

The Board of County Commissioners met in regular session on August 2, 2016. Those present for the session were Lynn M. 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.

Highway 550 Accidents

Colleen Hollenbeck, County Coroner was present to request support from the Board to compel CDOT to review the portion of Highway 550 between Montrose and Ouray as there had been an increase in accidents resulting in fatalities and severe bodily injuries. Commissioner Padgett was very much in favor of the request. She mentioned specifically that the intersection at Dutch Charlie State Park created a dangerous situation. Commissioner Tisdell had discovered that CDOT was investigating putting in an additional passing zone. Commissioner Tisdell had suggested to CDOT that broadening line of site, as well as widening shoulders be investigated instead.

Hollenbeck said that CDOT did a good job in the County, but needed to be aware of the increase in fatalities and severe bodily injuries. She added that Colorado State Patrol (CSP) had additional accident data that was forthcoming. Commissioner Padgett said that CDOT had said on multiple occasions that there were not enough fatalities or serious accidents on the section of Highway 550 to justify significant improvements; however they had been open to restriping some sections, particularly the intersection at the Dutch Charlie State Park entrance. Commissioner Padgett asked Hollenbeck to forward any specific language or data in order for the Board to develop it into a letter to CDOT.

Hollenbeck said that Montrose County Coroner was very committed to getting the information to CDOT as accidents were increasing at an alarming rate.

Hunt mentioned installing signage stating the rural, and sometimes dangerous nature, of Highway 550 south of Montrose.

Commissioner Padgett summed up the discussion; she said that Hollenbeck would work with Montrose County Coroner's Office and CSP to develop specific language for a letter for the Board's consideration. The letter would be included on an upcoming meeting agenda.

Ridgway Skijoring Event

Richard Weber III reported to the Board that he was working to bring a skijoring event to Ouray County, to be held at the Fairgrounds on January 6, 7 and 8. He said that they were expecting anywhere from 70 to 100 teams to participate. Weber asked if the County would be willing to help with snow hauling, in the event there was not enough snow available on the course. The Board was supportive of the idea and agreed to volunteering resources, but wanted to make sure that expectations were clear in the case that Road and Bridge crews could not offer full mobilization.

B. 9:36 Glenn Boyd, Emergency Manager

1. Biannual Report:

Glenn Boyd, Emergency Manager; Drew Petersen, Regional Field Manager; and Dominic "Junior" Mattivi, Sheriff, were present.

Boyd presented his report.

Commissioner Tisdell asked about the status of the City of Ouray's efforts to become designated as Red Cross's "Most Prepared Community." Boyd said that efforts had been curtailed, with other competing priorities and emergencies. He expected the efforts to kick back up in the fall.

Commissioner Padgett asked clarification questions to ensure Boyd was meeting the requirements in order to qualify for State reimbursements. Boyd assured Commissioner Padgett that he was meeting the requirements. Petersen agreed that Ouray County was meeting the requirements.

F. 9:49 The Board convened as the Board of Health to consider the following item:

1. Request for approval and authorization of the Chair's signature on the Task Order Contract for the State Innovation Model (SIM) and on its Fiscal Impact Form:

Hunt explained that the contract enabled the Public Health Educator's hours to be increased to full time, depending on grant funding. She said that the funding supported some the internal operations and offset the General Fund contribution to the Public Health Fund.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve and authorize Chair's signature on Task Order Contract for the State Innovation Model (SIM) and on its Fiscal Impact Form. The motion carried unanimously with no discussion.

2. Request for approval and authorization of Chair's signature on Reclassification Request Form to reclassify the Contract Health Educator Position to a Full-

time, benefited position (40 hours per week, subject to grant or program funding availability):

Hunt explained that the position was originally hired as a part-time position, then was reclassified to a contract position. She said that the additional funds from the SIM Grant allowed the position to be increased to full-time, with benefits, subject to grant funding availability.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Reclassification Request Form to reclassify the Contract Health Educator Position to Full-time, benefited position, subject to grant funding availability. The motion carried unanimously.

- 3. Request for approval and authorization of Chair's signature on Interagency Agreement with West Central Public Health Partnership and the Counties of Gunnison, Hinsdale, Montrose and San Miguel for the SIM project and on its Fiscal Impact Form:**

Commissioner Padgett pointed out that Delta County was missing from the list of participating counties. Hunt would add Delta County to the list.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Interagency Agreement with West Central Public Health Partnership and the Counties of Delta, Gunnison, Hinsdale, Montrose, and San Miguel for the SIM project and on its Fiscal Impact Form. The motion carried unanimously.

C. 9:59 The Board of County Commissioners convened as the Local Licensing Authority to consider the following items: (45 mins for both items)

- 1. Applicant: Dallas Creek Nurseries, LLC
Location: 304 Weahgatay
Request: Request for approval of a Marijuana Cultivation Facility Renewal**

Bryan Sampson, Associate Planner, was present. Mark Nichols, applicant, was also present.

Sampson provided a short history of the facility: he said that Dallas Creek Nurseries had been licensed and had applied for a building permit in 2015; the foundation of the building had been completed. Due to unforeseen health issues with the operator, construction had stopped. The applicants were not proposing changes to the facility as it was originally licensed. Sampson said that it was the determination of staff that the application to transfer ownership and renew the license had met the requirements of Ouray County Ordinance 2016-001; therefore, staff was recommending approval, with the conditions originally stated in Resolution 2015-013 remaining in effect.

Commissioner Batchelder asked if staff interpreted construction as not operating as a marijuana cultivation facility. Sampson said that, in his opinion, construction was not operation. Commissioner Padgett agreed. Whitmore agreed that it was her opinion as well.

Mark Nichols, applicant, explained that he was taking over ownership of the facility from his brother-in-law. Nichols said that it was his intention to have the facility operational in the next six months.

Commissioner Padgett asked if the applicant would be accepting of an additional condition that stated "In order to qualify for a staff level renewal, the Applicant shall be 'operating' (growing marijuana) on or before September 28, 2017. If the Applicant is not operating on September 28, 2017, the Applicant may still apply for renewal; however, the application must then be reviewed by the Local Licensing Authority." Nichols agreed to the condition.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the request for a Marijuana Cultivation Facility Renewal as recommended by staff with the original 19 conditions as stated in Resolution 2015-013, with the addition of another condition. The motion carried unanimously.

- 2. Applicant: Dallas Creek Nurseries, LLC
Location: 304 Weahgatay
Request: Transfer of ownership – Dallas Creek Nurseries to Golden Eagle Nurseries, LLC**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve a transfer of ownership from Dallas Creek Nurseries to Golden Eagle Nurseries, LLC. The motion carried unanimously.

G. 10:14 General Business:

- 1. 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 unanimously.

- 2. Request for approval of the following minutes:**

- a. July 12, 2016 minutes:**

Commissioner Batchelder clarified that the Board was considering the July 12, 2016 minutes sent by the Deputy Clerk the previous day.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the July 12, 2016 minutes. The motion carried unanimously.

- 3. Review and examination by the Board of County Commissioners of the Semi-Annual Report of the Ouray County Treasurer (January 1, 2016 – June 30, 2016):**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on the Semi-Annual Report of the Ouray County Treasurer (January 1, 2016-June 30, 2016). The motion carried unanimously.

- 4. Request for approval and authorization of Chair's signature on a Special Event Permit and Agreement for Mt. Sneffels Education Foundation Fundraising Marathon and Half Marathon:**

Commissioner Padgett was concerned about the lack of a waiver for participants. She asked Whitmore how it could potentially affect the County. Whitmore said that the liability would be the same whether or not participants signed a waiver. She said that Mt. Sneffels had covered the County through their insurance. Whitmore said that it was her opinion that the waiver should be signed.

Commissioner Padgett said that participants were required to pick up their race packets and could sign a waiver then. Commissioner Batchelder agreed. The Board agreed to add an additional condition to all bike/walk/run/race events that required the event coordinators to have all participants sign the waiver and retain the waivers for two years. The waivers would be provided to the County upon request.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on a Special Event Permit Agreement for Mt. Sneffels Education Foundation Fundraising Marathon and Half Marathon, with the condition that all people who presented valid ID to pick up their race packets also sign a waiver that shall be retained by Mt. Sneffels for a period of two years. The motion carried unanimously.

- 5. Request for approval and authorization of Chair's signature on EMS Standby Agreement with the Rodeo Association:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on EMS Standby Agreement with the Rodeo Association. The motion carried unanimously.

- 7. Request for approval and authorization of Chair's signature on Grant Agreement with the State of Colorado, Western State Colorado University Foundation and the Counties of Ouray, Gunnison, Hinsdale, Mineral, Saguache and San Miguel for the Colorado Opportunity Scholarship Initiative (COSI) program: (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 Grant Agreement with the State of Colorado, Western State Colorado University Foundation and the Counties of Ouray, Gunnison, Hinsdale, Mineral, Saguache and San Miguel for the Colorado Opportunity Scholarship Initiative (COSI) program. The motion carried unanimously.

- 8. Request for approval and authorization of Chair's signature on Participating Agreement between the United States Forest Service and Ouray County for Weed Management 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 Participating Agreement between the United States Forest Service and Ouray County for Weed Management and on its Fiscal Impact Form. The motion carried unanimously.

- 9. Request for approval and authorization of Chair's signature on Xerox Lease Agreement for Land Use / Road and Bridge / Attorney / Weed Departments 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 Xerox Lease Agreement for Land Use / Road and Bridge / Attorney / Weed Departments and on its Fiscal Impact Form. The motion carried unanimously.

- 10. Request for approval and authorization of Chair's signature on Position Replacement Form for Caseworker position:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Position Replacement Form for Caseworker position. The motion carried unanimously.

H. 10:46 Commissioner / Administrative Reports:

Connie Hunt, County Administrator, discussed the following:

- 1) Special Events Permit** - Hunt asked for direction regarding the scope of the permit. She asked if it was the Board's intention to require the permit for Jeep Jamborees, and other vehicle

gatherings. She said that it would be a process to gather contacts and inform coordinators of the new requirement. Commissioner Tisdell thought it made sense to extend it to anything that impacted County assets. Commissioner Padgett agreed; she said that it would help the County communicate to the public about usage, as well as allow the County the ability to recuperate any damages. She thought the County should be charging a small fee for the processing of the permits.

- 2) **Conference Call With Counties Regarding BLM Redistricting of San Juan County** – Hunt reminded the Board that a conference call with San Juan, San Miguel, Hinsdale, and Ouray Counties had been scheduled for August 10th at 10AM to discuss the Bureau of Land Management's (BLM) redistricting of San Juan County.

3) Other Updates

11:00 The Board took a short break and reconvened at 11:08

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

- 1) **Public Health Van** – Hollenbeck asked if the Board would be willing to sell the surplus Public Health Van for \$500. The Board agreed.
- 2) **EMS Personnel and Equipment Grant Contract** – Hollenbeck presented a grant agreement with the State of Colorado for funds for EMS personnel and equipment. The Board agreed to ratify the contract at the next regular meeting.
- 3) **Road Committee** – Hollenbeck reported that a member of the Road Committee had resigned his position. She asked for permission to advertise for the position and contact individuals who may be interested in filling the role. The Board agreed.

Marti Whitmore, County Attorney, discussed the following:

- 1) **Competed and pending legal matters.**

Commissioner Batchelder discussed the following:

- 1) **County Road 5** - Commissioner Batchelder said that the Board should expect a letter from residents living in the Elk Meadows area asking the Board to pursue grant funding to improve County Road 5.
- 2) **Ridgway Ad-Hoc Committee and Workforce Housing** - Commissioner Batchelder said that a tentative public meeting had been set for September 8th to obtain public comment regarding usage of the baseball/soccer field near Ridgway Elementary School. The property was owned by the County and the Ridgway School District. Commissioner Padgett asked if members of the public would interpret Commissioner Batchelder's involvement as County involvement in the project. Commissioner Batchelder said that he planned to be very clear that the Ridgway School Board and the Board of County Commissioners had given preliminary permission to explore the possibility of using the field for workforce housing for the Ridgway School District. Commissioner Padgett was very clear that she wanted to keep the scope of the meeting very specific to taking the public's temperature for the idea. She said that affordable housing was a County-wide issue, and that the field was a County-asset. She asked if the committee would be open to applying for a mini-grant that funded a consultant lead feasibility study for options for the property.

Commissioner Batchelder said that the committee was fully aware that there was much more fact finding to do. He said the first step in the process was to figure out if there would be any resistance to the field changing uses.

Commissioner Padgett added that she thought it would be interesting to hear what possibilities existed for a day care center on the property.

D. 11:30 The Board of County Commissioners convened as the Local Liquor Licensing Authority to consider the following public hearings:

1. **Applicant: Little Switzerland DBA Ridgway KOA**
Request: Request for approval of a 3.2 retail liquor license

David Brunovksy, applicant, was present. Mark Castrodale, Planning Director, was also present.

Commissioner Padgett asked if the KOA Campground was grandfathered in as a legal non-conforming use. Brunovksy said that it was, as it had been used as a campground since 1969. Castrodale said that he had no history on the KOA, other than its operation commencement date.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve the request of a 3.2 retail liquor license for Little Switzerland DBA Ridgway KOA. The motion carried unanimously.

2. **Applicant: Little Switzerland DBA Ridgway KOA**
Request: Request for approval of a Modification of Premises

Commissioner Tisdell confirmed that the deck portrayed in the site map had already been constructed. Brunovksy said that it was.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve the request for a modification of premises for Litter Switzerland DBA Ridgway KOA. The motion carried unanimously.

3. Applicant: Porter & Chessie, Inc. DBA Colona Roadhouse
Request: Request for approval of a Renewal of Beer and Wine liquor license

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve a Renewal of a Beer and Wine Liquor License for Porter & Chessie, Inc. DBA Colona Roadhouse. The motion carried unanimously.

H. 11:44 Commissioner / Administrative Reports, continued:

Commissioner Tisdel discussed the following:

- 1) **Broadband Topics** - Commissioner Tisdel reported that DOLA had unfrozen \$19.9 million for the August Broadband Grant cycle. Commissioner Tisdel continued to say that Region 10, the City of Montrose, and Century Link were meeting on August 18th to discuss 911 services in the County.
- 2) **City of Ouray Economic Development Roundtable** - Commissioner Tisdel said that the City of Ouray Economic Development Roundtable would be discussing early childhood development and childcare options on August 11th at 6pm at the Ouray Community Center.
- 3) **Citizen Request** - Commissioner Tisdel said that he had received a request from local resident that Ouray County look into putting together a formal apology to the Ute people, in a similar fashion that San Miguel had. Commissioner Tisdel agreed to work on the project.

Commissioner Padgett discussed the following:

- 1) **July 5th Minutes** - Commissioner Padgett explained that the Board had received a request from a citizen to amend the approved July 5th minutes. Whitmore said that it would not be appropriate to amend the minutes at this point, but the individual could request a copy of the recording, or a transcript of a portion of the meeting for a fee. The Board agreed to authorize Whitmore to draft a letter to the resident that captured the limitations of BOCC authority, and that the resident's concern regarding Sheriff's Department behavior had been communicated to the County Sheriff.

E. 12:11 The Board of County Commissioners convened as the Board of Equalization to consider the following property valuation appeals:

1. **Property Owner: Adobe Property, LLC - J. David Reed and Bo James Nerlin, authorized agents**
Schedule Number: R001926

Susie Mayfield, Assesor, Guy Poulin, Chief Appraiser, and Aimee Ransleben, Deputy Assessor, were present. Bo James Nerlin, Authorized Agent for the petitioner, was also present.

Commissioner Padgett opened the public hearing on Schedule number R001926 for Adobe Property, LLC.

A roll call was taken with the following results:

*Commissioner Padgett was present.
Commissioner Tisdel was present.
Commissioner Batchelder was present.*

The Deputy Clerk administered the Oath to all members present from the Assessor's office and to Bo James Nerlin, authorized agent for Adobe Property, LLC.

Nerlin explained that he was not claiming that there had been an over estimation by the Assessor's office, but that the building had been historically misclassified. He said that the Assessor had discovered that 100% of the building had been classified as commercial in 2011; the property was reclassified and given a two year abatement, as permitted by Colorado statute.

Commissioner Padgett asked if Nerlin was withdrawing the request for change in value. Nerlin said that he was, and explained that it was the only mechanism that the petitioner had in order to protest the historically incorrect classification from 1984, when the property was purchased, to 2009, when the taxes were abated back. He confirmed that the petitioner was fine with the property valuation.

Commissioner Batchelder did not think that the Board of Equalization was the appropriate venue to make a ruling on the request. Nerlin said that he saw it as one step in the process.

Commissioner Padgett asked for evidence regarding the historical misclassification. Nerlin said that he thought the Assessor would agree that the property should have been classified as mixed use. Nerlin said that the mixed classification began with the purchase of the property in 1984. He said that the building had been used as commercial and residential since its purchase. Nerlin felt that the request for abating the taxes back to 1984 was allowed within Colorado statute, and had Colorado case law supporting it.

Mayfield clarified that, typically, abatements were handled under the abatement process. She said this request was handled as an appeal to the notice of valuation. As the petitioner was questioning the mixed use, Mayfield highlighted that the misclassification error was discovered in 2011, and the property had been reclassified as mixed use. Mayfield said, per statute, she was permitted to abate the taxes back to 2009. She said that the Chief Appraiser could give his presentation about the property, but it did not seem pertinent, due to the petitioner's request.

Commissioner Padgett said there was no evidence or testimony about how far back the use went. Mayfield said that there was no evidence on the historical classification, but that the petitioner was requesting abatement from 1984 to 2009. Mayfield reiterated that the classification was amended in 2011,

and taxes for two years were refunded. She distributed a copy of CRS 39-10-114(1)(a)(I)(A) that detailed the two year provision.

Nerlin continued his presentation. He contested the use of CRS 39-10-114 as he did not think that the two year statute applied to erroneous valuations. He provided several examples of case law where the State Court of Appeals rejected the two year provision that Mayfield presented. Nerlin indicated that his presentation was complete.

Poulin presented his report. He said that as the appeal had been received as a valuation protest, he had conducted his investigation and report in that manner. He said that the Assessor's office was recommending that the hostel rooms on the main floor be changed to commercial use. He said that the Assessor was under the impression that the upper apartment had been used for residential purposes, but discovered that it had been used as a short term rental. According to the Town of Ridgway and the petitioner's insurance company, the upper apartment should not be used as a rental and should remain as residential. He said that there was justification for the building to retain its mixed classification. Poulin recommended that the Board deny the petition's recommended value of \$500,000 and accept the Assessor's revised valuation of \$544,880.

Commissioner Padgett asked Nerlin for rebuttal. Nerlin simply clarified that the upstairs apartment was no longer used as a short term rental. He encouraged the Board to find that the county had made an error, beginning in 1984, and urged them to correct the inequity.

Commissioner Batchelder asked Mayfield if there was a statute of limitations for when appeals could be made. Mayfield said that the abatement request would need to be filed by January 1, and the Assessor only had the ability to abate the incorrectly charged taxes back two years. Mayfield said that she had no knowledge regarding the petitioner's ability to request abatement from 1984 to 2009.

Commissioner Batchelder said that there were two actions requested: first, consideration of the change in valuation by the Assessor; and second, an appeal to the abatement by the petitioner. Commissioner Batchelder thought that the Board could take action on the Assessor's request, but was unsure about the process for the second request. Commissioner Batchelder suggested that the Board authorize Whitmore to work with Mayfield to determine the appropriate process for the second request. He did not feel comfortable taking action on the second request until the statutory process was determined.

Commissioner Padgett agreed with Commissioner Batchelder. She recommended that the hearing be continued to a date certain in order to allow time for legal research. Regarding the request for abatement for the historical classification, Commissioner Padgett said that the Assessor determined in 2011 that there was justification to abate the taxes for the misclassification back two years, as allowed by statute, but there had been no evidence presented regarding years prior to 2009. She said that at one point between 2009 and 1984 the building was classified completed as 100% commercial. Mayfield affirmed that this was correct, and said that was why she corrected the classification and did the abatement. Mayfield explained that her staff did a site visit and determined that the building should be classified as mixed use in 2011.

Commissioner Padgett stated that she had family members who stayed at the hostel in 2000. Nerlin objected and asked how it could be substantiated. Whitmore said that, typically, members of the Board of Equalization did not provide testimony. Commissioner Padgett stated that, as she had personal knowledge of the property, it was necessary to recuse herself in order to not taint the process. Commissioner Padgett left the room.

Commissioner Batchelder asked staff to find a date that the hearing could be continued to. Hunt reminded the Board that all decisions of the Board of Equalization needed to be completed by August 5th, per statute. The Board authorized Whitmore to work with Mayfield in order to determine the best process for the petitioner's request.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdal to continue the public hearing to August 3, 2016 at 10:00 AM. The motion carried unanimously.

**2. Property Owners: Banco Building, LLC – J. David Reed and Bo James Nerlin, authorized agents
Schedule Number: R002110**

Susie Mayfield, Assessor, Guy Poulin, Chief Appraiser, and Aimee Ransleben, Deputy Assessor, were present. Bo James Nerlin, Authorized Agent for the petitioner, was also present.

A roll call was taken with the following results:

*Commissioner Padgett was present.
Commissioner Tisdal was present.
Commissioner Batchelder was present.*

Commissioner Padgett opened the public hearing. She stated that in January 2015 she was searching for office space in the Town of Ridgway and she viewed the Banco Building for the purpose. She had personal knowledge of the building that may not have matched the petitioner's claims. For that purpose, she recused herself. Commissioner Padgett left the room.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdal to continue the public hearing to August 2, 2016 at 10:00 AM.

Commissioner Batchelder stated that if it was determined by the County Attorney that the Board of Equalization had the authority to rule on the petitioner's request, the property owner may not be permitted to testify. Nerlin understood.

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

Commissioner Tisdel voted in the affirmative.

Commissioner Batchelder voted in the affirmative.

Motion passed unanimously.

1:02 Lunch

H. 1:31 Commissioner / Administrative Reports, continued:

Commissioner Padgett discussed the following:

- 2) Dallas Creek Water Company -** Commissioner Padgett informed the Board that Dallas Creek Water was filing for another 20% rate increase for services. She asked for the Board's support to put together a letter and a resolution opposing the rate increase. Commissioner Batchelder agreed, and suggested stating in the letter that if there was no evidence that the increase would fund infrastructure improvements, then the increase was no benefit to the general public. Commissioner Padgett agreed and added that it was a for profit company that had no oversight incentive to maintain the infrastructure. She said that Dallas Creek was unique in the fact that it did not own its own water rights, and was controlled by a group of biased family members that artificially raised prices for profit.
- 3) Western Hard Rock Mining and Water Quality Conference -** Commissioner Padgett said that she was trying to attend a few of the sessions. The Conference was scheduled for August 3-5th in La Plata County. She added that there as a field trip planned for the Gold Kind Mine.
- 4) Gunnison Sage-Grouse Rangeland Resource Management Plan (RMP) Amendment -** Commissioner Padgett said that the RMP was expected to be released soon, and would have a 90 day comment period. She said that the region also had another RMP being solicited for comments, and in an effort to be able to provide clear, relevant comments, she had requested an extension to 180 days for the comment period.

G. 1:45 General Business:

6. Request for approval and authorization of Chair's signature on Agreement, Grant of Easement and Final Declaration of Restrictive Covenant with Rockbiter Corporation regarding the Small Tract Act (STA) Exchange:

Michael Hockersmith, representing Rockbiter Corporation, was present.

Whitmore detailed that the documents attempted to address a prohibition on commercial entities and uses for as long as possible. She said that Hockersmith's client agreed to the restrictive covenant document. The property would be limited to three single-family home sites, preserved public access to Canyon Creek, and granted a thirty foot easement to the County. She said that the terms of the agreement would be effective for forty years. She said that it was not necessarily impossible to break the terms, but she said it was designed to be very difficult for a future Board to break it. Whitmore said that the agreement package was as tight as the Board could make it without a conservation easement.

Commissioner Padgett asked why limiting the commercial use was not listed as a "whereas" statement in the agreement. Whitmore explained that a zoning change would be required before commercial uses could be contemplated. Hockersmith added that "no commercial uses" was included in the Restrictive Covenant document. He said that the other aspect was to develop a mechanism to bind Rockbiter into insuring the County's and public's interests. He said that residents of Chalet Hayden recommended that a provision be added that further limited declarant or successors to modify or waive the agreement.

Jerry Hellman, Chalet Hayden resident, agreed; he added that it was his understanding that both the County and the property owner would have to agree to make changes. He said this provision would lock the property owner from taking action without the County's agreement. Hockersmith added that the County would have to hold a public hearing and have a unanimous vote in order to change any of the terms. Whitmore said that the agreement could, in theory, be challenged, but as a practical matter, did not foresee it happening.

Commissioner Padgett asked if the Board could take action on the agreement, contingent upon the condition that final survey and legal description (exhibits) be added; that the United States Forest Service (USFS) completed the exchange; and that minor amendments be made to the agreement as detailed by Hockersmith. Whitmore said that the first two conditions were already included in the agreement.

Commissioner Batchelder asked about the Restrictive Covenants provision D. He asked what the liability to the County was. Whitmore said that it would be a breach of contract. Commissioner Batchelder asked if legal fees could be recouped. Hockersmith recommended adding in the standard prevailing party provision. The Board agreed.

Responding to a question regarding corporation designation, Hockersmith recommended adding a provision that stated Harlan Smith as the president or designee of the Rockbiter Corporation.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Agreement, Grant of Easement, and Final Declaration of Restrictive Covenant with Rockbiter Corporation regarding the Small Tract Act (STA) Exchange, with the changes discussed. The motion carried unanimously.

2:10 The Board recessed the meeting:

August 3, 2016

E. 10:00 The Board of County Commissioners convened as the Board of Equalization to consider the following property valuation appeals, continued:

- 1. Property Owner: Adobe Property, LLC - J. David Reed and Bo James Nerlin, authorized agents
Schedule Number: R001926**

Susie Mayfield, Assessor, Guy Poulin, Chief Appraiser, and Aimee Ransleben, Deputy Assessor, were present. Joyce Bucknam, petitioner, and Bo James Nerlin, Authorized Agent for the petitioner, were also present.

Commissioner Tisdel reopened the hearing continued from August 2, 2016.

A roll call was taken with the following results:

Commissioner Padgett had previously recused herself from the proceedings and was not present.

Commissioner Tisdel was present.

Commissioner Batchelder was present.

Commissioner Tisdel read the procedures. He entered into the record a memo from the County Attorney answering questions from the previous day. Commissioner Tisdel asked the petitioner to make a presentation.

Nerlin said that he agreed with the County Assessor's revised assessment of \$544,880. He understood Whitmore's position that the Board of Equalization was not the appropriate venue for the petitioner's request for abatement for the historical taxes.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to set the valuation for R001926 at \$544,880, as recommended by the Assessor and agreed to by the petitioner. The motion carried unanimously.

- 2. Property Owners: Banco Building, LLC – J. David Reed and Bo James Nerlin, authorized agents
Schedule Number: R002110**

Susie Mayfield, Assessor, Guy Poulin, Chief Appraiser, and Aimee Ransleben, Deputy Assessor, were present. Joyce Bucknam, petitioner, and Bo James Nerlin, Authorized Agent for the petitioner, were also present.

Commissioner Tisdel reopened the hearing continued from August 2, 2016.

A roll call was taken with the following results:

Commissioner Padgett had previously recused herself from the proceedings and was not present.

Commissioner Tisdel was present.

Commissioner Batchelder was present.

The Deputy Clerk administered the oath to Bucknam.

Commissioner Batchelder confirmed that the petitioner accepted the valuation of \$449,090. Nerlin agreed. He stated that he and his client had filed the petition based on the historical misclassification; he asserted that the residential taxes should be abated back to when the petitioner purchased the property in 1990, and when the error was found.

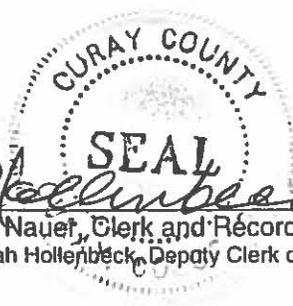
M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to set the valuation for R002110 at \$448,090, as recommended by the Assessor and agreed to by the petitioner. The motion carried unanimously.

After the motion carried, Bucknam said that there was no question to the valuation; the issue was the overpayment of taxes from 1984 (Adobe Property) and 1990 (Banco Building) to 2009, when the Assessor discovered and abated the taxes back two years.

10:12 The Commissioners adjourned the meeting.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:


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

Lynn M. Padgett
Lynn M. Padgett, Chair
Ben Tisdel
Ben Tisdel, Vice-Chair
Don Batchelder
Don Batchelder, Commissioner