

The Board of County Commissioners met in regular session on May 5, 2020. Those present for the session were, Don Batchelder, Chair; Ben Tisdell, Vice-Chair; John E. Peters, Commissioner Member; Connie Hunt, County Administrator; Carol Viner, County Attorney; and Hannah Hollenbeck, Deputy Clerk of the Board.

- **Note – This meeting was recorded for reference purposes. The meeting was conducted virtually pursuant to Resolution 2020-007 Setting Forth a Virtual Meeting Policy During a Local Disaster Emergency.**

A. 9:00 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.

Property Tax Collection Comparison

Jill Mihelich, County Treasurer and Public Trustee, was present to report on the comparison of percentage of sales tax collected in 2019 and 2020. She said that she collected 63.1% of property taxes due in 2019 and 63.7% in 2020; she added that she had only waived \$54.00 worth of interest in 2020. Mihelich reported that the County was in good shape in terms of property tax collection.

High Country Roads

Rik Nat, Montrose resident and Western Slope Four Wheelers Club Officer, volunteered to help where appropriate in order to get the high country roads open. He encouraged the Board to keep recreation open for everyone.

G. 9:05 General Business:

1. Request for approval of warrants:

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve the warrants as presented.

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

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

There was no discussion. Motion passed unanimously.

2. CCI Legislative Updates:

Commissioner Tisdell reported that the Joint Budget Committee was working for resolution of how to disperse remaining CARES Act monies to the 59 counties that did not receive funding.

Commissioner Tisdell said that the CCI Summer Conference had been postponed.

3. Request for approval and authorization of Chair's signature on Service Agreement with Waste Management for a 3 yard dumpster and the Courthouse Facility Complex and on the Fiscal Impact Form:

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on Service Agreement with Waste Management for a 3 yard dumpster at the Courthouse Facility Complex and on the Fiscal Impact Form.

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

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

There was no discussion. Motion passed unanimously.

4. Request for approval of the following minutes:

- a. **March 24, 2020 minutes:**
- b. **March 26, 2020 Special Meeting minutes:**
- c. **March 30, 2020 Special Meeting minutes:**
- d. **April 2, 2020 Special Meeting minutes:**

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve the March 24, 2020 minutes; March 26, 2020 Special Meeting minutes; March 30, 2020 Special Meeting minutes; and April 2, 2020 Special Meeting Minutes.

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

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

There was no discussion. Motion passed unanimously.



C. 9:13 Commissioner/Administrative Reports:

Connie Hunt, County Administrator, discussed the following:

- 1) **Joint Policy Group Work Session** - Hunt reported that the work session had been scheduled for May 14th at 6:00PM.

Carol Viner, County Attorney, discussed the following:

- 1) **Statement Clarification** – Viner said that she had made a statement during the April 28, 2020 regular meeting regarding a virtual meeting that was misconstrued. She said that she did not say that Zoom or virtual meeting were illegal; she said that, but for the emergency declaration, virtual meetings conducted via Zoom would likely not pass the open meeting standards defined by the Open Records Act. Absent legislative changes, the Board needed to go back to in-person meetings when the emergency declaration was rescinded. She apologized for any misunderstanding.

Commissioner Peters discussed the following:

- 1) **Political Signs** – Commissioner Peters reported that he had received several phone calls regarding political signs in the County and whether or not the signs adhered to the sign regulations in the Ouray County Land Use Code. The Board agreed to refer the issue to Land Use Staff.

Commissioner Tisdell discussed the following:

- 1) **Bipolar Spire** – Commissioner Tisdell reported that the Bipolar Spire in the Uncompahgre Gorge within the operating area of the Ouray Ice Park and Ouray Via Ferrata had collapsed. He asked staff to follow up with the City of Ouray for additional information, if available. He was concerned about the potential impacts to the Ice Park and to the Via Ferrata infrastructure.

Commissioner Batchelder discussed the following:

- 1) **Sales Tax Revenues** – Commissioner Batchelder explained that he had performed an analysis of sales tax revenues using a five year average. He said that he was concerned about the potential impacts to revenues experiences from the COVID-19 pandemic. The Board agreed to have a discussion regarding capital purchases during a future meeting.

9:30 Break:

B. 9:45 Road and Bridge Reports:

Bill Frownfelter, Interim County Road and Bridge Superintendent, and Chad Rilling, Road and Bridge Foreman, were present.

1. Road and Bridge Report:

Frownfelter provided an update on the Weehawken Bridge stabilization efforts. He said that the Bridge was in good shape for the summer, but that a more permanent fix would need to be determined in the fall.

Commissioner Tisdell asked when the County Road 14 repair was scheduled. Frownfelter was hopeful that the hillside stabilization and road repair could begin in the next few weeks; however, he needed to distribute a request for proposals.

Commissioner Tisdell asked about the problem areas on Imogene Pass that had been slated for maintenance. Rilling said that the repairs had been delayed until he heard back from Camp Bird Mine representatives to whether or not the equipment was available for some rock blasting.

Commissioner Batchelder asked staff to follow up with Dave Beckhardt regarding a report he had submitted on some shoulder and drainage issues on County Road 1.

2. Revisit of request by Unified Command concerning the deferral of opening high alpine roads:

a. Road barricade options and signage:

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

Commissioner Batchelder explained that Unified Command had requested that the Board discuss the potential of barricading high alpine roads based on the concern for the availability of personal protective equipment (PPE) and impacts on the limited roster of first responders. Commissioner Batchelder noted that the County historically didn't begin to clear roads until the first few weeks of May.

Boyd said that Unified Command had discussed the topic with Rilling and was now recommending that Road and Bridge Crews begin clearing the roads as usual. He expected crews to begin that week or the following week. Boyd reiterated that it was recommendation of Unified Command to begin clearing on the normal schedule, but have the ability to block or barricade the roads if needed. Kingery agreed.

Rilling stated that the snow levels had been dropping dramatically with the sustained warm temperatures. He agreed with Boyd's statement.

Commissioner Batchelder inquired if the surrounding counties were following similar schedules. Commissioner Tisdell said that San Juan County would be revisiting the topic on May 13th.

Commissioner Tisdell said that Governor Polis had recently enacted a "Safer-At-Home" Executive Order which included a limitation on recreating in areas outside a ten mile radius of one's home. He asked if

people traveling to Ouray County to recreate would be in violation of those regulations. Boyd said that it was his impression that the state would move to more liberal guidance regarding travel and recreation upon the expiration of the Safer-At-Home Order.

Commissioner Batchelder asked for public comment.

Ryan Righetti, San Miguel County Roads Superintendent, said that San Miguel County would match their decision to Ouray County and San Juan County. He agreed that all San Miguel County high alpine roads were typically opened by July 4th. Commissioner Tisdal asked if San Miguel County Commissioners had made a decision regarding when the plowing would commence. Righetti said that they had not, but that crews typically began the plowing efforts mid-May.

Jeff Meek, Nebraska resident and Ouray County property owner, explained that County Road 18 (Engineer Pass) was the fastest route to access his property. He said that Hinsdale County was actively plowing. He questioned the legality of closing or barricading roads. Meek said that property owners should retain the ability to access their land, even if the roads were closed. Commissioner Batchelder said that the County had the ability to close roads, and could ensure property owner access.

Marti Whitmore, representing the KOA Campground, asked that the Board consider the economic hardship faced by business owners that made their livelihoods from tourism. She recognized the seriousness of the pandemic, but cautioned that the economic hardship could not be understated. Whitmore asked the Board to keep in mind that there were many residents who depended on the tourist-based economy.

Suzanne Goforth, property owner on Red Mountain Pass, wished to dispel the assumption that every home accessed by high alpine roads was a second home. She said that she lived on her property part-time, year-round. She said that all property owners needed to be able to access their homes.

Olin Machen, Montrose County resident, asked the Board to consider the precedence of installing gates or barricades on roads and blocking access to public lands.

Scott Bridgman, County Road 22 resident, was pleased that the Board was making an effort to keep the roads open.

Jeff Lindberg, Colorado West Jeep Rentals, said that blocking the roads was overreaching and that it would result in litigation. He appreciated the Board's authorization for crews to begin clearing the roads. He said that the roads needed to be open in order to keep the economy healthy. Lindberg urged the County to determine a date to deem the County "open." Commissioner Batchelder understood the desire to have a set date, but said that it was extremely difficult to determine.

Keith Stokes, County Road 31 property owner, stated that, like Goforth, he used his property year-round. He was also concerned about the installation of a gate or barricade that prevented him from taking water or propane to his property. He said that property owners needed to have access past the gates if they were installed.

Kim Woodin, Ouray Inn owner, reiterated Lindberg's request for a set date. She said that she had received numerous cancellations. She urged the Board to reopen Ouray.

Dolgio Nergui, Ouray resident, asked if the County was going to put out a statement regarding the availability of emergency services in the high country. She said that close-contact life saving measures - like CPR, were not being provided outside of hospital settings. The Board directed Kingery and Boyd to bring the request to Unified Command for discussion and possible development of a statement.

Sue Williamson, County resident, asked if the Board had the right to appoint a new sheriff, in the case that the current sheriff resigned. Commissioner Batchelder said that Colorado Statute gave the responsibility to the Board to appoint a sheriff. Williamson said that she had thrice requested an internal investigation into the Sheriff's Office. Commissioner Batchelder asked that Williamson submit her concerns in writing to the County Administrator.

Dan Heitz, A New View Vacation Rentals, requested that the Board open the roads and leave them un gated.

Ryan Hein, Twin Peaks Lodge, agreed that it was important to open the roads. He said that people were already driving on the roads that had melted out. He thanked Unified Command for the recommendation to open the roads.

Brandy Ross, Switzerland of America Jeep Rentals, felt confident that the Board's direction would allow for the roads to be open on a normal schedule. She said that it was important to have some roads opened by Memorial Day Weekend, particularly as the other local attractions, like the Hot Springs would be closed.

The Board agreed to move forward with the recommendation to plow the roads on normal schedule.

Commissioner Tisdal was wary of individuals claiming they would not comply with restrictions and would destroy any barricades. He wanted a comprehensive understanding of how people could keep each other safe, while also keeping economic activity viable. He said that all available data pointed to the inevitability of a second peak of the virus. Commissioner Tisdal said that the County needed to be prepared to close the attraction of open roads in the case that it was contributing to spread of the virus. He was interested in seeing a plan for implementing barricades or gates on the roads, if needed. He said that having a plan in place for closure, if needed, as the roads were opened would making opening safer and would contribute in keeping more people alive.

Commissioner Batchelder said that if barricades were established, signage needed to be installed at the same time; he asked if Commissioner Tisdal was recommending that the barricades be established at the time of opening. Commissioner Tisdal said that the barricades could serve a dual purpose to allow the

crews to clear roads and could be closed in the case of an outbreak. Commissioner Batchelder asked Rilling if crews could clear the roads without the barricades. Rilling said that it could be done without the barricades. Commissioner Batchelder asked what it would take to install the gates or barricades, if needed. Rilling responded that it would take more than a week, not including the time to order and receive the equipment. He said that crews typically used pickups to block the roads while clearing was in progress and that they rarely had issues.

Commissioner Tisdel said that the barricades would be useful if the other counties were not clearing on the same schedule as Ouray County. He wanted to avoid a situation where a road was plowed to the County-line and not have an area for vehicles to turn around. Rilling said that crews typically plowed a turnaround area in that case.

The Board discussed Commissioner Tisdel's request and concerns.

Frownfelter said that the cost for purchasing the barricades to be approximately \$6,500.

Viner was concerned about potential liability issues. She said that it would need to be a regional effort based on accurate data.

Commissioner Peters and Commissioner Batchelder agreed that purchasing barricades or gates was not needed.

The Board agreed to authorize staff to move forward with the clearing of the roads on normal schedule, and to maintain coordination with the other counties; if barricades were needed, staff was directed to coordinate with other counties and regional land management partners.

~~3. Request for award of the following Requests for Proposals:~~

~~a. 6x6 AWD Motor Grader;~~

~~b. Compact Excavator;~~

11:17 The Board took a short break:

D. 11:20 Public Hearing – Final Plat Amendment:

Location: Lots V612 & V613, Fairway Pines Estates, Village 6A

Applicant: Honey Badger Development, LLC

Request: Consideration of approval of a Final Plat Amendment of Cimarron View Townhomes II for the purpose of eliminating the common lot line between Lots V612 & V613, and also to establish the building envelopes for each of the six (6) total units allowed on the property.

Bryan Sampson, County Planning Association, was present.

Commissioner Batchelder opened the public hearing and explained the procedures.

Sampson said that the request was to eliminate the property line between Lots V612 and V613 and to establish building areas for each of the six allowed lots. Sampson said that the application was done in accordance with the Land Use Code and that all requirements in Section 6.12(C)(4) had been met.

Commissioner Peters asked if each unit would require a separate building permit and certificate of occupancy. Sampson said that they would. Commissioner Tisdel recommended amending Condition 10 to state: "The applicant shall apply for and receive, an approved building permit *for each unit* prior to commencing construction on any of the units." The Board agreed.

The Board agreed to insert an additional Condition 13 to state that "*The applicant shall confirm that utilities can legally and physically be placed within the general common element area or easement as required to be feasible.*"

Commissioner Batchelder opened the hearing for public comment; hearing none, Commissioner Batchelder closed the public comment portion of the hearing.

M/S/P – Motion was made by Commissioner Tisdel and seconded by Commissioner Peters to approve a Final Plat Amendment of Cimarron View Townhomes II for the purpose of eliminating the common lot line between Lots V612 & V613, and also to establish the building envelopes for each of the six (6) total units allowed on the property, with an amendment to Condition 10 and the addition of Condition 13.

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

Commissioner Batchelder voted in the affirmative.

Commissioner Tisdel voted in the affirmative.

Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

Commissioner Batchelder closed the public hearing.

E. 11:34 Public Hearing- Final Plat Amendment:

Location: Fairway Pines Estates, Village 6A, Lot V611

Applicant: Jack Lollar, Lollar Properties, LLC

Request: Consideration of approval of a Final Plat Amendment of Lollar Properties, LLC – High Pines Villas for the purpose of developing three (3) cluster lots.

Commissioner Batchelder opened the public hearing and explained the procedures.

Sampson explained the request was to amend the Final Plat for the purpose of developing the three cluster units as allowed in the plat for Fairway Pines Estates, Village 6A.

The Board agreed to modify Condition 10 to state: "The applicant shall apply for and receive an approved building permit *for each unit* prior to commencing construction on any of the units." The Board further agreed to insert an additional Condition 13 to state that "*The applicant shall confirm that utilities can legally and physically be placed within the general common element area or easement as required to be feasible.*"

Commissioner Batchelder opened the hearing for public comment; hearing none, Commissioner Batchelder closed the public comment portion of the hearing.

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve a Final Plat Amendment for Lollar Properties, LLC – High Pines Villas for the purpose of developing three (3) cluster lots, with an amendment to Condition 10 the addition of Condition 13.

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

Commissioner Batchelder voted in the affirmative.

Commissioner Tisdell voted in the affirmative.

Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

Commissioner Batchelder closed the public hearing.

F. 11:39 Monty Guiles, Peyton-Savage, LLC (Owner's Representative, Courthouse Project):

1. Courthouse Restoration / New Construction Project Update:

Monty Guiles, Owners Representative, was present.

Guiles said that efforts to move offices back into the Courthouse were underway. He reported that the contractor had \$240,000 remaining to complete the project, which included \$120,000 worth of retainage. He said that the project was virtually completed, on time, and on budget.

2. Request for approval and authorization of Chair's signature on Prime Contract Change Order No. 4:

Hunt explained the work included in the Change Order.

M/S/P – Motion was made by Commissioner Tisdell and seconded by Commissioner Peters to approve and authorize Chair's signature on Prime Contract Change Order No. 4.

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

Commissioner Batchelder voted in the affirmative.

Commissioner Tisdell voted in the affirmative.

Commissioner Peters voted in the affirmative.

There was no discussion. Motion passed unanimously.

H. 11:46 The Board of County Commissioners convened as the Board of Health concerning the following items:

1. Public Health Director - Revisit / discussion of Public Health Orders:

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

Kingery began a presentation regarding the status of the State and County Public Health Orders. He said that the County Orders 3 and 4 restricting overnight lodging and requiring a 14-day quarantine for second home-owners were more strict than the State's orders. He was requesting input from the Board regarding the Orders.

Kingery said that the County had previously not been prepared to respond to address an outbreak; however, due to the commitment to social distancing and the acquisition of more personal protective equipment (PPE) and testing, the County was in a much better place. Kingery said that as the State transitioned into a "Safer-At-Home" model, he expected more visitors to come to Ouray County; he now felt that Ouray County was prepared to care for residents and visitors that may have the virus.

Kingery presented state epidemiological data that showed that Ouray County was doing a good job of testing. He recommended that vulnerable populations continue to restrict interactions and observe good hygiene practices.

Kingery reviewed State's recommendations for hotels and other lodging establishments. He said that Ouray County lodgers had meet to establish guidelines for opening and cleaning rooms, including a 24 hour rest period for rooms in between occupants. He noted that under the State's "Safer-At-Home" order, vacation home rentals were to remain closed.

Kingery presented the Board with two options pertaining to Public Health Order 3. He said that Option 1 proposed 30% occupancy for two weeks increasing to 60% occupancy two weeks later, and transitioning to 100% thereafter. Option 2 proposed 50% occupancy for 2 weeks and transitioning to 100% occupancy two weeks later. He requested input regarding Public Health Order 4 as it would expire on May 15th.

Commissioner Tisdel asked about contact tracing for visitors. Kingery said that the public health department in the visitor's home would be responsible for notifying Ouray County about a positive case. He felt confident in the ability to perform contact tracing, if needed.

Commissioner Tisdel asked about the State's indication that testing sites would be established in each county. Kingery did not have any details about testing sites, but noted that Public Health would be receiving a shipment of test kits ordered in March.

Commissioner Tisdel thought that a slow reopening was advisable. He said that having a set date helped businesses plan. Kingery agreed and said that Unified Command was leaning towards Option 2.

The Board agreed that Option 2 would allow for slow reopening, while also retaining the ability to enact stricter orders if conditions warranted.

The Board discussed Order 4 requiring second home owners. The Board agreed to let Public Health Order 4 expire. After a brief discussion, the Board agreed that Orders 3 and 4 should be rescinded immediately.

Commissioner Batchelder asked Unified Command to increase public outreach encouraging masks. He also encouraged timely notices to businesses that may have had a customer that had the virus.

Commissioner Batchelder asked for public comment.

Monica Bangart, Premiere Vacation Rentals, said how the new directive regarding lodging facilities would apply to vacation rental properties. Viner said that the short-term rentals that Bangart was referring to were closed by the State Public Health Order. She said that the County would need to pursue a variance from the State in order for those types of rentals to be allowed. Bangart said that there was going to be pushback if the hotels were allowed to operate, but short-term rentals were not. The Board requested that Unified Command discuss the possibility of submitting a variance application.

Bette Maurer, Ouray resident, requested that the restaurants also be included in the variance application. The Board agreed to ask Unified Command to look into it.

Cat Lichentbelt, Ridgway resident, asked how volunteers could help those at risk. Kingery said that the Tri County Health Network had established a volunteer pool.

George Kerber, County resident, asked the Board to consider requesting a variance from the ten mile radius rule. He further requested that the County announce their intention to not enforce the rule if no variance was sought or approved by the State.

Amber Perkins, Ouray RV Park and Cabins, echoed Bangart's concerns regarding short-term rentals. She inquired to know how long the 24 hour period between occupants would be in effect. Kingery said that it would be effective as long as the order was in place. Perkins asked if the 24 hour period would be required for RV spaces. Kingery encouraged Perkins to limit total occupancy, including RV spaces. He said that the point of the regulations was to allow for a slow reopening. Perkins requested that the Order offer clarity pertaining to RV sites.

Jack Young, Chipeta Lodge, asked about hotels that had outdoor corridors. Commissioner Batchelder asked Young to contact Kingery to discuss the particulars.

Mark Luppenlatz, Red Mountain Alpine Lodge, asked how his bed and breakfast operation would be classified. Viner said that she and Kingery needed to do some additional research to be sure about what was allowed.

Kim Woodin, Ouray Inn, echoed Maurer's point and urged the Board to reopen the County for all businesses.

Dolgio Nergui, Ouray resident, requested that signs encouraging masks be available to the lodgers.

Andrea Owen, River Run Cabins, said that she rented her cabins through Airbnb. She asked how her business was classified. Viner said that she needed to review the State Order.

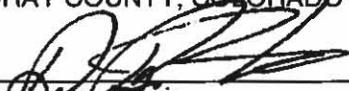
Dan Heitz, A New View Vacation Rentals, reiterated Bangart's points.

Viner stated that she and Kingery needed to review the language and develop a variance application, in addition to some recommendations and guidance.

1:10PM The Board of County Commissioners adjourned the regular session.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:



Don Batchelder, Chair



Ben Tisdel, Vice Chair



John E. Peters, Commissioner Member



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