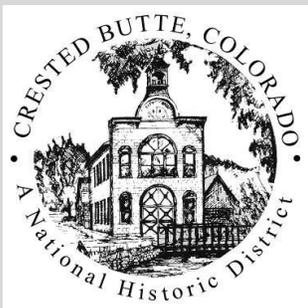


AGENDA
Town of Crested Butte
Regular Town Council Meeting
Tuesday, August 8, 2017
Council Chambers, Crested Butte Town Hall



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

Town Council Values

- *Preserve our high quality of Life*
- *Resource Efficiency/ Environmental Stewardship*
- *Support a sustainable and healthy business climate*
- *Maintain a “real” community*
- *Fiscally Responsible*
- *Historic Core*

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

6:00 WORK SESSION

- 1) Update from Mike McBride from Gunnison County Electric Association (GCEA) on Energy Actions.
- 2) Presentation by Jessie Earley and Discussion on the Energy Action Plan.

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

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA

- 1) July 24, 2017 Regular Town Council Meeting Minutes.

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.

7:12 STAFF UPDATES

7:30 PUBLIC HEARING

- 1) Ordinance No. 20, Series 2017 - An Ordinance of the Crested Butte Town Council Amending Section 6-4-10 to Add the Term Booth.

7:40 2) Ordinance No. 21, Series 2017 - An Ordinance of the Crested Butte Town Council Approving an Intergovernmental Agreement with the Town of Mt. Crested Butte for the Formation and Ongoing Operation of Mountain Express.

7:50 NEW BUSINESS

- 1) Presentation by Parks and Recreation Director Janna Hansen on the Big Mine Warming House Concept Plans.

8:10 2) Discussion on the Boater Easement and Improvements to the Public Works Yard with Cypress Foothills, LP.

8:50 3) Resolution No. 51, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Development Improvements Agreement for the Slate River Development.

9:00 4) Resolution No. 52, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Water and Sewer Service Agreement for the Slate River Development with Cypress Foothills, LP.

9:10 5) Resolution No. 53, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Water and Sewer Easement Agreement for the Slate River Development with Cypress Foothills, LP.

9:20 6) Ordinance No. 22, Series 2017 - An Ordinance of the Crested Butte Town Council Approving the Lease of a Portion of the Property at 308 Third Street to West Elk Bahk Do Moo Duk Kwan, DBA West Elk Martial Arts.

9:25 7) Discussion on the Ordinance Setting Ballot Language for Vacation Rental Tax.

9:45 LEGAL MATTERS

9:50 COUNCIL REPORTS AND COMMITTEE UPDATES

10:05 OTHER BUSINESS TO COME BEFORE THE COUNCIL

10:15 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, August 21, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, September 5, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, September 18, 2017 - 6:00PM Work Session - 7:00PM Regular Council

10:20 EXECUTIVE SESSION

1) For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding water rights.

10:50 ADJOURNMENT



Staff Report

August 8, 2017

To: Town Council

Thru: Dara MacDonald, Town Manager and Michael Yerman, Community Development Director

From: Jessie Earley

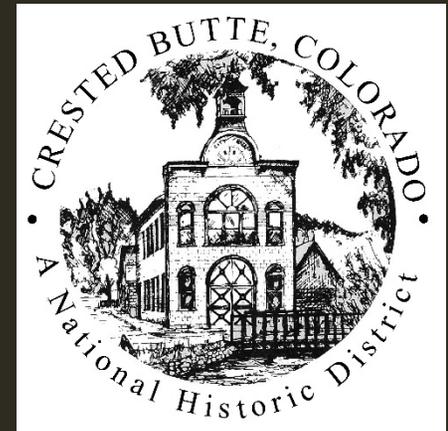
Subject: Work Session: Energy Action Plan (EAP) Status Update

SUMMARY:

Staff will give a presentation, which overviews what the EAP is, what the achievements have been since its adoption and ways forward in achieving goals and adapting the plan, as ten years have passed.

The presentation and EAP itself are included as part of the Council's packet.

ENERGY ACTION PLAN (EAP) STATUS UPDATE



EAP - WHAT IS IT?

Policy and program recommendations for the Town and its partners with the objective of meeting carbon reduction goals.

Not inclusive of all programs and policies related to sustainability.

Developed guiding principles to help evaluate programs and policies.

Implementation of it is on a project-by-project basis

Set into effect in 2009

EAP ACHIEVEMENTS — RESIDENTIAL AND COMMERCIAL BUILDINGS

Goal B.1.1 Basic audit and weatherization of 800 residential units/B.1.2 Advanced audit and installed measures <\$2400 for 300 residential units./ B.1.3 Replace incandescents: >6/ unit / 500 units

REEP now EnergySmart/EnergyWise & GCEA

Energy Star appliances

CFL & LED

HRV's

REMP



EAP ACHIEVEMENTS — TOWN BUILDING EFFICIENCY UPGRADES

Goal C.2.1 Energy Efficiency of Town Buildings & Operations (High Priority)

Smart meters

Governor's Office of Emergency Management Conservation Program

Upgrades to:

- Boilers
- Lighting
- Windows
- Furnaces

Grants to upgrade:

- Insulation
- Blinds
- Lighting

Utility tracking



EAP ACHIEVEMENTS — FLEET MANAGEMENT

Goal C.2.1 Energy Efficiency of Town Buildings & Operations (High Priority)

Town has purchased

- Electric vehicles – 4 and will purchase another this season
- Hybrid vehicles – 1
- Diesel – 2, 4 cylinder pick up trucks (24/29 mpg)

Overarching goals for the fleet

Charging station

EAP ACHIEVEMENTS - TRANSPORTATION

Goal E.1.2 Transportation Demand Management/E.2.2 Expand Bus Service (Mid Priority)

1% sales tax increase for RTA

CNG vehicles

Goal E.2.1 Town and County will collaborate to create continuous trail systems to Town limits.

Trails around town

Preservation of open space



EAP ACHIEVEMENTS — WASTE OBJECTIVES

Goal F.1.1 Reduce residential and business waste

Solar Belly compactors

Demolition recycle plan

Electronics recycle

Biosolids composting

Plastic bag ban



EAP ACHIEVEMENTS — COMMUNITY SCALE RENEWABLE ENERGY SYSTEMS

Goal G.1 Support use of renewable energy systems

Solar array on Clarifier

Potential for solar array on Transportation Center

BOZAR supports use

Limited permit fees

ACHIEVEMENTS — FOOD SYSTEMS

Town grants helped fund:

Mountain Roots

Local Farms First now Farm Runners

EAP NEXT STEPS

Town Website for updates

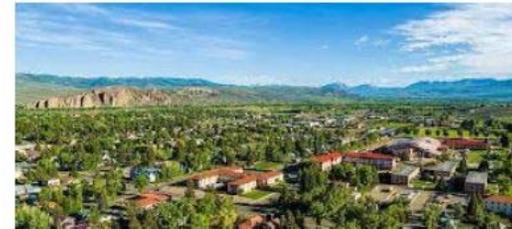
County:

- just completed a baseline inventory and update
- has strategic goals based upon this inventory

Updating our plan and establishing goals

Grants and budget

Gunnison County
Energy, Materials, and Greenhouse Gas
Emissions Inventory:
2015 Baseline
&
2030 Forecast



Center for Environment and Sustainability
Community Solutions Incubation+Innovation (CS2I) Lab
February 2017



**Energy Action Plan for
The Town of Crested Butte**

**Prepared by
The Crested Butte Energy Action Planning Committee
06/10/09**

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Introduction

The intent of this plan is to guide the creation and implementation of energy policy and programs and provide a process by which future energy policy goals and programs may be evaluated.

Following the completion of the Upper Gunnison Emissions Inventory, The Crested Butte Energy Action Planning Committee was convened to develop the Crested Butte Energy Action Plan. The Committee is a voluntary body consisting of Town Staff, ORE Staff, local businesses and community members. With the Upper Gunnison Watershed Emissions Inventory as a reference, the committee developed a set of guiding principles by which programs and policies could be evaluated. Energy programs and policies were then evaluated by these guiding principles and quantitative emissions evaluation tools.

Programs were suggested and evaluated in the following areas:

- General
- Buildings
- Government Buildings and Operations
- Public Education
- Transportation
- Waste
- Energy Generation
- Policy and Finance

Action items in the Plan are not exhaustive; they were created to provide an example of a range of programs appropriate for implementation in Crested Butte. This Plan provides an outline of an evaluation process that should be further developed to accurately evaluate the cost and benefits of specific proposals.

Use of the Energy Action Plan

This document should be used in the creation of policies and programs governing energy use, internal municipal practices, the execution of duties and the development of staff work plans. Because the Gunnison Valley plan contains multi-jurisdictional elements, implementation will be conducted by a combination of private, public and non-profit entities.

While the plan indicates the most likely agencies for implementation, these recommendations are not binding and are meant for guidance only.

Implementation of the EAP should occur on a project-by-project basis. The Town will commit resources and staff as annual budgets allow. Town should also continue to collaborate with the Office of Resource Efficiency based on the

parameters of existing and future partnership agreements. Town Staff, ORE Staff and members of the Town Council should form an EAP steering committee following the adoption of the plan. The role of this committee will be to initiate the first steps outlined in the plan including: further program analysis, finance strategies and staffing. Upon adoption of the Multi-Jurisdictional Energy Plan, the Steering Committee will coordinate with parallel jurisdictions on relevant projects as necessary.

In order to monitor the implementation of the EAP, assist in the development of programs and ensure proper communication between involved parties, the Town should designate a staff member to act as plan coordinator.

The Town will consider this document as part of the normal operation of Town Government, including budgeting, work plans, staff allocation and partnership agreements. The Town Council will consider this EAP in decision-making and use it as a guide to direct Town Staff in the creation of Town policies.

As programs are created, specific budgets will be design to define the scope and financial requirements of the various action items. As technology and funding evolve, this plan will also evolve to reflect the priorities and capabilities of energy conservation policy in the Town of Crested Butte.

The Plan also identifies issues that require a multi-jurisdictional approach. These issues are addressed in the multi-jurisdictional section of the Upper Gunnison River Watershed Energy Action Plan. Like the common language introduction and appendix sections, the multi-jurisdictional component of the plan is separate from the municipal plans, and it should be adopted together with the other local governments participating in the EAP process.

The goal with all Energy Action Plan items is the creation of programs with measurable results. Consequently Energy Action Plan programs should undergo a biennial review by the EAP Steering Committee, with effectiveness gauged against the 2005 Emissions Inventory. The Energy Action Plan Steering Committee will meet to review findings and recommend modifications to programs and planning documents. This is a preliminary plan that must be updated frequently as science, technology, economics, and politics alter circumstances.

Energy Action Plan Process

The creation of the Energy Action Plan (EAP) was a consensus driven process that attempted to combine a variety of decision-making parameters. The UGRW Emissions Inventory was used to identify the sectors with the greatest potential for emissions reductions. Using this as a guide, program and policy ideas were compiled by the Crested Butte EAP Committee. These programs and policies were consolidated under typical program headings, such as “Educational Programming for Children” and grouped by type; such as “Buildings”. The

programs were then evaluated against a broad set of “Guiding Principles” established by the committee.

The refined set of measures was then quantitatively explored with the *ICLEI CAPP Decision Support Tool*. This tool allows the user to adjust parameters and determine projected project costs, energy savings and carbon emission reductions. Selected action items underwent further analysis by the Gunnison Valley EAP Calculation Committee, which incorporated locally determined values of costs and benefits for energy efficiency measures.

This set of measures was then ranked by priority based on a combination of estimated effectiveness and un-quantifiable co-benefits described in the group’s “Guiding Principles”.

Inventory and Target Recommendations

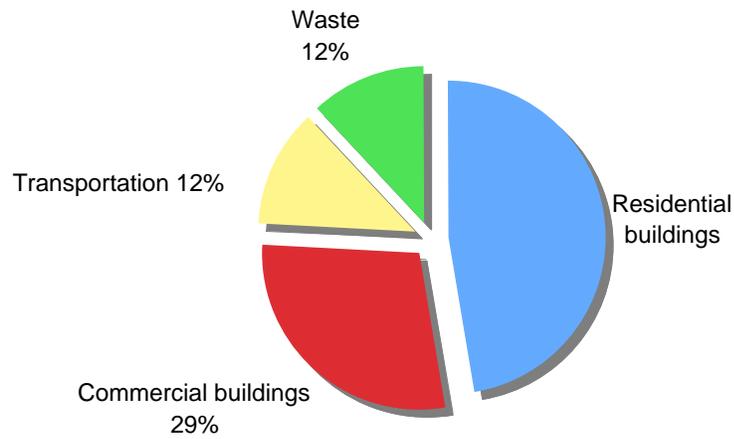
CO₂e reduction targets are based on the 2005 UGRW Emissions Inventory. Reduction targets are not per capita; therefore, targets should not be reduced for population growth. CO₂e reductions should be measured as the absolute quantity of CO₂e emissions from activities itemized in the 2005 emissions inventory.

- By 2020, annual emissions are to be 20% below 2005 levels.
- By 2050, annual emissions are to be 80% below 2005 levels.

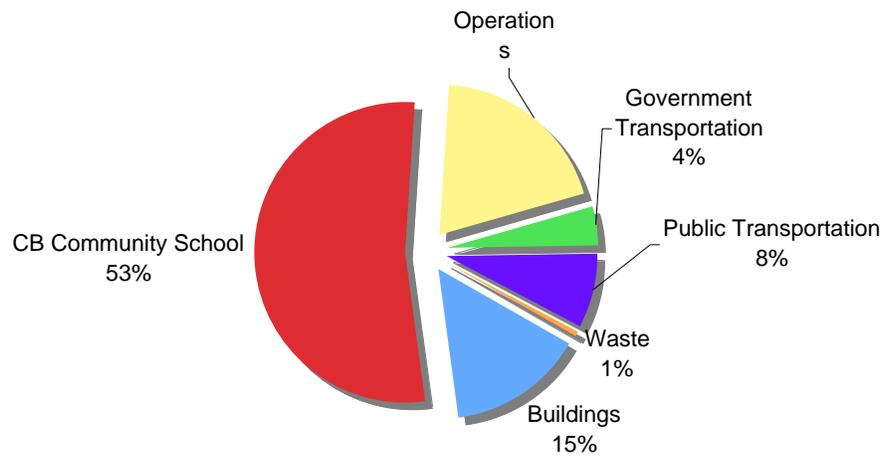
The graphs below indicate the source of emissions by sector for both community and government operations and the annual reduction goal in 2020 and 2050. Energy reduction strategies should be developed for sectors with the greatest potential for reduction.

2005 Community CO₂e Emissions by Sector			
	Tons of CO ₂ e	20% annual reduction goal by year 2020	80% annual reduction goal by year 2050
Residential buildings	19,285	8,193	32,271
Commercial Buildings	11,724		
Transportation	5,073		
Waste	4,878		
Other	4		
Total	40,964		
2005 Government CO₂e Emissions by Sector			
Buildings, Facilities, Operations	4,971	1,139	4,557
Transportation	690		
Waste	32		
Other	4		
Total	5,697		

Crested Butte Community CO2e Emissions by Sector



Crested Butte Government CO2e Emissions by Sector



Guiding Principles

- Measures should be evaluated by a broad set of parameters, including economic, ecological and social impacts.
- Programs should provide economic and employment opportunities for the residents of Crested Butte.
- Programs, in concert, should meet the carbon reduction goals established by the Energy Action Plan in a cost effective manner based on the criteria of CO₂e reduction, affordability, energy savings, return on investment and effectiveness.
- Actions should increase reliance on local resources, both human and natural, in order to decrease Crested Butte's dependence on goods, services and energy from outside the Valley.
- Proposed programs should consider community acceptance and appropriateness.
- Programs should have quantifiable impacts and outcomes.
- Programs should leverage partnerships with local stakeholders to accomplish goals.

Effectiveness

The costs and energy savings of some measures can be used to determine their effectiveness. The effectiveness calculation combines the project cost, energy savings, and CO₂e reductions into a single metric.

“Effectiveness” is defined as the net program energy savings in the year 2020 divided by the tons of annual CO₂e reduction in the year 2020.

This method of analysis allows for the comparison of measures and a tool for decision-making. These calculations are estimates and do not represent an actual cost. They are for comparative purposes only.

Positive effectiveness values represent the dollars saved per ton of CO₂e reduced. The higher the positive value, the more effective a program is estimated to be. Negative effectiveness values represent the dollars spent per ton of CO₂e reduced.

Each program requires further analysis to determine the associated costs and benefits. Effectiveness calculations do not discount future value and assume a constant energy cost per unit.

Cost Effectiveness of Programs	program cost to reach goal	accumulated savings in 2020*	annual CO2e reduction (tons)	effectiveness^	payback (years)
E.1.2 15 additional RTA riders per day	\$63,760	\$52,532	23	\$2,284	5.4
D.3.3 Residential Education (1000 homes: reduce electrical 5%, reduce fuel 2%)	\$60,000	\$595,680	494	\$1,206	1.2
B.1.1 Basic residential audit and weatherization (800 units)	\$320,000	\$3,118,248	2898	\$1,076	0.9
B.1.3 Replace incandescents - >6 per unit/500 units	\$6,000	\$236,413	216.1	\$1,094	0.2
B.1.2 Advanced audit and installed systems (300 units)	\$840,000	\$1,585,940	2215	\$716	6.6
B.1.3 Rebates for electrical DSM services and appliances (900 units)	\$96,000	\$221,496	335.6	\$660	4.1
D.2.1 Educational programming for businesses	\$40,000	\$117,603	179	\$657	3
C.2.1 Energy Efficiency of Town Buildings	\$150,000	\$120,309	357	\$337	3.9
G.1.2 Install solar hotwater system(100 units)	\$300,000	-\$34,958	236.2	-\$148	11.3
G.1.2 Support provision of solar incentives 15 kW PV	\$135,000	-\$101,024	28	-\$3,608	40
Total	\$1,887,000	\$5,912,240	6981.9		
Reduction Goal			8193		

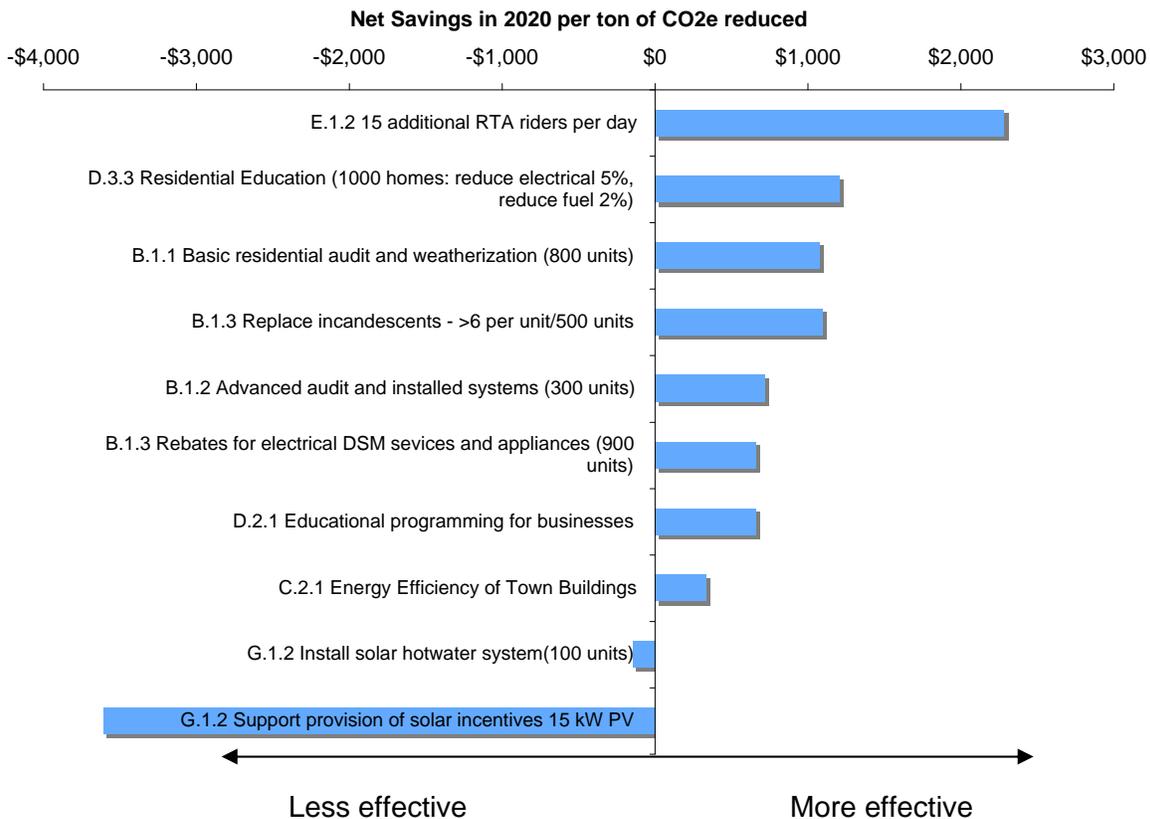
Table notes:

Program costs and emissions reductions are estimates. This table is for comparative purposes only.

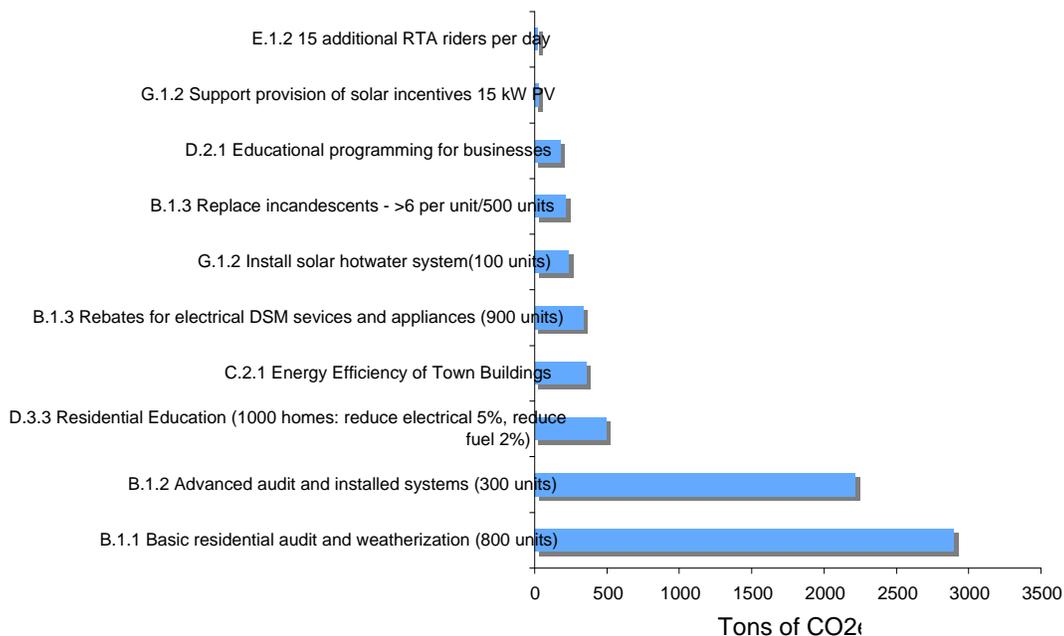
^See "Effectiveness" Section for a description of the "Effectiveness" calculation.

*Accumulated Savings In 2020 is the difference of the program cost and the accumulated energy savings in 2020 based on immediate adoption.

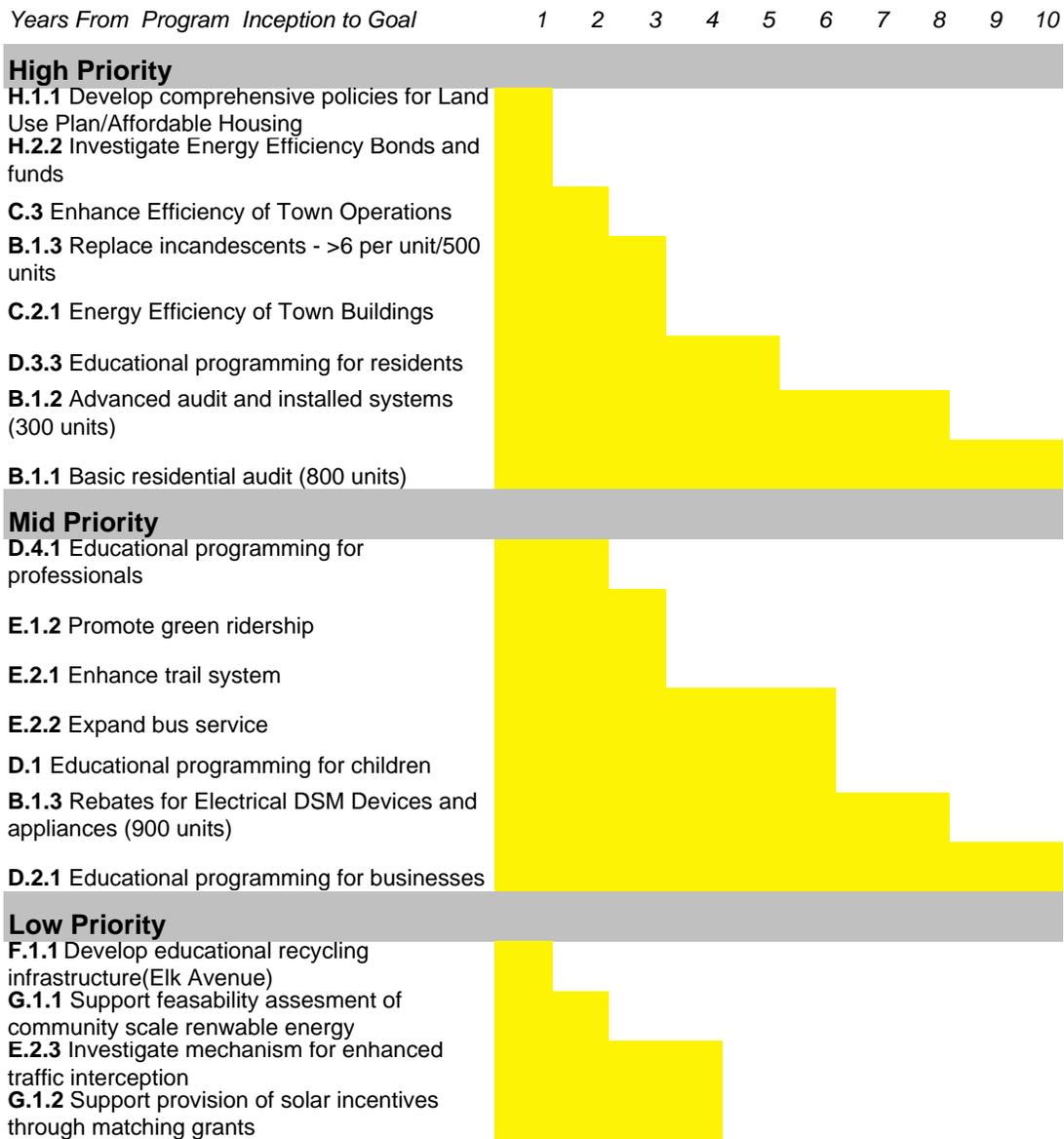
Effectiveness of Measures



CO2e reduction by Measure



Measure Priority and Duration



Action items were grouped by priority of implementation based on the “Guiding Principles”, estimated effectiveness and CO2e reduction potential. This table should not prevent the development of programs and polices as opportunities and needs arise.

ACTION ITEMS ORGANIZED BY TYPE

A. GENERAL

OBJECTIVE 0: Develop infrastructure for Implementation of Action Items.

Action 0.1: Establish standing committee for EAP oversight to consist of:

- Councilperson
- Town Staff Member
- ORE Staff Member
- Technical Advisor 1
- Technical Advisor 2

Action 0.2: Establish funding for EAP Implementation Coordinator and initial stages of EAP programs.

B. BUILDINGS

Buildings account for 75.7% of CO₂e emissions in the town of Crested Butte, residential buildings alone account for 47.1% of CO₂e emissions. Buildings represent the single biggest opportunity for emissions reductions. Within the sector, existing buildings are particularly important. Because future growth in the Town of Crested Butte is limited by available land, existing buildings will continue to contribute the largest share of emissions.

OBJECTIVE 1: Improved Energy Efficiency and Conservation in Existing Buildings

ACTION 1.1: Develop a program to perform basic audits of residential homes.

The purpose of this initial home visit will be to identify the least cost measures with the maximum return, educate the consumer and realize immediate energy savings through the installation of basic measures such as caulking and weather-stripping.

Measure B.1.1	Basic audit and weatherization of 800 residential units
Status	Some elements existing (e.g. utility rebates); in planning stages
Duration	0-3 yrs
Annual GHG Reduction	2,898 tons
Projected Budget	\$320,000
Effectiveness	\$1,076 per ton
Funding Source	State Energy Program; Insulate Colorado; utility rebates
Agency	ORE, Utilities, Town

Data from Energy Action Planning Calculation Committee

ACTION 1.2: Perform Advanced Audits and Install Measures.

Develop strong and persuasive incentives for non-income qualified homeowners to invest in energy efficiency upgrades for their homes. The program will include an energy audit conducted by a certified energy professional, documented recommendations and financing options. These programs promote local economic growth and retain financial capital in the community.

Measure B.1.2	Advanced audit and installed measures < \$2,400 for 300 residential units
Status	Some elements existing (e.g. utility rebates); in planning stages
Annual GHG Reduction	2,215 tons
Duration	10 years
Projected Budget	\$840,000
Effectiveness	\$716/ton
Funding Source	State Energy Program; Insulate Colorado; utility rebates
Agency	ORE, Utilities, Town

Data from Energy Action Planning Calculation Committee

ACTION 1.3: Develop programs and partnerships to provide incentives for the purchase and installation of the following items

- Compact Fluorescent Lighting
- Occupancy sensors
- Programmable thermostats
- Hot water heater blankets
- E-Star dishwashers, clothes washers, fridges, freezers and electric hot water heaters
- Existing building lighting retrofits in residential

Measure B.1.3	300 units per 3 devices Including occupancy sensors, appliances and smart strips
Status	Some elements existing (e.g. utility rebates); in planning stages
Annual GHG Reduction	2,179 tons
Duration	8 years
Projected Budget	\$96,000
Effectiveness	\$660/ton
Funding Source	Utility rebates, State Energy Program
Agency	ORE, Utilities, Town

Data from Energy Action Planning Calculation Committee

Measure B.1.3	Replace incandescents: >6 per unit/ 500 units
Status	Some elements existing (e.g. utility rebates); in planning stages
Annual GHG Reduction	216.1 tons
Duration	3 years
Projected Budget	\$6,000
Effectiveness	\$1,094/ton
Funding Source	Utility rebates, State Energy Program
Agency	ORE, Utilities, Town

Data from Energy Action Planning Calculation Committee

ACTION 1.4: The Town should investigate a policy requiring owners of long-term residential and commercial rental units to disclose utility bill information to prospective lessees prior to occupancy.

C. Government Buildings and Operations

Government buildings and operations represent 13% of the Town of Crested Butte's emissions footprint, 6.5% of which is attributable to the Crested Butte Community School. The Energy Action Plan lays out steps for addressing Government emissions from buildings, transportation, equipment operation and procurement of Government property. Following adoption of the Plan, Staff will develop comprehensive policies for integrating EAP concepts and reduction requirements into existing Town policies and operations.

OBJECTIVE 1: Improve Efficiency of Government Buildings and Operations

ACTION 2.1: The Town will investigate performance contracting on existing town buildings, including building weatherization, installed devices and mechanical systems.

Measure C.2.1	20% reduction for 100,000 sf @ \$1.50/sf
Status	Unimplemented ESCO plan exists, new plan needed
Annual GHG Reduction	357 tons
Duration	3 years
Projected Budget	\$150,000
Effectiveness	\$337/ton
Funding Source	Performance Contracting, Town budget
Agency	ORE, Utilities, Town

Data from CAPPA

OBJECTIVE 2: Reduction of carbon based fuel use.

ACTION 2.1: The Town will investigate ways to improve the efficiency of fleet vehicles.

OBJECTIVE 3: Enhance efficiency of Operations

ACTION 3.1: The Town will develop internal polices governing procurement of equipment and materials, specifically, local material sources and employment of high efficiency equipment.

Action 3.2: The Town will provide proper instruction for the efficient operation of town property, and the Town will develop policies to encourage the recycling and reuse of equipment and materials.

D. PUBLIC EDUCATION

Successful Plan implementation requires a high level of public support and participation. Therefore, education programs are a critical first step towards meeting reduction goals. The education program will utilize community resources such as The Town of Crested Butte and ORE websites, The Crested Butte News, The CB Community School, KBUT public radio and public hearings to inform and involve members of the public with the goals, costs and benefits of programs. As programs are developed to implement various aspects of the EAP, companion education and outreach initiatives must also be created to ensure successful programs and emissions reductions.

OBJECTIVE 1: Targeted outreach and education for children.

ACTION 1.1: ORE will collaborate with the School District to develop energy efficiency curriculum and assist in the development outreach events.

ACTION 1.3: ORE will provide children with take home materials and projects to improve energy efficiency at home

OBJECTIVE 2: Targeted outreach and education for businesses.

ACTION 2.1: ORE will continue to promote and expand the Energy Wise Business Program which will provide energy audits and consulting with a annual reduction target of 5% for heating and electricity.

Measure D.2.1	5% fuel and electric reduction for average size business of 2,000 sf, cost per business is \$400. Scale is 10 businesses per year. 100 businesses in 2020
Status	EWB program is operational, requires additional development of metrics
Annual GHG Reduction	179 tons
Duration	10 years
Projected Budget	\$40,000
Effectiveness	\$657/ton
Funding Source	Participant fee
Agency	ORE/Town

Data from CAPPA

OBJECTIVE 3: Targeted outreach and education for residents.

ACTION 3.1: ORE will educate residential consumers on costs and benefits of energy efficiency.

ACTION 3.2: ORE will provide referrals and information regarding the costs and benefits of residential and commercial energy efficiency retrofits.

ACTION 3.3: ORE will work with utilities to create a residential demand side management educational campaign. Programs may include:

- Campaign for energy efficiency including radio, print and digital media
- Competition for energy-savings
- Create a peak energy use awareness campaign
- Efficient living tips
- Create EAP links and data tracking on ORE and other websites

Measure D.3.3	Residential education campaign resulting in 1000 homes reducing electrical consumption by 5% and fuel by 2% at a cost of 60\$/home
Status	Programs in place, require further development
Annual GHG Reduction	494 tons
Duration	5 years
Projected Budget	\$30,000over 10 years
Effectiveness	\$1206/ton
Funding Source	ORE partnership budget
Agency	ORE/Town/Utilities

Data from CAPP

OBJECTIVE 4: Targeted outreach and education for trades people.

ACTION 4.1: ORE will create a program to educate and certify trades people. ORE will develop this program as a multi-jurisdictional resource.

OBJECTIVE 5: Promote renewable systems through workshops and media outreach.

ACTION 2.1: ORE will continue to develop training workshops and public information to promote PV and Solar Hot Water systems.

ACTION 2.3: ORE will continue to promote GCEA renewable energy programs.

E. TRANSPORTATION

This sector is the most multi-jurisdictional in nature. Transportation infrastructure throughout the Gunnison Valley is owned and maintained by a number of stakeholders including CDOT, the GVRTA, The City of Gunnison, The Towns of Crested Butte and Mt. Crested Butte and Gunnison County. This situation requires that all entities work collaboratively to meet the reduction goals for this sector. To the extent that it is able, The Town of Crested Butte will work to reduce its transportation footprint through the measures listed below. However, the main focus of implementation in this area must be on collaboration with the other involved entities.

OBJECTIVE 1: Manage Local Transportation Demand

ACTION 1.1 ORE will collaborate with transportation stakeholders to promote awareness about green transportation

- Newspaper features (e.g. Bus Rider of the Week)
- Monthly “No Drive Day”
- Further publicize RTA and schedule
- Create Tourist/Citizen Hospitality Packet
- Promote school bus riding/discourage drop-offs
- Assist Mountain Express to address energy efficiency and service.

ACTION 1.2: The Town will collaborate with the Gunnison County Housing Authority to create affordable housing and reduce commuter vehicle miles traveled.

<i>Measure E.1.2</i>	<i>Transportation Demand Management</i>
	<i>15 additional RTA riders per day @ \$2.30/rider for 5 years</i>
Status	Transportation Plan in place, public transit in place
Annual GHG Reduction	23 tons
Duration	3 years
Projected Budget	\$63,760
Effectiveness	\$2,284
Funding Source	RTA, Town
Agency	ORE, Town, RTA, Mt. Express

OBJECTIVE 2: Create a Valley-wide Internet Carpooling Database with The City and County of Gunnison

OBJECTIVE 3: Enhance Alternative Transportation Infrastructure

ACTION 2.1: The Town and County will collaborate to create continuous trail systems to Town limits.

ACTION 2.2: Expand bus service in range/frequency

ACTION 2.3: The Town will investigate mechanisms to intercept traffic outside of town limits.

F. WASTE OBJECTIVES

Spreading awareness about our local composting and recycling programs can lead to positive behavioral changes that reduce waste and subsequent carbon emissions. Waste is responsible for 4,878 tons of CO₂e emissions annually, or 11.9% of the total community footprint. Because the foundation of a comprehensive waste management system exists in the valley, the primary challenge is to encourage participation of residents and business through education and improved access.

OBJECTIVE 1: Reduce residential and business waste

ACTION 1.1: Further develop recycling infrastructure for improved waste management. Programs may include the following actions:

- Place recycling bins on Elk Ave.
- In-Room recycling in area lodging
- Create a Visitor's Guide for recycling
- Promote CFL and battery recycling/ and drop center

ACTION 1.2: Create a Town-wide food waste composting program:

- Create a voluntary composting program with a nominal pick-up fee
- Purchase a commercial food pulper for the processing of solid food waste
- Develop a program to sell high-quality compost to regional agricultural producers, with the money funding the continuation of the compost program

G. ENERGY GENERATION OBJECTIVES

Locally produced energy can significantly reduce the Town's emissions and lead the Town towards energy independence. Energy production efforts are high-profile endeavors, requiring more space, capital and labor than most other programs outlined in the EAP. Consequently, energy production goals are longer-term than some of the less capital-intensive programs.

However, there are a number of State and Federal programs that have made the development of local, renewable energy sources financially feasible, such as performance contracting and developer financing. The Town will pursue these opportunities with the objective of creating local power production capacity.

OBJECTIVE 1: Support use of renewable energy systems.

ACTION 1.2: ORE and Town will work with utilities to develop programs that provide financial incentives for residential scale PV and solar thermal systems.

Measure G.1.2	Install residential Solar Thermal Systems (100 units)
Status	Experience administering GEO matching grants
Annual GHG Reduction	236 tons
Duration	4 years
Projected Budget	\$300,000
Effectiveness	\$-148
Funding Source	Matching GEO grants
Agency	ORE, Town, GEO

Measure G.1.2	Install 15 kW of PV
Status	Experience administering GEO matching grants
Annual GHG Reduction	28 tons
Duration	2 years
Projected Budget	\$135,000
Effectiveness	\$-3,608
Funding Source	RTA, Town
Agency	ORE, Town, GEO

OBJECTIVE 2: Develop community scale renewable energy systems.

ACTION 1.1: The Town and its partners will explore the feasibility of large-scale renewable energy systems.

The following technologies have been identified as potential energy sources worth further investigation.

- Centralized PV Solar installation
- Micro-hydro
- Combined heat and power (CHP) systems that produce heat and electricity from a single fuel source.
- Methane harvesting at wastewater treatment plant
- Woody Biomass energy production

H. POLICY AND FINANCE OBJECTIVES

Throughout the implementation process, Town Staff and ORE will collaborate to develop policy documents designed to further the implementation process and refine the goals and methods of the Energy Action Plan. Stakeholders will also pursue all applicable funding sources with the goal of developing sustainable revenue streams to fund EAP programs. By developing policy and funding sources, the stakeholders will ensure the continued strength and success of the Energy Action Plan.

OBJECTIVE 1: Develop policies pertaining to new development and energy consumption.

Action 1.1: Develop comprehensive polices for inclusion in the Town of Crested Butte Land Use Plan.

OBJECTIVE 2: Energy Efficiency Funding

ACTION 2.1: Investigate opportunities to establish a revolving loan fund for energy efficiency measures.

ACTION 2.2: Investigate Issuance of voter approved county-wide Energy Efficiency Bond measure.

APPENDICES

A. The cost effectiveness of common building related energy efficiency measures.

Action Step No.	Action Step	Target Number of Units by 2020	Est. Cost of Action per Unit	Total Cost of Action 2010 to 2020	Est. Annual Tons CO _{2E} Reduction per Unit	Est. Annual Total Tons CO _{2E} Reduction 2020 On	Est. Annual Savings from Action per Unit	Est. Simple Payback Period per unit (Yrs)	Est. 10-Year Total (Cost)/Savings	Est. "Up-Front" Cost per Ton CO _{2E} Reduced	Effective ness= net savings/t ons CO _{2E}
WEATHERIZING HOMES											
	Reducing air transfer (caulking, weatherstrip)	300	\$400	\$120,000	3.6	1,087.1	\$430	0.9	\$3,900	\$110	\$1,076
	Insulating crawlspace, attic, + R-10	300	\$1,200	\$360,000	2.0	608.9	\$241	5.0	\$1,209	\$591	\$595
	Insulating walls	300	\$1,200	\$360,000	1.7	519.8	\$203	5.9	\$827	\$693	\$477
	Installing insulated windowshades	300	\$2,000	\$600,000	1.1	323.6	\$128	15.6	-\$720	\$1,854	-\$667
	Installing energy efficient windows	50	\$10,000	\$500,000	0.5	26.5	\$63	159	-\$9,372	\$18,884	-\$17,698
WEATHERIZING COMMERCIAL											
	Reducing air transfer (caulking, weatherstrip)	30	\$500	\$15,000	7.7	229.7	\$896	0.6	\$8,457	\$65	\$1,104
	Insulating crawlspace, attic, + R-10	25	\$4,800	\$120,000	18.1	452.8	\$1,059	4.5	\$5,793	\$265	\$320
	Insulating walls	10	\$2,400	\$24,000	1.7	17.3	\$203	11.8	-\$373	\$1,385	-\$215
	Installing insulated windowshades	15	\$1,440	\$21,600	0.6	9.2	\$72	20.0	-\$720	\$2,340	-\$1,170
	Installing energy efficient windows	5	\$12,384	\$61,920	0.6	3.1	\$35	350	-\$12,031	\$20,300	-\$19,721
ELECTRIC USE REDUCTION											
	Replace incandescents - >6 per unit	500	\$12	\$6,000	0.4	216.1	\$48	0.2	\$473	\$28	\$1,094
	Install motion-sensors, power strips, etc. - >4	300	\$70	\$21,000	0.7	204.9	\$77	0.9	\$696	\$102	\$1,019
	Install E-Star refrigerator in home	300	\$150	\$45,000	0.3	93.2	\$35	4.3	\$199	\$483	\$639
	Install E-Star washer/dryer in home	300	\$100	\$30,000	0.1	37.5	\$14	7.1	\$40	\$800	\$322
	aggregate	\$900	\$320	\$96,000	1.1		\$126	4.1	\$935	#DIV/0!	\$836
HOT WATER HEATING ENERGY											
	Install E-Star hot water heater	100	\$550	\$55,000	0.3	29.2	\$33	16.8	-\$222	\$1,881	-\$759
	Install solar hot water system	100	\$3,000	\$300,000	2.4	236.2	\$265	11.3	-\$350	\$1,270	-\$148

Table Notes:

Cost effectiveness is the net savings in the year 2020 divided by the estimated annual tons of CO_{2E} reduced in the year 2020 and on.

B. Funding

The following is a list of potential funding sources and should be assessed for regulatory appropriateness. This is not a prioritized list.

- Selling emissions reductions: An emission reduction (ER) is a quantifiable amount of greenhouse gas that is not emitted into the atmosphere due to the application of a reduction measure; credit for this reduction may be sold in carbon markets.
- Impact fees and REMP expansion
- Self imposed fee on new annexations and subdivisions
- A voluntary 1% donation
- Private sector (i.e. contracting for services)
- Performance contracting for tax-exempt facilities
- Individual investments paid back with energy savings from local, state and federal tax credits and rebates.
- Grants from the Federal government, the Colorado Governors Energy Office, the Rocky Mountain Climate Organization, foundations and other entities.
- Fines for non-compliance
- Instituting a carbon tax or other tax instituted through vote

C. Definitions

ATMOS	Local natural gas utility
CAPPA	Software created by ICLEI to calculate carbon reduction
CBCS	Crested Butte Community School
CDOT	Colorado Department of Transportation
CFL	Compact fluorescent light bulb
CO ₂ e	carbon dioxide equivalent: a combination of all green house gases
DSM	Demand Side Management
EAP	Energy Action Plan
ESCO	Energy Services Company
GCEA	Gunnison County Electric Association
GEO	Governors Energy Office
GHG	Greenhouse Gas: Gaseous byproducts of human activity contributing to climate change
GVRTA	Gunnison Valley Rural Transportation Authority
ICLEI	ICLEI-Local Governments for Sustainability
Mt. Express	Local transportation service
ORE	Office for Resource Efficiency
PV	Photovoltaic
RE1J	Gunnison Watershed School District
UGRW	Upper Gunnison River Watershed

Crested Butte Emissions Inventory

Excerpted verbatim from the Upper Gunnison River Watershed Emissions Inventory

Crested Butte had its origins in the 1880s, first as a supply center for the gold-silver boom in the Elk Mountains, then as a coal-mining town; coal was the town's sustaining industry until the early 1950s when rising labor and transportation costs resulted in the closing of all the mines and the dismantling of the Denver & Rio Grande Railroad tracks. Hardrock mining in Mt. Emmons and the beginning of a summer tourism economy sustained the town through the 1950s; then in 1961 a ski area opened on Crested Butte Mountain that has since become the cornerstone of a year-round destination resort economy.

From an energy-efficiency perspective, Crested Butte has some challenges. The town sits in a valley prone to both heavy snowfall and winter inversions. Many of the buildings in town date back to the late 1800s or early 1900s, predating not just the age of energy awareness but also the advent of home insulation. The layout of the narrow north-south lots in the older part of town is not conducive to utilizing solar gain, and the town's status as a Historical District limits the ability of both homeowners and businesses in that district to easily address energy issues, although there are some exemplary energy-efficient homes in the town.

Emissions Inventory Boundary: The Emissions Inventory Boundary for the Town of Crested Butte is the town boundary (*see map below*). This does not include the numerous "suburban" developments south of the Town – Skyland, Riverbend, Riverland, Crested Butte South and other smaller developments – which are closely affiliated with the Town; they are part of the Unincorporated Gunnison County inventory.

Inventory Results

The amount of greenhouse gas emissions in or attributable to the Town of Crested Butte totaled 40,970 tons CO_{2e} in the baseline year of 2005 (*see Table 9*). Of that total the Crested Butte government is responsible for 5,697 tons of CO_{2e} (*see Table 10*). Nearly all of the emissions are carbon dioxide emitted to the atmosphere from the combustion of fossil fuels (coal, liquid fuel, and natural gas), with a very small percentage coming from methane as decomposition of waste in the landfill and nitrous oxide as fertilizer. This total reflects millions of small and routine acts of energy use such as watching TV or driving to the post office.

Community Emissions

Community emissions for the Town are broken down by five major sources: Residential Buildings, Commercial Buildings, Transportation, Waste, and Other.

Table 9: Crested Butte's Community CO₂e Emissions 2005

Source of CO ₂ e	Tons CO ₂ e	Percent of C B Total CO ₂ e	Percent of UGRW Total CO ₂ e	CB Emissions per capita ¹
Residential Buildings				
- Electricity	12,243	29.9	2.4	
- Non-renewable Carbon Fuels	7,042	17.2	1.4	
Total for Res. Buildings	19,285	47.1	3.8	12.5 T
Commercial Buildings				
- Electricity	7,408	18.1	1.5	
- Carbon-based Fuels	4,316	10.5	0.8	
Total for Commercial Bldgs.²	11,724	28.6	2.3	7.6 T
Total for all Buildings	31,009	75.7	6.1	20.1 T
Transportation³				
- Gasoline	4,647	11.3		
- Diesel	426	1.0		
Transportation Total	5,073	12.4	1.0	3.3 T
Waste (Landfill)				
- Paper Products	3,449	8.4		
- Food Waste	571	1.4		
- Plants	452	1.1		
- Wood, Textiles, etc.	406	1.0		
Waste Total	4,878	11.9	0.9	3.2 T
Other	4	<0.1	<0.1	<0.1 T
Total	40,964	100	8.0	26.6 T

TABLE NOTES:

1 – The per capita statistics should be considered in appropriate context; they do not take into account shared residences, vehicles, etc. It is intuitively obvious, for example, that a family of four people living together in a single-family residence will have lower per capita emissions than a couple living in a similar single-family house – but that family would also have higher per capita emissions than a family of four living in an apartment building with comparable construction features.

“Emissions per building” or “emissions per vehicle” are more useful for Watershed residents interested in contemplating and measuring reduction progress. In 2005, according to Crested Butte's Planning Office, the town had 1,009 residential units, 726 of which were occupied, according to the Colorado Department of Local Affairs; the average CO₂e emissions for the occupied units would thus be somewhere between 19.1 and 26.3 tons CO₂e per residential unit, depending on the amount of time the usually vacant units were used.

- 2 – The “Commercial Buildings” total contains the emissions from the Crested Butte Community School, almost 10% of the “Buildings” total. The school emissions are compiled more specifically in the “Government and Public Sector” report that follows.
- 3 -Crested Butte’s per capita transportation figures are well below those for the aggregate Upper Gunnison Watershed’s. But it is necessary to remember that many of the transportation miles within the Upper Gunnison Watershed represent people commuting from other communities to Crested Butte and vice versa, to work and play.

General Note: Some may question the absence of an “Industrial” category for Crested Butte and Mt. Crested Butte, pointing to the “resort industry” and the “construction industry.” These are not, however, “industries” in the sense of that category in the ICLEI or IPCC guidelines. The “resort industry” is primarily a large set of commercial enterprises; even the electricity for the ski resort constitutes only about one percent of the UGRW electricity use. The construction industry is a labor-and-materials-intensive industry, and a large part of the cost of materials is for transportation from other places to the watershed, but those difficult-to-calculate costs are not included in this inventory. The in situ consumption of energy in construction work is mostly “muscle power,” with relatively modest consumptions of electricity or other carbon-based fuels.

Government Emissions

Crested Butte’s public sector accounts for 5,697 Tons CO₂e, or 13.9 percent of the Town’s total emissions. See Table 10 on next page.) As noted in the “Methodology” section, the “Government” inventory is somewhat more detailed and specific, much of it based on departmental records and actual energy bills.

Table 10: Summary of Crested Butte’s Government CO₂e Emissions 2005

Source of CO ₂ e	Tons CO ₂ e	Percent of CB Govt. total	Percent of CB Comm. total
Buildings & Facilities¹ (school exclu.)			
- Electricity	494	8.7	
- Non-renewable Carbon-based Fuels	334	5.8	
Buildings & Facilities Total	828	14.5	2.0
C. B. Community School²			
- Electricity	2,298	40.3	
- Non-renewable Carbon-based Fuels	738	13.0	
School Total	3,036	53.3	7.4
Operations (Water, Sewer, Streetlights ³)			
- Electricity	1,012	17.7	
- Carbon-based Fuels	95	1.7	
Operations Total	1,107	19.4	2.7
Buildings, Facilities, Operations Total	4,971	87.3	12.1
Government Transportation⁴			
- Gasoline	126		
- Diesel	79		
- Biodiesel	30		
Total Government Transportation	235	4.1	0.6
Public Transportation⁵ (Mountain Express and School Buses)			
- Gasoline	73		
- Diesel	333		
- Biodiesel	49		
Total Public Transportation	455	8.0	1.1
Total Transportation	690	12.1	1.7
Waste (Food, Paper, Plants, Wood)	32	0.6	<0.1
Other	4	<0.1	<0.1
Total	5,697	100	13.9

TABLE NOTES:

1 – “Buildings and Facilities” includes all town parks as well as all the town buildings, and non-governmental public facilities like the Crested Butte Center for the Arts, the Mallardi Cabaret Theatre above the Old City Hall, and KBUT-FM which shares the Marshal’s office building. “Operations” includes the Town’s water system, sewer system and streetlights.

2 – There has been discussion about where “Public Schools” should be included in this inventory, since the school within the Crested Butte town boundary serves county

- residents from a much larger area. The schools are operated through a valley-wide school district, but they emit their CO₂e as public facilities within the boundaries of the individual communities, so are being counted there, but are separated out from other local government buildings.
- 3 – All streetlights are paid for by Gunnison County Electric Association; decorative and seasonal lights are paid for by the Town.
 - 4 – Government transportation or „fleet“ emissions are different from the community transportation emissions in that the miles a fleet vehicle is driven accrue to the Town of Crested Butte no matter where the vehicle is driven. For instance, if an administrative vehicle is driven to Gunnison for a meeting, all of the emissions are assessed to the Crested Butte government. This does create a minor disconnect in the emissions data, since those miles accrue to the Unincorporated Area in the “Community” inventories.
 - 5 – Fuel emissions from the Mountain Express, the upper Watershed’s public transportation system, have been separated from the other government fleet transportation figures, since this service is funded by the two upper Watershed towns.

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, July 24, 2017
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 7:01PM.

Council Members Present: Jim Schmidt, Chris Ladoulis, Roland Mason, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Interim Town Attorney John Sullivan, Town Clerk Lynelle Stanford, and Community Development Director Michael Yerman

Chief Marshal Mike Reily and Public Works Director Rodney Due (for part of the meeting)

APPROVAL OF THE AGENDA

Michel confirmed that items 7 and 8 under New Business were struck from the agenda, and their removal was more because of the developer than Town.

Schmidt moved and Mason seconded a motion to approve the agenda with the removal of items 7 and 8 under New Business. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.** Merck and Ladoulis were not yet present, and they did not vote.

CONSENT AGENDA

- 1) July 10, 2017 Regular Town Council Meeting Minutes.**
- 2) Grand Traverse Mountain Run Registration Expo on September 1, 2017 at the Nordic Center and Starting in the 200 Block of Elk Avenue at 6AM on September 2, 2017.**
- 3) Resolution No. 46, Series 2017 - Resolutions of the Crested Butte Town Council Amending Recreation Easement Reception Number 581213 with Hidden Mine Ranch, LLC for Realignment of Baxter Gulch Trail and Authorizing the Mayor to Execute a Letter of Support for the Abandonment of the Raw Land Easement Reception Number 443569 Book 726 Page 596 to the United States Forest Service.**
- 4) Resolution No. 47, Series 2017 - Resolutions of the Crested Butte Town Council Approving the Lease Agreement with the Center for the Arts for 620 Second Street, AKA Big Mine Warming House.**

Ladoulis and Merck arrived.

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

STAFF UPDATES

Rodney Due

- Kenny Wilson was retiring, and there would be a party on August 11th.
- He was advertising for paving by the Fire Hall and behind Soupcon.
- They were starting sewer for the Center for the Arts.
- Received survey for the Four-Way parking lot.
- Schmidt questioned who had responsibility for cracks in 6th Street. Due said it fell under CDOT. Council directed Due through MacDonald to follow-up with CDOT for repairs.

Lynelle Stanford

- Reminded the Council of their upcoming work session on Thursday from 8AM to 10AM and that the next meeting would be on a Tuesday.
- Mentioned that Staff had debriefs on the 4th of July, Chainless, Bridges, and the Gothic Run.
- Petition packets for the election were available for pick-up. Petitions could be circulated from August 8th to August 28th.
- The Farmers Market would be located at Big Mine on Sunday, August 6th.
- Received a special event application for the 40-year Reunion to be held on July 29th.

Michael Yerman

- There would be an open house on vacation rentals on August 1st.
- There was a special meeting scheduled with Mountain Express on August 3rd to discuss covered bus parking options.
- There were many applications at the BOZAR level. There would be another special meeting next month on the Crested Butte Hotel.
- The Chair of BOZAR was stepping down. Yerman thanked him for his service.

Mike Reily

- Special events were rolling along.
- Marshals were busy with traffic and parking issues.
- Cited a story from Crested Butte on 9 News regarding a bear in a vehicle.
- Schmidt brought up Bridges of the Butte. Reily explained Staff debriefed on events, and changes for events had been discussed with the organizers.

Dara MacDonald

- Reminded the Council of the emergency management class on August 23rd.
- A Notice to Proceed had been issued to the Center for the Arts. They did not have a building permit yet.

- There was a vacancy on the CML board. She would be interested in serving, but she would need a letter from the Council. The Council agreed.
- Staff met with representatives from Gatesco to initiate discussions of providing sewer service to the development. Due provided a more detailed explanation of how it would be possible.
- Nancy Talley from Finance would retire on September 1st. The position would be advertised fairly quickly.

PUBLIC COMMENT

The meeting was reopened for Public Comment at the request of a citizen.

Jim Starr - 323 Gothic Avenue

- He noticed there were items dealing with Cypress Foothills on the agenda.
- He wondered if there would be a public hearing to address the petition for annexation and the annexation itself.
- He talked to Michel and Schmidt regarding a placeholder for a dedicated fund for workforce housing. He suggested holding a place on the ballot with the County Clerk.
- Michel informed Yerman that he wanted to know the process steps and road map related to Cypress.

PUBLIC HEARING

1) Ordinance No. 17, Series 2017 - An Ordinance of the Crested Butte Town Council Approving the Lease of the Property at 403 Second Street to the Crested Butte Mountain Theatre, Inc.

MacDonald affirmed there had been no changes to the ordinance. Michel confirmed proper public notice had been given. The public hearing was opened to public comment. There was no comment from the public, and the public hearing was closed. The meeting was moved to Council discussion. Merck questioned the increase in rent and if there were any changes to the lease. There was no further Council discussion.

Schmidt moved and Ladoulis seconded a motion to approve Ordinance No. 17, Series 2017 dealing with the Mountain Theatre lease. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Ordinance No. 18, Series 2017 - An Ordinance of the Crested Butte Town Council Approving the Lease of a Portion of the Property at 508 Maroon Avenue to Crested Butte Mountain Educational Radio, Inc. DBA KBUT.

Michel confirmed proper public notice had been given and MacDonald that no changes had been made. The public hearing was opened. There was no public comment, and the public hearing was closed. Merck affirmed they were changing the amount of the yearly lease.

Merck moved and Mitchell seconded a motion to pass Ordinance No. 18, Series 2017. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

3) Ordinance No. 19, Series 2017 - An Ordinance of the Crested Butte Town Council Amending Chapter 6, Article 5 of the Crested Butte Municipal Code to Amend Regulations for Certain Businesses that Sell, Manufacture, and Test Retail Marijuana and Marijuana Products.

Michel confirmed proper public notice had been given. Stanford summarized the purpose of the ordinance was to change the closing time for dispensaries from 8PM to 9PM. The public hearing was opened. There was no one present from the public who wanted to comment. The public hearing was closed. There was no further Council discussion.

Merck moved and Mason seconded a motion to approve Ordinance No. 19, Series 2017. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

NEW BUSINESS

1) Ordinance No. 20, Series 2017- An Ordinance of the Crested Butte Town Council Amending Section 6-4-10 to Add the Term Booth.

Stanford updated the Council on the background on the agenda item and explained it would allow Jamie’s Jerky to vend their jerky on private property, currently allowed with a cart. She clarified they would be allowed to vend on public property, too. The discussion turned to the allowed size of a booth. Ladoulis didn’t think 24 square feet was practical, considering a typical tent size of 10 x 10. The Council discussed the implications to size with an umbrella and tent and specifics to design related to size and height. Michel identified the intent of temporary uses, and he recognized that a tent would be a much larger structure.

Merck confirmed a booth was a cart without wheels. Ladoulis had no idea what a 24 square foot booth looked like. Ladoulis suggested to approve with the change to amend the ordinance to allow a 10 x 10 booth, which would be 100 square feet. Schmidt thought a vendor would take up 100 square feet anyway, even though the cart itself was 24 square feet.

Ladoulis proposed a motion to approve with the change from 24 square feet to 100 square feet, no greater than 10 x 10. Schmidt agreed to second the motion to allow 100 square feet, if they eliminated the umbrella. Ladoulis clarified it could be an umbrella or a free standing tent up to 10 x 10. Michel informed the Council that the ordinance could affect the streetscape and feel of Elk Avenue. He thought 24 square feet was a good place to remain.

MacDonald asked for clarification. Ladoulis confirmed they would allow up to 10 x 10 square feet of space comprised of a free standing tent or cart plus umbrella, not to exceed 100 square feet.

Mason recommended they keep 24 square feet for the booth itself and any extra devices or umbrellas could be no more than 10 x 10. Ladoulis suggested the word used be stand, instead of booth. Ladoulis proposed the size of 6 x 6. Mason was against the 10 x 10 size. Ladoulis agreed with 36 square feet. Schmidt agreed 6 x 6.

Ladoulis moved and Schmidt seconded a motion to allow a 6 x 6 booth footprint, including table, stand and umbrella, and allowing up to 9.5 feet in height. **Motion passed.**

2) Ordinance No. 21, Series 2017 - An Ordinance of the Crested Butte Town Council Approving an Intergovernmental Agreement with the Town of Mt. Crested Butte for the Formation and Ongoing Operation of Mountain Express.

Merck moved and Mitchell seconded a motion to set Ordinance No. 21, Series 2017 for public hearing at the meeting on August 8, 2017. **Motion passed.**

3) Presentation by the Crested Butte Land Trust on the 2018 Gunsight Bridge Replacement Project.

The Executive Director of Crested Butte Land Trust, Noel Durant, read the mission of the Land Trust. He introduced Hedda Peterson to provide an overview of the project. She showed a slide depicting the property, and she explained easements. Peterson listed conservation values. She showed a photo taken just before peak flow in May. Michel questioned past improvements with funding assistance from Town. Peterson explained the top had been re-surfaced.

Next, Peterson explained the three phases of the project. She reviewed background on studies that were completed. Gunsight Bridge and hardened trails were identified as main stressors to the river. The bridge span was too narrow and was causing erosion downstream. Peterson mentioned issues associated with the piers. She summarized project needs. She showed a slide depicting a preliminary bridge design. Michel questioned the projected cost, and he thought it sounded low.

Merck wondered if the bridge would be wider than the existing bridge to accommodate Search and Rescue. Peterson said it was not intended to be for motorized use. Schmidt was shocked they needed a suspension bridge rather than using the existing piers. Ladoulis wanted to know if RETT funds could be used, and they could not. Michel recognized they could not use the stewardship fund.

Yerman explained the Land Trust was asking for a cash match for a grant. The request would be a part of the package of the 2018 budget. Durant confirmed that they would reach out to key stakeholders. Michel asked how the Council would process the requests.

He was trying to identify reasoning for this support. Merck stated it was a major amenity to Town, and it was worthy for Town. Yerman explained it would be in the 5-year capital budget, and they would have to weigh with priorities in the 5-year plan. Peterson informed that there was a stewardship burden to owning land, and they would be coming with more stewardship themed requests in the future. Michel acknowledged they had to be aware of disbursements. Ladoulis said they would consider adding sources of funding in this election cycle, and Merck confirmed the bridge had been reopened. The Council agreed to direct Staff to include the request in the capital budget.

4) Possible Approval of Restaurant/Bar Seating on Public Sidewalks for Public House LLC DBA Public House Located at 202 Elk Avenue.

Stanford explained the background on the agenda item, and the timeline the applicant could use the sidewalk seating.

Merck moved and Mitchell seconded a motion to approve the application for Public House LLC DBA Public House restaurant/bar seating on public sidewalks. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

5) Appointment of Members of the Public to the Parking Committee.

Yerman explained they advertised and received 11 applications. He listed other members who would be on the committee. He wanted to determine how many members to appoint from the public. Michel suggested they include more public rather than less, and he would be fine with four members.

Michel questioned the scope of the committee. MacDonald stated the direction was to focus on parking on Elk and effects on ancillary streets. Michel wondered if there was time to inform the budget. Schmidt was more concerned about safety than parking, such as at crosswalks. Ladoulis stated the Council could direct the committee. Michel suggested the committee could stay together for crosswalk and traffic questions. The Council agreed four appointees would be a good number. Mason recalled the short-term rental committee. He wanted to avoid re-inventing the wheel. Merck thought the committee should address legal issues. Michel reiterated it was a parking specific committee.

Each Council member chose his or her top four candidates, and the results were tabulated. The members from the public appointed to the committee were: Kim Raines, Kathy Joyce, Chris Myall, and Todd Carroll.

Merck moved and Mitchell seconded a motion to appoint Kim Raines, Kathy Joyce, Chris Myall, and Todd Carroll to the Parking Committee. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

6) Presentation by Cypress Foothills LP on River Trail Extension and Improvements to the Public Works Yard.

Yerman presented to the Council. He showed a diagram of the Slate River Development's Mountain Express bus barn exhibits. Yerman explained work that would be done by the developer, and that there would be a security issue with people being so close to the yard, necessitating fencing. They were out of space, and Mountain Express was over their lease area in the space. The expansion of the wastewater treatment plant was the second need that took a great deal of space. Long-term expansion would be dependent upon Mt. Crested Butte.

Cypress agreed to take on some costs of three-sided bus storage in the existing yard. Yerman acknowledged the significance of snow storage and that Cypress wanted to shield the views from across the river of the bus facility. They received the green light from Mountain Express. Michel summarized the ways that Cypress was contributing, such as with a trail to the rec path. There was discussion about future growth of Mountain Express and the cost of the parking structure to Mountain Express. Mason said it would be set up to be accessible for heat down the road. Michel affirmed the Council greatly valued Mountain Express. Mason relayed that Mountain Express was aware of space constraints, and they had looked at renting space in Riverland. Yerman confirmed they were in no way trying to push out Mountain Express.

7) Resolution No. 48, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Development Improvements Agreement for the Slate River Development.

Removed from the agenda.

8) Resolution No. 49, Series 2017 - Resolutions of the Crested Butte Town Council Approving a Water Service Agreement for the Slate River Development with Cypress Foothills, LP.

Removed from the agenda.

9) Presentation and Possible Direction on Hiring Residential/Vacation Rental Inspector for the Implementation of the Vacation Rental Regulations.

Yerman reminded that Council that Ordinances 6 and 12 created an inspection regime for vacation rentals. Noticing would be quite a big task. The fees to fund the position wouldn't go into effect in 2018, so the cost of the position would need to come out as a budget amendment for 2017. He added that the position could also allow for a back-up inspector.

Merck moved and Mason seconded a motion to direct Staff to proceed with the hiring of the Vacation Rental/Residential Inspector with the understanding the budget impacts will be picked up in the forthcoming budget amendment. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

10) Resolution No. 50, Series 2017 - Resolutions of the Crested Butte Town Council Adopting the Applicable Provisions of the Uniform Election Code of 1992 for the Coordinated Election to be Held on November 7, 2017 and Authorizing the Town Clerk to Enter Into an Intergovernmental Agreement With the Gunnison County Clerk and Recorder Concerning the Administration of Such Election.

Schmidt confirmed that the resolution would cover a placeholder for a tax if the entities did not agree to support through the Housing Authority.

Merck moved and Mitchell seconded a motion to approve Resolution No. 50, Series 2017. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

LEGAL MATTERS

Sullivan updated on the Cypress/Slate River Development. He explained that they exchanged drafts of agreements with their counsel. Lock asked for the items to be pulled from agenda, so they could look at agreements more closely. Progress was being made.

Merck questioned on Freeport, and Sullivan didn’t have anything new to report.

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Paul Merck

- He received update from Yerman on the Center.

Laura Mitchell

- Attended Chamber meeting. Longer hours had been successful. Financials were in good shape. 440 people participated in the Chainless. She acknowledged Executive Director Ashley Upchurch was at the Council meeting.
- Attended Mountain Express and Scenic Byways meetings. They talked about the trail from Carbondale to Crested Butte at the Scenic Byways meeting.
- She would be coming forward with a Forest Service grant.

Roland Mason

- He was no longer Chair of the Mountain Express board.
- They discussed late night scheduling of transportation.
- Ridership was up. However, they carried more people on the previous 4th of July.
- Revenues were looking good.
- The Gothic to Judd Falls route was working well.
- RTA bought a CNG bus. The fueling station wasn’t complete, but busses could be filled. They would see how CNG worked in the cold climate, in high elevation.
- Airport opened earlier than expected.
- May and June RTA ridership numbers were up from last year.

Chris Ladoulis

- Wayfinding Committee meeting would be on Wednesday afternoon.

Jim Schmidt

- Members of the Cemetery Committee hired John Murphy for the fence at the Jokerville site. The plan was to have a dedication on September 29th.
- Housing Committee decided with a split vote to go ahead and proceed with a ballot issue of 1mil for housing in this coming election. The survey showed it would be close. Each participant within the Housing Authority had to approve. They still had to define for what the money would be used.
- He attended a meeting on the Comedy Festival. Michel explained John Norton contacted them. Schmidt described the festival in Aspen. The timing of the festival was discussed, as well as possible venues. They wanted support from the Town. It would give Town more publicity.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

MacDonald told the Council that the Comedy Festival wouldn't generally fall under the special event process. Organizers wanted to maximize the ice arena as a venue. They needed a venue to seat 1000 people and an enclosed structure. They were interested in using Big Mine, but it was not designed as a venue. She asked if the Council would want to consider the idea. Michel said they would entertain applications as they came in front of them. Mason recalled the cost involved to sprinkler the building. If they were to entertain the idea, the inclusion of sprinklers had to be considered. MacDonald identified the question was if they wanted Big Mine to become a venue opportunity. She asked if the Council wanted to have the conversation. Michel suggested it be an agenda item for discussion. Mason said the discussion was where the event was going to happen. He agreed it be included as an agenda item. Mitchell recognized that they kept hearing to quit advertising summer, and it was a big deal. They had to think about it. Ladoulis asked what their motivation was to create a venue for 1000 people in the Town. Michel agreed they had to be cognizant of carrying capacity. Ladoulis was not interested in adding the topic to an agenda. Mitchell agreed with Ladoulis. Mason and Schmidt wanted to discuss. Michel found 1000 people as problematic at Big Mine. Merck agreed with Mason and Schmidt. Ladoulis thought it was crazy to entertain, unless they had other motivation. It was suggested to bring the topic up with Petito present to see if the tie amongst the Council to proceed with discussions would be broken.

Michel said they had been kept abreast of the County going ahead with a property tax mil level increase. It would be wise for the Town to keep a placeholder to put something on the ballot. They looked into doing a short-term rental sales tax to fund the Town of Crested Butte's affordable housing fund. It was Plan B if the County couldn't move forward. Michel stated that if the Valley didn't act, then the Town should. Ladoulis saw a need for seasonal, work-force housing. He thought there was a difference between affordable and work-force housing. MacDonald said the ballot language could be worded to address the needs in the community. MacDonald stated it would be an additional tax used to address housing needs. Michel recognized that a 5% specific short-

term rental tax could generate up to \$250K. Schmidt didn't see the division that Ladoulis saw in terminology. Brush Creek didn't have a mix of rental and ownership opportunities. He thought the Council needed to refocus on ownership opportunities. There were opportunities for other types of taxes, such as a lodging tax. Michel explained why he focused on sales tax for short-term rentals. MacDonald reviewed the timeline related to the election. Merck thought it also placed pressure on Plan A. MacDonald said they would be recognizing the situation was acute enough that Crested Butte would want to pursue a local solution. Ladoulis did not see them as mutually exclusive items. He reiterated they needed more rental opportunities.

Schmidt suggested they have a discussion ahead of time on the Brush Creek sewer service. Mason said they needed to talk about capacity. MacDonald recognized the State mandated the developer have conversations with entities that could provide. Michel asked if they had formally requested. Schmidt asked if they had to decide how to direct Staff for negotiating.

Schmidt heard of Wal-Marting of marijuana stores. He asked if there was legal protection for local owners. The Town Attorney would report back to the Council.

Ladoulis brought forth what results of the election could be and implications to the Council. He suggested they change the way they elect the Mayor. The Council would elect the Mayor, or the Mayor would have a four-year term. Michel said they had to go to the voters. He asked if they would have a better delivery of government with his suggestion. Schmidt didn't see the problem. Ladoulis asked if it was important enough to consider putting on the ballot. Mason wanted to have the conversation for the next cycle. Sullivan identified two issues he heard. Schmidt recalled historical instances of what was being discussed. The Council did not direct to move forward.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- *Tuesday*, August 8, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- *Monday*, August 21, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, September 5, 2017 - 6:00PM Work Session - 7:00PM Regular Council

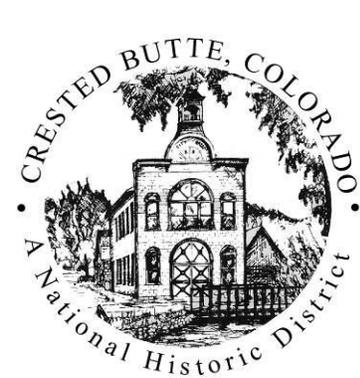
Michel reminded the Council of the work session on Thursday.

ADJOURNMENT

Mayor Michel adjourned the meeting at 10:14PM.

Glenn Michel, Mayor

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

August 8, 2017

To: Mayor and Town Council

Thru: Dara MacDonald, Town Manager

From: Lynelle Stanford, Town Clerk

Subject: Ordinance No. 20, Series 2017- An Ordinance of the Crested Butte Town Council Amending Section 6-4-10 to Add the Term Booth.

Date: August 1, 2017

Summary:

Ordinance No. 20, Series 2017 adds the term booth to the vending section of the Code. After discussion at the previous meeting, *booth* means a temporary structure that is readily movable and is used for vending food that is no more than thirty-six (36) square feet in area, within a six feet by six feet (6' x 6') footprint, and nine and half feet (9.5') feet in height, including umbrellas and other similar devices, that is removed from its vending location every night. Food vendors would be allowed to vend from either a cart or a booth on either public or private property. The limitation of four total food vendors remains at four.

Background:

The additional term is being added at the request of Jamie and Sasa Watt of Jamie's Jerky. They desire to vend jerky on private property from a booth, rather than a cart, currently allowed under the Code.

Recommendation:

The balance needs to be struck between mobile vendors and brick and mortar businesses. Staff believes the balance is maintained by preserving the limit of four food vendors. The booths would function similar to carts. However, the definition differs from handcarts because of the absence of the requirement of wheels. The requirement for mobility is included in the definition for booth. Staff recommends setting the Ordinance for public hearing.

Recommended Motion:

Motion to approve Ordinance No. 20, Series 2017.

ORDINANCE NO. 20

SERIES 2017

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AMENDING SECTION 6-4-10 TO ADD THE TERM BOOTH.

WHEREAS, the Town of Crested Butte, Colorado 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;

WHEREAS, the Town Council wishes to allow food vendors to use booths for food cart vending.

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

Section 1. Amending Section Sec. 6-4-10. Section 6-4-10 is hereby amended to add the definition of the term “booth” and revising the definition of Food Cart to add the term “booth” as follows:

Booth means a temporary structure that is readily movable and is used for vending food that is no more than thirty-six (36) square feet in area, within a six feet by six feet (6' x 6') footprint, and nine and half feet (9.5') feet in height, including umbrellas and other similar devices, that is removed from its vending location every night.

Food cart means handcart or booth from which food such as hot dogs, tacos, ice cream, candy, nonalcoholic beverages and other traditional, hand-carried ready-to-eat food and drink are sold. A food cart vendor is one who sells food and drink using a food cart and who meets the definition of vendor found in this Article. Food cart vending is the act of selling food and drink using a food cart by one who meets the definition of vendor found in this Article.

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 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 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 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 ___ DAY OF _____, 2017.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS _____ DAY OF _____, 2017.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

[SEAL]



Staff Report

August 8, 2017

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Ordinance 2017-21 – An ordinance of the Crested Butte Town Council approving an Amended Intergovernmental Agreement with the Town of Mt. Crested Butte for the Mountain Express Transportation System

Summary: The Mountain Express transportation system is established through an intergovernmental agreement (“IGA”) between Crested Butte and Mt. Crested Butte. The most recent IGA which was executed in 2010 expired at the end of May, 2017. The proposed amended IGA would extend the operations of Mountain Express in substantially the same manner as it has been operating.

Background: Mountain Express has been operating since 1990 providing public transportation in Crested Butte and Mt. Crested Butte. The two towns each have the authority to operate public transportations, or to jointly form a separate and distinct public entity to provide transportation services which they have done through the formation of Mountain Express. In order to continue, the IGA between the two entities must be renewed.

Discussion: The amended IGA before the Council for consideration is almost identical to the previous version which expired in May. There are two changes:

- 1) The due date for payments from the towns to Mt Express has been extended from 5 days after the first day of each month to 15 days. This was done because it is often difficult for the entities to actually turn around payments that quickly each month after collection of sales taxes.
- 2) The term has been changed from 7 years to 10 years with an automatic renewal of 10 years unless either party gives notice of termination of the agreement at least 180 days prior to the renewal. Rather than having the agreement expire again in the future for such an important entity in the community, this will allow for it to continue unless either party feels it should be terminated.

The Mt. Express Board has reviewed the previous IGA and at their meeting on July 20, 2017 they voted to recommend that the two towns execute an amended IGA substantially similar to the previous version with the two changes noted above.

Legal Implications: If the two towns should choose not to approve an IGA, Mt. Express will cease to exist. The Town Attorney has reviewed the amended IGA.

Financial Implications: The financial obligations of the Town to support Mt. Express do not change under the amended IGA. The Town will continue to contribute 95% of the 1 cent sales tax adopted by the Town for transportation and other purposes pursuant to Ordinance 1982-11. Similarly, the Town of Mt. Crested Butte's financial obligations remain unchanged.

Recommendation: Staff recommends adopting Ordinance 2017-21.

Proposed Motion: Motion and a second to approve Ordinance No. 21, Series 2017.

ORDINANCE NO. 21**SERIES NO. 2017****AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL APPROVING AN AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF MT. CRESTED BUTTE FOR THE MOUNTAIN EXPRESS TRANSPORTATION SYSTEM**

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

WHEREAS, the Town and the Town of Mt. Crested Butte (“Mt. Crested Butte”) each have the authority and power to own, maintain, and operate public transportation systems; and

WHEREAS, the Town and Mt. Crested Butte are authorized through Article XIV, Section 18, or the Colorado Constitution, Section 14.5 of the Town’s home-rule charter, and C.R.S. 29-1-203 to contract to provide for the joint exercise of any function, service, or facility lawfully authorized to each; and

WHEREAS, the Town and Mt. Crested Butte have previously entered into an Intergovernmental Agreement for Mountain Express Transportation dated April 18, 2010 (the “2010 IGA”) which established a transportation system known as “Mountain Express”, established as a separate and distinct public entity or instrumentality to provide transportation services; and

WHEREAS, Mountain Express has been continuously operated to provide transportation services since 1990; and

WHEREAS, the term of the 2010 IGA expired on May 31, 2017; and

WHEREAS, the Town affirms, by entering into this agreement, the need for an organizational framework through which it will work with Mt. Crested Butte to provide public transportation to the citizens and visitors as an alternative to the private automobile; and

WHEREAS, the Town Council and the Town of Mt. Crested Butte wish to enter into the Amended Intergovernmental Agreement for Mountain Express Transportation System (the “Amended IGA”) attached hereto as Exhibit A; and

WHEREAS the Town Council finds hereby that approving the Amended IGA is in the best interest of the general health safety and welfare of the Town, its residents and visitors alike.

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

1. **Findings**. The foregoing recitals are hereby fully incorporated herein.
2. **Authorization of Mayor**. Based on the foregoing, the Town Council hereby authorizes the Mayor to execute the Amended Intergovernmental Agreement for Mountain Express Transportation System in substantially the same form as attached hereto as **Exhibit "A"**.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL
THIS ___ DAY OF _____, 2017.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

AMENDED INTERGOVERNMENTAL AGREEMENT FOR MOUNTAIN EXPRESS
TRANSPORTATION SYSTEM

[attach form of agreement here]

AMENDED INTERGOVERNMENTAL AGREEMENT FOR
MOUNTAIN EXPRESS TRANSPORTATION SYSTEM

THIS AGREEMENT is made and entered into this _____ day of _____, 2017, by and between the TOWN OF CRESTED BUTTE, a Colorado home-rule municipality (hereinafter referred to as "CRESTED BUTTE") and the TOWN OF MT. CRESTED BUTTE, COLORADO, a Colorado home-rule municipality, hereinafter referred to as "MT. CRESTED BUTTE." The parties are hereinafter collectively referred to as "TOWNS."

W I T N E S S E T H:

WHEREAS, the TOWNS each have the authority and power to own, maintain, and operate public transportation systems; and

WHEREAS, each of the TOWNS are authorized by reason of Article XIV, Section 18, of the Colorado Constitution, Section 14.5 of Crested Butte's home-rule charter, and Section 29-1-203, C.R.S., to contract to provide for the joint exercise of any function, service, or facility lawfully authorized to each; and

WHEREAS, the TOWNS have previously entered into an Intergovernmental Agreement for Mountain Express Transportation dated April 18, 2010, which established a transportation system known as "MOUNTAIN EXPRESS", established as a separate and

distinct public entity or instrumentality to provide transportation services; and

WHEREAS, MOUNTAIN EXPRESS has been continuously operated to provide transportation services since 1990; and

WHEREAS, the TOWNS affirm, by entering into this agreement, the need for an organizational framework through which they will provide public transportation to the citizens and visitors as an alternative to the private automobile; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived herefrom, it is agreed by the parties as follows:

1. STATEMENT OF PURPOSE. The purpose of this agreement is to continue a public transportation system. The TOWNS, by this agreement, desire to continue the existence of the previously established transportation entity separate and distinct from the two TOWNS, with the authority and responsibility to:

A. Own, operate, and administer a public transportation system, both within and without the corporate limits of each of the TOWNS.

B. Contract with any person, firm, or public agency to use, manage, and operate its transportation facilities.

C. Such additional acts that are necessary to effectuate this agreement.

D. It is the intention of the parties that this agreement continues the existence of the previously established separate legal entity to provide the transportation services described herein pursuant to 29-1-203(4), C.R.S.

E. It is further the intention of the parties that the separate legal entity previously created and continued pursuant to this agreement is and shall be a public entity, as the term is defined at 24-10-103(5), C.R.S., and be entitled to all the rights and subject to all the obligations and duties of public entities pursuant to the Colorado Governmental Immunity Act, being Title 24, Article 10, Part 1, C.R.S.

2. ADMINISTRATION OF AGREEMENT.

A. Continuation of a Transportation System.
Upon the effective date of this agreement, there is continued the Mountain Express, a transportation system, hereinafter referred to as "MOUNTAIN EXPRESS", a separate and distinct public entity or instrumentality, as the legal entity to

exercise the common powers provided for in this agreement, and to administer or otherwise execute the terms of this agreement.

B. Board of Directors - Appointment.

i. MOUNTAIN EXPRESS shall be governed by a board of directors consisting of five members. The board of directors shall be appointed by motions adopted by the individual TOWNS from persons nominated as follows: (a) Two members nominated by the Town Council of Crested Butte; (b) Two members nominated by the Town Council of Mt. Crested Butte; (c) One person nominated by majority vote of the four members of the board of directors identified in (a) and (b) hereof.

ii. The members of the board of directors nominated by the Town Councils of the TOWNS serve at the pleasure of the respective Town Councils and may be removed at any time by majority vote of the Town Council which nominated that particular member of the board of directors of MOUNTAIN EXPRESS.

iii. The one member of the board of directors nominated by majority vote of the remaining four members of the board of directors may be removed only upon the adoption of a motion by a majority of the remaining members of

the board of directors finding a violation of the director's duties and obligations to MOUNTAIN EXPRESS.

iv. The term of each nominated member of the board of directors of MOUNTAIN EXPRESS shall be for a term of two years.

C. Board of Directors - Organization. The board of directors shall abide by the previously adopted written bylaws that govern the organization and operation of MOUNTAIN EXPRESS. The bylaws shall include the following, but not be limited to:

i. Designation of officers, including chairperson, vice-chairperson, secretary, and treasurer.

ii. Appointment of officers and their duties.

iii. Filling of vacancies.

iv. Officers' performance bonds.

v. Meeting schedules.

vi. Calling of special meetings.

vii. Quorum.

viii. Manner of voting.

ix. Appointment to administrative committees.

- x. Parliamentary procedures.
- xi. Procedure for amendment of bylaws.
- xii. Minutes and records of meetings.
- xiii. Authority to sign documents and checks.

Any amendments to the bylaws shall follow the amendment procedure set forth in the bylaws.

D. Board of Directors - Responsibilities. The primary responsibility of the board of directors is to provide for a safe, reliable, and financially-sound transportation system. Within the board's overall responsibility to govern the operation of the transportation system, the board shall:

- i. Adopt policies and procedures to govern the operations, personnel, and procurement practices necessary to operate the system, or in the alternative, to enter into management contracts with any entity which incorporate the foregoing.

- ii. Adopt and from time to time amend a transportation development plan, which may include route structures and fares.

- iii. To adopt an operating and capital budget for MOUNTAIN EXPRESS.

iv. To review and adopt a minimum five-year financial plan for the capital needs of MOUNTAIN EXPRESS.

v. To employ a general manager or enter into a management contract for the management of the transportation system, which may include the hiring of the necessary staff for operation of the system.

vi. To report, in writing, to the respective Town Councils at a minimum of once per year at meetings of the respective Town Councils. This report shall include, but not be limited to, the financial status, fleet status, ridership, operations, route configuration, service agreements, and program recommendations for the next season of transportation operations. At such meetings, the board of directors of MOUNTAIN EXPRESS and the respective Town Councils shall review this intergovernmental agreement, the proposed MOUNTAIN EXPRESS budget, and MOUNTAIN EXPRESS operations.

3. POWERS AND FUNCTIONS OF MOUNTAIN EXPRESS.

MOUNTAIN EXPRESS shall have the powers common to the respective TOWNS to own, operate, and maintain a public transportation system. In the exercise of the powers under this agreement, MOUNTAIN EXPRESS is authorized, under its own name, to:

A. Employ a general manager or to enter into a management contract.

B. Employ agents and employees, and contract for professional services.

C. Make and enter into leases and other contracts.

D. Acquire, convey, construct, manage, maintain, and operate buildings and improvements.

E. Acquire and convey real and personal property.

F. Incur obligations and liabilities.

G. Accept contributions, grants, or loans from any private entity, public agency, or the United States, or any department, instrumentality, or agency thereof, for the purpose of financing the planning, acquisition, construction, maintenance, or operation of the transportation system.

H. Invest money that is not needed for the immediate necessities of the transportation system as the board determines advisable in the same manner and upon the same conditions as other local governmental entities in the State of Colorado.

I. Obtain or contract for such insurance as is reasonably necessary to protect the assets of MOUNTAIN EXPRESS, and to protect the interests of the two TOWNS.

J. Sue and be sued in its own name.

K. Do all other acts reasonably necessary to carry out the purpose of this agreement.

The powers to be exercised by MOUNTAIN EXPRESS are subject to the same authority and restrictions, immunities, and liabilities as those imposed upon the respective TOWNS in the exercise of similar powers. In the event of conflicting provisions or requirements of the method of exercising specific authorities granted to each of the TOWNS, MOUNTAIN EXPRESS shall comply with the more restrictive of the requirements. MOUNTAIN EXPRESS shall be strictly accountable for all funds received, held, and disbursed by it.

4. FINANCING AND BUDGET.

A. MOUNTAIN EXPRESS'S fiscal year shall be January 1 through December 31.

B. The board of MOUNTAIN EXPRESS shall consider and, following a public hearing thereof, adopt an annual budget and a five-year capital improvement program. Copies of the annual budget and the five-year capital improvement program

approved by the board of directors of MOUNTAIN EXPRESS shall be submitted to the respective Town Councils for their review and implementation pursuant to this agreement. The annual budget and five-year capital improvement program shall comply with applicable local governmental budgetary laws of the State of Colorado.

C. The Town of Mt. Crested Butte shall contribute 95 per cent of the 1 cent sales tax adopted by the Town for transportation and other services pursuant to Ordinance No. 12, Series 1982, of the Town of Mt. Crested Butte and not less than 25 per cent of the proceeds of the 4 per cent Admissions Tax adopted by the Town and designated for transportation pursuant to Ordinance No. 7, Series 2002, of the Town of Mt. Crested Butte. The Town of Crested Butte shall contribute 95 per cent of the 1 cent sales tax adopted by the Town for transportation and other purposes pursuant to Ordinance No. 11, Series 1982, of the Town of Crested Butte. Such sums shall be paid to MOUNTAIN EXPRESS by the 15th day of the month following the month in which the proceeds of the sales tax are received by the TOWNS. MOUNTAIN EXPRESS shall account for its use of such funds in accordance with the terms and conditions hereinafter stated.

D. The board of directors of MOUNTAIN EXPRESS shall account for its funds as follows:

i. To provide operating funds to cover the cost of the transportation services described herein.

ii. To provide funds for the purpose of acquiring public transportation facilities and equipment.

5. LIABILITIES. Without a subsequent agreement of the TOWNS, the debts, liabilities, and obligations of MOUNTAIN EXPRESS shall not be the debts, liabilities, or obligations of the respective TOWNS, nor shall the debts, liabilities, or obligations of the respective TOWNS be the debts, liabilities, or obligations of MOUNTAIN EXPRESS. Any contracts entered into by MOUNTAIN EXPRESS shall include a reference to this paragraph.

6. INDEPENDENT AUDIT. An independent audit shall be made of all MOUNTAIN EXPRESS accounts at least annually, and more frequently if deemed necessary by the board of directors. Such audit shall comply legally with governmental audit practices and shall be made by certified public accountants experienced in municipal accounting and federal grants, selected by the board of directors. Copies of such audit shall be provided to the respective TOWNS and made available for public inspection at MOUNTAIN EXPRESS'S office.

7. TERMINATION, DISSOLUTION, AND LIMITATION OF REMEDIES. This agreement shall become effective as of September 1, 2017, and continue in force for a term of 10 years until August 31, 2027, and will automatically renew in terms of 10 years, unless subsequently extended by the TOWNS or terminated by breach of the agreement by either of the TOWNS or by notice given by either of the Towns prior 180 days to agreement expiration.

In the event of a default in performance of any of the obligations, covenants, or requirements of this agreement which is not corrected within thirty days of written notice thereof sent to the defaulting Town, the non-defaulting Town may elect to either terminate this agreement, in which case MOUNTAIN EXPRESS shall be dissolved as hereinafter set forth, or the non-defaulting Town may seek an order requiring specific performance of this agreement from any court of competent jurisdiction in the Seventh Judicial District, State of Colorado. The remedy of specific performance shall be the sole remedy hereunder, the parties having specifically waived any claim for damages occasioned by the breach of this agreement whether they be actual consequential, or punitive, except that an order requiring a party to contribute funds to the operation of

MOUNTAIN EXPRESS shall bear interest from the date such funds should have been contributed until the same are paid at the Base Rate of Interest charged by the Crested Butte Bank. Neither Town has waived any defense it may have to an action for specific performance by execution of this agreement.

If this agreement is terminated either by the expiration of the term hereof or by reason of a default of either of the parties hereto, all property, equipment, and surplus funds of MOUNTAIN EXPRESS, after satisfaction of the debts, liabilities, and obligations of MOUNTAIN EXPRESS, shall be distributed equally to the respective TOWNS, except that the Town of Crested Butte shall receive by assignment or other appropriate instrument any PUC certificate of authority for operation of a transportation system.

8. ATTORNEY'S FEES. In the event an action seeking specific performance of this agreement is brought, the prevailing party therein shall be entitled to an award of reasonable attorney's fees incurred in the prosecution or defense thereof.

9. AMENDMENTS. This agreement may be amended by written amendment approved by the respective Town Councils, acting separately.

10. BINDING AGREEMENT. This agreement shall be binding upon and inure to the benefit of any successors to or assigns of the parties hereto.

11. ASSIGNMENT. Except as may be specifically provided herein to the contrary, an assignee for security purposes is not a beneficiary of this agreement.

12. SEVERABILITY. Should any part, term, portion, or provision of this agreement be finally decided to be in conflict with any law of the United States or the State of Colorado, or otherwise be found to be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, providing such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended in the first instance.

13. AUTHORIZATION. This agreement shall be authorized by ordinance of the Town Council of the Town of Crested Butte and ordinance of the Town Council of the Town of Mt. Crested Butte, County of Gunnison, Colorado.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST:

By: _____
Lynelle Stanford, Town Clerk

TOWN OF MT. CRESTED BUTTE,
COLORADO

By: _____
Todd Barnes, Mayor

ATTEST:

By: _____
Jill Lindros, Town Clerk



Staff Report

August 8, 2017

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Janna Hansen, Parks and Recreation Director
Subject: Presentation by Parks and Recreation Director Janna Hansen on the Big Mine Warming House Concept Plans

Background: On May 1st Town Council adopted Resolution No. 19, Series 2017 approving a professional services agreement with Ben White Architecture for the purpose of obtaining architectural and related services for the Big Mine Warming House Expansion Project. The subcommittee for this project has met regularly with Mr. White since May to develop the conceptual design presented today. The Town, in agreement with the Town of Mt. Crested Butte, allocated \$300,000.00 from Whatever USA for this project. In 2016, \$85,000.00 of that money funded utility upgrades in Big Mine Park leaving a balance of \$215,000.00. The 2017 5-year capital plan dedicated \$387,000.00 to this project in 2018.

Summary: Mr. White was tasked with producing two alternative designs evaluating both utilizing the existing Warming House and all new construction. It was determined that in order to reuse the building, the following would need to be performed: selective demolition to move the structure to a temporary location; construction of a new foundation; construction of a new first floor; updates to the roof structure; new insulation; new electrical and mechanical systems; and a reconfiguration of the stairs. The salvage value of the existing building is conservatively estimated to be 1/3 of the new construction value or \$233,000.00. This is less than 8% of the anticipated project budget.

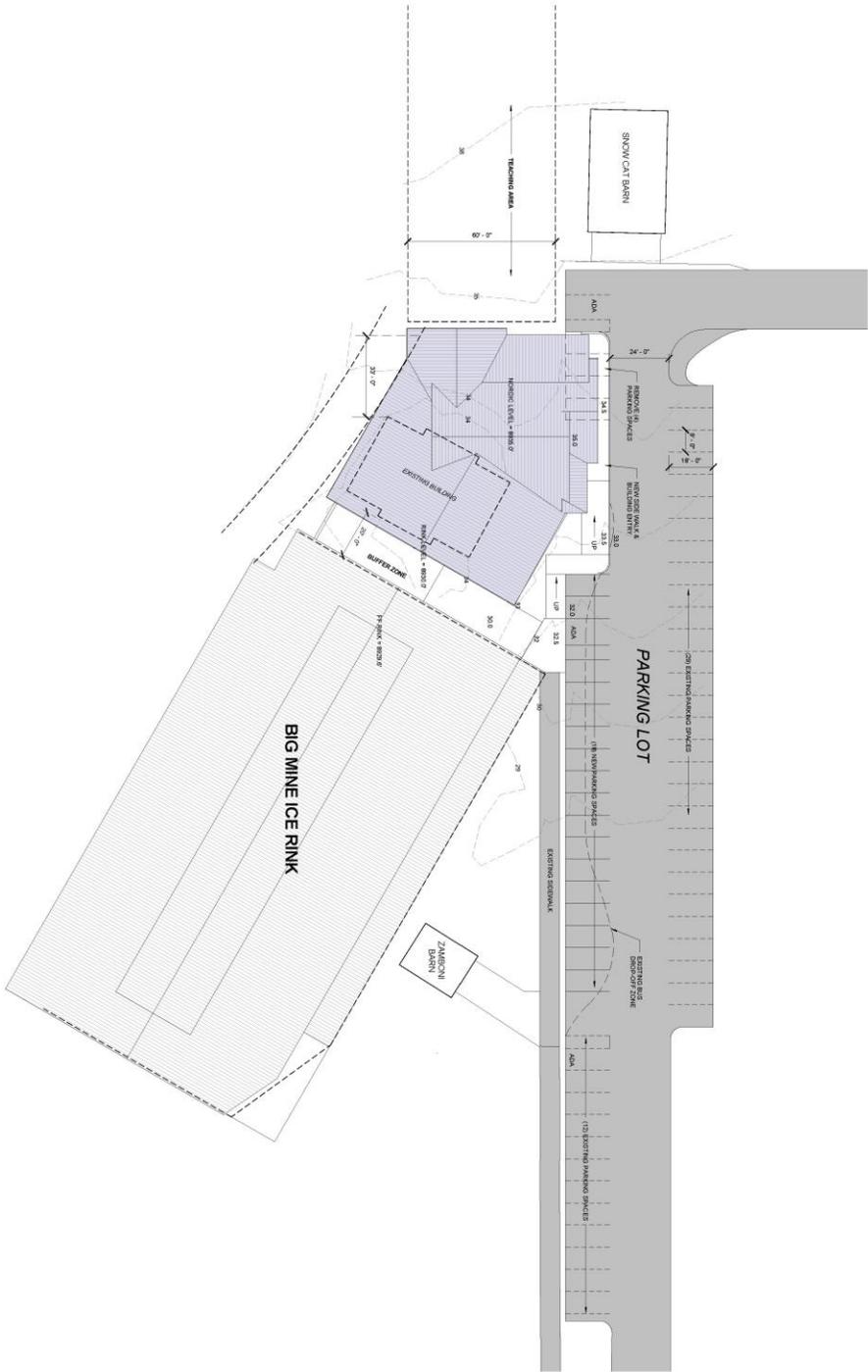
With the goal of sharing common building elements such as restrooms, internal circulation, and mechanical systems; reuse of the existing building will greatly complicate the new design. It is conceivable that the existing building could fit on the north side of new rink-level hockey changing rooms, however the building would not align with either the parking lot, the town grid, or the open space/teaching area. Adding to the existing building would negate a number of potential efficiencies such as structural integrity, the existing thermal envelope, exterior finishes, and roof materials.

Given the existing program elements, adjacencies, and shared functions, the subcommittee believes it is impractical to reuse the existing structure. The size would limit new program areas and the dimensions would not conform to the site constraints or orientation of primary elevations. With the possibility of repurposing the structure, the committee believes it would be best suited on a new lot with a new function.

The total square footage of the conceptual plan is 8,488 sq. ft. representing a 6,000 sq. ft. increase in program space. At an estimated \$300/sq. ft. plus 40% in fees (engineering, general contractor, etc.) the anticipated construction price for this project is \$3,500,000.00. This does not include furniture, fixtures, and equipment. This represents the price for all of the work to be contracted out and does not represent possible in-kind contributions from the Town or donors. Given the need for a successful capital fundraising campaign, the committee recommends commencing construction in 2019 to allow for fundraising in 2018. The presentation will include a breakdown of possible funding sources.

Recommendation: Staff recommends that Council direct Staff to move forward with the Big Mine Warming House Expansion Project with the BOZAR approval process in September, development of final design documents by December, and the development of a fundraising campaign with Crested Butte Nordic and West Elk Hockey Association.

8/2/2017 11:12:57 AM



1 SITE PLAN
1" = 20'-0"



CONCEPT DESIGN

BEN WHITE
ARCHITECTS

144 S. GARDEN ST. #2
CRESTED BUTTE, CO 81224
TEL: 970.339.1234
WWW.BENWHITEARCHITECTS.COM



NORDIC
CONSTRUCTION



BIG MINE WARMING HOUSE EXPANSION
620 2ND STREET
CRESTED BUTTE, CO 81224

SYMBOL	DESCRIPTION
1	EXISTING BUILDING
2	NEW BUILDING
3	EXISTING ICE RINK
4	NEW ICE RINK
5	EXISTING PARKING
6	NEW PARKING
7	EXISTING DRIVEWAY
8	NEW DRIVEWAY
9	EXISTING SIDEWALK
10	NEW SIDEWALK
11	EXISTING FENCE
12	NEW FENCE
13	EXISTING UTILITY
14	NEW UTILITY
15	EXISTING LANDSCAPE
16	NEW LANDSCAPE
17	EXISTING TREES
18	NEW TREES
19	EXISTING BUFFER
20	NEW BUFFER

SITE PLAN

PROJECT NO. 170028
PROJECT NAME: 62117
SHEET NUMBER:
A0.1

8/2/2017 11:13:00 AM



CONCEPT DESIGN

PROJECT NO.	170208
PROJECT DATE	6/11/17
SHEET NUMBER	A1.1

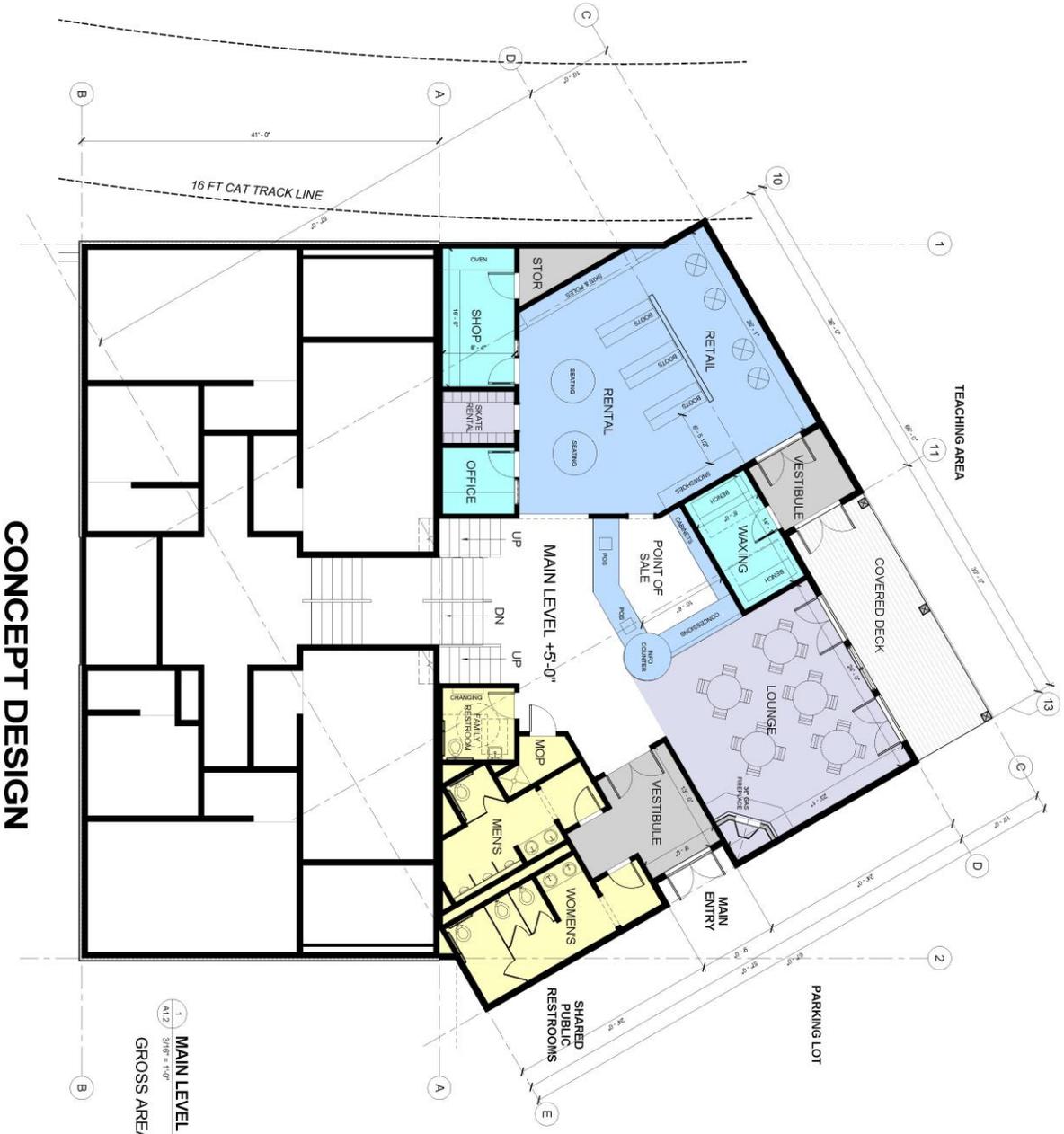
REVISION	DATE	BY

BIG MINE WARMING HOUSE EXPANSION
 620 2ND STREET
 CRESTED BUTTE, CO 81224



BEN WHITE ARCHITECTURE
 754 KENNEDY AVE. #1
 GOLDEN, CO 80401
 TEL/FAX 303.226.2726
 WWW.BENWHITEARCHITECTURE.COM

8/2/2017 11:13:12 AM



CONCEPT DESIGN

1 MAIN LEVEL
 A1.2 3/16" = 1'-0"
 GROSS AREA = 3,362 SF

PROJECT NO.	170328
PROJECT DATE	08/17/17
SHEET NUMBER	A1.2

REVISIONS	
1	DATE: 08/17/17
2	DATE: 08/17/17
3	DATE: 08/17/17
4	DATE: 08/17/17
5	DATE: 08/17/17
6	DATE: 08/17/17
7	DATE: 08/17/17
8	DATE: 08/17/17
9	DATE: 08/17/17
10	DATE: 08/17/17

BIG MINE WARMING HOUSE EXPANSION
 620 2ND STREET
 CRESTED BUTTE, CO 81224

9/22/2017 11:13:27 AM



CONCEPT DESIGN

1 UPPER LEVEL
A1.3/ SHEET 1 OF 1
GROSS AREA = 2,971 SF



PROJECT NAME	1700000
PROJECT NUMBER	001117
DATE	09/22/2017
SCALE	AS SHOWN
A1.3	

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	09/22/2017
2	ISSUED FOR CONSTRUCTION	09/22/2017
3	ISSUED FOR AS-BUILT	09/22/2017
4	ISSUED FOR ARCHIVE	09/22/2017

BIG MINE WARMING HOUSE EXPANSION
620 2ND STREET
CRESTED BUTTE, CO 81224



BEN WHITE ARCHITECTURE
1400 14TH AVENUE
CRESTED BUTTE, CO 81224
PHONE: 970.338.2121
WWW.BENWHITEARCHITECTURE.COM



Staff Report

July 24, 2017

To: Mayor Michel and Town Council

From: Michael Yerman, Community Development Director

Thru: Dara MacDonald, Town Manager

Subject: **Boater Easement, River Trail and Mt. Express Bus Barn**

Boater Easement and River Trail

As part of the Slate River Development Agreements, the Cypress (“Developer”) has agreed to build a river trail and dedicate a boater easement to the Town on the western bank of the river. These improvements and the dedication of the boater easement are required to be completed within two years of the annexation. However, the developer has approached the Town on moving forward with the construction of the river trail and related improvements this fall and next spring.

The developer will be presenting the Council their vision for the trail, boater ramp and use of river corridor on Tuesday night.

Mt. Express Bus Barn

The developer presented the attached concept plan and budget at the August 3rd Mt. Express Board meeting. The site plan was revised after comments were received by Mt. Express staff. As presented the new bus barn structure would include 2 fully enclosed wash bays and a 3 sided covered bus barn structure that would hold an additional 13 buses.

The overall cost of the project is anticipated to be \$930,000. This project would be eligible for DOLA’s Energy and Mineral Impact Assistance Fund. Mt. Express could apply for up to \$200,000 from DOLA to assist with project costs on December 1, 2017. The staff feels this project will be competitive for DOLA funding. It is anticipated that the Board would be asked to contribute \$475,000 cash towards the total project. If grant funds were not received Mt. Express would need either to reduce the scope of the project or provide additional funding.

The Town is committing an additional \$120,000 for in kind work. The developer will be contributing \$135,000 to assist with the foundation and design of the new structure. With the DOLA grant and commitments by other parties this brings an additional \$455,000 in outside funding for the project.

The Board directed the developer and Mt. Express staff to design and refine cost estimates for their consideration on August 17th. If the Board chooses to proceed with the project, the design will go before BOZAR in September for architectural approval.

Mt. Express Cost Breakdown

Building Costs

Metal Building - \$370,000

2 Bays Concrete Floor - \$30,000

2 Insulated Bays and Doors- \$25,000

2 Bays Heat -\$30,000

Entire Structure Electric, Lights, and Plugs- \$120,000

Asphalt Slab Rest of unheated structure - \$30,000

Water and Sewer - \$50,000 (includes piping, drains, oil trap, and tap fees)

Road Base- \$20,000

Footing and Foundation- \$75,000

Design and Engineering- \$60,000

Fill, grading, and transport- \$70,000

Trenching for water and Sewer \$50,000

Total Project Cost - \$930,000*

*Costs are still estimated since the floor plan was adjusted per Mt. Express Staff

Funding

Mt. Express - \$475,000

Potential DOLA Grant - \$200,000

Cypress - \$135,000

 Footing and Foundation- \$75,000

 Design and Engineering- \$60,000

Town of Crested Butte - \$120,000 (in-kind)

 Fill, grading, and transport- \$70,000

 Trenching for water and Sewer \$50,000

Total Matching/Grant Funding \$455,000 49% of project cost



To: Mayor Michel and Town Council
From: Michael Yerman, Community Development Director
Thru: Dara MacDonald, Town Manager
Subject: **Resolution No. 51, Series 2017- Slate River Development Improvements Agreement**
Date: August 8, 2017

Background

The Slate River Major Development application started with an annexation petition request to the Town in the fall of 2014 by Cypress Equities (Developer). After a year of negotiations, the proponents withdrew their application for annexation with the Town. At this time, the County was approached by the developer about the possibility of a major subdivision in the County.

In 2016, negotiations with the Town about extending sewer service to the development resulted in the Town and the developer executing the first of two pre-annexation agreements. The first Pre-Annexation Agreement, reception #638399, created a hybrid development project in which a portion of the development would occur in the unincorporated area of the County, followed by the annexation of the remaining property into the Town. The Slate River would serve as the dividing line between the Town and unincorporated development. In exchange for sewer service, the developer dedicated four parcels to the Town on the western portion of the development to serve as public uses, affordable housing, passive park space, and open space. These parcels will be platted and annexed under the Town's Municipal Code regulations.

The second agreement was developed after the developer went before the County Planning Commission and Board of County Commissioners (BOCC). Concerns about the developer's plans for water supply resulted in an additional request for Town water. At this time, an amendment to the pre-annexation agreement, reception #643828, was agreed upon to extend water service to the development in the County in exchange for senior water rights in the McCormick Ditch among other conditions. These two recorded agreements will be referenced as "Pre-Annexation Agreements" for the remainder of the memo.

Both Pre-Annexation Agreements were bound to the County's approval of the Major Subdivision of 23 residential lots on the eastern portion of the site and the Developer's ability to clean up the old landfill sites under the Voluntary Clean Up Program (VCUP) under the State's regulations. The County has approved the Major Subdivision which has set in motion the need for the execution of

several agreements. The approval of the County Major Subdivision also sets in motion the Town's annexation process and landfill voluntary clean up (VCUP).

Development Improvement Agreement

The Town is obligated per the Pre-Annexation Agreements to provide water and sewer service to the eastern portion of the property to remain in the unincorporated area of the County. There will also be several roads the Town will maintain after the western portion of the property is annexed. The developer is also responsible for installing several other pieces of infrastructure including an extension of the McCormick Ditch, fencing, and the River Trail Rec Path Extension.

The Development Improvement Agreement (DIA) is intended to protect the Town's interests in infrastructure that will be installed and inspected by the Town. Following a two-year warranty period, the Town will be responsible for the maintenance and repair of this infrastructure. This includes roads located on the western portion of the site, water and sewer lines and associated infrastructure such as lift stations, irrigation lines, 8th Street cleanup, and trail extensions. This agreement is important to the Town for three reasons. First the DIA will give the Town the right to inspect the infrastructure throughout the construction process. Second, the DIA will ensure proper surety is established to guarantee the project will be completed. Lastly, the DIA establishes a two year warranty period in which the developer will provide a 25% surety to cover repair costs to infrastructure dedicated to the Town.

The developer is responsible for providing a surety of 125% of the costs for constructing infrastructure within the Town limits. The County has a corresponding DIA for infrastructure installed in the County and they require the same level of surety. The improvements covered in the Town's DIA include:

- 8th Street extension construction costs
- River Trail, landscaping, and fencing
- 10th Street and Teocalli Avenue will require a new valley pan for a lift station connection
- McCormick Ditch extension along 8th Street to provide raw water for irrigation of Town parcels
- Voluntary cleanup costs for the 8th Street right-of-way
- Contractor overhead for the construction of these improvements

Not included at this time of the DIA is the Mt. Express covered bus parking. Negotiations are underway for the design of these improvements. The developer has agreed to take on additional costs to assist with the construction of the Mt. Express covered bus barn parking facility. This facility will need to undergo BOZAR architectural review prior to final costs being finalized. A separate agreement for the construction of these improvements will come before the Council once a final design is approved.

Additional infrastructure covered under the County DIA will be taken on by the Town upon the completion of the work in the County. These additional improvements include the water distribution infrastructure, sewer collection lines, and the portion of Pyramid Avenue from Gothic Road to the HOA Bridge. The County DIA provides the Town inspection and signoff authority to ensure these improvements meet Town specifications. This infrastructure also underwent and extensive

engineering review by the Town staff during the County approval process. All of the improvements listed above will require a 2-year warranty and the Town will retain 25% of the total costs to ensure the infrastructure success through the warranty period.

Recommended Action:

A Council member make a motion followed by a second to approve Resolution 51, Series 2017 for the Slate River Annexation Development Improvements Agreement.

RESOLUTION NO. 51**SERIES NO. 2017****RESOLUTIONS OF THE CRESTED BUTTE TOWN
COUNCIL APPROVING A DEVELOPMENT
IMPROVEMENTS AGREEMENT FOR THE SLATE
RIVER DEVELOPMENT**

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

WHEREAS, on May 6, 2017, Gunnison County adopted Resolution No. 17-____ approving the application from Cypress Foothills LP ("Developer") for Land Use Change Permit No: 2016-00009 regarding the subdivision of a 44.5 acre parcel (the "Property") further divided into two parcels bisected by the Slate River, the West Parcel consisting of 14.1 acres, and the East Parcel consisting of 30.4 acres; and

WHEREAS, the West Parcel will be annexed to the Town pursuant to the *Pre-Annexation Agreement* between the Town of Crested Butte and Developer, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on March 14, 2016, bearing Reception No: 638399 and the *Amendment to the Pre-Annexation Agreement*, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 13, 2016, bearing Reception No: 643828. The majority of the West Parcel will be conveyed to the Town with the exception of a parcel known as "Applicant Retained Lands;" and

WHEREAS, the East Parcel will be subdivided into 23 single-family residential lots of up to 5,000 square feet, with the opportunity for a 750 square feet accessory structure, and a Homeowner's Association lot, on which an owner's complex may be potentially constructed. All of which will be served with municipal water and sewer; and

WHEREAS, the Town staff has recommended to the Town Council that the Town enter into an agreement for the Developer's construction of and warranty for certain infrastructure improvements on the Property; and

WHEREAS, the Town Council finds hereby that the Town entering into an agreement for the Developer's construction of certain improvements is in the best interests of the Town.

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

1. **Findings.** The foregoing recitals are hereby fully incorporated herein.

2. **Authorization of Mayor.** Based on the foregoing findings, the Town Council hereby authorizes the Mayor to execute the “Development Improvements Agreement for Slate River Development” in substantially the same form as attached hereto as **Exhibit “A.”**

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS 8th DAY OF AUGUST, 2017.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Development Improvements Agreement -Cypress Foothills

[attach approved form here]

**DEVELOPMENT IMPROVEMENTS AGREEMENT
FOR
SLATE RIVER DEVELOPMENT**

THIS DEVELOPMENT IMPROVEMENTS AGREEMENT (“Agreement”) is entered into this 8th day of August, 2017, by and between the Town of Crested Butte, Colorado, whose address is P.O. Box 39, Crested Butte, Colorado, 81224 (“Town”) and Cypress Foothills, L.P., a Texas limited partnership, whose address is 8343 Douglas Avenue, Suite 200, Dallas, Texas 75225 (“Developer”).

1.0 BACKGROUND.

1.1 The Development. On June 6, 2017, Gunnison County adopted Resolution No. 17-____ approving the Developer’s application for Land Use Change Permit No: 2016-00009 regarding the subdivision of a 44.5 acre parcel (“the Property”) further divided into two parcels bisected by the Slate River, the West Parcel consisting of 14.1 acres, and the East Parcel consisting of 30.4 acres. The Property is located in the SW1/4 of Section 35, Township 13 South, Range 86 West, 6th P.M., Tract Q (aka Lot 13) and as identified on the plat titled: *APETURE Situated in the SW1/4, Section 35, T.13S., R.86W. of the 6th P.M., Gunnison County, Colorado*, created by SGM, dated June 5, 2017 recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on August 1st, 2017, bearing Reception No: 648057.

a. The West Parcel will be annexed to the Town pursuant to the *Pre-Annexation Agreement* between the Town of Crested Butte and Developer, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on March 14, 2016, bearing Reception No: 638399 (“*Pre-Annexation Agreement*”) and the *Amendment to the Pre-Annexation Agreement*, recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on December 13, 2016, bearing Reception No: 643828 (“*Amended Pre-Annexation Agreement*”). Pursuant to and in accordance with the terms and conditions of the *Pre-Annexation Agreement* and the *Amended Pre-Annexation Agreement*, the majority of the West Parcel will be conveyed to the Town with the exception of a parcel known as “Applicant Retained Lands.”

b. The East Parcel will be subdivided into 23 single-family residential lots of up to 5,000 square feet, with the opportunity for a 750 square feet accessory structure, and a Homeowner’s Association lot, on which an owner’s complex may be potentially constructed.

1.2 Related Agreements: Connection to Town Water and Sewer Systems.

a. East Parcel Wastewater Infrastructure. According to Section 6.4.13. of the *Pre Annexation Agreement*, the Developer is responsible for:

the installation of all utility infrastructure necessary to connect the residential lots on the East Parcel to the Town's sewer system pursuant to and in accordance with the terms and conditions of the Sewer Connection Agreement. All wastewater infrastructure shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by [Developer].

b. East Parcel Water Infrastructure. According to Section 7 and 7.5 of the *Amended Pre-Annexation Agreement*, Developer and the Town "will enter into a water services agreement" governing the delivery of Town water to the East Parcel, and Developer will install:

all utility infrastructure necessary to connect the Town's water systems to the East Parcel pursuant to and in accordance with the terms and conditions of a standard development improvements agreement to be executed by [Developer] . . . that is (a) substantially similar to the development improvement agreements the Town has previously used, and (b) not inconsistent with this Amendment. Such infrastructure shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by the [Developer]. [Developer] shall pay the cost and expense of the Town's review and acceptance of the utility infrastructure.

1.3 Related License Agreement: Eighth Street Right-of-Way. According to the *License Agreement* dated May 17, 2017 between the Town and Developer, the Town has allowed Developer to include the Eighth Street Right-of-Way in its Voluntary Clean-up ("V-CUP") Application, to access the Eighth Street Right-of-Way to perform certain work, and to construct Eighth Street and associated utility infrastructure, including extension of the McCormick Ditch. The License Agreement provides that Developer will:

enter into a standard development improvements agreement with the Town that is (a) substantially similar to the development agreements the Town has previously used and (b) not inconsistent with the Annexation Agreement. All infrastructure constructed pursuant to such development improvement agreement shall be constructed in accordance with the Town Specifications, dedicated to the Town, and maintained by the Town following acceptance thereof, subject to a two-year warranty by [Developer].

1.4 Pyramid Avenue Improvements. Developer has agreed to construct a portion of Pyramid Avenue for the Slate River Development which will be annexed into the Town. Developer will provide the Town with a two-year warranty for Pyramid Avenue Improvements on the west side of the Slate River.

1.5 Related Development Improvements Agreement. Developer and Gunnison County have entered into that certain Development Improvements Agreement for Slate River Development, dated August 1st, 2017 (the "County DIA"), that *inter alia* requires Developer to guaranty construction of

certain public improvements to be located in Gunnison County, Colorado. The County DIA and this Agreement satisfy the requirements of the *Annexation Agreement and Amendment to the Pre Annexation Agreement* to execute development improvements and provide a two-year warranty for sewer and water infrastructure. The *County DIA* and this Agreement also satisfies the Developer's requirements set forth in the *License Agreement* to execute a development improvements agreement and provide a two-year warranty for Eighth Street Improvements. The parties acknowledge and agree that by entering into the County DIA and this Agreement, Developer has satisfied its obligations to the Town to (a) enter into a development improvements agreement with the Town and (b) provide the Town with a warranty of the improvements it constructs, whether such obligations exist under the Pre-Annexation Agreement, the Amendment to the Pre-Annexation Agreement, the License Agreement, the Town Code, or otherwise.

2.0 DEVELOPER CONSTRUCTION OF IMPROVEMENTS.

2.1 Construction. Developer covenants and agrees with the Town to construct, at its sole cost, those public improvements ("Improvements") listed on **Exhibit A**, Developer's Cost Estimate, as approved by the Town and documented by the Engineering Plans and Specifications submitted to Gunnison County as part of the final plat approval for Slate River Development. Following construction of the Improvements, Developer shall provide to the Town:

a. Confirmation by a registered engineer that all construction done pursuant to this Agreement has been completed in accordance with the *Engineering Plan Set, Slate River Development*, Sheets 1-32, by SGM, dated May 17, 2017, as revised and submitted to Gunnison County; and

b. "As-built" drawings for all the Improvements before preliminary acceptance by the Town as set forth in Subsection 17-5-80(g)(5) of the Subdivision Regulations contained in Chapter 17 of the Crested Butte Municipal Code ("Town Code").

c. Further, Developer shall hire one (1) or more inspectors acceptable to the Town to provide inspection services to the reasonable satisfaction of the Town Manager with respect to the construction of the Improvements to be constructed pursuant to this Agreement.

2.2 Force Majeure. If Developer is delayed in commencing or completing construction of the Improvements, as required herein, by reasons of strikes or other labor troubles, unavailability of materials, national emergency, any rule, order or regulation of any governmental authority, or other similar cause not within Developer's control, and if prompt written notice of said cause of delay is given to Town by Developer, then the time for Developer to commence or complete construction, as the case may be, shall be deemed extended by the period of time during which said cause of delay shall continue.

3.0 QUALITY OF CONSTRUCTION/WARRANTY.

3.1 Quality of Construction. The construction of the improvements in Section 2.0 shall be done in a good and workmanlike manner.

3.2 Warranty. Developer warrants that the Improvements shall remain free from defects for a period of two (2) years from the date that the Town preliminarily accepts the Improvements as provided in Section 8 of this Agreement. During such two-year period, any defect determined to exist with respect to such Improvements shall be repaired or the Improvement replaced, at the Town's option, at the sole cost of the Developer. With respect to snowplowing, following the completion of both annexation and preliminary acceptance, the Town shall be responsible for snowplowing Pyramid Avenue from its intersection with Gothic Road to its intersection with Eighth Street, and the Developer or its successors shall be responsible for snowplowing Pyramid Avenue east of its intersection with Eighth Street. The Town shall have no other obligation with respect to the Improvements, except for normal routine maintenance, until they have been finally accepted by the Town in accordance with Subsection 8.2. Other than normal routine maintenance, Developer shall remain responsible for all maintenance of and repairs to the Improvements until final acceptance by the Town in accordance with Section 8.2 of this Agreement.

3.3 Notice of Default; Cure Period. Except as provided in Section 3.4 with respect to emergency repairs, the Town shall provide notice to Developer if inspection reveals that any Improvement is defective for any reason. Developer shall have thirty (30) days from the giving of such notice to cure the defect. Such thirty-day time limit may be extended by the Town if the Town determines that such defect cannot reasonably be cured within such thirty-day period. In the event Developer fails to cure the defect within the thirty-day period or any extension thereof granted by the Town, the Town may declare a default under this Agreement without further notice. No notice shall be required with respect to emergency repairs except as provided in Section 3.4.

3.4 Emergency Repairs. If at any time it appears that the Improvements may be significantly damaged or destroyed as a result of a bona fide emergency, the Town shall have the right, but not the duty, to enter upon the Property and perform such repairs and take such other action as may be reasonably required in the Town's judgment to protect and preserve the Improvements. The Town shall have no duty to inspect the Improvements to identify emergency situations which may arise. Prior to taking any action pursuant to this Section 3.4, the Town shall make a reasonable effort to advise Developer of the existence and nature of the emergency. If, after reasonable efforts, Developer cannot be located, the Town shall have the right to enter the Property and perform any needed emergency repairs as herein provided; and, upon demand, Developer shall reimburse the Town for the costs of such emergency repairs. Failure of Developer to pay to the Town the costs of such emergency repairs within fifteen (15) days after demand shall constitute a default as provided in Section 9 of this Agreement.

4.0 COMPLIANCE WITH LAW.

4.1 Compliance with Law. When fulfilling its obligations under this Agreement, Developer shall comply with all relevant laws, ordinances, and regulations in effect at the time of

execution of this Agreement. Developer shall also be subject to laws, ordinances and regulations in effect at the time that the Improvements are preliminarily accepted by Town.

4.2 Compliance with Building Permits. When fulfilling its obligations under this Agreement, Developer shall strictly comply with the terms, conditions, limitations and requirements of any Building Permit which may be required by the Town for the construction of the Improvements.

5.0 TRANSFER OF TITLE OF IMPROVEMENTS. Developer shall cause Improvements to be conveyed to the Town by bill of sale with full warranty of title (if personal property), free and clear of all liens, encumbrances and restrictions upon the determination of the Town Manager that such Improvements have been satisfactorily completed and that acceptance of such Improvements by the Town is proper in accordance with the provisions of Section 8. Conveyance of such Improvements shall be made by an instrument acceptable as to form and substance by the Town Attorney.

6.0 PERFORMANCE GUARANTY. In order to secure all obligations of the Developer herein, Developer shall, at Developer's sole cost, and before starting work on any of the Improvements other than Pyramid Avenue and Aperture Way, obtain and provide to the Town as a guarantee of the performance of its obligations hereunder, including its obligation with respect to the two-year warranty period, the following cash or bond in the amount of \$1,026,528.88 (the "Performance Guaranty"). The amount is calculated to cover 125% of the cost of certain Improvements located within the Town boundaries; and 25% of the cost of certain Improvements located in the County, all as further specified in **Exhibit A**, Developer's Cost Estimate, which amount shall be held by Town through the two-year warranty set forth in Section 3.2, subject to Section 6.1 below.

6.1 Request for Partial Release of Performance Guaranty. Developer may make periodic requests for the partial release of the Performance Guaranty in accordance with the provisions of this Agreement. All such requests shall be in writing to the Town Manager, shall be for a reduction of at least twenty five percent (25%) of the total original Performance Guaranty or any multiple thereof, and shall be accompanied by an invoice for the portion of the work reflected in the request. No more than one (1) request for a partial release of the Performance Guaranty may be submitted each month. The last twenty five percent (25%) of the Performance Guaranty may not be released until all of the Improvements have been preliminarily accepted, the two-year warranty period set forth in Section 3.2 has run, and the Improvements are finally accepted by the Town.

7.0 RELEASE OF GUARANTY. Developer's Performance Guaranty shall be released and returned to Developer with interest at a rate one percent less than received by the Town on such funds, only at such time as the Town determines, in its sole discretion, that all of the Improvements have been properly constructed or installed, the two-year warranty period set forth in Section 3.2 has expired, and the Improvements are finally accepted.

8.0 ACCEPTANCE.

8.1 Preliminary Acceptance. Preliminary acceptance of the Improvements shall occur at the time indicated in paragraph 6 of the County DIA. The Town shall inspect the Improvements and shall notify Developer within 14 days in writing of nonacceptance or preliminary acceptance. If the Improvements are not acceptable, the Town shall state the reasons for nonacceptance and outline the necessary corrective measures.

8.2 Final acceptance and Release of Collateral.

a. Twenty-four (24) months following preliminary acceptance, the Town shall inspect all Improvements for final acceptance. The Town Manager shall notify the Developer in writing of nonacceptance or final acceptance. If the Improvements are not acceptable, the reason for nonacceptance shall be stated in writing, and corrective measures shall be agreed upon by the Town and Developer and timely completed by Developer.

b. Upon final acceptance, the Town shall release the remaining collateral and assume all future maintenance and repair responsibilities for the Improvements.

c. The Town shall not be required to accept any of the Improvements until the Town Manager determines that:

i. The Improvements have been satisfactorily completed in accordance with the approved plans and specifications for the Improvements;

ii. Developer has delivered to the Town the as-built drawings; and

iii. Developer has delivered to the Town instruments conveying such Improvements to the Town in accordance with Section 5.0.

9.0 **DEFAULT**. The following conditions, occurrences or actions shall constitute a default by Developer under this Agreement:

9.1 Developer's failure to construct improvements in accordance with the approved plans and specifications for the Improvements and this Agreement;

9.2 Developer's failure to cure defective construction of any Improvement within the applicable cure period as provided in this Agreement;

9.3 Developer's failure to perform work on either the Improvements or the improvements subject to the County DIA for a period of more than forty-five (45) consecutive days, except for delays occasioned by winter weather conditions or other reasons beyond Developer's control, without the prior written approval of the Town;

9.4 Developer's insolvency, the appointment of a receiver for Developer, or the filing of a voluntary or involuntary petition in bankruptcy respecting Developer;

9.5 Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of all or part of the Property in lieu of foreclosure prior to final acceptance of the Improvements by the Town;

9.6 Developer's failure to pay to Town upon demand the cost of emergency repairs performed in accordance with this Agreement; or

9.7 Developer's sale of any real property located on the West Parcel or transfer of any interest in real property located on the West Parcel prior to preliminary acceptance of the Improvements.

The Town may not declare a default until thirty (30) days' advance written notice has been given to Developer; provided, however, that such notice shall not be required with respect to any defective construction for which thirty (30) days' notice of right to cure has already been given in accordance with Section 3.3.

10.0 MEASURE OF DAMAGES. The measure of damages for breach of this Agreement by Developer shall be the reasonable costs of completing the Improvements, including design, engineering, legal and inspection costs. For Improvements upon which construction has not begun, the amount of the Performance Guaranty shall be prima facie evidence of the cost of completion; however, the amount of the Performance Guaranty does not establish the extent of Developer's liability under this Agreement. The Town shall be entitled to, but not obligated to, complete all unfinished Improvements after the time of default regardless of the extent to which development has taken place on the Property or whether development has even commenced.

11.0 TOWN'S RIGHTS UPON DEFAULT. In the event of default, the Town shall have the following rights and remedies set forth in this section. The remedies provided for herein are cumulative in nature.

11.1 Construct Improvements. The Town may, but shall not be required to, have the Improvements constructed by such means and in such manner as the Town shall determine, without the necessity of public bidding.

11.2 Use of Guaranty. If the Town elects to have the Improvements constructed, it shall have the right to use Developer's Performance Guaranty to pay for the construction of such Improvements. If the amount of the Performance Guaranty exceeds the costs of constructing the Improvements as set forth in this Agreement, the Town shall deliver any excess funds to Developer. If the Performance Guaranty is insufficient to fully pay such costs, Developer shall, upon demand, pay such deficiency to the Town.

11.3 Rights under the Law. The Town and Cypress may exercise such rights as they may have under Colorado law.

12.0 INTEREST. Any sum which is required to be paid by Developer to the Town under this Agreement and which is not timely paid shall accrue interest at eighteen percent (18%) per annum, commencing as of the date such sum was due.

13.0 PAYMENT OF FEES AND CHARGES. Developer agrees to pay all fees and other charges in a timely manner as required by the Town, including but not limited to building permit fees, inspection fees and tap fees imposed by Town ordinance, resolution or motion, or by the terms and conditions of this Agreement.

14.0 EROSION CONTROL. Developer shall comply with the applicable provisions of Section 17-6-50 of the Crested Butte Municipal Code during all stages of Improvement construction.

15.0 NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Developer, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on this Agreement. It is the express intention of the Town and Developer that any person other than the Town or Developer receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

16.0 ATTORNEYS FEES. If any action is brought in a court of law by either party to this Agreement concerning the arbitration, should the parties so choose, enforcement, interpretation or construction of this Agreement, or any documents provided for herein, the substantially prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorneys' fees, as well as costs, including expert witness fees, incurred in the prosecution or defense of such action.

17.0 INDEMNIFICATION. Developer agrees to indemnify and hold the Town, its officers, employees, agents and insurers harmless from and against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the construction of the Improvements if such injury, loss or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, intentional act or other fault of Developer, any subcontractor of Developer, or any officer, employee, representative or agent of Developer or of any subcontractor of Developer, or which arise out of any workers' compensation claim of any employee of Developer or of any employee of any subcontractor of Developer. Developer agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all

other costs and expenses related thereto, including court costs and attorneys' fees, whether or not any such liability, claims or demands alleged are determined to be groundless, false, or fraudulent.

18.0 NO WAIVER. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor shall it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and Developer; nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by Developer or the acceptance of any Improvements.

19.0 RECORDATION. This Agreement shall be recorded by the Town in the office of the Clerk and Recorder of Gunnison County, Colorado, and Developer shall pay to the Town the costs thereof upon demand.

20.0 IMMUNITY. Nothing contained in this Agreement shall constitute a waiver of the Town's sovereign immunity under any applicable state or federal law.

21.0 PERSONAL JURISDICTION AND VENUE. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement, whether arising out of or relating to the Agreement or the Performance Guaranty, shall be deemed to be proper only if such action is commenced in the District Court of Gunnison County, Colorado. Developer expressly waives its right to bring such action in or to remove such action to any other court, whether state or federal.

22.0 CODE CHANGES. References in this Agreement to any provision of the Town's Municipal Code or to any Town or other governmental standard are intended to refer to any subsequent amendments and/or revisions to such Code or standard. Such amendments or revisions shall be binding upon Developer.

23.0 NON ASSIGNABILITY. This Agreement may not be assigned by Developer without the prior written consent of the Town.

24.0 NOTICES. Any notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered, mailed by certified mail, return receipt requested, or sent by facsimile, addressed as follows:

If to the Town:

Town of Crested Butte
Attn: Town Manager
P. O. Box 39
Crested Butte, CO 81224

(970) 349-5338

Fax No. (970) 349-6626

With a Copy (Which Shall Not Constitute Notice to the Town) to:

If to Developer:

Cypress Foothills, LP
 Attention: Cameron Aderhold
 8343 Douglas Ave., Suite 200
 Dallas, Texas 75225
 Facsimile: 214-283-1600
cameron.aderhold@cypressequities.com

with a copy to:

Cypress Foothills, LP
 Attention: Brian Parro
 8343 Douglas Ave., Suite 200
 Dallas, Texas 75225
 Facsimile: 214-283-1600
brian.parro@cypressequities.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

Notices mailed in accordance with the above provisions shall be deemed to have been given on the third business day after mailing. Notices personally delivered shall be deemed to have been given upon delivery. Notices sent by facsimile shall be deemed to have been given at the time the transmission is received. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process.

26.0 ENTIRE AGREEMENT. Except as contained in the agreements described in Section 1.2, Related Agreements, this Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement and supersedes any prior agreement or understanding relating to such subject matter, provided however that nothing

herein modifies, or is intended to modify, or supersedes, or is intended to supersede, the Pre-Annexation Agreement or the Amended Pre-Annexation Agreement. Accordingly, both parties are not waiving any rights and remedies they may have under the Pre-Annexation Agreement or the Amended Pre-Annexation Agreement, and both parties expressly reserve all rights and remedies available under the Pre-Annexation Agreement or the Amended Pre-Annexation Agreement.

27.0 SEVERABILITY. It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law, state or federal, the validity of the remaining portions or provisions hereof shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

28.0 MODIFICATION. This Agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

29.0 BINDING AGREEMENT. This Agreement shall run with the Property and shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns.

30.0 GOVERNING LAW. This Agreement shall be interpreted in accordance with the laws of the State of Colorado.

31.0 INCORPORATION OF EXHIBIT. The attached Exhibit is incorporated herein by reference: **Exhibit A**, Developer's Cost Estimate

Dated to be effective the _____ day of _____, 2017.

TOWN OF CRESTED BUTTE, a Colorado home rule municipal corporation

By:

Mayor

ATTEST:

Town Clerk

The foregoing Development Improvements Agreement was acknowledged before me this _____ day of _____, 2017, by _____, Mayor, and _____, Town Clerk, of the Town of Crested Butte, a Colorado home rule municipal corporation.

Witness my hand and seal.

My commission expires: _____

(SEAL)

Notary Public

CYPRESS FOOTHILLS, L.P.,
a Texas limited partnership

By: CYPRESS FOOTHILLS, G.P., L.L.C.,
a Delaware limited liability company, its
General Partner

By: _____
Brian Parro, its
Chief Financial Officer
and Vice President

STATE OF TEXAS)
)ss.
COUNTY OF DALLAS)

The foregoing Development Improvements Agreement was acknowledged before me
this ____ day of _____, 2017, by Brian Parro, as Chief Financial Officer and Vice President of
Cypress Foothills GP, LLC, which is the General Partner of Cypress Foothills, LP.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

**SLATE RIVER DEVELOPMENT WORK WITHIN TOWN PROPERTY
ENGINEER'S OPINION OF PROBABLE COST**

July 31st 2017 Revised Per Town Direction add Back in Fence, Landscape and Trail

Item/Description	Estimated Quantity	Unit	Unit Price (\$)	Total Price \$
Roads (8th Street, Town of CB)				
Topsoil Stripping	140	CY	\$2.50	\$350.00
Topsoil Placement	25	CY	\$2.50	\$62.50
Subgrade (Class 2 Imported)	150	CY	\$25.00	\$3,750.00
Base Course	424	TONS	\$30.00	\$12,720.00
Asphalt	114	TONS	\$190.00	\$21,660.00
24' Concrete Curb and Gutter	510	LF	\$45.00	\$22,950.00
6' Wide Valley Pan	26	SY	\$140.00	\$3,640.00
Excavation - Cut	470	CY	\$5.00	\$2,350.00
Excavation - Fill	470	CY	\$12.00	\$5,640.00
TOTAL				\$73,122.50
Roads (10th and Teocalli Ave Improvements, Town of CB)				
Base Course	26	TONS	\$30.00	\$780.00
Asphalt	11	TONS	\$190.00	\$2,090.00
24' Concrete Curb and Gutter	75	LF	\$45.00	\$3,375.00
6' Wide Valley Pan	16	SY	\$140.00	\$2,240.00
TOTAL				\$8,485.00
McCormick Ditch Irrigation Line Extension				
Pump Station and Wet-Well	1	EA	\$20,000.00	\$20,000.00
2.5" HDPE Pressure Pipe (Roadway)	50	LF	\$150.00	\$7,500.00
2.5" HDPE Pressure Pipe (Not in Roadway)	560	LF	\$40.00	\$22,400.00
TOTAL				\$49,900.00
Trails (In Town Boundaries)				
5" Thick Concrete Path	1170	SY	\$75.00	\$87,750.00
Base Course	231	TONS	\$30.00	\$6,930.00
Keystone Wall	1020	SF	\$50.00	\$51,000.00
TOTAL				\$145,680.00

**SLATE RIVER DEVELOPMENT WORK WITHIN TOWN PROPERTY
ENGINEER'S OPINION OF PROBABLE COST**

July 31st 2017 Revised Per Town Direction add Back in Fence, Landscape and Trail

Item/Description	Estimated Quantity	Unit	Unit Price (\$)	Total Price \$
Pedestrian Bridge (In Town Boundaries)				
Premanufactured Bridge	1	EA	\$36,000.00	\$36,000.00
Concrete Deck	5	CY	\$850.00	\$4,250.00
Abutments	2	EA	\$4,000.00	\$8,000.00
TOTAL				\$48,250.00
Landscaping (In Town Boundaries)				
Trees	65	EA	\$500.00	\$32,500.00
Fence 6' Cor-ten/Rock Gabion	750	LF	\$90.00	\$67,500.00
TOTAL				\$100,000.00
Contractor Overhead (In Town)				
Mobilization/Demobilization	1	EA	\$20,000.00	\$20,000.00
Stormwater Permit/Plan/Oversight	1	EA	\$5,000.00	\$5,000.00
Revegetation/Weed Management	0.8	Acres	\$5,000.00	\$4,000.00
TOTAL				\$29,000.00
8th Street ROW Environmental Clean Up Per Executed Agreement				
Three Times Estimated Clean Up Costs	1	EA	\$81,966.00	\$81,966.00
Town of Crested Butte	TOTAL			\$536,403.50

2 of 2



**SLATE RIVER DEVELOPMENT WORK WITHIN TOWN PROPERTY
ENGINEER'S OPINION OF PROBABLE COST**

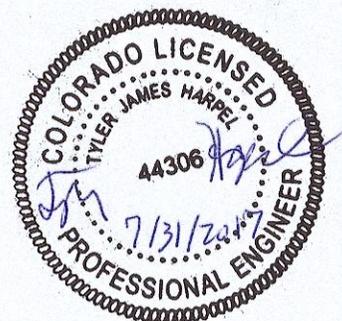
Town of Crested Butte 2 Year Warranty Items

Exhibit A

July 31st 2017 Revised Per Town Direction add Back in Fence, Landscape and Trail

Item/Description				Total Price \$
Bonded In Town Items Total				
Bonded In Town Items Total				\$536,403.50
TOTAL				\$536,403.50
Pyramid Ave Road, CR 317 ROW to Bridge				
Pyramid Ave. Road				\$252,200.00
TOTAL				\$252,200.00
Water Distribution Lines (From Gunnison County DIA)				
Water Distribution Lines				\$623,700.00
TOTAL				\$623,700.00
Sewer Collection Lines (From Gunnison County DIA)				
Sewer Collection Lines				\$548,198.00
TOTAL				\$548,198.00
TOTAL				\$1,960,501.50
25% Two Year Warranty Amount				\$490,125.38

Total Performance Guarantee (100% in Town Bonded Items + 25% Two Year Warranty On All)	\$1,026,528.88
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To: Mayor Michel and Town Council
From: Michael Yerman, Community Development Director
Thru: Dara MacDonald, Town Manager
Subject: **Resolution No. 53, Series 2017- Water and Sewer Easements**
Date: August 8, 2017

Background

As part of the Town providing water and sewer service to the County portion of the Slate River Development, easements for water and sewer infrastructure must be secured for access to maintain this infrastructure on the County portion of the property. Since the County portion of the development is not in Town, the roads and other typical rights-of-way will remain private and be maintained by HOA.

This easement agreement allows the Town to access, maintain, and fix water and sewer within the County portion of the development. Easements necessary to maintain water and sewer infrastructure were legally described and depicted on the Final plat approved by the County.

Recommended Action:

A Council member make a motion followed by a second to approve Resolution 53, Series 2017 for the Slate River Annexation Water and Sewer Easement Agreement.

RESOLUTION NO. 53**SERIES NO. 2017****RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL APPROVING A WATER AND SEWER EASEMENT AGREEMENT FOR THE SLATE RIVER DEVELOPMENT WITH CYPRESS FOOTHILLS, LP.**

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now 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, LP entered into that certain Pre-Annexation Agreement and that certain Amendment to Pre-Annexation Agreement as recorded in the real property records of Gunnison County, Colorado as reception numbers 638399 and 643828, respectively, that relates to the Slate River Development;

WHEREAS, Paragraph 11 of the Amendment to Pre-Annexation Agreement provides that Cypress shall convey to the Town easements for all water mains, sewer mains, lines, tanks, pump houses, and other water and sewer facilities constructed pursuant to the Pre-Annexation Agreement and the Amendment to Pre-Annexation Agreement;

WHEREAS, the plat of Slate River Development as recorded in the real property records of Gunnison County, Colorado as reception number _____ shows utility easements, Aperture Lane, and Pyramid Avenue, all of which may be used for water and sewer infrastructure;

WHEREAS, the Town staff has reviewed and approved the Water and Sewer Easement Agreement attached hereto as **Exhibit A**; and

WHEREAS, The Town Council finds hereby that entering into the Water and Sewer Easement Agreement allows the Town to provide water and sewer services to the Slate River Development as contemplated under the Development Improvements Agreement and Water and Sewer Services Agreement between the Town and Cypress that the Town has also authorized, and, therefore is in the best interests of the Town and the public.

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

1. **Water and Sewer Easement Agreement; Authorization.** Pursuant to the foregoing recitals, the Town Council hereby approves the terms and conditions of the **Water and Sewer Easement Agreement** attached hereto as **Exhibit "A"** and the Town Council hereby authorizes the Mayor to execute the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS __ DAY OF
_____ AUGUST 2017.

TOWN OF CRESTED BUTTE

By: _____
Glenn Michel, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

WATER AND SEWER EASEMENT AGREEMENT

This Water and Sewer Easement Agreement (this “Agreement”) is made and entered into this ____ day of _____, 20__ (the “Effective Date”) by and between the TOWN OF CRESTED BUTTE, COLORADO (the “Town”), a Colorado home rule municipality and CYPRESS FOOTHILLS, LP (“Cypress”), a Texas limited partnership.

I. Recitals

- A. The Town and Cypress entered into that certain Pre-Annexation Agreement and that certain Amendment to Pre-Annexation Agreement as recorded in the real property records of Gunnison County, Colorado as reception numbers 638399 and 643828, respectively.
- B. Paragraph 11 of the Amendment to Pre-Annexation Agreement provides that Cypress shall convey to the Town easements for all water mains, sewer mains, lines, tanks, pump houses, and other water and sewer facilities constructed pursuant to the Pre-Annexation Agreement and the Amendment to Pre-Annexation Agreement.
- C. The plat of Slate River Development as recorded in the real property records of Gunnison County, Colorado as reception number _____ shows utility easements, Aperture Lane, and Pyramid Avenue, all of which may be used for water and sewer infrastructure (the “Easement Location”).
- D. The Town and Cypress desire to perform as set forth in the Pre-Annexation Agreement and the Amendment to the Pre-Annexation Agreement.

II. Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, including the aforementioned recitals, which are incorporated herein by this reference, the Town and Cypress agree as follows:

1. *Grant of Easement.* Cypress does hereby convey to the Town a non-exclusive easement over, under, and through the Easement Location to access, operate, maintain, replace, upgrade and repair all water mains, sewer mains, lines, tanks, pump houses and all other water and sewer facilities and water and sewer utilities located within the Easement Location, along with all necessary access easements for maintenance, upgrade and repair purposes within the Easement Location (the “Easement”). Such Easements shall be a maximum of thirty feet (30’) in width. The Easement granted herein is shown on the Final Plat approved by Gunnison County on May 6, 2017, a copy of which is attached hereto as **Exhibit A**. The Easement includes the right to use heavy equipment and other construction equipment and vehicles.
2. *Limited Restoration Obligation.* In the event the Town, in exercising its Easement, destroys a finished surface in the Easement Location including without limitation a paved street, concrete sidewalk, landscaping, or turf stones, or otherwise engages in any excavation in the Easement Location, the Town shall backfill such disturbed area,

compact such backfill, and return the disturbed surface to grade. In exercising its Easement, the Town shall have no obligation to install a replacement finish in the Easement Location such as repaving any street, installing replacement concrete, relaying any stones, installing landscape materials or any other final finish.

3. No Third Party Beneficiaries. The Easement granted herein is granted to the Town and is not granted to the public at large. There are no third party beneficiaries of this Agreement.
4. Duration. The Easement shall be perpetual in duration.
5. Appurtenant Easement. The Easement shall run with the Easement Location and shall be appurtenant to the Easement Location. The terms of this Agreement shall be binding upon the heirs, assigns, successors and personal representatives of the parties.
6. Recording. This Agreement may be recorded in the real property records of Gunnison County, Colorado.
7. Effective Date. This Agreement shall be effective as of the Effective Date.

EXECUTED as of the date set forth below.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST:

Lynelle Stanford, Town Clerk

(SEAL)

Aperture
Sited in the SW 1/4 Section 35, T.13 S., R.86 W. of the 6th P.M.
Gunnison County, Colorado

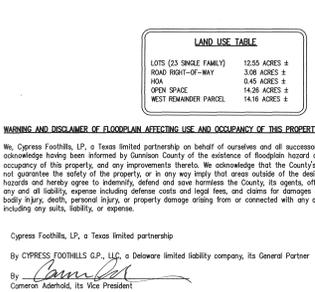
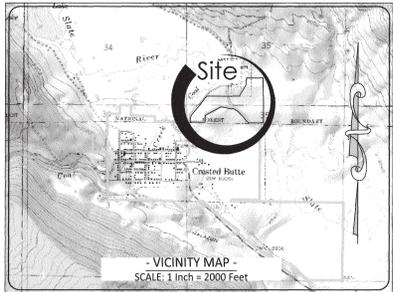


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Table with columns: -CURVE TABLE-, CURVE#, ARC LENGTH, RADIUS, DELTA ANGLE, CHORD BEARING, CHORD LENGTH. Contains 10 rows of curve data.

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Notice: According to Colorado Law, you must commence any legal action based upon any defect in this survey within three years after the date of the legal action's defect.

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Notice: According to Colorado Law, you must commence any legal action based upon any defect in this survey within three years after the date of the legal action's defect.

- 1. Legal Description per the Foothills ALTA recorded at Reception No. 628973 of the Gunnison County Clerk and Recorder's Office.
2. Basis of Bearings: Bearings shown hereon are based on a bearing of S89°45'49"E along the south line of the SW1/4 of Section 35, T.13S., R. 86 W. of the 6th P.M. between monuments found at the Southwest Corner of Section 35 and South Quarter Corner of Section 35 as shown and described hereon.

- 3. Units of linear measurements are displayed in US Survey Feet.
4. SGM will not be responsible for any changes made to this document after it is issued or possession. Any errors, omissions, etc. of this document must be compared to the original survey record and noted on the original to insure the accuracy of the information shown on any such copy, and to assure that no such changes have been made.

- 5. The property shown hereon is subject to all easements, rights-of-way, building setbacks or other restrictions of record, as such items may affect this property. This survey does not represent a title search by this surveyor to determine ownership or to discover easements or other encumbrances of record. All information pertaining to ownership, easements and other encumbrances of record has been taken from the title insurance commitment issued by Land Title Guaranty Company, Instrument No. 532700756, having an effective date of August 30, 2015.

- 6. Every attempt has been made to show all easements, rights-of-way, etc. referred to in the Schedule B2 Exemptions listed in said title insurance policy. Some such items may not be shown if they are abstracted title encumbrances, or if not sufficiently described in recorded instruments to be shown graphically, or if they are abstracted on adjacent property, or if they affect the property in general, etc. All existing easements shown hereon are labeled with their recording information, all new easements to be delineated per this Plat do not show recording information.
7. The FEMA 100 Year Flood Line shown hereon was taken from FEMA map number 080510403D with an effective date of May 16th, 2013.

- GENERAL NOTES:
1. Confirmation of domestic animals: All dogs and cats shall be confined by leashing, leashing, fencing or other physical constraint at all times. This restriction may be enforced by Gunnison County at the expense of the owner.
2. Gunnison's fence out requirements: A property owner is required to construct and maintain fencing in order to keep livestock off his/her property.

- 3. Irrigation ditch maintenance: An irrigation ditch owner has the right to enter the designated irrigation ditch maintenance easement, maintain the ditch, and may leave natural debris on the bank.
4. Water and sewer easements: The locations shown hereon are hereby dedicated to the Town of Crested Butte, in particular, for access to, and operation, maintenance, repair, and replacement of water and sewer utilities and related infrastructure. Such easements are nonexclusive. In addition, the Town is hereby granted a perpetual, nonexclusive easement over, under, and through the road rights of way of the locations shown hereon for access to, and operation, maintenance, repair, and access to, water and sewer utilities and related infrastructure located within said rights of way.

COMPLIANCE WITH BOARD OF COUNTY COMMISSIONERS' RESOLUTION 65-2017, recorded at Reception No. 61470254, of the Records of the Clerk and Recorder of Gunnison County.

SURVEYOR'S CERTIFICATE: I, Robert E. Brandenberg, do hereby certify that I am a professional land surveyor licensed under the law of the state of Colorado, that this plat is a true, correct and complete plat of APERTURE as laid out, plotted, dedicated and shown hereon, that such work was made by me from an accurate survey of said property by me or under my direct supervision, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor.

Robert E. Brandenberg
Colorado PLS # 38388
Per, and on behalf of SGM

ATTEST: I, Marissa L. Patton, County Clerk and Recorder of Gunnison County, Colorado, do hereby certify that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor.

1. Marissa L. Patton, County Clerk and Recorder of Gunnison County, Colorado, do hereby certify that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor.

2. Marissa L. Patton, County Clerk and Recorder of Gunnison County, Colorado, do hereby certify that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor.

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6. Marissa L. Patton, County Clerk and Recorder of Gunnison County, Colorado, do hereby certify that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor, and that I am a duly licensed and qualified surveyor.



Aperture
Gunnison, Colorado

Official recording stamp from Gunnison County Clerk and Recorder, dated August 11th, 2017, at 2:34:23 PM. Includes a seal and a table with columns for #, Revision, Date, and By.

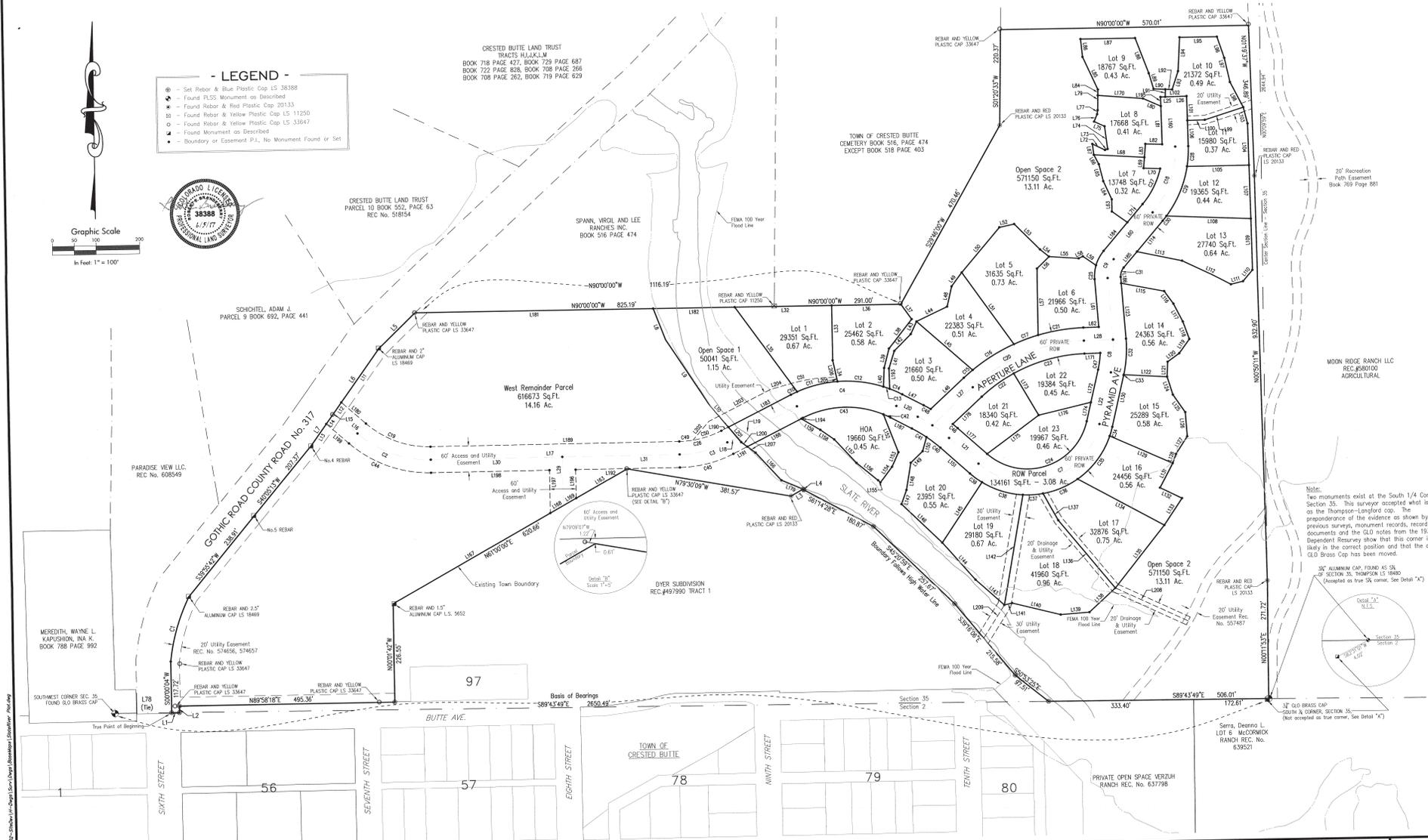
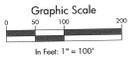
Table with columns: #, Revision, Date, By. Contains recording details for the document.

Aperture

Situated in the SW 1/4 Section 35, T.13 S., R.86 W. of the 6th P.M.
Gunnison County, Colorado

SPANN PARCEL-PARCEL 23
Book 552, Page 63

- LEGEND -**
- ⊙ - Sat. Rebar & Blue Plastic Cap LS 36388
 - ⊙ - Found PLS Monument as Described
 - ⊙ - Found Rebar & Red Plastic Cap 20133
 - ⊙ - Found Rebar & Yellow Plastic Cap LS 11250
 - ⊙ - Found Rebar & Yellow Plastic Cap LS 33647
 - ⊙ - Found Monument as Described
 - - - - - Boundary or Easement P.L. No Monument Found or Set



Note:
Two monuments exist at the South 1/4 Corner of Section 35. This survey accepted what is known as the Thompson-Langford cap. The preponderance of the evidence as shown by previous surveys, monument records, record documents and the GLD notes from the 1939 dependent Resurvey show that this corner is most likely in the correct position and that the adjacent GLD Brass Cap has been moved.

30" ALUMINUM CAP FOUND AS SK OF SECTION 35, THOMPSON LS 18485 (Accepted as true SK corner. See Detail "A")

30" ALUMINUM CAP FOUND AS SK OF SECTION 35, THOMPSON LS 18485 (Not accepted as true corner. See Detail "A")

Notice:
According to Colorado Law, you must commence any legal action based upon any defect in this survey within three (3) years after your first discovery such defect, and no later than any legal action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

Gunnison County, CO
8/1/2017 2:34:22 PM
Page 2 of 3
R 33.00 (Revised)

SGM
103 W Tomichi Ave., Suite A
Gunnison, CO 81230
970.641.5355 www.sgm-inc.com

Aperture
Gunnison, Colorado

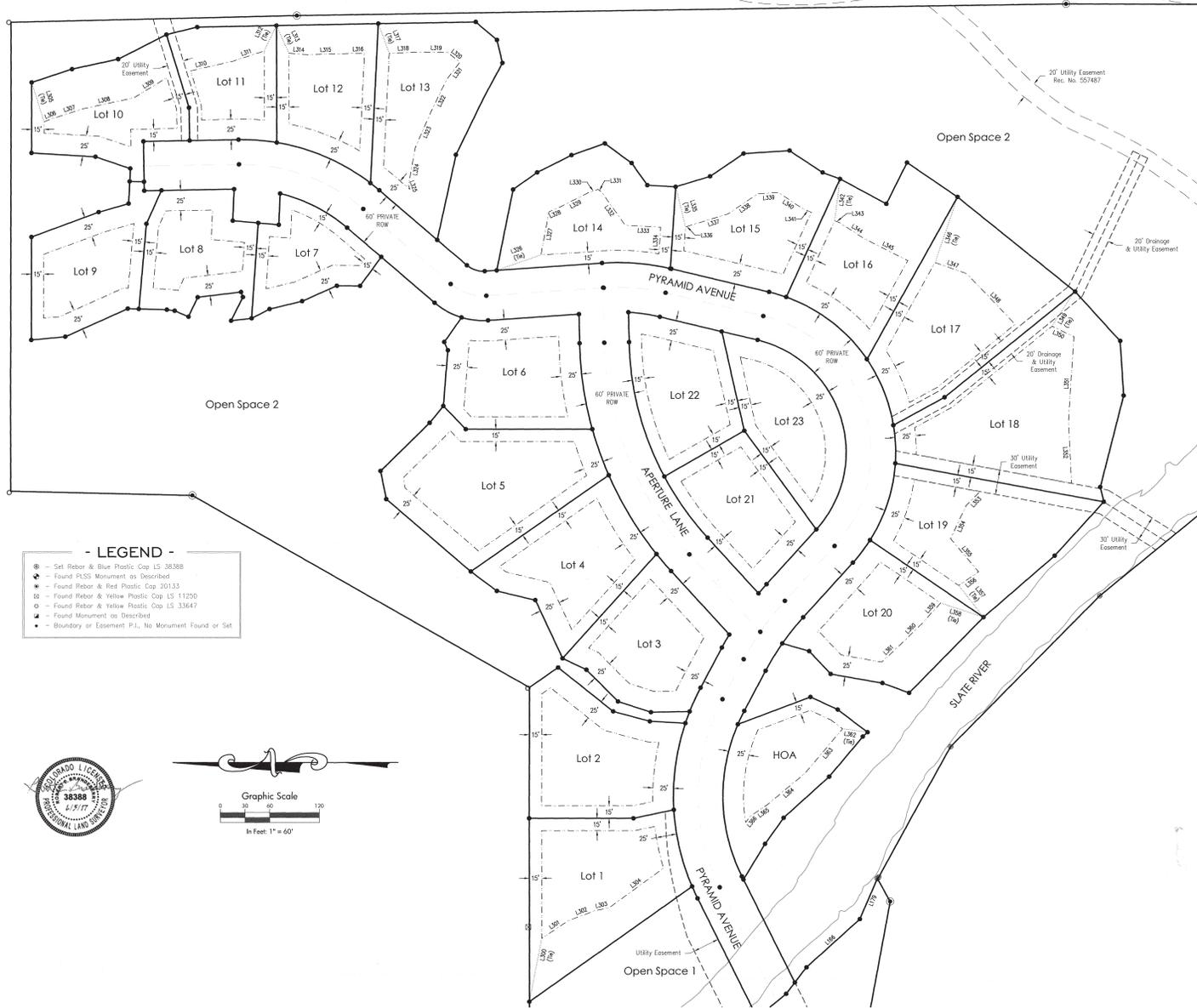
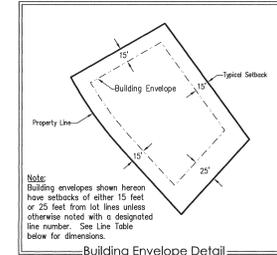
#	Revision	Date	By
1			
2			
3			
4			
5			

Plat

Job No.	2015-201.001	2
Drawn by:	EB	
Date:	06/05/2017	3
Approved:	REB	
File:	Sketcher.Hdr	

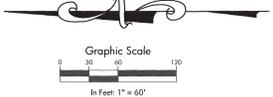
Aperture

Situated in the SW 1/4 Section 35,
T.13 S., R.86 W. of the 6th P.M.
Gunnison County, Colorado



- LEGEND -

- - Set Rebar & Blue Plastic Cap LS 38388
- ◆ - Found PLSS Monument as Described
- ⊕ - Found Rebar & Red Plastic Cap 20133
- ⊖ - Found Rebar & Yellow Plastic Cap LS 11220
- - Found Rebar & Yellow Plastic Cap LS 33847
- ⊙ - Found Monument as Described
- - Boundary or Easement P.I., No Monument Found or Set



- LINE TABLE -			- LINE TABLE -		
LINE #	BEARING	DISTANCE	LINE #	BEARING	DISTANCE
L300	S78°58'05"E	78.39'	L334	S80°18'31"E	32.36'
L301	S33°30'15"E	39.02'	L335	N10°15'44"E	50.08'
L302	S20°48'52"E	32.53'	L336	N16°57'58"W	53.97'
L303	S12°48'51"E	19.84'	L337	N16°57'58"W	53.97'
L304	S36°03'00"E	81.00'	L338	N34°15'45"W	43.05'
L305	N72°35'02"E	50.12'	L339	N03°41'44"W	25.30'
L306	S21°18'08"E	10.88'	L340	N33°27'19"E	37.21'
L307	S17°39'32"E	28.54'	L341	N20°24'29"E	9.72'
L308	S12°12'34"E	63.43'	L342	N82°37'36"W	51.32'
L309	S31°26'09"E	46.97'	L343	S20°24'29"W	5.63'
L310	S12°48'58"E	52.67'	L344	S32°40'48"W	36.28'
L311	S19°19'07"E	39.80'	L345	S26°57'17"W	59.52'
L312	S64°07'21"E	34.13'	L346	S71°12'39"E	84.20'
L313	N65°38'51"E	36.65'	L347	S19°29'56"W	40.86'
L314	S05°09'46"W	20.96'	L348	S46°22'01"W	85.03'
L315	S01°28'56"E	52.40'	L349	S57°12'04"E	51.65'
L316	S00°02'05"W	18.32'	L350	N25°58'18"E	29.35'
L317	S69°43'55"W	38.33'	L351	S80°29'14"E	102.84'
L318	S02°18'20"E	38.44'	L352	N87°18'52"E	75.59'
L319	S01°01'37"W	32.63'	L353	N45°17'49"W	23.93'
L320	S39°16'33"W	18.93'	L354	N64°37'25"W	44.39'
L321	N52°30'46"W	26.42'	L355	S49°58'33"W	52.79'
L322	N64°11'08"W	41.86'	L356	N34°31'43"W	26.01'
L323	N66°24'56"W	49.46'	L357	S52°10'33"W	48.86'
L324	N79°52'01"W	46.02'	L358	N18°26'03"E	54.87'
L325	S71°34'56"W	6.38'	L359	S47°51'41"E	32.45'
L326	S19°13'58"E	56.80'	L360	S44°23'56"E	35.47'
L327	N79°54'10"W	53.54'	L361	S43°21'33"E	33.52'
L328	N22°45'34"W	12.55'	L362	N07°56'43"E	30.54'
L329	N26°42'38"W	39.53'	L363	N49°58'23"W	70.16'
L330	N19°21'11"W	13.24'	L364	N39°57'00"W	61.43'
L331	N36°21'20"E	5.74'	L365	N33°41'08"W	21.79'
L332	N54°36'37"E	49.22'	L366	N50°03'46"W	10.70'
L333	N03°10'25"E	43.03'			

Notice: According to Colorado Law, you must commence any legal action based upon any defect in this survey within three years after the first anniversary of the date of this survey or any legal action based upon any defect in this survey be commenced more than five years from the date of the certification shown herein.

Gunnison County, CO
6/3/2017, 2:34:23 PM
305
64887
Page 3 of 3
R 33.00 D (fee=doc)

SGM
103 W. Tomichi Ave., Suite A
Gunnison, CO 81230
970.641.5355 www.sgm-inc.com

Aperture
Gunnison, Colorado

#	Revision	Date	By
1			
2			
3			
4			
5			

Plat
Building Envelopes

Job No.	2015-201.001	3
Drawn by:	EB	
Date:	06/05/2017	
Approved:	REB	
File:	Sketch/Hol	
		3



Staff Report

August 8, 2017

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Ordinance 2017-22, An ordinance of the Crested Butte Town Council approving the lease of a portion of the property at 308 Third St. to West Elk Bahk Do Moo Duk Kwan, dba West Elk Martial Arts

Summary: West Elk Martial Arts has been a long-term tenant of the Town. Their most recent lease expired in 2007. The Council directed staff to review all of the expired leases of town property and to bring forward new leases for those entities. Staff recommends entering into a new lease with West Elk Martial Arts.

Previous Council Action: In January of 2017, with Resolution 2017-02, the Council approved a policy regarding the leasing of non-residential municipal property.

Background: With the creation of a facility manager position a couple of years ago, the Town has begun to get a handle on the maintenance status of the many buildings the Town own and has begun investing in building improvements and deferred maintenance.

As of January, 2017 the Town had 18 tenants with expired or non-existent leases. All of the tenants are current with payments based upon the terms of the expired leases. Staff began reaching out to all of our non-residential tenants with expired leases in February and March to make them aware that the Town would like to enter into new leases. In some cases this also included new proposed lease rates. Since then Dale Hoots has met with each of the Town's tenants to understand their needs, discuss management of the facility and further negotiate the lease rate. He has also become aware of some immediate maintenance needs which have been addressed and begun making longer term plans for maintenance of each building.

Based upon the policy adopted by the Council, staff generated a sliding lease rate based first upon the size of the space rented with the goal of getting all of the tenants to \$2 - \$6 per square foot, per year for non-profits. There is no increase proposed for any tenants in 2017.

Discussion: The space that West Elk Martial Arts leases is approximately 195 sq. ft. They have been paying \$1,500 per year. Utilities are included in the lease with the exception of phone, cable & internet. Responsibilities for utilities would not change under the new lease. The lease rate proposed would remain at \$1,500 per year, or \$7.69 per sq. ft. per year. Beginning in 2020 the

lease rate would increase 1% per year. The rental term is for 5 years with an automatic 5 year renewal.

In researching the policy last winter and in speaking with local property managers, town staff found comps for commercial office space in the range of \$2.25 sq. ft. to \$11.00 sq. ft. per year. We found comps for retail space on Elk Ave to range from \$12.00 sq. ft. to \$27.00 sq. ft.

For comparison on possible annual lease rates for this space:

\$5.00	\$ 975
\$7.50	\$1,463
\$10.00	\$1,950

Legal Implications: It is in the best interest of both the Town and its tenants to have a clear lease acknowledging the terms under which the tenant is permitted to use the property ensuring adequate insurance is in place and laying out the maintenance responsibilities.

Recommendation: Staff recommends the Town enter into a lease with West Elk Martial Arts.

Proposed Motion: Motion and a second to set Ordinance No. 22, Series 2017 to public hearing at the August 21st Council meeting.

ORDINANCE NO. 22**SERIES 2017****AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE LEASE OF A PORTION OF THE PROPERTY AT 308 THIRD STREET TO WEST ELK BAHK DO MOO DUK KWAN, DBA WEST ELK MARTIAL ARTS**

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

WHEREAS, pursuant to Section 31-15-713 (c), C.R.S., the Town Council may lease any real estate, together with any facilities thereon, owned by the Town when deemed by the Town Council to be in the best interest of the Town; and

WHEREAS, pursuant to Section 31-15-713 (c), when the term of such lease is more than one year, the Town Council must approve such lease by ordinance of the Town Council; and

WHEREAS, on January 9, 2005, the Town entered into two year lease with West Elk Bahk Do Moo Duk Kwan, dba West Elk Martial Arts for property owned by the Town and located within the building at 308 Maroon Ave; and

WHEREAS, the term of the lease expired on January 8, 2007; and

WHEREAS, the Town Council and West Elk Martial Arts wish to enter into a long-term Business Lease attached hereto as Exhibit A; and

WHEREAS the Town Council finds hereby that approving leases of various Town properties for use by certain entities is in the best interest of the Town.

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

1. **Findings**. The foregoing recitals are hereby fully incorporated herein.
2. **Authorization of Town Manager**. Based on the foregoing, the Town Council hereby authorizes the Town Manager to execute a lease in substantially the same form as attached hereto as **Exhibit "A"**.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL
THIS ___ DAY OF _____, 2017.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Glenn Michel, Mayor

ATTEST

Lynelle Stanford, Town Clerk

(SEAL)

EXHIBIT "A"

Business Lease Agreements

[attach form leases agreements here]

BUSINESS LEASE

THIS BUSINESS LEASE (this "**Lease**") is entered into this ___ day of _____, 20___, with an effective date of September 1, 2017 (the "**Effective Date**") by and between the TOWN OF CRESTED BUTTE, COLORADO ("**Landlord**"), a Colorado home rule municipality and the West Elk Soo Bahk Do Moo Duk Kwan, d.b.a. West Elk Martial Arts, a Colorado nonprofit corporation ("**Tenant**").

AGREEMENT:

1. **Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and conditions as set forth herein, the real property and improvements thereon, as more particularly described as follows:

308 3rd Street, Unit D
Town of Crested Butte,
County of Gunnison,
State of Colorado

and commonly known as 308 3rd Street, Unit D (the "**Premises**").

Tenant has inspected the Premises and accepts the same in its "as is" condition.

2. **Use; Parking; Maintenance; Utilities; Signage.**

(a) Tenant may use and occupy the Premises solely for office space and related purposes in keeping with the mission of the Tenant. Any other uses shall be following Landlord's prior written consent.

(b) All parking, pedestrian and public facilities on the Premises shall be utilized as directed by Landlord and not restricted by Tenant.

(c) During the Term (as defined below), Tenant shall provide routine maintenance and care respecting the Premises, including, without limitation, regular cleaning and general cosmetic care (collectively, "**Projects**"). All such maintenance and care shall be performed at Tenant's sole cost and expense.

(d) Without limiting Tenant's obligation respecting such maintenance and care of the Premises, Landlord shall provide regular grounds maintenance (e.g., lawn care, snow removal) on and adjacent to the Premises. Landlord shall keep and maintain all sidewalks and drives adjacent to the Premises in a neat, clean and sanitary condition and reasonably free of litter, dirt, debris, obstructions, ice and snow.

(e) Landlord shall pay the expenses for water, sewer and trash/recycling services for the Premises during the Term.

(f) Tenant shall pay for communications services used by Tenant on the Premises during the Term.

(g) All exterior signage and signage in the shared areas of the building shall be installed only upon prior approval of Landlord.

(h) Tenant shall maintain and keep in good condition and repair the interior of the improvements situate on the Premises against ordinary wear and tear. Landlord shall make reasonable structural repairs to the Premises in a reasonable amount of time following notice from Tenant of the need for such repairs.

3. **Term.**

(a) Provided that Tenant is not in default under any term or condition of this Lease, Tenant shall have and hold the Premises for a five (5) year period (the "**Term**") that shall commence on the Effective Date hereof and expire five (5) years following the commencement of the Term. The Term shall automatically be extended for an additional five (5) years, unless the Lease is terminated in writing by either party at least 90 days prior to the expiration of the initial Term.

(b) At the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in broom clean, good order and condition, in the same condition and repair as Tenant initially took occupancy of the Property on the Effective Date, ordinary wear and tear excepted. Tenant shall fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions and improvements. All trade fixtures, equipment, furniture, alterations, additions and improvements not so removed shall conclusively be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed or otherwise disposed of by Landlord without notice to Tenant or to any other person and without obligation to account therefor. Tenant shall pay Landlord all expenses incurred in connection with Landlord's disposition of such property, including the cost of repairing any damage to any improvements or the Premises caused by such removal. Tenant's obligation to observe and perform the foregoing requirements shall survive the expiration or earlier termination this Lease.

4. **Rent; Additional Rent; Security Deposit.**

(a) Tenant shall pay Landlord \$125.00 on the Effective Date of this Lease and each month thereafter during the first three years of the Term (the "**Rent**"). Rent shall increase annually as follows:

Rent shall thenceforth increase 1% each year as follows:

3 rd anniversary (2020):	\$1,514.94 annually / \$126.24 per month
4 th anniversary (2021):	\$1,530.09 annually / \$127.51 per month
5 th anniversary (2022):	\$1,545.39 annually / \$128.78 per month
6 th anniversary (2023):	\$1,560.84 annually / \$130.07 per month

7 th anniversary (2024):	\$1,576.45 annually / \$131.37 per month
8 th anniversary (2025):	\$1,592.22 annually/ \$132.68 per month
9 th anniversary (2026):	\$1,608.14 annually / \$134.01 per month
10 th anniversary (2027):	\$1,624.22 annually / \$135.35 per month

(b) Any Rent that is paid late shall accrue interest at a rate of 1.5% of such unpaid Rent per month. Rent shall be prorated for any partial month.

(c) Rent, any additional rent and any other amounts due Landlord under this Lease shall be paid at Landlord's address specified herein for notices, without prior demand and without any abatement, deduction or setoff.

(d) To secure the faithful performance by Tenant of all of Tenant's covenants, conditions, and agreements in this Lease to be observed and performed, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") within one (1) year of execution of the Lease. Tenant's security deposit shall be \$500.00. The Landlord acknowledges that they already hold a deposit of \$250.00 at the execution of the Lease. The Security Deposit may also be used in the event of termination of the Lease by re-entry, eviction, or otherwise. The parties agree that the Security Deposit or any portion thereof, may be applied to any Event of Default (as defined below) that may exist, and/or payment of subsequent damages and costs incurred by Landlord, without prejudice to any other remedy or remedies that Landlord may have on account thereof. If Tenant shall perform all of its respective covenants and agreements in the Lease, the Security Deposit, or the portion thereof not previously applied pursuant to the provisions of the Lease, together with a statement, shall be returned to Tenant without interest, no later than sixty (60) days after the expiration of the Term, or any renewal or extension thereof (or such earlier time if required by applicable law), provided Tenant has vacated the Premises and surrendered possession thereof to Landlord.

(e) This lease will maintain Tenant at an annual lease rate of \$7.69 per sq. ft. with 1% annual increases beginning in 2020.

5. **Landlord's Access.** Landlord, its agents, employees and contractors may, at their sole risk, enter the Premises at any time in response to an emergency, and at other reasonable time upon reasonable prior notice to Tenant, without limitation, (a) inspect the Premises, (b) determine whether Tenant is complying with its obligations under this Lease, (c) supply any other service that Landlord is required to provide, (d) post notices of non-responsibility or similar notices, or (e) make repairs which this Lease requires Landlord or Tenant to make. All work of Landlord shall be performed as promptly as reasonably possible and so as to cause as little interference to Tenant as reasonably possible, at all times taking into account the nature and extent of such work. Landlord shall at all times have a key with which to unlock all of the doors to the Premises (excluding Tenant's vaults, safes and similar areas designed in writing by Tenant in advance).

6. **No Alterations.** Without limiting Tenant's obligations to maintain, repair, restore and replace the Premises and any portion thereof, Tenant shall not make any alterations, additions, repairs, restorations or improvements to the Premises without at least seven (7) days of

notice to Landlord and Landlord's written consent. All improvements made by Tenant which are so attached to the Premises that they cannot be removed without material injury to the Premises shall become the property of Landlord upon installation.

7. **Compliance with Laws.**

(a) Tenant shall not use or occupy, or permit any portion of the Premises to be used or occupied in violation of any law, ordinance, order, rule, regulation, certificate of occupancy or other governmental requirement.

(b) Tenant and the Premises shall remain in compliance with all applicable laws, ordinances and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, including those statutes, laws, regulations and ordinances, all as amended and modified from time to time..

8. **No Unsightliness.** Tenant covenants and agrees that no unsightliness shall be permitted on the Premises. Without limiting the generality of the foregoing, no vehicles, machinery, equipment, tools, refuse, scrap, debris, garbage, trash, bulk materials, used vehicle parts or waste shall be kept, stored or allowed to accumulate on the Premises at any time. The Tenant shall have the right to tow vehicles from the Premises and place signage on the Premises to enforce the above provisions.

9. **Insurance.**

(a) At its sole expense, Tenant shall obtain and keep in force during the Term commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000.00) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of Landlord and Tenant, including coverage for contractual liability, broad form property damage, and non-owned automobile liability, with respect to the Premises or arising out of the maintenance, use or occupancy of the Premises. The insurance shall be noncontributing with any insurance that may be carried by Landlord and shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury, or damage to Landlord, its agents, and employees, or the property of such persons.

(b) Upon receipt of written notification from the Town, at Tenant's sole expense, Tenant shall obtain and keep in force, during the Term, "all-risk" coverage naming Landlord and Tenant as their interests may appear and other parties that Landlord or Tenant may designate as additional insureds in the customary form for buildings and improvements of similar character, on all buildings and improvements now or hereinafter located on the Premises. Such coverage shall include, without limitation, the historic replacement value of the Premises building structure. The amount of the insurance shall be designated by Landlord no more frequently than once every twelve (12) months, shall be set forth on an "agreed amount endorsement" to the policy of insurance and shall not be less than the value of the buildings and improvements.

(c) All insurance required in this Section and all renewals of it shall be issued by companies authorized to transact business in the State of Colorado, and rated at least A+ Class X by Best's Insurance Reports (property liability) or approved by Landlord. All insurance policies shall be subject to approval by Landlord and any lender as to form and substance, said approval not to be unreasonably withheld or delayed; shall expressly provide that the policies shall not be canceled or altered without thirty (30) days' prior written notice to Landlord and any lender, and to Landlord in the case of general liability insurance; and shall, to the extent obtainable without additional premium expense, provide that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained. Tenant may satisfy its obligation under this Section by appropriate endorsements of its blanket insurance policies.

(d) All policies of liability insurance that Tenant is obligated to maintain according to this Lease (other than any policy of workmen's compensation insurance) shall name Landlord and such other persons or firms as Landlord specifies from time to time as additional insureds provided such other persons have an insurable interest and does not result in any additional premium expenses. Original or copies of original policies (together with copies of the endorsements naming Landlord, and any others specified by Landlord, as additional insureds) and evidence of the payment of all premiums of such policies shall be made available to Landlord prior to Tenant's occupancy of the Premises and from time to time at least thirty (30) days' prior to the expiration of the term of each policy. All public liability, property damage liability, and casualty policies maintained by Tenant shall be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. No insurance required to be maintained by Tenant by this Section shall be subject to any deductible in excess of \$20,000.00 without Landlord's prior written consent.

(e) Landlord and Tenant waive all rights to recover against each other, or against the officers, elected officials, directors, shareholders, members, partners, joint venturers, employees, agents, customers, invitees, or business visitors of each of theirs, for any loss or damage arising from any cause covered by any insurance required to be carried by each of them pursuant to this Section or any other insurance actually carried by each of them. Tenant shall cause its insurer to issue an appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Premises and any personal property located on the same. Tenant shall cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this Section and to obtain such waiver of subrogation rights endorsements.

10. **Indemnification; Tenant Waiver and Release.**

(a) Tenant shall indemnify Landlord, its elected officials, officers, employees, agents, contractor, attorneys, insurers and insurance pools (collectively, the "**Landlord Parties**"; as applicable, each an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), losses, liabilities, judgments, and expenses (including attorneys' fees and court costs) incurred in connection with or arising from: (i) the use or occupancy of the Premises by Tenant or any person or entity claiming under Tenant, the employees, agents, contractors, guests,

invitees or visitors of Tenant or any person or entity (each, a “**Tenant Related Person**”); (ii) any activity, work, or thing done or permitted or suffered by a Tenant Related Person in or about the Premises; (iii) any acts, omissions, or negligence of any Tenant Related Person; (iv) any breach, violation, or nonperformance by any Tenant Related Person of any term, covenant, or provision of this Lease or any law, ordinance or governmental requirement of any kind; or (v) except for loss of use of all or any portion of the Premises or Tenant’s property located within the Premises that is proximately caused by or results proximately from the gross negligence of Landlord, any injury or damage to the person, property or business of a Tenant Related Person entering upon the Premises under the express or implied invitation of Tenant. If any action or proceeding is brought against an Indemnitee by reason of any claim solely arising out of subparagraphs (i) through (v) above, upon notice from Landlord, Tenant shall defend the claim at Tenant’s expense with counsel reasonably satisfactory to Landlord.

(b) Tenant waives and releases all claims against Indemnitees with respect to any loss, injury, death, or damage (including consequential damages) to persons, property, or Tenant’s business occasioned by, without limitation, theft; act of God; public enemy; injunction; riot; strike; insurrection; war; court order; requisition; order of governmental body or authority; fire; explosion; falling objects; steam, water, rain or snow; leak or flow of water (including water from the elevator system), rain or snow from the Premises or into the Premises or from the roof, street, subsurface, or from any other place, or by dampness, or from the breakage, leakage, obstruction, or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures of the building; or from construction, repair, or alteration of the Premises or from any acts or omissions of any visitor of the Premises; or from any cause beyond Landlord’s control.

11. **Default Provisions.**

(a) If Tenant fails to perform any of its obligations under this Lease, then Landlord, after ten (10) days’ written notice to Tenant (or, in case of any emergency, upon notice or without notice as may be reasonable under the circumstances) and without waiving any of its rights under this Lease, may (but shall not be required to) pay the amount or perform the obligation. All amounts so paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any obligations (together with interest at the prime rate from the date of Landlord’s payment of the amount or incurring of each cost or expense until the date of full repayment by Tenant) shall be payable by Tenant to Landlord on demand and as additional rent. In the proof of any damages that Landlord may claim against Tenant arising out of Tenant’s failure to maintain insurance that is required by terms of this Lease, Landlord shall not be limited to the amount of the unpaid insurance premium but shall also be entitled to recover as damages for the breach the amount of any uninsured loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suit, including attorneys’ fees, arising out of damage to, or destruction of, the Premises occurring during any period for which Tenant has failed to provide the insurance.

(b) The following occurrences are “**Events of Default**”: (i) Tenant defaults in the due and punctual payment of rent or any other amount due under this Lease, and the default continues for five (5) days after notice from Landlord; (ii) Tenant defaults in the performance of

any other obligation under this Lease that is not cured after ten (10) days' written notice to Tenant (or, in case of any emergency, upon notice or without notice as may be reasonable under the circumstances); or (iii) Tenant vacates or abandons the Premises.

(c) If any one or more Events of Default occurs, then Landlord may, at its election, give Tenant written notice of its intention to terminate this Lease on the date of the notice or on any later date specified in the notice, and, on the date specified in the notice, Tenant's right to possession of the Premises shall cease and this Lease shall be terminated. In addition, landlord shall have all other rights available at law and in equity, including, without limitation, recovery of actual damages, costs and expenses, including reasonable attorneys' fees. All remedies may be cumulatively and concurrently applied and enforced.

12. **Assignment.** Tenant may not assign this Lease, or sublet the Premises, in whole or in part, without Landlord's prior written consent.

13. **Notices.** All notices, demands, and requests required to be given by either party to the other shall be in writing, and with a copy given to counsel for each such party as provided below. All notices, demands, and requests shall be delivered personally or sent by electronic mail (e-mail), nationally recognized overnight courier, certified or registered mail, return receipt requested, postage prepaid, or via facsimile, addressed to the parties at the addresses set forth below or at such other addresses as the parties may designate in writing delivered pursuant to the provisions hereof. Any notice when given as provided herein shall be deemed to have been delivered on the day of delivery if delivered personally, on the first business day following the confirmation of sending of an e-mail when sent by electronic mail, on the first business day following deposit with the courier service when delivered by overnight courier, three business (3) days subsequent to the date that said notice was deposited with the United States Postal Service, or on the first business day following the date of confirmation of receipt when delivered by facsimile.

To Landlord: Town of Crested Butte
P.O. Box 39
507 Maroon Avenue
Crested Butte, CO 81224
Facsimile: (970) 349-6626
Attn: Town Manager

To Tenant: West Elk Martial Arts
Andy Tyzzer
P.O. Box 1179
Crested Butte, CO 81224

14. **No Waiver.** No waiver of any condition or agreement in this Lease by either Landlord or Tenant shall imply or constitute a further waiver by such party of the same or any other condition or agreement.

15. **Attorneys' Fees.** In case a dispute between the parties shall arise in connection with this Lease, the prevailing party shall be entitled to recover and shall be awarded (in addition to other relief granted) all reasonable attorneys' fees and costs in connection with such dispute from the non-prevailing party.

16. **Severability.** If any sentence, paragraph or article of this Lease is held to be illegal or invalid, this shall not affect in any manner those other portions of the Lease not illegal or invalid and this Lease shall continue in full force and effect as to those remaining provisions.

17. **Successors and Assigns.** The conditions and provisions hereof shall inure to the benefit of, and shall be binding upon, Landlord, Tenant and their respective personal representatives, successors and permitted assigns.

18. **Immigration Compliance.** Tenant certifies that it has complied, and during the term of this Lease will continue to comply, with the Immigration Reform and Control Act of 1986. The signature of Tenant on this Lease: (1) certifies that Tenant is not a natural person unlawfully present in the United States; and (2) also certifies the statements below if this is a public contract for services as defined in Colo. Rev. Stat. § 8-17.5-101, et seq., and Tenant utilizes subcontractors or employees in Tenant's business. Tenant shall not:

(a) knowingly employ or contract with an illegal alien to perform work under this Lease; or

(b) enter into a contract with a subcontractor that fails to certify to Tenant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Lease.

Tenant has confirmed the employment eligibility of all employees and subcontractors who are newly hired for employment to perform work under this Lease through participation in either the e-verify program or the department program (as defined in Colo. Rev. Stat. § 8-17.5-101, et seq.). Tenant may not use either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Lease is being performed. If Tenant obtains actual knowledge that a subcontractor performing work under this Lease knowingly employs or contracts with an illegal alien, Tenant shall:

(i) notify the subcontractor and the Landlord within three (3) days that Tenant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

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

Tenant shall comply with any reasonable request by the Department of Labor and Employment

made in the course of an investigation that the Department is undertaking pursuant to state law. Tenant acknowledges that in the event Tenant violates any of the provisions of the foregoing the Town may terminate this Lease for breach of contract. No notice need be given of said termination. If this Lease is so terminated, Tenant shall be liable for actual and consequential damages to the Landlord.

19. **Obligation to Report.** Tenant shall report any material damage to the Premises or disturbances therein or thereon to Landlord as soon as it becomes aware of any such damages or disturbances.

20. **Miscellaneous Provisions.**

(a) Each party represents and warrants that it has obtained any and all approvals necessary to enter into and perform the obligations contained in this Lease, if any.

(b) This Lease shall be construed and enforced in accordance with the laws of the State of Colorado.

(c) This Lease is entered into at Crested Butte, Colorado, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Lease will be in the District Court of Gunnison County, Colorado.

(d) This Lease may be executed in multiple counterparts each of which shall constitute an original, and both of which when taken together shall constitute one and the same document. The parties hereby agree to accept facsimile or electronic copies of signatures as original signatures

(e) An recordation of this Lease or any record thereof, or the recordation of any encumbrance against the Premises and/or the Improvements by any person, including, without limitation, any mortgagee of Tenant, except Landlord and any mortgagee of Landlord, shall be void *ab initio* and a default under this Lease.

(f) This Lease constitutes the entire and exclusive agreement between the parties relating to the specific matters covered herein. Any other agreements between the parties, whether written or oral are hereby merged herein and of no further force and effect.

(g) Unless otherwise provided in the Lease, the Lease may be amended, modified, or terminated only by a written instrument executed by Landlord and Tenant.

[Remainder of Page Intentionally Left Blank;
Signature Page(s) to Follow]

IN WITNESS WHEREOF, Landlord and Tenant have executed Lease by their duly authorized officials effective as of the Effective Date first written above.

LANDLORD:

TOWN OF CRESTED BUTTE, COLORADO

By: _____
Dara MacDonald, Town Manager

ATTEST:

_____ [Seal]
Lynelle Stanford, Town Clerk

TENANT:

West Elk Soo Bahk Do Moo Duk Kwan, d.b.a. West Elk Martial Arts, a Colorado nonprofit corporation

By: _____
Name: _____
Title: _____



Staff Report

August 8, 2017

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Discussion on the ballot issue for a tax on vacation rentals

Summary: At the meeting on July 24th the Council directed the staff to work towards a possible “Plan B” tax measure should the Gunnison Valley Regional Housing Authority (“GVRHA”) county-wide property tax measure not make it onto the ballot in November. The Council specifically focused on the possibility of asking the voters to approve an excise, or sales, tax on vacation rentals. The following memo summarizes steps to move the process forward as well as areas where direction is needed from the Council.

Discussion:

Resolution versus ordinance

We don’t necessarily need an ordinance to call an election and set a ballot title. It is common to have a resolution which does that. The Town used a resolution to call the last debt election. If the election passes an implementing ordinance can be adopted. Given that this is a new tax, another approach is to adopt an ordinance setting forth the tax rate, the transactions it applies to, exemptions and other administrative details and then refer the ordinance to the people. This could be advantageous if you want all of those details to be available to the voters.

If you decide to proceed with the ordinance, the adoption could be as late as the meeting on September 5. Out of an abundance of caution we recommend council adopt a separate resolution setting the ballot title which would be effective immediately so there would be no question about the language and authority to provide the language to the County Clerk by September 8th.

Timeline

The following is a list of key milestones for the Council to consider in moving a ballot question forward.

August 21 –

1st reading of an ordinance setting ballot language and establishing an excise tax on vacation rentals effective January 1, 2018.

September 5 –

2nd reading of the ordinance

Consideration of a resolution setting the ballot language

FCPA restrictions come into place for staff and elected officials upon adoption of ballot language

September 8 –

Town certifies the ballot and ballot content to the Gunnison County Clerk & Recorder

October 13 –

Last day for a local government to withdraw an item from the ballot

What % -

Attached is an overview of possible revenue generation from a tax on vacation rentals or all lodging. The Council will need to decide on the appropriate amount. Staff recommends something between 4.5% - 5.5% in the form of a sales tax on vacation rentals which would generate \$250,000 - \$300,000 annually based upon 2016 sales tax revenues.

Use of Funds –

How strictly would the Council like to set the utilization of the revenues generated? The ordinance could include very specific language about the use of funds or they could create a policy that could be modified by a Council in the future. One existing example is the language in Chapter 16 of the Code regarding use of ROAH funds:

Such fees shall be placed in the Crested Butte “Affordable Housing Fund” for uses including but not limited to affordable housing administration, construction of new affordable housing units, land acquisition, down payment assistance, construction of infrastructure to serve new affordable housing units, contracts for affordable housing services, legal fees, and acquisition, repair, and restoration and deed-restriction of existing units.

Staff is generally comfortable with this language regarding the use of funds as it is broad enough to accomplish most activities related to affordable housing. We would suggest adding a reference to workforce housing as well if the Council wants to utilize a similar listing for the use of funds.

Engaging Butler Snow - Tax questions must be very carefully worded and a fairly precise process must be followed. Staff and the town attorney recommend engaging Dee Wisor of Butler Snow LLP to assist with crafting ballot language and ensuring TABOR compliance. Dee has assisted the Town in the past with ballot measures and debt issuance.

Withdrawal after setting ballot language - The Town has until October 13th to withdraw a ballot measure.

Sunset provision – The Council suggested that they would like to consider an automatic sunset of this tax should a county-wide measure be approved in the future. This is possible, however staff would caution the Council about including such a provision. Rather, we would suggest including that intention in the adopting ordinance, but leaving it to a future Council to actually implement the withdrawal should the county-wide measure be acceptable to the Town at that time.

Direction Needed:

1 – Would the Council prefer to adopt an ordinance prior to the election or after voter approval?

- 2 – What percentage sales tax on vacation rentals would the Council like to see included in the ballot language?
- 3 – How would the Council like to define the use of funds, specific listing or reference to a policy?
- 4 – Can the town attorney engage Butler Snow to advise on the ballot language and related issues?
- 5 – How would the Council like to address the withdrawal of a municipal tax should a county-wide solution be implemented in the future?

July 25, 2017

TO: Dara MacDonald, Town Manager (dmacdonald@crestedbutte-co.gov)
 Michael Yerman, Town Planner (myerman@crestedbutte-co.gov)
 Rodney Due, Public Works (rdue@crestedbutte-co.gov)
 Glenn Michel, Mayor (glennmichel@crestedbutte-co.gov)
 Roland Mason, Mayor Pro Tem (mason@crestedbutte-co.gov)
 Jim Schmidt, Town Council (jschmidt@crestedbutte-co.gov)
 Chris Ladoulis, Town Council (cladoulis@crestedbutte-co.gov)
 Paul Merck, Town Council (pmerck@crestedbutte-co.gov)
 Jackson Petito, Town Council (jacksonp@crestedbutte-co.gov)
 Laura Mitchell, Town Council (lmitchell@crestedbutte-co.gov)

Dear Public Service Representatives,

This letter is to assert that we do not agree with the action of having the historic Soupçon Alley paved for the following reasons:

1. The Soupçon Alley is an historic artifact: These alleys arose in the 1800's, serving as passageways for the businesses and neighbors of the mining days with such now famous founding families as the Kochevars. Just as certain architectural expressions of town are maintained through the approval process of the BOZAR board, so must our historic alleys be maintained, for they are a strong aspect of the unique expression of the official Historic District of Crested Butte. The historic nature of the alley will be destroyed if paved.

2. The Soupçon Alley is an aesthetic and cultural amenity: Crested Butte is defined by its quirky nature that has an unrefined and rough edge, reflecting back to its historic roots of the hard working townspeople. The alleys are a premier part of maintaining this persona. They boast a personality and culture all their own. Articles have been written about them. They eschew to a simpler time and way of life. They are full of old historic cabins, interesting twists, surprising gardens. The personality and cultural value of the alley will be destroyed if paved.

4. The Soupçon Alley is a tourist attraction: Every single day tourists (and residents) walk the alley, taking photos, remarking how quaint it is, how extraordinary it is to have such an amenity that speaks to a more pastoral feel, just a half block off the center of town. Indeed the phenomenon of the "alley walker" is real as visitors and residents stroll the alleys with their families, eating ice cream from Third Bowl, waiting for their reservation at Soupçon, and recording their memories of Crested Butte. Photography and plein air classes and artists are often seen on the Soupçon Alley rendering it through even more artistic means. This draw will no longer exhibit such a strong pull and uniqueness for visitors if paved. It becomes just another piece of pavement like so many other cities.

3. Soupçon Bistro's charm will be threatened: Soupçon Bistro, a long-standing fine dining destination restaurant, depends on the character of the rustic alley for its charm. Paving the alley stands to destroy the charm of Soupçon, negatively impacting their business.

5. Paving presents safety hazards: Already there are speeding issues on the alley in a space that is tight and demands an even far lower rate of speed than 15 m.p.h. Speeding is a problem in town on paved streets, as visitors in particular have a hard time accepting the 15 m.p.h. speed limit. Paving the alley will only make it look like another street. It will increase the speed at which people think they can travel down it and increase the number of cars driving down it. This will endanger the safety of the “alley walkers,” people waiting for their Soupçon reservation, those exiting Soupçon after dinner directly onto the alley (there is no buffer between the door and the alley), as well as those of us who live directly on the alley with no other exit. These speeding and safety hazards would exist for the entire alley, not just the portion proposed to be paved.

6. Paving will not resolve drainage issues: Prior to the building of full basements in this historic zone, drainage was not a problem. When the occasional puddle would build during high water content times such as spring melt, it would quickly percolate back down into the water table. Full basements at natural topographical low points block the natural flow of the ground water, and without a place for it to go, create opportunities for pooling. These effects are compounded by such additions as the construction of berms. The temporal place of pooling on the Soupçon Alley occurs at the bottom of the hill in three directions from the east, south and west. Simply paving will not drain the alley as from that low point there is a slight incline to Second Street and significant inclines to the south and west.

7. Personal property will be damaged: The gardens of Soupçon and 124.5 Maroon have been built through the private efforts of the tenants in these locations through a lot of hard work and pride for the aesthetic nature of the alley. They significantly augment the “alley walker” experience and are a highly photographed feature of the alley. Paving the alley will destroy these gardens.

8. The Soupçon Alley is a public right of way and resource: The alleys are a public amenity and thoroughfare and should not be allowed to be paved without public input. No public comment has happened in this process. Indeed, many residents of the alley with no other exit were not included in the process at all. A handful of homeowners should not be able to dictate such a significant and irreversible change that impacts the entire community.

9. This opens the door for further alley paving: Paving the Soupçon Alley will set a precedent that other alleys may also be paved, further endangering the existence of the historic and cultural artifacts of alleys throughout town.

10. There are other solutions: Building anything below grade, such as basements and other structures, runs the risk of water infiltration, the mitigation of which should be the responsibility of the individual homeowner. Our town is rife with energy inefficient pumping systems attempting to mediate this issue. Regardless, there are other solutions to mitigating water than the dramatic change of paving an historic alley. For example, installing a storm or French drain at the low point of the alley such as exists on First Street that allows water to funnel into the drain that is connected with the water / sewage system. This would help to mitigate any water drainage issues while maintaining the historic and cultural integrity of the alley.

We therefore primarily request that less impactful solutions to mitigating water drainage be implemented, such as the installation of a storm or French drain; and that any further exploration of paving the Soupçon Alley should not be done without a proper public process which includes public comment.

Sincerely,

Jason Vernon, Proprietor
Soupçon Bistro
127 A Elk Avenue
349-5448
chefjason@crestedbutte.net

Randy Kochevar, Owner of Kochevar's
127 Elk Avenue
575-910-3482
foxybrown@yahoo.com

Linda Kochevar, Owner of Kochevar's
127 Elk Avenue
575-910-3482
foxybrown@yahoo.com

Pam Sylvain Hayoun, Owner of Soupçon building
127 Elk Avenue
720-771-7461
Sylvain.hayoun@svn.net

Phil Sylvain Hayoun, Owner of Soupçon building
127 Elk Avenue
720-771-7461
Sylvain.hayoun@svn.net

Jay Fitzgerald
132 Maroon Avenue
646-220-7552
jfitzgerald@yahoo.com

Molly Murfee
124.5 Maroon Avenue, Alley House
349-0947
mmurfee.aei@usa.net

Mark Phwah
124.5 Maroon Avenue, Alley House
349-0947
mmurfee.aei@usa.net

Sidsel Robards
113 Elk Avenue, Alley House
349-2465
sidselrobards@gmail.com

Sam Robards
113 Elk Avenue, Alley House
349-2465
pingrin3@gmail.com

Wren Wirth
29 Maroon Avenue
349-0213
twirth@unfoundation.org

Tim Wirth
29 Maroon Avenue
349-0213
twirth@unfoundation.org

Kelsey Wirth
29 Maroon Avenue
349-0864
kelseydwirth@gmail.com

Sam Myers
29 Maroon Avenue
349-0864
kelseydwirth@gmail.com

Dawn Cohen, Artist
Oh Be Joyful Gallery, Crested Butte resident
209-2669
dawncohen1@yahoo.com

Dawne Belloise
111.5 Whiterock Avenue, Alley House
275-5774
dbelloise@gmail.com

Shelley Popke
622 Teocalli Ave. 2A
Crested Butte, CO 81224

Elizabeth Smith
Mountain To Ocean Guesthomes
P.O. Box 1658; Crested Butte, CO. 81224
970-275-3060
mtohomes@gmail.com

John Leonardi
Sous Chef & Manager, Soupcon Bistro
P.O. Box 958; Crested Butte, CO 81224
leonaridjohn@gmail.com

Ethan Johnson
Chef, Soupcon Bistro
P.O. Box 4321; Crested Butte, CO 81224
Ethan31@gmail.com

Jason Bain
Prep Cook & Dishwasher, Soupcon Bistro
P.O. Box 1632; Crested Butte, CO 81224
Jrbain85@comcast.net

Brian Intrary
P.O. Box 4164; Crested Butte, CO 81224
BrianIntrary@gmail.com

From: [Molly Murfee](#)
To: "[Molly Murfee](#)"; [Dara MacDonald](#); [Michael Yerman](#); [Rodney Due](#); [Glenn Michel](#); [mason@crestedbutte-co.gov](#); [J Schmidt](#); [Chris Ladoulis](#); [Paul Merck](#); [Jackson Petito](#); [Laura Mitchell](#)
Cc: [Lynelle Stanford](#)
Subject: RE: Concerning the Historic Soupcon Alley
Date: Monday, July 31, 2017 8:46:26 AM

Please find attached paintings by Dawn Cohen demonstrating the historic, cultural and aesthetic importance of the Soupcon Alley.

From: Molly Murfee [mailto:mmurfee.aei@usa.net]
Sent: Monday, July 31, 2017 8:43 AM
To: 'dmacdonald@crestedbutte-co.gov'; 'myerman@crestedbutte-co.gov'; 'rdue@crestedbutte-co.gov'; 'glennmichel@crestedbutte-co.gov'; 'mason@crestedbutte-co.gov'; 'jschmidt@crestedbutte-co.gov'; 'cladoulis@crestedbutte-co.gov'; 'pmerck@crestedbutte-co.gov'; 'jacksonp@crestedbutte-co.gov'; 'lmitchell@crestedbutte-co.gov'
Cc: 'lstanford@crestedbutte-co.gov'
Subject: Concerning the Historic Soupcon Alley

Dear Town Representatives and Employees –

Please find attached a letter concerning the Historic Soupcon Alley and its proposed “improvement” from myself and concerned community members.

Thank you for your time and attention,

Molly Murfee
124.5 Maroon Avenue
349-0947
mmurfee.aei@usa.net



141

Dawn Cohen



From: [gareth & linda roberts](#)
To: [Glenn Michel](#); [R Mason](#); [J Schmidt](#); [Chris Ladoulis](#); [Paul Merck](#); [Jackson Petito](#); [Laura Mitchell](#)
Cc: [Lynelle Stanford](#); [Dara MacDonald](#)
Subject: Just Say No-Comedy Fest
Date: Monday, July 31, 2017 3:30:10 PM

Monday, July 31, 2017

Dear Council Members,

Please DO NOT go forward with this Comedy Fest...or for that matter any other big Festival or Group wanting to come to Crested Butte in the summer, which now includes June through October.

Please consider who we are that live here and why we live here. A Comedy Fest as well as the attendant publicity is not what we need or want. Our goal should be to attract summer and winter tourists and Events to our Valley that complement our values of human powered enjoyment of the outdoors and enjoyment of life in a small close knit community.

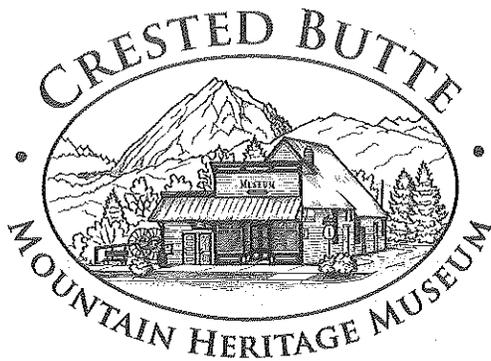
While Mt. CB may just want to “fill beds” I don’t see that as the goal of Crested Butte. We already are seeing second homeowners and tourists arriving in June and staying through September. We do not need another gaggle of people coming to CB that don’t understand our values like we promoted with “Whatever”. Nor do we need the national television coverage. That event was one of the **worst** things that Town has ever supported and it has done irreparable harm with the indiscriminate exposure it gave us. We should learn from that lesson and not make the same mistake twice.

Thank you,

Linda Roberts

Full time resident

12 Ruth’s Road



CRESTED BUTTE MTN. HERITAGE MUSEUM, INC.

Located at 331 Elk Avenue
in Historic Tony's Conoco
Box 2480 • Crested Butte, Colorado 81224
(970) 349-1880
www.crestedbuttemuseum.com

July 25, 2017

Town of Crested Butte
Lois Rozman
PO Box 39
Crested Butte, CO 81224

Dear Lois,

On behalf of the Crested Butte Mountain Heritage Museum, thank you very much to the Town of Crested Butte for awarding us a \$3,000 grant to fund our building preservation efforts. Your support allows us to actively advance our mission: "To preserve and share the uniquely diverse cultural history of the Gunnison Valley. We make the past a living part of the future." We do this by preserving our iconic building and collection; sharing our local history through exhibits and events; and seeking out new ways to engage with our community and guests.

As you know, I started my tenure as the Executive Director here at the Museum over two year ago. I am thrilled to be part of this amazing institution and treasure of our community. If you have any stories, thoughts or ideas about the past, present or future of the Museum, I would love to hear about them. Please stop by the Museum, call or email me anytime.

Thank you again for your generous support and for the important work that you do every day for our community!

Sincerely,

Shelley Popke
Executive Director

Thank you
so much!

From: [gareth & linda roberts](#)
To: [R Mason](#); [J Schmidt](#); [Chris Ladoulis](#); [Paul Merck](#); [Jackson Petito](#); [Laura Mitchell](#)
Cc: [Lynelle Stanford](#); g michael@crestedbutte-co.gov; [Dara MacDonald](#)
Subject: Proposed development of 135 & Brush Creek Road
Date: Friday, August 04, 2017 12:36:58 PM

I would like to state that I agree with Greg Wilson's letter to the CB New. I could restate his points, but I assume that you have read the letter (if not, I'll be happy to restate in a second email).

Furthermore, I'd like to make the additional points that we are adding Sixth Street Station, Paradise Park affordable housing, Kapushion lots behind Butte Ave., Cypress Hills with space for affordable housing and more houses in Moon Ridge. I think we need to let the dust settle, before we add even more free market housing.

I would suggest that the Kapushion lots include some "affordable housing" lots. The idea of spreading the workforce, locals throughout the community makes a lot of sense instead of lumping them all in tiny units 2 miles out of town. The affordable lots on Ruth's Road is a good example of providing homes for working locals. Also, any development such as Sixth Street Station should be required to provide workforce housing as part of their development since the guests that stay there will create additional need for workforce.

It seems to me that we are also in need of affordable Seasonal housing for temporary workforce that stay the summer or winter but aren't looking to settle down yet. These folks are not going to fill out forms for government subsidized housing but are critical to helping local businesses during our busy seasons without the cost of carrying them over the off season.

Town should be putting more pressure on Mt. CB, CB South and Gunnison to actively participate in providing space for and building affordable housing for the workforce. Crested Butte is not the only place to live in our valley.

Please do not be pressured to act quickly on the proposed development at 135 and Brush Creek Road. If it is in fact a good project, it will still be a good project 2-5 years from now. If the Town is going to give away Town owned land, we should have a full Town discussion.

Sincerely,
Linda Roberts
Full time resident
12 Ruth's Road

August 21, 2017**Work Session**

Wayfinding
E-Bike Regulations

Consent Agenda

Award of the 2017 Foundation Water Mitigation Project
Award of the 2017 Crested Butte Pavement Project
Appointment of Chief Marshal Mike Reily to the 911 Committee
Appointment of Chief Marshal Mike Reily to the Communications Committee
Emma Coburn Elk Avenue 5K Special Event Application and Special Event Liquor Permit Located at Elk Avenue and 3rd Street, with the Race Closing Elk Avenue from 1st Street to 5th Street and the Associated Route on September 30, 2017

Resolution – Supporting Gunnison Valley Regional Housing Authority Ballot Measure
First Reading for Vacation Rental Tax
Vacation Rental Fee Schedule
Water and Sewer Agreement with Cypress

September 5, 2017**Work Session**

Budget

Presentation by CB Fire Board of Directors on a Ballot Question for the November Election

Future Work Session Items:

- Camping @ Town Ranch (allow? Not allow? Allow camping in other places?)
- BLM and OBJ Campground/Seasonal Housing Shortage (this could be combined with others – especially the Affordable Housing item at the bottom of this list)
- Perimeter Trail – Update, timelines, costs, what does this look like when finished
- Land Trust and Town Preservation Priorities – basically a joint planning/discussion with the CBLT (maybe in Exec Session if they would like) to confer on the priority parcels identified by the CBLT and the priorities of the Town (for planning future open space acquisitions). Maybe even a discussion about purchasing trail easements.
- Elk Avenue Rule Set re: Private Clubs – the whole “private clubs on Elk Avenue” concern that was raised when Irwin obtained a private liquor license for the Scarp Ridge Lodge.
- Affordable Housing/Density/Workforce – Blk 79/80
- Special Events
- Double Basements
- Slate River Update

September and October work sessions are reserved for budget.