The Board of County Commissioners met in regular session on April 5, 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. 9:00  The Board of County Commissioners convened as the Board of Health concerning the following:

1. **Public Health Director Update:**
   
   Tanner Kingery, County Public Health Director, and Dr. Andrew Yeowell, County Public Health Medical Officer, were present.

   Kingery reported on upcoming Vaccine Bus events in the City of Ouray.

   Kingery said that wastewater monitoring in the City of Ouray indicated a lower positivity rate. Kingery said that he was working with the City and the Town of Ridgway to apply for grants for auto-samplers. Kingery reported that the demand for testing continued to decline: he said that 99 tests were done in March, which was a stark difference from 995 tests conducted in January.

   Kingery reported that the County’s vaccination rate had plateaued around 75%.

   The Board discussed booster availability for qualifying populations.

   Yeowell reported hospital availability. Yeowell said that he was working with Kingery to return to normal Public Health functions.

B. 9:30  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.

- **Idarado Houses Update**

   Patrick Willits, Trust for Land Restoration (TLR), was present to update the Board on ongoing preservation work at the Idarado Houses. Willits said that TLR had applied for grant funding from History Colorado, but that additional details regarding an architectural review and provisions for a maintenance fund post-preservation work. He said that TLR intended to reapply with clarifications to those provisions.

   The Board directed Hunt to work with Willits to determine the best way to set up a maintenance fund.

- **Roads on Log Hill Mesa**

   Al Lowande, representing the Log Hill Village Homeowners Association (HOA), thanked the County for scheduling crack sealing of the paved roads on Log Hill Mesa. He said that a larger issue remained with deteriorating roads. He said that homeowners had made a significant investment to pave the roads, but the lack of County maintenance had resulted in deterioration. Lowande said that it was past the point of needing a new chip seal surface. He reminded the Board that the County had accepted the roads as County Roads and was responsible for upkeep and maintenance.

   Commissioner Padgett said that the Board would be discussing chip seal contracts later in the meeting. She recognized the issues with deferred maintenances and a chronically underfunded department. Commissioner Niece agreed and wanted to hear the Road and Bridge Superintendent’s plan for the planned sequence of maintenance.

   Barry Doyle, Log Hill Village HOA Board member, added that non-paved roads on Log Hill Mesa needed attention as well.

- **Marijuana Ordinance Revisions and Moratorium Extension**

   Rachel Ardanuy, representing All Ways Farms, was present to discuss the proposed extension to the moratorium on new Marijuana Cultivation Facility applications. She said that All Ways Farms had been on a wait list since October.

   Commissioner Padgett said that the Board would be discussing chip seal contracts later in the meeting. She recognized the issues with deferred maintenances and a chronically underfunded department. Commissioner Niece agreed and wanted to hear the Road and Bridge Superintendent’s plan for the planned sequence of maintenance.

   Ardanuy wanted to make it clear that All Ways Farms was now potentially facing an 18 month moratorium. She said that the Board had previously found that All Ways Farms did not experience undue hardship and did not approve a variance. The Board agreed that the discussion was appropriate to have during the scheduled agenda item.

C. 10:01  Road and Bridge Reports:

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

   1. **Road and Bridge Report:**

      Barger reviewed the monthly Road and Bridge Report.

      Barger discussed the scouring work to occur at the Weehawken Bridge to secure jersey barriers. Barger was confident that the improvement would be successful in protecting the wing walls from washing out.

      Commissioner Niece asked Barger to begin reviewing County Roads 5 and 361 for the purpose of opening the seasonal closure gates. The Board agreed.

      The Board discussed dust suppressant applications and sequences.

      Justin Perry, County Sheriff, was anticipating a large influx of traffic diverted to County Road 1 as a result of maintenance projects on Highway 550. He asked Barger to share his observations of the condition of the roads as the summer progressed. Perry said that he was planning a series of traffic safety meetings for residents in the upcoming weeks.

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The Board discussed utilizing the variable message signs in strategic areas to manage expectations.

2. Request for approval and authorization of Chair’s signature on Chip Seal Emulsion Agreement for Road & Bridge:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to approve and authorize Chair’s signature on Chip Seal Emulsion Agreement for Road & Bridge. The motion carried unanimously.

3. Discussion and possible action or direction to staff concerning County Road 1, two mile chip seal:

Barger recommended that the Board authorize crews to begin work on the north end and move south, as conditions permitted. The Board agreed.

D. 10:40 Public Hearing – Plat Amendment:

Applicant: CV Investments, Inc.
Location: Fairway Pines Filing 6A, Lot V609
Request: Define the three building areas allowed on the parcel

Bryan Sampson, County Senior Planner, was present.

Commissioner Padgett opened the public hearing and explained the procedures.

Commissioner Padgett invited Sampson to present the request.

Staff Presentation:

Sampson explained that the Filing was platted in October 2000 as a cluster lot with three units of density. He said that the purpose of the hearing was to establish the lots and the general common elements (GCE) and limited common elements (LCE) pursuant to the Colorado Common Interest Ownership Act (CCIOA) and County Land Use Code 6.12(C)(4).

Sampson explained that a GCE was an area of the development that could be used by all unit owners, like a driveway or an open space; a LCE was a portion of the common elements allocated for one or more owner – like a parking space, porch or patio.

Sampson said that the Planning Commission and staff had found that the application met the requirements in Section 6.12 of the Land Use Code and was recommending approval of the request with the nine conditions as listed in the Staff Report.

Commissioner Tisdel asked for clarification of what could occur within the building envelopes depicted on the plat. Sampson said that building could occur within the building envelopes. Commissioner Padgett said that it was her interpretation that everything related to each building, other than the septic holding tanks would be present within that envelope. Sampson agreed. He said that the units would have a septic tank for solids, and a leech field. He said that the leech field was considered a LCE. Commissioner Niece asked for more information regarding the two types of septic systems. Sampson agreed it was unusual, but that it was a requirement of the Fairway Pines Sanitation District.

Applicant Presentation

Deborah Harrison, authorized agent, declined to make an additional presentation.

Sampson confirmed an authorized agent form had been received for Harrison.

Questions on Presentations

Commissioner Padgett asked Harrison to explain how the septic systems worked. Harrison said that the Fairway Pines Sanitation District required a holding tank for solids and required that the homeowners maintain and pump it. She said that homeowners paid a fee to the Sanitation District for liquid waste.

Sampson said that the Colorado Department of Public Health and Environment did not consider this type of hybrid system an onsite wastewater treatment system (OWTS).

Commissioner Padgett asked if there was any kind of alarm system to indicate with the solids tanks needed to be maintained. Sampson was unsure. Harrison said that the system would be fully engineered and accepted by the Sanitation District.

Public Comment

Commissioner Padgett opened the hearing for public comment.

Craig Fetterolf, County Road 24 resident, asked if there were other septic systems in Fairway Pines that were not connected to the Sanitation District. Sampson said that there were.

Fetterolf asked if there were any leech fields that were shared by different owners. Sampson said there were not.

Fetterolf said that there were frequently odors around the 15th hole of the golf course. He asked if the additional buildings would worsen the odors. Harrison said that this would be the fourth development and that it had always been intended to utilize the Sanitation District. She said that it had been designed to the specifics of the District.

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

Deliberation

Commissioner Tisdel said that the plat could be amended to accommodate the confusion with the type of septic system. Commissioner Tisdel asked if it was acceptable to have easements for pipes from the building envelopes to the sewer.
systems on the plat. Sampson said that it was not common practice and did not recommend including it on the plat. Caselli agreed that it could have issues with CCOIA.

Commissioner Padgett asked if more specificity could be added regarding the engineered septic and foundation on the plat. Commissioner Niece agreed that hardwiring it on the plat was inappropriate, but he agreed he had more questions about how the septic system worked.

Caselli cautioned the Board from getting into the dedication language.

Commissioner Padgett recommended that the Board consider authorizing staff to develop an additional condition clarifying the engineered septic / foundation system. The Board agreed.

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to accept a recommendation from Planning Commission and staff to establish the building areas for each of the three allowed units on Lot V609 of the Fairway Pines Village, Filing 6A, with the nine conditions proposed by staff and Planning Commission, and an additional condition regarding the engineered septic / foundations. The motion carried unanimously.

Commissioner Padgett closed the public hearing.

E. 11:29 Proclamations:

1. Request for adoption of the following Proclamations:

   a. **Proclamation 2022-001 declaring April 2022 Child Abuse Prevention and Awareness Month:**

   M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to adopt Proclamation 2022-001 declaring April 2022 Child Abuse Prevention and Awareness Month. The motion carried unanimously.

   b. **Proclamation 2022-002 declaring April 4-10, 2022 as National Public Health Week 2022:**

   M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to adopt Proclamation 2022-002 declaring April 4-10, 2022 as National Public Health Week 2022. The motion carried unanimously.

   c. **Proclamation 2022-003 Sexual Assault Awareness Month:**

   M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to adopt Proclamation 2022-003 declaring April 2022 Sexual Assault Awareness Month. The motion carried unanimously.

F. 11:33 General Business:

1. Request for approval of warrants:

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

2. Request for approval and authorization of Chair’s signature on Alley Drainage Project Agreement for the Courthouse and on its Fiscal Impact Form:

   M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Chair’s signature on Alley Drainage Project Agreement for the Courthouse and on the Fiscal Impact Form. The motion carried unanimously.

3. Request for approval of the following minutes:

   a. October 19, 2021 Minutes –redline:

   Commissioner Niece said that he found the revisions to be acceptable and encouraged staff to have the audio recording posted on the County’s website.

   Commissioner Padgett agreed. She requested minor amendments to her statement on page 180 as follows:

   “Commissioner Padgett said that it looked like a positive statement saying the zero discharge that was not regulated nor violating solid waste regulations.” The Board agreed.

   M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve the October 19, 2021 Minutes, as amended. The motion carried unanimously.

   b. December 16, 2021 Minutes – redline:

   M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve the December 16, 2021 Minutes. The motion carried unanimously.

   c. January 5, 2022 Minutes:

   M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve the January 5, 2022 Minutes. The motion carried unanimously.

   d. January 11, 2022 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 January 11, 2022 Minutes, as amended. The motion carried unanimously.

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4. Request for adoption of Resolution 2022-012 Extending the Moratorium on Land Use Department’s acceptance of applications for permits to operate Marijuana Facilities in Unincorporated Ouray County ending on April 5, 2022, for six months or when updated regulations are adopted, whichever occurs first, unless the Moratorium is extended for good cause:

Mark Castrodale, County Planning Director, and Bryan Sampson, County Senior Planner, were present.

Commissioner Padgett explained that the Board would ask questions of the Land Use staff and the County Attorney, then open public comment prior to making a decision.

Castrodale and Caselli said that they did not have anything to add.

Commissioner Tisdel asked for public comment.

Matt Rocco, All Ways Farms, said that he was an owner of a small business that had been continuously negatively impacted by the moratorium extensions. Rocco said that the process to rewrite the ordinance had taken much longer than anyone expected. He said that public comment was often repetitive and off topic. He understood that the Board was eager to complete the revisions but urged them to consider the continued impacts of the moratorium to those on the wait list.

Brian Tannenbaum, Flower Management and Alpengrow, said that he had an application for a facility that would be reviewed by the Local Licensing Authority in the coming months. Commissioner Padgett cautioned Tannenbaum to stay on topic and not introduce information that may affect the record for the upcoming licensing hearing. Tannenbaum said that his family had been impacted by the moratorium, as it had delayed implementing his plans for a cultivation facility. He supported the moratorium as it allowed the Board an opportunity to regulate marijuana-related business in a way that affected the community — primarily from the nuisance aspect. He said that the Board should pay attention to the issues of the property where the use was contemplated and the regulations would come naturally. Tannenbaum said that he thought the moratorium was great and encouraged the Board to regulate marijuana in a similar manner that it would any other business.

Rachel Ardanuy, representing All Ways Farms, said that Land Use staff had a year to catch up with land use applications and marijuana related issues. She requested that the Board consider allowing those on the waiting list to proceed through a preliminary review. She said that allowing the preliminary review would speed up the review process when the new Ordinance was adopted.

Commissioner Tisdel said that Ardanuy’s request would be counterintuitive. He said that the purpose of the moratorium was to allow for development of a set of regulations. He was not in favor of accepting Ardanuy’s recommendation. Commissioner Niece agreed. Commissioner Padgett also agreed: she said that it would give the appearance of pre-judging an application under a regulatory scheme that may no longer exist and was flawed.

The Board discussed amendments to the resolution but ultimately agreed that no revisions were necessary.

5. Request for approval of the February 2022 Public Trustee Report:

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

6. OHV High Alpine Counties Partnership 2022 Update:

Commissioner Tisdel reported that he had attended a Partnership update. He said that the State had requested that the grant funds be fully expended in 2022. Commissioner Tisdel said that as part of the partnership, Ouray County would have $12,000 for materials for improvements to high mountain passes.

Commissioner Tisdel said that the regional Public Information Officers were working together to develop an educational video.

The Board agreed to authorize Hunt to work with the Road and Bridge Superintendent to identify places to place boulders for resource protection and materials for road improvements.

7. Request for ratification of approval and authorization of Commissioner’s signatures on Diamond Creek Abandoned Mine Lands (AML) Physical Safety Closures Project support letter:

M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to ratify approval and authorization of Commissioner’s signatures on Diamond Creek Abandoned Mine Lands (AML) Physical Safety Closures Project support letter. The motion carried unanimously.

8. Request for ratification of approval and authorization of Commissioner’s signatures on letter to Colorado Geographic Naming Advisory Board (CGNAB) regarding rename of “Squaw Gulch” to “Hayden Gulch”, FID 187265, Ouray County, Colorado:

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to ratify approval and authorization of Commissioner’s signatures on letter to Colorado Geographic Naming Advisory Board (CGNAB) regarding rename of “Squaw Gulch” to “Hayden Gulch”, FID 187265, Ouray County, Colorado. The motion carried unanimously.
Commissioner Padgett said that she had contacted the Ute Mountain Ute Tribe as directed. She said that the Tribe was receptive to the request, and had invited her to attend an upcoming meeting. The Board agreed to authorize her to attend the meeting for the purpose of presenting information on the Gulch, Hayden Mountain, and the request.

9. Request for award of Engineering proposal(s):
M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Padgett to award Engineering proposals to Buckhorn Engineering and KLJ Engineering as outlined in the staff memo. The motion carried unanimously.

10. Request for approval and authorization of Chair’s signature on Audit Engagement Letter with Blair and Associates, P.C., and on the Fiscal Impact Form:
M/S/P – Motion was made by Commissioner Niece and seconded by Commissioner Tisdel to approve and authorize Chair’s signature on Audit Engagement Letter with Blair and Associates, P.C., and on the Fiscal Impact Form. The motion carried unanimously.

11. Request for appointment of Corporal Derrick Linnell to the Seventh Judicial District Community Corrections Board:
M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Niece to appoint Corporal Derrick Linnell to the Seventh Judicial District Community Corrections Board. The motion carried unanimously.

12:41 Lunch:

G. 1:02 Andrea Sokolowski, Home Trust of Ouray County:

1. Funding Request:
Sokolowski reviewed accomplishments of the Home Trust, including state and federal grants. Sokolowski said that the City of Ouray and the Town of Ridgway were interested in having the Home Trust administer deed restrictions for affordable housing projects coming online in the next few years.
Sokolowski requested a contribution of $10,000 from the County.
Commissioner Niece stated that he participated as a Board member on the Home Trust Board of Directors. After a discussion, Commissioner Niece recused himself from voting, but remained in the room.
Commissioner Tisdel and Commissioner Padgett discussed the funding contribution and ultimately agreed to use American Rescue Plan Funds.
M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Padgett to approve a contribution of $10,000 from the American Rescue Plan Funds to the Home Trust of Ouray County. The motion carried.
After the motion carried Commissioner Niece rejoined the discussions.

Commissioner Padgett updated the Board on the need and purpose.
The Board discussed the roles and responsibilities of the Facilitator.
The Board agreed to direct staff to proceed with publication of the RFP as presented.

H. 3:55 Commissioner/Administrative Reports:

1. Upcoming Work Session Review:
Hannah Hollenbeck, Deputy Clerk of the Board discussed the following:

1) Planning Commission Interviews – Hollenbeck reported that two members were seeking reappointment. No other letters of interest were received. The Board agreed that interviews were not necessary, and directed Hollenbeck to put together a package of the original letters of interest and the minutes from their original interviews.

Commissioner Padgett discussed the following:

1) Updates - Commissioner Padgett expected that the City of Ouray may have completed revisions on the Joint Area Planning intergovernmental Agreement; Hunt was directed to follow up with the City. Commissioner Padgett presented her plan for review on high level themes during the Marijuana Cultivation Facility Ordinance Revisions work session. The Board agreed that the Board should discuss themes and changes first, then move on to public comment.

2) Congressional Funding Request - Commissioner Padgett said that the Board should direct staff to resubmit the earmark funding request for the County Road 17 / Corbett Creek project. She said that the narrative could be refreshed to emphasize the community benefit. The Board agreed.

3) Ute Mountain Ute Tribe Meeting - Commissioner Padgett said that she would be attending the meeting in person, on behalf of the Board. She said that it would have been preferable to have the entire Board attend, but that it was not possible given the Board meeting scheduled for April 13th.

Connie Hunt, County Administrator, discussed the following:

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1) **Performance Evaluation, Forms and Trainings** – Hunt reported that she had sent the County policy and forms regarding performance evaluations to the Employers Council, and they replied with minor changes. She said that she was working to schedule a training with department heads and elected officials.

4:31 **The Board of County Commissioners adjourned the regular session.**

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**BOARD OF COUNTY COMMISSIONERS**
**OF OURAY COUNTY, COLORADO**

Lynn M. Padgett, Chair

Jake Niece, Vice-Chair

Ben Tisdel, Commissioner Member

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Michelle Nauer, Clerk and Recorder

By: Hannah Hollensbeck, Deputy Clerk of the Board

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