The Board of County Commissioners met in special session on March 23, 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; and Hannah Hollenbeck, Deputy Clerk of the Board.

* Note - This meeting was recorded for reference purposes.

A. 1:03PM Commissioner / Administrative Reports:

Commissioner Tisdel discussed the following:

1) No Camping Signs on County Right-of-Way and Trailheads – Commissioner Tisdel reported that he had received some requests for “no camping signs” at popular trailheads and in County Road rights-of-way.

2) High Alpine Counties Partnership Grant – Commissioner Tisdel requested that the Board schedule a work session to determine how to implement the funds in cooperation with San Miguel, San Juan and Hinsdale Counties. The Board agreed to review the application materials and letter of support to better understand the scope.

3) Immersion Program – Commissioner Tisdel reported that he would be attending an immersion program and would be out of the County for the month of June. He anticipating missing two meetings in June.

Commissioner Padgett discussed the following:

1) Remote Attendance – Commissioner Padgett said that she may possibly attend the April 26, 2022 remotely.

2) 30 by 30 Letter – Commissioner Padgett said that she had elected to not sign into the letter as it could have unintended consequences due to lack of details.

B. 1:32PM County Road 5 Litigation:

1. Update Regarding County Road 5, Pending Litigation in Colorado Court of Appeals (2021CA1525): 5 Briefs Filed as of 03/17/22 – Available in Public Packet (Appellant, First Amicus, Appellee, Second Appellee, Second Amicus).

Ty Barger, County Road and Bridge Superintendent, was present.

Caselli gave a brief overview of the pending litigation. He said that it was a very large, highly complex case. He said that he was releasing the briefs to the public for transparency. He said that it was the County’s desire to settle the matter. He said that the County was defending the District Court Orders. Caselli noted that the District Court Record had been suppressed and could not be shared. Caselli cautioned that he could not engage directly with parties to the case, and requested that questions be directed through the attorneys involved in the matter.

Commissioner Tisdel asked Caselli to explain the timeline. Caselli expected the matter to be settled within six-to-nine months.

Commissioner Padgett asked Caselli to explain what a suppressed record meant. Caselli said that it was only available to the attorneys involved in the matter. He said that it could change upon conclusion of the case.

Scott Williams, Pleasant Valley resident, had concerns about the possibility of the Court deciding that the County did not have statutory authority or implied discretion to close the road to the public, while allowing the property owners access. He discussed how it would impact the Settlement Agreement that was reached with the property owners in 2020. Caselli did not want to speculate what would happen if the District Court was overruled.

Williams said that he felt many items were left unaddressed by the Settlement Agreement. Williams favored a conclusion to the decade long battle and the ongoing conflict. He encouraged the Board to review the regulatory authority that allowed large landowners to subordinate large acres into 35 acre parcels, without County review. He was aware that a large property owner near County Road 5 had recently recorded a parcel map that created 19 new lots.

He encouraged the Board to review the Winter Maintenance Agreement Policy to ensure no additional roads would be gated, impacts would be avoided or properly mitigated, and that vested rights were not granted by the agreements.

Commissioner Tisdel agreed that it was frustrating that property owners could subvert the Land Use Code by subdividing outside the County process.

Caselli appreciated Williams’ comments; he said that he could be taken up when the County was not in litigation.

Kelly Ryan, Ridgway resident and San Juan Huts owner, asked who would be representing the County going forward.

Caselli reiterated his statement that he could not respond to her question directly, due to ethics rules, but encouraged her to ask through her attorney.

Ryan asked if she could ask any questions at all. Caselli said that he was limited by an ethical rule. Caselli said that he was happy to call Ryan’s attorney. Caselli said that Ryan could ask questions to the Board, as she was a resident of the County, but that he could not directly communicate with her besides deferring questions to her attorney.

Ryan asked the Board when the last time they had each traveled, by car or human-powered means, County Road 5 or the Miller Mesa Recreation Trail (MMRT). Commissioner Tisdel recalled that he had skied the MMRT on or around January 28, 2022. Commissioner Niece said that he had skied the MMRT around the end of 2021. Commissioner Padgett said that she had walked the MMRT before the first snow. She said that she kept up with social medial reports and had received calls about the conditions. She noted that the MMRT required a different ability level than skiing the road had offered.

Al Lowande, Log Hill resident, agreed with Commissioner Padgett’s statement regarding the difficulty level of the MMRT. He agreed with Williams’ point for the County to be proactive in ensuring the County Road 5 debacle was not repeated as it was unpleasant for all involved. Lowande said that it was a travesty that a County Road could be gated for the benefit of private property owners. He encouraged the Board to consider having a policy for all Winter Maintenance Agreements to...
require the roads to be wide enough to accommodate all users. Lowande said that much of the dissatisfaction could be resolved if the gate was removed.

Diane Thompson, Elk Meadows resident, asked if the County had the resources to maintain the safety of all of the users. Thompson asked if the construction companies could pay their share for use of the road. She said that if the road was safe for the property owners to drive in the winter, it should be safe for the general public as well.

Caselli thanked Lowande and Thompson for their comments. Caselli said that he could answer the Board's questions in executive session.

2. The Board of County Commissioners convened into an executive session pursuant to C.R.S. § 24-6-402(4)(b); for a conference with the County Administrator, County Attorney, and County Road & Bridge Superintendent for the purpose of receiving legal advice on specific legal questions regarding 2021CA1525.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to convene into an executive session pursuant to C.R.S. § 24-6-402(4)(b); for a conference with the County Administrator, County Attorney, and County Road & Bridge Superintendent for the purpose of receiving legal advice on specific legal questions regarding 2021CA1525.

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

Commissioner Tisdel voted in the affirmative.
Commissioner Padgett voted in the affirmative.
Commissioner Niece voted in the affirmative.

There was no 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.

Lynn M. Padgett, Chair
Leo Caselli, County Attorney

2:12 The Board of County Commissioners convened into an executive session:

3:35 The Board of County Commissioners exited executive session:

Caselli said that the Board just exited and executive session. The topic of discussion was as announced in the motion; no actions were taken and no decisions were made.

3:37 Break:

C. 3:47 General Business:

1. Discussion and possible action regarding replacement of the name “S**** Gulch” in the Ironton Quadrangle:

Commissioner Padgett explained the location of the Gulch and said that the name suggestions proposed by the State Committee would be very confusing, as they were already named locations in the County.

The Board suggested the name “Hayden Gulch” given the proximity to Hayden Mountain. The Board also authorized Commissioner Padgett to reach out the Ute Elder Committee for possible name suggestions.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to authorize Commissioner Padgett to draft a letter with the Board’s suggested name change to “Hayden Gulch”, and to reach out to the Ute Elder Committee for possible alternate names. The letter would be ratified on April 5, 2022. The motion carried unanimously.

3:58 The Board of County Commissioners adjourned the Special Session.