

RESULT:	CONTINUED TO DATE CERTAIN [4 TO 1]
	Next: 4/14/2016 6:00 PM
MOVER:	Tom Gorton, Commissioner
SECONDER:	Geri Malandra, Commissioner
AYES:	Tom Gorton, Jim Tencza, Charly Minkler, Geri Malandra
NAYS:	Lucy Baizel

VI. Adjournment

The meeting was closed at 9:16 AM

Chairman Tencza entertained a motion to adjourn. Commissioner Minkler moved to adjourn and the meeting was adjourned at 9:16.

Thursday, April 14, 2016

6:00 PM

County Board Room

I. Call to Order

Attendee Name	Present	Absent	Late	Arrived
Tom Gorton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Jim Tencza	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Lucy Baizel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Charly Minkler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Geri Malandra	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

II. Approval of Agenda

III. Approval of Minutes

1. Planning Commission - Regular Meeting - Feb 25, 2016 6:00 PM

Minutes were continued to a date uncertain where the complete set of minutes can be approved.

RESULT:	CONTINUED
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2. Planning Commission - Special Meeting - Mar 2, 2016 6:00 PM

Minutes were continued to a date uncertain where the complete set of minutes can be approved.

RESULT:	CONTINUED
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3. Planning Commission - Regular Meeting - Mar 3, 2016 6:00 PM

Minutes were continued to a date uncertain where the complete set of minutes can be approved.

RESULT:	CONTINUED
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Public Hearing of the following requests:

IV. Decision

1. PROJECT #2012-0089, GCC ENERGY KING II COAL MINE CLASS II, CONTINUANCE

Owner/Applicant: GCC Energy, LLC / Trent Peterson

Agent: Brian Kimmel, Southwest Land Services

As continued from the March 3, 2016 Planning Commission hearing, consideration of the GCC Energy Class II land use permit for an existing coal mine operation comprised of surface facilities, underground mining, and coal hauling. Address is 6473 CR 120 located on APN 5653-362-00-077.

Staff: Daniel Murray, Victoria Schmitt, Damian Peduto

Chairman Tencza expressed the Planning Commission's understanding of the effects the project has on the community and stated the Commission would like to limit the discussion tonight to the final details of the Road Improvement Plan. He outlined the process for the evening and called Project #2012-0089 GCC Energy King II Coal Mine Class II Continuance to order.

Community Development Director Damian Peduto introduced the project and requested the staff report, recommendation and background material

be added to the record. He also requested the following material be added to the record: April 8, 2016 letter form Luke Danielson (Exhibit 1), the LSC document (Exhibit 2), the document titled "Conditions that would Improve this Proposal (Exhibit 3), and GCC's Power point Presentation (Exhibit 4). All material was added to the record.

Mr. Peduto gave a historical overview of the application. He said in the previous meeting staff recommended denial because they lacked a Road Improvement Agreement that would bring GCC into compliance but the applicant is now compliant, which is reflected in the staff report.

La Plata County Attorney Adam Smith clarified the names of the documents being submitted to the record tonight.

La Plata County Senior Planner Daniel Murray began his presentation by describing the location and extent of the GCC Coal Mine. He reviewed the history of the application, the background of meetings, and developments between the Planning Department and GCC. He said the county and GCC have come to terms on the Road Improvement Agreement, specifically truck limits. He said GCC is already in operation so the Road Improvement Agreement is the tool the Planning staff uses to bring the operation into compliance.

Mr. Murray said the demand for water is estimated to be 40 acre feet and GCC has proved 3 sources which total 51 acre feet to meet those needs. He added that GCC is currently constructing water storage for 40 acre feet.

Mr. Murray said the main issue for discussion tonight will be traffic control, the road is substandard and does not meet the county Code. He said GCC's use of the road accounts for most of the loading and volume and therefore they are required to improve the road. He said GCC is implementing mitigation measures until the road improvement is completed. He said the county is requiring GCC to improve the road by implementing two 12' paved lanes, 3' unpaved shoulders, a 60' right-of-way, and horizontal and vertical alignment.

Mr. Murray presented the summarized road improvement schedule. He said phase 1 will be temporary paving of a section of the road and construction of buffering walls, both will be completed in 2016. He presented phase 2 which includes the permanent repaving of a 2 mile

section. He presented phase 3 which is the reconstruction of the 90 degree corner. He said during these three phases GCC will be limited to 80 trucks. He presented phase 4 and 5, when GCC will be able to increase to 100 trucks, and the remainder of the road improvements will be completed. He said upon completion GCC will be able to run an average of 120 trucks a day.

Mr. Murray presented the multiple criteria for compatibility, many of which are not met but will be with the completion of the road improvements and mitigation measures.

Mr. Murray elaborated on the process the county used to determine compatible truck limits and reviewed the various proposed limits. He said the 120 truck limit is contingent on the completion of the road improvements as well as the conditions. He reviewed all of the mitigation measures which are enumerated as conditions in the staff report.

Mr. Murray said the county used the year 2013 as a reference point to arrive at 80 trucks because at that point in time the county does not have record of concern from the neighbors. He said the county is recommending going back to the time before the scales of compatibility tipped. He said the Public Works Director has concluded that 80 is a safe number of trucks on the road with the mitigation measures. He said the truck limit of 100 is an incremental increase that coincides with the road improvements.

Mr. Murray finished the presentation by outlining the areas of concern of the Planning staff and the ways they can be dealt with. These include the completion of the final road design, the use of condemnation of right of way, the buffering design that must be approved by the land owner, directing the traffic to the south, construction impacts, and the use of King I to dispose of waste rock.

He said the staff recommends an approval with the findings and conditions in the staff report because with the Road Improvement Agreement, the project now meets the Code.

Commissioner Minkler asked about adding a condition for noise buffering assistance to the residents. Mr. Peduto said the staff would have the opportunity to hire outside consultant, but the staff believes the buffering plan is straight forward and there will be no need.

Commissioner Malandra asked if GCC will have the ability to decelerate the Road Improvement schedule and what would the implications be. Mr. Murray said it is encompassed in the Road Improvement Agreement and deferred to legal counsel. Mr. Smith said there are processes that allow for an amendment to the Road Improvement Agreement, such amendment would have to be approved by the Board of County Commissioners. Ms. Rodgers said it is addressed in Section 6.1 of the Road Improvement Agreement.

Commissioner Gorton asked when the construction of the water reservoir would be completed. Mr. Murray said one of the conditions that must be met before the project goes before the Board of County Commissioners is an update to ensure the reservoir will be completed by the September deadline.

Commissioner Gorton asked if the temporary pavement will be of better quality this time around. La Plata County Public Works Director Jim Davis said they are proposing formal asphalt lay down and the county requires a geo-technical analysis to ensure the road has the capacity to withstand the weight.

Chairman Tencza asked how the road traffic will be handled during construction of the road. Mr. Davis said the county reconstructs roads under live traffic often, there will be professional traffic controllers and lane shifts.

Chairman Tencza asked how long it will take the county to evaluate the road design. Mr. Davis said the county will be involved from day one and throughout the entirety of the road improvements.

Carolynne White, Land Use Council , 410 17th Street, Denver 80202.

Ms. White introduced the GCC team present: Gina Nance - Vice President of Energy and Environment, Trent Peterson - Vice President of GCC Energy, Wade Wymore - GCC Plant Superintendent, Mike Olson - Roadrunner Engineering, Steve Harris - Harris Water Engineering, Landon Beck - Resource Hydrogeologic Services, Vineet Masuraha - Trinity Consultants, Jeff Kwolkoski - Wave Engineering, Joe Bowden - CDS Environmental Services, LLC, and Rob Johnston - Johnston Land Company.

Trent Peterson, Vice President of GCC, 6473 CR 120, Durango. Mr. Peterson thanked the staff for negotiating the Road Improvement Agreement with GCC. He acknowledged the many contributors to the application.

Ms. White said GCC has, after very tough conversations and significant restructuring of their business, resolved the issues they had with the proposed Road Improvement Agreement. She said GCC has made significant concessions in their ability to produce to the extent of their state and federal permits. She said the county now finds GCC to be compatible, compliant, and consistent with the Code. She noted the conditions are numbered with sub letters and numerals which total 75 conditions. She said if the Commission would like to add another condition it would have to be discussed by the applicant to ensure they can comply.

Ms. White said there was a very detailed analysis in making the decision to use the proposed road based on safety and other technical information. She said there have been more than 47 reports conducted by GCC that cover topics such as hydrogeological studies, noise, vibration, and traffic. She said none of the reports conclude that there are any issues other than truck traffic, which has been addressed with multiple mitigation measures and reduced truck numbers. She clarified that GCC will not build buffer walls unless the neighbors want them. Finally, she stated the county will be paid an ongoing maintenance fee at .12 cents per ton, and GCC's experts have determined the actual cost of maintaining the road way would be .05 cents per ton.

Mike Olson, Roadrunner Engineering, 1315 Main Ave Suite 221, Durango. Presented some of the work that GCC has already completed including improved sight distance, flashing turning signs, road widening, striping, and multiple layers of pavement. He said in addition GCC has continued safety training, to ensure the drivers are using safe practices. He clarified that the pavement in phase 1 is called temporary but the construction will be considerate.

Ms. White said one of the concerns is 80 trucks is too many, but there is evidence in the record that 80 trucks meets all of the standards of compatibility and the Code. She reviewed the buffering options available to the neighbors and said it can be a visually attractive option that reduces impacts. She addressed the concern that the process is being delayed and said many of the phases will be completed sooner than the proposed schedule, or as soon as possible. She said GCC has retained a right of way agent and is ready to begin the process of acquiring right of way.

Rob Johnston, Johnston Land Company, 1315 Main Ave Suite 222, Durango. He said he has provided land services in La Plata County for 26 years. He reviewed the process and rules of the Uniform Act of 1970. He said they will use every reasonable means to negotiate the right of way acquisition and the objectives are to treat individuals fairly and consistently, to minimize litigation, and conduct negotiations in good faith.

Ms. White said the dust on the road before the improvements does not exceed the NAAQ standards according to the report commissioned by GCC.

Landon Beck, Resource Hydrogeologic Services, PO 2836, Durango. He said groundwater is monitored and regulated by Colorado Division of Reclamation Mining and Safety (CDRMS), the permit has been in place since 2005, the monitoring is conducted on a quarterly basis, and a report is submitted annually. He said the three existing ground water monitoring wells are within hay gulch. He said there is a proposed expansion of the groundwater monitoring program which was commissioned by GCC because of neighbor concerns and the federal coal lease modification application. The expansion will include a number of different provisions and 12 more monitoring wells. He said the groundwater table is below the coal seam so the coal is dry which is important because the process could impact groundwater quality if the water was at the level of the coal seam. He added there have been multiple wells dug that prove the coal and the surrounding ground is dry.

Ms. White concluded the presentation by saying after extensive analysis the only remaining concern is truck traffic which will be completely mitigated by GCC. She said GCC has done everything in its power to accommodate all of the expressed concerns and is now in a position to request a recommendation of approval to the Board of County Commissioners with the conditions within the staff report.

Commissioner Gorton asked if the permit for the auxiliary lane on HWY 140 has been completed and if the improvements on the state highway are separate from the agreement with the county. Mr. Olson said a final plan will be submitted to CDOT by May 23 and the notice to proceed will be granted. Ms. White said it is in addition to the Road Improvement Agreement and the permit is not expired, but it would expire in July.

Commissioner Gorton asked if GCC has objections to helping the land owners with the expenses related to the buffering implementation. Ms. White said it would be further evaluation and GCC would consider a condition but it would not be unlimited.

Commissioner Baizel asked if there are issues in the water, will they first be seen down gradient, and if so where will the new monitoring wells be placed. Mr. Beck said yes, effects would be seen down gradient. He said there will be several locations up gradient to create baseline data, several down gradient to evaluate effects, and one cross gradient.

Commissioner Minkler asked how long right of way negotiations generally take. Mr. Johnston said it is contingent on the property owners involvement and cooperation, it could be a couple of meetings. Commissioner Minkler asked what if there is an impasse, how long can the eminent domain process take. Mr. Johnston said it could stretch out farther. (Comments not picked up) The acquisition could happen immediately while the courts consider case, which could last 60-90 days.

Chairman Tencza asked if Mr. Johnston finds the agreements fairly easy. Mr. Johnston said he has been able to successfully negotiate right of way in many cases.

Chairman Tencza took a 10 minute recess at 7:40. The meeting was reconvened at 7:53.

Jeff Robbins, Southwest Colorado Advocates, 679 East 2nd Ave, Durango. *Mr. Robbins said despite what we have heard from staff, the traffic is not compatible. He said his group believes 80 trucks a day does not meet any of the 4 compatibility standards and is not based in sound analysis. He listed a number of conditions the group believes would make the project more compatible. He said the number in 2010 was 55 and that is what they think is compatible because that is what the neighbors believe would be tolerable and their traffic engineer suggested. He asked for the removal of the condition that County Road 120 North is to be used exclusively, especially during the road improvements. He suggested a condition that the applicant work with emergency response teams to ensure the response times will not be diminished. He asked the Commission to require dust monitoring to protect the health of the neighbors. He asked the Commission to recognize the waste disposal at King I. He said the group thinks there needs to be conditions to protect the land owners in terms of land condemnation. He said there should be a*

condition to require GCC to help with the cost of consultants for buffering. He said the permit should not apply to future mine expansion. Finally he asked for the neighbors to be notified with the status of the conditions of approval that have to be completed before the project goes before the Board of County Commissioners.

Cynthia Roebuck, Southwest Colorado Advocates, 213 West 21st street, Durango. Ms. Roebuck read a letter, signed by the neighbors, and requested the letter be accepted on the record (Exhibit 5).

Gary Grantham, 1124 County Road 120, Hesperus. He said he has been involved in the process since 2014 and the proposed Road Improvement Agreement creates unnecessary delays. He said mitigation delayed is mitigation denied. He said there are alternate routes that could easily handle 25 trucks and he said there should not be any trucks on the road during the construction.

Julie McCue, County Road 120, Hesperus. She said it is hard to believe that staff and GCC consider this road safe for the proposed number of trucks. She asked how GCC can continue to run trucks on a road that does not meet county standards. She asked the Planning Commission to limit to 55 trucks. She expressed sadness at the lack of empathy or compassion for the neighbors at the last meeting.

Karen Hunzeker, 3230 County Road 120, Hesperus. She said the two issues for her are dust and privacy and questioned the usefulness of a buffering wall. She said 55 trucks would allow for negotiation time to make an educated decision about the buffering wall. She said the ultimate mitigation is an upgraded road and that should be the first priority.

Paula Mathias, 788 Cougar Way, Hesperus. She said she is frustrated with the proposed Road Improvement Agreement because it does not look at alternative routes, the county gets a new road while the neighbors get 288 trucks going past front doors, and pavement does not equal safety or quality of life. She said none of the compatibility standards are met.

Derek Snyder, 1326 County Road 120, Hesperus. He said while running this week he started to count trucks and he counted a truck every 3 minutes. He said if there is a truck going every 3 minutes, with construction there will be accidents and the neighbors will be backed up behind the construction. He said he is concerned that if there is an

emergency in his house, emergency medical services will not be able to reach their home. He said the permit approval should be contingent on a limit of 55 trucks during the construction phase.

Todd Puntz, 321 Cross Creek Road, Hesperus. *As the owner of Cross Creek Ranch Mr. Puntz is concerned about the eminent domain option. He said the road is being built for a private company, and questioned putting the power of eminent domain behind a private company. He asked how Mr. Johnston can negotiate a right of way when there is no road design. He said the reason the company will pay for the road is because it is their road, none of the neighbors want the road. He said it is not right to take private land for a road that will be used primarily for a private company.*

Luke Danielson, 219 North Iowa Street, Gunnission. *He said the most essential issue is not who is for the mine or against the mine, but the issue is safety. He said 80 trucks per day is not safe for this road prior to improvements and the 55 trucks limit should stay until all of the improvements are done. He said there is no real basis for limiting trucks to County Road 120 North. He said there has to be some way of counting trucks that is measured by someone other than GCC. He said during the construction this is not a two lane road it is a one lane road and the traffic should be diverted. He said there is a dust problem, proved by a report from one of the most respected air quality consultants in the state. He said GCC has offered to monitor dusting and it is important and necessary for the safety of the neighbors. He said the county should monitor the waste dumping at the King I site. He said there should be a provision for GCC to assist the neighbors with the cost of consultants on the buffering walls.*

Ms. Rodgers said the temporary paving plans will have to be submitted to the county engineer for approval. She said the Road Improvement Agreement addresses many of the concerns of the neighbors in much more detail than could be captured in a condition.

Ms. Rodgers asked if they are asking for the road design or land acquisition to go through the public process. Mr. Danielson said they should have the ability to comment on the design of the road because it defines what will go through the right of way process.

Chairman Tencza opened the project to public comment. He reminded the public that their comments should be limited to the Road Improvement Agreement.

Connor McHue, 2541 County Road 120 North. He said the train would be able to run for the entire year on 155 trucks full of coal, that is one day worth of trips and the neighbors are fine with that. He said it has been tough to see his family run through the mud during this process.

Jerry Weiss, 909 Heritage Road, Hesperus. He asked how the road construction will take place with the trucks using the road both ways and said it cannot be done with 28 ton trucks. He asked if the mine has proven water ever between 2010 and now. He said the septic system is overflowing and it is not compatible and needs to be fixed.

Donna Nazario, 689 Cougar Way, Hesperus. She made a number of points including that the wildlife is not happy with what is happening in the area, the paved road is deteriorating, and trucks do not have a safe place to chain up. She also stated that real estate values are falling in the area. She said it is a serious concern because there are a dozen homes for sale that cannot be sold because of the truck traffic.

Jack LoEllen, 479 Wageman Road, Durango. He said the whole county is dealing the increase in traffic. He said tonight is the first time he heard of the 55 truck count being cited by the neighbors. He said he believes that with the due diligence of the Planning Department and GCC there are ways to get around the traffic issues.

Al Harper, 265 County Road 204, Durango. As owner of the train he said the train uses 3,000 tons of coal every year. He said he emphasizes with all of the different parties involved. He said it is very hard to be in business right now especially in the coal industry and he praised GCC's tenacity to go through the permitting process even in the turbulent and uncertain industry.

Dan Huntington, 9080 County Road 120, Hesperus. He commended the staff and GCC for their hard work. He said there has not been any water hauled between May to October for the last 3 years.

Milo Gonzalez, 505 Hickory Ridge Road, Bayfield. He said he wanted to thank the GCC management and the Planning staff for their hard work and he sincerely hopes the Planning Commission will approve the permit.

Guy Steez, 11003 County Road 120 South, Hesperus. He said he lives on 120 South and there are too many dangerous intersections to run trucks. He said the road is already more dangerous, it has school bus routes and more hills.

Buck Roba, 134 Vaca Road, Durango. He said the prices of homes dropped and he lost everything when the coal mine went out of business in Delta County so he feels for the neighbors but if GCC goes out of business the houses will depreciate and the community will lose out.

Brandon Wadell, 9588 County Road 141, Hesperus. As the owner of Well on Wheels Water Hauling, he said the dust problem is old news and they have drastically reduced the amount of dust in the area. He said the county should be using the .12 cents per ton to help with the road improvements. He added that the flagging crews are very professional, they work with the community and emergency responders.

Tom Bird, 3977 County Road 12, Hesperus. He said he lives on the gravel portion of the road and there is no dust, the trucks are going really slow and he does not know of any serious coal truck accidents.

Curtis Harris, 251 Sawmill Circle, Bayfield. He said he emphasizes with the residents and he gave a list with the names of 1/3 of GCC's employees to show the Commission that it is people that they are dealing with. He said if they cut to 55 trucks the people on the list will be laid off.

Don Crowley, 6310 County Road 24.5, Cortez. He said they have not been using the road for free, they should see the tax bill.

Chairman Tencza closed public hearing.

Commissioner Malandra asked if the county will be monitoring the key issues in the staff report. Mr. Murray said truck speeds will be randomly monitored by GCC and submitted to the county; the outgoing truck numbers will be submitted by GCC monthly and the county does conduct truck counts; water quality monitoring will be reviewed through the data GCC sends to the state; and ground water levels will be reviewed through similar data. Commissioner Malandra asked about the monitoring of dust. Mr. Murray said dust is monitored visually, the mechanism is put forth by the Colorado Department of Public Health and Environment and is

measured by the ability to see dust that is higher than the wheel well of the vehicle.

Commissioner Gorton asked if the right of way acquisition will be started before the road design is finalized. Mr. Davis said it helps that the public is involved in the design of the road and so they know what to expect when it comes to the acquisition of right of way.

Commissioner Gorton asked if there are any compelling reasons for not using the other county roads during construction. Mr. Davis said it could be considered but it brings up many other issues and challenges.

Commissioner Gorton asked if employees are bound to use 120 North. Mr. Davis said he does not believe so.

Commissioner Baizel asked what tools the county has to punish GCC if they do not comply. Mr. Peduto said truck limits and provisions in the Road Improvement Agreement.

Commissioner Baizel asked if the county can cut the truck numbers if GCC does not become compliant. Mr. Peduto said non-compliance is a breach of contract and a code compliance issue, both carry consequences. Mr. Smith said if they do not become compliant there would be court action and the Road Improvement Agreement provides additional legal tools.

Commissioner Minkler said he is uncomfortable with the duration of the road improvements schedule. Mr. Peduto said the Road Improvement Agreement determines the specific time period that GCC has to finish the road improvements and has been carefully considered by the applicant and staff.

Chairman Tencza asked staff if there is a possibility to use the .12 cent maintenance fee to help offset the cost of the consultants for the buffering walls. Ms. Rodgers said the county would prefer to keep the two items distinct. Mr. Smith added the county does not agree that there is a surplus in the .12 cents.

Ms. White responded to the concerns of the neighbors by going over the list of proposed additional conditions the legal counsel for the neighbors

presented. She said many of the conditions have been met and referenced them in the staff report and Road Improvement Agreement. She also said GCC is willing to commit to submitting the material for the Board of County Commissioners meeting 20 days prior to the meeting as long as the legal counsel for the neighbors is willing to commit to the same time line. She said GCC is willing to ensure that the experts that were involved with the design of the proposed buffering are available to the neighbors and staff. She said GCC would be willing to negotiate a new condition for outside council for the discussion of the buffering walls.

Ms. White said there is reason to believe a fair balance has been created with the Road Improvement Agreement and therefore GCC asks the Planning Commission to approve the project as proposed by county staff.

Mr. Danielson addressed concern with the lack of discussion about expansion of King II site and asked for discussion about solid waste disposal at King I.

Mr. Robbins commented on the things Ms. White said GCC has already agreed to. (Comments not picked up)

Chairman Tencza asked if the operations of the mine are not subject county regulation. Mr. Peduto said the Bureau of Reclamation and Colorado Division of Reclamation Mining and Safety regulate operations under the ground.

Chairman Tencza asked if waste disposal at King Coal I is subject to another permit. Mr. Murray said condition 19 recognizes the need for an additional Class II Land Use Permit to address the disposal of waste at King I. Chairman Tencza said it is a separate issue that staff will address. Commissioner Baizel said it should apply to this permit because if it cannot go to the other site, it has to stay at the current site.

Commissioner Minkler asked if there is anything in the conditions that prohibits the employees from using County Road 120 South. Mr. Murray said there are no provisions that limit what road the employees use.

Commission Gorton said they do not have to craft the language tonight because it will go to the BOCC and it is becoming part of the record. Mr. Peduto said the conditions do already contemplate alternative routes.

Chairman Tencza said the council for the neighbors and GCC should work out a time frame for document submittal before the Board of County Commissioners meeting.

Ms. Rodgers said the attorneys have drafted conditions and language if the Commissioners would like to include them in the decision.

Chairman Tencza said they have picked off a number of the issues and the remaining problems are very contentious and probably will not be solved tonight. He asked the Commission to express if they are interested in crafting a new condition.

Commissioner Malandra asked if there is anything drafted for the exclusive use of County Road 120 North for the trucks. Ms. Rodgers said it is an existing condition. Commissioner Gorton said the employees are not bound by the condition and the Public Works Department will exercise discretion during construction. Ms. Rodgers said there are traffic control standards that apply to construction zones. Mr. Smith said draft conditions 14 and 15 address the requirement that employees use southern route during construction.

Commissioner Gorton said this is a very difficult decision because the mine has operated for so long without a permit. He said in many ways it is a historical and compatible use by virtue of the fact that it has been there for 75 plus years. He said there were never any circumstances that limited production until now, but GCC has submitted a compatible application. He said the county can now work with GCC and that is better than the denying the permit and beginning an even more strenuous process. He said he knows the people that live on County Road 120 North have gotten the short end of the stick because traffic is concentrated to that road but there are compelling reasons for the use of that road. He said staff and GCC have worked through this and in the end the balance is there for a reasonable improvement to the situation.

Commissioner Baizel said she is very uncomfortable with 77 conditions and it makes her nervous because it has taken so long. She said it seems as though the Commission is allowing them to say they will do stuff without knowing they will.

Commissioner Minkler said having more conditions puts more on GCC to take care of these issues, as well as the penalties that will be triggered if they do not comply. He said he feels comfortable with the agreement as it is. He added that he feels for the residents and would like to see the road improvements completed sooner.

Chairman Tencza said this is a no win situation because the neighbors do not win and GCC has consented to cut back so many trucks. He said as a businessman he thinks the incremental increase in truck limits is a good incentive for GCC. He said what bothers him is the lack of road way design and right of way acquisition.

Commissioner Gorton moved to approve Project #2012-0089, GCC Energy King II Coal Mine Class II with 9 findings and conditions A (1 thru 7) B (1 thru 5) and C (1 thru 22). Commissioner Minkler seconded the motion as stated and the question was called.

RESULT:	APPROVED [4 TO 1]
MOVER:	Tom Gorton, Commissioner
SECONDER:	Charly Minkler, Commissioner
AYES:	Tom Gorton, Jim Tencza, Charly Minkler, Geri Malandra
NAYS:	Lucy Baizel

V. Other Business

VI. Adjournment

The meeting was closed at 9:55 AM

Chairman Tencza entertained a motion to adjourn. Commissioner Gorton moved to adjourn and the meeting was adjourned at 9:55.