

The Board of County Commissioners met in regular session on June 21, 2016. Those present for the session were Ben Tisdell, Vice Chair; Don Batchelder, Member; Connie Hunt, County Administrator; Marti Whitmore, County Attorney; and Hannah Hollenbeck, Deputy Clerk of the Board. Lynn M. Padgett, Chair, was not present. 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)

Barry Zane, Log Hill Mesa resident, stated that the language in the petition was unclear and nonspecific. He questioned the validity of the signatures on the petition due to the misrepresentation of the petition language. He did not think that the residents in the district were informed about the tax implications. Commissioner Batchelder clarified that Zane was not challenging the validity of the signatures based on the grounds that they were valid voters, but that they were obtained under false pretenses. Zane confirmed that this was correct.

Commissioner Tisdell encouraged Zane to familiarize himself with Colorado Revised Statutes (C.R.S.) 30-20-505, which laid out the basis for formally challenging the petition and to attend the public hearing in July.

Rockbiter Small Tracks Land Exchange

Michael Hockersmith, representing his client Rockbiter Corporation, was present to update the Board regarding the Small Tracts Land Exchange between Rockbiter and the United States Forest Service (USFS). He said that he and his client were exploring developing a contract between the County and Rockbiter that would limit home sites on the property to three, and would also list the County as a beneficiary. In addition, the contract would impose a 20 foot easement on a portion of the Thistledown claims along County Road 361. A further dedication in the easement would grant access to the public to Canyon Creek. Hockersmith said that there was still some opposition from residents in the Chalet Hayden. He asked if the direction was acceptable to the Board.

Commissioner Tisdell said that the County had previously written a neutral letter in March that cited residents' concerns regarding the exchange. Hockersmith clarified that the County would have an easement for the County Road right-of-way, and a document that would limit home sites. Commissioner Batchelder thought that it was a reasonable way to assuage the public's concerns and implement the provisions of the letter.

Commissioner Tisdell thought that there may be another way to address the situation that would be self-restricting through the Land Use Code. He thought that boundary/lot line adjustment could be utilized to achieve the limited three building parcels. Hockersmith didn't think that the process could be accomplished quickly; Whitmore agreed.

The Board was in support of Whitmore further reviewing the documents for consideration by the Board at a future meeting.

B. 9:37 Road and Bridge Reports:

Chris Miller, Road and Bridge Superintendent, and Steven Calkins, Road and Bridge Assistant Superintendent, were present.

2. Discussion and consideration of County Road 5 Road Agreement:

Phil Blackford, Blackford Welding and Construction, was present.

The Board agreed to fill the blank in Section 1 with "to a point approximately one-half mile to the south." Blackford indicated that the work would be completed by September 1, 2016.

Commissioner Batchelder suggested that "At the completion of Work, the road surface shall be at a minimum the same or better than what existed when work commenced" be added to Section 1(c). The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve and authorize Vice-Chair's signature on County Road 5 Road agreement, as amended. The motion carried.

9:47 The Board took a short break and reconvened at 9:51:

1. Road and Bridge Report:

Sheriff Dominic "Junior" Mattivi, was present.

Miller reported that there was a problematic parking situation at Orvis Hot Springs, along County Road 3. Mattivi reported that there had been two hit-and-run incidents that weekend alone. Miller requested permission to put up "No Parking" signs along the County Road right-of-way where trailers and oversized vehicles sometimes parked. Commissioner Tisdell was concerned about restricting parking for trailers and

oversized vehicles, as there was limited parking for those kinds of vehicles. He asked if the operators of Orvis Hot Springs had been contacted to discourage patrons from parking there. Mattivi said that deputies had spoken with the attendants, and that they did attempt to discourage patrons from parking along the right-of-way. Commissioner Batchelder thought it was reasonable to put up the signs. Commissioner Tisdell was concerned about fairness and equity, as parking was permitted along county roads. Miller clarified that parking along County Roads was only permitted where it was safe. Hunt suggested that Mattivi communicate back to the operators of Orvis Hot Springs that the parking situation had become a problem, and if they were accepting of the "No Parking" signs, that they be implemented. The Board agreed that it was a reasonable solution.

Miller reported that the County Road 361 Project was nearly completed; he expected work to be completed by the end of the week. Hunt added that the contractor would be cleaning up any excess material.

Miller said that there were two concerning drainage issues on Engineer Pass. He was anticipating that crews would be able to address them in mid-July.

Commissioner Tisdell asked for an update on the failed culvert on County Road 9. Calkins said that members were able to do a temporary fix, but the water would need to be diverted in order to replace the culvert. Miller added that he was awaiting estimates for alternatives to the culvert. He confirmed that the roadway was passable and that the fix was stable.

Calkins said that crews would be replacing some culverts on County Road 14. He had informed local residents that the roadway would be restricted to one-lane traffic, and the project was expected to only take two days.

Hunt said that Ouray County had been given two kiosks through a San Juan County grant to be placed along high alpine roads. Commissioner Tisdell said that there were already kiosks at the specified locations San Juan County requested them to be placed. He asked Hunt to inquire if the kiosks could be placed in alternative locations.

C. 10:15 The Board of County Commissioners convened as the Local Licensing Authority to review the following item:

- 1. Request: Modification of Premises**
Applicant: Shining Mountain, LLC / Coal Creek Hydro, LLC
Location: 5636 County Road 23

Mark Castrodale, Planning Director, was present; Shelia Finch-Manzagol, applicant, was also present.

Castrodale briefly presented the application. He explained that it was minor modification to the original plans and that the State had already approved the modification.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve a Modification of Premises for Shining Mountain, LLC. The motion carried with no discussion.

D. 10:17 Public Hearing – New Land Use Code Section: Communication Facilities

The purpose of this hearing was to review a recommendation by the Planning Commission to adopt a new Land Use Code titled Communications Facilities, addressing regulations and process for proposed communications towers and facilities.

Mark Castrodale, Planning Director, was present.

Castrodale presented the proposed new Land Use Code section regarding Communication Facilities. He said that there was no designated process in the Land Use Code currently that addressed the requests. He explained that the proposed provisions adhered to federal guidelines, encouraged colocation, and intended to minimize visual impact. He recommended that the Board adopt the new Code section and immediately incorporate it into the Land Use Code.

Commissioner Padgett had provided written comments that cited her concern about what potential subdivisions/PUDs in the County could be limited from having a tower, based on the new regulations. Castrodale provided a map that highlighted the potential areas.

Commissioner Tisdell opened the hearing for public comment.

Jim Kennedy, Log Hill Mesa resident, clarified that anything within the boundaries of the map would prohibit a tower from being implemented. Castrodale said that it was the idea. He said there were no current subdivisions or PUDs in the areas, but there were 40 acre parcels that had the potential to be subdivided.

Kennedy said that the proposed regulations circumvented the visual impact regulations in the County. He urged the Board to protect the values of the County in the visually sensitive area.

Dennis Michaud, Log Hill Mesa resident, asked that the Board consider making fencing around a tower mandatory. He was wary of trespassers climbing on towers.

Kennedy asked the Board if there were any requirements for obsolete towers to be removed. The Board confirmed that there was.

Commissioner Tisdell closed the public comment portion of the hearing.

Commissioner Tisdel read Commissioner Padgett's comments into the record. Whitmore clarified that the map distributed by Castrodale simply depicted areas where subdivisions or PUDs were potentially possible; not where communication towers were strictly prohibited.

Commissioner Tisdel said that Commissioner Padgett brought up a good point that the County should not want to adopt a Code section that potentially prohibited the implementation of more advanced technology. Whitmore said that federal laws and regulations promoted colocation. She said that the idea was to avoid the proliferation of towers. Castrodale added that applicants could always apply for an exemption or exception through Section 23.6 to place a tower in a PUD or subdivision.

Commissioner Tisdel asked Castrodale if he thought the proposed Code section encouraged new technology. Castrodale thought that it did.

Commissioner Batchelder said that Kennedy's comment pertaining to visual impact was covered by Section 23.4(G)(2). Castrodale agreed.

Commissioner Batchelder said that the proposed Code only addressed fencing in Section 23.4, and only mandated that materials and colors utilized must blend. Castrodale agreed, and said that there had been lots of discussion at the Planning Commission level pertaining to fencing, and it was ultimately decided to not require fencing, as it may draw attention to a camouflaged tower. Whitmore added that camouflaged towers were constructed in such a manner to mitigate nuisances.

Commissioner Batchelder suggested a minor revision to Section 23.2(D) to state "*The County may approve permits for new communications towers and facilities for a duration not exceeding a period of 20 years.*" The Board agreed.

Commissioner Batchelder asked about Section 23.4(D). He asked about unapproved subdivisions constructed prior to 1974. Castrodale confirmed that it was the Planning Commission's intent to limit towers in all subdivisions and PUDs. Commissioner Batchelder suggested changing the language in Section 23.4(B) to state: "*New communication towers and their associated support facilities are prohibited in County approved PUDs and subdivisions and in subdivisions filed prior to 1974.*" The Board agreed to the clarification.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Land Use Code Section 23: Communication Facilities as recommended by Planning Commission and Staff, with the changes as discussed. The approval of Section 23 was contingent upon the Board approving the changes to Sections 2 and 3. The motion carried.

Commissioner Tisdel closed the public hearing.

G. 11:02 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 confirmed that a cell phone payment was for a six-month period. Hunt confirmed that it was correct.

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

2. Request for approval and authorization of Vice-Chair's signature on Cooperative Law Enforcement Annual Operating Plan and Financial Plan between Ouray County and the United States Forest Service and on its Fiscal Impact Form:

Commissioner Tisdel suggested that page three be amended to state "*Patrol on Roads*" instead of "*Patrol on United States Forest Service (USFS) Roads.*" The Board agreed.

Commissioner Batchelder requested that Whitmore resend her memo regarding Colorado Sheriff's enforcement of federal regulations on USFS land to USFS law enforcement officers.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Vice-Chair's signature on Cooperative Law Enforcement Annual Operating Plan and Financial Plan between Ouray County and the United States Forest Service, as amended and on its Fiscal Impact Form. The motion carried.

11:13 The Board took a short break:

E. 11:19 Public Hearing – Land Use Code Amendment – Sections 2 and 3

The purpose of this hearing was to review a recommendation by the Planning Commission to adopt revisions to Section 2 – Definitions, and Section 3 – Zoning, or the Land Use Code. The proposed revisions are required in order to properly implement the new Land Use Code section titled "Communications Facilities."

Mark Castrodale, Planning Director, was present.

Commissioner Tisdel opened the public hearing.

Castrodale explained that the proposed changes were simply to enable Section 23 – Communications Facilities to work with the Land Use Code. He said the changes would allow staff to process new applications for communications facilities.

Commissioner Tisdel opened the hearing for public comment. Hearing none, he closed public comment and moved on to Commissioner deliberation.

Commissioner Batchelder suggested that Section 3 be slightly amended to include "or County issued permit for communications facilities" to all references of "Uses Allowed by Special Use Permit." The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Sections 2 and Section 3 of the Land Use Code as recommended by the Planning Commission and Staff, as amended. The motion carried.

Commissioner Tisdel closed the public hearing.

F. 11:29 Land Use Fee Schedule Amendment Pursuant to Section 13.9 of the Ouray County Land Use Code:

The purpose of this request was to review a recommendation from Staff to amend the Land Use Fee Schedule to adopt new fees for Communications Facilities Permits and applications for an Agricultural Exemption to a building permit.

Mark Castrodale, Planning Director, was present.

Castrodale said that the changes to the Fee Schedule corresponded to the addition of Section 23, in addition to a \$100 fee for Agricultural Building Permits.

MS/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt new fees for the Land Use Fee Schedule pertaining to new fees for Communications Facilities Permits, and applications for an Agricultural Exemption for a building permit. The motion carried.

H. 11:32 Commissioner/Administrative Reports:

Marti Whitmore, County Attorney, discussed the following:

- 1) **Out of Office June 23rd.**

Connie Hunt, County Administrator, discussed the following:

- 1) **High Country Roads-** Hunt said that she would be responding to an email from a resident regarding high country roads. She would provide it to the Board prior to sending it.
- 2) **Ridgway Facility Conceptual Plan –** Hunt asked if the Board would be willing to authorize her to draft a letter requesting an extension for the Ridgway Facility Conceptual Plan Grant. The Board agreed to ratify the letter at the next meeting.
- 3) **Other project updates**

Commissioner Batchelder discussed the following:

- 1) **Ouray County Housing Authority (OCHA) Intergovernmental Agreement (IGA) -** Commissioner Batchelder said that the IGA would be on an upcoming meeting agenda for consideration. He asked the Board for permission to ask Hunt and the County's auditor to estimate the cost for an audit for a small budget. The Board agreed.
- 2) **County Road 5 Improvements Grant Opportunities -** Commissioner Batchelder asked for clarification regarding a comment Commissioner Padgett had made at a previous meeting pertaining to grant opportunities for County Road 5 repairs. Hunt said that the minimum project cost for the grant that Commissioner Padgett was referring to was \$1 million, with a 17% cash match.
- 3) **Mosquito Control Questions -** Commissioner Batchelder confirmed that the Board was accepting of him communicating with to the Public Health Director regarding Ridgway's mosquito control program. The Board confirmed that they were.

Commissioner Tisdel discussed the following:

- 1) **General Updates -** Commissioner Tisdel asked if the Board had any topics for the CCI West Region Conference. Hunt recommended that an marijuana legislation update would be helpful. Whitmore added that a discussion regarding roads would be useful. Commissioner Tisdel also discussed the BLM Resource Management Plan 2.0, wildfires in the region, broadband and beetle kill projects in the County.

G. 11:51 General Business, Continued:

3. **Request for approval to set a Public Hearing regarding the proposed County Road 1 Public Improvement District (PID) and authorization of Chair's signature on the Order, pursuant to C.R.S. § 30-20-507:**

Commissioner Tisdel pointed out that the hearing date was potentially out of the date range requirement set by statute. The Board briefly discussed the language of the statute with staff. After a discussion, the Board decided to change the meeting date from July 26th to July 12th at 10AM, at the Ouray County 4-H Event Center in order to be in compliance with the statute.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to set a Public Hearing regarding the proposed County Road 1 Public Improvement District (PID) for July

12th at 10:00 AM and authorize Vice Chair's signature on the Order, pursuant to C.R.S. 30-20-507. The motion carried.

12:10 The Board adjourned the regular session.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:



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

Lynn M. Padgett

Lynn M. Padgett, Chair

Ben Tisdell

Ben Tisdell, Vice-Chair

Don Batchelder

Don Batchelder, Commissioner