season is “unknown” due to the acquisition of CBMR by Vail Resorts and the introduction of the EPIC Pass with no black-out dates. In similar mountain communities where the EPIC Pass has been introduced, visitation has increased up to 40% over previous ski seasons. Therefore, the timing of this Parking Management Study enables us to be pro-active in addressing our traffic and parking needs based on current usage and future demands.

The existing parking supply information was reviewed and updated based on the paving and striping of the downtown parking lots (4-Way, Tennis Court and Fire Station) and on-street head-in parking spaces on 3rd and 4th Streets. The updated 2018 Public Parking Lot Summary is attached. Interstate Parking then conducted a detailed on-site parking occupancy data collection survey from August 17-27 during a busy but non-peak period. Current occupancy of the public parking supply was determined to be 92% with an average turn-over rate of 1.5 times during an 8-hour period. According to Interstate Parking, optimal parking space utilization is 85% so there are always available parking spaces and to increase the turn-over rate to 4 times to increase parking capacity and use of downtown businesses and services.

Based on existing traffic patterns including pedestrians, bicyclists, service/deliveries and transit, parking supply and land uses, the goal is to maximize utilization of the existing roadways and on and off-street parking supply by:

- Increasing the turn-over rate of downtown parking spaces.
- Enhancing transit usage to alleviate congestion.
- Creating additional revenues to fund transit service and other public purposes.
- Developing a potential intercept parking lot with funded transit service.

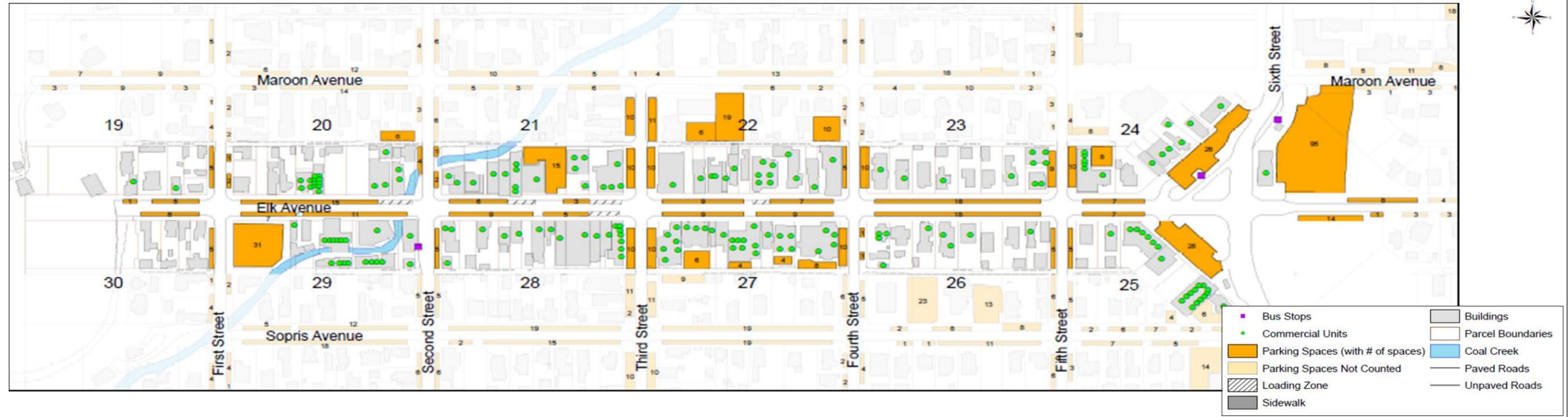
8.0 Potential Transition to Managed Parking:

The potential of paid and/or permit parking are major changes to how public parking has been managed in Crested Butte. However, a parking management system can be devised that favors town residents, area locals and employees while placing greater financial responsibility on visitors who are more accustomed to paid parking and parking enforcement. Clearly, there needs to be considerably broader and more effective public outreach and community involvement. The Phase 1-Parking Management Study is merely the starting point for beginning our community discussion. Thanksgiving, Christmas and Martin Luther King holidays should also provide solid “indicators” as to the scope and magnitude of our traffic and parking issues in Town and the North Valley.

Attachments:

2014 Crested Butte Parking Demand Summary
2018 Public Parking Lot Summary

Town of Crested Butte, Colorado



Parking Demand Per Uses for Typical Weekday													
	Peak	Land Uses (sq. ft.)											
		Restuant*		General Retail**		Medical		Lodging		Office		Banks	
Total Sq. Ft.		49,362		54,593		6,598		7		24,394		6,313	
User Type	12:00 PM	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.
Parking Demand		444	74	158	38	20	10	7	2	7	85	19	10
Parking Demand (Shared Parking)		444	74	142	38	6	10	3	2	1	77	10	10

Results Weekday	
Total Sq.Ft.	141,267
Total Supplied Parking Spaces	585
Parking Demand (No Shared Parking)	874
Parking Demand with Shared Parking Reduction (27%)	817
Parking Deficit	232

Parking Demand Per Uses for Typical Weekend													
	Peak	Land Uses (sq. ft.)											
		Restuant*		General Retail**		Medical		Lodging		Office		Banks	
Total Sq. Ft.		49,362		54,593		6,598		7		24,394		6,313	
User Type	12:00 PM	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.	Visitor	Emp.
Parking Demand		629	111	175	44	20	10	6	1	1	9	19	10
Parking Demand (Shared Parking)		629	111	149	44	6	10	2	1	1	8	17	10

Results Weekend	
Total Sq.Ft.	141,267
Total Supplied Parking Spaces	585
Parking Demand (No Shared Parking)	1,035
Parking Demand with Shared Parking Reduction (12%)	988
Parking Deficit	403

ULI standard parking generation rates and time of day factors were used to determine the parking demand as well as, shared parking reductions based on the land use characteristics along Elk Avenue between First Street and Sixth Street. ULI standard parking generation rates were used to establish a peak parking demand for each land use. The peak parking demand was reduced using shared parking time of day factors from ULI standards. The ULI time of day factors provide distribution of parking demand throughout the day based on the parking characteristics of each land use. For example, office demands peak during mid-day conditions, while retail peak in the late afternoon. This relationship allows for sharing of a single parking resource during non-peak conditions.

*For the restaurant land use, family style restaurant ULI rates were used because it closely reflects the range of land use characteristics found along Elk Avenue.

**General retail land use characteristics were used for the grocery store and retail along Elk Avenue, for they exhibit similar behavior with the ULI rates for general retail.

PUBLIC PARKING LOT SUMMARY-Sept. 2018								
Name of Parking Lot	Regular Spaces	Handicap Spaces	Employee Spaces	Misc. Spaces	Total Spaces 2018	Total Spaces 2014	Net Change 2014-2018	
4-Way (Main East Lot)	136	3	6	3-15 min.	148	95	(+)53	
Tennis Courts	28	1		2-Recharge	31	14	(+)17	
NW 4-Way	27	1			28	28	0	
SW 4-Way	27	1			28	28	0	
Academy Lot (Whiterock-6th)	33				33	Not Include	Not Included	
Town Hall-Library	22		5		27	Not Include	Not Included	
Museum Lot (Blk 22 Alley-4th)	12	1			13	10	(+)3	
Donita's (Blk 27 N of Alley)	11				11	10	(+)1	
Sothebys (Blk 23 4th-Alley)	12	1			13	10	(+)3	
Fire Station (3rd Street)	8	1		4-Dbl. park	13	5	(+)8	
Old Town Hall (3rd Street)	8				8	6	(+)2	
Fire Station (Blk 22 Maroon)	23			7-Tenant	30	25	(+)5	
Dogwood (BLK 21 N of Alley)	11				11	10	(+)1	
Sherpa's (Blk 21 S of Alley)	12				12	10	(+)2	
Stash (Blk 22 S of Alley)	13				13	10	(+)3	
Salt Lick (Blk 28 N of Alley)	10	2			12	10	(+)2	
G.Noodle (Blk 28 S of Alley)	12				12	13	(-)1	
Pita's (Blk 27 N of Alley)	11	1			12	10	(+)2	
3rd Street (Blk 27 S of Alley)	12				12	11	(+)1	
Pita's Lot (Blk 27 3rd-Alley)	8				8	9	(-)1	
Soupcon (Blk 20 2nd-Alley)	6				6	6	0	
Post Office	0	1	4	12	17	15	(+)2	
First-Elk Lot	30	1			31	31	0	
						(60 Not Included)		
SUBTOTALS	472	14	15	28	529	366	(+)103	

From: [Dara MacDonald](#)
To: [Chris Haver](#); [Jackson Petito](#); [J Schmidt](#); [Kent Cowherd](#); [Laura Mitchell](#); [Paul Merck](#); [Will Dujardin](#)
Cc: [Lynelle Stanford](#)
Subject: FW: Parking
Date: Monday, September 17, 2018 8:57:40 AM
Attachments: [SKIER PARKING ANALYSIS 14Sep2018 + Telluride.docx](#)
[ATT00001.txt](#)

Mayor Schmidt and Council members:

Good morning. Please see below and attached.

Dara

From: Chris Haver
Sent: Saturday, September 15, 2018 9:22 AM
To: Dara MacDonald <dmacdonald@crestedbutte-co.gov>
Subject: Fwd: Parking

This was sent to me from Robert McCarter. Please forward it to the rest of council.

Thank you

Chris Haver
Crested Butte Town Council

SKIER PARKING ANALYSIS

Purpose:

1. This comparison is intended to provide data for a high-level look at the adequacy of skier parking in the North Valley five to twenty years in the future.
2. This is current data, but intended to inform a discussion about what parking we will need, taking into account the Teo expansion and changes Vail makes to enhance skier experience.
3. The data compares parking for four ski resorts: Telluride, Jackson Hole, CBMR and Copper Mountain.
 - Telluride and Jackson Hole are more comparable to CBMR. Copper Mountain sees larger commuter traffic because it is more readily accessible to the Front Range and Summit County, and has better facilities to accommodate larger numbers of skiers.

Conclusion: After being normalized to account for size of ski areas: Telluride has 1.5 x parking as CBMR/Local Area today, and 2 x the parking as CBMR/Local Area taking into account the Teo Expansion; Jackson Hole has approximately 2.5 x parking as CBMR/Local Area; and Copper has approximately 4x parking as CBMR/Local Area.

Assumptions:

1. This high level look only considers commuter skier parking.
2. Parking lots have bus service to the ski area to be included.
3. No employee dedicated parking was included.
4. No parking reserved for hotel/lodge guests was included.
5. No parking for short-term rentals was included.
6. No short-term parking (less than 2 hours) was included, and no street parking in town was included.
7. All four resorts above have a resort community associated with them which may reduce any impact of assumptions 4 through 7 for comparing skier parking.
8. Skier parking could be normalized based on number of skiers or skier days for each resort. However, most resorts including CBMR treat those numbers as proprietary when associated with their facility. For this study, skiable area is used as the best available measure of resort size. Skiable area may do better in taking account of potential skier growth as Vail makes capital investments, promotes skiing here, and completes the Teo expansion.
9. Public parking mapped out through 2038 in the “Town Center Development Traffic Impact Study Mt. Crested Butte, CO” shows a relatively consistent amount of public parking as today even with a fully built out parking garage.

Telluride, Jackson Hole & Copper Mountain Skier Parking Compared to CBMR/Local Area Skier Parking

Telluride		Jackson Hole		CBMR		Copper Mountain	
Skiable area (acres) =	2,000	Skiable area (acres) =	2,500	Skiable area (acres) =	1,547	Skiable area (acres) =	2,490
				Teo expansion adds 500 acres. =	2,047		
Telluride Skier Parking		Jackson Hole Skier Parking		CBMR & Local Skier Parking		Copper Mountain Skier Parking	
Lot	Acres	Lot	Acres	Lot	Acres	Lot	Acres
Gondola Parking Garage	5.4	Upper Village/Cody Lot	2.4	Main Lot adjacent to Grand Lodge	3.5	Union Creek	0.9
Heritage Parking Garage	1.0	Mid Village/Crystal Springs Lot	1.5	Mt CB lot on Treasury Rd (above Main Lot)	0.7	Ten mile Creek	0.8
North Village Center Parking	0.2	Base Village/Village Lot	4.2	Mt CB lot adjacent to Plaza	1.1	Beeler	1.3
Meadows Run Parking	0.9	Ranch Lot	6.8	CB city lot at 4-Way	1.3	Chapel	3.5
Town Hall/Market Plaza Parking	0.1	Stilson Lot (Highways 22 & 390)	6.7	Mt CB Nordic Inn Lot (not developed)		Flyer	0.7
Carhenge	1.9	Home Ranch Parking (2 blocks North of Jackson Town Square)	2.5			Triple Treat	0.6
Mahoney Drive	0.7					Wheeler	0.4
Shandokea	2.3					Alpine	18.7
						Far East	10.7
						New Lot #1 ¹	
						New Lot #2 ¹	
Total Telluride Parking Area =	12.4	Total Jackson Hole Parking Area =	24.1	Total CBMR/Local Parking Area =	6.6	Total Copper Parking Area =	37.6
Acres Normalized Parking for Telluride =	15.5	Acres Normalized Parking for Jackson Hole =	24.0	Normalized CBMR/Local Current Parking based on skiable area (6.6 x 2,490/1,547) =	10.6	Acres Parking for Copper Mountain =	37.6
				Acres Normalized CBMR/Local Parking with Teo Expansion (6.6 x 2,490/2,047) =	8.0		

Note 1: numbers for the two lots being built by the Copper Mtn have not been provided at this time.

Area Computations: all existing parking lot areas computed using area function on respective county assessor website or Google Earth, only parking surface areas were included so landscaping, adjacent grass, buffer zones, etc. were not included unless they were totally contained within the parking areas.

From: [Jackson Petito](#)
To: [Lynelle Stanford](#); [Dara MacDonald](#)
Subject: Fwd: Vinotok Festival
Date: Monday, September 24, 2018 7:37:49 PM

Please make sure this is included in the next meeting packet this well. Thank you.

Sent from a phone; please forgive any lack of eloquence.

From: Pete Chapola <pchapola@gmail.com>
Sent: Friday, September 21, 2018 10:10:15 AM
To: Jackson Petito; J Schmidt; Paul Merck; Laura Mitchell; Chris Haver; Kent Cowherd; Will Dujardin
Cc: comments@vailresorts.com
Subject: Vinotok Festival

Hi, its not often I write to town councils, however I thought I needed to in this instance. This isn't a complaint or condemnation just a request. First let me give you some context. My wife and i live in Fruits Colorado and have been long time and frequent visitors to Crested Butte for the past 20 years. We love the community and the surrounding mountains. We have contemplated about seeing how we could swing a second home or even retiring to the area. Hopefully you are not thinking "oh great another tourist telling us how to run things." I am just going to make a suggestion.

First the context. My wife and i were in town this past weekend, she was running the Crested Butte Ultra. On Sunday we were eating lunch at the Brick House and a stranger sitting next to us struck up a conversation. He asked if we were in town for the Vinotok Festival. As I said we have been coming to CB for 20 years and had never heard of it. He was from Aspen and rode his motorcycle over that morning. He said the festival was a LSD and alcohol fueled week of debauchery that culminated in people offering up their transgressions to a "burning man." I thought wow! That doesn't seem very family oriented. Since I had never heard of it I jumped on your website and CB mountains web site and was very surprised to find out that both organizations were promoting it. I immediately thought that I wouldn't spend another dime in Crested Butte. After I thought about it awhile I thought that I would write the town council and the new owners of CB Mountain, Vail resorts and determine if this is how they want their town and business portrayed as contributing to this type of activity.

My hope is that this e-mail would at least spur the council to have a discussion about the positive and negative things this festival brings to the community. Many communities have fall festivals that aren't tied to a "lustful pagan festival" those words were taken from a Wikipedia description of the Vinotok Festival, by taking that part out your may have better and more inclusive experience for locals and visitors alike.

I appreciate your time and would love to hear your thoughts. You may receive some more e-mails regarding the festival. I have reached out to pastors in Grand Junction and in Texas in order to shed light on the details of this festival. There are many believers who visit or own homes in Crested Butte that would be as surprised as I was about it.

Vail Resorts customer service I just thought it easier for everyone if I copied you in. Looks like you will be inheriting co-sponsorship of this festival.

Pete Chapola

From: [Jackson Petito](#)
To: [Lynelle Stanford](#); [Dara MacDonald](#)
Subject: Fwd: 2018 Crested Butte Vinotok
Date: Monday, September 24, 2018 7:37:18 PM

Please make sure this email and the one I forward right after are included in the next meeting packet.

Thanks
-Jackson

Sent from a phone; please forgive any lack of eloquence.

From: Matt Drake <matt.drake24@gmail.com>
Sent: Sunday, September 23, 2018 11:04:04 AM
To: J Schmidt; Paul Merck; Laura Mitchell; Jackson Petito; Chris Haver; Kent Cowherd; Will Dujardin
Cc: Dara MacDonald; Michael Yerman; sandstrom.andrew@gmail.com
Subject: 2018 Crested Butte Vinotok

Dear Town Council,

This past week, my wife and I came to Crested Butte for vacation. We were amazed at the beauty of the fall colors painting the surrounding mountainsides. We had an amazing time exploring Crested Butte and the surrounding areas. From hiking Red Lady and Washington Gulch, riding ATVs, taking the ski lift to the top of Mt. Crested Butte, and exploring the shops and great restaurants on Elk Ave, our time spent in your city was very enjoyable. My wife admired the beautiful flowers and landscaping maintained by the city that gave Crested Butte its mountain charm. The people we met were also great. The locals we interacted with were incredibly friendly and welcoming.

However, there was one thing that took place during our stay that left us a little disappointed. The week we were here happened to overlap with the Vinotok festivities that were going on in town. My wife and I knew nothing about Vinotok prior to coming here, but we enjoyed seeing the fun costumes and traditions carried out during the week of the Vinotok activities. We read about the various legends that play out during the Vinotok progression, with its culmination of the “burning of the grump” as a supposed symbol of restoring positivity and “getting rid of the grumps in your life”. We happened to be grabbing dinner on Elk Avenue the night of the final “Trial of the Grump” where the “Grump” is placed on trial and then taken to be burned and “put to death”. To our surprise, we saw that this year’s “Grump” was a clear representation of President Donald Trump. Cheered on by a mob of spectators, the Trump-like figure was carried down the street to be burned in a bonfire.

Now first and foremost, I want to state that I am a supporter of free speech. I think it is a beautiful thing that individuals are free to express their opinions and views in this great country, however distasteful they might be. But I also couldn’t help but notice the streets being blocked off, police directing crowds and traffic, and stages being set up on public property; all indications that this event was a city-sanctioned event. And as a city-sanctioned event, I am extremely disappointed to see that the event culminated with a Trump-like figure being publicly burned.

I constantly hear in the media how “rhetoric is important”. I think back to the disgust I had hearing about the Charlottesville white supremacy rallies, where violence was carried out by members of that hateful group, ending in injuries and even the death of a woman. I think back to June 2017 when a Bernie Sanders supporter opened fire on a Republican congressional baseball practice, spurred by his disdain for conservatives. I have even seen the downstream effects of hateful rhetoric played out first-hand in my home city of Dallas, where in 2016, a broken man, inspired by the hate-filled rhetoric of a radical group, carried out a horrific shooting targeting police officers. That man ended up killing 5 Dallas police officers. Now, do I hold those who spew harmful rhetoric ultimately responsible for the atrocious crimes listed above? Absolutely not. At the end of the day, those who carried out those violent attacks are solely responsible for their own actions. But we can clearly see that rhetoric matters, and the messages we portray have impact and influence.

All that to say, I wonder if those who were involved in the planning and approval of the aforementioned aspect of this festival thought of the message they would be sending by displaying a Trump-like figure being burned by a mob of screaming people. What kind of message does that send to the people from all over the country visiting your city, coming from all sorts of political backgrounds? What kind of message did that send to the numerous onlooking children that my wife and I saw watching on that night? Does the City of Crested Butte really want to send the message that those who we may not like or agree with ought to be represented as being burned in a bonfire? As a perspective check, would the city have approved of an Obama-like or Hillary-like figure being displayed as the “Grump” and being publicly burned?

And yes, I know, this was all probably meant to be a playful jab at a president that may be unpopular in your city. I understand that the City of Crested Butte nor its residents would seriously call for violence against the President, or anyone else for that matter. But I just felt the need to point out the ignorance and lack of merit in the decision to portray a Trump-like character being burned at a city-sanctioned festival.

I would love to hear an official explanation and response from the city on why this distasteful and disrespectful display was allowed to be incorporated into the Vinotok festival. I would also encourage you to think more seriously at the type of messaging and rhetoric you want your city to propagate. At a time when hateful rhetoric is carried out every day by people on both sides of the aisle, I would hope that you would want your city to be contributing to bringing Americans together, not causing more division.

Sincerely,
Matt Drake

From: [kelli jones](#)
To: [Lynelle Stanford](#)
Subject: Please forward to all CB town council members please
Date: Tuesday, September 25, 2018 7:06:23 AM

Dear CB town council members,

After being reminded once again in this weeks news paper, I want to have my voice heard as a northern valley resident (full time and active in our community). I support regulation in favor of protecting wildlife and their natural habitats! Blue heron rookeries along the upper slate are in danger of being abandoned due to dramatic increases in river recreation (SUPing and tubing) amongst both locals and tourists. As the article mentions, the herons arrive mid March and habitat along the upper slate until August 1st. In order to provide these birds and other local wildlife the peace and quiet they require to exist in our valley, I ask that you speak in favor of a NO FOAT period ending on August 1st, NOT any sooner! I am aware that this topic is on the council's agenda for Sept 27th public forum, and I ask that my concerns be factored in to a final decision. Thanks for reading and considering wildlife first on this one.

Sincerely,
Kelli Jones, Irwin CO

Sent from my iPhone

Agenda
 BOARD OF ZONING and ARCHITECTURAL REVIEW
 Tuesday
 September 25, 2018

- 6:00 Call to Order.
- 6:02 **Work Session:** Discussion of the demolition code and additions and amendments to it.
- 6:32 **Work Session:** Discussion of the definition of historic building and the addition of criteria for buildings outside of the period of significance.
- 7:00 Adjourn
- 7:02 Call to Order.
- 7:04 Review and approve the minutes from the **August 28, 2018** BOZAR meeting.
- 7:06 Review and approve the minutes from the **September 10, 2018** special BOZAR meeting.
- 7:08 Consideration of the application of **Elk Ave LLC** to change the use from residential/office to hotel in Units 3, 4 and 5 of the Green Drake Condos located at 123 Elk Avenue, Block 20, Lots 27-28 in the B1 zone. (Ryan/Hadley) *Continued from the 8-28-28 Meeting.*
- A conditional use permit for a hotel use in the B1 zone is required.
- Payment in lieu of up to 4 off street parking spaces in the B1 zone is required.
- 7:50 Insubstantial determination requested by **Valcor Holdings, LLC** to change the window style at the non-contributing historic residential building located at 222 Maroon Avenue, Block 21, Lot 6 in the B3 zone. (Mundy)
- An insubstantial determination is requested.
- 8:15 Consideration of the application of **Kris Pogoloff and Ethel Roberta Pogoloff** to relocate the historic accessory building to the east portion of the lot located at 512 Third Street, Block 34, Lots 17 in the R2C zone. (Pogoloff)
- Architectural approval is required
- 8:35 Consideration of the application of **Suzanne Simmons** to site a new single family residence and accessory building to be located at 409 Gothic, Block 11 Lots 21-22 in the R1 zone. (Murphy)
- Architectural approval is required.
- A conditional use permit for a heated and/or plumbed accessory building in the R1 zone is required.
- A recommendation to the Town Council regarding the stair case in the Town Rights of way is required.
- 9:15 Consideration of the application of **Richard Melnick** to make changes to the previously approved plan to construct a second accessory building to be located at 915 ½ Belleview Avenue, Block 75, Lot 5 in the R1D zone. (Alling)
- Architectural approval is required.
- 9:45 Miscellaneous:
 o DRC for October 15 and 22: Russell and Davol (BOZAR – October 31st)
 o DRC for November 5 and 12: _____ (BOZAR – November 27th)
 o Insubstantial Reviews:
 o CBMHM (331 Elk Avenue): Overview of phase 2 rehabilitation on the building.
 o Czarnick (510 Third Street): Removal of asphalt shingle siding.
- 10:00 Adjourn

The above times are only tentative. The meeting may move more quickly or slowly than scheduled

GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA

273

DATE: Tuesday, September 18, 2018

Page 1 of 2

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

GUNNISON COUNTY BOARD OF HEALTH:

- 8:30 am
- Call to Order
 - Early Childhood Education; Funding Early Childhood Council (ECC)
 - Public Health Improvement Plan
 - Vital Statistics Update
 - Adjourn

GUNNISON COUNTY BOARD OF EQUALIZATION:

- 9:00
- Call to Order
 - Assessment Roll of Taxable Real and Personal Property
 - 2018 Failure to Report Personal Property Log
 - 2018 Protest Master Log
 - Adjourn

GUNNISON COUNTY BOARD OF COMMISSIONERS REGULAR MEETING:

- 9:10
- Call to Order; Agenda Review
 - Minutes Approval:
 1. 8/21/18 Regular Meeting
 - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
 1. Airline Operating Agreement; Gunnison-Crested Butte Regional Airport; American Airlines
 2. Contract Agreement; Notice of Award; Gunnison-Crested Butte Regional Airport; AIP 54; O.J. Watson Equipment, Inc.; \$644,900
 3. Affiliate Airline Operating Agreement; Gunnison-Crested Butte Regional Airport; Trans States Airlines
 4. Grant; Gunnison County Substance Abuse Prevention Program; Daniels Fund; Choice Pass Program; \$20,000
 5. Memorandum of Agreement; West Region Wildfire Council
 6. Landscaping Improvements Agreement; Swiss Holdings LLC
 7. Appointment; Gunnison Crested Butte Tourism Association Board; Kelly Osness
 - Scheduling
- 9:15
- County Manager's Report
 1. County Forest Payment / SRS Funds Disbursement
- 9:25
- Deputy County Manager's Report
 1. Lease Purchase; Wagner Equipment Company; Caterpillar Motor Grader
- 9:35
- Resolution; A Resolution Opposing Amendment 74 and Proposition 112 Seeking Voter Approval

*NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. The County Manager and Deputy County Manager's reports may include administrative items not listed. Regular Meetings, Public Hearings, and Special Meetings are recorded and **ACTION MAY BE TAKEN ON ANY ITEM**. Work Sessions are not recorded and formal action cannot be taken. For further information, contact the County Administration office at 641-0248. If special accommodations are necessary per ADA, contact 641-0248 or TTY 641-3061 prior to the meeting.*

GUNNISON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING AGENDA

274

DATE: Tuesday, September 18, 2018

Page 2 of 2

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

to Artificially Impose Universal Oil and Gas Setbacks and Dramatically Expand Takings Law to the Detriment of Local Governments and Proper Land Use Planning and Regulation

- 9:40 • Gunnison-Crested Butte Tourism Association; Request for Funds; Arrivalist 3.0 Technology Launch
- 9:50 • Vouchers and Transfers
- July 2018 Sales Tax & Local Marketing District Tax Reports
 - Final Draft Capital Improvement Plan 2019-2023
 - Treasurer's Report
 - Possible Executive Session; Pursuant to C.R.S. 24-6-402 (4) (a), for the potential purchase of real property, and pursuant to C.R.S. 24-6-402 (4) (e) (I), for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, and pursuant to C.R.S. 24-6-402 (4) (b) conferences with the County Attorney and/or Deputy County Attorney for Gunnison County for the purposes of receiving legal advice on such negotiations and potential purchase
 - Unscheduled Citizens: Limit to 5 minutes per item. No formal action can be taken at this meeting.
 - Commissioner Items: Commissioners will discuss among themselves activities that they have recently participated in that they believe other Commissioners and/or members of the public may be interested in hearing about.
 - Adjourn

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> no later than 6:00 pm on the Friday prior to the meeting.

GUNNISON COUNTY BOARD OF COMMISSIONERS
WORK SESSION AGENDA

275

DATE: Tuesday, September 25, 2018

Page 1 of 1

PLACE: Board of County Commissioners' Meeting Room at the Gunnison County Courthouse

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS WORK SESSION:

- 8:30 am • Strategic Planning Update; Juvenile Services
- 9:00 • Strategic Planning Update; Emergency Management
- 9:15 • Strategic Planning Update; Geographic Information Services
- 9:30 • Strategic Planning Update; Community Development
- 9:45 • Community Development; Request for Signal Peak Grant Support
- 9:50 • Ian Billick; Request for Commissioner Support Re: Ballot Initiative 7D; Gunnison Metropolitan Recreation District
- 10:05 • Gunnison Valley Health Board of Trustees Quarterly Update
- Adjourn

Please Note: Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> no later than 6:00 pm on the Friday prior to the meeting.

GUNNISON COUNCIL AGENDA
MEETING IS HEAD AT CITY HALL, 201 W. VIRGINIA
AVENUE GUNNISON, CO, IN THE 2ND FLOOR COUNCIL
CHAMBERS

Approximate meeting time: 2.5 hours

September 25, 2018 **REGULAR SESSION** **5:30 P.M.**

City of Gunnison Councilmembers gather for a light meal at 5:00 P.M. in Council Chambers. No City Council activity takes place.

I. Presiding Officer Call Regular Session to Order: (silent roll call by City Clerk):

II. Citizen Input: (estimated time 3 minutes)

At this agenda time, non-agenda scheduled citizens may present issues of City concern to Council on topics on are not to be considered later in the meeting. Per Colorado, Open Meetings Law, no Council discussion or action will take place until a later date; unless an emergency situation is deemed to exist by the City Attorney. Each speaker has a time limit of 3 minutes to facilitate efficiency in the conduct of the meeting and to allow an equal opportunity for everyone wishing to speak.

III. Council Action Items:

A. Approval of the September 11, 2018 Regular Session meeting minutes

Background: per City Charter, the City Clerk produces minutes of the Council actions for all regular and special session meetings. Minutes are approved or amended at the follow regular session meetings and become permanent city record. If a city councilor was not present no the meeting, they must abstain in the vote and action on approval of the minutes.

Staff contact: City Clerk Erica Boucher

Action Requested of Council: To approve the September 11, 2018 Regular Session meeting minutes

Estimated time: 1 minute

B. Parking Analysis and Final Report

Background: Based on the City Council's Strategic Plan regarding Economic Prosperity and implementation of the Gunnison Vibrancy Initiative, a parking count was conducted on August 2-4, 2018. A final report indicating parking utilization has been completed along with recommendations for future management of on-street parking.

Staff contact: Interim Community Development Director Andie Ruggera

Action Requested of Council: To review and discuss the Parking Analysis for the downtown area and to accept the final report and recommendations by Charlier Associates, Inc.

Estimated time: 30 minutes

C. Financial Policies

Background: To present a variety of financial policies for adoption for Council to consider.

Staff contact: Finance Director Ben Cowan

Action Requested of Council: To discuss and make a motion to adopt the City of Gunnison Financial Policies as presented on September 25, 2018.

Estimated time: 10 minutes

D. Purchasing Policy Amendment and First Reading of Ordinance No. 9, Series 2018; Re: An Ordinance of the City Council of the City of Gunnison, Colorado, Repealing and Reenacting Chapter 2.20, Purchasing Policy and Procedure, of the City of Gunnison Municipal Code

Background: The purpose of this item is to simplify and amend the City Code to include performance and payment bonds for City projects exceeding \$50,000 to be in compliance with state statutes.

Staff contact: Finance Director Ben Cowan

Action Requested of Council: To introduce, read by title only, motion, second and vote to pass and order to publish Ordinance No. 9, Series 2018 on first reading.

Estimated time: 10 minutes

E. Letters of Support for Gunnison County on grants for Shady Island Park and a Community Planning Assistance for Wildfire program

Background: Gunnison County requested two letters of support from City of Gunnison to pursue a GOCO grant for Shady Island Park and their application to participate in a Community Planning Assistance for Wildlife (CWAP) program. The County receiving the GOCO grant for Shady Island Park and/or acceptance into the CMAP program would be beneficial for both the County and the City.

Staff Contact: City Clerk Erica Boucher

Action Requested of Council: To authorize the City Manager to sign both letters of support for Gunnison County.

Estimated time: 10 minutes

F. Community Development Semi-Annual Report

Background: Every City department provides Council with an update twice a year of the department's projects, successes, any personnel changes, answers questions and addresses any concerns of Council.

Staff contact: Interim Community Development Director Andie Ruggera

Estimated time: 20 minutes

V. Executive Session**A. Executive Session**

The purpose of which is to review the current City Manager's contract with the City Attorney pursuant to C.R.S §24-6-402(4)(f)(I). This session is recorded.
Estimated time: 45 minutes

VI. Reports:

City Attorney Report

City Manager Strategic Projects Update and Report

City Councilors with City-related meeting reports; discussion items for future Council meetings

VII. Meeting Adjournment

The City Council Meetings agenda is subject to change. The City Manager and City Attorney reports may include administrative items not listed. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website at Sessions are recorded; however, minutes are not produced. For further information, contact the City Clerk's office at 970.641.8140. **TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL NEEDS ARE REQUESTED TO CONTACT THE CITY CLERK 24 HOURS BEFORE ALL MEETINGS AT 970.641.8140.**

AGENDA

Call to Order

Roll Call

Approval of the September 18, 2018 Regular Town Council Meeting Minutes

Reports

Manager's Report
Town Council Reports

Crested Butte Nordic Council – Admissions Tax Report Follow Up

Crested Butte Music Festival – Admissions Tax Report Follow Up – Cynthia Peatross

Presentation on the History of Conservation in the Upper Gunnison Valley – Noel Durant

CORRESPONDENCE

OLD BUSINESS-

Discussion and Possible Consideration of Resolution 14, Series 2018, Resolution of the Town Council of the Town of Mt. Crested Butte, Colorado Opposing Amendment 74, an Attempt to Amend the Colorado Constitution to Drastically Limit State and Local Government Services at a High Cost to Taxpayers.

NEW BUSINESS –

Discussion and Possible Consideration of a Resolution Supporting Met Rec District's 7D.

Discussion and Possible Consideration of Ordinance Number 7, Series 2018, an Ordinance of the Town Council of the Town of Mt. Crested Butte, Colorado, Approving a Planned Unit Development Major Alternation to Lot6 34, Pitchfork Subdivision, with Conditions – Carlos Velado

Discussion and Possible Consideration of Resolution 13, Series 2018, A Resolution of the Town Council of the Town of Mt. Crested Butte, Colorado, in Support of Amendment 73

Discussion and Possible Consideration of Resolution 15, Series 2018, a Resolution of the Town Council of the Town of Mt. Crested Butte Colorado in Support of Ballot Issue 7D.

Discussion and Possible Consideration of Resolution 16, Series 2018, a Resolution of the Town Council of the Town of Mt. Crested Butte, Supporting the Grant Application for a Local Park and Outdoor Recreation (LPOR) Grant From Great Outdoors Colorado for New Playground Equipment Located in the Ted Schekse Town Park. – Tiffany O'Connell

**REGULAR TOWN COUNCIL MEETING
MT CRESTED BUTTE, COLORADO**

280
October 2, 2018
6:00 PM
COUNCIL CHAMBERS

OTHER BUSINESS –

PUBLIC COMMENT – *Citizens may make comments on items not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments are limited to five minutes.*

ADJOURN

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 349-6632 at least 48 hours in advance. Public comment on these agenda items is encouraged.



To: Town Council
 From: Tiffany O'Connell, Town Clerk
 Subject: Town Council Calendar
 Date: September 26, 2018

Calendar

Date	Time	Event	Location	Additional Information
October 1, 2018	5:00PM	Joint Work Session with the Town of Crested Butte	Crested Butte Town Hall	Brush Creek Work Force Housing
October 2, 2018	6:00PM	Town Council Meeting	Town Hall	
October 16, 2018	6:00PM	Town Council Meeting	Town Hall	
October 18, 2018	8:30AM	Town Council Retreat	Al Johnson Room – Lodge at Mountaineer Square	
November 8, 2018	TBD	Joint Town Council Meeting – Town of Crested Butte, City of Gunnison, Gunnison County Commissioners	9380 – Elevation Hotel	
June 18-21, 2019		CML Conference	Breckenridge	

October 15, 2018**Work Session**

Budget Discussion

Consent Agenda

Award of Bid for Old Town Hall Elevator

Proclamation for a Citizen**Old Business**

Discussion on The Corner at Brush Creek

New Business

Update from Scott Miller on Water Cases
 Gunnison Valley Hospital – Mental Health Facilities
 Initial Presentation of the 2019 Draft Budget
 Annual Report from Creative District Commission
 Implementation of Parking Plan
 Town Park Bathrooms
 Ordinance – Selling Land to the School District
 Purchase Contract with the School District.
 Resolution Amending Waste Management Agreement
 Slate River Working Group Update on Management Plan

November 5, 2018**Work Session**

Snow Plan
 Budget?

Old Business

Discussion on The Corner at Brush Creek

New Business

Discussion on Electric Scooters, Balls, and Skateboards
 Annual Report by the Chair of the Weed Advisory Board on Weed Management in the Town of Crested Butte

November 19, 2018**Work Session**

Mike McBride – GCEA

New Business

Ordinance for Criteria for Demolition

Future Items

- Quarterly Financial Reports

- Funding Agreement with the Chamber of Commerce – December
- Year-End – Retreat Update
- Year-End – Project Update
- Heights Open Space Plat Note and Covenants
- RLA for Dillon Wall
- School Master Plan and Intersection Discussion