

The Board of County Commissioners met in regular session on January 26, 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. 9:03 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.

De-icing Material Concerns

Commissioner Padgett stated that she had received an email from a resident who was concerned about the potential for waterway contamination from the County's road de-icing materials. Commissioner Padgett had communicated to the emailer that reviewing alternative de-icing products was on the Board's priority list, and informed the emailer about the research done previously on fly-ash and magnesium (mag) chloride. She cited other materials and the dangers of respiratory illness when in confined and non-confined spaces.

Affordable Housing

Al Lowande, Log Hill Mesa resident, was present to speak on behalf of the Ridgway/Ouray Community Council (ROCC) regarding the affordable housing crisis in Ouray County. He said that ROCC was disappointed with the lack of movement from the County on the issue, despite the fact that numerous public forums had identified it as the number one issue plaguing the County. He said that ROCC wanted to see the Ouray County Housing Authority (OCHA) meet. He mentioned that the Town of Ridgway was holding a meeting on affordable housing that evening. He said that the Town of Ridgway was not ignoring the issue, and that the County was obviously ignoring the issue, as it had not been on a BOCC meeting agenda yet.

Commissioner Padgett responded by stating that affordable housing had been a constant subject of update and discussion by the Board during their Commissioner/Administrative Reports agenda item. She added that the Board would be discussing the topic in work session in the summer, as that was when OCHA indicated they would be prepared to discuss the guidelines and progress. She reminded Lowande that the OCHA was not set up in a manner that allowed the authority to accept funds outside of a specific project.

Commissioner Batchelder, the Board's representative on OCHA, said that there had been some scheduling conflicts. He was hoping to schedule a meeting the next few weeks.

Commissioner Tisdell added that the Board had been very active on the short-term rental issue, and how it affected affordable housing. He said the Board would be holding a work session on short term rentals in February.

Commissioner Batchelder said that the affordable housing issue was incredibly complex and suggested that if Lowande or ROCC had any specific suggestions to forward them to the Board or to OCHA.

Lowande thought that having a housing authority that could only be funded for specific project was self-defeating. He thought it needed to be changed quickly and that a professional staff needed to be employed to find projects. Commissioner Padgett agreed. Lowande urged the Board to find a way to fund OCHA.

Commissioner Batchelder suggested that ROCC approach the City of Ouray. He said that the IGA was drafted to appeal to the City of Ouray's concerns, and some of the constraints insisted upon by the City of Ouray hampered the organization. He thought that if there was a citizen's push to redraft the agreement, the City may be more amenable to amending it.

Chris Pike thought that it would be helpful if a line item could be set up within OCHA to allow people to start donating to future projects.

B. 9:38 Road and Bridge Reports:

1. Road and Bridge Report:

Chris Miller, Road and Bridge Supervisor, was present.

Miller presented his monthly report.

Miller informed the Board that a company from Norwood had been working with Montrose County to test a new sodium-based product. Miller said that the price was half the price of the mag-chloride. As it was time for the County to request bids for mag-chloride, the Board instructed Miller to draft the request for proposal to encompass non-mag-chloride products.

Miller addressed the parking issue at the gate near Senator Gulch on County Road 361. He wasn't sure that more parking could be created without beginning a serious project. He said that Ouray Silver Mines was hesitant to park or leave equipment on the other side of the gate, as it was in a slide area. He said that Ouray Silver Mines had been trying to park more efficiently, but needed to have access to power to plug the equipment in.

Miller reported that the cable was installed on County Road 5. Miller and Whitmore would work to obtain the contact information for those who needed access.

Miller reported that the erosion problem on County Road 17 had worsened. He had asked EarthTech West to estimate a rough bid to repair the road. Hunt added that there was still some fund balance left over from the bond that could be used, if needed.

Commissioner Padgett asked that Miller and Hunt start developing a list of potential projects that could be funded if gas prices continued to fall. Miller immediately identified the fuel system as being in need of upgrading.

C. 10:02 The Board convened as the Board of Social Services to consider the following items:

Carol Friedrich, Director of Social Services, was present.

- 1. Request for approval of the following reports and authorization of the Chair's signature on certification page:**
 - a. County YTD Expenditures, October, 2015**
 - b. Expenditures through EBT, November, 2015**
 - c. Check Register, November 2015**
 - d. County Allocation / MOE Report, OCT-15**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the reports and presented and authorized Chair's signature on the certification page. The motion carried with no discussion.

- 2. Caseload Report, December, 2015:**
- 3. Request for approval and authorization of Chair's signature on a Contract for Legal Services with Michael D. Hockersmith, juvenile child protection legal services, as reviewed by counsel:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on a Contract for Legal Services with Michael D. Hockersmith, juvenile child protection legal services, as reviewed by counsel. The motion carried with no discussion.

- 4. Ouray County Medical Fact Sheet:**

Commissioner Padgett pointed out several challenges of rural residents to access health care.

D. 10:14 General Business:

- 1. Request for approval of warrants:**

M/S/P – Motion was made by Commissioner Batchelder to approve the warrants as presented.

Commissioner Tisdel had several clarification questions. Commissioner Padgett asked that the annual dues invoice for CCI be located and paid promptly. The Board agreed.

Commissioner Tisdel seconded the motion. With no further discussion, the motion carried.

- 2. Request for approval of the following minutes:**
 - a. May 6, 2015 Public Hearing Minutes:**
 - b. May 12, 2015 Public Hearing Minutes:**
 - c. January 12, 2016 minutes:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the May 6, 2015 Public Hearing Minutes, May 12, 2015 Public Hearing Minutes, and January 12, 2016 minutes. The motion carried with no discussion.

- 3. Request for adoption of Resolution 2016-005 approving an Application for a License for Marijuana Cultivation for High Mesa Farms, LLC: *(This application was approved by the Board on January 12, 2016)***

Commissioner Batchelder asked the condition 7 include the language approved by the Board during the January 12, 2016 application review.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Resolution 2016-005 approving an Application for a License for Marijuana Cultivation for High Mesa Farms, LLC as amended. The motion carried unanimously with no discussion.

- 4. Request for approval and authorization of Chair's signature on the Designation of Representative to County Health Pool form:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve Chair's signature on the Designation of Representative to County Health Pool form. The motion carried with no discussion.

5. Review of advertisement for additional Road Committee members and request for approval to proceed with advertisement:

The Board requested that the advertisement be amended to solicit for representatives in the underrepresented areas on the Road Committee.

The Board directed staff to proceed with soliciting additional members to serve on the Road Committee.

6. Request for approval and authorization of Chair's signature on Letter of Support for Grant Application of the Fairway Pines Estates Owners Association to the Colorado River Water Conservation District:

Chris Carr, Fairway Pines Estates Owners Association, was present.

The Board briefly discussed making minor revisions to the letter, but ultimately decided to change the request amount to \$100,000 and a minor word change in the last paragraph.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on a Letter of Support for Grant Application of the Fairway Pines Estates Owners Association to the Colorado River Water Conservation District as amended. The motion carried with no discussion.

8. Request for award of the Public Telecommunications Services proposal:

Randy Cassingham was present.

Commissioner Padgett requested that the mileage rate not be hardwired, but instead be simply stated as "the IRS reimbursement rate." The Board agreed.

Commissioner Tisdel was concerned that Cassingham's proposal for salary was higher than what was budgeted in the 2016 budget. Hunt said that the public telecommunications budget would allow for the increase in salary.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Batchelder to award the Public Telecommunications Services proposal to Randy Cassingham for \$7,800 and mileage reimbursement. The motion carried with no discussion.

10:43 The Board took a short break:

E. 10:49 Discussion and consideration of a Board response to the Rockbiter Corporation regarding a proposed Land Exchange in the Canyon Creek area:

John Almy, Liz Mauch, and Corey Wong, representing the United States Forest Service (USFS), were present.

Commissioner Padgett explained that a request had been received from a member of the public for the Board to put together a comment letter to the Forest Services' scoping letter. The Board wanted to gather the various stakeholders in order to greater understand the issue.

Almy stated that all comments were due on February 8th by midnight.

Commissioner Tisdel asked if the USFS had begun the survey process. Almay replied that the USFS had begun the process, including some surveys and an environmental analysis. He said the USFS was taking input from all entities and individuals and considering all relevant information presented.

Commissioner Tisdel asked about a specific parcel that abutted County Road 1. Almy stated that the parcel went to the physical edge of the road. Commissioner Batchelder asked if the parcels would be subject to any easements that may exist. Almy said they would not be. The USFS was maintaining that County Road 361 was a USFS road and that it did not belong to the County. Whitmore pointed out for the public that the USFS and the County had a difference in opinion regarding the status of the road. The County and the USFS had essentially agreed to disagree. Commissioner Batchelder asked if anyone knew the width of the road through the particular section near the parcel. Whitmore didn't know. Commissioner Tisdel said that there was a district court decision that defined the width of the road. Whitmore said that it was her understanding that the legal representation for the Ouray District of the Forest Service had not been persuaded by the court decision.

Commissioner Padgett asked for public comment.

Jerry Hellman, Chalet Haven subdivision resident, was concerned about the restrictions on public access if the land swap was to go through. Wong said that it was not the USFS's intention to restrict access. He said that the USFS could theoretically restrict access; however the ultimate use of the land was determined by County planning and zoning. Wong said that that the environmental analysis would help inform the USFS to the highest and best use of the land, prior to the land swap. Wong said that it was not the USFS's preference to place restrictions on the land.

Commissioner Padgett explained that the parcels were located in the Alpine Zone and that the uses-by-right were defined by the Land Use Code. Other uses could be granted by a special use permit (SUP).

Commissioner Tisdel asked Wong if the highest and best value of the land could be public use. Wong said that it could be the case, but the USFS tried to avoid those kinds of cases. Almy said that the USFS needed to demonstrate that it was in the best public interest to put the land swap forward. If that was not the case, the land swap would not move forward.

Commissioner Padgett said that the property owner was contemplating future uses, such as a zip line or mine tours, which uses were not allowed by the Land Use Code in the Alpine Zone. Wong said that the information would be used in the environmental analysis.

Commissioner Padgett asked Whitmore if the land would be designated as private land or if it would be designated as USFS private parcels of land. Whitmore said that she had not had that conversation with the County Planning Director yet, but reiterated that commercial uses in the Alpine Zone were extremely limited and those not allowed by the Code would require a special use permit or a change in the zoning.

Almy explained that there were 12 parcels of National Forest land contemplated in the swap; some parcels were very small, the largest was eight acres. Almy said that the USFS considered them to be individual parcels. Wong clarified that Almy was not using the term "parcel" as a development term.

Carol Dale, Chalet Haven property owner, was concerned about public access to Canyon Creek. She wondered if there was a process to place an easement for access along the river for recreation use. She asked if the USFS could initiate that process or if the County could.

Almy wanted to clarify that the majority of the Canyon Creek parcel was not on National Forest land, but it was private land owned by Rockbiter. With the exception of a small corner, the proposed land swap would not change the status of any of the properties along Canyon Creek.

Commissioner Padgett wanted to know if any parking issues would be created on County Road 361 as a result of the land swap. Hellman said that there was currently a locked gate on the access road.

Commissioner Tisdell asked about the time frame. Almy thought that 60 days after the end of the comment period ended was an optimistic timeframe.

Harlan Smith, property owner of the subject parcels, explained that the previous owner had cut in an access road. When he purchased the property he began working with the USFS to determine the best access points. He had originally approached the Chalet Haven subdivision for access on a roughed-in road in the subdivision, but they denied him access. He explained the hardships and extreme costs associated with putting in a bridge. He explained that the land to be exchanged was 80% non-buildable. He said that the boundary of one parcel was pushed back 50 feet to maintain public access to Canyon Creek, but ultimately needed the land swap in order to connect two parcels for ease of access.

Sabrina Butler said that the value of the parcel was very low, due to the access issues, but thought that if access was granted, the value of the parcel was going to increase.

Bob Olivier, representing the Yankee Boy Conservation Association (YBCA), said that his main concern was decreased public access; he said that the land swap would result in decreased access. He thought an easement for public access could be added as a term for the swap. He thought the easement could be held by the County, the property owner, the USFS, or a land trust company. He thought it was as simple as the property owner signing acknowledging that public would be recreating in that area.

Hellman added that 12 of the 17 property owners in Chalet Haven did not want to see the swap go forward for commercial development. He thought that any commercial use decreased the subdivision's property value.

Commissioner Batchelder said that the Board's comment letter should include two main points: first, if the County's Land Use staff determined that additional dwellings units would be created as a result of the swap, it would constitute an illegal subdivision as defined by the Land Use Code and the Board would be opposed to that. Second, the letter should include a general statement that if the swap decreased the current public access to Canyon Creek, an easement would need to be placed on the parcel that stated that public access not be decreased beyond what was currently allowed. He added that if there were impacts to the County Road, the Board would need to review the impacts.

Commissioner Tisdell stated that the property owner came into ownership of the properties with full knowledge of the issues with access. He did not think any hardship was created for the owner. He was hesitant to support the land swap in its current expression.

Commissioner Padgett thought it would best to state the Board's concerns in more neutral manner. She thought an executive session was needed to discuss the particulars. She added that the Board needed to know the width of the road. She wanted to know if the Forest Service would take umbrage with the County maintaining the County Road shoulder in that area. She was also concerned if recreation would be limited, as 80% of Ouray's economy was derived from recreation and tourism. Commissioner Padgett thought that a survey was needed on the parcels.

The Board directed staff to obtain additional information for an executive session.

F. 12:15 The Board of County Commissioners convened as the Board of Health concerning the following items:

Elisabeth Lawaczek, County Public Health Director, was present.

1. Public Health Quarterly Update:

Lawaczek presented the quarterly update.

2. Request for approval of position replacement for the Administrative Assistant position in the Public Health Department pursuant to Resolution 2010-048:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve and authorize Chair's signature on Position Replacement Memo for the Administrative

Assistant position in the Public Health Department and to move forward with advertising. The motion carried with no discussion.

D. 12:15 General Business:

7. Review/discussion/decision of Board of County Commissioner 2016 Goals and 2015 Accomplishments:

The Board had several additions to the document. Hunt would combine the Board's changes.

G. 12:20 Commissioner/Administrative Reports:

Marti Whitmore, County Attorney, discussed the following:

- 1) **Out of Office** – Whitmore said that she would be out of the office until February 9th for Water Congress and other obligations.
- 2) **Colorado River Water Conservation District Board Meeting** – Whitmore reported that she had attended the meeting the week prior; the major topic of discussion was the Colorado River Compact.

Connie Hunt, County Administrator, discussed the following:

- 1) **Grant Projects Update** - Hunt reported that kickoff meetings were held for the Ridgway Property/EMS Facility and the Courthouse Restoration Project. The Fairgrounds Manager would be updating the Board on the Fairgrounds Landscaping Project during a February regular meeting.
- 2) **Public Improvement District Update** – Hunt said that she had meet with the group and the County's engineering firm to get a general idea of engineering costs for the project. An agenda item would be added to the next BOCC meeting agenda in order to update the Board on the project and decide on future agreements, processes, and reimbursements if the ballot question was to pass.
- 3) **Tri-Agency Dinner** – Hunt said that the dinner was tentatively scheduled for February 22.

Commissioner Padgett discussed the following:

- 1) **OHV Amendment** - Commissioner Padgett reported that she would be testifying on the topic on Wednesday. She had submitted the Commissioners' comments.
- 2) **Change of BOCC Meeting Dates** - Commissioner Padgett requested that the February 23 and corresponding February 24 work session be changed to February 16 and 17. The Board agreed.

Commissioner Tisdell discussed the following:

- 1) **Public Lands** - Commissioner Tisdell reported that Senator Bennett had requested that the County's restate their support for public lands. Commissioner Padgett stated that she was inclined to restate the resolution the Board already had on the topic and draft a letter of support, but needed more information on the initiative; she was waiting to hear back from Senator Bennett's office.
- 2) **Other topics** - Commissioner Tisdell discussed the Water Conference hosted by the Shavano Conservation District and CCI priorities. Commissioner Padgett said that the Commissioners could vote individually for the priorities.

Commissioner Batchelder discussed the following:

- 1) **County Road 24** - Commissioner Batchelder said that he had received several phones calls from residents concerned about the impacts on County Road 24 as a result of the Ridgway road construction project.

Hannah Hollenbeck, Deputy Clerk of the Board, discussed the following:

- 1) **County Road 24 Public Meeting** - The Board scheduled a public meeting to discuss County Road 24 on February 17th at 5pm.
- 2) **WRETAC Appointment** – Hollenbeck reported that the Board's representative needed to be reappointed. The Board agreed to reappoint Glenn Boyd for another four year term; the reappointment would be included on the next meeting agenda for ratification.

12:49 The Board adjourned the regular meeting.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO



M. Nauer
Michelle Nauer, Clerk and Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

L. M. Padgett
Lynn M. Padgett, Chair

B. Tisdell
Ben Tisdell, Vice-Chair

D. Batchelder
Don Batchelder, Commissioner