

The Board of County Commissioners met in regular session on September 13, 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. 9:13 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.*

There were no Call to the Public items.

**B. 9:14 General Business:**

**1. Request for approval of warrants:**

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve the warrants as presented. The motion carried unanimously with no discussion.*

**2. Request for approval of Courthouse Security Grant submission for 2017 and authorization for the Commissioner to log into the Colorado Courthouse Security Grant website for electronic approval submission:**

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve the Courthouse Security Grant Submission for 2017 and authorize the Commissioner to log into the Colorado Courthouse Security Grant website for electronic approval submission. The motion carried unanimously with no discussion.*

**3. Request for approval and authorization of Chair's signature on Winter Maintenance Agreement with Eldred Colorado Family Limited Partnership and on its Fiscal Impact Form:**

Commissioner Batchelder requested that *"The County reserves the right to impose additional conditions pursuant to Resolution 2016-019 attached hereto as 'Exhibit A.'"* The Board agreed.

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve and authorize Chair's signature on Winter Maintenance Agreement with Eldred Colorado Family Limited Partnership, as amended, and on its Fiscal Impact Form. The motion carried unanimously.*

**4. Request for approval and authorization of Chair's signature on Road Maintenance Agreement with Ouray Silver Mines Inc. and on its Fiscal Impact Form:**

Commissioner Padgett asked Commissioner Batchelder if he wanted to include the addition from the Eldred Ranch agreement. Commissioner Batchelder said that it would be good for consistency, but noted that Ouray Silver Mines (OSM) had already signed the agreement.

After a short Board discussion, the Board agreed to discuss the addition with OSM representatives during the 10:00 item.

**5. Review and acceptance of Ouray County Public Trustee Report – August 2016:**

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to accept the Ouray County Public Trustee Report – August 2016. The motion carried unanimously.*

**6. Consideration and possible action regarding CCI Legislative Issue Form for the 2017 Legislative Session pertaining to OHV Safety:**

Commissioner Padgett emailed a copy of the form that highlighted the desire to increase safety requirements for OHV operators and passengers.

Commissioner Batchelder said that he thought the narrative was good; he appreciated the agricultural exemption.

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve the CCI Legislative Issue Form for the 2017 Legislative Session pertaining to OHV Safety with the narrative provided by Commissioner Padgett. The motion carried unanimously with no discussion.*

**H. 9:40 Commissioner / Administrative Reports:**

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

- 1) **Boards and Committees** – The Board authorized Hollenbeck to advertise for Fair Board and Road Committee members.
- 2) **State Land Board (SLB) Land Exchange** – Hollenbeck reported that GIS verified that the property was owned by the State Land Board, and that United States Forest Service (USFS)

Trail #260-Full Moon, bisected the property. The Board authorized staff to draft a letter for Board consideration stipulating the Board's desire that the land remain in public land ownership and public access preserved. USFS representatives that were present for another agenda item were not aware of the land transfer.

**9:48 The Board took a short break:**

**B. 9:57 General Business, continued:**

**4. Request for approval and authorization of Chair's signature on Road Maintenance Agreement with Ouray Silver Mines Inc. and on its Fiscal Impact Form, continued:**

*Brian Briggs and Clint Fletcher, Ouray Silver Mines, were present*

Fletcher and Briggs indicated that they did not think the change was significant.

*M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdal to approve and authorize Chair's signature on Road Maintenance Agreement with Ouray Silver Mines, Inc. as amended and on its Fiscal Impact Form. The motion carried unanimously.*

**C. 9:58 Brian Briggs, Ouray Silver Mines:**

**1. Ouray Silver Mines Presentation:**

Briggs presented with an update of activities and progress. He said that Ouray Silver Mines and its investment company had completed a prefeasibility study and strategic review and was ready to begin hiring additional employees. Briggs expected the mine to be fully operational in the next 12 -18 months.

Commissioner Padgett asked if Ouray Silver Mines was concerned about the implications of additional employees would have on housing and transit. Briggs said that Mine management was concerned about the lack of available affordable housing, but pointed out that a good number of miners would come in from Montrose. He said that hard rock miners were largely transient and tended to have homes in other areas that they would return to when they went on days-off.

**D. 11:00 Ouray Silver Mines / United States Forest Service (USFS) / County:**

**1. Discussion regarding potential shuttle service:**

*Sean Brown, Kaleb Valdez, and Angie Abel, USFS, were present; Sandy East, former forecaster with Colorado Avalanche Information Center; Joe Shults and Mark Rikkers, Telluride Helitrax, were also present.*

Commissioner Batchelder recognized that Ouray Silver Mines (OSM) had done a good job minimizing the conflicts of the different user groups of County Road 361; however, the central conflict remained that the road was closed to public use in the wintertime and was not skiable. Following an early work session, Ouray Silver Mines had indicated that they would be open to working to develop a shuttle service for backcountry skiers. Commissioner Batchelder asked what kind of permit the USFS would require, if any. Brown wasn't immediately sure; he said the USFS would require a detailed proposal before they could be sure which licenses and permits were needed. Briggs said that OSM had meet with a local company to discuss providing a shuttle service for OSM employees from the Ouray headquarters to the mine. Briggs said that he had discussed the possibility of OSM purchasing specialized vehicles capable of making the trip to the mine, and making them available to the local company. A schedule would be worked out to transport miners, leaving the shuttle open for the local company to take members of the public and commercial guide services up the road. Briggs said that it was OSM's preference to hire a contractor to provide the shuttle services to their employees. Briggs said that he felt there was some synergy with the local provider, but the local provider had not committed to the proposal.

Commissioner Padgett asked if the public shuttle service could be implemented that winter. Brown said that the USFS had received informal commitment form the local provider that they were interested in providing the service, but had not revived a formal proposal by the August 15<sup>th</sup> deadline. Commissioner Padgett appreciated that the conversations were taking place, but was hopeful that the shuttle service could be used this winter. She said that the County would need to receive a proposal for the contractor providing services on County Road 361 if the public shuttle was to be considered.

Sandy East explained that he was hired by the County in the 1990s to provide avalanche forecasting, and to also explore the possibility of establishing a Ouray County avalanche information center. He said that the idea was abandoned due to budget shortfalls. East was unsure about providing a public shuttle on County Road 361 due to the large number of avalanche slide routes that intersected the road. He didn't know how to mitigate the risk from the prospective of the County and OSM. He said that OSM's offer to begin exploring the feasibility of an avalanche information center was a golden opportunity. He said there were many questions still unanswered, but the goal between the partnership of OSM and East was to comply with the industry standards and look at the State standards to mitigate and manage to avalanche slide risk to County Road 361.

Briggs agreed. He said that OSM had engaged with East due to his extensive history of studying and forecasting avalanches in the region. He said that East would help OSM understand their needs when it came to dealing with County Road 361. Briggs hoped to set up a steering committee to help inform the development of standards and eventually develop a Ouray County avalanche information center. Briggs thought that immediate improvements could be made to mitigate the risk; for example: moving the gate at Senator Gulch out of a slide path and the creation of additional parking, multiagency coordination on the

development of a shuttle service, and creation of public information signage with real-time data regarding avalanche mitigation and road use.

Commissioner Batchelder asked East how long he anticipated the process to take to establish the information center. East said that the goal had three parts: first was to create an operation plan for safe travel on County Road 361 for OSM employees; second, avalanche forecasting and control would need to be established for the area; and finally, determine if a public shuttle service was viable. He said the current focus was to complete the slide mapping, and to create a handbook for OSM employees regarding training and self-rescue protocols. He hoped that the steering committee could be established in order to determine available resources and acceptable level of risk.

Commissioner Padgett was disappointed that the public shuttle service would not be offered that winter. She wanted to see public access and cooperation between all user groups.

Briggs said that he had been frustrated at the lack of commercial shuttle providers. He said that OSM had approached several other operators and no one had come forward willing to provide the shuttle service to OSM employees.

Joseph Shults, Telluride Helitrax Director, was taken aback about the lack of conversation to Helitrax regarding the shuttle idea. He said that Helitrax had provided avalanche control on County Road 361 for 35 years. Commissioner Padgett recommended that Shults be added to the stakeholders email list.

Commissioner Batchelder asked about the current protocol for mitigation request on County Road 361. Shults confirmed that mitigation was performed at the request of OSM, and that they had a robust system regarding notification.

Commissioner Batchelder said that the County's concern was liability. He said that if the road was open to the public, the County's liability would increase; he added that cost was a sticking point as well.

Mark Ridders, Telluride Helitrax, said that County Road 361 was a concentrated high hazard road. It would be difficult to mitigate and plan for unexpected events. He thought introducing a commercial service would cause a domino effect of liability.

Clint Fletcher said that OSM's insurance company deemed driving County Road 361 as being more dangerous than the actual act of hard rock mining. East said that it was reasonable to manage and mitigate the risks when a limited group was using the road, but expanding the use to a larger, unmanaged group would be dangerous.

The Board agreed to direct staff to work with East and Briggs to redevelop signs informing users of the dangers of County Road 361, in addition to signage to be placed at the Senator Gulch gate.

**12:26 Lunch**

**E. 1:26 Land Use Item:**

**1. Discussion and direction on resolving un-platted lots in Elk Meadows Subdivision:**

*Mark Castrodale, Planning Director, was present.*

Castrodale said that 150 lots were approved in 1973; he had BOCC minutes confirming that the lots had been approved; however, the plat was never recorded. He said it was the Land Use department's opinion that the approval in 1973 made the lots legal and buildable. He said that the plans needed to be recorded in order to memorialize the action.

Commissioner Padgett was concerned that recording the plat would set a unfavorable precedent. Whitmore explained that the difference was the timeframe. She said that it was clear that in 1973 and 1976 the BOCC had approved and signed the plat, but it was never filed and recorded. She thought it was a clerical error. She said that a corresponding resolution would state that the plat may reflect improvements and infrastructure that were not present, and that the process was intended to correct a clerical error.

The Board was concerned about potentially creating a conflict if the lots were not in the homeowners association (HOA) and not paying fees associated with public infrastructure. Commissioner Padgett said that it needed to be determined that the lots were indeed paying the fees and included in the HOA before any action could be taken.

**F. 1:44 The Board of County Commissioners convened as the Local Licensing Authority to consider the following items:**

**Request: Change in Entity Structure (Current/Licensed–Marijuana Cultivation Operation)**

**Facility: High Mesa Farms, Paul and Crystal Brackman**

**Location: 255 Melody Lane**

*Mark Castrodale, Planning Director, and Bryan Sampson, Associate Planner, were present. Crystal and Paul Brackman, and Zane Mund, High Mesa Farms were also present.*

Brackman explained that the two of the original investors were being removed from the ownership structure. Commissioner Padgett asked if the County would be liable if the transfer was done incorrectly. Whitmore said that the liability was the applicant's.

**M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdell to approve a Change in Entity Structure for High Mesa Farms. The motion carried unanimously with no discussion.**

**G. 1:49 Second Reading of Ordinance 2016-002 Establishing Regulations for Short Term Rental of Residential Properties, and request for authorization of second publication:**

Commissioner Padgett opened the hearing and read the title into the record. She asked for public comment. There was no public comment.

Commissioner Batchelder requested that *"subject to the terms and conditions of this Ordinance"* be added to Section 6. The Board agreed.

**M/S/P** – Motion was made by Commissioner Batchelder and seconded by Commissioner Tisdel to approve on second reading Ordinance 2016-002 Establishing Regulations for Short Term Rental of Residential Properties, as amended, and authorized second publication on September 15, 2016.

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

*Commissioner Padgett voted in the affirmative.  
Commissioner Tisdel voted in the affirmative.  
Commissioner Batchelder voted in the affirmative*

*There was no discussion. Motion passed unanimously.*

**H. 1:53 Commissioner / Administrative Reports, continued:**

Commissioner Batchelder discussed the following:

- 1) **Road Committee** - Commissioner Batchelder requested that a joint work session be scheduled with the Road Committee to discuss the Committee's bylaws and duties. He was concerned that the Board was assigning Commissioner duties to the advisory committee and was creating a difficult situation for staff and committee members.

Commissioner Tisdel discussed the following:

- 1) **Ouray County Historical Society (OCHS) Letter of Support** - Commissioner Tisdel said that he had received a letter of support request from OCHS. The Board authorized Hunt to draft a letter for ratification at the next meeting.
- 2) **Early Childhood Center** - Commissioner Tisdel said that the State Director of Early Childhood Services scheduled a meeting to discuss the possibility of constructing an early childhood center on October 11<sup>th</sup>. He said that additional details would be forthcoming.

Commissioner Padgett discussed the following:

- 1) **Top of the Pines (TOP)** - Commissioner Padgett said that she had clarified the County's procurement policy to TOP board members. She said that she was trying to help the TOP board understand the policies and channels for requests to the County.

Commissioner Tisdel discussed the following, continued:

- 3) **Amendment 69** - Commissioner Tisdel asked if the Board would be willing to consider a resolution indicating opposition to the amendment. Commissioner Batchelder was hesitant to authorize any action that would indicate positions on something that was voter choice. Commissioner Padgett agreed.
- 4) **Massard Trust** - Commissioner Tisdel reported that the Massard Trust had indicated willingness to contribute monies as matching funds for housing projects. The Western Colorado Community Foundation also had a grant opportunity as well. Commissioner Batchelder and Commissioner Padgett suggested that they wait until after the October 24<sup>th</sup> Tri Agency meeting when the IGA would be discussed between the municipalities and County. Hunt suggested that, if there were funds available, that the County could establish a special checking account with the Treasurer. The Board agreed to authorize Hunt to apply for the Western Colorado Community Foundation funds.

Commissioner Padgett, discussed the following, continued:

- 2) **Ridgway Schools Ad-Hoc Committee** - Commissioner Padgett asked when the public input hearing was scheduled. Commissioner Batchelder said that it was tentatively scheduled for October 4<sup>th</sup>. Commissioner Padgett said that she was aware that there were draft drawings for a potential workforce housing facility. Commissioner Batchelder said that he share the drawings when available.
- 3) **Corbett Creek** – The Board agreed to have Commissioner Padgett respond to a citizen concern regarding Corbett Creek.

**2:42 The Board convened into work session with the Public Health Director:**

**H. 4:08 Commissioner / Administrative Reports, continued:**

Connie Hunt, County Administrator, had nothing to discuss.

Marti Whitmore, County Attorney, discussed the following:

1) Colorado River Water District Budget Meeting – Whitmore reminded the Board of the budget meeting on September 15<sup>th</sup>.

4:10 The Board adjourned the regular meeting.

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:



*Michelle Nauer*  
Michelle Nauer, Clerk and Recorder  
By: *Hannah Hollenbeck*  
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