

The Board of County Commissioners met in special session on May 13, 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. The meeting was conducted virtually pursuant to Resolution 2020-007 Setting Forth a Virtual Meeting Policy During a Local Disaster Emergency.**

A. 12:00PM The Board of County Commissioners convened as the Board of Health concerning the following items:

Tanner Kingery, County Public Health Director, and Glenn Boyd, County Emergency Manager, were present.

- 2. Request for approval and authorization of signatures from the Board of Health on a letter addressed to Jill Hunsaker Ryan, Executive Director with the Colorado Department of Public Health and Environment (CDPHE) concerning a Variance Request for Executive Order D 2020 044 and CDPHE Order 20-28:**

Kingery said that the Board had previously requested that Unified Command prepare a variance to Governor Polis' Safer-At-Home Order to allow for reopening of short-term vacation rentals. He said that Ouray County was transitioning to allow for reopening of hotels on May 15th at 50% capacity, but that rental of a home or other dwelling unit through a platform like Airbnb or VRBO had been prohibited by the State.

Commissioner Batchelder said that the 50% capacity requirement established by Public Health Order 5 would not apply to the short-term rental units, given the nature of renting entire homes.

Commissioner Tisdell asked how the variance would apply to single-room short-term rental units that were located within owner-occupied units. Viner suggested adding an additional bullet point in the variance application specifically stating "*Short-term lodging facilities do not include rental of a single bedroom in an owner-occupied home.*" She added that the variance should also include a bullet point that stated: "*No more than 10 people allowed in a rental unit.*" The Board agreed.

Commissioner Peters asked about pools or hot tubs present at short-term rental facilities. Kingery said that a single pool facility present at a home or condo would be fine, as long as proper cleaning and sanitation was performed after between renters. He said that communal pools should be avoided as the goal was to minimize intermingling of non-related groups. Commissioner Tisdell agreed; it was his understanding that hot tubs treated with chlorine or bromine were acceptable. The Board agreed to add an additional bullet point that stated "*private, non-communal hot tubs, pools, or spas that have been treated with chlorine or bromine per CDC regulations can be used.*"

Commissioner Peters asked about a bullet point that stated "If food is served, it should be in a takeout-style (grab n' go) manner." He said that it needed to be clear that people could make food in the rental. The Board agreed to strike the bullet point.

Commissioner Tisdell said that new information had become available regarding the capacity that Montrose Memorial Hospital (MMH) could serve. He said that all waiver requests should be done in conjunction with the recommendation by Montrose County Public Health Medical Adviser that 30% of all business sectors be allowed to open. Commissioner Batchelder asked Kingery if he had read the recommendation and if it had changed his recommendation on Public Health Order 5. Kingery had not read the recommendation nor had the conversation with the Public Health Office Medical Advisors, but said the difference between 30% and 50% was not a substantial increase and recommended sticking with the direction previously proposed to open hotels and lodging facilities at 50% beginning on May 15th. Commissioner Peters agreed. Viner added that Montrose County did not close hotels like Ouray County did; she said that the data would not necessarily apply to Ouray County. Commissioner Tisdell thought that the information may be useful to a restaurant waiver. He said that MMH felt that they could handle the increase associated with 30% capacity across all sectors. Commissioner Batchelder agreed with Commissioner Peters. He recommended that Kingery follow up with the Medical Advisor and any proposed modification be reviewed by the Board.

- 1. Review and discussion of Public Health Order concerning Overnight Lodging Countywide:**

Commissioner Peters asked how camping on public or private lands was considered within the Order. He said that the language needed to be clarified. The Board agreed to change the language to strike "public lands" as land management agencies may have different restrictions.

Commissioner Batchelder asked for public comment.

Lora Slawitschka, Ouray Chalet, agreed with the revisions made to the Variance Request. She said that the current language regarding food was confusing. She asked if families of more than ten would be allowed to rent entire homes.

John Wood, City of Ouray Council Member, asked if the lodging variance request should be combined with a restaurant waiver. He added that the municipalities were already working with business owners to waive regulations regarding adding outdoor seating and encroachments onto sidewalks. Wood was cautious of prohibiting or limiting the freedom of assembly on privately-owned land.



Dolgio Nergui, Ouray resident and short-term rental operator, questioned her ability to protect personally identifiable information of guests. She said that she relied on Airbnb to check drivers licenses and retain that information. She asked how to obtain that information upon check-in, particularly with the new requirement for contact-free check-in.

Ryan Hein, Twin Peaks Lodge, said that guests were not racing to make reservations and that he was not concerned about the percentage threshold.

George Kerber, County Road 22 resident, said that many people were visiting for the purpose of recreation and were in violation of the State's Safer-At-Home Order which limited travel to a ten mile radius from one's home. He requested that the Board consider requesting a variance from the ten mile radius provision; if the Board was not willing to request a variance, Kerber requested that the Board clarify that they would not enforce the rule.

Tammee Tuttle, Ridgway business owner, agreed that a waiver for restaurants was needed. She encouraged the Board to be proactive about reopening. She said that visitors were already arriving and that the community needed the business. She agreed that the ten mile radius rule needed to be rescinded.

Tom Ellison, Black Bear Manor, said that the data was fluid and that it was incredibly difficult for the lodgers to change protocols on the fly. He encouraged the Board to stick to the decisions they made, unless it was exceedingly obvious that a change needed to be made.

There was no other public comment.

Commissioner Batchelder asked Kingery if a change was needed to the proposed order for a requirement of retaining identification cards for guests. Kingery did not think that a change was needed; he was satisfied with the record keeping requirements of the online reservation platforms.

Commissioner Batchelder asked Viner regarding the limitation of number of guests. Viner stated that the State Order prohibited gatherings of more than ten people.

Viner addressed the request to combine waiver requests for short-term rentals and restaurants. She said that the waiver for short-term rentals needed to be submitted right away as the State orders were disproportionately affecting that style of rental unit. She said she and Kingery would need to begin developing a variance request based on the data that Commissioner Tisdell referenced earlier in the meeting. The Board agreed that the variances should remain separate.

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize signatures from the Board of Health on a letter addressed to Jill Hunsaker Ryan, Executive Director with the Colorado Department of Public Health and Environment (CDPHE) concerning a Variance Request for Executive Order D 2020 044 and CDPHE Order 20-28, as amended.

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

*Commissioner Batchelder voted in the affirmative.
Commissioner Tisdell voted in the affirmative.
Commissioner Peters voted in the affirmative.*

There was no discussion. Motion passed unanimously.

The Board agreed to direct Kingery to develop a variance application regarding restaurants and the ten mile radius provision.

B. 1:19PM The Board of County Commissioners convened as the Board of County Commissioners concerning the following General Business items:

1. Request for approval and authorization of Chair's signature on the following expenditures:

a. Warrants and Warrant Register:

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on the Warrants and Warrant Register.

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

*Commissioner Batchelder voted in the affirmative.
Commissioner Tisdell voted in the affirmative.
Commissioner Peters voted in the affirmative.*

There was no discussion. Motion passed unanimously.

b. Wire Transfer Approval Form for Courthouse Lease Purchase Payment # 8:

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on Wire Transfer Approval Form for Courthouse Lease Purchase #8

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

*Commissioner Batchelder voted in the affirmative.
Commissioner Tisdell voted in the affirmative.
Commissioner Peters voted in the affirmative.*

There was no discussion. Motion passed unanimously.

2. Request for approval and authorization of Chair's signature on Fund Transfer Form to transfer Conservation Trust Fund dollars to the Courthouse Fund to help offset the costs associated with landscaping and park areas at the restored, historic, Ouray County Courthouse:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve and authorize Chair's signature on Fund Transfer Form to transfer Conservation Trust Fund dollars to the Courthouse Fund to help offset the costs associated with landscaping and park areas at the restored, historic Ouray County Courthouse.

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.

3. Request for approval of the following minutes:

a. April 14, 2020 Minutes:

b. April 21, 2020 Special Meeting Minutes:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve the April 14, 2020 Minutes and April 21, 2020 Special Meeting Minutes.

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.

4. Fire Restriction or Fire Ban discussion:

Lance FitzGerald, County Sheriff, was present.

Commissioner Tisdel said that 18 counties had enacted some sort of fire restriction or burn bans due to extremely dry conditions. Commissioner Peters added that there was an open fire ban on all public lands in the County. He agreed that it was advisable to be able to take quick action, should a restriction be necessary.

The Board agreed to direct staff to place a resolution allowing the Sheriff to declare fire restrictions on the next meeting agenda. The Board further agreed to direct staff to gather input from the three fire chiefs in the County regarding the need for fire restrictions.

The Board of County Commissioners adjourned the special session.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Don Batchelder, Chair

Ben Tisdel, Vice-Chair

John E. Peters, Commissioner Member

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

