

The Board of County Commissioners met in regular session on August 23, 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. 9:12 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.

Ouray County Labor Day Fair and Rodeo

Susan Long, Fairgrounds Manager, was present.

Long distributed a flyer for the Fairgrounds Fundraising Dance, scheduled for August 27th. She said that the Fair Board would be selling hamburgers and hotdogs on the patio for their fundraiser. Long detailed the various events and activities scheduled during Fair and Rodeo.

County Road 14 Improvements and Maintenance

Alan Staehle, County Road 14 resident, requested that a truck load of road base material be dumped at the roundabout near the forest boundary on County Road 14. He said that he had been filling to the potholes sporadically over the years and had been successful in keeping the potholes from developing on County Road 14A. Staehle said that he was willing to continue to fill the holes, but was requesting road base.

Commissioner Padgett was willing to permit the donation of gravel, but stipulated that it be included when work was being done in the area.

Commissioner Padgett added that roads would experience added traffic when the school bus routes started again.

Commissioner Batchelder agreed and was willing to authorize the base material, with Commissioner Padgett's stipulation.

Colona Tiny Home/Container Home Community

Scott Kennett, Evan Hoff, and Damian Imel, Plantn Developments, presented a short video featuring tiny homes and container homes. Kennett explained that they were looking into developing a tiny home community in Colona.

Imel said that tiny houses and container homes were much more affordable; he said that they wanted to start the conversation regarding tiny homes in Ouray County.

Commissioner Tisdell thought it was a great idea, but was wary that it may be difficult from a Land Use perspective. Commissioner Tisdell said he was committed to spending more time on the topic and working with Planning Commission when the time was right.

Commissioner Padgett invited Kennett, Hoff and Imel to provide Land Use staff with other jurisdictions Land Use Codes that permitted tiny homes. She mentioned specifically the regulations surrounding parking and sanitation. Commissioner Padgett supported the idea, but was wary that a Zoning change would be necessary in order to accommodate the homes.

Commissioner Batchelder asked about the status of the proposed property for the homes. Craig Jackman, Colona resident, said that the lots had been decommissioned in 1986 and were not included in the platted area of Colona. Commissioner Batchelder said that, from his reading of the Code, a PUD was a use-by-right in the zone where the community was proposed. He encouraged the group to meet with Land Use staff to address the sanitation issue.

B. 10:04 Road and Bridge Reports:

1. Road and Bridge Report:

Steven Calkins, Assistant Road and Bridge Supervisor, was present.

Calkins reviewed the August report; he said that the mag-chloride application was complete. Calkins said he was working with Hunt and the Army Corp of Engineers regarding flooding at Corbett Creek. Commissioner Padgett requested that a site visit be scheduled for the Board to tour the area.

Commissioner Padgett reiterated her early comment about increased traffic on County Roads as Ridgway School was starting soon.

2. Request for award of Front-end Loader:

M/S/P – *Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to accept staff's recommendation to proceed with award of a Front-End Loader.*

Commissioner Tisdell asked if Calkins knew the severity of use of the used loader. Calkins said that the loader was used as a rental, but came with a warranty. He thought it was a wise purchase. Hunt agreed and added that the proposal came in under budget, which left some money in the escrow account.

With no further discussion, the motion carried unanimously.

C. 10:21 The Board convened as the Board of Social Services to consider the following items:

Carol Friedrich, Social Services Director, was present.

1. **Request for approval of the following reports and authorization of the Chair's signature on certification page:**
 - a. **County YTD Expenditures, May 2016**
 - b. **Expenditures through Electronic Benefit Transfers, June 2016:**
 - c. **Check Register, June 2016:**
 - d. **County Allocation / MOE Report, MAY-16**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the County YTD Expenditures, May 2016 Report; Expenditures through Electronic Benefit Transfers, June 2016; Check Register, June 2016; and County Allocation/MOE Report, MAY-16, and authorize Chair's signature on certification page. The motion carried unanimously.

2. Caseload Report

No discussion.

3. **Request for approval and authorization of Chair's signature on a Core Services Plan: First of a Three-Year Plan between the State of Colorado Department of Human Services and Ouray County Board of County Commissioners for the Core Services Program 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 a Core Services Plan: First of a Three-Year Plan between the State of Colorado Department of Human Services and Ouray County Board of County Commissioners for the Core Services Program and on its Fiscal Impact Form. The motion carried unanimously.

4. **Request for approval and authorization of Chair's signature on a Purchase of Services Agreement between Lynton Moore and Ouray County Board of County Commissioners for Intensive Family Therapy to families participating in the Core Services Program:**

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on a Purchase of Services Agreement between Lynton Moore and Ouray County Board of County Commissioners for Intensive Family Therapy to families participating in the Core Services Program. The motion carried unanimously.

5. Human Services Gap Map:

Friedrich explained the Map had been released by a collaboration of advocate groups with the goal of increasing transparency and accountability. Friedrich said that Ouray County was very good and enrolling clients in Medicare: around 70% of the residents that qualified were enrolled. Alternatively, only 63% of the individuals who qualified for food assistance programs were enrolled in the program. She said that on the enrollment website, applicants could co-enroll in programs, so it appeared that, for whatever reason, not all clients wanted to be enrolled in food assistance programs.

Friedrich said that the County underperformed in child care programs. She said that only 3% of the families that qualified for the service were enrolled. Friedrich cited the lack of child care facilities, and the department's ability to serve clients and main contributing factors. Friedrich said that the department was rated to serve 19 clients and was currently serving 10.

6. Other, as needed:

D. 10:35 Public Hearing – Reconsideration of Proposed Section 23 of the Ouray County Land Use Code:

The purpose of this public hearing is to reconsider the motion approving Section 23 – Communications Facilities, approved on June 21, 2016. The Board will also discuss and direct staff regarding next steps.

Mark Castrodale, Planning Director, and Bryan Sampson, Associate Planner, were present.

Commissioner Padgett opened the public hearing and explained the purpose.

M/S/P – Motion was made by Commissioner Tisdel to reconsider the motion approving Section 23 – Communications Facilities, originally approved by the Board on June 21, 2016.

Commissioner Padgett stated that she was not present for the June 21, 2016 meeting and could not vote on the motion.

Commissioner Batchelder asked staff for a timeframe for the Planning Commission review. Castrodale stated that, unless there were unforeseen issues, Planning Commission should be able to move through the Section quickly.

Commissioner Batchelder seconded the motion.

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

Commissioner Padgett did not vote on the motion, as she was not present during the June 21, 2016 meeting.

Commissioner Tisdel voted in the affirmative

Commissioner Batchelder voted in the affirmative.

There was some discussion. Motion carried.

Commissioner Padgett asked if staff wanted an independent consultant to review the regulations before it came back to the Board for approval. Castrodale thought that the list of various professionals the department already had would suffice. Castrodale added that the redlined draft had been sent to an attorney who recently led a seminar on communications facilities and local planning.

Commissioner Padgett opened the hearing for public comment.

Dalton Carver asked the Board to expand upon the unintended consequences adopting the regulations would have had. Commissioner Padgett said that there were some incorrect terms and definitions, in addition to limitations placed upon communications towers by limiting their locations and height. She said that the Code section, as proposed, would have limited cellular, wireless, and broadband towers, resulting in service pages for portions of the County. She said the Board was dealing with how to allow for the functionality of a tower that also mitigated visual impact.

Commissioner Padgett closed public comment and the public hearing.

Staff requested specific direction on tower height. Commissioner Padgett thought that 180 feet was too high; she encouraged a height restriction that balanced collocation, function and visual impact. She did not think that 50 feet allowed for collocation. Commissioner Tisdell agreed. Alan Staehle cautioned against mandating an absolute height limitation. He said that he regretted not advocating for a 100 foot tower height for the tower on Log Hill; he said that the tower's height limited its functionality.

Commissioner Padgett said that Section 23 limited the number of parcels available to build a tower. She said that there were approximately 2 dozen parcels on Log Hill Mesa where a tower could be built, and all would be limited to a 50 foot height. Staehle agreed that Tower Road on Long Hill Mesa was the best place for covering the population base.

Patsy Miller said that the Planning Commission wanted to encourage camouflaging the towers. She said the Planning Commission did not want to limit the flexibility for camouflaging.

Randy Parker said that Planning Commission attempted to balance functionality with the public comment received about visual impact. He said that the setback requirement was moved to 1 mile after receiving concerned public comment about the visual impact. Parker said that the discussion regarding broadband towers never came up and he was very surprised to hear that the potential for services may be impacted due to a tower height restriction.

Commissioner Tisdell said that, while there were some broadband models where fiber was brought directly to a building, the rural nature of Ouray County would most likely require the deployment of towers to deliver broadband services to residents. Parker encouraged the Board and experts to communicate that to the Planning Commission, as there was a lack of understanding.

Ethan Funk, local RE Design Engineer, urged the Board to consider regulations that offered flexibility for the future. He said that Ouray County lacked the fiber backbone to bring in broadband in the manner that larger cities were. Funk said that infrastructures could be affixed to existing buildings to send signals, but that it only worked if the topography was flat. Commissioner Tisdell asked if the infrastructure could be affixed to existing telephone poles. Funk said that it was possible, but that it was sometimes very difficult to determine the owner of a pole.

Commissioner Padgett could think of places where repeaters could be attached to buildings in the City of Ouray, but thought it would be more difficult in the Town of Ridgway, and in the unincorporated areas of the County. She reiterated her desire to have tower height regulations that balanced the capability to perform functions, allowed for flexibility, and was sensitive to visual impact.

Funk added that the FCC was currently reviewing the FAA lighting requirements for towers and that there may be potential impacts to towers in rural areas. He added that frequencies were moving from a G4 to G5, which was a directional frequency that could be impacted by structures, trees, and geological features. He said that tower heights would need to be increased in order to clear around the structures. Funk said that his proposed revisions recommended that the Code only include the baseline requirements, but that the applicants justify their needs in the application. Funk said that the previous version of the Code was too "cookie cutter" and did not allow applicants to justify or explain their proposed service. He said his revisions allowed staff to understand the justification and balance the service with the potential visual impact.

Commissioner Padgett recommended limiting tower height to 100 feet, with the opportunity to justify greater tower heights.

Chris Carr thought that the revisions made sense. He thought that the Planning Commission could reexamine the section and return something workable for staff and applicants.

Commissioner Batchelder suggested a range for permitted tower height to be 80-100 feet. Commissioner Padgett agreed. She liked the flexibility of the range, with the appeal process for taller towers.

Castrodale said the Planning Commission would take up the section on September 6th. He and his staff would develop a short informational sheet with the new information regarding towers.

11:38 The Board took a short break:

E. 11:42 Susie Mayfield, County Assessor:

1. Request for approval and authorization of Chair's signature on Abstract:

Mayfield distributed and presented the report.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Abstract of Assessment. The motion carried unanimously.

F. 11:51 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 minutes:

a. July 26, 2016:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the July 26, 2016 minutes, as amended. The motion carried unanimously.

b. August 2, 2016

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve the August 2, 2016 minutes, as amended. The motion carried unanimously.

5. Request for approval and authorization of Chair's signature on the following Intergovernmental Agreements for Election Services:

a. Montrose County School District RE-1J

b. Regional Service Authority (RSA)

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve and authorize Chair's signature on Intergovernmental Agreements for Election Services with Montrose County School District RE-1J and the Regional Service Authority (RSA). The motion carried unanimously.

3. Request for adoption of Resolution 2016-043 Urging the Bureau of Land Management (BLM) to Reconsider Its Redistricting of San Juan County:

Commissioner Padgett updated the Board on the various conversations she had with BLM staff members, NACo, and County Commissioners from San Juan and San Miguel Counties. She said that the BLM felt that they made an administrative decision to redistrict San Juan County, and did not consult San Juan County. Commissioner Padgett said the BLM felt that the four-county response was unexpected.

Commissioner Tisdel said that he spoke with a Hinsdale County Commissioner who was fully supportive of San Juan County, and shared the sentiment that the BLM did not follow proper procedures. He said that Hinsdale County was also supportive of the BLM and was happy with the relationship they had with their land managers and wished to add language to the resolution that stated such. He said that Hinsdale and Ouray Counties wanted to urge the BLM to enter into some form of agreement with the four counties to more cooperatively manage the high country areas.

Commissioner Padgett reiterated that the BLM was surprised at the multi-county response protesting the redistricting of San Juan County. She said that the BLM liaison in Washington D.C. understood the counties' argument regarding the process. Commissioner Padgett asked the Board what path forward they wanted to take; she was wary of burning bridges with BLM. She had combined all of the correspondence between San Juan County and the BLM, including other counties outreaches on the topic. The correspondence package included record of a field trip between San Juan County staff and elected officials and BLM staff where the BLM made verbal commitments to the San Juan County. She said that the BLM had indicated that they would not be willing to put the verbal commitments in an IGA or MOU.

Commissioner Padgett stated that it was the BLM's opinion that the redistricting allowed them to put into place a team that was well equipped to manage San Juan County. They felt that the field office manager in the Gunnison office had good resources to manage abandoned mine lands and the Animas River.

Commissioner Padgett said that if the Board decided to take action on the resolution, Ouray County would be the only county in the region, besides San Juan County, to do so. She suggested that the Board wait until after the CCI Western District meeting to consider taking action on a revised resolution.

Commissioner Batchelder agreed that he preferred to wait to consider taking action. He thought the resolution, if reconsidered, should include a "now therefore" or additional "whereas" statement that included language that encouraged the BLM to adopt policies that would ensure local government input on issues that may affect them. Commissioner Padgett agreed and requested that a statement be added that stated: "Ouray County encourages the BLM to enter into a MOU with counties, public land agencies, and other stakeholders, and encourages two meetings on the management of the broader alpine loop."

The Board agreed to include consideration of a revised resolution on a future meeting agenda.

4. Request for approval and authorization of Chair's signature on letter regarding BLM Redistricting San Juan County:

The Board agreed to consider a letter on a future meeting agenda.

12:30 Lunch

G. 1:31 Discussion, Review and Possible Adoption and/or Direction concerning the following Conservation Easement Properties:

Pat Willits, Trust for Land Restoration (TLR), and Tom Hillhouse, Ouray County Historical Society (OCHS), were present.

1. Resolution 2016-029 regarding the Management Plan for the Garard Property:

Whitmore provided the Board a brief history of the process and highlighted the changes to the resolution and the Management Plan.

Commissioner Batchelder requested that all references to the County *purchasing* the property be changed to "*acquired*" in the resolution and the management plan. The Board agreed.

The Board agreed to amend the "Plan Approval" section to simply state: "*This Management Plan for the 'Garard Property' is hereby approved by the Board of Commissioners and the Trust for Land Restoration.*"

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adoption Resolution 2019-029 regarding the Management Plan for the Garard Property, as amended. The motion carried unanimously.

2. Resolution 2016-030 regarding the Management Plan for the Turk Property:

The Board agreed to add an additional "whereas" statement: "*Whereas, further stabilization of the "White House" has been done in accordance with the Plan since 2005.*"

The Board also agreed to add "Exhibit A" to the second "whereas" statement.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to adopt Resolution 2016-030 regarding the Management for the Turk Property, as amended. The motion carried unanimously.

3. Corkscrew properties and proposed management plan:

Willits explained that back in May 2016 TLR began working to acquire two additional mining claims in the Red Mountain District that were referred to as the Corkscrew Turntable Claims. He said that the TLR had been working with a Trust to acquire the properties and was intending to donate the fee interest to the County. The County had been concerned about the implications to the County based on a draft management plan. TLR had approached OCHS to draft a management plan that would be acceptable to all parties. Willits said that the Trust was nearing completion of the purchase of the property.

The Board indicated there were supportive of the process and the plan for the County to take ownership of the claims, with OCHS acting as the land manager.

Commissioner Batchelder directed staff to develop a resolution that included clear language that the County's obligations were only to coordinate with other entities for the preservation of the claims, act as the fiscal agent for grants, and that any County monetary obligation shall be subject to County statutory obligations and availability of budgeted funds. He did not want to create the expectation that the County would manage the claims. Willits agreed and said that was the understanding of TLR and OCHS.

Hillhouse agreed with Willits's statements. He encouraged the County to proceed with the authorization and approval of the transaction.

H. 2:31 First Reading of Ordinance 2016-002 Establishing Regulations for Short Term Rental of Residential Properties, and request for authorization of first publication and second reading:

Susie Mayfield, Assessor and Mark Castrodale, Planning Director, were present.

Commissioner Padgett read the title of Ordinance 2016-002 Establishing Regulations for Short Term Rental of Residential Properties.

Commissioner Batchelder said that the Board had received emailed public comment from Bob Kelly. Castrodale said that staff was working on drafting an application form for the short term rental permit. He said that the staff was also proposing to include a stand-alone document that detailed the County's regulations regarding short term rentals. He said staff was proposing a fee of \$300 for a short term rental license.

Commissioner Padgett asked for public comment. There was no public comment at the hearing.

Commissioner Padgett said that the Board received public comment from Bob Kelly who managed two short rentals. Kelly suggested that the County require insurance, a commercial risk profile for each rental, and an inventory of short term rentals in connection to long term rental stock. Kelly further suggested requiring that registered sex offenders not be allowed to stay in short term rentals. Commissioner Padgett said that Kelly was wary of unintended consequences because the Land Use Code did not allow for accessory dwelling units to be rented for less than 90 days; the proposed Ordinance allowed for accessory dwelling units to be rented for 30 days or less. Commissioner Batchelder asked if a provision could be added that stipulated that accessory dwelling units not be allowed for short-term rental stock.

After a discussion, the Board agreed to an additional provision in Section 8(A) that stated "*Only one dwelling unit per parcel may be used for Short Term Rental, meaning that either the primary dwelling may be used for Short Term Rental, or an accessory dwelling unit may be used for Short Term Rental, but not both. Notwithstanding anything in Section 2 of the Land Use Code to the contrary, and accessory dwelling unit may be used for Short Term Rental if the use is in compliance with the terms and conditions of the Ordinance, and is not otherwise prohibited by applicable covenants, restrictions or plat provisions.*"

Commissioner Padgett asked about the requirement for insurance. Whitmore said that the County did not require insurance on a property, and was not at risk. Commissioner Batchelder suggested that, as there was a potential health, safety and welfare issue associated with lack of insurance, the County not require it, but monitor it within the application. He said that the application could recommend that the homeowner have adequate insurance to be able to rent out their home. Commissioner Padgett agreed.

Commissioner Batchelder requested that "Ouray County" be added to Section 7(b) to clarify that applicants would be subject to all sales tax and business licenses that may be required by the State of Colorado or by the County. The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to order publication and schedule a second reading of Ordinance 2016-002 Establishing Regulations for Short Term Rental of Residential Properties, as amended. The motion carried unanimously.

I. 2:14 Commissioner / Administrative Reports:

Marti Whitmore County Attorney, had nothing to discuss.

Connie Hunt, County Administrator, discussed the following:

- 1) **Corbett Creek Site Visit** – Hunt scheduled a Commissioner site visit of Corbett Creek for September 6th at 1:30PM.
- 2) **2017 Budget Work Session** – Hunt said that the work session was scheduled for August 30th at 10AM.

Commissioner Batchelder discussed the following:

- 1) **County Road 5** - Commissioner Batchelder said that the Board members received an email and petition from County Road 5 resident Tim Beene requesting that the County explore grant funds to improve County Road 5. Commissioner Padgett thought it was worthwhile to begin exploring what the project would look like. She thought the County engineers could provide rough ideas and costs. Hunt said that she was working with the Road and Bridge department on a Capital Improvement Plan and said it may be wise to wait until it was completed to see how the project fit in. Commissioner Padgett thought it would be more helpful to have improvements to County Road 5 scoped out in order to explore grant funding. She said that if the Board had an idea of the implications of the project, it would be easier to prioritize within the Capital Improvement Plan. Commissioner Batchelder agreed and said that it was reasonable to spend the funds on engineering and developing rough proposals.

Commissioner Tisdel discussed the following:

- 1) **Updates** - Commissioner Tisdel said that Region10 and other area representatives were meeting bi-weekly to discuss the Broadband grant project. Commissioner Tisdel said that he had been asked to testify to the Senate Wildfire Matters Committee.

Commissioner Padgett discussed the following:

- 1) **OHV Issues** - Commissioner Padgett said that a San Juan County Commissioner asked her to reexamine some of the bill language in previous iterations of the OHV bill regarding child restraints and other safety features. She asked if some of the language could be included in the OHV ordinance and brought up to CCI for a potential bill to deal with safety issues. The Board agreed.

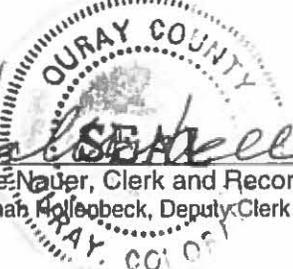
Hannah Hollenbeck, Deputy Clerk of the Board, discussed the following:

- 1) **Road Committee** – Hollenbeck said that two members of the Road Committee had resigned. Commissioner Batchelder requested that the topic be brought up to the Road Committee to determine if the vacant positions should be replaced. He said that the Board had been setting up a situation that made it difficult for the Road and Bridge Department to succeed.

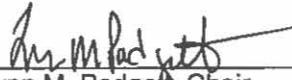
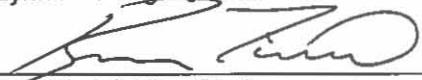
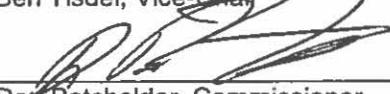
3:17 The Board adjourned the regular meeting.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:



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


Lynn M. Padgett, Chair

Ben Tisdel, Vice-Chair

Don Batchelder, Commissioner