

The Board of County Commissioners met in regular session on May 3, 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. Commissioner Padgett joined the meeting by phone for the first half of the meeting; Commissioner Tisdell acted as Chair.

- **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.

County Road 1 Public Improvement District (PID) Update

Dick Krutzen reported that the PID group had collected approximately \$7,000 of the \$10,000 needed; he added that they had secured 150 signatures on their petition. Krutzen said that he was hoping to collect 300 signatures. The PID group would be hosting two public meetings in order to present the project and answer questions from the public.

Krutzen said that Colorado statute specified that the Board set the amount of a bond in order to reimburse the County for the cost of the proceedings in the event that the initiative failed.

Krutzen said that there had been some concern about who would select the contractor for the project, and who would be responsible for housing the funds. He was hoping to clear up some misconceptions during the public meetings. He said that some residents were concerned about off-highway vehicle (OHV) use, if the road was to become paved; currently, Ouray County prohibited OHV travel on paved County Roads. Commissioner Padgett clarified that the County prohibited non-agricultural use of OHVs on paved County Roads. The Board retained the ability to allow or disallow OHV use on County Roads. She reiterated that agricultural use of OHVs on County Roads was always allowed.

Krutzen distributed draft intergovernmental agreements (IGA) and resolution drafts for the Board's review. He said that it was imperative for the Board to address the questions in the draft documents before the ballots were sent out for the measure to have any chance at passing.

The Board authorized staff to research potential costs for some of the questions posed in the draft documents.

Krutzen said that residents in other areas, like County Road 5 and 14 were looking at potentially doing a similar PID. Commissioner Padgett said that she had broached the topic at a recent Road Committee meeting, and had said that County Road 5 did not have the dedicated tax base to support a PID process, but that a Public Access Grant could be explored for rehabilitating County Road 5.

G. 9:23 General Business

2. Request for approval of warrants:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve the warrants as presented. The motion carried unanimously.

3. Request for approval of the following minutes:

a. April 19, 2016 minutes:

The Board requested that a portion of the Elk Mountain Public Hearing be revisited for clarity. The minutes would be included on the next meeting agenda.

8. Request for approval and authorization of Chair's signature on the Letter of Intent to participate in the Colorado Opportunity Scholarship Initiative (COSI) (ratification):

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to ratify approval and authorization of Chair's signature on the Letter of Intent to participate in the Colorado Opportunity Scholarship Initiative (COSI). The motion carried unanimously with no discussion.

B. 9:31 Bob and Helen Olivier, YCBA Update:

Bob and Helen Olivier, Yankee Boy Conservation Association (YCBA), were present.

Bob Olivier reported that the 2015 year had been relatively similar to years prior; the Alpine Hosts and Campground hosts were hired and managed by the United States Forest Service (USFS) and were able to make a number of contacts. Commissioner Tisdell requested that the next update include a comparison of previous years' contacts. Olivier said that the hosts reported an increase of campers and users every year.

Olivier said that having a dumpster available for use was helping mitigate trash issues in the area. The Board requested that Olivier investigate other service providers in order to assure competitive pricing.

Olivier said that one of the biggest issues encountered was excessive speeding by dirt bikes. Hunt said that she would contact the USFS to see if a USFS agent could be more aggressive about patrolling and

writing tickets. The Ouray County Sheriff's Office would be included on any correspondence regarding enforcement on County Road 361.

Olivier said that it would be beneficial to add another sign along CR 361 that stated "Narrow Road, Sharp Curves. All vehicles must be prepared to STOP for oncoming traffic at any time." Olivier said that it would help to mitigate user conflicts. YCBA had funds to pay for the signs, but asked that the County. The Board agreed.

C. 10:01 The Board of County Commissioners convened as the Board of Adjustment to review the following applications:

- 1. Applicant: Steve and Carol Smith**
Location: Lot 1, Filing 1 of the Eagle Hill Ranch PUD
Purpose: Request for a variance from the setback standards set forth in Section 3.8(H)(4) of the Land Use Code

Bryan Sampson, Associate Planner, was present. Steve and Carol Smith, applicants were also present.

Sampson presented the application. He said that the property was situated in such a way that the proposed structure would either be violating the setback standards, or would be breaking the sky line. Sampson said that the parcel was exceptionally narrow, shallow and was a small lot for the Valley Zone. Sampson recommended that the Board approve the variance with two conditions.

Commissioner Batchelder asked when the lots were approved by the County. Sampson responded that it was accepted in 1982, which was prior to Visual Impact being adopted (1997).

Commissioner Padgett asked for confirmation of the building height. Smith responded that it was nineteen feet.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve the variance from the setback standards set forth in Section 3.8(H)(4) of the Land Use Code, with the two conditions as presented in the staff report. The motion carried unanimously.

10:16 The Board took a short break:

G. 10:20 General Business, Continued:

- 6. Request for adoption of Resolution 2016-020 Approving a Final Plat Amendment of the Elk Meadows Estates, Filing No. 2: (This application was approved by the Board at the April 26, 2016 meeting)**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to adopt Resolution 2016-020 Approving a Final Plat Amendment of the Elk Meadows Estates, Filing No. 2. The motion carried unanimously with no discussion.

- 7. Discussion and request for approval to proceed with governmental lease purchase arrangements with a financial institution:**

M/S/P – Motion was made by Commissioner Padgett and seconded by Commissioner Batchelder to authorize the County Administrator to move ahead with securing a governmental lease purchase as recommended. The motion carried unanimously.

H. 10:27 Commissioner/Administrative Reports:

Marti Whitmore, County Attorney, discussed the following:

- 1) Response Letter to Ouray District Ranger** – Whitmore said that she had distributed copies of the letter to the Board for review. She asked the Board if they would be willing to authorize Chair's signature on the letter, and ratify it at the next meeting. The Board agreed.
- 2) Pending and Completed Legal Matters**
- 3) Out of Office May 12-16**

Connie Hunt, County Administrator, had nothing to discuss.

Commissioner Tisdell discussed the following:

- 1) Short Term Rental Work Session** - Commissioner Tisdell confirmed that the work session was scheduled for May 11th.
- 2) Region 10 Broadband Project** - Commissioner Tisdell said that in a recent meeting San Miguel Power Association (SMPA) had disclosed what fiber existed between Montrose and Ouray. He said that the meeting had been encouraging.

Commissioner Batchelder had nothing to discuss.

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

- 1) County Road 23** - Hollenbeck said that she had received a phone call from a resident regarding the poor condition of County Road 23. The resident was disappointed with the state of the road and would be contacting the Commissioners individually.

- 2) **Road Committee Appointments** – Hollenbeck relayed that two members of the Road Committee would be expiring in June. The Board directed Hollenbeck to notify the members that their terms were expiring and ask if they would be willing to continue serving.

C. 10:41 The Board of County Commissioners convened as the Board of Adjustment to review the following applications:

2. **Applicant: Andrea Sokolowski and Grant Kleeves**
Location: Lot 1, Filing 1 of the Dallas Meadows PUD
Purpose: Request for a variance from the skyline break standards set forth in Section 9.3(C) of the Land Use Code.

Bryan Sampson, Associate Planner, was present.

Sampson presented the application. He stated that the lot was small for the Valley Zone; in addition, it was exceptionally narrow and shallow. He explained that the skyline break was due to the flat nature of the lot. The applicant had worked to minimize the degree of skyline breakage as much as possible.

Commissioner Batchelder said that the lot had been plotted before Visual Impact regulations had been adopted.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve a request for variance from the skyline break standards set forth in Section 9.3(C) of the Land Use Code.

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

- Commissioner Batchelder voted in the affirmative.
Commissioner Padgett voted in the affirmative.
Commissioner Tisdell voted in the affirmative.*

There was some discussion. Motion passed unanimously.

10:56 The Board took a short break:

D. 11:00 The Board of County Commissioners convened as the Local Licensing Authority to consider the following item:

1. **Request: Request for approval of a modification to application**
Application: Matthew Boisen, Colorado Cultivators, LLC
Location: 626 Sage Road

Bryan Sampson, Associate Planner, and Matthew Boisen, Applicant, were present.

Sampson presented the application. He explained that the modification was simply to use a shipping container as safe storage and for the locked security equipment. The exterior wall would be extended by two feet.

Commissioner Batchelder asked if the exterior appearance would remain the same. Boisen attested that it would remain the same; the shipping container would be placed, then the structure would be constructed around it.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve a modification to a marijuana cultivation facility application as requested by Colorado Cultivators, LLC. The motion carried.

E. 11:30 First Reading of Ordinance No. 2016-001 Amending the Marijuana Ordinance and Repealing Ordinances No. 2014-003 and 2015-004, Providing for Licensing and Permitting of Medical Marijuana Facilities, Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, and Retail Marijuana Stores, and Prohibit Marijuana Testing Facilities, and requesting a motion to schedule a second reading and to publish the Ordinance in full on May 4, 2016:

Mark Castrodale, Planning Director; Bryan Sampson, Associate Planner; Chris Sanchez, Grand Mesa Growers; and Craig Jackman, property owner, were present.

Whitmore explained that the Ordinance was based on staff recommendations as well as experience administering marijuana cultivation facility applications. She explained that some of the changes included requiring all facilities to include County staff on any communication with the State, or risk revocation or non-renewal of their license; other change included requiring Sheriff's Department review and background checks. The biggest change would be the requirement for license holders that had not constructed their facility within the year to show good faith assurances that they were working toward constructing their facility, or risk revocation or non-renewal. Sanchez asked several clarification questions regarding the requirement. Whitmore explained that the requirement was instituted to reduce the possibility of licensees from holding a license without doing anything. The licensee would need to demonstrate due diligence in holding the license.

Commissioner Tisdell brought up public comment received from Michael Hockersmith, who was representing a client. Hockersmith requested that the Board consider increasing the license term to two years, instead of one. Commissioner Batchelder thought that it may be pertinent to clarify that it was not the intention to deny licenses, but instead was to prevent speculation on licenses. Whitmore proposed

adding language that stated *"to ensure licenses are not held for speculative purposes."* The Board agreed to the addition.

Craig Jackman agreed that Hockersmith's request to increase license terms to two years was apt. He said that many of the licensees were having issues finding funding. He thought the short term added an unnecessary level of risk for potential investors. Commissioner Tisdell clarified that the Board was simply asking for a demonstration of progress, even if a facility had not been constructed. Jackman reiterated that there was too much uncertainty for investors and even potential applicants. Whitmore pointed out that a financial partner could not be brought forward without going through a State and County approved change or transfer application, and approval was never guaranteed. Jackman suggested that some example criteria be added into the Ordinance.

Whitmore suggested the change: *"To prevent speculation in obtaining and holding a license, no license renewal shall be issued for any facility that has not been in operation during the initial license period unless the Local Licensing Authority finds and determines, in its sole discretion, based upon detailed information provided by the Licensee, that the Licensee has exercised due diligence in developing the licensed facility, including, but not limited to, financing, construction plans, and application for other necessary permits, and that there is reasonable cause for nothing having completed the facility and commencing operation during the initial license period."* Jackman agreed that the new language addressed his concern. The Board agreed to the change. Whitmore confirmed that the added language was a simple clarification and did not change the intent of the Ordinance.

M/S/P – *Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve upon first reading Ordinance 2016-001 as amended and ordered the Ordinance to be published in full in the County Newspaper; second reading of the Ordinance was scheduled for May 24, 2016. The motion carried.*

After the motion carried, Jackman inquired to why labs and testing facilities were prohibited. Sanchez agreed, and added that it would be much more convenient for Ouray County to have a testing facility; they urged the Board to reconsider the prohibition.

12:02 Lunch

F. 1:30 Bureau of Land Management (BLM) Representatives:

1. Review and discussion of BLM 2.0, proposed planning rule:

Sarah Dawson, outgoing Acting Field Manager, and Dana Wilson, incoming Acting Field Manager, were present.

Dawson and Wilson explained the proposed planning rule. Dawson stated that the purpose of the changes were to update the BLM's ability to respond to social and environmental changes. The plan also would help provide meaningful opportunities to collaborate with different agencies and governments. She said that it would also help to improve landscape level planning and to become more transparent.

Dawson and Wilson presented a breakdown of the proposed changes. Dawson said that the comment period would be open until the end of May.

G. 2:01 General Business, Continued:

1. Discussion and possible action regarding Conservation Trust Mining Claims and Management Plan:

Pat Willits was present.

Willits provided a quick history on the project and the mining claims. He said that he had been working with the Ouray County Historical Society (OCHS) regarding the management plans in addition to looking into acquiring additional properties. Willits said that there were some concerns about an opening on the Gerard Claim near the opening to the Larson Brothers Mine; however new maps indicated the opening to the mine was not on the County owned claim. Willits said that the ultimate goal was to create a purchase and management model that could be replicated.

Hunt was concerned about the roles and responsibilities of the County Administrator in the management plan. She said that the position of County Administrator was not necessarily correlated with the roles and responsibilities written in the management plans. She requested that the paragraph be rewritten.

Willits said that the sign that was posted next to the old post office had gone missing and requested that the County contribute \$150 to replace it. The Board agreed.

Commissioner Batchelder said that the point of the management plan was to protect the County and to preserve historic mining claim properties. He was wary of committing to some of the recommendations in the management plans, like archeological and historical assessments.

The Board authorized Hunt and Whitmore to meet with Willits and OCHS representatives to discuss the management plans.

Willits said that there was an opportunity, through the support of a local association, to acquire two properties colloquially known as the Turntable Claims. The claims were adjacent to the historic railroad and were of historical significance to Ouray County. Willits said that the Trust for Land Restoration donated 14 claims to the USFS, and two remaining were being proposed for County ownership. Willits thought it was apt for the County to take over ownership of the properties and approach the OCHS to enter into a management agreement.

Whitmore said that acceptance of the properties were not without risk. She was concerned about future responsibilities regarding water runoff and watershed. She said that if it was the Board's pleasure to acquire the properties, the risk could be minimized.

Commissioner Batchelder said that if the properties were acquired by the County, he would like something included in the resolution that stated that it was in the best interest of the County for these properties to not be developed, but held for public enjoyment.

4. Discussion of Policy for Winter Maintenance of County Roads and Consideration of Resolution 2016-019 adopting such policy:

Bob Thomas, attorney, and Craig Morrison, Radio Dog Ranch, were present.

Hollenbeck explained that Thomas had provided some comments regarding some slight changes he requested. She distributed his emails with the redlined comments. Whitmore said that Thomas's revisions were simply clarifications and were not substantial. The Board agreed to the changes.

Commissioner Batchelder said that it was his understanding that the County Attorney would meet with Land Use and Road and Bridge staff to discuss implementation standards.

Morrison said that one of the biggest issues was the conflicts between user groups on County Road 5. He said that it would be helpful to post a sign on the road explaining that the road was a shared use road.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Resolution 2016-019 setting forth a policy for Winter Maintenance of County Roads, as amended. The motion carried.

5. Request for appointment of two (2) members to the Road Committee:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to appoint Vince Snowbarger and Ted Wolfe to the Road Committee for terms to expire on May 1, 2019. The motion carried with no discussion.

3:12 The Board adjourned the regular meeting.

Attest:



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

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

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Don Batchelder, Commissioner