

The Board of County Commissioners met in regular session on September 2, 2014. Those present for the session were Lynn Padgett, Chair; F. Mike Fedel, Vice-Chair; Don Batchelder, Member; Marti Whitmore, County Attorney; Connie Hunt, County Administrator; and Hannah Hollenbeck, Deputy Clerk of the Board.

- **Note – This meeting was recorded for reference purposes.**

A. 9:02 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.

B. 9:03 General Business:

1. Request for approval of warrants:

Hunt explained that a charge for heavy equipment was processed through the wrong line item. In order to remedy the mistake, she removed the charge by crediting one account and debiting the other.

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

2. Request for approval of August 26, 2014 minutes:

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Fedel to approve the August 26, 2014 minutes. The motion carried with no discussion.

3. Request for approval of the County Assessor’s Position Replacement Request and authorization of Chair’s signature on Position Replacement Document:

Susie Mayfield, Ouray County Assessor, was present.

Mayfield outlined her request. She said that a member of her staff was retiring and she wanted to be able to hire a new person and have the retiring staff member train the new hire. Commissioner Padgett noted that the staff member who was retiring had been on a self-reduced work week and was only working 30 hours per week. Mayfield added that due to this there was some cost savings, but she would still go over her budget if the Board authorized her request. Commissioner Batchelder thought that it was a difficult situation, but said that training was incredibly valuable and important. Commissioner Fedel agreed and added that it was critical to get a new hire trained and that the Board had no choice but to authorize the potential budget deficit.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Fedel to approve the County Assessor’s Position Replacement Request and authorize Chair’s signature of the Position Replacement Document. The motion carried with no discussion.

5. Request for adoption of Resolution 2014-027 Revising the Ouray County Personnel Manual to Adopt a Social Media Policy:

Commissioner Padgett confirmed that the policy mirrored what was already being put into employment contracts. Whitmore said that it was. Commissioner Batchelder questioned how the policy would be enforced. He assumed that it would be enforced through typical methods within the personnel manual. Whitmore said that his assumption was correct.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Fedel to adopt Resolution 2014-027 Revising the Ouray County Personnel Manual to Adopt a Social Media Policy. The motion carried with no discussion.

After the motion carried, Commissioner Padgett asked if she should reach out to NACo or CCI in order to conduct a webinar on social media policies; she added that there was lots of interest in the policy and it might be good to meet with other counties. Hunt agreed and would contact the Human Resources director to set up something.

4. Request for approval and authorization of Chair’s signature on Top of the Pines Agreement:

Commissioner Padgett asked the Board to consider this item at a later time to allow members of Top of the Pines to be present. The Board agreed.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Fedel to approve and authorize Chair’s signature on the Top of the Pines Agreement.

Commissioner Padgett asked Whitmore if the contract stipulated that TOP had no authority to conduct forest health or weed management activities. Whitmore said that TOP had no authority and the County would have the authority to conduct those kinds of activities, with approval of the BLM. Commissioner Padgett further asked if the agreement was the most recent. Whitmore said that it was. Commissioner Padgett wanted the ability to change the agreement if there were any unauthorized changes. Whitmore said that the agreement had an at-will clause and that agreement could be terminated at any time.

The motion carried after some discussion.

C. 9:59 Land Use Items:

a. Direction to Staff regarding Rubbish Complaint – 2108 County Road 22:

Mark Castrodale, Ouray County Planner, was present.

Commissioner Padgett explained the process and asked Castrodale to explain the request. Castrodale said that the complaint was out of the norm in terms of a rubbish complaint. He detailed that he had the Building Inspector meet with the Sheriff's department and the Ridgway Fire Protection District Chief and the consensus was that the six-foot timber fence was not a danger and they recommended that the Board take no action. Castrodale said that one could stretch Ordinance 1995-01 to possibly include the pile as rubbish, but he added that it had never been applied to a situation like this before. He continued to explain that the fence was unconventional, but he recommended that no action be taken.

Commissioner Fedel agreed. He believed that the Land Use staff had followed the letter of the code and determined that the timber fence should not be considered rubbish. Castrodale thought that it could be construed as a fire hazard, but no more so than any other slash piles or older barns in the county. Commissioner Padgett added that the county did not have a limit for the number of timber cords stored on a property, nor the manner of storage; she agreed that the Board should take no action.

George Kerber, the owner of the property at 2108 County Road 22 gave a brief history of the contentious relationship with the complaining neighbor. He added that he had paid to have the property professionally surveyed in order to determine where the property pins should be located. He further added that he placed the fence on his property with enough space in order to access it from both sides.

Mildred Moon, the previous property owner, said that the neighbor had repeatedly asked for access to a certain part of Kerber's property, and had been denied on multiple occasions.

Commissioner Batchelder agreed with Castrodale's recommendation of no action. He added that Ouray County is a right-to-farm county and it would be in the County's best interest not to take action against something construed as a fence.

Commissioner Padgett summed up the Board's direction and said that the Board agreed with staff and recommended no action, as they did not find any evidence of rubbish or nuisance. Castrodale said that he would follow up with the complaining neighbor.

b. Direction to Staff regarding Long-Term/Non-Commercial Camping permit application:

Commissioner Padgett pointed out a typo under letter p). She noted that the permit now included concepts that were discussed at the last regular meeting.

Commissioner Batchelder thought that letter m) was covered in letter j), as well as in the Ordinance 1995-01. The Board agreed to delete letter m).

Commissioner Batchelder thought that enforcing the provisions of o) and p) would be difficult. He thought that they could be worded in a more general way. Commissioner Padgett said that her thought was that the structure needed to have four walls and be capable of sustaining wind, snow and other winter conditions. She also wanted the permit to nod to mitigating wildlife attraction. Commissioner Batchelder understood the need, but asked what the standard would be. Commissioner Padgett thought that was for Land Use to determine. She thought that without the stipulations in the long-term camping permit, the county was basically enabling year-round camping occupancy without a building permit.

Commissioner Fedel construed this as forcing vacant land owners to build on their property. Commissioner Padgett clarified that prior to the long-term camping ordinance, the allowed use-by-right was up to thirty days; the permit would allow the opportunity for property owners to enjoy their property and allow the county to have a policy and procedure for potential nuisance complaints.

Commissioner Batchelder suggested changing the language of o) to say: "the camping structure is sufficient to withstand seasons and weather as interpreted by Land Use Staff." He also asked Commissioner Padgett to explain her reasoning for including p). Commissioner Padgett explained that it concerned public and environmental health. She was concerned that individuals might dump food scraps and other waste into ditches or rivers, potentially creating a public and environmental hazard.

Commissioner Batchelder suggested getting rid of "attracting wildlife" as he thought it was too broad. He did not want to create a situation in which a neighbor-to-neighbor dispute was fueled by ammunition from the permit. He suggested changing the wording to say: "Food storage and disposal will be done in a manner that does not create a public and environmental health hazard." Commissioner Fedel asked for definitions of public and environmental hazards; Commissioner Padgett said that a public health hazard was loosely interpreted as more than one person becoming ill from food or waste being dumped into the rivers or ditches, or from accumulated rubbish.

The Board was comfortable with the language change to p).

Commissioner Batchelder was confused about the method and allowed duration of stay. The permit application stipulated 15 and 30 day camping permits. He was concerned because use-by-right already allowed 30 days. Castrodale suggested changing the wording to 30-90 days. Commissioner Fedel was inclined to strike the 15 day permit and tie RVs to port-o-potties. Castrodale added that historically the Land Use department has allowed RV use when houses were being built. Commissioner Fedel suggested stipulating that wastewater treatment be constructed first when building a house. The Board and Castrodale thought this was a good option.

The Board agreed to eliminate the 15 day permit and change the wording to reflect 30-90 days.

Commissioner Fedel suggested changing the wording under "Portable Camping Toilet" to say "Camping permit may be issued for no longer than 60 days when adequate sanitation is present."

Commissioner Batchelder wanted clarification regarding the toilet and port-o-potty screening section. He thought it was redundant to stipulate that a port-o-potty be screened when it was already a self-screening facility. He thought it would be best if the requirement be applied to any toilet seat and any accoutrements, such as a composting toilet.

Commissioner Padgett suggested adding that, when possible, the facility be screened from odors; particularly when the facility was near neighbors or roads.

Commissioner Padgett requested that “setbacks of underlying zones be adhered to” be added.

Commissioner Batchelder asked why a composting toilet needed to be in a conditioned (heated) space; he thought that changing the wording to adhere to the manufacturers’ specifications might be more effective. He suggested “A composting toilet may be used for up to 12 months, if manufacturer’s specifications are met and composting toilet model is adequate.”

The Commissioners agreed to the proposed changes and asked Castordale to make the changes and email the draft. They did not need the permit application resubmitted for their approval. The Board asked that the permit be implemented as soon as possible.

E. 10:45 Commissioner / Administrative Reports:

Marti Whitmore, County Attorney discussed the following:

- 1) **Social Media Policy** – recently shared with San Miguel County

Connie Hunt, County Administrator discussed the following:

- 1) **Road and Bridge Needs Assessment** – emailed assessment to Road Committee with Commissioner revisions
- 2) **Road and Bridge job openings** – looking to hire new foreman, and administrative assistant. The Board authorized permission to advertise in-house for two open operator positions.
- 3) **Ridgway Fire Protection District** – increased bay charge from \$100 to \$500. The Board authorized Hunt to look into other options for providing bays for EMS.

Commissioner Batchelder discussed the following:

- 1) Clarified meeting dates and locations.

Commissioner Fedel had nothing to discuss.

Commissioner Padgett discussed the following:

- 1) **County Road 1** – received an email from a citizen who was concerned about the deteriorating condition of County Road 1. Commissioner Padgett asked that Road and Bridge issue a statement in order to manage expectations.
- 2) **Fairway Pines HOA Water Project** – asked that the Board authorize her to draft a letter of support for the Fairway Pines HOA water project. The project sought to fill an underutilized water tank in order to provide wildfire mitigation and green some of the greenbelts in order to provide further wildfire protection. The Board agreed.
- 3) **Grandstands** - Commissioner Padgett said that she had heard nothing but rave reviews about the Labor Day Rodeo. She was looking forward to hearing the attendance metrics.
- 4) **PILT Funding** – indicated that there was some competing legislation. She was going to model what the pending legislation would mean for Colorado, and particularly for Ouray County. She was still working to secure full funding for 2015.
- 5) **OHV legislation** – Alpine Loop counties are still considered in conflict with state regulations. Sheriff Mattivi and other county sheriffs’ were concerned that whatever was crafted be done keeping in mind the enforcement aspect. Commissioner Padgett said that if a ATVs and dirt bikes were required to be titled, that they title them within the county. There would a one-time reasonable titling fee (between \$15-\$20).

D. 10:55 The Board of County Commissioners convened as the Board of Health to consider the following items:

1. **Request for approval and authorization of Chair’s signature on the Pre-Grant Application Form for Tobacco Education, Prevention and Cessation RFA #1278:**

Elisabeth Lawaczek, Public Health Director was present.

Lawaczek outlined the request. She added that the funding was non-competitive funding and the maximum the County could receive was \$33,333. Each participating county would contribute \$3,300 to Delta County to help administrate the mentorship position.

Commissioner Padgett asked how the funding compared for Ouray County residents. She wondered if Ouray County residents would be getting more or less under the regional approach. She was also curious to know how it would affect the Voyager Youth Program.

Lawaczek explained that there had been a misunderstanding with how the program would be funded. The funds were classified as Title 5, which covered broad substances, including tobacco. She said that Voyager did not want the \$33,333 grant next year as it had been too much of a burden for reporting on Voyager staff. Lawaczek was dialoging with Voyager to collaborate on the proposed project.

Commissioner Batchelder asked about the potential implications on county staff. He was not prepared to authorize funds for an additional staff member.

Lawaczek explained that the funds provided by the grant would supplement a full-time employee’s hours. She was in the process of hiring a new nurse and administrative assistant and was waiting to determine where the job would best reside.

Commissioner Padgett asked Hunt if she was supportive of Lawaczeck's recommendation. Hunt said that she was, and agreed to see what the new hires were qualified for before determining responsibility. She was a little concerned about the available grant funding. Hunt added that the County met all the requirements for the insurance particulars as required by the state.

Commissioner Fedel was worried about the actual benefits for the County. He felt as if it was a lot of money to grease the bureaucracy, with very little tangible benefits for Ouray County. Lawaczeck responded that there was a very real need in the County; she thought the program would help create a new social norm of being tobacco free. Commissioner Fedel said that he understood the goal, but wanted to know how the funds were going to help achieve the goal. Lawaczeck explained that a tobacco-free work force would benefit local businesses. She cited that tobacco users and missing work days were correlated. She said that it was imperative that the local community needed to be supported by robust health services. She noted that there were very few programs in place to help residents quit smoking and tobacco use.

Commissioner Fedel said that he remained skeptical. He thought that the grant provided funds that didn't get where they needed to be. Lawaczeck said that she was open to an insight he could provide on the matter.

M/S/P – Motion was made by Commissioner Batchelder and seconded by Commissioner Padgett to approve and authorize Chair's signature on the Pre-Grant Application Form for Tobacco Education, Prevention and Cessation RFA #1278.

Lezah Saunders suggested creating a marijuana build-in as well. Lawaczeck agreed and said that if Ouray County received the funds, she would be authorized to use funds for that kind of education as well.

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

*Commissioner Padgett voted in the affirmative.
Commissioner Fedel voted in the negative.
Commissioner Batchelder voted in the affirmative.*

There was some discussion. Motion passed.

F. 11:16 The Board of County Commissioners will convene into an executive session pursuant to C.R.S. § 24-6-402(4)(b) and C.R.S. § 24-6-402(4)(e) for the purpose of receiving legal advice and negotiations involving County Roads and the United States Forest Service (USFS):

Commissioner Padgett asked the Board if they would allow the potential addition of a water topic to the motion. The Board agreed.

M/S/P – Motion was made by Commissioner Padgett and seconded by Commissioner Batchelder to convene into an executive session pursuant to C.R.S. § 24-6-402(4)(b) and C.R.S. § 24-6-402(4)(e) for the purpose of receiving legal advice and negotiations involving County Roads and the United States Forest Service (USFS) and the possible inclusion of water topics.

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

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

There was some discussion. Motion passed unanimously.

As County Attorney, it is my opinion that the discussion of the matter announced in the motion to go into executive session constitutes a privileged attorney-client communication.

Martha Whitmore, County Attorney

Lynn M. Padgett, Chair

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Lynn M. Padgett, Chair

F. Mike Fedel, Vice-Chair

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

Don Batchelder, Commissioner