



Michelle Nauer, Clerk & Recorder  
Ouray County, CO

02-25-2020 02:03 PM Recording Fee \$0.00

The Board of County Commissioners met in regular session on January 28, 2020. Those present for the session were, Don Batchelder, Chair; Ben Tisdell, Vice-Chair; John E. Peters, Commissioner Member; Connie Hunt, County Administrator; Carol Viner, 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.*

**County Road 22**

Richard Wojciechowski, Log Hill Mesa resident, thanked County road crews for their efforts plowing County Road 22.

**B. 9:01 The Board of County Commissioners convened as the Board of Social Services to consider the following items:**

*Carol Friedrich, County Social Services Director, was not present.*

- 1. Request for approval of the following reports and authorization of the Chair's signature on certification page:**
  - a. County YTD Expenditures, November 2019:**
  - b. Expenditures through Electronic Benefit Transfers, December 2019:**
  - c. Check Register, December 2019:**
  - d. County Allocation / MOE Report, NOV-19:**

The Board requested that Hunt follow up with Friedrich to provide information on the development of the Social Services budget and if additional up-front planning was needed. The Board also requested that Friedrich provide an update on discussions regarding the Child Welfare Advisory Committee and the Child Welfare Committee.

*M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve the County YTD Expenditures, November 2019; Expenditures through Electronic Benefit Transfers, December 2019; Check Register, December 2019; County Allocation / MOE Report, NOV-19, and authorized Chair's signature on the certification page. The motion carried unanimously.*

**2. Caseload Report:**

The Board remarked on the LEAP program enrollment.

**H. 9:08 General Business:**

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

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

**3. Request for approval and authorization of Chair's signature on Contractual Services Agreement for Employee Assistance Program and on the Fiscal Impact Form:**

The Board directed that outreach regarding the programs be provided to employees.

*M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on Contractual Services Agreement for Employee Assistance Program and on the Fiscal Impact Form. The motion carried unanimously.*

**A. 9:13 Call to the Public, continued:**

**Board of County Commissioner Minutes**

George Kerber, County Road 22 resident, said that the Board was three months late in publishing minutes. He asked that a high priority be placed on completing the minutes in a timely fashion.

Hollenbeck acknowledged there was a backlog of minutes, and stated that audio recordings of the meetings were made available to the public upon request, for no charge.

Hunt said that the minutes were time intensive, adding that she had requested a part time position to help with the task in the 2020 budget, but that it was not approved.

**Sheriff Recall Election**

Michelle Nauer, County Clerk and Recorder, stated that a petition template had been submitted to her office seeking to recall of the County Sheriff Lance FitzGerald. She said that it was in the review process

and she was working closely with the County Attorney and the Colorado Secretary of State to ensure adherence with procedures and timelines.

**H. 9:19 General Business, continued:**

- 4. Request for ratification of approval and authorization of Chair's signature on the following agreements:**
  - a. Courthouse Elevator Maintenance Agreement with Otis Elevator Company and on the Fiscal Impact Form:**
  - b. Special Event Permit and Agreement with Steven David Entertainment for a one day commercial film shoot – January 22, 2020:**

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to ratify approval and authorization of Chair's signature on Courthouse Elevator Maintenance Agreement with Otis Elevator Company and on the Fiscal Impact Form and on the Special Event Permit and Agreement with Steven David Entertainment for a one day commercial film shoot – January 22, 2020. The motion carried unanimously.*

- 5. Request for approval and authorization of Chair's signature on Contract Amendment No.1 to Commercial Lease Agreement with Village Square Investors for lease of office space:**

Commissioner Peters recused himself from the item and left the room.

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Batchelder to approve and authorize Chair's signature on Contract Amendment No. 1 to Commercial Lease Agreement with Village Square Investors for lease of office space. The motion carried.*

After the motion carried, Commissioner Peters rejoined the meeting.

- 6. Request for approval and authorization of Chair's signature on Grant Agreement Extension letter request to the Department of Local Affairs (DOLA) for the Courthouse Restoration Grant:**

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on Grant Agreement Extension letter request to the Department of Local Affairs (DOLA) for the Courthouse Restoration Grant. The motion carried unanimously.*

- 7. Request for award of X-ray Scanner for the Ouray County Courthouse and authorization of Chair's signature on the Fiscal Impact Form:**

*Vicki Lane, County Administrative Specialist, was present.*

Lane presented the recommendation, and explained the X-Ray Scanner offering.

Hunt said that the County would request that the Courthouse Security Grant cover the \$3,000 annual operating costs.

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to award of X-ray Scanner for the Ouray County Courthouse VOTI Detection in the amount of \$24,787.93 based on the best overall value to the County and authorized Chair's signature on the Fiscal Impact Form. The motion carried unanimously.*

- 8. Request for adoption of Resolution 2020-003 approving amendments to Section 16-Wildfire and Section 2-Definitions of the Ouray County Land Use Code:**

The Board noted that staff recommended the implementation date be May 1, 2020.

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to adopt Resolution 2020-003 approving amendments to Section 16-Wildfire and Section 2-Definitions of the Ouray County Land Use Code with a May 1, 2020 implementation date. The motion carried unanimously.*

- 9. Request for approval and authorization of the Chair's signature on Addendum to Road Maintenance Agreement between Ouray County Board of County Commissioners and Ouray Silver Mine, Inc. and ratifying the County Administrator's signature:**

Commissioner Tisdel said that additional rock fall may occur given the fractures in the rock face. Hunt said that DOWL Engineering had examined the area and made recommendations that were still under review by the Road and Bridge Department and Ouray Silver Mines.

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on Addendum to Road Maintenance Agreement between Ouray County Board of County Commissioners and Ouray Silver Mines, Inc. and ratified the County Administrator's signature. The motion carried unanimously.*

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

a. **October 29, 2019:**

b. **November 19, 2019:**

**M/S/P** – Motion was made by Commissioner Peters and seconded by Commissioner Tisdell to approve the October 29, 2019 and November 19, 2019 minutes as presented. The motion carried unanimously.

**I. 9:36 Review / discussion / direction regarding County housing recommendations:**

The Board agreed to revise the letter to the Town of Ridgway requesting that the Joint Work Session between the City of Ouray, the Town and the County be rescheduled as soon as possible.

The Board agreed to change the language in the letter recommending that the three entities consider "modifying / dissolving" the Ouray County Housing Advisory Committee; change the language regarding the staff-level group to "staff-level coordinating work group regarding housing," and to remove the resolution attachment from the letter.

**C. 9:43 Ouray County Public Health Agency Fiber / Broadband Project Update:**

**1. Doug Seacat, Deeply Digital:**

*Jeff Bockes, County IT Manager was present. Doug Seacat, and Dave Duke, were present.*

Seacat gave an update on the project and to-date progress. Seacat and Duke discussed some issues with third-party locates.

Seacat said that in addition to installing the conduit for the County, he was running additional conduit in the County Road right-of-way for installation of additional redundant fiber. Viner and Hunt were directed to ensure that all work was within the contracted scope of work.

The Board discussed the County inspection and invoice process.

**D. 10:17 Glenn Boyd, Emergency Manager:**

**1. Semi-Annual Report:**

*Glenn Boyd, County Emergency Manager; Lance FitzGerald, County Sheriff; and Drew Peterson, West Region Field Manager, were present.*

Boyd highlighted accomplishments during the period including the completed updates to the Recovery Plan, the Multi-hazard Mitigation Plan, radio training, and the Active Shooter Excise.

The Board discussed the required training requirements for County Elected Officials and employees.

**E. 10:27 Monty Guiles, Peyton-Savage, LLC (Owner's Representative, Courthouse Project):**

**1. Courthouse Restoration / New Construction Project Update:**

*Monty Guiles, Owner's Representative, and Will Clapsadl, County Facilities Manager, were also present.*

Guiles said that the remaining funds for the project were approximately \$1.45 million. He explained that the contingency held by the County and the contractor was starting to be spent.

Guiles said that Sheriff's annex was nearly completed; pending final electrical and building inspections. He expected the Sheriff's office to begin moving in February.

Guiles explained that he was still working with the Charles Cunniffe Architects to determine resolution of the mechanical switch gear design error.

**F. 10:38 Jill Mihelich, Treasurer and Public Trustee:**

**2. Treasurer and Public Trustee Updates:**

Mihelich reviewed the investments and foreclosures.

**1. Review and examination by the Board of County Commissioners of the Semi-Annual Report of the Ouray County Treasurer (July 1, 2019 through December 31, 2019):**

The Board reviewed and examined the Semi-Annual Report of the Ouray County Treasurer (July 1, 2019-December 31, 2019) and directed to staff to publish the report as required.

**G. 10:45 The Board of County Commissioners convened as the Local Licensing Authority to consider the following item:**

**1. Request for approval of an extension of time to implement the screening condition for MS Support, a marijuana cultivation facility located at 255 Melody Lane:**

*Mark Castrodale, County Planning Director, was present. Daniel Castillo, MS Support, was also present.*

Castrodale said that it was staff's mistake for recommending that trees could be planted so late in the season. He said that in order to give the trees the best possible chance of success, he was recommending that the deadline for planting the trees be extended to April 30, 2020, noting that the required camouflage netting had been installed. Castrodale noted that a neighboring property owner on

Melody Lane who had initially complained about the visibility of the facility had found the netting worked well to screen the facility.

Commissioner Batchelder asked for public comment.

Commissioner Batchelder noted that the Board had received a letter from Jane Errion, County Road 1C resident, and that the letter would be included in the public record for the proceeding.

George Kerber, County Road 22 resident, said that MS Support was constructing a 10,000 square foot facility that they had not obtained a building permit for. Kerber said that the Board had discussed the failure of MS Support to fulfill the screening requirement as required by the approval of their license during the October 22, 2019 meeting. He cited a statement from Commissioner Peters that it was not the first time a complaint had been received regarding screening at the facility, and that he wished to address the concern once and for all. Kerber said that Commissioner Tisdel had commended the operator for being receptive to neighbor's concerns and for proposing an innovative solution in the form of camouflage netting. Kerber said that Commissioner Batchelder had asked how long the operators needed to complete the screening requirements agreed to by the Board during the October 22<sup>nd</sup> meeting. The operator and the Board had agreed to a 90 day requirement.

Kerber said that MS Support had failed to complete the screening by the required date of January 20, 2020. He questioned why the continued failure to accomplish the conditions was acceptable to the Board. Kerber said that the license should be revoked due to repeated non-compliance of the license conditions. Kerber said that the Board's continued enabling of non-compliance would create dangerous precedents for current and future business owners in Ouray County.

Jessica Myer, Melody Lane resident, commented that she had been willing to agree to a longer implementation period to allow for the trees to be planted, but was assured by the operators that the trees could be planted at any time of the year.

Commissioner Batchelder asked if staff's rationale for the extension was due to the ground being frozen. Castrodale said that it was.

Alexandra Perez, MS Support, said that the issue was not simply the trees. She said that she and her husband had moved to the area and bought the business because they loved the community. She added that they lived on the property and did not want to cause a hardship for any of their neighbors. Perez said that she occasionally felt unwelcome in the community due to people saying that they hoped their crops would fail. Perez said that they were operating a small business that was a part of the community. Perez said that the trees were expensive and that they wanted to ensure the best possible chance for success to solve the screening issue.

Commissioner Tisdel said that he could make a finding that there was evidence that the operators were making best efforts to comply with the conditions. He agreed that January was not the best time to plant trees and that there would be a higher degree of success if they were planted in appropriate weather.

Commissioner Batchelder asked if staff was recommending an April 30, 2020 deadline. Castrodale confirmed this was correct.

Commissioner Peters said that the issue had repeatedly been on the Board's agenda due to missed deadlines; he agreed with some of the previous comments regarding the disregard for the deadlines.

Commissioner Batchelder said that the Board could convey that, if the extension request was granted, any further extension requests may not be favorable. Commissioner Peters thought that that had been conveyed at the October 22<sup>nd</sup> meeting.

Castrodale pointed out that the berm originally required by the initial license approval did not help to achieve any screening. When MS Support acquired the license, Castrodale had sought to clarify the requirement.

Commissioner Peters said that the operator's had plenty of time to plant the trees in the late fall. He pointed out that construction was taking place on the property; he thought that the planting should have taken priority over the new construction.

Commissioner Batchelder said that applications and conditions generally needed to be more specific. He added that screening requirements needed to be reviewed from the standpoint of adequacy and success in order to avoid this situation from happening again.

Commissioner Peters said that it was not staff's responsibility to take the blame for the failure of the operator to meet the requirement.

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Batchelder to approve an extension of time to implement the screening condition for MS Support, a marijuana cultivation facility located at 255 Melody Lane to April 30, 2020. The motion carried.*

#### H. 11:15 General Business:

1. Pending approval of the above item "G" - request for adoption of Resolution 2020-002 approving a minor revision to Resolution 2019-040 granting an extension of time to implement the condition regarding screening of MS Support a marijuana cultivation facility located at 255 Melody Lane:

*M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Batchelder to adopt Resolution 2020-002 approving a minor revision to Resolution 2019-040 granting an extension of*

time to implement the condition regarding screening of MS Support, a marijuana cultivation facility located at 255 Melody Lane, with the deadline of April 30, 2020.

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

Commissioner Batchelder voted in the affirmative.  
Commissioner Tisdel voted in the affirmative.  
Commissioner Peters voted in the negative.

There was no discussion. Motion passed.

After the motion carried, Commissioner Batchelder noted that future requests for extensions may not be favorable.

11:16 Break:

J. 11:21 Commissioner/Administrative Reports:

Commissioner Peters discussed the following:

- 1) **Scenic Byways Commission** – Commissioner Peters reported on the activities of the group, noting that there were some possibilities for historical society and land trust collaboration.
- 2) **Tri-County Water (TCW) Water and Land Committee** – Commissioner Peters said that the group was working to obtain domain names to host GIS data for water resources in the County.

Commissioner Tisdel discussed the following:

- 1) **Colorado Counties Acting Together (CCAT)** – The Board requested that a work session be scheduled to discuss diverting some funds formally dedicated to the Public Lands Partnership to CCAT.

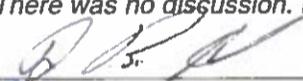
K. 11:42 The Board of County Commissioners convened into Executive Session pursuant to C.R.S. § 24-6-402(4)(b) for a conference with the County Attorney for the purpose of receiving legal advice on specific legal questions regarding Ouray County Attorney Conflict with the Ouray County Sheriff's Department:

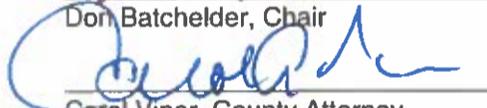
M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to convene into Executive Session pursuant to C.R.S. § 24-6-402(4)(b) for a conference with the County Attorney for the purpose of receiving legal advice on specific legal questions regarding Ouray County Attorney Conflict with the Ouray County Sheriff's Department.

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

Commissioner Batchelder voted in the affirmative.  
Commissioner Tisdel voted in the affirmative.  
Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

  
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Don Batchelder, Chair

  
\_\_\_\_\_  
Carol Viner, County Attorney

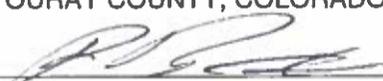
11:42 The Board of County Commissioners entered into executive session:

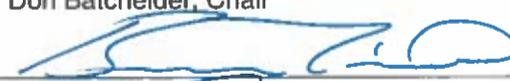
12:23 The Board of County Commissioners exited executive session:

Viner stated that the Board had just exited executive session and that the discussion was limited to the matter announced in the motion.

12:23 The Board of County Commissioners adjourned the regular session.

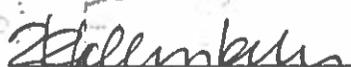
BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

  
\_\_\_\_\_  
Don Batchelder, Chair

  
\_\_\_\_\_  
Ben Tisdel, Vice-Chair

  
\_\_\_\_\_  
John E. Peters, Commissioner Member



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