

The Board of County Commissioners met in regular session on January 12, 2016. Those present for the session were Lynn Padgett, Chair; Ben Tisdell, Vice-Chair; Don Batchelder, Member; Connie Hunt, County Administrator; Marti Whitmore, County Attorney; and Hannah Hollenbeck, Deputy Clerk of the Board.

- **Note – This meeting was recorded for reference purposes.**

A. 9:00 Call to the Public:

The "Call to the Public" agenda item is a time when the public may bring forth items of interest or concern. No formal action may be taken on these items during this time due to the open meeting law provision; however, they may be placed on a future posted agenda if action is required.

Land Swap at Canyon Creek

Bob and Helen Olivier, representing Yankee Boy Conservation Association (YCBA) informed the Board that they were concerned about a proposed land trade in Canyon Creek, near the Thistledown area. Bob Olivier distributed a map of the proposed land swap, and a draft resolution he wanted the Board consider adopting. He explained that the blue areas of the map would become private land, and the yellow areas would become property of the United States Forest Service (USFS). He said that he was concerned specifically about a portion of land that was very close to the County Road as well as to the river. He wanted the Board to make a general statement, through his proposed resolution, that the Board was interested in protecting, preserving, and increasing the public lands around roads and rivers.

The Board had recently become aware of the land swap and needed more information about the specifics about the swap before they felt comfortable commenting. Hunt would coordinate with the USFS for an agenda item on January 26th; if the Board directed, comments would be prepared to the scoping letter.

Impacts on County Roads from Marijuana Cultivation Facilities

Richer Wojciechowski, County Road 22 resident, stated that the County was potentially looking at receiving a large amount of revenue from the 5% Marijuana Cultivation Facilities Excise Tax. He wondered if any of the funds would be dedicated to improving County Road 22, as there were three-to-four facilities that used that road for access. Bryan Sampson, Associate Planner, clarified that there were two approved facilities and one pending application that used County Road 22 for access to their facilities.

Commissioner Padgett stated that not less than 20% of the funds received from the excise tax would be dedicated directly to Road and Bridge. She added that every application that had been reviewed by the Board did not need a commercial driveway entrance, and estimated their average daily vehicle trips to be three-to-seven, which was equal to, or less than what was expected from a single-family residence.

Wojciechowski stated that he thought it would be fair to the community that lived along that section of road to benefit specifically from the tax.

B. 9:31 Public Hearing – Land Use Code Amendment – Boundary Adjustments:

- 1. Review and consideration of a recommendation from Planning Commission to amend the code section addressing Lot Line/Boundary Agreements:**

Mark Castrodale, County Planning Director, was present.

Commissioner Padgett opened the public hearing and stated that the revision was initiated by a citizen-request to simplify the lot line/boundary agreement section of the Land Use Code.

Castrodale provided a brief history of the project, and stated that the revision would replace "lot" with "parcel." The revision was supported and recommended by the Planning Commission.

Commissioner Padgett opened the hearing for public comment. Hearing none, Commissioner Padgett closed public comment and closed the public hearing.

- 2. Request for adoption of Resolution 2016-004 Approving an Amendment to the Ouray County Land Use Code pertaining to lot line/boundary agreements:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to adopt Resolution 2016-004 Approving an Amendment to the Ouray County Land Use Code pertaining to lot line/boundary agreements. The motion carried with no discussion.

C. 9:34 The Board of County Commissioners convened as the Local Licensing Authority to consider the following item:

Request: Approval of a Marijuana Cultivation Facility License
Applicant: Paul and Crystal Brackman – Representing: High Mesa Farms, LLC
Location: 225 Melody Lane

Mark Castrodale, County Planning Director, was present. Paul and Crystal Brackman, Taylor Yates, and Aubrey Johnson, representing High Mesa Farms, were present.

Castrodale presented the application. He explained that the proposed facility was located in the North Mesa Zone, where cultivation facilities were allowed by use-by-right. Castrodale noted that the application was accepted on November 15th, prior to the adoption of Ordinance 2015-004, as a result, the application

was reviewed under the provisions of Ordinance 2014-003. This would be the fifth, and final, application accepted for 2015.

Castrodale continued to say that water would be supplied by Tri-County; the application materials contained a letter from Tri-County attesting that domestic water could be used for marijuana cultivation facilities and that the supply was adequate. Castrodale concluded the presentation by stating that the application had met all requirements and standards set forth by the Ordinance; staff recommended that the Board approve the application with the fifteen conditions.

Commissioner Padgett asked if an analysis had been completed on anticipated vehicle trips per day. Castrodale said there had not been an analysis performed.

Commissioner Tisdell asked if the Weed Department had been invited to comment regarding the revegetation on the berms. He thought it should be done with a County-approved native seed mix. Castrodale thought it was a good recommendation and stated that the Weed Department had not reviewed the application.

The applicants began their presentation. Crystal Brackman distributed copies of High Mesa Farm's mission statement. She explained that some berms had already been constructed and that they were planning on using a native seed mix. She was happy to have a recommendation of a seed type from the County's Weed Manager.

Speaking to the Board's question regarding vehicle trips per day, Crystal Brackman explained that they were not anticipating excess traffic, due to their facility's small size. She thought 3 vehicle trips per day was a safe estimate. She explained that no one would be living at the facility, but an employee would be stationed on site in order to manage the light deprivation system, and to act as additional onsite security.

Commissioner Tisdell thought it might be pertinent to add a condition stating that the applicant's comply with the County's excise tax. The Board agreed it would be useful.

Crystal Brackman presented a sample of the polycarbonate siding they were planning on using. She stated that there would be some reflectivity, but she thought it was less than the all-white style that was also popular. She stated that if the reflectivity was to become an issue, they would be happy to figure out another solution.

Commissioner Padgett asked for public comment.

George Kerber, County Road 22 resident, was concerned about the potential odor and noise. He stated that he was not familiar with marijuana cultivation facilities, but pointed out that there was a significant odor issue emanating from facilities in Pitkin County. He thought that if he could hear or smell the facility, it was a nuisance.

Commissioner Tisdell asked if Kerber's direct neighbor's vegetable greenhouse produced nuisance odors or noises. Kerber said that it did not, but reiterated that he didn't know enough about marijuana cultivation facilities to know if there would be issues.

Scott Bridgeman, County Road 22 resident, stated that he hoped the business would be successful, but pointed out that the area was mainly residential and he was interested in preserving that characteristic. He shared some of Kerber's concerns, but thought there might be more neighborly ways to mitigate them. He said he had no issues with the facility as long as it was done with good judgement and consideration for the residents who lived in that area.

Commissioner Padgett stated that she had received public comment via a phone call from Patricia and Al Matthews, who owned the parcels directly adjoining and adjacent from the proposed facility. Patricia Matthews was concerned about an irrigation ditch and potential contamination from the facility. Paul Brackman stated that there were no active irrigation ditches on the parcel.

Yates addressed Kerber and Bridgeman's concern regarding noise. He stated that the greenhouse fan was low velocity, and the harvest was done through continuous harvest, so noise and smell were not likely to be an issue. If it did become an issue, Yates stated that carbon filters could be employed to scrub the air, if necessary.

Paul Brackman addressed Kerber's concern about odor: he said that the cultivation facilities in Pitkin County were right next to the highway, and were much, much larger than the proposed facility, which lead to the prevalent odor. He said it was not High Mesa Farm's plan to build a facility that size.

Crystal Brackman finalized the presentation by saying that they understood and appreciated why people chose to live in the unincorporated portion of Ouray County. She said that the company wanted to prevent problems from occurring; she said it was the Farm's goal to stay low key and keep nuisances to a minimum.

Commissioner Tisdell requested that the following conditions be added: "1) Applicant shall at all times maintain full compliance with Ouray County's excise tax. 2) Daily vehicle trips shall not exceed the level of a single-family resident with an accessory dwelling unit. 3) Disturbed areas shall be reseeded with a Ouray County approved seed mix, and irrigated if necessary." The Board agreed.

Commissioner Batchelder requested the following revision to the existing conditions: 7) "...Applicant shall at all times comply with other portions of the Land Use Code that may apply." 13) "...offensive odors emitting as a result of this operation will be required to be mitigated." 14) "...compliance with Ordinance 1995-01 and Ordinance 1992-01." The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve a Marijuana Cultivation License for High Mesa Farms, LLC with the conditions stated by staff and as amended by the Board, with three (3) additional conditions.

Commissioner Padgett requested a roll call vote.

A roll call vote was taken on the motion with the following results:

Commissioner Batchelder voted in the affirmative.

Commissioner Padgett abstained.

Commissioner Tisdel voted in the affirmative.

There was no discussion. Motion passed.

10:38 The Board took a short break:

D. 10:47 General Business:

1. Review and acceptance of the December, 2015 Public Trustee Reports:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to accept the December, 2015 Public Trustee Reports. The motion carried with no discussion.

2. Request for approval of warrants:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the warrants as presented. The motion carried with no discussion.

3. Request for approval of the following minutes:

a. January 5, 2016 Minutes:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the January 5, 2016 as slightly amended. The motion carried unanimously.

4. Request for adoption of Resolution 2016-003 Acknowledging Change in Ditch Adjacent to County Right-of-Way:

Whitmore provided some background information on the resolution.

Commissioner Padgett suggested that an additional "Whereas" clause that stated "whereas, the County appreciates the voluntary desire of Andrew VanDenBerg to increase efficiencies and continue irrigation as historically irrigated land." The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Resolution 2016-003 Acknowledging Change in Ditch Adjacent to County Road Right-of-Way. The motion carried.

5. Request for approval and authorization of Chair's signature on Agreement to Re-Locate Fence on County Road 24 between Ouray County and Andrew VanDenBerg:

Commissioner Batchelder was concerned about the open-ended terms in item 4). He thought amending it to 10-20 years would be a better timeframe.

Commissioner Padgett said that the Road and Bridge Supervisor had previously mentioned that the area of County Road 24 contemplated in the agreement was very narrow. She appreciated that the agreement would benefit the land owner, but was worried about permanently losing a public asset. The Board had additional questions about the proposed section of road. Hunt and Whitmore thought it would be best to obtain more information about the geographic features and put the item on a subsequent meeting agenda. The Board agreed.

6. Request for approval and authorization of Chair's signature on Access Agreement between Whittington's and Ouray County for Hieland Ditch:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Access Agreement between Whittington's and Ouray County for Hieland Ditch. The motion carried with no discussion.

7. Request for approval and authorization of Chair's signature on Colorado Opportunity Scholarship Initiative Grant Letter of Intent: (ratification)

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to ratify approval and authorization of Chair's signature on Colorado Opportunity Scholarship Initiative Grant Letter of Intent. The motion carried with no discussion.

8. Request for approval and authorization of Chair's signature on Ouray County 4-H Event Center Elevator Service Agreement with Colorado Custom Lift and on its Fiscal Impact Form:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Ouray County 4-H Event Center Elevator Service

Agreement with Colorado Custom Lift and on its Fiscal Impact Form. The motion carried with no discussion.

9. Request for approval and authorization of Chair's signature on Letter of Support for Ridgway Area Trails (RAT) Colorado Parks and Wildlife (CPW) Non-Motorized Trail Grant Application: (ratification)

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to ratify approval and authorization of Chair's signature on Letter of Support for Ridgway Area Trails (RAT) Colorado Parks and Wildlife (CPW) Non-Motorized Trail Grant Application. The motion carried with no discussion.

E. 11:10 The Board of County Commissioners convened as the Board of Health to consider the following item:

1. Request for approval and authorization of the Public Health Director's signature on Telluride Foundation 2015 Community Grant Notification for the 2016 Telluride Farmer's Market and approval and authorization of Chair's signature on the Fiscal Impact Form:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize the Public Health Director's signature on Telluride Foundation 2015 Community Grant Notification for the 2016 Telluride Farmer's Market and approval and authorization of Chair's signature on its Fiscal Impact Form. The motion carried with no discussion.

D. 11:10 Commissioner/Administrative Reports:

Marti Whitmore, County Attorney, had nothing to discuss.

Connie Hunt, County Administrator, discussed the following:

- 1) **2015 Close-Out Items** – Hunt stated that she would be working on finalizing year-end financials, and finalizing the 2016 Budget.

Commissioner Padgett discussed the following:

- 1) **Impacts of Federal Legislation on Ouray County Businesses** - Commissioner Padgett reported that a local Ouray County business had been affected by a recent ruling on a copyright royalty and webmaster settlement act. She asked if the Board would be supportive of a resolution to support a federal policy that would reinstate the lower tiers that would allow the Ouray County business to continue to operate. The Board agreed, and further agreed to authorize Whitmore to do some research about copyright laws.

Commissioner Tisdel discussed the following:

- 1) **County Road 361** - Commissioner Tisdel asked Whitmore if there was any follow up from the letter she sent to Ouray Silver Mines and Ouray County Road and Bridge regarding more efficient parking near the gate at Senator Gulch. Whitmore said that she was able to meet with representatives from Ouray Silver Mines who did not object to parking more efficiently. She referenced an email the Board had received from Ouray Silver Mines depicting the challenges of parking large equipment when other cars were present near the gate. Ouray Silver Mines had also posed several solutions to mitigate parking issues right at the gate. She had not had time to follow up with the USFS regarding Ouray Silver Mines suggestions.

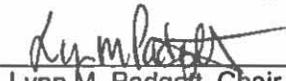
After Commissioner / Administrative Reports Elisabeth Lawaczeck, Public Health Director was present to inform the Board that the Department had received partial funding for a Regional Mental Health Grant. She was awaiting further details, but it would have impacts on the 2016 budget.

11:48 The Board adjourned the regular meeting.

Attest:


Michelle Nauer, Clerk and Recorder
By: Hannah Pohlenbeck, Deputy Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO


Lynn M. Padgett, Chair


Ben Tisdel, Vice-Chair


Dor Batchelder, Commissioner