The Board of County Commissioners met in regular session on February 17, 2022. Those present for the session were, Lynn M. Padgett, Chair; Jake Niece, Vice-Chair; Ben Tisdel, Commissioner Member; Connie Hunt, County Administrator; Leo Caselli, County Attorney (via zoom); and Hannah Hollenbeck, Deputy Clerk of the Board.

- Note – This meeting was recorded for reference purposes.

A. 9:01 The Board of County Commissioners convened as the Board of Health concerning the following:

Tanner Kingery, County Public Health Director, was present.

1. Public Health Director Update:

Kingery reported on the COVID-19 Pandemic. He reported that the case numbers had decreased significantly, and the demand for testing was also declined. Kingery said that he was utilizing HRSA grant funds to purchase gift cards to incentivize people to obtain a vaccine. He expected immunity remain high through the summer months. He said that there were still uncertainties, given the virus mutations and future variants; however, he was optimistic about the outlook.

The Board discussed refreshing the marketing materials for vaccination outreach.

B. 9:45 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 Silver Mines, Inc, (OSMI) Update

Poppy Staub, OSMI, was present to update the Board regarding OSMI activities. She reported that the company had downsized, as previously reported to the Board due to rock movement. She expected the phase to last two-to-four months. Staub said that she would provide a more detailed update at the March 8th meeting.

Staub provided an update on the status of the Division of Reclamation, Mining and Safety Amendment #2 application. Staub also reported that OSMI had withdrawn the application for temporary modification to the stream standards in the Sneffels Creek. She said that OSMI would continue to work with local stakeholders to provide water monitoring data. Finally, Staub said that the proposed reclamation work in Governor Basin was moving forward and on schedule for July-August work and completion. Commissioner Padgett said that she had heard from the United States Forest Service (USFS) Ouray District Ranger that the USFS would be participating, but there was still a question about funding. Staub said that at $100,000 shortfall remained, but that OSMI was looking at strategic in-kind to lower the amount.

C. 10:01 The Board of County Commissioners convened as the Board of Social Services to consider the following items:

Carol Friedrich, County Social Services Director, was present.

1. Request for approval of the following reports and authorization of the Chair’s signature on certification page:

   a. Balance Sheet, December 2021:
   b. Earned Revenue and Expenditures, December 2021:
   c. Expenditures through Electronic Benefit Transfers, January 2022:
   d. Check Register for the Month of January, 2022:
   e. County Allocation / MOE Report, DEC-22:

Friedrich discussed the reports with the Board.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve the Balance Sheet, December 2021; Earned Revenue and Expenditures, December 2021; Expenditures through Electronic Benefit Transfers, January 2022; Check Register for the Month of January, 2022; County Allocation / MOE Report, DEC-22, and authorize Chair’s signature on the certification page. The motion carried unanimously.

2. Caseload Report:

Friedrich highlighted the Medicaid caseload.

3. Request for approval and authorization of Chair’s signature on a Memorandum of Understanding (MOU) with Prowers County for Child Welfare Hotline services and on the Fiscal Impact Form:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve and authorize Chair’s signature on a Memorandum of Understanding (MOU) with Prowers County for Child Welfare Hotline services and on the Fiscal Impact Form. The motion carried unanimously.
4. Request for approval and authorization of Chair’s signature on a Purchase of Service Agreement with Bright Futures for therapeutic services for Core Services participants and on the Fiscal Impact Form:
Friedrich explained that the Agreement allowed Social Services to streamline the provision of services to clients served through the Collaborative Management Plan (CMP).

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve and authorize Chair’s signature on a Purchase of Service Agreement with Bright Futures for therapeutic services for Core Services participants and on the Fiscal Impact Form. The motion carried unanimously.

After the motion carried, Friedrich explained that she was planning to utilize unspent Temporary Aid for Needy Families (TANF) funds for scholarships for qualifying families for the Voyager Youth Program summer enrichment program. She said that an agreement was forthcoming for the Board’s consideration.

Friedrich expected that the early childhood needs survey would be distributed in March.

D. 10:24 Susie Mayfield, Ouray County Assessor:

1. Request for approval and authorization of Chair’s signature on Colorado Parks and Wildlife (CPW) Impact Assistance Grant Application:
Susie Mayfield, County Assessor, was present.

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Chair’s signature on Colorado Parks and Wildlife (CPW) Impact Assistance Grant Application. The motion carried unanimously.

E. 10:29 General Business:

1. Consideration of sponsor funding request for the 2022 San Juan Rural Philanthropy Days:
Hunt said that the event would be held at the Ouray County 4-H Event Center. She said that the Fairground Manager had estimated the cost for facility use to be $3,000. She requested that the Board consider sponsoring the event at the $2,000 level, and consider an in-kind contribution for the facility. Hunt recognized that the contribution and in-kind donation were not included in the 2022 budget.

M/S/P – Motion was made by Commissioner Padgett and seconded by Commissioner Tisdel to authorize Hunt to process a $2,000 cash contribution and $3,000 in-kind contribution for use of the Ouray County 4-H Event Center for the 2022 San Juan Rural Philanthropy Days, subject to verification of available funds as the amounts were not budgeted in the 2022 budget. The motion carried unanimously.

2. Request for approval of warrants:
M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve the warrants as presented. The motion carried unanimously.

3. Request for approval and authorization of Commissioner’s signatures on letter of support for Good Shepard Ranch Grant Application for renewable geothermal exploration:
M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Commissioner’s signatures on a letter of support for Good Shepard Ranch Grant Application for renewable geothermal exploration. The motion carried unanimously.

After the motion carried, Commissioner Padgett updated the board on some pending legislation that would treat geothermal energy similar to solar for the purpose of tax credits. She said that the bill language was disorganized and that she had requested that it be reviewed. The Board agreed to add geothermal legislation to the work session list.

5. Request for adoption of Resolution 2022-006 approving changes to the Ouray County Land Use Code – Section 16:
Mark Castrodale, County Planning Director, was present.

Castrodale presented the changes. He said that the modifications were minor and did not change the function of the Code. Caselli said that if the Board wanted additional substantial changes, it would need to go back though the public hearing process.

Commissioner Padgett and Commissioner Niece did not think that the Resolution was ready for approval. Commissioner Padgett said that there were errors in the references. Commissioner Niece did not think that the amendments accurately captured the Board’s direction to emphasize completion of defensible space (d-space).

The Board discussed the process of asking Planning Commission to revisit the changes, and differences between substantial and unsubstantial changes to the Code.
Caselli suggested that language be added to A2.0 requiring implementation of d-space within one year of issuance of the Certificate of Occupancy, but preferably during site preparations, and no later than the final inspection. Commissioner Padgett said that the provision was too flexible. She said that property owners would wait until the last minute, then require an extension. She noted that adding a provision noting that pines could not be thinned or cut from May – October would be helpful. Commissioner Niece agreed.

The Board agreed to allow staff to make additional minor revisions for consideration at a future meeting.

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6. Review and examination by the Board of County Commissioners of the Semi-Annual Report of the Ouray County Treasurer (July 1, 2021 – December 31, 2021):

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to accept the Semi-Annual Report of the Ouray County Treasurer (July 1, 2021 – December 31, 2021). The motion carried unanimously.

7. Request for approval of January 2022 Public Trustee Report:

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve the January 2022 Public Trustee Report. The motion carried unanimously.

8. Request for approval of Chair’s signature on Intergovernmental Agreement between Ouray County and the City of Ouray concerning the Extrication Vehicle, Equipment:

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Chair’s signature on Intergovernmental Agreement between Ouray County and the City of Ouray concerning the Extrication Vehicle Equipment. The motion carried unanimously.

F. 11:30 Public Hearing – Exemption:

Request: Request for approval of an exemption from the definition of “subdivision” for the purpose of dedicating a portion of Dave Wood Road to Ouray County and resulting in the division of the parcel

Location: Lot: 3, Section: 4, Township: 46, Range: 10, Dave Wood Road:

Mark Castrodale, County Planning Director was present. Steve and Cheryl Niehoff, Applicants, were also present.

Commissioner Padgett opened the public hearing and explained the procedures.

Commissioner Padgett clarified that Dave Wood Road was also referred to as County Road 15 - a primary County Road.

Commissioner Padgett invited staff to make a presentation.

Staff Presentation

Castrodale said that the applicant had submitted an application for an Exemption pursuant to Section 12 of the Land Use Code. He said that the legal / conforming 36 acre parcel was divided by Dave Wood Road. The applicant was willing to dedicate approximately 23 miles of the road, with a 60 foot right-of-way to the County for the purpose of maintaining the public right-of-way. Castrodale noted that the application was unusual, but was processed under the provision of Section 12.3 of the Code. The applicant was aware they would be responsible for the costs of a road survey, development, and recordation of a plat.

Castrodale clarified that the approval of the exemption would result in the creation of two legal, non-conforming parcels; however, the approval of the exemption did not make a determination of the suitability for construction or salability of the two lots. Castrodale said that the applicant was aware and understood the caveat.

Castrodale said that the GIS and Google Earth aerials showed a Forest Service Road on the southern edge of what would be the smaller lot, if the exemption was approved. He said that it was staff’s opinion that exemption would have no impact on the Forest Service Road.

Commissioner Padgett interjected to provide a factual statement: she said that the 2014 County Road Map had identified the Road as a public right-of-way, as it was on the 2012 United States Forest Service (USFS) Motor Vehicle Map. She said that the route was mapped and named.

Castrodale said that it was the opinion of staff that the application met the conditions and provisions found in Section 12 of the Land Use Code. He said that staff concurred with the Planning Commission recommendations and conditions, and therefore recommended the Board approve the application with the eight conditions included in the Staff Report.

Commissioner Padgett invited the applicant to make a presentation.

Applicant Presentation

Steve Niehoff, applicant, agreed with Castrodale’s presentation, and noted the Forest Service Road referenced was named Happy Canyon Rim Road.

Questions on the Presentations

Commissioner Tisdel asked if the right-of-way dedication in Condition 1 would be better memorialized as “30 feet from the centerline” instead of “60-feet.” Castrodale agreed that the suggestion made sense.

Commissioner Niece asked if there was any discussion among staff regarding the benefit to the County of obtaining the official dedication in light of a public right-of-way versus historical standing of the road. Caselli said that there was extensive discussion amongst staff. He said that the dedication of the road did not show up in the original survey of the property. He said that it was possible that the road was opened in 1921, but that it was difficult to determine for certain. He said that he was not sure how the road ended up in the County Road system, but that there was no refuting that it was there. He said that it was preferable to have an accepted dedication, particularly when the parcel was being split. He said that it may be appropriate to have a dedication for Happy Canyon Rim Road as well. Caselli said that a dedication stacked on a prescriptive or historical use was very definitive. He said that if the property was sold without a dedication, there could be a risk to access. He noted that it was free of cost to the County.
Commissioner Niece asked how two legal non-conforming parcels would be created. Castrodale said that the property was currently classified as legal, conforming. As a result of this process, two legal, non-conforming parcels would be created.

Commissioner Niece said that the applicant’s narrative said that the smaller parcel would be nearly unusable as a single parcel. He questioned how spitting the parcels accomplished anything. Steve Niehoff explained that the larger parcel was used for livestock; he said that the smaller parcel would need to be gated or fenced in order to be usable for their purposes. Commissioner Padgett said that Dave Wood Road had a history beginning in 1874 — which predated USFS and the Public Highways Act. She said that it was beneficial to have the dedication.

Commissioner Padgett said that was comfortable moving forward with the request. She said that additional research may needed to ensure that the right-of-way was 60 feet, and not 100 feet. She asked if a 60 foot right-of-way dedication was needed for Happy Canyon Rim Road. Castrodale said that the dedication would be made on the same plat, but was unsure who the dedication would be made to. Commissioner Padgett said that it was her opinion that Happy Canyon Rim Road was a secondary County Road and that it be dedicated to the County.

Public Comment
Commissioner Padgett opened the hearing for public comment. Hearing none, Commissioner Padgett closed the public comment portion of the hearing.

Deliberation
Commissioner Padgett summarized the clarifications: the action would create two legal, non-conforming parcels with the associated uses-by-right for the Alpine Zone; the dedication of the portion of Dave Wood Road would be 60 feet, or 30 feet from the centerline; and, some acknowledgement for a public right-of-way deliberation for Happy Canyon Rim Road.

Commissioner Tisdel agreed. He said that the request, while not a typical request that the County received, was straightforward.

Niehoff confirmed he was willing to accept the additional dedication for Happy Canyon Rim Road.

Commissioner Niece asked if the action was in conflict with the Land Use Code, as it created increased density by subdividing a 35 acre parcel, and increased the non-conformance. Commissioner Padgett said that the application was not an abuse of the exemption provision, and that it was a practical solution to solidify public rights-of-way. Commissioner Tisdel agreed. He said that he found the requested action to be within the spirit and intent of the County Master Plan and Land Use Code.

Castrodale suggested that the Board include an additional condition regarding the dedication of Happy Canyon Rim Road. The Board agreed.

Commissioner Padgett stated that the Board had found that the application conformed to Section 12 of the Land Use Code, and that there were disagreements with the conditions proposed by Planning Commission and included in the staff report. The Board found it necessary to clarify that Dave Wood Road was also referred to as County Road 15, noting that it was a designated primary County Road, and include an additional condition accepting staff’s recommendation to clarify the dedication of Happy Canyon Rim Road with County Road and Bridge, the County Attorney, County GIS, and USFS. Further, the Board agreed to amend Condition 1 to change the language from “60 feet” to “30 feet from centerline.”

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve an exemption from the definition of “subdivision” for the purpose of dedicating a portion of Dave Wood Road to Ouray County, resulting in the division of the parcel, as applied for by Steve and Cheryl Niehoff, based on the findings stated by Commissioner Padgett, with the amendment to Condition 1 and addition of a condition pertaining to the dedication of Happy Canyon Rim Road.

Discussion:
Commissioner Niece stated that the application was heard pursuant to a legal process outlined in Section 12 of the Land Use Code; however, he had some discomfort with the creation of a lot that may not be able to be developed. He clarified that he supported the process and the findings of the Board.

With no further discussion, the motion carried unanimously.

Commissioner Padgett closed the public hearing.

E. 12:24 General Business:

8. Request for approval of the following minutes:
   a. September 21, 2021 minutes:
      The Board discussed and agreed to minor amendments.
      M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve the September 21, 2021 minutes, as amended. The motion carried unanimously.

   b. October 5, 2021 minutes:
      The Board discussed and agreed to minor amendments.
      M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve the October 5, 2021 minutes, as amended. The motion carried unanimously.

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9. Request for acceptance of Fair Board recommendation to change the date of the Ouray County Fair:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to accept Fair Board’s recommendation to change the date of the Ouray County Fair to August 9-13, 2022, and to the second week of August in future years. The motion carried unanimously.

The Board directed Hunt to communicate the action to the Fair Board.

10. Request for approval and authorization of Commissioner’s signatures on Letter or Support for the continuation of the San Miguel Power Association (SMPA) Fire Mitigation and Electrical Reliability and Broadband Improvement Project on Red Mountain Pass:

Commissioner Padgett presented an amended letter. She said that it was important for the Board to offer conditional support for the project. She said that it was imperative for SMPA to communicate changes to the public.

Commissioner Niece supported Commissioner Padgett’s proposed amendments; it was his opinion that completing the project had a higher importance than possibly impacting tourist season. He said that if a power line ignited, it would be devastating to the community, and have significant impacts on increasing electric rates and reliability.

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Chair’s signatures on Letter of Support for the continuation of the San Miguel Power Association (SMPA) Fire Mitigation and Electrical Reliability and Broadband Improvement Project on Red Mountain Pass, as amended. The motion carried unanimously.

12:40 Lunch:

H. 1:31 Public Hearing – Special Use Permit – Temporary Use:

Consider a recommendation from the Ouray Area Joint Planning Board and Land Use Staff regarding a request by Logan Tyler / Basecamp Ouray, authorized representative for Rick Wilson / Keystone Portfolio Management, for approval of a Temporary Use – Special Use Permit to operate a ‘via ferrata’ on patented mining claims located approximately 1-mile north of the City of Ouray on the east side of Highway 550:

Mark Castrodale, County Planning Director, was present.

Commissioner Padgett opened the public hearing and explained the procedures.

Commissioner Niece said that written public comment received by the deadline of 5:00 PM on February 16, 2022 was included in the record. Any additional written public comment received after the deadline was not considered.

Commissioner Padgett said that oral public comment would be accepted during the hearing.

Staff Presentation:

Prior to presenting the request, Castrodale clarified the notification / posting requirement to adjacent, adjoining, and abutting property owners: he said that the applicant owned the majority of the properties required to be noticed. He said that notices were sent to six adjacent, adjoining, and abutting owners – two properties were owned by the same owner.

Castrodale introduced the request. He said that the applicant had applied for a Temporary Special Use Permit to operate a via ferrata on 19.44 acres north of the City of Ouray, which was a use allowed by Special Use Permit in the Alpine Zone pursuant to Section 3.8(a)(2)(s). Castrodale said that clients would meet at the Basecamp Ouray headquarters in Ouray, and be shuttled to the drop-off location, located at approximately 15000 Highway 650. Upon completion of the route, clients would be shuttled back to the Basecamp Ouray headquarters via private roads, and County Road 14 and 14A.

Castrodale said that staff had come to the conclusion that the “Temporary Use” classification was appropriate instead of the “Commercial Outdoor Recreation – Day Use” as it was allowed by Special Use Permit in the Alpine Zone; the proposed use would be operational for no more than six consecutive months in a year; the facilities/equipment utilized for the via ferrata could be removed at any time; and “Commercial Outdoor Recreation – day use” did not allow for any structure or improvement.

Castrodale noted that the “facilities” needed to operate the via ferrata had already been installed. The County Building Inspector had reviewed the equipment and determined that the via ferrata facilities were outside the scope of the 2018 International Building Code (IBC) and did not trigger the Visual Impact regulations found in Section 9 of the Land Use Code.

Castrodale said that staff had verified that notices were properly sent to adjacent property owners, and a notice was posted on site.

Castrodale said that the course was designed and built by a licensed engineer; he said that a route map of the course had been included in the staff report. He noted there was currently no American standard for via ferratas, so the course was constructed to European standards. Castrodale said that the course had been inspected and registered through the State of Colorado, Department of Labor and Employment: Division of Oil and Public Safety – Amusement Rides and Devices Program. He said that the use would require annual inspections and renewals.

Castrodale said that the subject location fell within the Area of Influence for the City of Ouray, and was reviewed by the City of Ouray Joint Area Planning Board (JAPB). The JAPB reviewed the application in December 2021 and recommended approval with four conditions as listed in the staff report. Castrodale said that staff was recommending a fifth condition to require proof of a current access permit issued by the United States Forest Service (USFS) for use of Forest Road 871.2B (aka Gold Mountain Trail).

Applicant Presentation:

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Logan Tyler, operator, and Keller Heron, authorized representative for Keystone Portfolio Management, were present. Heron requested a rebuttal period after public comment. Commissioner Padgett said that rebuttal could be done during the applicant’s closing statements.

Tyler began a presentation explaining the joint effort between Basecamp Ouray and Gold Mountain Ranch to create a unique and sustainable recreation experience that educated guests on Ouray’s geology and mining history. He said that the via ferrata was only one part of the Gold Mountain Expedition (GME): the experience featured the via ferrata, and historical buildings, geology and mining history. Heron noted that it was not a high volume operation. Heron said that it was a unique opportunity for visitors and locals alike to explore and interact with places that had historically been closed to public access.

Tyler said that allowing access to private property in a controlled manner allowed access without trespassing, or damage to the historic structures.

Heron noted that the via ferrata component was similar to the Ouray Via Ferrata in name only; he said that it was a different experience, that featured many more educational opportunities. Heron noted that it was Tyler’s intention to make it available to local schools and organizations.

Tyler said that the model was very different than the Ouray Via Ferrata, noting that only a few groups would use the course in a day. He said that the Ouray Via Ferrata saw hundreds of clients a day; he said that the GME was very different in an effort to be respectful to the community and the residents in the area.

Tyler explained that he had started a climbing gym in Ouray prior to the onset of the COVID-19 pandemic. He said that he pivoted his business model to development of the Ouray Via Ferrata and began guiding the route. He said that from that experience, he saw an opportunity to build the GME. He said that the GME was an opportunity to combine Ouray’s mining history with the new outdoor recreational aspects.

Tyler said that the course would not be open to the public as the Ouray Via Ferrata was, but that it would be guided only in order to preserve the structures and maintain safety and compliance with state regulations.

In closing, Heron read from a letter received from the Ouray Schools Outdoor Education Instructor that stated the route was appropriately challenging, but accessible, and he left feeling as he had gained something from the experience.

Questions on the Presentations

Commissioner Niece stated that he had done the course in July 2021. He did not think there was a conflict as it was well before the application had been submitted. Commissioner Tisdel stated that he had been offered to run the course, but declined as he was aware it may come before the Board for consideration.

Commissioner Niece asked Tyler to clarify a statement in the application regarding allowing substantial access for locals. Tyler said that he was planning on holding “Local’s Day” every other Wednesday and allowing members of the public to donate to a local non-profit like Ouray Mountain Rescue or Ouray Climbers Alliance, in lieu of payment to run the course.

Commissioner Niece asked what measures were in place to prevent the course from becoming an attractive nuisance. Heron referenced the State permit which required a number of things to mitigate non-permitted usage, including signage.

Commissioner Tisdel asked if the drop-off location was within the municipal boundaries of the City of Ouray. Castrodale said that it was, and that there was a letter from the Ouray City Administrator stating that the City did not have an objection to the proposed drop-off and access area for the GME route, and that it was consistent with the zoning for that area.

Commissioner Tisdel asked if Colorado Department of Transportation (CDOT) had been notified of the commercial use. Heron said that CDOT had been notified and reviewed the area. He said that based on the review, presence of the chain-up station immediately adjacent to the property, line-of-sight and speed limit, CDOT had no concerns with the proposed use.

Commissioner Padgett pointed out that the entirety of the route was located in the unincorporated County.

Commissioner Tisdel asked for clarification to who was the applicant, operator, and property owner. He noted there was some confusing references in the application. Castrodale said that, from Land Use’s perspective, the property owner was always the “applicant,” but there may be other authorized agents associated with the operation.

Commissioner Tisdel said that the route showed an early bailout point on a historic trail to Jack Ass Flats. He asked if those parcels should be included in the application as it seemed to be an essential egress. Tyler said that the trail was a historic route that was either a USFS or County right-of-way. He did not anticipate that the bailout would be needed, unless in case of emergency.

Commissioner Tisdel asked about any sanitation plans. Tyler said that participants would be required to bring their own water bottles and pack in and pack out any trash. He said that bathrooms were available at the Basecamp headquarters and that a port-a-potty would be placed at the end of the route on Keystone Management property. Tyler said that guides and clients would follow Leave-No-Trace principles. Commissioner Padgett asked if a port-a-potty would be provided at the drop-off location at the start of the route. Heron said that it was possible. Commissioner Padgett said there were references to four and eight hour trips. She asked how long it took to go through the entire route. Tyler said that tours were expected to last no more than four hours. Commissioner Padgett asked how the port-a-potty at the top of the route would be serviced. Heron said that Gold Mountain Trail was easily accessed by a service truck.

Commissioner Padgett questioned if the boundaries captured all of the Temporary Use aspects. Castrodale suggested that the Board require a revised site plan that included all areas and parcels to be used in any form or fashion, including for emergency ingress / egress (i.e. the bailout trail), and where the port-a-potty would be located at the end of the route. Alternatively, Castrodale suggested that the lease between the property owner and the operator include the boundaries and the uses. Heron said that the location of the port-a-potty was within the parcel boundaries. Commissioner Padgett
said that the egress to get to the location was not. She questioned if there was an adequate sanitation plan and access to get there.

Commissioner Padgett asked if there was any benefit to aligning the Special Use Permit with the property lease renewal. Heron said that the property owner would be willing to change the term of the lease to match the Special Use Permit term.

Commissioner Padgett said that she understood the fixed hardware to be considered a "structure" for this purpose, but was struggling to understand if any damage would be sustained to the rock, or risk to the clients from the hardware. Tyler said that he had done extensive testing, including pull testing on each hardware location. He added that erosion and rock fall were monitored, and included in the State inspection process. In addition to the annual State inspection, daily tests were conducted; he attested that any changes, or loosening would be addressed immediately.

Commissioner Padgett confirmed that the Special Use Permit would not be transferrable. Castrodale said that had been the practice.

In response to a question from Commissioner Padgett, Tyler affirmed that no night use would be permitted. He said that he was developing a ranger program and guide monitoring. He said that running a via ferrata after daylight hours was incredibly irresponsible.

Commissioner Padgett asked the reference to "structure" in proposed Condition 2 could be changed to "anchored fixture." Castrodale suggested that "all associated structures" be removed from the condition. The Board agreed to discuss the proposal in deliberation.

Commissioner Tisdel said that he had done extensive testing, including pull testing on each hardware location. He added that erosion and rock fall were monitored, and included in the State inspection process. In addition to the annual State inspection, daily tests were conducted; he attested that any changes, or loosening would be addressed immediately.

Commissioner Padgett asked if the requisite USFS access agreements and permits had been obtained. Heron said that Keystone Portfolio Management had worked with a private environmental company to conduct Environmental Impact Study (EIS). He said that they paid lots of attention to the big horn sheep herds that were present on the property; he noted that there were issues with poaching. He said that any requirements placed on the via ferrata should also be placed on climbers that had put up routes on private property without permission. Tyler said that while building the route, he did see some big horn sheep; he said that it was not his intention to interfere with the wildlife. He said that he endeavored to put the route in areas that avoided the areas where the big horn sheep typically were. Tyler said that if it was an issue, the route could be adjusted to avoid conflicts.

Public Comment

Commissioner Padgett opened the public hearing for public comment.

Don Mort, County Road 14 resident, supported the application and said that the business was a welcome addition to the community. Mort was concerned about the potential for increased traffic on County Road 14. He said that activity on the road had increased with access to the National Forest, and with horseback riding outfitters. Mort was concerned about the stability and integrity of the road, particularly where it traversed above Panoramic Heights. He asked how many average daily trips (ADTs) would be associated with the business. Heron said that there would be a shuttle, the intention was to be low impact and have as few ADTs as possible. He anticipated it to be a few per day.

Frank Robertson, Waterview Lane resident, supported the application and said it was a model for outdoor recreation on private land.

Nate Disser, County Road 17 resident, said that he was pro-via ferrata.

Craig Hinkson, Oak Street resident, supported the application.

Dolgio Nergui, Ouray resident, read a letter on behalf of the Ouray Climbers Alliance (OCA). OCA supported the proposed use and application, noting that via ferrata routes were excellent additions to Ouray's climbing resources. OCA thanked the property owners for allowing rock climbing on their property, free of charge. Nergui noted that the letter was substantially similar to the letter that was sent to the City of Ouray in support of the Ouray Via Ferrata.

Kate Boehnke, Mountain View Drive resident, supported the via ferrata application; however, she was aware of someone regularly target practicing from an area near or above the proposed route. She was concerned about climber safety for those on the via ferrata route. Castrodale said that he had not been aware of the concern until he read Boehnke's letter in the public comment. Castrodale said that he would reference the Board to conversations they had had previously regarding private gun ranges on private property, as well as the right to safely target practice on public lands.

Commissioner Padgett questioned if it was within the scope of the hearing. Caselli said agreed with Castrodale regarding private and public shooting ranges, and shooting in the National Forest. He said that the County had no authority to regulate this kind of activity. He said that the County could ask public land managers to respond to the question.

Commissioner Tisdel encouraged the Board to reach out to the USFS and Bureau of Land Management, noting that the issue had come up several times in various areas of the County during Call to the Public. Heron said that there was no plan to mix guns and the via ferrata. He noted that Keystone Property Management owned 12,000 acres in the area. He did not think the concern was relevant to the permit application. Commissioner Tisdel disagreed: he said that the property owner was the applicant – he said that he often heard complaints of excessive shooting on the property, especially in the summer months. He asked what interaction the shooting had with the proposed use. Caselli said that Section 5.2(E)(2) required that the proposed Temporary Use Special Use would not create an undue danger in surrounding areas. He said that the Board could have a conversation about how the shooting intersected with the proposed use; however, if the...
Tom Tyler, 4th Street resident, supported the application and thought that the applicant had done an excellent job accounting for safety.

Don Mort said that he was aware that an employee of Keystone Property Management who resided on the property completed in shooting competitions. He said that it occurred a good distance away from the proposed via ferrata route.

Hearing no other public comment, Commissioner Padgett closed the public comment portion of the hearing.

Don Mort said that he was aware that an employee of Keystone Property Management who resided on the property was exercising their 2nd Amendment rights on other areas of the property, or the shooting was occurring accounting for safety.

Commissioner Padgett asked if there were any questions about the proposed Condition 1 and the term of the Special Use Permit. Commissioner Tisdel suggested that the operation be limited to “day use only.” The Board agreed.

Commissioner Padgett said that the Board could set a different term length. Commissioner Tisdel asked why five years was selected. Castrodale said that this was new business requiring a significant investment. Heron said that Keystone Property Management would be willing to change the property lease term to coincide with the Special Use Permit.

The Board discussed the term with Caselli. The Board agreed to authorize an initial three year term, with operation limited to May through October only, and allow staff to administratively renew the permit for five year terms, subject to the conditions in the Land Use Code.

Commissioner Padgett said that the Board had previously discussed striking “and all associated structures” in Condition 2. The Board agreed to the amendment.

Commissioner Padgett recommended that an additional condition requiring that “Applicant shall maintain the State license in good standing at all times.” The Board agreed to the additional condition.

The Board agreed to cite the updated Ordinances in Condition 3.

Commissioner Padgett asked if the Board wanted to add a condition to address concerns about shooting. Commissioner Tisdel said that the Ordinance 1992-02 regarding noise could be emphasized in Condition 3. After a discussion, the Board agreed to amend Condition 3 to state: “…paying special attention to Ordinance No’s.: 1992-01 (Noise) 2022-02 (Open Fires), 2020-01 (Rubbish), 2021-01 (OHV’s).”

Commissioner Tisdel wanted to further ensure the safety of clients on the via ferrata from shooting activities. Commissioner Padgett said that the Board could only limit shooting that would endanger the health, safety, and welfare of those on the via ferrata route. Commissioner Tisdel reiterated that the property owner was the applicant. He thought it was reasonable to add a condition to limit shooting as the activity could trigger rockfall, or surprise a climber. Commissioner Niece pointed out that gunfire could originate from anywhere on private property or in the National Forest: he said that it was an inherit hazard of recreating outdoors. Tyler was concerned with the vastness of the area, and the natural echo that happened in the valley. He said that he could only control what he was reasonable for. Tyler said that firearms were not a part of his business or operation of the via ferrata. Tyler said that it was unreasonable to make him beholden for something that occurred outside his operation and control. The Board agreed no condition was necessary.

The Board discussed additional provisions to control trash in Condition 4. The Board agreed to add “…and removed each night” to Condition 4.

The Board discussed adding an additional condition regarding sanitation. Commissioner Padgett suggested that staff develop a condition that ensured provision of a commercial port-o-potty and specify location near the exit of the route but outside of County of USFS right-of-way. The Board agreed.

The Board agreed to add a condition specifying “Prior to issuance of the Special Use Permit, Applicant shall provide proof of a current Forest Service Access Permit for Forest Service Road 871.2B, also known as Gold Mountain Trail.”

Commissioner Padgett said that she had concerns about the emergency access to the Jack Ass Flats Trail. She suggested an additional condition “Prior to issuance of the Special Use Permit, Applicant shall provide proof of all needed access permits from the USFS.” The Board agreed.

Commissioner Padgett asked if the Board could request an informal consultation with CPW for best practices of sharing areas with bats and big horn sheep. Commissioner Niece supported the non-binding request.

Commissioner Tisdel said that the Board had heard concerns about increased traffic on County Road 14. He suggested that an additional condition be added to require a shuttle to the drop-off and pick-up location, as detailed in the application. The Board agreed to the additional condition.

The Board agreed with staff’s recommendation and conclusion, with the additional and revised conditions as discussed.
The Board agreed that it was appropriate to waive the road impact fee based on evidence presented that the use would not exceed the ADTs allowed under the use-by-right.

M/S/P – Motion was made by Commissioner Padgett and seconded by Commissioner Niece to approve a request by Logan Tyler / Basecamp Ouray, authorized representative for Rick Wilson / Keystone Portfolio Management, for approval of a Temporary Use – Special Use Permit to operate a 'via ferrata' on patented mining claims located approximately 1-mile north of the City of Ouray on the east side of Highway 550 with conditions as amended during the hearing. The motion carried unanimously.

G. 4:46 Commissioner/Administrative Reports:

1. Review work sessions:

Commissioner Niece discussed the following:

1) Home Trust of Ouray County - Commissioner Niece reported that the Home Trust was moving forward with Habitat4Humanity to begin construction of affordable housing units on a lot in River Park in Ridgway. Additionally, the organization applied for DOLA Turn Key Grant funding.

Commissioner Padgett discussed the following:

1) Updates - Commissioner Padgett provided updates on new “Good Samaritan” legislation, National Association of Counties (NACo), and the SMPA Red Mountain Project.

Connie Hunt, County Administrator, discussed the following:

1) Vacation – Hunt reported that she would be taking a vacation in June.

5:08 The Board of County Commissioners adjourned the regular session.

Attest

Michelle Nauer, Clerk and Recorder

By: Hannah Hollenbeck, Deputy Clerk of the Board